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CHANGES IN THE COMMONWEALTH OF NATIONS AS AN ATTEMPT TO REDEFINE AN IMPERIALISTIC HERITAGE

ABSTRACT

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The aim of this article is to describe the changes that took place in the modern history of the Commonwealth of Nations, an international organization in which legal and political links between the Anglo-Saxon and the Oriental world are widely present. By examining the evolution of its institutions during and after the process of decolonization, the author captures crucial directions of those changes, their nature and also their meaning, which leads to interesting conclusions referring not only to the outcome of attempts to renounce the British imperialism in the internal structure of the Commonwealth, but also to those aspects of mentioned reforms that may be important in the future of the organization.

KEYWORDS: The Commonwealth, decolonization, international organizations.

1. Introduction

The British Empire, which gradually reduced its size after the second world war, today includes only some small-sized overseas territories that are under the jurisdiction of the United Kingdom¹. Despite being

¹ Form the legal point of view, today's so called British Dependant Territories should be divided into two groups. First one are British Overseas Territories over which,

sometimes a subject of quite significant international conflicts, and their symbolic significance, they no longer have the substantial impact on the political and economic situation of the United Kingdom that former colonies had. The complicated political, and also legal, system of Britain's sovereignty over its colonial empire was substituted by The Commonwealth, while the process of emancipation of former dominions and colonies took place simultaneously. Goals and plans of this organization are now completely different and its members are now independent, without any subordination to each other. Despite that the Commonwealth is still a place where all the different perspectives meet: European, African, Asian, American and Australian. The traditional and oriental view on its laws, customs and policies may differ and since that, the struggle to help them meet inside the institutions of the Commonwealth is even more important.

The analysis of the chosen aspects that are crucial in order for the Commonwealth to function, such as its internal organisation, laws and customs that have an impact on further plans and strategies, can help to answer the question to what extent is the Commonwealth an example of a successful fulfillment of an empty space in international relations between countries that once were parts of a huge political and legal construction that was created due to the process of decolonisation. Perhaps, despite those crucial changes it is still an institutional representation of British imperialism and one of the last visible evidences of the symbolic dominance over former colonies. The way those parts of the former empire now cooperate inside the Commonwealth can surely be treated not only as a reflection of how they perceive the status of other members, but also as a Litmus Test of whether they all share the acceptance of the equality among them. A critical examination, from the postcolonial

according to the 2002 British Overseas Territories Act, United Kingdom has complex jurisdiction and sovereignty – Akrotiri and Dhekelia, Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, Saint Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands and Turks and Caicos Islands. Second one are Crown dependencies (currently the Isle of Man, the Bailiwick of Jersey and the Bailiwick of Guernsey) that are in personal union with the United Kingdom and despite the international affairs, defence policy and legislative control held by the parliament in London, they are administrated by their own authorities.

perspective, of legal and political aspects of the Commonwealth's institutions, including a review of their current and historical activities may show, if this international organisation is an example of an excellent work on tough historical experiences of its members, or the last step towards the extinction of imperialistic ambitions which can be now longer fulfilled, since the members that are now independent states have different opinions on what the Commonwealth should be. Perhaps, as stated by Denis Judd and Peter Slinn: "having shrugged off the imperial hangover, the Commonwealth could set an example to the world in functional cooperation between diverse countries and in the application of democratic principles of government"².

2. Remarks on Commonwealth membership criteria

Today, the Commonwealth consists of 53 independent countries. Their independence, has been stated in many internal documents since the Imperial Conference of 1926, which proclaimed the equality of member's status as the root principle of Inter-Imperial Relations³. Even stronger emphasis on that status can be derived from the acts passed by the parliament of the United Kingdom in relation to the former colonies independence proclamations. As K.C. Wheare shows, when it comes to the Burma Independence act of 1947 (when Burma decided not only to become an independent state, but also not to be a part of the Commonwealth) "by using the same title for an act granting full self-government outside the Commonwealth it was demonstrated that the members of the Commonwealth were considered to be no less independent or free as nations in the world than were those which retained no link with the United Kingdom and other members of the Commonwealth"⁴.

The moment of the Commonwealth creation as well as the former membership criteria are still disputable. Sometimes the Statute of Westminster of 1931 is considered to be such a milestone, but usually The London declaration of 1949 is thought to be the act, thanks to which

2 D. Judd, P. Slinn, *The evolution of the modern Commonwealth 1902–1980*, London 1982, p. 118.

3 K.C. Wheare, *The constitutional structure of the Commonwealth*, London 1960, p. 20.

4 *Ibidem*.

the Commonwealth came into being, especially by the Commonwealth itself⁵. The declaration that was issued at the 1949 Commonwealth Prime Ministers' Conference both created a governmental organization known as The Commonwealth of Nations (not only British, as it was before), but also made possible for the states that hadn't been British dominions before to become its members. Since that, it is recognised as the Commonwealths' framework legal basis. Later, the membership criteria were reformed by multiple binding and non-binding declarations, such as Singapore (1971) or Harare declaration (1991). Current criteria, based on the previous acts were consolidated and stated explicitly in one legal document which became a part of the Edinburgh declaration of 1997, expressed in the Paragraph number 20 of the Edinburghs' summit communique:

Heads of the Government received and endorsed a report from the Intergovernmental Group on Criteria for Commonwealth Membership. They agreed that in order to become a member of the Commonwealth, an applicant country should, as a rule, have had a constitutional association with an existing Commonwealth member, that it should comply with Commonwealth values, principles and priorities, as set out in the Harare Declaration; and that it should accept Commonwealth norms and conditions⁶.

Therefore, the current criteria analyzed here can be divided into three conditions: constitutional association with a Commonwealth member, compliance with the Harare Declaration and acceptance of the Commonwealth norms and conditions.

The constitutional association principle is the newest and also the most controversial one. It was introduced only after controversies concerning the access of the Republic of Mozambique arose, since it is the only member of the Commonwealth that has never been a part of the British Empire. It clearly shows, as said by Alison Duxbury, that "These criteria demonstrate that the Commonwealth does not envisage itself

5 Commonwealth Secretariat website, <http://thecommonwealth.org/our-history> [access: 18.02.2018].

6 The Edinburgh communiqué of 1997, [in:] Commonwealth Secretariat (ed.), *The Commonwealth at the Summit: Communiqués of Commonwealth Heads of Government Meetings Volume 3: 1997–2005*, London 2007, p. 18.

developing into a universal organisation, seeking to have all states as members. Instead, it will only accept members ('as a rule') from a specified or closed group of states which fulfil certain standards"⁷. That closer group can be definitely defined by the connection with British imperialist heritage. It is a very rare example of a purely symbolic, historical rule that has been turned into a legal requirement, which can be seen as way to achieve a better ground for cooperation and integration between states that have a lot in common, or on the contrary, as an ideological interference with the legal aspects of the international relations that excludes some states from the cooperation for no other reason than not being occupied by a colonial empire, since United Kingdom is obviously the only Commonwealth member that any other applicant state can have constitutional association with. Despite exceptions, like those made for Mozambique of Rwanda, the spirit of the regulation remains unchanged.

Compliance with the values stated in the Harare Declaration is a much more objective condition than the previous one. They were set by the member states as follows:

we believe that international peace and order, global economic development and the rule of international law are essential to the security and prosperity of mankind; we believe in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives; we recognise racial prejudice and intolerance as a dangerous sickness and a threat to healthy development, and racial discrimination as an unmitigated evil; we oppose all forms of racial oppression, and we are committed to the principles of human dignity and equality; we recognise the importance and urgency of economic and social development to satisfy the basic needs and aspirations of the vast majority of the peoples of the world, and seek the progressive removal of the wide disparities in living standards amongst our members⁸.

7 A. Duxbury, *The Commonwealth and the Edinburgh CHOGM: Challenges and Opportunities*, Agenda: A Journal of Policy Analysis and Reform 1998, vol. 5, no. 4, p. 444–445.

8 The Harare Commonwealth Declaration of 1991 on the Commonwealth Secretariat website, <http://thecommonwealth.org/sites/default/files/history-items/documents/Harare%20Commonwealth%20Declaration%201991.pdf> [access: 18.02.2018].

As can be seen, they mostly refer to basic human rights and the universal rules of international law, also affirmed by the United Nations. Also the declaration puts a very strong emphasis on the non-discriminatory rules, which are crucial from the postcolonial legal perspective. Those values set an essential standard for any international governmental cooperation both from the perspective of the rule of law and the tough history of discrimination, divisiveness and the inequality in social, political, economic and legal relations between the member states. Despite that purely historical background they are very actual and universal, which is crucial in the world where the rule of law principle is being currently undermined instead of being treated as a legal and political Rubicon. It can also be seen as a practically applicable part of the colonial critique, to which Margaret Kohn and Keally McBride refer as demystification. In this context, demystification involves “showing that the West is not superior in absolute terms but rather it is superior only in terms of the criteria that it sets for itself”⁹. Recognition of that fact and, as a result of his realization, setting the crucial criteria of acceptance together, among all the member states should be seen as real step further made especially thanks to the Commonwealth.

The last condition, acceptance of the Commonwealth norms and conditions seems to be very general and without practical meaning. Whereas most of them, despite being expressed in various documents and declarations (such as the newest Commonwealth charter) can be derived from the Harare Declaration principles, there are some other rules of the Commonwealth that have quite important meaning. Two of them are the most important from the postcolonial perspective: the recognition of the English language as the mean of communication in the Commonwealth and accepting the British monarch as the head of the Commonwealth¹⁰. Despite purely symbolic meaning that indicates obviously inevitable British cultural domination over other member states, those requirements encourage applicant states to make some real legal changes in order to be accepted as a member state in the future, such as Rwanda, that made

⁹ M. Kohn, K. McBride, *Political theories of decolonization. Postcolonialism and the problem of foundations*, New York 2011, p. 143.

¹⁰ The Kampala Communiqué of 2007 on Commonwealth Secretariat website, https://web.archive.org/web/20090102025804/http://www.thecommonwealth.org:80/shared_asp_files/GFSR.asp?NodeID=174528 [access: 18.02.2018].

English its official language despite no previous tradition of that. It shows that because of those criteria some bonds between the member states may be created artificially, which will lead to nothing else than the future tensions around them.

3. The Queen as the head of the Commonwealth

The Queen Elizabeth II who is the actual monarch and the head of the state both in the United Kingdom and many other member states, is also the head of the whole Commonwealth. That position of the British monarch was not only stated in the London declaration of 1949, where all the members, including India, expressed “acceptance of The King as the symbol of the free association of its independent member nations and as such the Head of the Commonwealth”¹¹ but also was it repeated as one of the membership criteria mentioned before. While this role of the Queen is completely separated from her domestic constitutional position in various member states, it is important to notice that it is much more than just a rule and that it brings a lot of opportunities for her to act, not always in a purely symbolic way. Obviously, the Queen is mostly just a traditional representative of the pact between the member states, while all the actions, plans and projects conducted by the Commonwealth are coordinated by its acting institutions: CHOGM¹², Secretary-General and the Commonwealth Secretariat. Despite that fact, there are some powers inside the Commonwealth that she may exercise on her own, with no need for an external approval (as it is in the United Kingdom when it comes to Prime Ministers’ “advice” on her actions). These are the right to conduct personal consultations with the member states representatives during CHOGM meetings, and right to give her own speeches and

11 The London Declaration of 1949 on the Commonwealth Secretariat website, <http://thecommonwealth.org/sites/default/files/history-items/documents/London%20Declaration%20of%201949.pdf> [access: 20.02.2018]. The title mentioned in London Declaration referred to George VI, but despite not being treated as hereditary, Elizabeth II was without any dispute also recognised as the head of the Commonwealth by all the member states.

12 CHOGM are the Commonwealth Heads of Government Meetings, summits that take place every two years, during which all the crucial political decisions and further plans are discussed by the representatives of the member states.

addresses. Also some of her non-political or symbolical decisions, may have an important influence on the Commonwealth as an organization, even without any institutional or formal meaning¹³.

The way the Queen exercises both these powers and her ceremonial obligations, indicates that some Royalist traditions still remain, which is obviously the influence of British imperialism on the Commonwealth, but on the other hand it shows how many changes the Commonwealth has undergone during the decolonization process. For an example, despite the Queen being not only the head of the Church of England, she is also recognized as a defender of faith, which is a part of her Royal title. Her obligations concerning activities related to that positions have no reference to those countries of the Commonwealth in which she is not a head of the state. This fact was even mentioned in the oath which she swore during her coronation. All the religious obligations that she promised to fulfill referred strictly to the United Kingdom. Because of this and despite her obvious entanglement with the Church of England as a hereditary monarch, none of this have any impact on her position or role in other member states, not to mention that the oath also obligated her to “respect all the laws and customs” in all the states in which she reign¹⁴.

The postcolonial change is also reflected in the history of all the speeches and addresses that she gave, according to her powers, as a head of the Commonwealth. Since 1955 she never used a word “empire” with the reference to the Commonwealth anymore¹⁵. Also, the Queen took an active part in many CHOGM meetings and consultations, playing a huge role in dealing with many postcolonial crises inside the Commonwealth, such as a 1979 conflict in southern Rhodesia that led to the proclamation of Zimbabwe, which became a member of the Commonwealth, or the problems around the expulsion of the Republic of Fiji after the coup that took place there in 1987.

Another issue, which again reflects the fact that the influence of the British crown on the Commonwealth has changed without being ceased, is the problem of succession when it comes to the position of the head of the Commonwealth. After the death of King George VI, who was the

¹³ A. Polus, *Commonwealth na arenie międzynarodowej*, Wrocław 2009, s. 88.

¹⁴ H.V. Hodson, *Crown and the Commonwealth*, „The Round Table: The Commonwealth Journal of International Affairs” 1995, vol. 84, no. 333, p. 92.

¹⁵ A. Polus, *op. cit.*, s. 84.

only head of the Commonwealth that was formally, and explicitly chosen to hold that position, Elizabeth II substituted him, with the general, but informal consent of all the states. Since that status of the British monarchs is not hereditary, a huge discussion about what will happen to the position of the head of the Commonwealth itself, started recently, as the Queen obviously ages. Many voices from different member states appeared recently, such as denying Prince Charles' right to substitute the Queen in this field without general consent of the countries of the Commonwealth, projects of creation an institution of the President of the Commonwealth, similar to the President of the European Council, or an idea of temporary headship, rotating between the member states¹⁶. Simply, it can be seen that despite being turned into practice or not, those ideas reflect the fact that the British monarchy has some influence on the Commonwealth, but it is strictly limited by the member states consent. It should be considered a really good idea, because that consent only refers to a non-controversial, very positive, conciliatory influence and it creates a unifying symbol that every organization must have.

4. CHOGM meetings – the main scene of the Commonwealth

While analysing the institutional matters of the Commonwealth, Commonwealth Heads of the Government Meetings obviously cannot be omitted, thanks to their significance and influence on the decision-making process in the organization. The conferences, during which member states are usually represented by their most important representatives including Prime Ministers, Presidents and often The Queen herself, are held every two years, in various member states. During conferences, leaders have to deal with the most important matters such as imposing sanctions on member states, creating new Commonwealth rules, laws and customs, accepting or excluding new members or discussing general policies and goals for the whole Commonwealth. In spite of the fact that Commonwealth has no written statutory document and has no other executive bodies other than the secretariat, which is a non-decisive institution, all the declarations and communiques created and issued thanks to the

¹⁶ H.V. Hodson, *op. cit.*, p. 93–95.

history of CHOGM meetings form the only legal and political framework that allows the Commonwealth to function. Obviously, an institution that years before was just an imperial conference, has undergone huge changes even after the creation of the Commonwealth as we know it today. From what was once an “intimate, essentially male and monochrome gathering of the old ‘British’ Commonwealth” it has become a central political scene of “a multiracial and polycentric organisation”¹⁷.

The most obvious change, was the size of the meetings. Since the Commonwealth accepted the equality and sovereignty of its members, it created a situation in which over the years a huge number of new countries became independent, retaining the Commonwealth membership at the same time. Naturally it made the meetings much more complex, detail-oriented, less centered on the purely British matters but also much more complicated to organise. That was precisely depicted by Stuart Mole saying that:

From the representatives of eight countries who came to London in 1949, and the 11 who attended in 1960, some 21 arrived in 1965, 31 were at Singapore in 1971, 42 in Melbourne in 1981, 47 in Harare in 1991, and 52 came to Abuja in 2003. Most countries are represented at the highest level. In 1999 in Durban, South Africa, all 52 eligible member countries were represented for the first time (apart from Pakistan, then under suspension, and Tuvalu, at that stage a ‘special member’), and a record 47 of those delegations were led by their head of government (whether prime minister, president or king)¹⁸.

On the other hand, a different problem created by that enlargement that he noticed is also worth mentioning here. The idea of policentric institution such as CHOGM meetings can be disturbed by the fact that a lot of smaller, less developed member states simply cannot organize such a conference. It obviously bring enormous costs in terms of safety, logistics, not to mention finding a proper location for such a number of honorable guests or even such a big conference table¹⁹. This problem can

¹⁷ S. Mole, *‘Seminars for statesmen’: the evolution of the Commonwealth summit*, „The Round Table: The Commonwealth Journal of International Affairs” 2006, vol. 93, no. 376, p. 534–535.

¹⁸ *Ibidem*, p. 535.

¹⁹ *Ibidem*, p. 537.

easily destroy the idea of a polycentric nature of CHOGM meetings by simply excluding the smaller less powerful members from organising an event that obviously focuses Commonwealth attention on the local matters and problems. Without proper financial aid, also when it comes to logistics, the British domination may easily turn into a domination of a small group of states such as Australia, New Zealand, United Kingdom, Canada, Pakistan or India. Which is still a change, but definitely not as deep as expected.

Also the nature of the conferences is different than it was before. The informal, cordial talks taking often over a week has been shortened from nine days in 1971 to three and a half days in 1995. Also an institution of retreat, a short, absolutely informal leisure time of the conference, during which Heads of the Government spend some time only with their spouses, simply relaxing and integrating in a friendly atmosphere, has been shortened, or, like during the meeting in Abuja in 2003, even packed into an overnight stay in a hotel inside the city²⁰. Those changes indicate the fact that despite the friendly atmosphere and understanding, because of the development of the Commonwealth the informality must have been reduced, which makes the meetings more professional and ensures the equality of the conferences much better, but also reduces the possibility of successfully dealing with the delicate conflicts inside the Commonwealth family, which was much easier during the times of retreats, far from the cameras and in the atmosphere of deep understanding also on a personal level. Certainly it can be said that despite all the problems with the meetings that emerged or may emerge in the future thanks to the changes mentioned, what happened to the CHOGM meetings reflects the nature of the general direction of the Commonwealth and was clearly depicted by Sir Shridath Ramphal, former Commonwealth Secretary-general, who said:

Nothing would more effectively project the modern Commonwealth as an association of equals than these high-profile gatherings in urban centres across the world. The old Anglocentric Commonwealth had passed into history, replaced by an association with as many centres as peoples²¹.

²⁰ *Ibidem*, p. 537.

²¹ S. Ramphal, *A working Internationalism*, preface to *The Commonwealth at the Summit*, Commonwealth Secretariat, London 1987, p. 2.

5. The Commonwealth Secretariat and the Secretary-general

The Commonwealth Secretariat and the position of the Secretary-general were created in 1965 by the Agreed Memorandum on the Commonwealth Secretariat, revised in 2005. That act gives the mentioned institution only technical expertise without political or even symbolic meaning, regarding the fact that the Queen, not the Secretary-general is the Head of the Commonwealth. As it is written in the Agreed Memorandum, The Secretariat role is to serve the member states and their governments, mostly by organizing the multilateral consultations and circulation of papers, while being fully dependent to the governments decisions with no exceptions in the other way and with their informal consultations resulting in the issued statements as the only way of decision-making in the Commonwealth. Secretariat and the Secretary-general is to help, organise and provide what is required by the member states²². Because of that rather small impact on the nature of the Commonwealth as a whole it was not described separately in this article. Giving it a new, more important role would enable more integrated and constant activities of the Commonwealth, which would be another step forward for the member states since it requires putting less emphasis on their individual sovereignty, which in some cases has been granted and secured not so long ago. Being able to get over with that postcolonial complex can result in creating a new role for the whole Commonwealth. The current legal framework depicted in the Memorandum shows that it still requires some time to be achieved.

6. Summary

There can be absolutely no doubt that since the beginning of decolonization and the London declaration of 1949 the Commonwealth has undergone a lot of crucial changes. Most of them should be classified as beneficial for the organisation and its struggle to protect a fruitful political, economical and cultural cooperation, while trying to redefine its basis,

²² Agreed Memorandum on the Commonwealth Secretariat 1965, [in:] A.J. Peaslee, *International Governmental Organizations. Constitutional Documents*, Hague 1974, p. 290–292.

creating a platform of equality and understanding in a place where before one could mostly notice colonial dependence and short-sighted imperialist political strategies. That new basis enabled the Commonwealth to grow, making the cooperation attractive to the new member states, which at the same time allowed the Commonwealth to keep its significance, that could have easily disappeared after the decomposition of the British colonial empire. The question is if the member states would be willing to make another step further and strengthen their bonds by transferring more power to the Commonwealth internal bodies and institutions, such as the Commonwealth Secretariat. Moreover, the future definitely brings the need to reconsider all the positive and negative results of an informality inside the Commonwealth. Without permanent, decisive, fast-acting and properly financed institutions, it won't be anything else than a formal club for the members of one political family, which will, in the world that changes rapidly, soon make the Commonwealth only a beautiful finale of the decolonization, not a meaningful platform for the contemporary international affairs.

Despite this, there are some problems that the member states and their Heads of the Government will have to struggle with. There is still some work to be done when it comes to properly securing the equality non-divisiveness and the lack of any remains of the British imperialism within the Commonwealth. Those issues can be seen for example in historical provisions in the membership criteria, or an urgent need to regulate the status of the Head of the Commonwealth, before an enormous royal drama may occur. Without that, as it was said before, the member states that only recently became fully responsible for their sovereignty may hesitate to act upon strengthening the Commonwealth institutions. Also one should keep in mind a risk of using the Commonwealth as a political tool in different areas of international affairs, especially when it comes to another important organisation in which UK is involved – the European Union. As it was said in an article written by E. Namusoke “standing up for Commonwealth interests as a Brexit strategy is nothing but a cynical ploy and a form of nostalgia for the British Empire dressed up to suit the Leave campaign”²³. One should remember that the Commonwealth will

23 E. Namusoke, *A Divided Family: Race, the Commonwealth and Brexit*, „The Round Table: The Commonwealth Journal of International Affairs” 2016, vol. 105, no. 5, p. 467–468.

not represent or support anything like that anymore. With certainty, the future of the Commonwealth, thanks to the changes which have already been made, can be bright. What it will be, is, as always, only up to its member states.

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ABSTRAKT

ZMIANY WE WSPÓLNOTY NARODÓW JAKO PRÓBA REDEFINICJI IMPERIALISTYCZNEGO DZIEDZICTWA

Niniejszy artykuł powstał w celu opisanego zmian jakie zaszły na przestrzeni współczesnej historii Wspólnoty Narodów, organizacji międzynarodowej, w której prawne i polityczne związki pomiędzy tradycją anglosaską i orientalną są dziś żywo obecne. Poprzez analizę i opis ewolucji instytucji Wspólnoty Narodów w trakcie oraz po zakończeniu procesu dekolonizacji, autor ukazuje główne kierunki przekształceń w tych instytucjach, charakter, a także znaczenie prezentowanych zmian. Analiza ta prowadzi do interesujących wniosków, odnoszących się nie tylko do pytania, czy opisywane zmiany stanowiły udaną próbę odrzucenia brytyjskiego imperializmu w wewnętrznej strukturze Wspólnoty Narodów, ale także do prezentacji znaczenia opisywanych zmian dla przyszłości całej organizacji.

SŁOWA KLUCZOWE: Wspólnota Narodów, dekolonizacja, organizacje międzynarodowe.
