

1927

X 10355

KENYA

1927

X 10355

Status of Natives of the bonus Islands and Madagascar in Kenya

Previous

Apr. 10/55/16

Mr Bottomley 14/57

H.A.

19

Mr Bottomley 19/57

E.A.D.

20

Miss Rowley 19/57

H.A.

Room 1

Mills 20/57

R.A. 29/57

Mr Whitcomb 20/57

E.A.D. 3/58

Room 3 3/58

Room 4 2/58

Room 3 22/58

H.A. 22/58

Subsequent

X. 15009
28

H.A. 9/6

Room 29 E.A.D. 24/58

E.A.D. 14/6

Mr Jeffries 24/58

Mr Bottomley 14/58

Mr Burkhardt 25/58

E.C. Strachan 17/6

Mr Jeffries 26/58

H.A. 17/6

Room 29 1/9

Room 4 17/6

Room 3 1/9

Miss Rowley 18/6

H.A. 13/9

Room 1 18/6

Room 29 E.A.D. 27/58

E.A.D. 18/58

Miss Bottomley 27/58

~~Room 1~~

Mr Sheehy 27/58

Miss Rowley 21/6

Mr Burke 29/58

Room 1 27/58

Mr Wiseman 1/60

Room 29 E.A.D. 14/7

Mr Bottomley 1/60

Mr Jeffries 14/7

Room 3 1/60

Room 1 1/60

Room 29 E.A.D. 1/60

1. ----- Foreign Office ----- 8th June, 1927.

Trs. copy despatch from French Ambdr stating that, by a Notice in the Official Gazette of 7th July, 1926, natives of the Comoro Islands and Madagascar have been declared as "natives" for the purpose of the Native Regn. Ordce., and complaining that, as these have hitherto been classed as Asiatics, they are now suffering considerable loss of status, and adding that the French Govt. earnestly hopes that status of Asiatics will be restored or that those who wish may be given permission to leave Kenya.

(a)

Para (4) of Re/1916/15 ^{Zanzibar} shows that at that time difficulty was experienced in Zanzibar owing to it being claimed that Comorians, as French subjects, ~~was~~ were exempt from restriction placed upon natives in the matter of the purchase of drink.

I cannot find anything subsequent in this particular subject, but in 1925 (19124/25 & 38721/25) the Zanzibar Govt. amended the law so as to include natives of the Comoro Islands & Madagascar in the definition "African", & also provided that with certain exceptions, the expression "natives" in the law should be construed as meaning "African".

No protest appears to have been received, but the action of the Kenya Govt. in declaring these people to be natives for the purpose of the

X 10355
Native Registration Ordinance has aroused this protest, mainly, it would seem, because the gentlemen concerned object to carrying the "kipande".

The French Govt. do not appear to think that they have much of a case for demanding the withdrawal of the proclamation: they will apparently be satisfied if the aggrieved Comorians are allowed to leave the Colony.

We had better take this up by telegram, I think; & I submit a draft for comment.

Off. 14.6.27

The points I have marked seem to show that the obstacle to departure may be a simple administrative one. It is suggested that 222 & 223.

C. J. Stanley
14.6.27

2
Tel cons. to Gov. 15th June 27

1
To F.O. (w/copy no 2) 18 JUN 1927 B/a

4
C. J. Stanley
17 June 1927

Notes inquiries have failed to reveal any case of a Comorian being obstructed. Dept follows.

Colony to F.O. 25.

C. J. Stanley
18/6/27

[Nakuru is 2
miles inside the
Treaty zone]

X 10355
To F.O. (w/copy 4) 21 JUN 1927 B/a

6. AG. Gov's Dep. Northcote 21st June 1927
466.

Trs. copies corres. with the French Consul, Zanzibar, regarding the status of Comoro Islanders and Madagascans.

The French Consul at Zanzibar does not appear to be an agreeable correspondent.

It appears that certain Comorians were brought before the Court at Nakuru & fined for refusing to comply with the law, but there was nothing illegal in the procedure. No obstacle is to be placed in the way of those who want to leave.

2
copy 6 enclosures to F.O. 17.6.27

C. J. Stanley

Off. 14.7.27 14.7.27

The nature of the Comorian badge is to be determined by the Local Special Commissioner, being offered to Comorians as a badge & ticket of identification.

C. J. Stanley

14.7.27

19 JUL 1927 B/a

To F.O. (w/copy no 6) 19 JUL 1927 B/a

Send me copy both of it.

V.C. Stowley

2/8/27 at home

109 to Gen. 682 (w/ copy and) - 6 AUG 1927 Aff

10 Foreign Office 22 Aug, 1927

The copy despatch from French Consul inquiring what is the meaning of legal restraint (employed in para. 3 of indent to no. 8) as applied to Comoros and whether their freedom to emigrate can be interfered with either by law or by terms of contract.

Mr Jeffries

The phrase about which the French enquire was copied into the FO letter of the 25th July from para 4 of the Kenya Secretariat letter of 10 March to the French Consul. (4th enclosure to No. 6)

I can only guess what was in the minds of the Secretariat, but I presume that the phrase "provided that he is under no legal restraint"

For contract I mean provided that in not signing a sentence of imprisonment or a contract of compulsory punishment imposed by the courts or is not required to appear before a court in a future

date for that he has not entered into a contract of employment for a period which is not completed. Undoubtedly the Comoros in question are certainly not subject as such to any restrictions on their liberty to leave the Colony.

For papers Mr. Thibault has better be consulted to see if an could reply in the above sense.

G. Reed

24/8/27

Off. Jeffries 24/8/27

I think that we can reply as suggested but I am doubtful whether there is power to do this for a person in the Colony on the strength of a contract to work there. A person ^{under the penalty} _{of a contract} for a breach of such a contract is ^{not} _{such a contract} as are directly due to the breach. Generally a Court will have jurisdiction to prevent a person from moving from place to place.

Off. written through Mr. Thibault 25/viii

Off. Jeffries 26.8.27 at home

To F.O. (no/ognd) cons. - 1 SEP 1927

17

Foreign Office

12 Sept. 1927

Miss In Darter Chamberlain hesitates to reply in the sense of No. 11 as it would imply that prisoners could be detained in Kenya because they had entered into a contract which had not been fulfilled.

Mr. Eckhardt

I have drafted after discussing with you. A copy of the ^{from 14/9/27} copy should go to the Governor, and it may be desirable to point out to him that, whatever the legal position, it would not be possible to restrain a foreign subject from leaving the Colony on the ground that he had not completed a civil contract, if that of there is any doubt on the point this should be made clear.

E. J. Jeffries 14.9.27

Mr. Rothwell

On recommendation & having regard

to the penultimate para. of the ambassador's note I am inclined to the view that an answer on the lines suggested may create suspicion & induce the amb. to make further enquiries.

In the case I think it will be well to write to the Gov. asking whether we cannot give the assurance, wh. the amb. asks for, viz. that Kenyanians cannot be prevented from leaving Kenya merely on account of contractual obligations (whether of finance or any other nature). If there is any doubt on this point, it should be removed by legislation.

At the same time I think we might suggest to the Gov. that in view of the international complications, to wh. it may clearly give rise, the proclamation, wh. in the case of these suspicious & anomalous cases, should be withdrawn.

We might tell the F.O. that we are doing so & that the amb. might be informed that we are consulting the local authorities as to the point he says is at issue.

A.E.

I have looked at the Prob. again - it really makes no sense of the Commission's & Madagascari "action" for the purpose of the Native Registration Ord. There can therefore be no formal objection to its withdrawal; there is, in particular, objection that such a person is practically

has been in the same context
of protection as a native of Kenya

As the Elizabethan papers

Wednesday

179-47

There seemed to be no objection
to the proposed despatches (which I need not
specify here), and after speaking to Mr
Bottley I send on an alternative
draft for your consideration. Do you agree?

R. W. S. M.

26/9/27

If the policy of treating Comorians as falling
within the scope of the Employment of Natives
Ord^{ce} (No. 139) is to be maintained, the alternative
plan despatch seems to me as satisfactory as
circumstances permit.

But the correspondence seems likely to lead to
enquiries as to the nature & scope of that Ord^{ce} &
may draw attention to some abnormal features
wh. it may be difficult to defend in principle.

I would suggest that Comorians sh^d be excluded from
the ~~scope~~ scope of the Ord^{ce}. They appear to be unwilling
to put up with the restrictions & disabilities imposed
by ss. 43, 45 & 47 & may be regarded as ready
to forgo the special privileges wh. the Ord^{ce} provides
for natives. If the contention that the Ord^{ce} is

framed in the interest of the native labourer is
sound, the exclusion of Comorians from the scope of
the Ord^{ce} may be regarded as putting them in a
worse position than natives of Kenya. It does not
seem that any complaint will come from the
Comorians, though the Kenya native may envy them
their greater freedom of movement & action.

R. W. S. M.

27.9.27

This correspondence seems to be taking
a dangerous turn. The original scope is becoming
much extended and if we go on we shall shortly
have the French conducting an enquiry into the
question whether their nationals in Kenya are
compelled to continue in service against their
will, which, if they are natives for the purpose
of the Employment of Natives Ordinance, appears
to be the case.

If to tell the French promptly that, in
deference to their wishes, the proclamation has
been withdrawn would close the correspondence, I
think it would be worth doing. As soon as the
French Government appreciates the effect of the
Employment Ordinance and has sufficiently
exaggerated it, you will get the parrot cry of
slavery in full screech.

R. W. S. M.
28/9

In the light of Mr Richardt & Mr Buske's
criticisms I have now prepared a further draft
provis^o which they agree. R. W. S. M.
Wed. 1.10.27

13 To G.O. (copy sent 10-11-12) Cons - 6 OCT 1927
4/28

14 To G.O. (w/ copy above) 6 OCT 1927
(no 12 ansd)

3 p.m. attached saying that no. 13 has not been received by Kempa. The Despatch Section say that the despatch was duly checked into the mail bag; a duplicate (with enclosures) has, however, been sent to Kempa.

[Handwritten initials]

15 Foreign Office 15th Dec, 1927

W. copy note from the French Ambassador saying that his Government have re-iterated their desire that the exact purport of term "legal restraint" shall be explained.

Kempa has since long had time to answer 13.

1. W. from F.O. no reply yet received X
2. Suggest that if an ad. in time reply has not yet been made to the Fr. Ambassador as suggested in 14. This might now be due. (The contents of note in 14 - see note of 15th Aug.)

[Handwritten initials]
20/11

X original letter explain to G.O. that owing to the mis carriage of the original let. (see note above) a reply cannot be expected before 26 at the earliest.

16 To G.O. (no 15 ansd) 31 DEC 1927

[Handwritten initials]

13 To Enclauf (Specimen 10, 11 + 12) Cons - 6 OCT 1927
4/22

14 To F.O. (w/ copy above) 6 OCT 1927
(no 12 ansd)

3 pgs. attached saying that no. 13 has not been
recd by Kenya. The Despatch Section say
that the despatch was duly checked into the
mail bag; a duplicate (with enclosures) has,
however, been sent to Kenya.

15 Foreign Office 15th Dec, 1927

Two copy note from the French Ambat saying
that his government have re-iterated their desire
that the exact purport of term "legal restraint"
shall be explained.

Kenya have scarcely had
time to answer 13.

In form F.O. no reply yet received X

I suggest that if an ad in time reply
has not yet been made to the Fr.
Ambassador as suggested in 14, this
matter may be done. (The nature of a note
is not made of 15th Ans.)

Steel
20/11

A would better explain to F.O. that
owing to the miscarriage of the
original note (see note above) a
reply cannot be expected before
Nov at the earliest.

16 To F.O. (no 15 ansd) 31 DEC 1927
Admce

~~the Govt. of Kenya the~~
~~1st. of Dec. that the~~
msg. ^{has} ~~was~~ ^{sent} ~~addressed~~ ^{to}
the Govt. of Kenya ^{on the subject} ~~on the 1st.~~

~~of Oct. of which a copy was~~
the Colony.
~~in a letter from~~
~~the Dept. No. 10556 of the~~
~~same date, went on to say~~

No. 14

~~in the same way.~~ A duplicate
of the ~~letter~~ has been sent
out, but it is unlikely ~~in the event~~ that
the Governor's reply will be
received before the beginning
of February at the earliest.

2. In these ^{circumstances} ~~circs.~~, ^{the H.E.O. would} ~~draw~~
I suggest that an ad interim
reply might now be sent to
the French Embassy, as suggested
in the ~~the~~ letter from this Dept.
of the 6th. of Oct., unless this has,
in fact, already been done.

(Signed) H. T. ALLEN,
for Under Secretary of State.

In any further communication on this subject, please quote

No. *W 11495/5005/17*

and address—*not to any person by name, but to*

The Under-Secretary of State, Foreign Office, London, S.W. 1.

9/15/17

THE Under-Secretary of State for Foreign Affairs presents his compliments to *the Under-Secretary of State for the Colonies* and, by direction of the Secretary of State, transmits herewith *cop* of the under-mentioned paper.

Foreign Office,

December 15 1927.

RECEIVED
16 DEC 1927
001

Reference to previous correspondence:

Monthly

Colonial Office letter of 6 October (10355/27)

Description of Enclosure.

Name and Date.

Subject.

From

French Ambassador

of 8th December

Status of natives of Madagascar and of Comoro Islands in Kenya

Ans'd 31 DEC 27

Similar letter sent to

14 (1904) 8/26 (2)
(16184) 1/27

COPIE.

(W 1195/5005/17)

10

Par une note en date du 15 Août dernier, relative au statut des Comoriens au Kenya, l'Ambassadeur de France a eu l'honneur de demander à Son Excellence le Principal Secrétaire d'Etat de Sa Majesté Britannique aux Affaires Etrangères quelle était la portée de l'expression "legal restraint" employée dans le dernier paragraphe de la lettre du Foreign Office, du 25 Juillet dernier.

Le Gouvernement Français ayant à nouveau manifesté son désir d'être éclairé sur ce point, M. de Fleuriau serait reconnaissant à Sir Austen Chamberlain de bien vouloir le mettre en mesure de renseigner M. Briand sur le point qui l'intéresse. Il saisit cette occasion pour lui renouveler les assurances de sa haute considération.

AMBASSADE DE FRANCE À LONDRES,

Albert Gate House,

8 Décembre 1927.

X 10353/27
KONYA 11
14

- Mr. Cliffe. 20/10/27.
- Mr. W. W. ... 20/9
- Mr. W. W. ... 21/p
- Mr. E. J. Harding.
- Sir C. Strachey.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Sir C. Davis.
- Sir S. Wilson.
- Mr. Ormsby-Gore.
- Lord Locat.
- Mr. Amery.

Oct.
6 Sept. 1927.

DRAFT.

To the
Foreign Office.

Sir,

I am directed to acknowledge the receipt of your letter No. W 8263/5005/17 of the 12th of September and to transmit to you for your info. of Secretary Sir Anker Chelmslain the accompanying copy of a despatch which has been addressed to the Acting Governor of Kenya regarding the status in

To Kenya (Dft. minute)
(No. enclosed)

5005-17
COPY (1) 1/10/27

2070

the colony of natives of
the Comoro Islands and
of Madagascar. The Sols.
will suggest that
the French Government
ought accordingly to
inform that the local
authorities are being
consulted on the point
raised in his note
of the 24th of August
this question & that a
further communi- will be
made in due course.

(Signed) R. A. WISEMAN.

13 12

Mr. ~~W~~ 1/10
Mr. ~~Richard~~ 1/10
Mr. ~~W~~ 1/10
Mr. ~~J. Davidson~~
Mr. ~~Booth~~ 1/10
Sir J. Shackburgh
Sir G. Grindle
Sir C. Davis
Sir S. Wilson
Mr. Ormsby-Gore
Lord Lovat
Mr. Amery

Downing Street,
London, W. 1
15009
243
28
6
September, 1927.



Sir,
With reference to my des-
patch No. 682 of the 6th of August, I
have the honour to transmit to you, for
your consideration, the accompanying
copies of ~~the~~ correspondence with
the Foreign Office regarding the
status in Kenya of natives of the
Comoro Islands and of Madagascar.

DRAFT.

KENYA.
~~Mr. Griff~~
Gov. Grigg.

Fr. F.O. 6.6.27 ✓
Fr. F.O. 22.8.27 ✓
To F.O. 1.9.27 ✓
Fr. F.O. 12.9.27 ✓

Copy (Montagu) to 9.0.27 - 6 OCT 1927

2. It will be observed that
this correspondence has reached a
somewhat embarrassing stage, and I am
of opinion that the wisest course for
the Govt. to adopt is to take such
steps as will enable it to be ter-
minated at the earliest possible
moment. It appears to me that this
object will most easily be attained
by withdrawing Proclamation No. 61 of
1926, which declares natives of the
Comoro

(2 drafts)

that no written contract of service is to be entered into with a native of Madagascar or the Comoro Islands unless it is, at the same time, explained to him that the completion of the contract would, for the period which it covered, restrict his freedom to leave the Colony. I shall be glad to learn whether you would agree to this suggestion, although I trust that if the ^{proposal} suggestion made in par. 2 of this despatch is adopted, the occasion for using it will not arise.

I have, etc.,

(for the Secretary of State)
(Signed) W. ORWISBY GORE

In any further communication on this subject, please refer to

No. W. 10355/27

and address—

not to any person by name,

but to—

The Under-Secretary of State,
Foreign Office,
London, S.W.1.

RECEIVED
13 SEP 1927
COL. OFFICE

FOREIGN OFFICE

S.W.1.

12th September, 1927.

Sir,

I am directed by Secretary Sir Austen Chamberlain to acknowledge the receipt of your letter No. 10355/27 of the 1st instant suggesting the terms of a reply to the French Ambassador in regard to the status in Kenya of natives of the Comoro Islands and of Madagascar.

2. The Secretary of State hesitates to address a communication to the Ambassador in the sense suggested, as it would imply that foreigners can be detained in Kenya because they have entered into a contract of employment which has not been completed. English law has always declined to make contracts of personal employment subject to degrees of specific performance on the ground that a person cannot by contract make himself a slave, and a person who is compelled to continue in service, whether under contract or not, is in a position analogous to slavery. It is possible that such a restriction might be held to be contrary to international law and in any case a communication of the nature suggested would make undesirable reading in the French Government chose to give it publicity.

3. The Secretary of State will be glad of the observations of the Secretary of State for the Colonies on this point.

I am,

Sir,

Your obedient Servant.

The Under-Secretary of State,
Colonial Office.

W. Orwisbury Gore

Copy to Sir [unclear] = 6 OCT 1927

*X Reg
No 11*

12
15

1610

In any further communication on this subject, please quote

AD. 7781/5065/17

and not to any persons by name, but to—

The Under-Secretary of State,
Foreign Office,
London, S.W. 1.

THE Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for the Colonies and, in transmitting herewith, by direction of the Secretary of State, copy of the under-mentioned paper, would be glad to be advised what answer should be returned to the French Ambassador

Foreign Office,

August 22nd, 1927.

Reference to previous correspondence:

Colonial Office letter of 1922 July, (X.10355/27)

Description of Enclosure.

Name and Date.	Subject.
From French Ambassador of 15th August	Status of natives of Common Islands and of Madagascar in Kenya

Similar letter sent to

Copy to Sir... 6 OCT 1927
-1 SEP 1927

17
COPIE.

(W 31/5095/17)

A la date du 25 Juillet dernier, Son Excellence le Principal Secrétaire d'Etat de Sa Majesté britannique pour les Affaires Etrangères a bien voulu adresser à l'Ambassadeur de France une nouvelle communication sur la question du statut des Comoriens au Kenya.

Pour répondre au désir de M. Briand, qui a pris connaissance de ce document, M. de Fleuriau serait reconnaissant à Sir Austen Chamberlain de bien vouloir lui faire connaître quelle est, dans le cas des Comoriens, la portée de l'expression "legal restraint" employée dans le dernier paragraphe de sa lettre précitée, du 25 Juillet.

Le Gouvernement Français attacherait du prix à savoir si les Comoriens en question peuvent être atteints dans leur liberté d'émigrer, soit par des stipulations contractuelles, soit par des dispositions légales.

M. de Fleuriau saisit cette occasion pour renouveler à Sir Austen Chamberlain les assurances de sa haute considération.

AMBASSADE DE FRANCE A LONDRES.

ALBERT GATE HOUSE.

15 Août 1927.

11/18

Mr. Seel. 27-8-27

Mr. Thraust 27

Mr. Jeff is 27/8/27

● E. J. Harding

Sir G. Strachey

Sir J. Shuckburgh

Sir G. Orndle

Sir C. Davis

Sir S. Wilson

Mr. Ormsby Gore

Lord Loat

Mr. Amery

Ans'd No. 12

X. 10355/27 Kenya

C. D.
A. J. W. G.
D. 31

~~August 1927~~
-1 SEP 1927

3
J
S

10355/27

DRAFT. for enclosure

The USFS,
F.O.

copy to En Conf

in

I am ^{desirous} to ack. the receipt of your letter No W. 7781/5005/19. of the 22nd of August, transmitting a copy of a ~~letter~~ note from the French Ambassador regarding the status of in Kenya of natives of

The Comoro Islands and
of Madagascar.

2. It is presumed
that the expression "provided
that he is under no legal
restraint or contract" (which
was originally used in paragraph
4 of the letter dated the 10th of March
1917 from the Acting Colonial
Secretary of Kenya to the French
Consul at Zanzibar) is intended
to mean "provided that he is
not serving a sentence of imprisonment
imposed by a Court of competent
jurisdiction or is not required
to purssuance of an order of such

Mr.

Mr.

Mr.

Mr. E. J. Harding.

Sir C. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Lord Lond.

Mr. Amery.

DRAFT.

19
a Court to appear before it
on a future date; or that
he has not entered into
a contract of employment
for a period which is not
completed".

3. I am to observe
further that the Comorians
referred to in the present
correspondence are certainly
not subject as such to any
restrictions on their liberty
to leave Kenya.

4. I am to suggest that
if Sir Austin Chamberlain

agree the French Ambassador
should be informed in the sense
of this letter in reply to his
note of the 15th August

Jan

(signed) H. T. ALLEN,

for Under Secretary of State.

In any further communication on this subject, please quote
No. *W. 6878/5005/17*
and address—*not to any person by name, but to*
"The Under-Secretary of State," Foreign Office, London, S.W. 1.

RECEIVED
27 JUL 1927
COLL. OFFICE

8
20

THE Under-Secretary of State for Foreign Affairs presents his
compliments to *the Under-Secretary of State for the*
Colonies and, by direction of the Secretary of State,
transmits herewith copy ~~of~~ of the under-mentioned paper.

Foreign Office,
26th July, 1927

Reference to previous correspondence

Colonial Office letter of 19th July (X.10365/27)
Description of Enclosure.

Name and Date.	Subject.
<i>Travel Ambassador of 25th July</i>	<i>Series of notices of Commonwealth and of Madagascar in Kenya.</i>

Similar letter sent to

14 (14964) 5/26 (2)
(14184) 5/27

*copy notes to Mr. 6878
5 AUG 1927 99*

C.O. 533 / 370
PUBLIC RECORD OFFICE, LONDON

RECEIVED
27 JUL 1927
COL. OFFICE

21

No. W 5888/5008/17.

FOREIGN OFFICE, S.W.I.

25th July, 1927.

Your Excellency,

With reference to the last paragraph of my note of the 29th ultimo, I have the honour to inform you that the report alluded to therein has now been received from the Governor of Kenya on the subject of the treatment of natives of the Comoro Islands.

2. This report contains copies of two notes to the French Consul at Zanzibar dated the 19th February and the 10th March respectively. These notes explain the position very fully and as Monsieur Cameau has undoubtedly communicated them to the French Government together with copies of his own notes to which they are a reply I will not trouble Your Excellency with a repetition of the information they contain.

3. At the same time I have the honour to inform you that His Majesty's Government regret that they are unable to revoke the ordinance, which has been the cause of the incidents in question. Nevertheless, as Monsieur Cameau has been informed, there is no intention of placing any hindrance whatever in the way of any Comorian who desires to leave the Colony provided that he is under no legal restraint or contract preventing him from doing so.

I have the honour to be, with the highest consideration,

Your Excellency's obedient servant,

(For the Secretary of State)

(Signed) G. F. VILLIERS

His Excellency
Monsieur A. de Fleurbaey, S.S.V.O..
etc., etc., etc.

226

KENYA

No 10355



GOVERNMENT HOUSE,
NAIROBI,
KENYA

RECEIVED
11 JUL 1927
COL. OFFICE

21st June, 1927.

10355

Sir,

No 4
B/C

In continuation of my telegram No. 216 of the 17th of June, relative to the Status of Comoro Islanders and Madagascans under the Native Registration Ordinance, I have the honour to transmit copies of the marginally noted correspondence with the French Consul, Zanzibar, in the matter.

From Fr. Consul d. 21. 6. 27.
To Fr. Consul d. 19. 6. 27.
From Fr. Consul d. 19. 6. 27.
To Fr. Consul d. 10. 6. 27.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

Copy to P.O. 10

ACTING GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE,

LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.1

23

COPY

CONSULAT de FRANCE

a ZANZIBAR.

Zanzibar, le 24 Janvier 1927.

No. 31

Monsieur le Gouverneur,

J'ai été mis, par l'Agent Consulaire de France à Mombasa, au courant de la situation critique à laquelle seraient acculés quelques Comoriens habitant le Kenya que les autorités locales veulent obliger à prendre le "kipandi" des natives, sans leur permettre de quitter le pays.

J'ai l'honneur, sans intervenir dans le détail de la question, de vous représenter quelle gravité pourrait atteindre la question jusqu'ici considérée comme d'ordre administratif intérieur de votre Gouvernement.

La discussion sur la mesure de "déclassement" à l'égard des Comoriens n'est pas à reprendre. Votre Gouvernement édicte les ordonnances administratives qu'il croit devoir édicter et n'a pas à s'embarrasser de considérations historiques ni ethniques, je le sais. Mais, en contre-partie, les étrangers qui se jugent lésés ont le droit illimité d'échapper à l'application d'ordonnances inacceptables en quittant le pays.

Je comprends - et je partage - le sentiment de mes ressortissants dans cette affaire, et je leur ai moi-même conseillé de partir s'il leur repugnait de se laisser assimiler aux véritables natives du Kenya.

MONSIEUR LE GOUVERNEUR DU KENYA,

A NAIROBI.

Certainement informé de la psychologie et de la qualité de vos administrés, vous ne pouviez ne pas prévoir cette réaction. Je ne doute point que vous ne vouliez l'admettre et faciliter aux Comoriens réfractaires, sujets Français, de liquider leurs affaires et aller vivre ailleurs sous des lois qui respecteraient leurs origines et leur culture élémentaires.

Il conviendrait d'éviter absolument toutes vexations de la part d'agents subalternes trop zélés, dans les districts. Les Comoriens sont des étrangers au Kenya et ne peuvent y être retenus contre leur volonté. Si des incidents fâcheux se reproduisaient, je serais tenu d'en informer le Quai d'Orsay auquel je n'ai encore que communiqué l'ordonnance déclassant les Comoriens et qui ne saurait accepter une application de force.

Veuillez agréer, Monsieur le Gouverneur, mes assurances de ma haute considération.

(Signed) I.G.C. Gaumeau.

COPY

25
THE SECRETARIAT

NAIROBI, KENYA.

No.S/Nat.24/1/1/59.

19th February, 1927.

Sir,

I have the honour to refer to your letter No.31 of the 24th January, 1927, regarding complaints received and transmitted by you to the effect that certain persons of Comoro birth have been prevented from leaving this Colony.

2. I am directed by His Excellency the Acting Governor to inform you that enquiries have been made of the Senior Commissioner, Nakuru, and that that officer has assured me that he has not detained any such persons. It appears that four Comoro were prosecuted for not being in possession of Registration Certificates and were ordered by the Magistrate to obtain such certificates within seven days from the 10th January. This order these persons failed to obey and leaving their employment proceeded to Nairobi. No other action than above described was taken.

I may add that no complaints by these Comorins have been received at this office.

3. I am also to state that every opportunity will be given to these Comoro Islanders to settle their business here if they wish to leave the country rather than register.

I have the honour to be,
Sir,
Your obedient servant,

(Sd) Juxon Barton.

for ACTING COLONIAL SECRETARY.

THE FRENCH CONSUL,

ZANZIBAR.

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COPY

CONSULAT de FRANCE
à ZANZIBAR.

Zanzibar, le 15 Février 1927.

No. 49

Monsieur le Gouverneur,

J'ai l'honneur de me référer à ma lettre du 24 Janvier dernier dont, par votre secrétariat, j'ai reçu l'accusé de réception.

Les avertissements étaient sérieux et fondés. Depuis lors des incidents très graves se sont produits à Nakuru, où, le 9 Février, le District Officer, en les emprisonnant et les menaçant de violences, a contraint neuf Comoriens à signer par empreinte du pouce des certificats d'immatriculation comme natives. J'ai un de ces certificats sous les yeux avec l'étui de métal qui le suspend au cou du native. De plus une somme de Shs. 360 aurait été exigée pour la libération de ces neuf Comoriens.

Vous voudrez bien comprendre que, si ces mesures, et celles qui étaient attendues contre d'autres Comoriens, étaient maintenues, la question de violation du droit international serait à négocier par la voie diplomatique entre Paris et Londres.

A toutes fins utiles j'informe des maintenant mon Gouvernement.

Jusqu'à son intervention, je tiens à vous répéter que les Comoriens du Kenya, sujets français, protégés par le Consulat, ont un droit illimité à quitter le pays quand ils ne peuvent se soumettre à un régime que les assimile à de véritables "sauvages"

MONSIEUR LE GOUVERNEUR DU KENYA;

A NAIROBI.

et leur impose un régime de demi-servage. Je n'ignore pas que le nativ n'est pas libre de quitter son maître et qu'il est ~~par lui~~ sujet à des réquisitions de portage gratuites. Il m'étonne infiniment qu'un fonctionnaire subalterne, le District Officer de Nakuru, ait pris l'initiative de violences indignes de votre gouvernement, et ait été soutenu par les fonctionnaires et colons qui ont à leur service des boys Comoriens.

Je désire enfin apprendre d'urgence que le District Officer de Nakuru a été désavoué, que les "kipandis" imposés par force ont été retirés et que les Comoriens qui le désirent peuvent normalement quitter le pays. Je sais qu'à Nairobi, siège de votre gouvernement, les Comoriens ne subissent encore aucune vexation, non plus qu'à Mombasa où ils sont admis à payer la "non-native poll tax" jusqu'à ce jour même, et je ne puis croire qu'à un abus du pouvoir du District Officer de Nakuru, mal informé.

Veuillez agréer, Monsieur le Gouverneur les assurances de ma haute considération.

(Signed) L.G.C. Cameau.

COPY

25
THE SECRETARIAT,

NAIROBI, KENYA.

No. S/Nat. 24/1/1/74.

10th March, 1927.

Sir,

I have the honour to refer to your letter No. 49 of the 15th of February, 1927, addressed to His Excellency the Governor of Kenya and upon receipt of this letter a further report was called for from the Senior Commissioner of Nakuru.

2. The events of which I apprised you in my letter No. Nat. 24/1/1/59 of the 19th of February, 1927, occurred on January 16th. I learn that since the report on which my letter was founded the following occurrences have taken place at Nakuru:-

9th February, 1927. Seven Comorins, who had been ordered by the Second Class Court at Nakuru to register themselves within seven days and who had failed to do so, were prosecuted before the First Class Court. They still refused to register and were each sentenced to a fine of Shs. 40/- or in default to undergo seven days rigorous imprisonment. The fines were paid on the same day and these men returned to their employers. No mention was made by them of a desire to leave this Colony.

10th February, 1927. Three Comorins were prosecuted before the First Class Court at Nakuru and were ordered to register themselves. They did so and returned to their employment.

/The

THE FRENCH CONSUL,
ZANZIBAR.

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-2-

The action of the Senior Commissioner has been legal throughout.

3. The statement that the Senior Commissioner, Nakuru, threatened or made use of violence towards these men is denied by that officer. In the absence of any detail as to the violence alleged I am unable to pursue the enquiry further. I shall be prepared to do so if such details are furnished.

4. I desire to assure you that no hindrance of any kind will be placed in the way of any Comorin who desires to leave this Colony provided that he is under no legal restraint or contract preventing him from so doing.

5. I desire further to reiterate the assurance given in paragraph 3 of my letter No. Nat. 24/1/59 of the 19th of February, 1927, above mentioned that any such persons will be given an opportunity to settle their business before leaving should they wish to leave the Colony rather than register.

6. I regret that as the Laws of this Colony stand, your request that the certificates issued to Comorins at Nakuru be withdrawn, cannot be complied with.

I have, etc.

(Sd) Juxon Barton.

In the absence of the
Acting Colonial Secretary.

Public Record Office, LONDON

RECEIVED
18 JUN 1927
COL. OFFICE

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4

TELEGRAM from the Officer Administering the Government
of Kenya to the Secretary of State for the Colonies.

Dated 17th June, 1927.

(Received, Colonial Office, 5.58 p.m. 17th June, 1927).

No. 216 of 17th June.

Your telegram of 15th June enquiries instituted
recently at the instance of the French Consul at
Zanzibar have failed to reveal any case of Comorin being
obstructed. Despatch follows.

Copy 69021 JUN 1927
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Mr. Jeffries 14.6.27.
Mr. Bottrill 14.6.27

X10355/27
Kenya. *Order's sent 12 noon 15th June 27.*

31

Mrs. E. J. Hardino.

Sir G. ... 14.6.27

Sir J. Shackburgh.

Sir G. Grindie.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Earl of Clarendon.

Mr. Amery.

for canon

DRAFT. Tel. code

Governor

Nairobi

15 JUN
D. 16.

15th June

French Ambassador has represented that certain ^{COMORO} natives of Comoro Islands employed at Makurra who wished to leave Colony on account of objection to being classed as natives under Proclamation No. 61 of 1926 have been ~~prevented~~ ^{obstructed} from ~~doing so~~ French Govt. ask that either proclamation may be withdrawn or at least that any French subjects who wish to leave Colony may be allowed to do so without hindrance. Telegraph your observations

1/2 18 JUN 1927
copy of LF

Copy to 70/LF

Secy
If details ... is

Uncompleted letter contract
and provision of balance
to be referred to being among
of my articles now existing

In any further communication on this subject, please quote

No. *AL 5005/5005/17*

and address not to any person by name, but to—

"The Under-Secretary of State,"
Foreign Office,
London, S.W. 1.

RECEIVED
9 JUN 1927
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1927 JUN 08

copy to Mr. Clegg

THE Under-Secretary of State for Foreign Affairs presents his compliments to *the Under-Secretary of State for the Colonies* and, by direction of the Secretary of State, transmits herewith copies of the under-mentioned paper for such observations as *Mr. Secretary Amery* may desire to offer.

Foreign Office,

8th June, 1927.

Reference to previous correspondence.

✓

Description of Enclosure.

Name and Date.	Subject.
From French Ambassador of 30th May	Status of natives of the Comoro Islands and Madagascar in Kenya

Similar letter sent to

✓

Il résulte des informations que le Gouvernement Français a reçues de son représentant à Zanzibar qu'une ordonnance du Gouverneur du Kenya, en date du 1er Juillet 1926, publiée dans la "Gazette Officielle de la Colonie et du Protectorat du Kenya" No. 1087, du 7 Juillet 1926, a classé définitivement sous la rubrique "natives" les originaires des Comores et de Madagascar résidant sur le territoire du Kenya.

Ces ressortissants français avaient été jusque là classés parmi les "Asiatiques" et cette appellation les faisait bénéficier de certains avantages. Par contre, les nouvelles mesures dont ils sont l'objet ont, à leur égard, des conséquences fâcheuses. La condition de "native" a pour résultat de faire descendre les Comoriens au rang des "hommes nus" de l'intérieur de la Colonie et les soumet à des obligations humiliantes: c'est ainsi qu'ils se trouvent maintenant astreints à porter le "Kipandi", pièce d'immatriculation enfermée dans un étui de métal que les indigènes doivent conserver suspendu au cou.

Cette formalité n'a cessé de provoquer des réclamations de la part des ressortissants français auprès du Consul de la République à Zanzibar. Cet état de choses a eu d'autres conséquences. Dans le district de Nakuru, près de Nairobi, les Comoriens employés aux plantations, plutôt que de se soumettre aux nouveaux règlements, ont déclaré leur intention de quitter le territoire de la Colonie. Les autorités du district se sont opposées à leur départ et auraient même organisé, à cette occasion, une spéciale surveillance des gares et des routes.

Il résulte de ces faits que la nouvelle situation imposée aux Comoriens du Kenya les réduit à un état de

PUBLIC RECORD OFFICE LONDON

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semi-servage, qu'ils ne peuvent quitter à leur gré les planteurs qui les emploient, qu'ils peuvent se trouver soumis à des réquisitions gratuites de la part des autorités et qu'ils se verront, en conséquence, interdire tout déplacement sans autorisation préalable.

Aussi, malgré l'intervention du Consul de France à Zanzibar auprès des autorités du Kenya, des incidents n'ont pas tardé à se produire. Le 9 février, neuf Comoriens ont été appréhendés à Nakuru et n'ont obtenu leur libération qu'après avoir versé une somme de Shs 360. Ceux d'entre eux qui ont réussi à gagner Nairobi et Mombasa ne paraissent plus avoir été inquiétés mais la situation des Comoriens restés à l'intérieur de la Colonie et dont le nombre était d'une soixantaine dans le district de Nakuru, est de nature à faire redouter de nouveaux incidents.

L'Ambassadeur de France a été chargé d'appeler l'attention de Son Excellence le Principal Secrétaire d'Etat de Sa Majesté Britannique pour les Affaires Etrangères sur les sérieux inconvénients qui résultent des mesures appliquées aux ressortissants français sur le territoire du Kenya. Le Gouvernement Français espère vivement qu'il sera possible de revenir sur les mesures qui leur ont été récemment appliquées et de les faire bénéficier à nouveau de la qualification d'"Asiatiques". Dans le cas où cette satisfaction ne pourrait être accordée aux Comoriens du Kenya, le Gouvernement Français serait très reconnaissant au Gouvernement Britannique de bien vouloir prier les autorités de cette Colonie de ne pas s'opposer au départ de ceux des ressortissants français qui manifesteraient l'intention de quitter le territoire du Kenya.

Monsieur de Fleuriau saisit cette occasion pour renouveler à Sir Austen Chamberlain les assurances de sa haute considération.

AMBASSADE DE FRANCE

A LONDRES,
Albert Gate House,
30 Mai, 1927.