

The 1900 Buganda Agreement

The period during which Britain gained control over Uganda is known to historians as “The Scramble” because a number of European countries were competing to acquire territories in Africa and the Pacific. They used a range of legal “tools” to accomplish their imperial designs. These included: entering into bi-lateral treaties, recognising zones as in each other’s sphere of influence; granting charters to private companies; declaring protectorates; and, finally, annexation. Although none of these methods was necessarily new in international relations, the circumstances under which they were applied were significantly different from those in which they were previously used.

On 10 March 1900, an Agreement was made between the chiefs of Buganda acting on behalf of the Kabaka (then a minor) and the people of Buganda on one side and Harry Johnston acting on behalf of the Queen, on the other. This Agreement was called the Uganda Agreement, hereafter the Buganda Agreement. It has been variously described as “Buganda's charter of rights” “the Magna Carta” “Buganda’s constitution” and so

Whatever the exact instructions might have been, as soon as Johnston arrived in Buganda he initiated negotiations with the chiefs for a new Agreement. Johnston, like Lugard ten years earlier, thought that the negotiations would be a very simple process taking only a few days. He was mistaken; probably he had not read Lugard’s account of his experience of treating with the Baganda. The negotiations were carried on for more than two months.

Meeting after meeting was held, many of which were stormy and tempers flared. The chiefs asked Johnston questions about all aspects of his proposals. As we commented with regard to the other Buganda treaties, the anxiety which was exhibited by the Baganda over Johnston’s plans is indicative of the fact that they were aware of the nature of the transaction.

Terms of the agreement

The Agreement was so comprehensive that it virtually covered all aspects of government and Buganda’s relationship with the Protectorate Government. For convenience the Agreement is divisible into three main parts: land; taxation; and administration.

Land

Not surprisingly the land question was the most controversial aspect of the Agreement. Johnston was forced to abandon his original demand for the Crown to take all waste and uncultivated land. Instead, he settled for the Kabaka, chiefs and notables to be granted as private estates large pieces of land running in square miles according to sizes prescribed in Article 15 of the Agreement. The remainder of the land, apart from private estates already

granted to Europeans and missions, and all forests waste became Crown land. Johnston estimated the Crown's share to be approximately 10,550 square miles—which was about half of his estimated total area of Buganda.^{1*} Johnston boasted that before the Agreement the Crown had only fifty square miles of land in Buganda. He was confident that the land acquired would be a very important source of revenue to the Crown.

Taxation

As indicated above, Johnston hailed the power to tax the Baganda as one of the most important achievements of his Agreement. One of the main reasons for this was that the taxation provisions of the 1894 treaty were not very clear. Under Article 11 thereof the Protectorate Government, was empowered to control the assessment, collection and the expenditure of tax revenue; while under Article 13 it had the authority to impose custom duty on all goods leaving or entering Buganda.

Whereas the custom revenue was expressly stated to be for the sole use and benefit of the Protectorate Government, the treaty was not so explicit about the revenue from the internal taxation. According to Berkeley's interpretation of the treaty, the Government was entitled to all revenue from taxation.

The Foreign Office on the other hand doubted whether that was indeed the correct construction. In its letter to the Treasury relating to the Estimates of Receipts and Expenditure of the Uganda Protectorate, it explained that: According to the Treaty with the King of [B)Uganda, of which a copy is enclosed, only the import and export duties accrue the exchequer of the Protecting Power.

Johnston's instructions were that in Buganda, because of the treaty, all revenue had in the first place to be collected in the name and on the account of the Kabaka. And it was on his account that it was to be expended. However, for administrative convenience, he was told to secure the collection of all revenue in the Protectorate and its expenditure in the name of the Crown. Under the Agreement, Article 12, it was stipulated that the Baganda would pay a hut and gun tax the proceeds of which were to be handed over intact to the Protectorate Government as contribution towards its maintenance. Furthermore, the Baganda would be subject to the same "exterior taxation" as was imposed on other parts of the Protectorate. The Article however declared that except as was provided in the Agreement no further "interior taxation" would be imposed on Baganda without the consent of their government. In other words the power to tax the Baganda was limited. As we shall see below, controversy developed over the interpretation of this provision.

Administration

For administrative purposes it was agreed that Buganda was to be a province

equal in rank with any other province into which the Protectorate might be divided into (Article 3). This provision was quite significant since Buganda had always been treated differently from the rest of the Protectorate. For example in the discussion of the land and jurisdiction issues Buganda was always mentioned as a possible exception to the general rule. This had partly to do with the 1894 treaty, a fact itself which is noteworthy. Johnston's objective in incorporating this provision in the Agreement was to try and prevent the administration of Buganda from being different from that of the other parts of the Protectorate or the future combined Uganda and East Africa Protectorate which was then under contemplation.

What is a British Protectorate?

British protectorates are classified by many writers into two groups: protected states and colonial protectorates. According to Martin Wight, a protected state was distinguished from a colonial protectorate on the ground that in the former, by treaty, the external and some of the internal sovereignty of the state were ceded to the Crown whereas in the latter, although in some cases the protectorate status might have originated by agreement with native chiefs, these agreements "are not considered as treaties in international law; neither have the treaties any validity in the constitutional law of the Empire." The general view of writers is that, while in protected states the Crown's powers were limited, in colonial protectorates they were absolute.

THE 1900 BUGANDA AGREEMENT IN SUMMARY

Date of signing ; 10th March,1900
 Parties ; Her Majesty's government -Sir Harry Johnston
 Regents(Chiefs) of the Kabaka; Sir Apollo Kagwa
 Stanilas Muwanga
 Noah mbogo
 Kabaka in throne: Infant kabaka Daudi chwa II

| ARTICLE IN THE AGREEMENT | RELATION TO THE 1995 CONSTITUTION | RELEVANCY /SIGNIFICANCE TO THE MORDERN LAW OF UGANDA |
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| Article 1- Boundaries of the (B) uganda kingdom | Article 177 mandates for the creation of 'Districts of uganda" Article 178 mandates districts be divided in lower local governments | It has led to the creation of the Ministry of local government to govern districts in uganda |
| Article 2- Loss of economic rights by Buganda | Article 153 mandates for the "consolidation fund" that is contributed by each District | It has led to the establishment of the ministry of finance and planning that monitors financial affairs in uganda |

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| Article 3- Buganda made equal | Article 21 mandates “ All persons are equal before the law ‘ -Equality and freedom of discrimination | It has led to the establishment of the equal oppourtunities Commision under Article 32(3) |
| Article 4- Merging of buganda’s and uganda protectorates economies | Article 153 “The consolidated Fund” | It has led to the establishment of the ministry of finance and Planning |
| Article 5 - Laws Applicable in Buganda - laws of the general goverment were to be applicable | Article 2 of the constitution of uganda mandates the “supremacy of the constitution | Bodies to apply the laws have been established such as UG police , URA , UNRA to mention but a few |
| Article 6 - Establishment of the rule of law in uganda by the colonialists | The preamble of the constitution 1995 establishes the constitution as the mandated rules to be followed by ugandans | Creation of the Legislature Judicairy and executive to execute,make and implement the rules in uganda |
| Article 7 - Salary of the Kings mother | | It has led to the establishment of the Remunertion of members Act 1981 |
| Article 8- Cases (jurisdiction) cases of mixed nature were subject to british courts | Article 126 Mandates for the exercise of judicial powers in uganda | It has led to the establishments of the courts of laws in uganda to hold these cases and as well as the ministry of justice &Constitutional affairs |

References

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- Evolution Of British Legal Authority In Uganda With Special Emphasis On Buganda: 1890-1938 by John Tamukedde Mugambwa