

EAST AFR. PROT.

C O
15125

No. 15125

30 APR 08

Order No.
Order 142

1908

2 apr

Last previous Paper.

(Subject.)

Legal Status of Slavery

Reports on working of Judges for abolition
except in cases where owners suffer seriously, proceed
are working smoothly. To copies of despatches issued
for guidance of Courts.

(Minutes.)

Mr. Antedou

The instruments seem
well considered. There is
no doubt that a good deal
of help will be given by
sentimental in regard
to the Great ones, but
they seem to be hearing it
well. Mr. 1/2

Mr. May 3
C. S. 9/1 5.5
L. C. 7.5
4.5

See by

Subsequent Paper.
10
16

15125

Governor's Office 08/230
Nairobi
April 1908

EAST AFRICA PROTECTORATE.

No.142

My Lord,

With reference to your Lordship's despatch No.78 of the 14th February last, I have the honor to submit the following report on the working of the Ordinance for the abolition of the Legal Status of Slavery.

Instructions

1. Up to the end of February last 189 cases have been decided in the Lamu District out of which compensation was awarded in 121 cases amounting to Rs.5,872, or Rs.43 for each slave, male or female. Four destitute slaves have been awarded maintenance. In Malindi, Mombasa, and Mombasa 200 applications by slave owners have been made and are now in course of hearing.

2. No slaves have yet come forward to claim their freedom, but, as the position is fully realized we may expect that applications will be received. The tendency appears to be for the slaves to run away and call themselves free, rather than to apply to us for freedom. This is more particularly the case in Lamu; the slaves prefer to go and work in the more fertile districts round Malindi.

3. Except in Lamu the provisions of the Ordinance

H. K. PRINCIPAL SECRETARY OF STATE

1908

LONDON, E.C.

Ordinances are working smoothly and satisfactorily, and there it is impossible to disguise the fact that the slave owners, who are unable to obtain any other form of labour, suffer very seriously, as I anticipated they would and in many cases the cocoa-nut plantations have gone out of cultivation. The Arabs also complain that the amount of compensation given for an able bodied slave is too small as it amounts to little more than the valuation they place on six months' work. Section 13 of the instructions I issued for the guidance of the Courts, and of which copies are enclosed, allows a certain amount of latitude in fixing the compensation to which the attention of the Courts in Leau has again been drawn.

4. But apart from this there is a natural reluctance on the part of the higher class Arabs to apply to the Court for compensation while some of them look upon it as below their dignity when being cross-examined in the presence of their slaves. It is difficult to see how this can be avoided, but I am instructing the Provincial Commissioner of Leau who is a persona grata with the Arabs to use his influence to overcome this prejudice.

5. I shall be better able to write further on the working of the Ordinance after visiting the Arab districts and I hope to do so about the middle of this month.

I have the honour to be,
 with the highest respect,
 Sir,
 Your Lordship's most obedient,
 humble servant,

W. G. ...

In Despatch No. 12201 of 1st April 1905

Instructions for the guidance of Slavery Compensation Courts.

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1. All court proceedings under the Ordinance to be free of charge.
2. (a) Where an appeal, however, is entered against an award a fee of Rupees five shall be paid for every such appeal.
2. (b) Such appeal must be in writing and be entered with the Registrar of the High Court within five weeks of the date of the award. The record of the case must be forwarded forthwith to the Registrar of the High Court and notice given to the Registering Officer and Crown Advocate.
3. Compensation cases should be kept in a separate series from the ordinary court series. This series should be called "Slave Compensation" and a separate file kept in respect of each slave. Each file should receive a serial number according to the order in which the claims are made.
4. No compensation will be payable in respect of property. Property now in the hands of a slave (will, if such property is now the property of the master, remain the property of the master). Any property which a slave may hereafter acquire will be the property of the slave.
5. For cases in which a claim is made for maintenance of old and incapable slaves a separate series of records must be kept called "Slave Maintenance."
6. In "Slave Compensation" cases it is not necessary that the slave should appear before the Court but whenever possible it is desirable that he should. In all such cases the onus is on the claimant to prove he has suffered loss by reason of the passing of the Ordinance. See § 2.
7. In "Slave Maintenance" cases the slave must appear in Court or be seen by the officer presiding in the Court.
8. On a claim being filed, notice of the claim and of the date of hearing must be given to the Registering Officer subject to the provisions of § 3 of the Ordinance.
9. The evidence in all cases must be recorded on oath, and the finding transmitted to the Registering Officer in the form A or B (attached to the instructions) as the case may be.
10. The various courts will commence sitting as soon as convenient after the passing of the Ordinance on dates to be fixed by the Registering Officer.
11. A claimant or party may be represented by a pleader or agent according to the rules in force for representation in native cases in the High Court, subject to the provisions of instruction 7.
12. (a) The Compensation Court may call in the Registering Officer as assessor and may also refer to him in writing points on which his assistance or advice is required.
12. (b) Where the Court has reason to believe that a claimant is collusive it shall not proceed further with the matter until the Registering Officer has had an opportunity of attending.
13. Each case must be considered on its merits and while remembering that the average price of an adult male Zambian slave may be taken roughly at Rs. 64, all circumstances must be considered to see whether this sum should in particular cases be increased or decreased.
14. In the case of old and other less valuable slaves the compensation to be awarded will be correspondingly less.

No fees except in appeal.

Procedure in appeal that

Slave Compensation series of cases to be kept.

Slave Maintenance series of cases to be kept.

Appearance of slave not necessary in compensation cases.

Necessary in Maintenance cases.

Notice of claim to be given to Registering Officer.

Record and finding.

Sitting of Court and assessor unless the Registering Officer should be present for the first week's sitting of each Court.

Representation of parties.

Registering Officer may act as assessor.

Collusive cases to be notified.

Work of assessor and assessor.

What portion of slaves in Mombasa owned by Court

Slaves who were sold by

Degrees and Proclamations bearing on the subject

Geographical limitation of claims

Property of master in hands of slave

Miscellaneous

Property of freed slave

Maintenance how reckoned

Agreement for marriage of slave

Compensation for manumission

Transfer of slave to another court

Slaves who are not to be manumitted

14. In all cases it is to be ascertained that the following points should be clearly

- (a) The nationality of the master and slave, with reference to Proclamation by the Imperial British East Africa Company of 1st May 1890 (p. 18 of compendium of laws).
- (b) The age of the slave, with reference to the Proclamation by Sir A. Hardinge of 9th October 1893 (p. 56 compendium).
- (c) How the slave was acquired, with reference to the Proclamation of Ali-bin Said of 1st August 1890 (p. 19 compendium).
A freed slave cannot hold a slave and where an owner has died without direct heirs the slave goes *ipso facto* free.

15. Only subjects of H. H. the Sultans of Zanzibar and Witu can hold slaves.

16. Attention is also drawn to the decree of Seyid Barghash 1876 and of Seyid Khalifa 1889 (pp. 16, 17 compendium) also to the Proclamation of Sir A. Hardinge freeing the slaves of the ten leaders of the Mbaruk rebellion dated 29th April 1896.

17. No claims can be made in respect of slaves living on the Mamluk North of the Witu Sultanate as this is not a portion of H. H.'s dominions and slavery was abolished in Kismayu in 1876.

18. At present a slave cannot own property. Everything in his hands belongs to his master.

The passing of the Ordinance will not affect the right of the master to resume possession at any time of what is his. But it will allow a slave to acquire and hold property, and the master will have no right over property so acquired. e.g. A slave is before the Ordinance in possession of a dhow belonging to his master. He dies a year after the passing of the Ordinance. On his death or at any time previously the master could take back his dhow, but he would not have the right to take money won by the use of the dhow subsequent to the passing of the Ordinance. This would on the slave's death go to his heirs and falling them to the Government.

19. On the death of a freed slave at the present time without heirs the emancipator or his heirs inherit.

On the passing of the Ordinance the Government would in such a case inherit.

20. Costs of maintenance awarded under § 12, (2) of the Ordinance may be reckoned at about Rs. 2 per man a month according to the cost of living in the locality where the slave resides.

21. Where an agreement for marriage has been entered into by a third party with a female slave and her master incurs loss in her respect in consequence of the Ordinance, the loss of the agreed marriage fee or of any portion thereof payable to the master shall be taken into consideration in calculating compensation but in no other case.

22. By "concubine" in § 16 it is to be understood a female member of the household who is an inmate of the harem.

23. On application to the Court by a slave wishing to know his position he should be informed.

- (a) That he is at liberty to manumit himself with his master.
- (b) That he is at liberty to go away.
- (c) That he may enter into a contract of indenture for a term not exceeding three years with his late master or anyone else under the Master and Servants Ordinance.

(Forms of contract will be applied to the various courts.)

24. In the event of a slave proving cruelty on the part of the master compensation will not be payable in his respect.

J. HAYES SABLEY
Governor