

## CIVIL WAR AND THEORIES OF POWER IN BAROTSE- LAND: AFRICAN AND MEDIEVAL ANALOGIES\*

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THE Lozi are the dominant tribe of Barotseland, and their king rules over not only his own tribal people, but also members of twenty-five other tribal groups. The Barotse Kingdom thus includes a total of 250,000 to 300,000 people who inhabit some 80,000 square miles in Northwestern Rhodesia. The Lozi themselves live in the floodplain of the Upper Zambezi River, where it runs south from the Congo parallel to the border of Angola. The plain is about 120 miles long and 25 to 35 miles wide. The Lozi build their villages on mounds in the plain, and, when the Zambezi floods each year, many of them have to abandon these villages to live for a few months in a second set of villages on the margins of the plain. Other Lozi and some immigrants of other tribes dwell permanently on the margins, while most of the conquered and immigrant tribes of the kingdom dwell in the river-valleys and small water-containing depressions that are interspersed among the woodlands encircling the plain. The king maintains two capitals, one in the plain, the other at the margin.

In order to outline the very complicated Barotse political system, I shall concentrate on how the system reflects Barotse theories of power.<sup>1</sup> This can best be done by examining three sets of ideas: first, how the Barotse formulate a theory of power providing for representation of different elements of the state in their official organs; second, to what extent they consider their king and other officials bound by law; and third, what are the laws of treason and of succession to the throne.

At this point, I should emphasize that the Barotse theory of power is their theory and not mine. It is not a theory abstracted by me from the facts.<sup>2</sup> Since the Barotse lacked writing, none of them has been able to set out this theory as a full doctrine. But point by point, and with some interconnecting of various

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Professor Gluckman adds the following: "I am grateful to Professor Harry Street and Professor Charles L. Black, Jr. for their clarifying comments on my article; and to my wife who assisted me in finding my way through literature on mediaeval England, as well as in the field in Barotseland; and to the Ford Foundation for a grant for my personal research which I used in many ways."

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1. Fuller details of the Barotse political and administrative systems are given in GLUCKMAN, *THE LOZI OF BAROTSELAND IN NORTH-WESTERN RHODESIA* (1951) and GLUCKMAN, *ADMINISTRATIVE ORGANIZATION OF THE BAROTSE NATIVE AUTHORITIES* (1943).

2. EHRlich, *FUNDAMENTAL PRINCIPLES OF SOCIOLOGY OF LAW* 31 (1936).

points, Barotse expounded these principles to me. If they did not surpass Dicey in the sophistication of their insight into political powers involved in the constitution, they certainly surpassed my own simplicity. They taught me more than I could teach them. No one who has studied or worked in any political system can fail to be impressed by the Barotse's penetrating insight into relations of power. It is curious that no other African society is yet reported to have so elaborate a theory. This may perhaps be because other students have not been interested in the problem. Yet, as I have said, the Barotse themselves made clear their theory to me. The interesting question is why they should have developed it so far. I do not imagine, of course, that they deliberately designed the state's organs to cope with anxieties created by the theory, as your own founders designed the division of powers within your constitution in reaction to a theory of how Britain was ruled. Rather, the Barotse system must have received its complex elaboration over a long period of time, with gradual accretions of officers and institutions. The theory surely must have followed as an interpretation on the facts.

It is appropriate to start this description of the Barotse political structure with a myth, since myths reputedly are the stock-in-trade of anthropologists. According to Lozi mythology, the royal family is descended from a daughter of God Nyambe, whom he took as his wife. One of their sons, a member of the Lozi tribe, was out hunting on the plain, which was then inhabited by many tribes, and members of a foreign tribe decided it would be polite to present him with part of their catch of fish. The Lozi were impressed by this propriety, when compared with their own practice of keeping all catches for themselves. So they chose this son of God Nyambe and his daughter to be king and agreed to give him part of their produce. Although God and the wife he created to bear the mother of the first king lie only ten generations back from the present-day king, the Barotse do not think of this as a limited number of generations. I doubt if any of them has ever counted the generations: for the Barotse they cover almost the whole of time. They believe the events narrated in the myth occurred only slightly later than the beginning of creation.

This myth emphasizes that the kingship was established by the people, who themselves undertook the obligation to render tribute. Thus, there inheres an idea of a contract between king and people. The myth also hallows the kingship because the family which claims the kingship is descended from God, mated with his own daughter. All eighteen of the Barotse kings have come from that ancestral origin, by virtue of agnatic descent.<sup>3</sup> It is inconceivable that someone not thus descended from the line of kings should gain the throne. During revolts by powerful councillors against a king and his favorites, the rebels have had to find an ambitious prince, or even cajole a reluctant prince, into leading them. Hence revolts attacked particular kings, but not the kingship or the

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3. The third king in modern versions was a son of God, own mother's brother to the first king and a son of God. The first European records gave him as younger brother. See GLUCKMAN, *THE LOZI OF BAROTSELAND IN NORTH-WESTERN RHODESIA* 2-3 (1951) and *SEVEN TRIBES OF BRITISH CENTRAL AFRICA* (Colson and Gluckman ed. 1951).

rights of the royal family to it. They were clearly rebellions and not revolutions.<sup>4</sup>

The princes are very numerous for kings had many wives, though princeliness is lost when a man's tie to a reigning king is more than three or four generations away. Descent through a princess within this range still transmits princeliness, but this female link bars a man from the kingship. Among the agnatic descendants of kings, anyone is eligible to be selected by the national council, but ideally candidates should be the product of a union between a reigning king and a woman on whom one of a number of queenly titles has been conferred. This is the Barotse definition of being born in the purple.

Barotse who can speak English define the kingship as "a constitutional monarchy." The king is supposed to legislate and judge only with the consent of his councils, and to take action only through their members. A simplified explanation of these councils will help demonstrate Barotse ideas about their government. When the king sits in full court, his magnates are seated in three divisions about his throne. On his right sit the most powerful councillors, as well as a number of junior councillors. These councillors-of-the-right are said by the Barotse to represent the common people and the commoners' interests in the kingship, which are seen as distinct from the interests of the royal family and the reigning king in that kingship. The reigning king's interests are represented by councillors who sit on his left. I shall refer to these men as the king's stewards, because besides acting as judges and national administrators they, rather more than councillors-of-the-right, have the duty of looking after the king's property, his queens, and princes and princesses. The Barotse refer to them as "wives" or "boys" of the king because, theoretically at least, they look mainly to the reigning king's own interests.

A third group is constituted by the princes and the husbands of princesses. This group represents the interests of the royal family in the kingship, as against the reigning king; in council, this group, symbolically, sits facing the king.

The full court is thus seen as a balance around kingship of the interests of nation, reigning king, and royal family, somewhat in the way in which we in Britain think of our Sovereign in Parliament, if we equate Lords with royal descent. And, like the British Parliament, the Barotse councils can only act constitutionally if all three elements are represented. In making up a delegation to report or discuss matters with the British Government, or at another capital, the Barotse always take care to see that the delegation contains members of each set in the council. Similarly, the senior councillor-of-the-right will always stop a trial if he sees that there are too few members of each set present at that moment.

Like the British, too, the Barotse think that membership in one part of the council is inimical to membership in another part; however, many councillors-

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4. The implications of this situation are examined in GLUCKMAN, *ORDER AND REBELLION IN TRIBAL AFRICA* (1963) and more fully developed and differentiated in GLUCKMAN, *RULE, LAW AND RITUAL IN TRIBAL SOCIETY* (in press).

of-the-right and stewards are married to princesses and are entitled to sit in the royal division in their capacity as royal consort, as well as with their commoner fellows. But, normally, princes by descent in any line from a recent king should not be appointed to councillorships-on-the-right, or to stewardships. Such an appointment would vest more power in those princes to intrigue against the king. Moreover, the Barotse believe that they should not be appointed as councillors-of-the-right because their interests as princes might conflict with their duty to represent the common people.

This latter reason applies particularly to the chief councillor-of-the-right, who holds the title "Ngambela." The king is closely identified with this chief councillor, who is appointed by the king and acts as his principal adviser and executive. However, the Ngambela, by his appointment, moves into a titled position which is independent of the king. Although the king can secure the deposition of a particular incumbent, the Barotse do not consider it possible for a king to abolish the Ngambelaship. Therefore, Barotse speak of the Ngambela, in relation to the king, as "another chief or king." The Ngambela is thus seen by Barotse both as servant to the king and as independent of and opposed to the king. It would, of course, be foolish of a king to appoint a prince, thus granting great power to a potential rival for the throne. The people would be equally concerned by such an appointment. They ask: How can a prince represent us against the king? Even when a prince who was barred from kingship by descent through a princess was appointed Ngambela in 1921, the common people predicted disaster. And their predictions were fulfilled when, eight years later, he was deposed after being charged with murder and sedition.

Theoretically the king is a member of all courts and he confirms all verdicts reached in the capital. Even in the district courts, which he does not visit, he is held to confirm the verdict if the losing party does not say he will appeal, and the successful litigant gives the royal salute to the court building. Hence the king cannot be tried by a court or bring suit in court: for, in addition to such immunity as he possesses from his august status, Barotse hold that no man can be judge in his own cause. For this reason, treason cases were not tried in court; rather, the king acted outside the courts. It is interesting to note the similarity on this point of Barotse law and the English medieval law of treason. According to Pollock and Maitland<sup>5</sup> when there was "a charge of treason [in England], the king himself [was] the accuser, and life, limb and inheritance [were] at stake; therefore it [was] not seemly that the king, either in person or by his justices, who represent[ed] his person, should be judge; so Bracton throws out the suggestion that the cause should come before the 'peers.'" Thus in England, as well as Barotse land, there evolved a special rule for all cases of high treason based on the maxim that "no one should be judge in his own cause."

Another Barotse rule states that "the king does nothing." By this they mean that the king should not personally try to implement any of his wishes or

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5. 1 POLLOCK & MAITLAND, *THE HISTORY OF ENGLISH LAW* 410 (2d ed. 1905).

orders, because if in so doing he trespasses on the rights of a subject, it is impossible for that subject to seek redress in court. Here again note the parallel to English medieval concepts. Vinogradoff, from his analysis of the Year Books, reports the following:

. . . Sir John Markham, Chief Justice of the King's Bench in the time of Edward IV, had told this king that he could not personally arrest a subject on suspicion of treason, while one of his lieges could, and this for the reason that if the king did wrong, nobody could have an action against him.<sup>6</sup>

The Barotse take very seriously the constitutional doctrine that the king must not act himself lest he bar a subject from suit in court. One of their kings, who ruled after the British protectorate was established, disapproved strongly of beer-drinking and passed laws to control it. He once discovered and broke the beer-pots of some subjects in his capital. His councillors made him vacate his chair on the dais in court, and sit on the ground, where they harangued him severely, and told him that if he wanted to be a policeman, instead of a king, they would dress him in uniform and send him around the country looking for malefactors. I was told that had it not been for the pleas of white officials and missionaries, the king would have been deposed. The theory is that the king should only act through his officials, since they can be sued by aggrieved persons. Although the king can do no wrong for which he can be tried, if he continuously commits or orders actions which affect a subject, he is liable to deposition. But it is difficult to criticize the king in connection with such actions. Where litigants accuse an official of acting under the king's explicit directions, they may open themselves to a charge of slander. And though everyone knows that in many of these cases a trespassing official has done wrong under the instructions of the king, he cannot plead those instructions in his defense. If he does, he is accused of an offense, "working or spoiling the king's name," for which he can be severely punished. Therefore, an official ordered by a king to carry out an arbitrary action should refuse to obey orders and seek the support of the council for his refusal.

I did not check carefully enough the various versions of the king's threatened deposition, but my notes indicate that he was not tried as ordinary malefactors are, since no case was made against him nor did he put forward a defence. He only pleaded for forgiveness. The offence was here public and obvious. An analogous instance, although more properly a plot than a trial, involved the "removal" of an early Barotse king who was a cannibal. The Council, in secret, discussed his villainous habit and decided to kill him. Since he could not swim, it was relatively simple to dispose of him. Holes were bored in his barge and he was taken out in the river and left to drown, since the blood of a king should not be shed. His escorting councillors swam ashore.

The rule that a man cannot be tried in the court of which he is "owner," as the Barotse put it, is also shown in a case in 1948 when the then-ruling Ngambela was tried on a charge of neglecting the health of his king who had

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6. 1 VINOGADOFF, COLLECTED PAPERS 196 (1928).

recently died.<sup>7</sup> The councillors held that he could not be tried in the highest court of the land, since he was its head, and a special court of all the men of the nation was summoned to hear the case. In such cases, the constitutional decision that a special court was necessary may have been influenced by the desire to assess public reaction. In a sense, however, since the Ngambela, when acting officially, represents the nation, the nation as a whole and it alone is superior to him.

Other officials, however, can be sued in the regular courts for acting arbitrarily. When such an official is sued he is made to leave his seat on one of the special mats for court members as the king who broke pots was made to leave his "throne." Adherence to this rule was indicated, although indirectly, in a case where a foreigner from Tanganyika, accused of theft, complained that he stood alone against the whole Barotse nation. The judges replied that "the law does not choose," *i.e.*, it is impartial, and a senior judge said that the councillors too were "slaves of the law" and if any did wrong, they would be made to sit in the accused's position.<sup>8</sup>

The king also does not in person sue or prosecute a subject, for this would rob that subject of his right to oppose the suit. A situation which illustrates this principle arose in 1899 when Major St. Hill Gibbons was surveying Barotseland with the help of the then king. The two councillors the king had assigned as guides refused to continue with Gibbons, and he was compelled to turn back. When he complained to the king, the retrogrades were tried in the court for disobeying the king's orders, given to them in council. However, the king himself apparently did not appear in court as plaintiff or as judge. Instead the charge was levelled against them by a son-in-law of the king. The charge read: "You . . . are accused of disobeying the king's orders, inasmuch as you made it impossible for the white man to continue his journey, and complete the work he had undertaken in the interests of the king. . . . What excuse for your conduct do you make?" The accused produced specious pleas, which the judges demolished.<sup>9</sup>

The Barotse council has manifold functions. The council judges disputes, debates matters of national importance and legislates, issues instructions on many matters, distributes the national land for the king, discusses national hunts (and, in the past, wars), and arranges for the appointment of priests and the carrying out of sacrifices at royal cenotaphs. These duties and responsibilities mean for the Barotse that the councillors are the state and its law. Hence, it is demanded of them that they be grave, judicious, impartial, and brave. The Barotse see a basic incompatibility between these qualities and the use of violence. Therefore a councillor, like the king, must never himself use force—he must never act as if he were, in modern Barotse parlance, "a policeman." I recorded several cases where councillors were tried and fined,

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7. Important political changes and intrigues were involved in this charge.

8. GLUCKMAN, *THE JUDICIAL PROCESS AMONG THE BAROTSE OF NORTHERN RHODESIA* 203, 228-29 (1955).

9. *Id.* at 161-62.

and at least threatened with deposition, for using force.<sup>10</sup> I once asked a prince, who was my clerk, to use his prestige to control an unruly crowd who were preventing me from photographing a dance. He replied that he could not, because if the crowd abused or maltreated him, the council would punish him for provoking their offense against his princeliness. For this reason, when the council sends one of its members to oversee the carrying out of its orders or one of its judgments, and there is reason to anticipate opposition, he should be accompanied by police who may use whatever force is necessary.

I recorded one illuminating case of the suspension of these rules. In 1912 the cattle of the Ngambela damaged crops of a policeman. The policeman hit and injured the Ngambela's son who was herding the cattle. The policeman also came into the council in war-dress, with his shield and spears. The king declared that he was making war and must not enter the council. The Ngambela was allowed to divest himself temporarily of his position—"he took off his Ngambelaship" said the Barotse to me—and he fought the policeman, choking him until he defaecated. The Ngambela then resumed his Ngambelaship. As the policeman had made war and had not sued, he was held to have lost his right to sue in court; but the Ngambela of his own free will paid a beast for the damage to the crops.<sup>11</sup> The description of this case as it was given to me makes clear that the Ngambela could have been sued by the policeman, had the latter not taken to arms. This supports Barotse statements that like any other councillor, the Ngambela when prosecuted privately is "a slave of the law" and abandons his office, though Barotse assured me that the Ngambela, like the king, so far from resisting a valid complaint from a subordinate, will by grace give more redress than is due, as befits a great chief.

I have stated that the Barotse conceive of the king and the Ngambela as "two different kinds of kings." For "king" they use the term *mulena*, which can be translated as king, chief, lord, or sir. This word they have taken from the language of a group of Basuto (the Kololo), who fought their way northwards out of Basutoland, 1,000 miles to the southeast, to conquer and rule Barotseland from 1838 to 1864. Consequently Barotse often call their king "the great mulena," in order to distinguish between the king and the other lords. In their original language they refer to the king as *Litunga*, which is one of a number of words restricted to "things of kingship." It means "the Earth," and the king's full title is "great one of the earth," or even "great-one-the-Earth." The title *Litunga* is applied also to the ruler of another capital, lying about 30 miles south of the king's capital. This ruler, who has always been a princess since the Barotse reconquered their homeland from the Basuto and reestablished their system of rule, has a capital which duplicates that of the king, and she is entitled to use certain royal emblems which royal rulers at provincial capitals are not entitled to use. She is the only other *Litunga*, but her title is qualified adjectivally as "the-earth-of-the-south." This restricted use of *Litunga* emphasizes the unique character of these two pre-eminent rulers,

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10. *Id.* at 83.

11. *Id.* at 89.

and places them on a different plane from any other authority. It identifies them with the land itself.

A number of praise-songs containing historical lore and proverbial wisdom are attached to every Barotse title. One of the Ngambela's praise-songs states that "the king is owner of Loziland and its trees and his [own] servants, and its cattle [game, fish, birds]; the Ngambela is owner of the Lozi people." This praise emphasizes that the Ngambela as owner of the people is empowered to control their actions, and has major responsibilities in representing them. The king is contrasted with the Ngambela in the praise-saying, which states that he is removed from the actual exercise of rule, save over his own servants. But he alone is the owner of the land and of its riches, the trees and the wild creatures and domesticated cattle. The people derive their subsistence from these and hence they are indebted to him for their lives. When I was in Barotseland, the right of the king to tribute had been long abolished by agreement with the British Government. The king's stewards had sent a request to the people of a certain district to bring in bark and roots to make the great fishing-net of the king, and had told them they would be paid for their goods. When they brought these to the capital, they refused payment. They were summoned into council and the presiding councillor reminded them that tribute was abolished and they were entitled to payment. They insisted: "How can we take payment from the king, our father, for things which are his, when we live by his bounty?" At least until 1947, when I last visited Barotseland, this feeling was still strong. It was a principle insisted on by judges, both at the capital and in courts far in the bush, that the land was the king's, even though all of his subjects were entitled to be given gardens in it and to use its public pastures, woods and waters.<sup>12</sup>

The doctrine that the king owns the land, and that allegiance is due to him because he allows his subjects to use it, places him in an entirely different category from the Ngambela or any commoner councillor, however powerful. For the Barotse, it gives to the kingship a unique element of continuity. The nation depends on the land to survive, and the king is more than owner of the land; he is the land. When he is installed, he spends a night in lonely vigil by a sacred pool out of which is supposed to come a monster, symbolizing the forces of nature, to lick and consecrate him. He is not a divine king, in that the Barotse do not believe, as do some African tribes, that the fertility and prosperity of the land depend on the king's physical well-being, so that they require that he be slain ritually if his powers begin to fail. But Barotse do think of the king as embodying the well-being and the fertility of the nation. The spirits of ancestral kings are buried in cenotaphs, marked by specially planted trees so that they stand out on the treeless plain; and these spirits control the prosperity of the nation as a whole and of its individual members. Sacrifices and offerings were, and to a lesser extent still are, made at these

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12. The relation between the king's subjects' rights in land is the theme of another chapter in the book which will encompass the entire series of lectures, GLUCKMAN, *THE IDEAS OF BAROTSE JURISPRUDENCE* (in press).

centotaphs. When he dies the ruling king will have his own centotaph. And when he dies, it is said that "the nation falls into a coma." All fires in the land should be extinguished, and fire should then be taken from the hearth of his successor and carried through the land so that the nation warms itself and cooks its food by the fires of the new king. In brief, the dead king is ritually buried, to continue to serve the nation as a spirit, and his successor, ritually installed, by actions involving extra-sensory powers. In contrast, the Ngambela is installed with the ceremony of symbolic actions, but these do not involve such powers; and he is buried as a private citizen.

Even more than the Ngambela or the council, the king is symbolically associated with law and justice. Since the council apparently does most of the ruling, it is more liable to commit injustice than the king. Moreover, the king can pardon by grace of mercy, despite the law, as council cannot. Indeed, obtaining royal sanctuary became so important that a special jurisdiction was founded so the king could exercise directly the royal prerogative of mercy. Anything connected with the king is regarded as a sanctuary from execution of the council's punishments. If a condemned man can escape from the council and get to the royal palace or a royal centotaph, or the courtyard of any of the queens, or to the private storehouse where the king keeps his personal property, he is temporarily reprieved. The king's life itself is also symbolized in certain drums, which play periodically through the night and the day; and some of these drums and his bandsmen should always be in the council. If the convicted accused can seize hold of a drum or a bandsman, he is in sanctuary. The king will himself hear the man's plea, instead of listening only to the council's report on the trial and confirming or rejecting its judgment. At the least he is likely to soften the punishment. Most importantly, the sanctuary of mercy which resides in the king and royalty is represented by a councillor-of-the-right, who sits just beyond the Ngambela, and is therefore second in seniority. He is the Natamoyo, the Giver-of-life or the Mother-of-life; and this is the only titled position (it exists at both northern and southern capitals) which must be filled by a senior prince.<sup>13</sup> Thus, royalty is brought into the midst of the great commoners to represent mercy. If a suppliant can get to the Giver-of-life in the council, or if he can flee to this councillor's courtyard, he is reprieved. But the temptations open to the Giver-of-life have sparked a traditional Barotse chariness of the ambivalent effect of power on an individual. The Barotse are apparently terrified of giving power, even power to protect; for once a man is elevated, it is feared he will stand against those for whom he ought to care. If a member of royalty is seated among commoners to protect the people, he may become so puffed with power that he abuses it. Therefore, the Barotse attach to the Giver-of-life a deputy, or assistant, whose person and

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13. One other prince, Mboo Sipopa, sat fairly low among the councillors-of-the-right. He was extremely dissatisfied at being passed over for the kingship, since his father Sipopa had driven out the Basuto. He was given the 18th seat on the right (he sat third among the royals) as a solace, where he represented his father who did not form a political sector on the Barotse pattern.

courtyard are also sanctuaries, and who restrains the Giver-of-life and acts in his absence. However, the Lozi consider it inappropriate openly to have one prince as deputy to another prince, with authority to rebuke him, since princes are in theory rivals for power. For this reason, the title of Assistant to the Giver-of-life has to be occupied by a commoner relative of a prominent royal personage, or by a prince so distant from the ruling line that he is beginning to merge into the commonalty. Thus, this deputy is drawn from the ranks of those who are neither quite commoners nor quite princes.

The complicated Barotse theory of power is manifested in another way. The Giver-of-life is placed among the great commoners to represent the king as the fountainhead of justice and mercy. Yet he there becomes associated with the commoners, and, accordingly, assumes the commoners' obligation to check the king if he abuses his power or plans unwise action. The late king told a senior British official that the Giver-of-life must chide the king when he has done wrong, criticism which could not be tolerated from anyone else but a very special relative. It is interesting that no Giver-of-life, according to the records I have of recent reigns, has ever become king, though one Giver-of-life became chief at a provincial capital. I did not inquire into the possibility that appointment to a position which allowed criticism of the king, barred access to the kingship itself and therefore eliminated its princely occupant as a possible rival.

About power the Barotse are hard-headed realists. Royal sanctuaries exist primarily to restrict oppression by the council. But kings also abuse their power; and against this abuse the council provides sanctuary. A man condemned by the king is temporarily reprieved, and his case will be examined, if he can get to the council house, or to the royal storehouse where the council keeps the national drums on which the king is seated at his coronation, or to the Ngambela or his courtyard. Yet even this is not enough. King and council may combine to oppress a man. A condemned man can then flee and seek sanctuary with the princess who is "earth-of-the-south," and the northern capital should not bring pressure on her to repatriate him. Exactly the same sanctuaries, including the title Giver-of-life and its royal-commoner assistant, exist in the southern capital, and, conversely, final sanctuary from the south lies in the northern capital.

When I myself was working in Barotseland, I could not observe the operation of this elaborate set of sanctuaries since the main sanction for abuse of power was provided by British authorities. I was told many tales of how men sought sanctuary under different circumstances, and it was not reported in one tale that those in power refused to recognize the sanctuary. I was told, too, that the drums of all chiefs were sanctuaries for defeated enemies in battle; bandsmen were sacrosanct, and when an army broke in battle, its warriors were reprieved from slaughter if they could get to the drummers of their own or the conquering chief. I met men who had been succoured thus, and then adopted into the Barotse nation.

I have tried to show that the Barotse constitution is seen by Barotse as an elaboration of their theory that power may corrupt, and that those in power

must be checked if they are not to disregard the obligations they owe to their subordinates. This thesis is further evidenced in the concepts of the private Ngambela of the king and the Ngambela of the Ngambela. I have described how the Ngambela is appointed by the king to serve the king, and as a result of that appointment gets power to stand against the king on behalf of the commonalty. Yet since the Ngambela may turn against both the king and the people whose interests he represents, each king, aside from appointing a state Ngambela, also appoints "his own Ngambela." The king attaches a large number of men to this new private Ngambela, who thus become a powerful counterpoise to the state Ngambela.<sup>14</sup> In addition, the state Ngambela also has *his* own Ngambela specially charged with restraining the state Ngambela should he abuse his power over the people whose interests he primarily represents. This Ngambela of the Ngambela sits with his own title high among the councillors of the right—that is, near to the king. Ngambelaship thus is a generic concept for the Barotse. It denotes assistant, deputy, and also protector against the represented superior; and it is applied to all situations in Barotse life which involve the delegating of power. For example, the assistant sanctuary to the Giver-of-life can be spoken of as the latter's Ngambela. I must stress yet again that each time power is delegated thus, the person who receives it from his superior is considered to hold power in some senses in opposition to the giver and as a check upon him.

The idea of balancing powers in this way is carried a stage further by the council in its discussion of all matters affecting national interests. I have described how, from one perspective, the stewards represent the reigning king, the princes and husbands of princesses represent the royal family, and the councillors-of-the-right represent the commonalty. But because of their position as officials and persons of power, great councillors, stewards and royals tend to look on problems similarly. Therefore, according to Barotse theory, even the representatives of the commonalty cease to be aware of the manner in which ordinary folk are affected. Hence, the Barotse say, they divided their council horizontally along the middle to debate matters of national importance. All the senior councillors-of-the-right, the senior stewards, and the senior princes and husbands of senior princesses, were formed into a single chamber. The very large number of men holding junior titles-on-the-right, or junior stewardships, and less important royals, who sat behind the rows of senior men in full council, were formed into a second chamber. When legislation, or matters such as making war or accepting missionaries were debated, these two chambers separated. The chamber of senior men met in the courtyard of the Ngambela or in the council house; the chamber of juniors met in the court-

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14. As kings have followed this practice through the course of Lozi history, the appointment of each new king's own "Ngambela" has pushed the titles of the private Ngambelas of ancient kings further and further away from the royal throne in the official hierarchy. They move downwards in the order of seating, and speak earlier in debate, thus losing relative authority. They also lose followers to the holders of the newly established titles. Accordingly, their secular power decreases; but since they represent more ancient kings, they are regarded with greater reverence.

yard of their leader (their Ngambela) or in the council house. But now that the juniors were separated out, the junior chamber became of equivalent status to the chamber of their seniors. The junior were called by a term meaning "men," "warriors," "veterans," and in the words of the senior councillors to me, "They are another kind of chiefs." In theory, and I think also in fact, the junior chamber knew more of the people's wishes and feelings, since they spent more time away from the capital. The system was not working while I was in Barotse, but I was told that the senior chamber hesitated to force its will upon the other chamber, and that the king on occasion took the junior chamber's advice against the senior chamber's. The leader of the junior chamber sat also in the senior chamber: he moved backwards and forwards between the chambers, reporting the others' deliberations as they strove to reach unanimity. Barotse themselves say that the senior chamber represented the capital, whose interests on many matters diverged from those of the ordinary folk, who therefore had to be represented by the junior chamber. It was as if in the British Parliament, leaders of Government and Opposition in both Lords and Commons were set against the backbenchers of both parties from both houses—those with power or hope of power set against those without power or hope of power.

These two chambers met in the day; and they were seen as jointly opposed to a council which met at night in the king's palace. Here the king met at night in his drummer's shed with the state Ngambela, the Giver-of-life, the king's private Ngambela, the chief steward, and anyone else he chose to summon, to discuss in whispers news coming in from the country, and to formulate policy to put before the chambers of the day, or to consider their advice. And here Barotse constitutional doctrine and theories established yet another check. All the councils and chambers previously considered were filled with men; but in the secrecy of the palace at night two women were drawn in to check the power elsewhere reserved for men. As the king debated matters with what literate Barotse describe—not inaptly—as his Privy Council, two officially appointed women, one a princess and one a commoner, eavesdropped outside the drummers' shed. Their duty as women, appreciative of the tender feelings of the people, was to warn the king if his great magnates were giving him advice which would antagonize the people. They were known as Anatambumu, Mothers-of-the-king.

The division between the northern and southern capitals also complicated debate. In the past, there was no appeal from the south to the north in suits at law: both rulers were *Litunga*, or kings, and "how can you appeal from one king to another?" But on matters such as the waging of war, passing new laws, agreements with the whites, matters had to be referred from the north to the southern capital, which had the same arrangement of divisions and of

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15. A chamber with the same name was set up in 1947 to represent the mass of people. Its place was filled by holders of old titles, and some persons were elected to it. The vicissitudes it underwent lie beyond the scope of this analysis.

chambers within its council. In the end, northern opinion prevailed. But if there was radical disagreement, the councillors of the south might come to the northern capital, where the two councils combined into a single council in which holders of titles in the two capitals sat in a well-established order of seniority. First, near the throne sat the Ngambela of the north, then the husband of the female "King-of-the-south" since he represented a "king"; then the Giver-of-life of the north, then the head of the southern capital, then the king's private Ngambela, then the Giver-of-life of the south, and so on.

This summary description of the Barotse constitution inevitably raises this question: How did so complex a system of checks and balances, of devolutions of power and establishments of power, work in practice? The sophistication in the theory may not be wholly confirmed by the way the Barotse authorities actually exercised power, or by the effectiveness of the restraints on that exercise of power. Unfortunately, I can only suspect this divorce between theory and practice. It was impossible for me to confirm this suspicion through a detailed analysis of the actual application of the theory of power; the system was not operating fully when I was studying it because the British Government had superimposed on it a new organization.

However, this much I can say. Before the coming of the whites, Barotse society was not faced with problems arising out of radical change. Matters for debate cannot often have provoked differences of opinion in terms of the differing status of the councillors. Problems were of this kind: Shall we wage war this year, and if so, against whom? Where shall we hunt? Have we enough food to dig another canal to carry canoes in the dry season or drain the waterlogged peaty margins of the plain to provide gardens? If so, where shall we dig the canal? Occasionally, traditions show, there was legislation to change private law. Much discussion, according to the tales, proceeded over the faults of various councillors. In olden times debate must have proceeded slowly, out of sheer enjoyment of debating. Once there was a long debate when, after the defeat of the Basuto conquerors, the king decided to re-introduce the ancient Barotse system of rule, and revolt was provoked. However, there was generally little opportunity for the complex Barotse theory of power to be tested during this period. Only with the coming of the whites did radical problems begin to emerge on which points of view were sharply divided across the sets of councillors-of-the-right, stewards and royals, and across senior and junior chambers.

Unlike the South African tribes, the Barotse did not regularly summon meetings of all male citizens to consider important matters. The capital dominated the political system, with consequences I shall soon discuss. Only twice to my knowledge were meetings of the nation's men summoned. Once, as cited above, it was to try a state Ngambela for neglecting his King's welfare. The other occasion was when the council had to decide whether to accept the offer of the British South Africa Company's protection, and an annual subsidy, in return for granting mineral rights. The council divided sharply on this issue, and it finally summoned a meeting of all the men of the nation near the

capital.<sup>16</sup> These "gatherings of the nation" were exceptional arrangements to meet major crises.

In order fully to understand the operation and derivation of the Barotse theory of power, an examination of the close relation between the theory and the Barotse social structure is essential. Since the rich and powerful could not with their available goods and technology live in much finer houses or surround themselves with relatively luxurious furnishings and bedeck themselves with fine clothes, there was no point in attempting to exercise their power so as to profit by sweating the labour or expropriating the goods of underlings. Rather, they used their control over land and goods to build up direct relationships of loyalty and prestige with many followers. Men from distant tribes have described to me how the king would reward them, when they brought in their own tribute, with gifts of other products which they lacked and which had been rendered in tribute by others. The others, in their turn, had been similarly rewarded. A British official of that period has described how the king by drawing in tribute and then distributing it to others acted as a kind of bank and market, allocating goods between the various parts of Barotse-land.<sup>17</sup> From the crops produced by tribute labour in the king's many gardens, he fed his people. His cattle were distributed to be herded by people who lived off these cattle. The king could not draw on these herds without at least the formal permission of the herder, who could protest if too many were taken from him.<sup>18</sup> Even the first missionary in Barotse-land, who regarded the king as a tyrant, has described how the king bought goods from caravans of traders from the South and from the West Coast and gave these out to his people.<sup>19</sup> And when Portuguese traders and Arab slavers from the East Coast reached Barotse-land, the king sold only a few people to them in order to get guns, and then forbade trade in people, probably because the Barotse had sufficient ivory and beeswax to obtain the goods they wanted, and because they were themselves always short of labour to meet the demands of their productive system.<sup>20</sup> In practice, of course, the king and his councillors drew on the tribute of goods and labour from subjects to maintain the capital, but the inherent limitations of the technological and economic system, and their own interests in securing the allegiance of people, restricted actions on their part which could be described as exploitative.

Because of these economic and technological limitations, the council's divisions into sets of commoner councillors, of stewards representing the reigning king, and of royals, and the superimposed division into the chambers of the

16. See COILLARD, *ON THE THRESHOLD OF CENTRAL AFRICA* 356-57 (2d ed. 1902).

17. Coryndon, first British Resident in Barotse-land, cited in GANN, *THE BIRTH OF A PLURAL SOCIETY* 5 (1958).

18. Discussed in another chapter of Professor Gluckman's forthcoming book, note 12 *supra*.

19. COILLARD, *ON THE THRESHOLD OF CENTRAL AFRICA* 301 (2d ed. 1903).

20. See GANN, *THE END OF THE SLAVE-TRADE IN BRITISH CENTRAL AFRICA* (1954). For this productive system see GLUCKMAN, *ECONOMY OF THE CENTRAL BAROTSE PLAIN* (1941), summarized in *THE LOZI OF BAROTSE-LAND IN NORTH-WESTERN RHODESIA* (1951.)

capital and of the ordinary folk, did not therefore reflect deep and fundamental, or potentially revolutionary, cleavages in the nation. There were not such diverse and conflicting interests as lay behind the Houses of Lords and of Commons, at least in the later Parliaments of England. However, some hostility, based on a conflict of interests, existed between Barotse royalty and commoners. Commoners have explained to me that they would never select a prince born or begotten in their family as main heir to their estate,<sup>21</sup> because he would then draw the estate permanently away from them and vest it in the royal family. But I found no evidence to indicate that the many-wived and therefore prolific royal family was ousting commoners from their estates, as Evans-Pritchard reports the spreading noble class has done among the Anuak and the Shilluk of the Sudan,<sup>22</sup> and as the cattle-keeping conquerors appropriated lands from the peasants they subjugated around Lake Victoria Nyanza.<sup>23</sup> Rather, in Barotseland, the kings built new mounds for royal villages and drained peaty land for surrounding gardens. Princes and princesses then had to attract followers to these new villages. Marc Bloch notes that the extensive land clearance beginning in Europe in the twelfth century resulted in the offer by lords of such favourable conditions to attract pioneers as the assurance that "they would not be subject to the arbitrary authority of the lord." Men could change their lords, and land was sought after in order to hold men.<sup>24</sup> So it was in Barotseland, where a high rate of infant mortality and a low expectation of life meant a relatively slow increase in population if it increased at all. The Lozi kings even raided for children in their own provinces to colonize the plain. These children, unlike serfs captured in war, had normal free status and were assimilated to the dominant Lozi tribe, in which they became representatives of their relatives in the other tribes.

Though the people seem at no point to have opposed the institutions of kingship and council, they did fear individual and arbitrary acts of tyranny, by king or councillor. Africa has had its Caligulas and Neros, as well as its Aureliuses and Antonines. There was Shaka, the Zulu king, who ordered a warrior to be executed because the unfortunate fellow's face made Shaka laugh until his sides ached. But, according to their traditions, the Barotse had few such kings. I have already mentioned the early king, raised in foreign parts, who ate people and who was drowned by his councillors. In addition to him, only one of the other eight Barotse kings who ruled before the Basuto conquest is reported to have been a general tyrant; he was attacked, although un-

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21. Barotse land tenure is considered in another chapter of Professor Gluckman's forthcoming book, note 12 *supra*.

22. EVANS-PRITCHARD, *POLITICAL SYSTEM OF THE ANUAK OF THE ANGLO-EGYPTIAN SUDAN* (1940); EVANS-PRITCHARD, *THE DIVINE KINGSHIP OF THE SHILLUK OF THE NILOTIC SUDAN* (1948).

23. See, *e.g.*, MAQUET, *THE PREMISE OF INEQUALITY IN RUANDA* (1961) and OBERG, *THE KINGDOM OF ANKOLE IN UGANDA* (1940). There is a general discussion of these situations in Professor Gluckman's forthcoming *RULE, LAW AND RITUAL IN TRIBAL SOCIETY*, note 4 *supra*.

24. BLOCH, *FEUDAL SOCIETY* 244, 251, 276 (1961).

successfully, by the chief of south. And because of his cruelty, he was not mourned after his death. The fourth king, although not a general tyrant, tried to kill all his sons. The people were able to save only two sons to provide for the succession. This same king also put certain bans on one of the neighbouring tribes which he only conquered after many defeats. Yet the Barotse legends of their early period describe no general revolts against tyrants. Indeed, most kings were praised for their kindness.

The Barotse emphasize that their kings were bound by the law, and that if a king ruled cruelly, his council and people were entitled to rebel against him and to try to dispose of him, but such revolts were rare. The legends do report frequent attacks on the king by the ruler of the southern capital, attempting to gain the kingship, and occasions where the southern ruler disputed the succession to the Barotse kingship with the prince chosen in the north as heir. The idea of legitimated civil war waged by royal claimants is strongly entrenched in Lozi tradition. Civil war to attain power, perhaps even independence, is even validated by Lozi mythology. According to one myth, after the first king was installed, he and one of his younger brothers fell out with each other. The younger brother had miraculous power—a common attribute of the younger brother or sister in all mythology and folk tales. By virtue of these powers he outwitted the king, and then moved south, altering the landscape as he went. Here he established by conquest his own kingdom, where in time he was persistently attacked by the fourth king. This king too was outwitted by magical powers, till at last the king of the south, saying he was worn out, disappeared into the ground with his councillors, people, cattle and possessions. Only the pegs and ropes with which his cattle were tethered and his porridge stirrers were left, and these grew into tall trees which still stand to mark the most sacred and powerful royal cenotaph in the land.

This myth and other legends of civil strife hallow the right of princes to compete for the kingship, *vi et armis*, thus legitimating civil war, and making it part of the Barotse constitution. Tradition does not reproach the southern princes with breach of loyalty; it is in the nature and the accredited role of all princes, southern or northern, to struggle for the kingship. Princely attacks on the king were thus not considered treasonable in Barotse law, and though an unsuccessful attacker might be slain, he and his followers were not tried at law. Only on one occasion was there an institutional change to meet the hazards caused by civil war. The Barotse attribute their subjugation by the Basuto to internal division resulting from civil war between north and south. After the Barotse reconquered their homeland, to remove the possibility of a similar war, it became a convention that the chief of the south should always be a princess, for princesses are barred from the kingship. But civil wars continued in the north.

Evans-Pritchard and I have concentrated in our analysis of African states on the problem of civil wars.<sup>25</sup> Briefly, these data demonstrate that constant

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25. I deal with this problem, citing Evans-Pritchard's and other anthropologists' work, as well as theories of other scholars from Aristotle onwards, in GLUCKMAN, ORDER AND

civil war and rebellion are inherent attributes of states with relatively simple technologies—technologies which force the people to spread widely for the purposes of their husbandry. The wide and thin spread of people over the land, where communications are poor and slow, necessitate that the ruler delegate power over territorial sections of his kingdom to subordinates. Delegated power is power given away. In many southern African tribes these posts of subordinate power are hereditary. Though all the territorial sections may participate in the circulation of tribute through the king, they are not held together by an integrating, differentiated, economic system. The inhabitants of these sections then develop strong loyalties to their own leaders, and also hostility toward other sections and the central government itself. Since weapons are simple—spears, axes, clubs, bows and arrows, and shields<sup>26</sup>—and are owned by every man, each local authority has his private army to support his attempts at power, whether he be a prince trying to win the kingship, or a local commoner leader trying to gain power and influence, possibly by supporting as candidate for the throne a prince related to his own family. In this view, dynastic struggles are not only competitions for power between princes, but are also the culmination of tendencies arising from the technology, the economy, and the distribution of power throughout the state.

The pressures of these forces produced the continuous segmentation of a number of African states and chiefdoms. In others, however, the sections struggled for power around a kingship which, besides possibly organizing the state, was elevated to a mystical plane as the symbol of unity. There was recurrent civil war in which the sections, by fighting for their own candidate, remained attached to the kingship, though they might attack the reigning king. As Evans-Pritchard has put it, the interest of a successfully rebellious section in the kingship may be expressed "at the expense of the king's person"<sup>27</sup>—a nice euphemism for regicide. I have analysed at length elsewhere<sup>28</sup> the political arrangements which limit these civil wars to rivalry over the kingship, and thus prevent regional segmentation. They consist largely of a series of allegiances linking each man to the kingship by a diverse set of loyalties to varied officials. Since these lines of allegiance ignore territorial units and local groupings, every man is associated with different lots of his fellows in his various allegiances. These arrangements tend to prevent the emergence of solid unified blocks of people in hostility to a particular king. But before we can understand the full implications of this situation, it is necessary to examine how political

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REBELLION IN TRIBAL AFRICA (1963) and GLUCKMAN, *RULE, LAW AND RITUAL IN TRIBAL AFRICA* (in press).

26. On the importance of this point see ANDRZEJEWSKI, *MILITARY ORGANIZATION AND SOCIETY* (1953), following Max Weber.

27. EVANS-PRITCHARD, *THE DIVINE KINGSHIP OF THE SHILLUK OF THE NILOTIC SUDAN* 38 (1948).

28. GLUCKMAN, *CUSTOM AND CONFLICT IN AFRICA* (1954) and GLUCKMAN, *THE RISE OF THE ZULU EMPIRE* (in press). For an excellent similar analysis see the final chapter in MAQUET, *THE PREMISE OF INEQUALITY IN RUANDA* (1961).

struggles are determined by the law of royal succession and reflected in the law of treason.

In many African states the successor to the throne is selected from among the princes born to the many wives of the king in a patrilineal society, or to his several sisters in a matrilineal society. In other states, the law of succession usually contains propositions that are inconsistent with one another in that they produce several contestants who can advance valid claims on the basis of different rules. Even where the law of succession gives an apparently clear and unambiguous principle, its application to the facts is often uncertain. For example, among the Zulu and Swazi the heir is the eldest son of the great wife of the king; but the great wife should have several different attributes which may be variously distributed among several wives, and, hence it might be uncertain who was the great wife.<sup>29</sup> Thus, in almost all African tribes at any time, and not only at the death of a king, there are more than one, and sometimes several, claimants to the throne. Only in some great western African states with considerably higher social and economic development has this volatile situation been stabilized and then only through recognition of, and restriction on, dynastic struggles by circulating the kingship through three dynasties of the royal family.<sup>30</sup>

This uncertainty about who is to succeed a dead king is found in so many kingdoms that obviously it must be related to the structure of the political system as a whole. For example, the uncertainty is found in the states of Asia and Europe during their early history. Kern stressed "the lack . . . of a strict claim to the throne for any individual member of the ruling line in the early Middle Ages," especially in Germany.<sup>31</sup> Maitland reported similarly that a new king was elected by the Witan in Saxon England, usually from among near kinsmen of the dead king by what he called "usage hardening into law."<sup>32</sup> Rufus, Henry I, and Stephen all asserted their titles by election. Maitland argued that the notion of hereditary right—dare I add "narrow" hereditary right?—made its appearance late in the day. He thought that it was the succession of Henry III which "did much towards fixing the notion of hereditary rights," a notion which then continued for nearly two centuries.

The complexities of succession and politics in European history are most entangled. I have summarized Maitland's view of the situation in England in order to suggest that uncertainty over succession, and the possibility that most claimants and pretenders can cloak their rebellions under at least fictitiously valid titles, are not necessarily symptoms of a weak kingship. Maitland concluded that the fact "that to the very end of the [Saxon] period the kingship is not strictly hereditary, but elective—that a power also of deposing a king has been exercised as late as the days of Ethelred the Unready, is really rather

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29. KUPER, *AN AFRICAN ARISTOCRACY* 88-104 (1947).

30. NADEL, *A BLACK BYZANTIUM* (1942); SMITH, *GOVERNMENT IN ZAZZAU* (1961).

31. KERN, *KINGSHIP AND LAW IN THE MIDDLE AGES* 35 (1939).

32. MAITLAND, *THE CONSTITUTIONAL HISTORY OF ENGLAND* 59-60, 97-100 (Paperback ed. 1961).

a mark of constitutional weakness, of a dangerous feudalism, than of popular liberty:—the Crown itself may become the prize of the rebellious vassal.”<sup>33</sup> With all respect, I submit this is not the case: for the rebellious vassal seems always to have put forward someone with royal title to the kingship. Lady Shenton ascribes to the period of the Wars of the Roses inevitable civil war with the administration “discredited in popular opinion. Magnates with retinues swollen by men who had seen service in the French wars, were rebellious and nervous, likely to make trouble at any moment. They were bound together in great family alliances which might easily convert a personal quarrel into a major civil war.”<sup>33.5</sup> Magnates changed sides rapidly, as Stanley did at the last moment at Bosworth.<sup>34</sup> Yet these shifts of noblemen seem on the whole to have been mobilized always behind a contender from the royal line. In his great study, *Feudal Society*, Bloch asserted that “after the recovery which marked the reign of Henry II, the aim of the magnates in their rebellions was henceforth much less to tear the kingdom asunder than to dominate it.”<sup>35</sup>

Uncertainty over succession to the kingship is logically accompanied by persistent rebellions.<sup>36</sup> Perhaps it is also logical that in this situation commoners who fight behind a prince claiming the throne, or who support their own chief essaying at power, were not considered to be guilty of treason in its modern sense. Among the Zulu and Barotse, even though commoners fighting behind their rebellious leader might be slain in the heat of the battle, those who survived would not afterwards be tried for treachery. Zulu were under duty to support their immediate prince, as in feudal times, according to Bloch and Jolliffe, a vassal had to fight for his lord against the king. Bloch reports that when Hugh Capet retook Melun in 991, the viscount who defended the castle and his wife were hanged, but he then suggests that this was because the viscount’s superior lord was in the royal camp, and he had thus broken fealty, rather than because he had rebelled against the king. But the king’s own followers insisted that he should pardon the knights who had defended the castle, for as vassals of the viscount, in supporting his revolt they had displayed their “virtue.”<sup>37</sup> Pollock and Maitland cite a similar situation: “Henry II, for example, spared the rebels of 1173, though he had thoroughly subdued them and had been within an ace of losing his kingdom. Never was there anything that we could call a proscription of defeated partizans.”<sup>38</sup>

The legal basis of the right of a feudatory to revolt in feudal times was seen as reaction to a lord’s denial of justice, even if the lord were king. Such a revolt was not a rejection of the kingship: Jolliffe writes that “no English mag-

33. *Id.* at 59-60.

33.5 5 CHAMBER’S ENCYCLOPEDIA, *English History* 255-56 (1950).

34. *Ibid.*

35. BLOCH, *FEUDAL SOCIETY* 431 (1961).

36. Bloch says of Germany that “no reign in fact was free from rebellions.” *Id.* at 427.

37. *Id.* at 233-34. See also JOLLIFFE, *THE CONSTITUTIONAL HISTORY OF MEDIAEVAL ENGLAND* 152-65 (1937).

38. POLLOCK & MAITLAND, *THE HISTORY OF ENGLISH LAW* 406 (2d ed. 1905).

nate of the feudal age ever formed the ambition of breaking loose from the community of English law, and turning his fee into an independent state."<sup>39</sup> Jolliffe also points out that it was the reigning king's claim to obedience which was nullified if he failed to fulfill his trust to guard national custom:

The maxim that the power of a king who acts as a tyrant is illegitimate, which almost exhausts contemporary theorizing about monarchy, and to us seems to be an ineffectual truism, was thus in the twelfth and thirteenth centuries the cornerstone of legal security. . . . [W]hen refused legal redress, the aggrieved party is entirely within his rights in declaring his obligation of vassalage at an end, making war upon his lord, and coercing him by every means in his power to do him right.<sup>40</sup>

Dowling similarly stresses that before Magna Carta, the royal power was checked only "by the extraordinary feudal remedy of diffidation, which permitted a vassal to fight his lord to protect himself from injustices in breach of the feudal (lord-man) contract."<sup>41</sup> The right of armed redress was reaffirmed by King John in Chapter 61 of Magna Carta. John empowered the Barons to elect twenty-five of their number:

who shall with their whole power, observe, keep, and cause to be observed, the peace and liberties which we have granted them, and have confirmed by this our present charter, in this manner; that is to say, if we, or our Justiciary, or our bailiffs or any of our officers, shall have injured anyone in anything, or shall have violated any article of the peace or security and the injury shall have been shown to four of the aforesaid twenty-five Barons, the said four Barons shall come to us, or to our Justiciary if we be out of the kingdom, and making known to us the excess committed, petition that we cause that excess to be redressed without delay. And if we shall not have redressed the excess, or if we have been out of the kingdom, our Justiciary shall not have redressed it within the term of forty days, . . . the aforesaid four Barons shall lay that cause before the residue of the twenty-five Barons; and they, the twenty-five Barons, with the community of the whole land, shall distress and harass us by all the ways in which they are able; that is to say, by the taking of our castles, lands and possessions, and by any other means in their power, until the excess is or shall have been redressed, according to their verdict, saving harmless our persons and the persons of our Queen and children, and when it hath been redressed they shall behave to us as they have done before. And whoever of our land pleaseth may swear that he will obey the commands of the aforesaid twenty-five Barons in accomplishing all the things aforesaid, and that with them he will harass us to the utmost of his power; and we publicly and freely give leave to everyone to swear who is willing to swear; and we will never forbid anyone to swear. But all those of our land, who, of themselves, and of their own accord, are unwilling to swear to the twenty-five Barons, to distress and harass us together with them, we will compel them by our command to swear as aforesaid.<sup>42</sup>

39. JOLLIFFE, *THE CONSTITUTIONAL HISTORY OF MEDIAEVAL ENGLAND* 157 (1937).

40. *Id.* at 157-58, 446-47.

41. DOWLING, *CASES ON CONSTITUTIONAL LAW* 7 (4th ed. 1950).

42. *Id.* at 9.

Dowling comments that:

Chapter 61, omitted from reissues due to its largely revolutionary character, was crucial. It tackled the problem of enforcing the contract between king and people in a situation where former kings had hardly scrupled to break their engagements and where the present king's faithlessness was common knowledge. Here, for the first time, a device was advanced which went beyond the sanctions of morality, religion, or even feudal contract. The provision of a standing committee of baronial watchdogs to report and seek redress was perhaps impractical but it was the first real achievement in a long effort to attain the central feature of the English constitution: a mode of making government responsive to the will of the governed without resort to civil war. Like most of the great steps to limited government, Magna Carta was the product of a revolutionary situation, the stand of certain classes, here barons and clergy, against deprivation of property, life or important rights. Considering this, the moderation and reasonableness seem amazing. Despite the revolutionary situation, the king was left his dignity and power, and the whole emphasis, as in the Charters of Liberties, and indeed almost all later English constitutional documents, was on specific, concrete details to be mended rather than on pious generalizations about justice and rights. There was no wild anarchical doctrine, no vengefulness.<sup>43</sup>

A limitation on vengefulness certainly inheres in the explicit provision that after the barons have redressed wrong, they agree to restore John to the throne, and by implication not to enthrone another member of the royal family in his place. However, Dowling's characterization of Chapter 61 as revolutionary does not seem appropriate for this period of medieval history. Rather, Chapter 61 involved a conservative entrenchment of the existing right to revolt in order to redress a denial of justice. Although its objectives are somewhat limited, civil war may still be invoked, and, indeed, with royal approval. The right not only of the barons, but also of other approved men, to levy war on the king is more than protected; it is almost turned into a duty in the final quoted provision of Chapter 61. The failure to quote this Chapter in later issues of the Charter was not because it was too revolutionary, but, I understand, because the next king shortly succeeded as a boy aged nine and the barons themselves exercised power. The right to revolt remained, since, in Jolliffe's words, after the defeat of Richard III, it was still clear that "a bad or incapable reign broke the bond between the king and the lieges, and that the throne could be claimed and filled with their [the magnates'] assent, was immemorial custom, hardly a departure from constitutional precedent, and certainly not the creation of a new monarchy."<sup>44</sup> Hence, provided war was properly declared, in medieval Europe armed insurrection against the king was hardly an offence.<sup>45</sup> It clearly was not "treason" which could be prosecuted at law.

43. *Id.* at 10.

44. JOLLIFFE, *op. cit. supra* note 39, at 446, 447.

45. 3 HOLDSWORTH, A HISTORY OF ENGLISH LAW (3d ed. 1923), citing also 2 POLLOCK & MATTLAND, THE HISTORY OF ENGLISH LAW 503, 504 (1st ed. 1895).

Barotse and Zulu carry this doctrine even further: revolt by a prince is legitimate even if he is not wronged because it is part of the legitimate role of princeliness to desire to be king. Of course a rebellious prince makes out a case for his revolt to enhance the likelihood of support. In the Barotse's own theory, despite actual evidence to the contrary, the state is always on the verge of revolt. A new king, they say, must antagonize councillors all the time, for those who were powerful in his predecessor's reign then treated him as a prince, and may find it difficult to accept his new status; and above all, those councillors who made him king will not respect him adequately. He must turn on them, while he must conciliate his enemies. Barotse warn again and again: "Never expect gratitude from a king."

The important fact is that these struggles for power culminated in rebellions against individual incumbents, and not in revolutions to overturn the whole structure of offices. Aristotle touched on the difference between plots against rulers and plots to alter the political system; unfortunately he did not examine the social conditions in which these varied conspiracies occurred. Historians also stressed the frequent occurrences, in mediaeval times, of rebellions instead of revolutions, but without attempting to explain this by reference to common social factors present in all these states. In Africa, as in the Europe of Anglo-Saxon and feudal times, there were states whose structure endured through some generations despite recurrent civil wars; therefore, civil war has to be seen as an inherent attribute of the structure of the state. It is not enough to point, as Maitland and Dowling have done, to the undoubted weaknesses which arose from the presence of several claimants with valid claims to the throne. Laws of succession which indicate several possible heirs, or which out of uncertainty and ambiguity can be interpreted by contenders to back their claims, seem to be logically associated with situations where the state's territorial sections, possessing their own armies, are not held together by developed communications and integrating economic exchange. The granting to royal rivals and subordinate magnates of the privilege of waging legitimate war against the king, without committing "treason," also seems to fit logically into this situation. Again, it is not enough to isolate this privilege and dismiss it as a sign of weakness in the state's organization: like the law of succession, the law of treason must be viewed as one aspect of a policy which contains a stable equilibrium inside a cycle of disturbance and recovery.

In England, it was first made treason to wage war on the king in 1352; much later, under Queen Anne, the law of succession was so amended that it became treason to urge that there could be more than one claimant of the throne. The circumstances which led to the eventual repudiation of the laws legitimising rebellion illuminate the social conditions which originally sustained those laws. This brief summary of the factors inducing the laws' repudiation is particularly hazardous since none of the authoritative studies relate adequately the changing social conditions to the statute of Edward III in 1352, which, for the first time, recognized as a high treason levying war against the king. It is significant that this critical change whereby waging war on the king became a treason was en-

acted in 1352, the year after the Statute of Labourers. The latter legislation was a more or less abortive attempt to cope with the better bargaining power of serfs and town artisans, after the Black Death had so reduced their numbers that men became again much more valuable than land. As trade expanded, social and economic conflict between master and men destroyed the harmony of the medieval City Guild. The Statute of Labourers failed because masters and farmers themselves broke its regulations to get labour.<sup>46</sup> All this disturbance followed on struggles between landed magnates and city burghers. Sporadic unrest culminated in the great Peasants' Revolt of 1381, in the youth of Richard II, and by a new statute it was made treason to begin a riot.

There was clearly no abrupt change from one type of regime, dominated by the right of the magnates to levy war on the king, to another in which fear of revolt against the state's authority and the state's powerful leaders became dominant. Changes had been made on the statute books, so that it had become treasonable to initiate a riot after the 1381 rising. In addition, it was enacted that it should be treason "not only to compass the king's death, but also his deposition or the rendering up by anyone of his liege homage; and that anyone who procured or counselled the repeal of the statutes (making these acts treasonable) in that Parliament should be guilty of treason." But the king could not maintain these edicts against the pressure of his magnates, and Henry IV was compelled to have them repealed.<sup>47</sup> The forces in the "feudal" regime, with its divisive struggles around the kingship, were still too strong. In practice, the history of the Wars of the Roses shows that the new law condemning war on the king as treasonable was not consistently invoked against rebellious nobles, and certainly not against their followers. Most notably, after the Battle of Shrewsbury in 1403 it was not considered possible "to go to extremes" in punishing the rebels. Furthermore, when the lords in Parliament tried Northumberland, who had been arrested while marching at the head of an army to attack the king, they specifically considered Edward III's Statute of Treasons of 1352 and yet held that Northumberland was not guilty under it. He was convicted of trespass only, and not of treason.<sup>48</sup> The changes in economic and political relations which occurred in the middle of the fourteenth century, and which may have inspired a new view of treason, did not entirely eliminate the feudal system and the ancient view of treason appropriate to it. Two quite inconsistent views on levying internal war co-existed.

I have suggested that a law of succession under which rival claimants could assert ostensibly valid claims to the throne was consistent with a law of treason which did not condemn the levying of war against the king. I cannot in this lecture trace the further course of struggles between different contestants for the English—and later the British—crown. From the Tudor period it is complicated by religious strife and by tendencies which culminated in the

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46. TREVELYAN, *ENGLISH SOCIAL HISTORY* 9-11, 38 and *passim* (1942).

47. HOLDSWORTH, *A HISTORY OF ENGLISH LAW* 450 (3d ed. 1923).

48. JOLLIFFE, *THE CONSTITUTIONAL HISTORY OF MEDIAEVAL ENGLAND* 425 (1937).

Cromwellian revolt and the Restoration. But it is some support for my argument that the law of royal succession did not denote a single "true" heir, with other claimants barred under fear of charge of treason, until the reign of Queen Anne. In her reign, two further species of treason were created by statute: it became treason to hinder the succession to the crown of the person entitled thereto under the Act of Settlement, or to maintain in writing the invalidity of the line of succession to the crown established by the Act of Settlement. Thus, it may be that only when a state is becoming integrated by increasing dependence of its segments on one another and the whole politico-economic system, is a single clear legitimate succession made possible, and civil war arising from adherence to two or more claimants eliminated.

Where does this tentative examination of the laws of treason and royal succession lead? My argument is that we should attempt to relate changes in these laws to other kinds of changes, and not ascribe them simply to internal developments in ideas about state power. Pollock and Maitland contrasted the 1352 edict that levying war was treason with the Dictum of Kenilworth which in 1266 was issued as "an essentially temporary provision relating to the punishment of insurgents,"<sup>49</sup> though Jolliffe called it "the sentence upon the baronial regime. . .", opening as it did with "the reassertion of the personal authority of the monarch . . ."<sup>50</sup> But Pollock and Maitland conclude that this Dictum shines out in startling contrast to the attainders of the fifteenth century.

In part we may account for this by saying, if this be true, that men became more cruel as time went on; but also we ought to see that there had been a real progress, the development of a new political idea. Treason had been becoming a crime against the state; the supreme crime against the state is the levying of war against it. A right, or duty, of rising against the king and compelling him to do justice can no longer be preached in the name of law; and this is well.<sup>51</sup>

But is it enough merely to ascribe these critical changes to the development of a new political idea? Whence came the new idea? Can the earlier laws concerning treason be explained by the awkward situation of kings of England who were lieges in other capacities of the king of France, and whose wars in France might have been called treasonable, if they named as treasonable their own rebellious lords? Or was England in the latter half of the fourteenth century undergoing a change, as Trevelyan's summary account suggests, to the kind of "organic interdependence" in which the division into territorial segments would be countered by the integrating effects of a more differentiated economic system? If horizontal stratification in terms of economic interests and cleavages had begun to emerge, it may well have accounted for a law under which in practice some, and not all, kinds of civil war were held to be treasonable.

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49. 1 POLLOCK & MAITLAND, *THE HISTORY OF ENGLISH LAW* 180 (2d ed. 1923).

50. JOLLIFFE, *op. cit. supra* note 48 at 300-01.

51. 2 POLLOCK & MAITLAND, *THE HISTORY OF ENGLISH LAW* 506 (2d ed. 1905).

I have thus far confined myself to the recognition of armed insurrection as a treason. "Treasons," of course, were in English law a whole class of offenses, distinguished from felonies and misdemeanours. Early treasons, I make bold to say, were offenses against the dignity of the king's person and the kingship—adultery with his wife, violation of his eldest daughter, clipping of his money, and usurpation of royal privileges. The definition of treason to cover such offenses was most marked in Africa. Dr. Southwold tells me that in Buganda the king pardoned a page who attempted his life, but a man who lifted his eyes from the ground when a queen was passing would be slain instantly. Among the Barotse, to use the eland tail for a fly-switch, or to wear a leopard skin or ivory bangles, to decorate one's fence with royal lashing or one's implements with royal markings, to use a royal name for one's dog or dugout, to commit adultery with a queen, to speak ill of the king, were all more heinous and less forgivable offences than to rise in armed revolt against the king. Among the statutes passed by the king under the British in 1929 was one protecting the exclusive right of the king to special insignia and decorations. The very weakness in the internal integration of the state seems to heighten the kingship's symbolic and ritual value as a tool for unifying the state's disparate sections. Hence trespasses on the symbolic and ritual insignia and exclusive privileges of the king and his kingship are grave offences. The nearer the king's style of life to that of his subjects, the more important are conventions, modes of etiquette, and apparently insignificant material appurtenances, in distinguishing king and kingship from the commonalty.

We now have the background in which we can interpret the basis of the Barotse's theory of power. In many African states, such as the Zulu kingdom, great councillors of the king had armies to support them; they were princes and rulers of counties. Against these potentially hostile leaders with their independent powers the king had to rely on his own private advisers, the stewards who ran the capital, and the commanders of regiments composed of men recruited in age-sets from the whole nation. The Barotse were at approximately the same stage of technological and economic development as the Zulu, but the organization of their council was very different. No great men with independent armies sat in the Barotse tribunal. Their nation was not divided for administrative purposes into territorial divisions. All the men of the nation were attached for purposes of jurisdiction, war and some state labour works, to different great councillors-of-the-right. Nor did the men thus attached to a particular councillor reside in adjacent villages, and this was especially true in the flood-plain itself. Men of neighboring villages, and sometimes even members of the same village, might be attached to different councillors. The members of an administrative unit attached to a senior councillor, which I term a "political sector," were thus widely dispersed in the nation. In result, then, a councillor or a prince did not have a localized group of men, who could develop strong loyalty to him. Moreover, since councillors were deposed, or promoted fairly regularly to higher titles, or moved to other tasks, there was even less chance of any substantial loyalty developing. In addition, all the men

thus attached to councillors-of-the-right were also attached to stewards and to royals, but in such a way that not all the men who shared attachment to a leader on the right were associated together in attachment to a steward, or to a prince. Three major sets of attachments thus cut the nation into diverse groups—groups in which men did not constantly associate together. The Barotse took seriously their loyalties to their lords in the capital but those loyalties were divided.

When I studied the Barotse they were working with a territorial system of administration created for and to some extent by the British Administration.<sup>52</sup> I was able to work out the structure of their old system from earlier writings on the Barotse and from what they themselves told me. But it is difficult to assess precisely how the old system worked, though it still operated within the new system. Jurisdiction for settlement of disputes was established by allegiance to councillors-of-the-right. If a dispute could not be settled in consultation with important persons, two litigants of the same political sector went to the capital where their case was heard at the courtyard in the capital of their senior councillor, supported by other councillors of that sector. If men of different political sectors had a dispute, the case was tried by a combined court of councillors of both sectors, sitting in the courtyard of the senior—*i.e.*, the one who sat nearer to the king. Appeal lay to the full council, which heard the case anew. The Ngambela was also owner of a sector, but as he was head of the full council, cases involving members of his sector were heard under the presidency of his own deputy, the “Ngambela” to the Ngambela; otherwise the Ngambela himself would have had to listen on appeal to the case he had already judged as head of a court, and then it would not have been an appeal. “How can the same man judge an appeal against himself?” ask the Barotse. This applied only to the Ngambela, the titular head of the council. Other councillors who had heard their sector’s cases at lower levels still sat as judges in full council.

It is worth noting, however, that in practice an aggrieved person could take his complaints through his stewards to a royal or a queen, to plead on his behalf; and I have recorded one case where a man feeling violently aggrieved by his immediate lords, and prevented by his wife from committing suicide in protest, brought his complaint directly to the king by going through a steward other than his regular one.

The political sectors were also the units in which men assembled for war or purposes of state labour. But to work for the king and his queens, the nation was mobilized through the stewards; these stewards also mobilized the Barotse for work on behalf of the prince or princess to whom they were attached.

Lest you wonder whether this complex system of political sectors is typically African, there are reports of similarly intricate African systems of political administration. Even among the Zulu, while commoner chiefs ruled territorial areas, the men of these counties were attached to the king’s queens, and hence

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52. See GLUCKMAN, *ESSAYS ON LOZI LAND AND ROYAL PROPERTY* (1943).

to the sons of these queens, in a system by which adjacent areas held allegiance to different princes—so that in revolts involving royalty, the country did not side behind a particular prince in a solid block liable to secede from the nation.<sup>53</sup>

In an analysis of a Northern Nigerian kingdom,<sup>54</sup> Dr. M. G. Smith has distinguished administrative action from political action. Political action may be regarded as a system of competition for power to control resources and men, and matters of public policy. This involves competition, coalition, compromise, and so forth. Political action thus aims at securing control over the means of managing the public affairs of the group and its component sections. One of these means is the system of administrative action, through which the business of government is carried on. Here the organization is hierarchial and authoritative, for it typically deals with problems of order and with the associated protection of rights and enforcement of obligations. It is a powerful political tool. The distinction between administrative and political action is analytic, of course, because in all polities the administrative apparatus acquires power, and political action involves use of that apparatus. Through the history of Europe, the political and administrative systems became segregated from one another. However, in African states competitive struggles for power tend to occur between the very persons who occupy a series of organized positions in relation to one another in the hierarchy of administration. As stated, the chief of a Zulu county was an officer of the king ruling his county for the king and a contender for power backed by the army of his county. The Barotse do not distinguish between political and administrative systems; indeed, they describe them both with one word. In Barotseland, except for a short period, the councillors organized for administration in the hierarchy were also the main contenders for power around the king, and, save for small groups of their own followers, they did not have private armies. When the men assembled in their armies for military or state-labour service, they did so in public, to serve the king. As allegiance and authority were concentrated in the administrative system at the capital, where the powerful councillors spent most of their time, struggles for power were concentrated there. Because of the relatively undeveloped economy, and the other factors I have listed, the political system still contained strong tendencies to segmentation, which appeared on the surface in dynastic rivalry and rebellion, actual or potential—potential in the sense that the threat of a rebellion hung all the time over the king, and deposition over a councillor (as an election theoretically hangs over the British Prime Minister). The various kinds of councillors, and shifting alliances of councillors, did not represent groups differentiated from one another by varied roles in a complex economic system, and bound to one another in that mutual interde-

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53. MAQUET, *THE PREMISE OF INEQUALITY IN RUANDA* (1961) brings out brilliantly how this cross-cutting of allegiances in Ruanda gave stability to their system.

54. M. G. SMITH, *GOVERNMENT IN ZAZZAU, 1800-1950* (1960). I follow Smith, but amend his analysis somewhat, and necessarily for lack of space I simplify it substantially.

pendence which Durkheim called organic solidarity.<sup>55</sup> In the end, each councillor or steward in the capital represented neither the interests of a territorial group nor a functional group, but only himself. This probably explains why relations among the councillors were marked by incessant personal intrigues. Groups of councillors still move about, whispering to one another about important and unimportant affairs and passing information around in limited circuits, in a way I never observed among the Zulu. The Barotse call this whispering *kusebela*, a verb whose root also describes slandering and calumniating. Other councillors always fear that vital information is being kept from them and that the whispers they do not hear must be to their disadvantage. Everyone tries to join the series of inner circles which they believe to exist. Of course, the administration of justice is palpably carried on in public, and so is the administration of affairs. For example, the head of a court periodically stops a trial to announce some matter and seek the opinion of his fellows, or to tell them what has been decided. But there is a feeling that intrigues go on behind the scenes and the circles of information are being closed. And these intrigues focus, through factions of councillors, on selected princes, since each prince is a potential king.

In Barotseland, contentions for power were in fact rarely marked by the direct threat of the spear. Instead, they were pursued in these secretive negotiations. I suggest that this is one of the main sources of the highly elaborated Barotse theory of power. King and Ngambela, the Ngambela and his deputy, the councillors-of-the-right and the stewards and the princes—all of these are seen as involved in constant intrigues for power and they thus come to represent the different categories of persons who comprise the nation. And these intrigues for power are absorbed into their discharge of administrative duties for the state and the manner in which they represent the interests of dependents in the administrative hierarchy. Hence each administrative position, which is also a position of power, is seen as posed in ceremonial opposition to a series of other administrative positions; and the interests of the subordinates of each position have to be represented against it. The result is an elaborate network of administrative offices and councils to which the people of the nation are linked in a number of sets of crosscutting ties of allegiance and opposition. Out of this situation, in practice there does seem to emerge considerable stability for the state as a whole.

The dominant position of the capital in Barotse polity appears to have an ecological basis, and therefore some economic support. The river-routes of Barotseland center in the plain. The products of the great flood plain differ markedly from the products of all the surrounding woodland regions. Trade lies between the plain and the woodland regions as a whole, and between various parts of the plain, but not between the various woodland regions. Thus every surrounding woodland region is linked by profitable exchange with the plain, while the different woodland regions are not interlinked with one

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55. DURKHEIM, *DE LA DIVISION DU TRAVAIL SOCIAL* (1893).

another. The plain dominates the economy of the region by controlling what differentiation there is in the general economy; and this may explain why the tribe which inhabits the plain dominates the region politically.<sup>56</sup>

Within the plain itself, the effect of the flood on peoples' lives probably accounted for the concentration of power, as well as administration, in the capital. As people moved between their dry-season and flood-season villages, many of the inhabitants of villages disperse, going to different villages along the margin where they seek accommodation with various relatives or friends. Some members of a village may go to the western margin, while others go to the eastern margin. Young men may escort the cattle to graze at small plains in the woodlands, either camping or staying with relatives or bloodbrothers or friends. Some villages move as a unit, and accordingly many plain villages have their margin counterparts. But even then, neighbouring villages may relocate at widely separated places on the margins. Some people remain permanently in the plain through the flood, despite its discomforts; others may move within the plain to temporary camps on uninhabited patches of higher land, or go in various years to temporary camps at different points on the margins. A village in mid-plain may move to a village nearer the margin, whose inhabitants have moved to the margin itself. The total effect is that through the course of a year, the same people are not associated in territorial units. I believe that this fact accounts for the absence of a highly organized territorial administrative system among the Lozi of the plain, even though small territorial areas have names and its inhabitants profess allegiance to some prominent royal in the neighbourhood. In the absence of a territorial administrative system, we have the intricate system of political sectors leading to the council in the capital. The result is that the capital dominates political life. Even the outer provinces, although organized along territorial lines, were not tightly administered as territories. The capital only sent representatives to live among them in order to oversee the forwarding of tribute. Just like other Barotse people, the provincial people were attached to councillors in the capital.

Since the powerful Barotse administrators, who were also rulers of the nation, did not have their own regimented and localized bodies of followers, there was a general tendency to establish an intricate marking of status to differentiate these individuals. I have explained that in states like that of the Zulu the court is filled with great magnates who attend in their own right because they rule over counties. They come as authorities with private armies. This was not true of the Barotse leaders, which may explain why, in the capital, councillors entered into an established hierarchy of titles. It is a general rule that the less are the real bases of differentiation between the roles of persons in a society, the more social conventions will exist to mark slight differences of roles. I have developed this argument elsewhere to explain why tribal societies have more elaborate ceremonies to mark changes of status than modern in-

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56. I have summarized these differences in GLUCKMAN, *THE LOZI OF BAROTSELAND IN NORTH-WESTERN RHODESIA* (1951), from a fuller account of the situation, with detailed evidence, in GLUCKMAN, *THE ECONOMY OF THE CENTRAL BAROTSE PLAIN* (1941).

dustrial societies have.<sup>57</sup> In kinship groups which act to achieve a multiplicity of purposes, the entry of persons on each role directed to a different purpose tends to be marked by the multitude of conventions and taboos which are characteristic of tribal society. These indicate what role a person is playing at a particular moment. Roles, so to speak, are segregated by customs and conventions, and by elaborate mystical theories. Thus, since there is relatively little actual difference between officials in the Barotse council, conventions, taboos, and an elaborate theory of power, attach to the titles within the council and segregate them from one another.

I have already suggested, in discussing the laws of treason, that the less the king is separated from his people by material circumstances, the more elaborate will be his insignia and special conventions, and the more heinous trespass on his privileges. The similar tendency in this direction within the king's palace and the Barotse council is strengthened because in this type of society they are the aim of most ambitious men. In the palace household there is, as seemingly in all royal households in relatively undifferentiated states, a multiplication of offices and officials, and of servants, each with his special duties, secular and ritual. There are royal priests, fishermen and hunters, royal attendants in the bedchambers, caretakers for dugouts and dogs, praise-singers and jesters. In the council many more titles exist than are necessary for actual administration in order to provide for all the ambitious. There are no barriers to upward mobility, and the brave and able secure appointments of some kind, while marriage to a princess is a short cut to appointment. The conventions of the titles include ideas of their being linked to one another in terms of their association with Barotse history, for various titles represent ancestral kings, princes and princesses, and great councillors. The titles, conciliar and royal, are thus distinguished from one another since each represents an episode in the past which has contributed to the cumulative build-up of the Barotse nation. In this legendary hallowing of titles a dual measure of authority is involved: those near to the reigning king and recent kings are in practice most powerful, those representing the early kings are most sanctified. Thus varied measures of power and control of power are embodied in the conventional separation of titles, complicating further the elaborate, and seemingly unusual, theory of power I am attempting to explain.

I have now, after my excursion through the laws of rebellion, treason, and royal succession, indicated the lines along which I would seek an answer to the ultimate problem posed in this lecture. That problem is, can we relate the elaborate Barotse theory of power to the Barotse mode of production, standards of living, and political organization? Barotse ideas of power state a thesis, found in all states as far as I know, that power corrupts; but they seem to me to have an exaggerated terror of this corruption. Certainly the manner in which this theory is worked out through their several sets of hierarchies of office, through their chambers, through the relation of superior office-holders

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57. For the full exposition of, and the supporting evidence for, this thesis see Gluckman, *Les Rites de Passage, ESSAYS ON THE RITUAL OF SOCIAL RELATIONS* (Gluckman ed. 1962).

and their deputies, and through royal and counciliar authorities as sanctuaries from one another, does not appear to be entirely justified by the facts of their life. The limited technological equipment and the egalitarian standards of living do not lead to that clear cleavage of interests between king and royal family, and commoners, from which the whole theory stems. Cleavages of interest run vertically through society, rather than horizontally across it; and actual power relations are manifested in tendencies to recurrent, legitimate rebellion, with the associated laws of treason and succession which I have discussed. I have, therefore, suggested that the doctrines of power which attach to each type of office and the several offices within each type, are conventionalized means of elaborating differences between the powerful men of the nation. These men do not come to their positions of power as representatives of either territorial sections with their own armies, or as representatives of functional groups. Yet through them operate the divisive vertical tendencies which I have described as attributes of this type of tribal economy and polity. The statement of the power of each office in relation to other offices is thus part of its insignia, just as the office's role in incapsulating Barotse history, as well as its special praise-songs, and in some cases its special dress, salutes, and other privileges, are part of its insignia. The elaborated theory of power helps to distinguish positions where there are, in reality, few differences.

In general terms, I suggest that the less the material bases which underlie struggles for power within a system where those who compete for this power are also the personnel of administration, the more elaborate is likely to be the doctrine of power. I have not been able to check this suggestion, since no other student of a tribal state has discussed its theory of power in detail, and it is difficult to extract facts of critical importance for such an analysis. My colleagues who have studied African states were not interested in these problems, and they do not outline clearly who in a rebellion sided with which party, or what was the law of treason under which losing parties were punished. What does seem certain is that the more the divisions of a state are vertical, rather than horizontal, the more is native theorising about authority and power concentrated on the mystical attributes of office. The mediaeval European concern with the relation between king and God seems to fit here. Through the centuries emphasis came to be placed increasingly on analysis of real bases of power. This would fit with Durkheim's view of the development of types of religion. I see the Barotse theory as an efflorescence out of this general structure of "early philosophy."

In Africa, the answer to these problems may arise from arranging states in a morphological series,<sup>58</sup> ranging from the symbolic ritual kingship of the Shilúk, which lacks administrative powers, but represents the unity of the nation, to the great states of West Africa, with their large capitals and slave plantations—states well characterized by Nadel's description of Nupe as a black

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58. I have attempted such an analysis in Chapter IV of *GLUCKMAN, RULE, LAW AND RITUAL IN TRIBAL SOCIETY* (in press).

Byzantium.<sup>58.5</sup> A step beyond the Shilluk are the small chiefdoms of South Africa, which were subject to constant segmentation. Then came states like the Zulu and Bemba, where princes and chiefs administer for the king territorial counties but mobilize armies of their followers in support of their attempts at power. Next I would place the Barotse-type system, dominated by what I call "politics of the capital." Buganda also may fall within this category. In these systems the council of the king does not consist of landed magnates, but of a number of title-holders appointed to their positions by the king in council. They are not specialized bureaucrats, since the kingdoms still have the limited technology and economy which I take as a master explanatory principle. The king moves people between offices to which are attached estates and followers, and no great man establishes permanent ties with a loyal body of followers. Social mobility of the brave and able is still possible. The next type may be the "caste" states of the cattle-keeping conquerors of peasants, like Ruanda. Here there are caste-like categories specializing in different subsistence activities—still subsistence only—but there is a radical restriction of the rights of the peasants to positions of high power. Significantly, we find here, in addition to dynastic struggle and rebellion, reports of a religious revolutionary movement of protest among the peasants, such as is not reported from the other states, and which offers parallels with the millenarian movements of the early Middle Ages.<sup>59</sup> The West African states, like Dahomey, Nupe and Zazzau, have a more differentiated economy with slave labour and external trade on a large scale. There exist great landed magnates, with town and country houses, and factions of aristocrats who vie, according to one bare statement, for the support of a city mob in a capital of 50,000 people. Mercenaries and mercenary generals enter the arena of politics. Dynastic struggles still exist, but one account reports a large-scale peasants' revolt. Perhaps consideration of the African states in such categories will deepen our understanding of the interrelations between revolts and how people adhered to rebellious leaders in these states, and the associated laws of treason and succession, as well as indigenous theories of power.

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58.5 NADEL, *A BLACK BYZANTIUM* (1942).

59. COHN, *THE PURSUIT OF THE MILLENIUM* (1957).