

EAST AFR. PROT.
N^o. 21084

C/O
21084
12 JUL 05

Governor No. 235
Letter

(Subject.)

1908

Legal Status of Slavery

16 May

Last previous Paper

Minute memoranda by Secy for Native Affairs & Comrs
advocate on procedure adopted in East on the slave
attaining his freedom. also views on difference between
System in Colony & that in Zanzibar.

(Minutes)

Mr. Conradus

See no 21094.

16/5/05

17 June 05

Copy to Mr. Conradus 26 June 1905

1908

Next subsequent Paper

21094

21034

Governor's Office

10 JUN 08

Nairobi

EAST AFRICA PROTECTORATE.

May 14th 1908.

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No. 235

(Incl. 3)

My Lord,

*Go
10/1/08*

In continuation of my telegram of the 8th instant, I have the honour to submit copies of Memoranda by the Secretary for Native Affairs and the Acting Crown Advocate on the procedure adopted in this Protectorate on a slave obtaining his freedom. This procedure is very fully explained in the "Instructions for the Guidance of Slavery Compensation Courts" which were issued last October, and a copy of which is enclosed for ready reference.

Mr. Hollis
Apr. 18th

Mr. Young
May 18th

Instructions

2. I had intended to draw up a report in collaboration with Mr. Cave, and on receipt of his views, which appear to have been already communicated to Your Lordship, I arranged with him to meet me at Mombasa on the 28th instant. As, however, Your Lordship is anxious to have my views without delay, I submit them herewith and will add anything that may be further required after I have seen Mr. Cave.

3. In the first place it strikes me that the main difference between our system and that of Zanzibar

H. M. PRINCIPAL SECRETARY OF STATE

FOR THE COLONIES,

DUNNING STREET,

LONDON, E.W.

R.

(2)

Zanzibar is one of principle. According to Article 2 of the Zanzibar Decree of the 7th April 1897 no Courts shall enforce any rights over a person on the ground that he is a slave, but it would seem that a slave remains a slave unless he claims his freedom.

4. Our Ordinance, No. 7 of 1897, went further and abolished the legal status of slavery absolutely leaving it to the owner to claim compensation when he can show that he has suffered material loss. The effect of this Ordinance is that the slaves were free from the 1st of October last whether they remain with their masters or not.

5. As regards procedure; in Zanzibar the master takes no action; this is left to the slave and when he is freed a small sum, up to Rs.20, is granted to the master as compensation. Here, holding as we do that the slaves have been freed by our Ordinance, it is left to the master to claim compensation for any loss he is put to by deprivation of the slaves' services, from their refusing to remain with him.

6. There is a further difference in the condition of the slaves. Those in Zanzibar are reported to be chiefly domestic slaves, who are probably comfortably housed. In East Africa the majority of the slaves were shamba or agricultural slaves, in respect of whom the small compensation paid in Zanzibar would not in any way be a commensurate compensation for the loss of their services to their masters.

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7. Our system is reported by both British Officers and the Arab Iwadis to be working well, except in the case of Lamu, where there was discontent at the sums accorded to the masters as compensation, which led many of the higher class Arabs to prefer to nurse a grievance rather than to apply for compensation on their slaves leaving them. Since my despatch No. 142 of the 2^d April was written, I have visited Lamu and conferred with the Arabs of all classes. I found it expedient, whilst adhering to the principles regarding compensation referred to in paragraph 15 of the Instructions, to direct that a more liberal view in the matter of compensation be taken by the Courts when the slaves' services had been really valuable to the master. And I have now heard by telegram from Lamu that the large slave owners are more satisfied and are submitting their applications.

8. I would take this opportunity of remarking that in my opinion the total amount we shall have to pay on account of compensation will not approach the sum provided for the purpose.

I have the honour to be,
 With the highest respect,
 My Lord,
 Your Lordship's most obedient,
 humble servant,

W. Campbell

23rd of May 14 1908C. O.
21084

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12 JUN 08

MEMORANDUM ON THE PROCEDURE FOLLOWED IN THE
EAST AFRICA PROTECTORATE IN CONNECTION
WITH A SLAVE OBTAINING HIS FREEDOM.

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All proceedings under the Abolition of the Legal Status of Slavery Ordinance 1907 are heard in the District Courts. They are free of charge but where an appeal is entered against an award a fee of Rs.5 is charged. Slavery compensation cases and Slavery Maintenance cases and a separate series from the ordinary Court cases and a separate file is kept in respect of each slave.

On the application to the Court by a slave wishing to know his position, he is informed that he is at liberty to remain as before with his Master, that he is at liberty to go away, or that he may enter into a written contract up to 3 years with his late master or with anyone else under the Master and Servants Ordinance 1906.

When a claim by a master is filed for the loss of the services of a slave, notice thereof and the date of hearing are given by the District Court to the Registering Officer. The hearing of the case takes place 14 days after the claim is filed, and the evidence in all cases is recorded on oath. The finding is transmitted to the Registering Officer in the form A. attached. In the event of an appeal being entered, notice shall be given by the District Court to the Registrar of the High Court within 3 weeks of the date of the award, and the Registering Officer and the Crown Advocate must also be informed. The onus is on the claimant for compensation to prove that he has suffered loss by reason of the passing of the Ordinance. The District Courts may call

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call in the Registering Officer as assessor and may refer to him for assistance or advice. Where the Court has reason to believe that a claim is collusive, the case is not proceeded with until the Registering Officer has had an opportunity of attending or expressing his views. Each case is considered on its merits, and although Rs. 64 has been taken as an average price of an able-bodied slave, it is left to the discretion of the Magistrate to award a higher or lower sum. It is not necessary for a slave to appear before the Court when compensation is claimed, but it is considered advisable that he should do so whenever possible. Payment of compensation can be made at any place according to the wishes of the person compensated.

Maintenance is awarded to old and decrepid slaves who would have been entitled to demand support from their masters before the promulgation of the Ordinance. Maintenance is reckoned at about Rs. 2 a month according to the cost of living in the locality in which the slave reside. The slave must appear in Court or be seen by the Magistrate, and the finding is sent to the Registering Officer on the form B, which is attached. The Magistrate has however the right to pay maintenance as soon as he has made his award should he consider it advisable to do so.

A. C. Hollis

April 16th 1900.

WITH REFERENCE to the differences on legislation between
S.E.A. Protectorate and Zanzibar in regard to the Abolition of
Slavery.

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Your Excellency

The procedure adopted here is as follows:-

All cases brought into Court under the Abolition of the Legal
Status of Slavery Ordinance 1907 are heard before the Slavery
Compensation Court by a person specially appointed to hear these
cases. All proceedings are free of charge except where an
appeal is entered against an award then a fee of Rs.5/- is
charged. Separate files are kept for each case. When the owner
of the slave applies to Court for compensation for loss of the
services of his slave, notice thereof and the date of hearing
is given to the Registering Officer by the Court, the case
does not come on for hearing till after the lapse of 28 days
after the claim is filed, the judgment is transmitted to the
Registering Officer in Form A under this Ordinance. If an
appeal is entered then notice must be sent to the Registrar
of the High Court by the Court from whom the appeal lies and
this must be done within 5 weeks of the award, giving notice
as well to the Registering Officer and the Crown Advocate.
Before any compensation is paid the person claiming compensation
must prove that he has suffered loss by this Ordinance being
passed. It is not necessary that the slave must appear in Court
when compensation is awarded. Maintenance is awarded to old and
decripit slaves, who would have been kept by their owners if
this Ordinance had not been passed, this slave must be seen by
the Magistrate.

If a slave desires his freedom in Zanzibar he has only to
go to the Commissioner who at once frees him and if he knows
the owner forwards to him Rs.20 or less, or if unknown he tries

to find him and if the master wants compensation pays him Rs.20
or 1000.

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When the slave has got his or her freedom note is taken of his or her height, and of any peculiar marks he or she may have for identification purposes, together with his or her name, sex, tribe, age and place of abode. And the sex, tribe and place of abode of the owner and witnesses in a register kept for the purpose. The slave is then given a brass badge, bearing a number corresponding with the number in the register, showing that he has been freed.

From what I gather from Mr. Lister's report it appears that most of the slaves in Zanzibar are domestic that is house slaves while in East Africa I understand that most of the slaves are of the labouring (shamba) class. From this summary it will be seen that to a certain extent the procedure ^{is} practically the same at any rate it arrives at the same conclusion (the freedom of the slave). The only material difference is that in East Africa the Master applies to the Court for some gratuity for loss of his slave owing to the Ordinance of 1907 coming into force, while in Zanzibar the slave for reasons of his own wants to be freed and so applies to the Court for his freedom at the same time paying the master compensation if he wants it. While in East Africa the Government compensates the owner.

SH. H. A. YEUNG.

AGICROWN ADVOCATE.

NAIROBI.

13 MAY 1908.