

Unesco Heritage Nomination of the Barotse Floodplain Cultural Landscape in Western Zambia

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An Environmental and Sociocultural Safeguards Perspective
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Abstract: Challenges of the UNESCO heritage nomination project for the Barotse Floodplain Cultural Landscape conceal a complex web of environmental and sociocultural safeguards issues and risks which required a robust environmental and social safeguards framework. This paper argues that an environmental and social safeguards framework for such a culturally, politically and ecologically complex landscape needed to be built on indigenous environmental ethics. Therefore, the paper seeks to demonstrate; firstly, the crucial role of environmental ethics in any conservation efforts, for ethics underwrite the fundamental questions of conservation, i.e. conservation for what and for who? Secondly; how crucial indigenous environmental ethics are in (i) winning consent for preserving peoples' cultural heritage in a place like the Barotse Floodplain Cultural Landscape, and (ii) establishing a robust context-specific environmental and sociocultural safeguards framework.

Keywords: Safeguards, Safeguarding, Socioethical Safeguards, Social Contract and Social License to Operate.



Photo by Makweti Sishekanu: Back view of Lealui, the summer capital of the Litunga (King) of Barotseland (modern day Western Province of Zambia) in the floodplains

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1.0 Introduction

1.1. Background

Minister of Tourism and Arts, Hon. Rodney Sikumba announced Government of the Republic of Zambia (GRZ)'s suspension of the heritage nomination project to inscribe the Barotse Cultural Landscape (BCL) onto the United Nations Educational, Scientific and Cultural Organization (UNESCO)'s World Heritage List (WHL). The announcement was published on the Ministry's Facebook page on Tuesday, November 30, 2021, and later aired as a news item on national television. The suspension of the project was mainly attributed to the need for more time, further studies and increased consultations among stakeholders (Ministry of Tourism and Arts 2021). From 2007 when consultations for the heritage nomination project began, to 2021 when the project was suspended, one would ordinarily think that fifteen years of sensitization was ample time for the said studies and stakeholder consultations.

The suspension of the project was prompted by a public outcry from local stakeholders in the Barotse floodplains and surrounding areas. Local stakeholders were opposed to the whole idea of heritage nomination while some of their sentiments also depicted elements of little understanding regarding UNESCO's heritage nomination processes and requirements. Equally, one would also think that fifteen years of sensitization over the matter would have provided ample time to secure local peoples' understanding of, and social consent for, the project idea.

Opposition to the project peaked at an open public assembly held in Mongu, the Provincial headquarters of Western Province of Zambia, at the capital of the Barotse floodplains, i.e. *Lealui* palace, the summer capital of the Litunga of the people of Barotseland. The assembly was attended by local stakeholders organized as Anti-Heritage Campaigners who demanded the immediate termination of the project calling it an injustice because local stakeholders were not consulted. The Anti-Heritage Campaigners felt that the people of the Barotse floodplains were being hoodwinked by the National Heritage Conservation Commission (NHCC) and its partner Worldwide Fund for Nature (WWF) into endorsing an elusive heritage nomination idea.

It is worth noting too, that Zambia's first application for inscribing the BCL on to UNESCO's WHL in 2012 was deferred after a technical evaluation of the International Council for Monuments and Sites (ICOMOS 2014: 68-69) found, *inter alia*, that the application had insufficient information on Barotse culture and how this culture interacted with peoples' livelihoods. ICOMOS also criticized Zambia's application for failing to demonstrate wider stakeholder consultations during the project sensitization (*ibid*). While a good number of Barotse people questioned the rationale for delineating the geographical boundaries of the proposed heritage site (Mbikusita-Lewanika *et al* 2020: 1), the ICOMOS (2014: 71) evaluation also highlighted a concern over the interconnected nature of the entire BCL ecosystem in respect of how the floodplain biophysically and socioeconomically interacted with its surrounding forest areas.

1.2. Problem statement

The suspension of the UNESCO heritage nomination project for the BCL in Western Zambia reveals a tip of an iceberg of environmental and sociocultural issues and risks which the project needed to have respected and addressed through a robust environmental and social safeguards framework. Even more daunting, sensitization for the project needed to be fundamentally built on indigenous environmental ethics as a theoretical framework rather than being flipped on the knowledge of cultural conservation experts.

Therefore, the paper argues on five grounds as follows:

- A. Firstly, that the BCL fits the definition of 'environment' as an ecosystem of which mankind is part including cultural and man-made physical features forming a complex of physical, geographical, biological, social, cultural and political conditions surrounding the place and ultimately determining its form, nature and survival (GRZ 2007: v);
- B. Secondly, and as a consequence of the first, the heritage nomination project itself should have been a 'safeguarding' process to address and respect both procedural and substantive environmental and sociocultural 'safeguards' issues and risks within the context of indigenous environmental ethics of the people in the Barotse floodplains;
- C. Thirdly, because of the first two factors, the process inevitably raised a number of 'safeguards' queries and unanswered questions all of which needed to be addressed and respected through a cycle of Environmental and Social Management Framework (ESMF) from the beginning to the end of the entire project (see fig 1 summary below);
- D. Fourth; the suspension of the heritage nomination process depicts a failure of the project to build a carefully designed ESMF incorporating the three fundamental elements of a safeguards framework; (i) Stakeholder Engagement Processes (ii) Safeguards Assessment Processes and (iii) Safeguards Management Processes, including the respective engagement, assessment and management tools for

each of the three elements like Stakeholder Engagement Plan (SEP), Free Prior and Informed Consent (FPIC), Independent Grievance Redress Mechanism (IGRM), Environmental and Social Impact Assessment (ESIA) and Sociocultural Conflict Analysis (SCA), and;

- E. The fifteen years of unsuccessful sensitization depicts a process which grappled to collect and assess local peoples' grievances, fears and concerns, and ultimately failed to win local consent over the heritage idea because the sensitization framework was not built on the imperatives of indigenous environmental ethics and environmental education.

The paper provides a brief rationale of the criteria used to justify the heritage nomination of the BCL and proceeds to provide the theoretical foundations of Environmental and Social Safeguards (ESS) as an evolving global imperative for conservation programs. Using an environmental and sociocultural safeguards lens, the paper isolates the sociocultural and ethical safeguards risks and issues which marred the heritage nomination process. Essentially, the paper seeks to demonstrate the shortcomings in the heritage nomination project from an ESS perspective. Salient to that, is the use of indigenous environmental ethics as a theoretical framework for (i) sensitization and project information disclosure, and (ii) establishing a context-specific ESMF.

2.0. Rationale for the Heritage Nomination of the Barotse Cultural Landscape

The NHCC rightly describes the BCL as an exceptional example of a landscape designed and created intentionally by man, an organically evolved, and an associative cultural landscape because of its system of mounds, Royal graves, canals, Royal palaces and the transhumance of the people in the landscape (GRZ 2012: ix). The BCL is a gently undulating floodplain of the Zambezi River in Western Province of Zambia. It has been shaped by the Lozi-speaking people over the past 400 years through building of mounds for houses, palaces, and Royal graves, and as a result of an agro-pastoral system based on annual transhumant movement of people and their animals to higher grounds in advance of rising seasonal flood waters (ibid: ix). But while the transhumance reads like a peoples' great escape from the rising flood water, Namafe (2004: 51) makes it clearer that the notion of 'escaping' flood water is usually a misconstrued metaphor. Instead, the flood water actually determines the Lozi-speaking peoples' celebrated annual cyclic sociocultural pattern of life which dictates their agro-pastoral system, and holds the very center of Barotse culture (ibid: 51-52).

From the foregoing descriptions, the sociocultural and socioecological relationship between people and their natural environment forms the fertile ground for complex environmental and sociocultural safeguards issues which the heritage nomination process needed to have managed carefully and systematically. In such contexts, 'safeguarding' actions are primarily aimed at the communities, groups and individuals who comprise the social agents in whose lifestyles the safeguarded cultural heritage is embedded (Arantes 2019: 4). Therefore, the heritage nomination process itself should have been designed as a 'safeguarding' mechanism, which, as Arantes rightly observes, affects the social experiences of the involved cultural communities (ibid).

Meanwhile, the heritage nomination is justifiably premised, at international level, on (i) a note that cultural and natural heritage are increasingly threatened with destruction not only by traditional causes, but also by changing social and economic affairs which aggravate the situation (UNESCO 1972), (ii) a consideration that deterioration and disappearance of any item of cultural or natural heritage constitutes a harmful impoverishment of the heritage of all nations of the world (ibid), and (iii) on a consideration that part of the cultural and natural heritage are of outstanding interest and therefore, need to be preserved as part of the world heritage of mankind as a whole (ibid). Foregoing, the BCL description fits into the UNESCO Convention's Articles 1 and 2 definitions of cultural and natural heritage, respectively.

At national level, the BCL heritage nomination is predicated on the fact that the BCL creates an exceptional and dynamic inter-relationship between nature and culture (GRZ 2012: x). Indigenous environmental and cultural ethics form this interaction on the one hand and the interaction itself is also a product of environmental and cultural ethics on the other hand. Therefore, this uniqueness satisfies the third UNESCO criterion, i.e. it bears a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared (ibid). Because the BCL cultural tradition is an extant culture still evolving, the imperative need to reconcile socioeconomic dynamics of the time with a cultural tradition grappling to withstand socioeconomic and sociopolitical pressure from both internal and external forces is a daunting challenge as evinced from the documentation of BCL heritage nomination (Mbikusita-Lewanika *et al*2020). This too, needed a more systematic approach through an ESMF based on indigenous ethics.

The BCL also satisfies the fourth UNESCO criterion, i.e. it is an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates significant stage(s) in human history (GRZ 2012: xi). Because the cultural history of the BCL has been evolving over four epochs of time under various external and internal influences, the language, cultural architecture and the technological ensemble which make the landscape unique has never been static (Mbikusita-Lewanika *et al*2020: 279). In fact,

it is the peoples' historical ability to constantly change in response to internal, external and environmental forces that has molded the BCL into a unique man-made cultural and natural landscape for more than 400 years (ibid).

This posed a challenge to the heritage conservation idea in its attempt to promote conservation of a cultural heritage which, in essence, has characteristically been changing over time. The assurance of 'cultural conservatism' within an ever changing sociocultural milieu can only be achieved through an FPIC process built around an understanding of peoples' environmental ethics. Without a clear FPIC mechanism in the 'safeguarding' process, an erroneous assumption is unconsciously peddled that communities of people are passive targets in the 'safeguarding' actions intended to preserve their cultural heritage (Arantes 2019: 4).

The BCL further satisfies the sixth UNESCO criterion, i.e. being directly or tangibly associated with events or living traditions, with ideas or with beliefs, with artistic or literary works of outstanding universal significance (GRZ 2012: xii). The NHCC rightly describes this feature as signifying the peoples' historical ability to master their natural environment (ibid). But a cultural trends analysis for the BCL indicates that the Barotse peoples' cultural heritage is primarily threatened by the people themselves through their own changing indigenous environmental and cultural ethics, i.e. changing cultural ideas, customs, beliefs and practices under socioeconomic pressure to survive in a harsh and changing environment (Mbikusita-Lewanika *et al* 2020: 168).

Clearly, it is the Barotse peoples' modern endeavor to master their natural environment which drives cultural erosion in the BCL. In essence, the threat to heritage conservation in the Barotse floodplain is more internal than external (ibid). Therefore, without a clear FPIC plan, any attempt to preserve and/or conserve a cultural heritage threatened by its owners is rendered untenable in both medium and long term. But through an FPIC, it can be guaranteed in both theory and practice that cultural legacies are only safeguarded by, and for, the group of people whose identity expresses it (Arantes 2019: 5). It is on this basis that environmental and cultural ethics are pivotal in answering the questions; conservation for what and for who?

In the final analysis, the BCL qualifies to be inscribed on the WHL because its description fits UNESCO's definition of Outstanding Universal Value (OUV). OUV means that a nominated heritage site presents a cultural or natural significance so exceptional as to transcend national boundaries, and to be of common importance for present and future generations of all humanity (WHC 2012: para 49). But present reality indicates that the uniqueness of BCL's OUV has always been changing while the latest sociocultural trends analysis shows that the gist of what may be deemed as OUV is still changing in a direction that may disqualify it from being considered as OUV (Mbikusita-Lewanika *et al* 2020: 168). According to ICOMOS (2014: 71), therefore, the application for inscription failed to clearly demonstrate the BCL's OUV.

Foregoing, an ESMF for the BCL would have been based on the imperative to address a few pertinent questions: whether the OUV deemed so unique to the BCL today can remain so in a decade's time? On the other hand, if 'safeguarding' the BCL's OUV occasions a need to halt development changes within the landscape as noted in the ICOMOS evaluation of the BCL (ICOMOS 2014: 73-74), how will the sociocultural community of people in the BCL construe such a requirement when their very sociocultural survival has always depended on what Meister Barbra (1981: 11) has correctly described as living in a 'constraining' environment? Does 'safeguarding' of cultural heritage take away peoples' choice to determine whether or not to give continuity to aspects of their own dynamic culture? If answered in the affirmative, what implications does this have on the meaning of 'cultural rights' as an element of human rights?

The foregoing are deeply ethical questions which an ESMF would have addressed and respected using the Barotse indigenous eco-philosophy. But the fifteen years of sensitization for the BCL heritage nomination process was not built on a safeguards framework that provides clarity to such interrogations through an IGRM. Consequently, local stakeholders have viewed such lack of clarity as a risk inherent within both the heritage idea and the nomination process.

3.0. Theoretical Foundations of Environmental and Social Safeguards

Shortcomings observed with conventional environmental impact assessment procedures (Sishekanu and Katati 2021: 54), the increasing need for human rights-based approaches to development (Jana 2009), the ever increasing social mobilization in modern communities and the stricter rules from project funders (Grant 2017), have all provided additional justification for the increased adoption of ESS before, during and after implementation of any project whose activities carry risks and impacts to peoples' lives, livelihoods, culture and the natural environment. Namafe identified the covert nature of such unintended risks to the BCL in the water intervention projects for cultivation of rice in the floodplains – projects which, *prima facie*, were bringing a justifiable public good to the fore in the name of food security (Namafe 1988: 19).

Therefore, the term 'safeguard' describes a plan, a set of measures, interventions or actions designed to enhance environmental and social benefits while, at the same time, implemented to reduce, minimize, mitigate or offset environmental and social risks and impacts which are, in most cases, inherent in project objectives and implementation activities (The World Bank 2017: x). Pioneered by the World Bank in the 1980s (Dann and

Reigner 2019: 537), ESS and safeguards assessment processes have become a global gold standard being increasingly adopted by all international financial institutions, international development and conservation organizations as tools for good environmental and social governance. But this does not mean ESS are applicable everywhere using a blanket approach. They are rather place and context specific.

That safeguards are conceived within the context of social justice, there is a growing global trend in which ‘safeguarding’ is recognized as an integral part of planning (Grant 2017: 2). As such, safeguards are designed as procedural components of social justice on the one hand, i.e. the affected people must be consulted based on respect for their FPIC and their sociocultural rights (ibid). On the other hand, safeguards are substantive components of social justice relating to distributive justice deserved by the affected people as in beneficitation and a right to be protected from any harm (ibid).

Therefore, central to the concept of environmental and sociocultural ‘safeguarding’ are two intricately linked issues – risks and benefits, which, in most cases, are inherent within project design and implementation. The risks must be well assessed through a participatory Risk/Benefit Analysis (RBA) and reduced significantly through an Environmental and Social Management Plan (ESMP) while the benefits must be well articulated, shared and agreed with local stakeholders and socially accepted through an FPIC framework. Grievances, fears, worries and concerns associated with the risk must be collected, assessed and given timely responses through a GRM which treats grievances as rights. The challenges of the BCL heritage nomination process could well be attributed to its failure to design a robust RBA, an FPIC framework and an independent GRM. As such, a hugely important lesson can be drawn from this project; sensitization alone, no matter how long it takes, does not necessarily guarantee social consent and social license of the people for such a culturally, spiritually and politically complicated landscape.

At the time of writing this paper, WWF, being NHCC’s partner in the heritage nomination for the BCL, was advertising for an ESS consultant to develop environmental and social safeguards tools and to roll out ESS frameworks to support delivery of WWF conservation programmes in the WWF priority landscapes – including the Kabompo upper Zambezi landscape which covers the BCL (WWF, August 2021). From this, it is clear that WWF was acknowledging ESS as mechanisms and processes for managing risks, upholding human rights and ensuring conservation projects deliver better outcomes for communities and nature (ibid). WWF was also recognizing the role ESMF plays in identifying, avoiding, minimizing and mitigating any negative social and environmental impacts within its scope of conservation work. Implicitly, WWF was conceding the fact that even the well-intended conservation works carry within their design and implementation potential negative impacts on communities.

Foregoing, ESS are theoretically grounded in the following premises;

3.1. Conceptual Perception of Risks

ESS systems are designed and implemented on the logical assumption that all projects, irrespective of how ostensibly well designed they may be, carry inherent environmental and social risks to communities and the natural environment (Kaniki and Sakala 2018: 4). But because such risks are normally subtly veiled in project designs, an ESMF identifies, analyzes and categorizes the risks, and establishes appropriate mitigations plans for the risks. Both desk and field-based RBAs are undertaken as critical assessment tools right from the beginning and planning of a project through to implementation and closure. This is premised on the fact that environmental and social risks in any project are just one side of the same coin having potential to develop into full blown environmental and social harm at any stage during implementation or at the end. However, undertaking such analyses without focusing on the sociocultural context of the people as the center is a risk in itself.

Kaniki and Sakala (ibid), describe the foregoing intricacy of such risks as follows:

“Unlike environmental issues, social issues arise are seldom tangible and obvious. They are mostly of a secret and intimate nature, and the affected may not wish to disclose the issues in public. These issues are often locked in cultural and traditional norms” (ibid, p. 4).

3.2. Human Rights-Based Approach

Theoretically, ESS are grounded in human rights and derive their legitimacy from the principles of the Universal Declaration on Human Rights particularly from the framework of Social and Cultural, and Civil and Political rights covenants. In practice, they are founded on social justice and are implemented on the basis of respecting and addressing human dignity in the communities of people who could be interested and/or affected by a given project (Grant 2017).

In a human rights approach, the affected and interested parties are regarded as rights-holders whose stake in the project is defined around their dignity in relation to the uniqueness of their environmental and cultural

ethics and livelihoods (Jana 2009: 2-3). On the other hand, project proponents, municipalities, regulators and governments are held as duty-bearers who are duty-bound to ensure the protection of rights-holders throughout the project cycle (ibid). Therefore, ESS processes such as FPIC and IGRM are procedural mechanisms through which the rights-holders can exercise their rights to hold the duty-bearers accountable to the project (ibid). Without the full exercise of such rights, the legitimacy of a project is lost in the sight of rights-holders because their indigenous ethics are not respected and addressed.

In the absence of an FPIC, RBA and IGRM, the BCL heritage nomination process was building on a foundation of unmitigated risks arising from lack of a coordinated safeguards system that collects and collates information to allay peoples' realistic and unrealistic fears. The lack of FPIC from the ordinary person in the floodplain was a much bigger fundamental risk which the fifteen years of sensitization for the project could not address.

3.3. Life Cycle validative role

ESS extend beyond authorization and project approval formalities for which conventional environmental impact assessments are known (Sishekanu and Katati 2021: 54). Safeguards play a crucial role in the validation of project authorization and approval process, in validating project planning, implementation, monitoring and evaluation, verification and reporting, throughout project life cycle (Dann and Reigner 2019: 553). The lifecycle approach to ESS is informed by the logical perception of environmental and sociocultural risks as intricately inherent in every project notwithstanding how well designed or planned the project may appear on paper. Therefore, ESS are human-centric focusing on strategic issues emerging out of the complexities formed around humans, nature and culture, within a given environment over a life-time. Through a strategic approach to respecting and addressing risks, an ESS system creates a basis for a social license to operate within a community of people, while an ESMP becomes the basis for a social contract between project funders, project proponents and local stakeholders (The World Bank 2017: 9).

The unceremonious suspension of the BCL heritage nomination project signifies the project proponent's failure to create a social license to operate within the Barotse landscape and a lack of a basis for a social contract with the local people, even when preliminary consent was obtained from the Barotse Royal Establishment (BRE). That the power of social contract among the Barotse people has always been culturally held within the kinship systems at village level (Max Gluckman, 1955: 31), proponents of the heritage nomination project misconstrued the source of this power and tapped, instead, in to the BRE hoping to gain the requisite validation for the project through leaders rather than the ordinary people. As a consequence, the heritage project could not gain validation from the common man in the floodplains; a matter which ICOMOS (2014: 76) was equally concerned with in its evaluation of the first BCL application.

3.4. Social License to Operate

ESS are also rooted in social contract theory, that social order is a sacred right on which all other rights are based (Rousseau 2017: 1). But because it does not come from nature, it must be based on agreements, i.e. social contract (ibid: 4). Therefore, social contract theory is based on agreements and derives from the fact that all men are born free and equal, and cannot give up their liberties without getting something in return (ibid). It is on this very idea that FPIC processes are founded so people can freely, prior to acceptance, and based on informed choices, consent to, or give up something in return for, accepting a project idea to be implemented in their environmental and sociocultural milieu.

The authority created through social contract creates legitimacy for a social license to operate. ESS processes all cascade down to legitimizing the social license for any project or program to operate in a given community. But when an agreement becomes empty and contradictory as Rousseau argues, it is left with absolute authority on the one side and limited obedience on the other side (ibid: 4). This typifies the snag which the BCL heritage nomination project hit as it failed to create a social contract with the people.

In seeking a social license to operate, ESS have been identified as a powerful tool for identifying risks, reducing development costs and improving project sustainability, thus benefiting concerned local communities in the process of helping them to preserve their natural environment (AfDB 2013: 1). More importantly, respecting and addressing project risks and issues through an ESMF guarantees a strong foundation for a projects' social license to operate within an environmental and social milieu of people. These two justifications were both pertinently applicable in the heritage nomination of the BCL.

4.0. Safeguards Risks and Issues in the BCL Heritage Nomination Project

This segment assesses the safeguards risks and issues which emerged during the BCL heritage nomination project. The risks and issues are classified at two levels, (i) at conceptual level, depicting mainly the sociocultural and environmental ethics on peoples' minds influencing their judgments of the heritage idea, and

(ii) at practical level, depicting what has been the major challenge in the sensitization of people towards gaining their consent to declare their land as an international heritage site on the one hand, and in gaining UNESCO's approval of the application for declaration of the nominated site on the other hand. While conceptual issues are crucial for gaining consent of the local stakeholders, practical issues are crucial for satisfying UNESCO's nomination requirements and for designing the landscape's Cultural Heritage Management Plan (CHMP). There has been more conceptual than practical hurdles in the BCL heritage nomination process explaining why the fifteen years of sensitization was unsuccessful.

4.1. At Conceptual level

International Union for Conservation of Nature (IUCN) evaluation of the proposed BCL nomination highlighted the need for clarifying boundaries of the nominated heritage site (WHC and IUCN 2014: 129). Meanwhile, submissions collected from various local stakeholders around Barotseland in respect of the nomination process reveal a unified notion that social, economic, political and the ecological relationships of the landscape are mutually inter-linked, inter-dependent, complementary and indivisible (Mbikusita-Lewanika *et al* 2020: 1). While the proposed heritage nomination is drawn around the geographical boundaries of the Barotse floodplains, the local people questioned the justification of inscribing the floodplains in isolation of its surrounding forest areas (*ibid*).

Using UNESCO's nomination criteria outlined in the second part of the paper, the prospects of qualifying the BCL for inscription on the WHL derived from the OUV presented by the floodplain, and not necessarily as may be presented by any other part of Barotseland outside the boundaries of the floodplain. As such, the nominated BCL site was legally delineated around the Floodplain using geographical coordinates in a regulatory instrument (Statutory Instrument No. 84, 2013: para 2).

On the other hand, Barotse traditional governance [which would eventually be very crucial in the CHMP for the proposed BCL] has always been organised along economic relations between the floodplain and its surrounding forest areas rather than on geographical sub-territorial units as the case was with the colonial and post-colonial demarcated geographical districts (Mbikusita-Lewanika *et al* 2020: 1). Therefore, in many local peoples' submissions, the conflict of jurisdiction between traditional boundaries and political district boundaries remained an unanswered question. In social risk analysis, any question that remains unanswered presents a high risk area of uncertainty.

Part of the terms for the documentation of traditional management practices within the broader ecosystem of the Barotse floodplain was to understand the role of national legislation and existing policies in order to identify opportunities for accommodating local communities in land and natural resources management (*ibid*: 2). However, empirical evidence gathered during the documentation process shows that post-colonial governance has been disempowering to local institutions in Barotseland (*ibid*). This disempowerment derived from an observed gap between legal text in legislative instruments and social context on the ground (Sishekanu, 2020: 54). In this gap, local people found themselves in a regulatory dilemma to either comply with statutory laws of the Republic of Zambia [which are viewed negatively as disempowering tools] or to comply with their age-old customary regulatory norms which sit well within the framework of heritage and nature conservation in the cultural landscape (*ibid*).

Part of environmental and social RBA within the framework of an ESMF is policy, legal and regulatory (PLR) analysis to critically assess, using a socio-legal methodology, empirical regulatory risks which a proposed project brings to the fore by virtue of the fact that certain legal and regulatory instruments will have to be complied with under such a project. That the BCL nomination project did not embark on such analyses, there was no way to discern regulatory risks which the heritage nomination was bringing to the fore.

The use of the historical name – *Barotseland*, became a controversial matter as sensitization for the heritage project peaked towards the end. The then leader of Government business in Parliament rose on a point of order in the House to clarify that the name *Barotseland* no longer existed insofar as government was concerned (The Zambian Watchdog, 2019). The order was made on the premise that Barotseland was a colonial name used by the British colonial government before the unified Republic of Zambia attained her independence in 1964. Contrary to this view, the people of Barotseland have judged the renaming of Barotseland to Western Province in 1969 as a deliberate political maneuver to erase the indigenous cultural and political identity of Barotseland (Mbikusita-Lewanika *et al*, 2020: 31).

Because the people of Barotseland believe that language and names are crucial factors in heritage conservation as rightly outlined by Lisimba (2000: 19), they have always viewed the name 'Western Province' as an externally imposed name which only served to perpetuate cultural and political domination of a people who have always asserted their political autonomy through the abrogated Barotseland Agreement of 1964 (Mbikusita-Lewanika *et al*, 2020: 31). Therefore, there are feelings of dissent that the name 'Western Province'

deprived the people of their own language, name and identity, and placing them on a trajectory of losing their culture (ibid).

How, then, can a government project be interested in the conservation of the cultural heritage of Barotse floodplains when the same government has publicly discouraged the continuous use of the cultural name 'Barotseland'? In fact, the people of Barotseland have viewed the abrogated Barotseland Agreement of 1964 as a legal instrument whose object was primarily set to preserve the same identity, indigenous governance structures and the cultural heritage which GRZ was now championing to preserve on the international stage. Unfortunately, the BCL heritage nomination project was not designed with a safeguards system that collects and critically analyzes such sentiments, as well as provide responsive, appropriate and timely feedback through an IGRM.

A safeguards analysis of this sort is very important for such a project because, as Banda and others (2015: 224-225) have rightly noted, culture exists, holds and sways, in peoples' minds as a very powerful yet fragile tool for human actuality and survival. A sociocultural safeguards analysis in such contexts aims at understanding what is on the local peoples' minds, how they see their own reality and how they perceive proposed change in their environment. For a landscape like the BCL, such a task is impossible without reference to indigenous environmental and cultural ethics as the analytical framework. As such, and without a sociocultural safeguards risk analysis, the heritage nomination project was dealing with an iceberg of the BCL which, borrowing from the theory of Edward Hall, might have exposed a visible protruding tip above the social and material surface while concealing the main body of ontological reality as an invisible portion below the more easily tangible surface (Hall cited in Banda *et al* 2015: 225).

4.2. At practical level

There is a countable number of infrastructure developments erected in the floodplain. This includes Zambia Electricity Supply Corporation (ZESCO) electricity grid pylons running across the plain from Mongu to Kalabo, the recently built Mongu-Kalabo Road and its attendant bridges also running across the plain in the same direction as the pylons, isolated Zambia Information and Communication Technology Authority (ZICTA) telecom towers and the presence of heavy duty mechanical dredging equipment stationed at the Mulamba harbor, are all causing visual intrusion of the landscape distorting the authenticity and integrity of the proposed site according to ICOMOS evaluations (ICOMOS 2014: 73). Notable too, is the fact that most of these developments were constructed without due diligence on environmental, social and/or cultural heritage risks and impacts (ibid).

How were the proponents of heritage nomination going to reconcile the concerns of ICOMOS over cultural intrusion of the nominated landscape on the one hand, when the physical development infrastructure causing the intrusion is actually appreciated by local people as part of their sociotechnical developments in a land which is in dire need of such developments? To be explicit, will the people of Barotseland stop engaging in dynamic, creative and ingenious machinations of survival as they have always done for 400 years for the sake of an international heritage declaration (Mbikusita-Lewanika *et al* 2020: 54)?

In attempting to answer such questions, light should be shed on what UNESCO defines as 'integrity' of a nominated property, i.e. "the measure of the wholesomeness and intactness of the cultural and/or natural heritage and its attributes" (WHC 2012: 23). What theoretically constitutes the wholesomeness and intactness of Barotse culture if this culture has always been in a state of flux for more than 400 years? Secondly, what constitutes Barotse culture if Barotseland comprises an eclectic ethos of more than thirty ethnic cultures? Whereas the former is conceptual, the latter is practical. Whether such questions were clarified or not is beyond the scope of this discourse. But suffice to note here is that such critical interrogations only widened the scope of sociocultural risks for the heritage nomination process.

In evaluating the application to inscribe the BCL, ICOMOS (2014: 74) also noted, with concern, that the commercialization of the Lozi peoples' Kuomboka Ceremony (an annual transhumant ceremony in which the Litunga [King] leads his people and their animals to move from the flooded plain to higher dry lands in the forest areas) was constituting cultural intrusion of the landscape. But despite the infiltration of commercial interests in the Kuomboka Ceremony, and insofar as the people themselves were concerned, the ceremony stood its original purposes; to unite all Lozi people from far and near (Mbikusita-Lewanika *et al* 2020), and as a religious celebration for the God-given flood waters (Nafa, 2004: 55). As long as the moon stood high up in the night sky, the peoples' indigenous God was smiling to permit his people to move on the flood.

If the cultural and spiritual meaning of the ceremony remained intact in the minds of local people (as an ethic) despite the imported elements into the ceremony, ICOMOS evaluation of cultural/visual distortion of the landscape due to commercialization does not matter to the people. This leaves proponents of heritage nomination in a dilemma; to respect and uphold the notions and beliefs of the owners of the ceremony, or to ensure that the proposed BCL site complies with UNESCO requirements for integrity and authenticity of a

proposed site? The CHMP would answer this question but only to the extent that indigenous environmental and cultural ethics were foundational to that plan.

The NHCC has exemplified the dilapidated state of one of the oldest and most important Royal burial sites, *Makono*; a village mound on the banks of the Zambezi River being slowly washed away by the River flow each year, to justify the conservation of the BCL through the heritage nomination project. In this way, the *Makono* Royal shrine was presented as an emblem epitomizing the need for cultural revival and preservation in the eyes of the project proponents. But an interview with one of the shrine priests [locally known as *N'gomboti*] reveals the need to rely more on indigenous religious ethics for such judgements than the expert knowledge of a conservation agency. As far as the shrine priest was concerned, the loss of a Royal burial site like *Makono* into the River culturally showed nothing to worry about because it only depicted an indigenous religious belief that the spirit of the one buried there had actually deserted the burial site out of displeasure for peoples' loss of cultural respect for the shrine (Mbikusita-Lewanika *et al*, 2020: 149).

In such instances, it was the duty of the priest to institute traditional rites (*ku shea*) just in order to identify the new site to which the spirit of the buried Litunga had relocated (ibid). The shrine would then be relocated to the new site. Otherwise, the priest expressed dismay at the manner in which modern ways of preserving Royal shrines were being peddled at the expense of indigenous religious knowledge (ibid).

It is on this premise, therefore, that the fifteen year heritage nomination for the BCL should have been founded on indigenous environmental, religious and sociocultural ethics while indigenous environmental education becomes the vehicle for sensitization. Further to this, the environmental and sociocultural safeguards system should have equally been founded on the imperatives of indigenous environmental, religious, and sociocultural ethics while indigenous environmental education becomes the analytical framework for identifying sociocultural risks and benefits the project was bringing to the fore. In this way, the heritage nomination project would not have been viewed to be advancing cultural preservation which is contradictory to indigenous ethics.

The fact that the project carried a huge tag of 'UNESCO' amplified questions such as; whose culture is being preserved, for whose benefit, and for what purpose? These are ethical questions on which environmental conservation generally hinges and signifies the imperative role of ethics in any conservation effort. The moral of it all is; the theoretical logic of the fifteen years of sensitization for the heritage nomination project was wrongly flipped on the implicit idea that expert knowledge was more important than indigenous environmental and cultural ethics. Instead, the government experts needed to (i) learn from indigenous environmental, cultural and religious ethics of the Barotse floodplains, (ii) pitch its sensitization process on indigenous environmental education, and (iii) use indigenous environmental and cultural ethics as a vehicle for establishing a robust ESMF that assesses, respects and addresses inherent sociocultural risks and benefits the project was bringing to the fore.

5.0. Conclusion

The heritage nomination project to inscribe the BCL on to UNESCO's WHL was two throned: Firstly, it was based on the heritage conservation idea and what the idea was bringing to the fore [the substantive product]; and secondly, it was based on a process of winning the local peoples' consent to the idea [the process]. The two were mutually reinforcing since a product is only as good as the process through which it is made. Exactly how the heritage conservation idea was presented as a product, and how sensitization was undertaken as a process, are beyond the scope of this paper. This paper's key arguments have revolved around the project's failure to utilize the BCL's indigenous environmental, religious and sociocultural ethics as its theoretical framework for an environmental and sociocultural safeguards framework. This failure was followed by the failure to identify key environmental and sociocultural safeguards risks and issues inherent in both the idea and the process. Hence, the paper has attempted to demonstrate how pivotal ethics and sociocultural safeguards are in any conservation efforts.

In the first place, the BCL is a complex landscape whose complexity is wrought in an intricate matrix of environmental and sociocultural safeguards. The complexity of safeguards issues and risks is masked by the definition of 'environment' in terms of as an ecosystem of which mankind is part including cultural and man-made physical features forming a complex of physical, geographical, biological, social, cultural and political conditions surrounding the place and ultimately determining its form, nature and survival. The success of any project within such a landscape can only be determined by the extent to which the complexity of safeguards are respected and addressed using indigenous environmental and cultural ethics as an analytical lens.

Secondly, and as a consequence of the first, the heritage nomination project was itself supposed to be a 'safeguarding' project much more than a mere sensitization process. For this reason, fifteen years of sensitization could still not achieve what the project needed most, i.e. local consent for a social contract. Essentially, the sensitization was not married with safeguarding, for it is not sensitization that builds a social

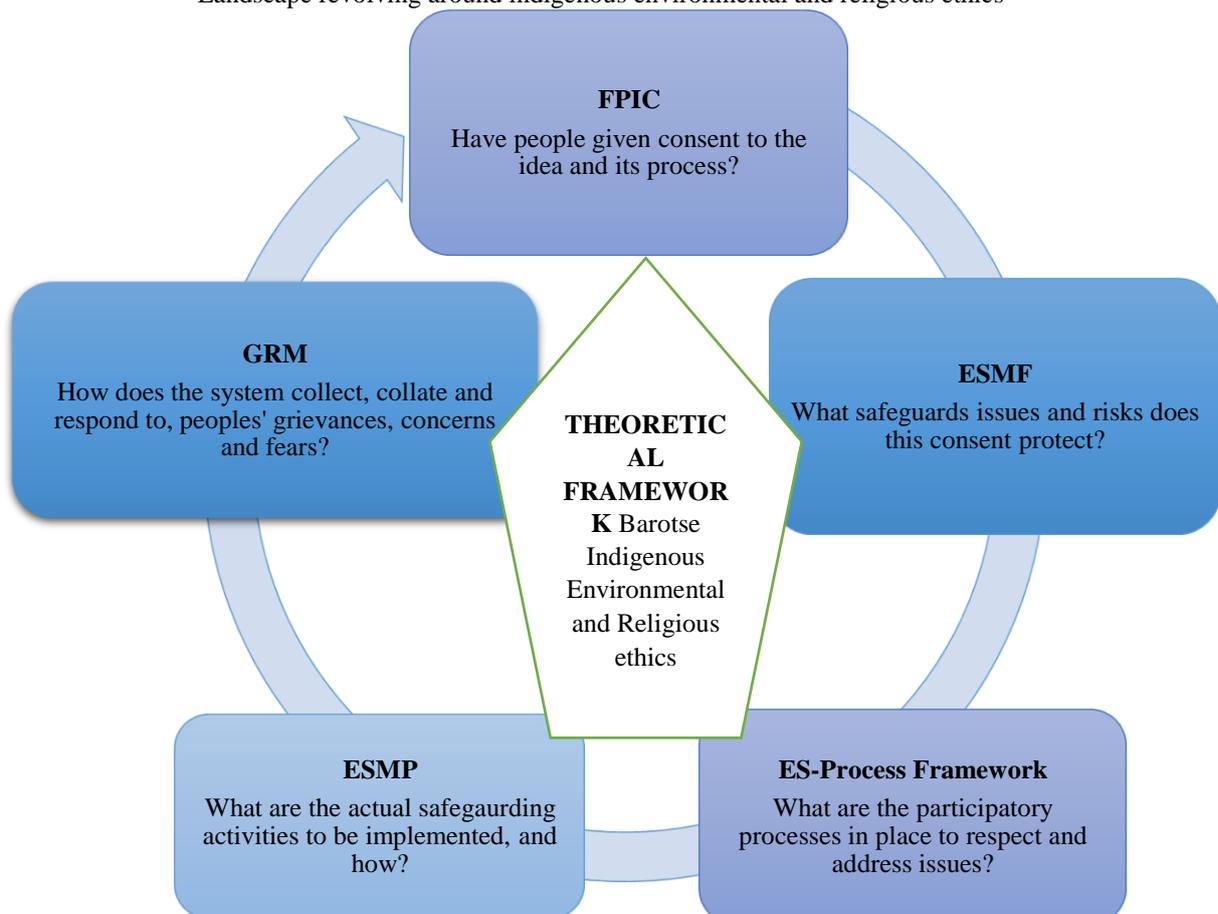
contract with local people, but safeguarding i.e. the extents to which risks and benefits are addressed and respected for, and on behalf of, the people.

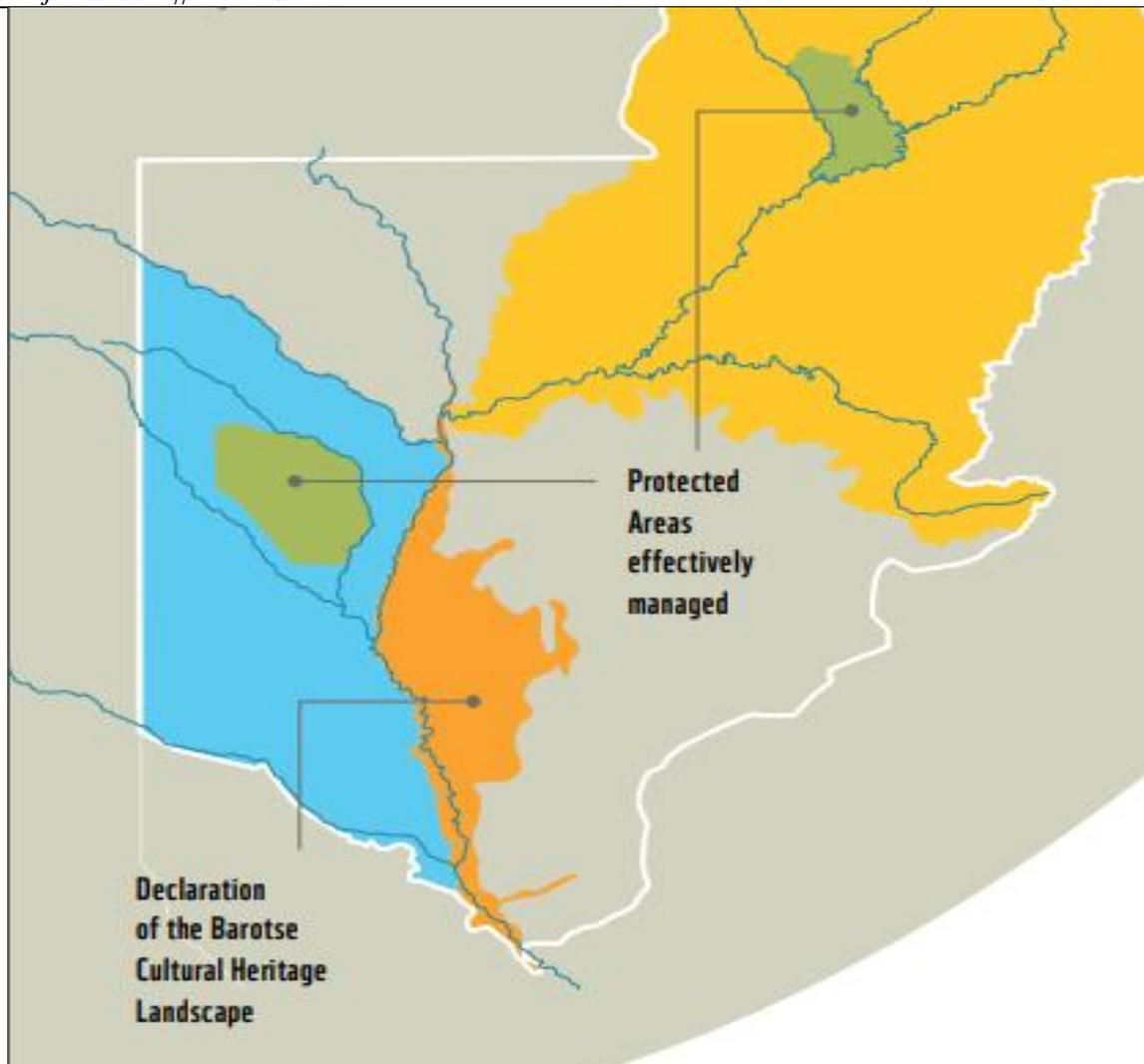
Thirdly, and because of the first two factors, the entire heritage nomination idea became a conceptual sociocultural risk because it raised a myriad of unanswered queries, fears and concerns. Consequently, the success of the project needed to be determined by the extent to which the complexity of such risks and issues were addressed and respected through an ESMF for the entire project from beginning to the end.

Fourth, the project has been deferred for now simply because, on face value, the project did not win social consent to operate and, because the proponents of the project could not establish a basis for the needed social contract with the local people. But beyond this, the project needed a carefully designed ESMF incorporating the three fundamental elements of a safeguards system (i) stakeholder engagement processes (ii) risk and impact assessment processes and (iii) management processes. These three safeguards mechanisms would have created a strong basis for a social contract between the proponents of the heritage project and the owners of the culture to be conserved.

Finally, the misappropriated role of indigenous environmental, cultural and religious ethics as a theoretical framework for the sensitization became visible in the project. The locus of sensitization should have been built around the need for indigenous people to lead the conservation project using indigenous knowledge while incorporating the sort of government assistance needed in a bottom-up CHMP determined by the locals themselves. This would have underpinned the beginning of respecting and addressing the complex environmental and sociocultural safeguards issues and risks which are deeply embedded with indigenous environmental, cultural and religious ethics of the BCL.

Fig 1: An Environmental and Sociocultural Safeguards Perspective of the Barotse Floodplain Cultural Landscape revolving around indigenous environmental and religious ethics





Source: WWF, 2021

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