

AMBIGUITIES OF COLONIAL LAW: THE CASE OF MUHAMMADU AMINU, FORMER POLITICAL AGENT AND CHIEF ALKALI OF KANO

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I

Colonial law in Africa involved European moral and legal codes representing some rules of western law, as well as elements of African customary law. However, the colonial situation embodying political and economic domination necessarily negated the ideal practice of the rule of law.¹ Nevertheless, the need arose to introduce some aspects of western law and codes of administration, including salary and benefits schemes for African employees of the colonial government, and legal entitlements such as court trials for accused government employees. These considerations were deemed necessary, if at least to propitiate metropolitan critics of the colonial establishment.² Also some rule of law was required for the organization of the colonial economy, including regulation of productive systems and commercial relations. As well, the need for indigenous support necessitated dabbling in indigenous customary conventions. In Muslim polities such as Kano in northern Nigeria, customary conventions included Islamic law.

On the establishment of colonial rule in Kano, judicial administration was organized on three principal institutions, involving the resident's provincial court, the judicial council (emir's court), and the chief alkali's court in Kano City with corresponding district alkali courts. The resident's

¹David Groff, "The Dynamics of Collaboration and the Rule of Law in French West Africa: the Case of Kwame Kangah of Assikasso (Cote d'Ivoire) 1898-1922" in Kristin Mann and Richard Roberts, eds., *Law in Colonial Africa* (Portsmouth NH, 1991), 147; D.A. Washbrook, "India, 1818-1860" in Andrew Porter, ed., *Oxford History of British Empire*, 3 (Oxford, 1999), 402, 414.

²Groff, "Dynamics of Collaboration," 147.

provincial court had jurisdiction over colonial civil servants, including African employees such as soldiers, police constables, clerks and political agents. Also, the provincial court was responsible for enforcing the abolition of the slave trade in the region.³ The judicial council, classified as “Grade A” court, was composed of the emir, the *waziri* (chief legal counselor), the chief *alkali* of Kano (chief judge), the *imam* (the religious leader of Kano mosque), the *ma’aji* (treasurer), and general assistants including some notable scholars of Kano city. The council adopted the *sha’ria* (Muslim law) and local Hausa custom, and its jurisdiction extended over “matters of violence, questions of taxation and administration, and cases involving property rights, whether over land, livestock, trade goods, or slaves.”⁴ On the issue of capital sentencing, the judicial council required the approval of the resident. The council was also prohibited from authorizing punishments involving torture, mutilation, or decapitation.⁵

The district courts ranked as “Grade B” courts; they too administered Islamic law with local customary conventions, and they handled routine and civil affairs such as marriage and divorce, as well as minor criminal disputes. The district court was led by an alkali, with the assistance of a scribe. The chief alkali’s court, ranking in “Grade A,” would also handle commercial cases, and with the judicial council, serve as court of appeal from the district courts. In Kano city the chief alkali’s court was assisted by a grade “C” court. In essence, colonial judicial administration in Kano and many parts of northern Nigeria largely depended on alkali’s courts, reflecting the significance of the alkali in colonial establishment.⁶

Candidates for alkali were drawn from Islamic scholars. Such scholars included Arabists and *mallams*, some of who enlisted as scribes and doubled as political agents in colonial administration.⁷ Of the scribe-political agents, their duties involved gathering intelligence, translation of Arabic letters and court papers, and keeping records of native laws for judicial offi-

³Paul E. Lovejoy and Jan S. Hogendorn, *Slow Death for Slavery* (Cambridge, 1993), 239.

⁴Allan Christelow, “Women and the Law in Early-Twentieth-Century Kano” in Catherine Coles and Beverly Mack, eds., *Hausa Women in the Twentieth Century* (Madison, 1991), 131.

⁵Adamu Mohammed Fika, *The Kano Civil War and British Overrule, 1882-1940* (Ibadan, 1978), 194.

⁶John Paden, “Aspects of Emirship in Kano”, in Michael Crowder and Obaro Ikime, eds., *West African Chiefs: Their Changing Status under Colonial Rule and Independence* (New York, 1970), 168, 171; M.G. Smith, “Historical and Cultural Conditions of Political Corruption among the Hausa,” *Comparative Studies in Society and History* 6(1964), 185.

⁷Philip Afeadie, *Brokering Colonial Rule: Political Agents in Northern Nigeria, 1886-1914* (Saarbrücken, 2008), 112-17.

cers, as well as filing tax assessment sheets for districts, towns, and villages.⁸ Some of the scribe-political agents who served in Kano province were Mallam Sani and Mallam Jafaru.⁹ Knowledge of Islamic and customary laws, court procedures, as well as government orders and conventions, equipped the scribe-political agents as attractive candidates for the position of alkali in the event of a crucial need in indigenous administration.¹⁰ In this context Muhammadu Aminu would emerge as chief alkali of Kano.

Enforcing colonial law was not clearcut and straightforward anywhere in British Africa, as

British administrators often opposed codifying customary law in order to maintain their ability to respond flexibly to different situations. As a result, Africans determined the content of the law in the course of individual decisions in which they provided a more nuanced interpretation of the law than colonial constructions allowed.¹¹

⁸Rupert East, trans. and ed., *Akiga's Story* (London, 1965), 394; SNP 6/4 27/1908 Resident Kontagora, W.S. Sharpe to the Secretary (conf. 2/1908), Kontagora, 14 February 1908, enclosed in Reduction of Native Staff, Kontagora Province; Arewa House Archives, Kaduna (AHAK), H. Hale Middleton, D.O. ii, 31 December 1917, Native Staff Confidential Report, Kano, 1917.

⁹"Malam Sani—Political Agent; first appointment—ca. April 1909; present age—41; native of—Katagum; salary—£30 p.a. As an Arabic scribe Malam Sani is a quick writer and a fluent and accurate translator and reader—in fact one of the best I know in this country. He also possesses a very useful knowledge of Muhammedan Law. So much of his time is spent with the District Officer either in the office or on tour that he probably does not have much opportunity [as political agent] for picking up information. Such as he does bring is generally correct but I suspect him of concealing much that he knows. Is inclined to suffer from swollen head but is a hard worker and intellectually well above average." For his part, "Malam Jafaru—Political Agent; Rate of Pay—£42 p.a.; Date of first appointment—1 September 1908. An industrious, courteous, scholar." (AHAK, H. Hale Middleton, D.O. ii, 31 December 1917, Native Staff Confidential Report, Kano, 1917; AHAK, Gowers, 1 March 1918, Native Staff Confidential Report, Kano 1918).

¹⁰In Kano province, some of the political agents who became alkalai included Abdullahi (Azare district of Katagum division), Usman (Messau district of Katagum division), and Sani of Kano city. (AHAK, M. Porch, D.O. Katagum Division, 31 December 1918, Annual Report on Chiefs for the Year 1918, Kano Province; Hajiya Halimatu Uwani Yusuf, Kano, 15 August 1993, interview by Umar Adamu on behalf of Philip Afeadie: Q. What about the law, can you remember any judge. Do you know about Alkali Aminu?

A. I don't know him, but I knew Alkali Sani. He lived behind the prison. His house was not far from the old library. I used to see him on horseback in the morning on his way to the office together with his escorts. We were told he was a judge. I was then in elementary school at Gidan Makama. We were all girls in that school).

¹¹Thomas Spear, "Neo-Traditionalism and the Limits of Invention in British Colonial Africa," *JAH* 44(2003), 16; see also Brett L. Shadle, "'Changing Traditions to Meet Current Altering Conditions': Customary Law, African Courts and the Rejection of Codification in Kenya, 1930-60," *JAH* 40(1999), 411-13.

This is evident in the career of Chief Alkali Aminu.

Aminu was the son of Imam Umaru, and grandson of Mamman Zara, who had served as imam of Kano during the reign of Emir Sulaiman (1806-19).¹² Mallam Aminu originally worked as a scribe in the court of Emir Muhammad Bello (1882-93). In 1906-07 Aminu wrote, at Assistant Resident H.R. Palmer's request, *Faid al-Qadir*, an account of the Kano civil war. By 1909 Aminu was in the colonial service as Arabist and political agent.¹³ Thereafter he became alkali of Ringim district in Kano; in 1919 Alkali Aminu succeeded his elder brother, Muhammadu Diko, as Chief Alkali of Kano.¹⁴ According to Kano traditions, Chief Alkali Aminu was efficient and usually handed out stiff sentences to culprits. As such, he earned the sobriquet of *kandame*, literally translated as scooping out deviants from Kano society. For the colonial authorities, however, Alkali Aminu's work was "dilatatory and unsatisfactory." He was regarded as having fallen liable to corruption (*tuntube*). And conditions of his court were revealing:

A swarm of hangers on and parasites surrounded the court precincts. The rapacity of these unauthorized persons became a scandal. Few if any of the applicants escaped their depredations and the highest payer gained the ear of the court, and in so far as was possible without flagrant disregard of the law, won his case.¹⁵

Besides, some of the alkali's decisions were found injudicious, on investigation. He had barely served for two years when he was dismissed, with the latest offence being condoning slave dealing, specifically his permitting the "ransom" of Mairo, a girl who had already being freed five years earlier by her immigration to Kano from Ngaoundere in Cameroon. For this offence

¹²John Paden, *Religion and Political Culture in Kano* (Los Angeles, 1973), 227, 274; M.S. Zahradeen, "The Place of Mosques in Kano" in Bawuro M. Barkindo, ed., *Studies in the History of Kano* (Kano, 1983), 60, 63; Ibrahim Ado-Kurawa, *The Jihad in Kano* (Kano, 1989), 91, 93.

¹³Paden, *Religion and Political Culture*, 262; Murray Last, *The Sokoto Caliphate* (London, 1977), xlv; Fika, *British Overrule*, 139; Halil Ibrahim Said, "Revolution and Reaction: the Fulani Jihad in Kano and its Aftermath, 1807-1903" PhD., University of Michigan, 1978), 243-63.

¹⁴SNP 8/10 1921 (conf. no.27/1921) A.C.G. Hastings, Acting Resident Kano to Secretary of Northern Provinces in Kaduna, Provincial Office, Kano, 19 January 1921, enclosed in Appointment of Alkalin Kano.

¹⁵SNP 8/10 1921 (conf. no.27/1921) A.C.G. Hastings, Acting Resident Kano to Secretary of Northern Provinces in Kaduna, Provincial Office, Kano, 19 January 1921, enclosed in Appointment of Alkalin Kano.

Alkali Aminu was sentenced to three years' imprisonment.¹⁶ Although some colonial officials advanced arguments against Aminu's jail sentence, it is not known whether he was pardoned.

The case of slave-dealing against Alkali Aminu involved some legal complications, as it related to the larger issue of slave women and the practice of concubinage in northern Nigeria on prohibition of the slave trade.¹⁷ Apparently, the ransom that Aminu adjudicated was largely motivated by the desire for sexual cohabitation rather than enslavement.¹⁸ Also, the process involved payment of a bride price (*mahr*) by Mudi to Nana, in deference to the prevailing Hausa custom, "which decrees that if a man pays 'mahr' for a woman and she leaves him for another man, the second shall refund to the first his loss."¹⁹ As required by Muslim law, the alkali issued a certificate of freedom for the ransom of Mairo, which essentially represented the transaction between the two men and the woman, rather than explicitly determining the social status of Mairo. Notably, colonial officials knew the intricacies involved in cases of ransoming, and they had expediently deferred to alkalis (*alkalai*) to manage the challenges.²⁰

By the time of Aminu's case in 1921, however, some developments on female slavery and the practice of concubinage necessitated rethinking colonial oversight of ransom cases. Twenty years after the prohibition of the slave trade, many freed women were being "ransomed"—actually transferred—through the alkali courts for concubinage, as female slaves were hard to find, they having attained the age of marriage and thus betrothed or became concubines.²¹ As such, Aminu's case inspired deliberations by colonial officials, including the brilliant insight of the Acting Lieutenant Govern-

¹⁶Lovejoy/Hogendorn, *Slow Death for Slavery*, 255-57; Fika, *British Overrule*, 201; SNP 8/10 1921 (conf. no.27/1921) A.C.G. Hastings, Acting Resident Kano to Secretary of Northern Provinces in Kaduna, Provincial Office, Kano, 19 January 1921, and Secretary of Northern Provinces to the Chief Secretary to the Government in Lagos, Kaduna, 16 August 1922, enclosed in Appointment of Alkalin Kano: Chief Alkali Aminu was removed from office in February 1921, and was succeeded in April by Mallam Amadu, who held office for a year until replaced in August 1922 by Mallam Jafaru, formerly a political agent.

¹⁷Christelow, "Women and the Law," 134-35; Lovejoy/Hogendorn, *Slow Death for Slavery*, 238-58.

¹⁸SNP 8 10/1921 H.R. Palmer, Acting Lieutenant Governor, 10 July 1921, Fictitious Ransom—Vide Paragraphs 14, 17, 18 and 20 of the Honourable Attorney-General's Minute of 26 May; the Appointment of Alkalin Kano.

¹⁹Ibid.

²⁰SNP 8 10/1921 H.R. Palmer, Acting Lieutenant Governor, 10 July 1921, Fictitious Ransom—Vide Paragraphs 14, 17, 18 and 20 of the Honourable Attorney-General's Minute of 26 May; the Appointment of Alkalin Kano.

²¹Lovejoy/Hogendorn, *Slow Death for Slavery*, 253.

nor H. Richmond Palmer, and the acknowledgement of ambiguities in colonial law.

II

Rex versus (1) Nana [Mama], M.N.A. of Kano, Aged 60; (2) Haruna, M.N.A. of Gerko, Aged 52; (3) Mudi, M.N.A. of Kano, Aged 35.²²

Charge (1) (Mama) Slave dealing. Contra: s.369 (2) and (4) of C[riminal] C[ode] in that he did transfer one Mairo, a native girl of between 18 to 20 years of age, whom he introduced into Nigeria some 5 years ago, to Mudi by accepting a ransom for her in the Alkali's Court of Kano about 6 months ago, thus treating her as a slave.

(2) (Haruna) Slave dealing. Contra: s.369 (2) of C.C. In that he did transfer one Ilori, a native girl of 18 –20 years of age to Mudi, in the Court of the Alkali of Kano—about 6 months ago, thus treating her as a slave.

(3) (Mudi) Slave dealing. Contra: s.369 (2) of C.C. In that he did about 6 months ago take two Native girls Mairo and Ilori, from Mama and Haruna, by ransoming them in the Court of the Alkali of Kano thus treating them as slaves.

Plea: All plead not guilty.

1st Witness: Mairo, Native female, girl of 18-20 years of age, duly affirmed. I know accused Mama and Mudi. Mama brought me from Ngaundere some 5 years ago, and I have been living with him until I was ransomed by Mudi in the Court of the Alkali of Kano. Since then I have been living with him as his wife. Mudi has known me since I came from the Cameroons. He knew that Mama brought me from the Cameroons. My father died some 10 years ago long before I left Nguandere. No questions.

2nd Witness: Komai na gari, a Native youth of 18-20 years. I know accused Mama. He brought me from Ngaundere in the Cameroons together with Mairo, some 5 years ago. I have been living with Mama since then. No questions.

3rd Witness: Ilori, Native female, 18-20 years. I know Haruna and Mudi. I have lived with Haruna since I was small. My father Isa died when I was about 5 years. He was a slave of Haruna. Assubar was my mother; she died 2 years ago. I have been kept by Haruna as his slave until I was ransomed some 6 months ago by Mudi. The latter person gave me 8/- sadaki when he married me.

²²SNP 8 10/1921 Case no.1/K.D. 1/1921, In the Provincial Court of Kano, at Kano, 12 January 1921, before Major T.A.G. Budgen, D.O. i/c Kano Division; the Appointment of Alkalin Kano.

Defence (1) Mama, M.N.A. states: Mairo's father was my slave in the Cameroons. I heard that my house in Kano was likely to be taken away so I came back to Kano with Mairo and Mama, some 5 years ago. Mudi ransomed her, Mairo, at the Court of the Alkali of Kano some 6 months ago. He paid £8. Mudi knew I brought her from the Cameroons. I did not know that persons brought into Nigeria during past 20 years were free.

(2) Haruna, M.N.A. states: I know Mudi and Ilori. The latter was my slave. Her father was my slave. He was called Madugu ta Gobara. He died some 20 years ago at Bida. She has been at Gerko. She was my slave. Ilori was born in my house. The Liman of Gerko knows Ilori's parents. Haruna remanded for evidence of Liman of Gerko.

(3) Mudi, M.N.A. states: I know Mama and Mairo and Ilori. I ransomed them before the Alkali of Kano some 6 months ago and married them. I paid £8 ransom for Mairo and £13 for Ilori. I did not know that since March 1901 it was illegal to ransom children brought into Nigeria. I thought that if the Alkali approved of the transaction it must be legal.

Summing Up: It is proved that Mairo was introduced into Nigeria some 5 years ago. She was therefore free. The act of ransoming her constituted the act of treating her as a slave. The accused, Mama, transferred her, and Mudi took her under this transaction. They were apparently ignorant that such act constituted an offence as it had the sanction of the Alkali of Kano. This is accepted as mitigation of the offence. Mama admits bringing Mairo into Nigeria as a slave.

Finding: (1) Mama and (3) Mudi guilty.
(2) Haruna remanded.

Sentence: (1) Mama 6 months I.H.L.
(3) Mudi 3 months I.H.L.

III

Further evidence for the *defence* in the case of *Rex versus Haruna*;²³ Malam Dogo, of Gerko, M.N.A. duly affirmed: I know Ilori, and Haruna. Ilori was born at Gerko, before the advent of the British, about 4 years before Emir Aliu acceded to the throne of Kano. Her mother was Assubar. Her father was Isa. They were slaves.

Defence of Haruna: Dan Kalle of Gerko. I know Haruna and Ilori. She [Ilori] was born at Gerko in Emir Aliu's time. Her father's name was Isa. He was a slave of Haruna.

²³SNP 8 10/1921 Case no.1/K.D. 1/1921, In the Provincial Court of Kano, at Kano, 24 January 1921, before Major T.A.G. Budgen, D.O. i/c Kano Division; the Appointment of Alkalin Kano.

Summing Up: It is probable that Ilori is about 20 years of age or more. Her father was a slave. She therefore was also a slave and liable to be ransomed.

Finding: Haruna—not guilty—Acquitted.

IV

Sir: I have the honour to report as follows, upon the Alkalin Kano Muhammadu Aminu for His Honour's information. Upon the retirement in May 1919, of Alkali Mohammadu Diko, owing to complete deafness which incapacitated him from work, the present man, a younger brother of the above, was appointed. Notwithstanding the favourable impression made by him at the time upon the District Officer i/c Kano Division, Mr. Wightwick, it became apparent, before very long, that his work was both dilatory and unsatisfactory—Mr. Arnett, Resident Kano, had called for a further report upon him at the end of November 1920, by the District Officer, Kano Division.²⁴

2. In mid-October, it was evident that matters were getting worse and worse in the Alkali's Court—justice was unobtainable. A swarm of hangers on and parasites surrounded the court precincts. The rapacity of these unauthorized persons became a scandal. Few if any of the applicants escaped their depredations and the highest payer gained the ear of the court and, in so far as was possible without flagrant disregard of the law, won his case. It is impossible to believe that the Alkali and his assistants did not benefit by the system.

3. I interviewed the Emir and Waziri with the District Officer, Major Budgen, and with the assistance of the former, immediate action was taken. A clean sweep was made of all the hangers on, whose names were taken and their owners warned to disappear from the vicinity of the court. Only accredited court officials and messengers were to be allowed to take part in the work of the court. For a time there was improvement but later there was reason to suppose that a recurrence of former practice was taking place.

4. The Alkali had been warned upon this subject. Certain of his decisions from time to time were subjected to the District Officer's investigation, and his, often, unsatisfactory explanations appeared to prove him most unsuitable as Senior Alkali. Finally, a matter of real importance came to light. Two girls, one brought from Ngaundere (Cameroons) by Mama, a native of

²⁴SNP 8 10/1921 The Provincial Office, Kano, 19 January 1921, A.C.G. Hastings, Acting Resident Kano, to Secretary, Northern Provinces, Kaduna (conf.27/21); the Appointment of Alkalin Kano.

Kano; the other from Gerko (Kano) by Haruna, were brought before the Alkali to be ransomed by Mudi of Kano City, both ostensibly to be married to Mudi. The sums paid by the latter were £8 and £13 respectively. The Alkali himself gave the freedom papers, mentioning in the first case that *the girl, Mairo, was born in Cameroons*. Apart from other factors in the two cases, such as age of the girls, doubts as to the right of Mama and Haruna to dispose of them, the one glaring point stands out that the girl, Mairo, was brought into Nigerian territory 5 years ago, and ransomed as a slave. The law is thereby contravened.

5. The Emir, Waziri, District Officer Kano and myself met and discussed the matter at length and the Alkali was personally interrogated by the Emir. His sole defence was that he had not been told the girl, Mairo, came from Cameroons. Confronted by the Emir with this freedom paper given by himself, in which her birth place was mentioned, he had nothing further to say.

6. The Emir, Usmanu, has written to me officially, asking that the Alkali should be removed from office for this grave offence, pointing out that the law upon the subject of 'slavery' and all its circumstances is known to all, and that its infringement must be punished. I recommend most strongly that the Emir's request be complied with.

7. A further point arises—Mudi, Mama and Haruna are being tried in the Provincial Court for slave dealing; the two former have been convicted, the case of Haruna is remanded for further evidence.

I do not consider that the removal of the Alkali alone will be sufficient to check this form of offence by Alkalai, and I recommend that the Alkali should be tried in the Provincial Court under Section 515 of the Criminal Code for misdemeanour.

8. In the event of His Honour's sanction for the removal of Alkali Muhammadu Aminu his successor in office will have to be chosen with great care as to independence of character and reputation. I will report further on this matter.

Your Honour: Would the Resident Kano please consider whether the action of the Alkalin Kano is not an attempt to defeat the course of justice (section 126 (2)).²⁵ It seems to me that he comes within the section I quote rather than section 515, though I am not prepared to say that there is no evidence to support a charge under the latter section.

²⁵SNP 8 10/1921 Minute by the Crown Solicitor, J. Cranen to Secretary, Northern Provinces, Kaduna (N.C. 71/1921), 28 January 1921, Investigation into Conduct of Alkalin Kano, Muhammadu Aminu, enclosed in Appointment of Alkalin Kano.

V

The Alkali Aminu should certainly be dismissed.²⁶ He has had ample and repeated warning to mend his ways. It is most necessary to find a man of strong character who will resist temptation himself and control the subordinates of the court and drive out the parasites you refer to. In view of the rise in cost of living etc. I am inclined to think all Alkalai should receive higher salaries, but please see the L.G.'s remarks on Conf 59/19. There certainly was too big a gap originally between the Kano and the District Alkali's salaries.²⁷

With regard to Aminu being tried for his offences, please see minute by Crown Solicitor. I think it most desirable that some trial should be held. It may disclose whether the abuses originate in the personal corruption of the Alkali or in other corrupt influences which he is not strong enough to resist.

A further important point to be considered is the responsibility of other members of the Court. I should like a report on the whole court and the capacities, duties and character of each member of it and whether it is desirable that any of them should be replaced.

VI

With regard to the recent state of affairs in the Alkali's Court at Kano, I consider that, despite several warnings to the ex-Alkali and earnest conversations with the Emir, the state of administration of justice has improved but little and is far from satisfactory.²⁸

2. One of the chief failings of the court is the great delay experienced by litigants in the settlement of cases. It is commonly said that a well-to-do litigant, if prepared to pay, can have his case expeditiously dealt with. This points to bribery of official and, I fear unofficial Court ushers. I have frequently heard it said of the Kano court, "babu kudi babu gaskia,"²⁹ but there has been no evidence of corruption of Court members lately.

²⁶SNP 8 10/1921 E. Arnett to Acting Resident Kano (N.C. 71/1921), 31 January 1921, Investigation into Conduct of Alkalin Kano, Muhammadu Aminu, enclosed in Appointment of Alkalin Kano.

²⁷In 1918 Chief Alkali Abdullahi of Katagum was drawing £180 a year while Usman, the district alkali of Mesau in the same Katagum Division of Kano Province was earning annual income of £96. (AHAK, M. Porch, D.O. Katagum Division, Annual Report on Chiefs for the Year 1918, Kano Province (Katagum Division)).

²⁸SNP 8 10/1921 T.A.G. Budgen, District Officer, Kano Division, to Resident of Kano Province (K.D. no.158/1920), 1 March 1921, the Appointment of Alkalin Kano.

²⁹No money, no justice.

3. The main reasons for the delays experienced by complainants is due to the fact that the Court has been in the habit of trying far too many trivial cases which should have been transferred by the Alkali to the Court of the assistant Alkali, such as matrimonial and minor debt cases. This will be remedied, with the Emir's consent, by giving the assistant Alkali jurisdiction in all such cases in future, thus vastly reducing the judicial work of the chief Alkali.

4. In spite of the Emir's definite promises to you on the subject, and the warning conveyed to the ex-Alkali, there are evidently many unpaid hangers-on who intercept litigants and act as unofficial mediums and make a good living out of their vocation. On the appointment of a new Alkali more drastic measures will have to be taken to rid the Courts of these parasites.

5. Mr. Harris writes that he has one such class in prison at the moment, awaiting trial, and has reported another to me whom I have sent to the Emir to be dealt with. Mr. Harris' residence in the town will do much to mitigate this evil and he proposes to pay an occasional visit to the precincts of the Court to enquire into the status of the persons he finds there. He also reports that he has observed a number of people, at times, in the vicinity of the Alkali's house, after Court hours, including Sabon Gari residents, who are no doubt arranging for the expeditious trial of their cases.³⁰

6. The Alkali has four assistants—members of his Court. (a) Malam Yahaya (b) Mallam Salihi (c) Mallam Basheru (d) Mallam Dawu.³¹ I have heard that the foremost has attempted at times to obstruct justice, but have no definite evidence against him. The Alkali denies that any member of his Court has ever attempted to prevent him from dispensing justice. The Emir is satisfied with the composition of his Court and I have no grounds for recommending any changes in personnel.

7. (a) Mallam Yahaya, 55 years, has been connected with the Court for nearly 30 years. He performs a good deal of the clerical work in connection with the Court.

(b) Mallam Salihi, 45 years, has been attached to Alkali's Court for some nine years. He administers oaths in Court.

(c) Mallam Basheru, 50 years, appointed some 8 years ago. Helps to keep Court Records.

(d) Mallam Dawu, 32 years, appointed about one year ago. Helps to keep Court Records.

³⁰For related practice and clientage activities see Smith, "Traditions of Corruption," 171, 179-83.

³¹Mallam Dawu (Da'u) was the son of ex-Emir Aliyu Babba of Kano; see Philip Atsu Afeadie, "Spoken Reminiscences of Political Agents in Northern Nigeria II," *HA* 35(2008), 25-62.

VII

Your Honour: The Alkali Mohamadu Aminu was removed from office on 19th February. He was tried in the Provincial Court on a charge of aiding and abetting slave dealing contra: sec: 369 (20) of Criminal Code, and sentenced to three years imprisonment. The case was parallel to that of ex-Alkalin Gwarzo, whose sentence was confirmed under the same charge. I feel that it is necessary that the culpability of Alkalai in their dealing with these random cases should be definitely established under this charge.³²

2. The selection of a successor has proved difficult. I interviewed the Emir with the Waziri and the District Officer in charge Kano Division, Major Budgen. I had informed the Emir of Your Honour's wishes that a man of strong character and integrity should be selected, one who would resist temptation himself and also control the subordinates of his Court. Out of four or five names submitted for discussion, the Emir and Waziri put forward two, between whom, they informed me, the final choice lay: Mallam Amadu dan Abbas and Mallam Jafaru.

3. Mallam Amadu has been a member of the Emir's council for six years. Mallam Jafaru is the chief Government scribe who is well known to you.

4. The Emir admitted the choice lay between these two. He stated Mallam Jafaru's capabilities and knowledge were recognized, but he knew nothing of his character. He preferred the appointment of Mallam Amadu. The Waziri pointed out that Mallam Jafaru had plenty of knowledge, and knew the Government orders and regulations in so far as they touched the administration of justice.³³ He said nothing for or against Mallam Amadu. It was not however difficult for the District Officer and myself to discern that the Waziri, honestly trying to have the Alkalinchi bestowed upon the man most likely to deal straightly, preferred that Mallam Jafaru should have the post.

5. The Emir was requested by me to submit his final choice, after deliberating with Waziri, in writing. He has now done so, and has selected Mallam Amadu dan Abbas—the Waziri concurring, though, I may believe, against his better judgement.

6. The District Officer states that he knows nothing against Mallam Amadu but he thinks he has no special reputation for integrity or independence of character, and fears that he will be little better than the last Alkali.

³²SNP 8 10/1921 The Provincial Office, Kano, 2 March 1921, A.C.G. Hastings, Acting Resident Kano, to Lieutenant-Governor, Northern Provinces, Kaduna; the Appointment of Alkalin Kano.

³³Knowledge of government orders and regulations constituted a vital commodity for service assistants, who would turn double agents and deal with indigenous chiefs and elites of society.

7. In this, I must say that I concur, for I have not much faith in the Emir's desire or ability to concentrate on the two attributes so necessary for the selected candidate to possess. However, such being their official choice I cannot but give my recommendation to it, in the absence of any other suitable man to be found at present, but I think the appointment should be a probationary one for six months at least.

8. The trial of ex-Alkali did not reveal any outside corrupt influences tending to undermine his desire to deal straightly, and when additionally asked by the District Officer whether he had anything to advance in that sense, he stated that no such influence had ever been exerted by anyone. I attach a report on the members of the Court by the District Officer, Kano Division. From this I do not discover a *present* necessity for removal of any of the Court members. The remedy mentioned in para 3 of the report, together with supervision by the Assistant District Officer residing in the town, should do much to cleanse the Court.

9. Regarding the salaries of District Alkalai increases are estimated for in 1921-1922 Native Administration Estimates, and it is suggested that they should receive from £6 to £10 per mensem according to size of district, and amount of work. The District Officer considers this adequate for the present, but I am elsewhere recording my view that no Alkali should receive less than £7 per mensem and that the senior District Alkalai should reach £15 per mensem.

VIII

Secretary: Acting Resident Kano does not say who is carrying on the Alkali's Court since Aminu's removal on 19th February.³⁴

2. I have not yet seen the minutes of the trial but a sentence of three years' imprisonment appears to me a very severe one.

3. Mallam Jafaru I know well and have a good opinion of his character and knowledge, but so far as I know he has had no experience in a Native Court.

4. Mallam Amadu dan Abbas I do not personally know and it does not appear from the report that either the Acting Resident or the D.O. Kano knows him personally. Have the Acting Resident and D.O. interviewed him? What aged man is he? What was his record prior to appointment to the Judicial Council?

³⁴SNP 8 10/1921 E. Arnett, Acting Lieutenant Governor to H.L. Hall, Secretary, Northern Provinces, Kaduna (N.C. 71/1921), 10 March 1921, Investigation into Conduct of Alkalin Kano, Muhammadu Aminu, enclosed in Appointment of Alkalin Kano.

5. The Acting Resident does not say who submitted the names of Jafaru or Ahmadu nor mention the names of the other candidates. The report in fact appears to me somewhat inadequate.

6. I would suggest that both Mallam Jafaru and Mallam Amadu should be made temporary members of the Court and attend all its sittings and that each should act as Alkali for a week, during which time the Resident and the D.O. should attend once or twice as spectators and endeavour to form some clearer idea of the capacities of the candidates. Possibly some other candidate might be tested in the same way.

7. It is a somewhat bold expedient to appoint a Govt. official to be Alkalin Kano although I believe a similar experiment was formerly most successful at Katagum.³⁵ If the Acting Resident is right as to the Waziri's better judgement, I should certainly be prepared to consider the experiment.

8. A copy of foregoing to Acting Resident Kano please, and a copy of this jacket to H.C.S. [Chief Secretary], for H.E's information, and say that I will forward my recommendations on receipt of a further report from Kano.

IX

Your Excellency, As regards the offence of the deposed Alkali, it is true that "pansa" (ransoming) in the Native Courts may be made an instrument of slave dealing and should therefore be carefully watched, but such cases are difficult and need to be reviewed with great care.³⁶ Prima facie I do not see how the Alkali could be tried under C.C. s.369 (2).

In any case, as the Acting Lieutenant Governor points out, three years is a very severe sentence. I suggest that the minutes of the case be called for.

2. As to the choice of new Alkali—Mallam Jafaru has been many years in Government service and is generally regarded as a capable and cultivated man. Mr. Gowers of course knows him well. I confess that on principle I am skeptical about the wisdom of appointing a Government employee to such a post as that of Alkalin Kano except in unusual circumstances. On the other hand I should attach great importance to the Waziri's opinion, if I were sure that he genuinely supported Mallam Jafaru as against Mallam Amadu. For

³⁵"Name, rank (grade) - Abdullahi, Chief Alkali; Tribe or Race - Filani-Berberi; Age of appointment - 29; Name of district - Azare; Date of appointment—10 October 1910; Approximate income - £180 p.a. Formerly Government Mallam and son of ex-Alkali Mohamma of Katagum; A very able jurist of the highest integrity commanding the respect of the Katagum Emirate. His opinion on legal matters have been of great assistance to the District Officer;" AHAK, M. Poreh, D.O. Katagum Division, Annual Report on Chiefs for the Year 1918, Kano Province (Katagum Division).

³⁶SNP 8 10/1921 G.J.F. Tomlinson, 17 March 1921, Minutes, Extract from Nigerian Secretariat Minute Paper No. N.C.71/1921, enclosed in Appointment of Alkalin Kano.

the moment, however, no specific recommendation has been made to Your Excellency.

3. If Mallam Jafaru is recommended Your Excellency will no doubt wish to have Mr. Gower's opinions.

X

Please call for the minutes of the evidence and ask the Acting Lieutenant Governor to defer confirming the sentence for the present.³⁷

2. I personally cannot see how the act of the Alkali as reported in this file can be got within the four corners of s.369 (2) of the Criminal Code. His action gave freedom to one who was already technically free. In any event the sentence passed seems to me to be one of great severity.

3. I do not like the idea of a man who is a Government *employee* being appointed Alkali of Kano. He could not fail, I fear, to be regarded as a Government placeman and as one who in a special degree had the ear of the Government. Unless he is a man of very exceptional force of character this would make it easy for him to abuse his position.

XI

C.S.G. (Chief Secretary): On the papers as they stand, I think Mallam Ahmadu dan Abbas should be appointed. If he, also, proves a failure, Mallam Jafaru can be considered.³⁸

2. In the absence of the minutes of the case I cannot express any opinion. The sentence is certainly too severe. Personally, I have been unable to persuade myself that the 'ransoming' and the giving of a certificate of freedom to a girl who is already free in the eyes of British law constitutes an offence against the sections of the C.C. which deal with slave dealing.

XII

H.C.S. (Chief Secretary): Though I regard the ransoming ceremony as in its essence a slave dealing transaction and the Alkali as a party to that transaction, I fear that I must express the opinion that the conviction is not good in law.³⁹ The fact that the Alkali gave a certificate of freedom is in itself a

³⁷SNP 8 10/1921 H.C. (Clifford), 18 March 1921, Minutes, Extract from Nigerian Secretariat Minute Paper No. N.C.71/1921, enclosed in Appointment of Alkalin Kano.

³⁸SNP 8 10/1921 W.F.G. (Gowers), 1 April 1921, Minutes, Extract from Nigerian Secretariat Minute Paper No. N.C.71/1921, enclosed in Appointment of Alkalin Kano.

³⁹Afeadie, *Brokering Colonial Rule*, chapter 7.

complete answer to the charge, as in these circumstances it could not be held that it was intended that the girl should be treated as a slave. I was at first in doubt whether the conviction could not be upheld, but after consulting His Honour the Chief Justice, I have come to the conclusion that it cannot be supported.

2. In a letter from the Acting Resident Kano dated 2nd March and enclosed to (1) it is mentioned in para. 1 that the Alkalin Gwarzo was convicted on a similar charge. If the facts were identical, the case should be brought to the notice of His Excellency. I rather think that case was referred to me at some stage of the proceedings, but I am not quite sure.

XIII

Your Excellency: I have no doubt at all that Mama's share in the transaction (and probably Mudi's share too) amounted in essence to slave dealing.⁴⁰ There is a well-known traffic in children bought or kidnapped from pagan tribes in the Northern Cameroons and brought into the Northern Provinces for disposal. The position must have been quite obvious to the Alkali, so much so that I strongly suspect that he was bribed. But in the absence of proof of bribery, it is impossible to resist the opinion in para. 1 of 29 (Attorney General's minute of 7 April 1921). The officer trying the case seems to have thought that the Alkali contributed *ex post facto* to the girl's servile status prior to the ransoming.

2. Even if the conviction had been upheld, I should have regarded the sentence as extremely severe. The Acting Lieutenant Governor thought so too. In view of the fact that the Alkali had been deposed, I should almost have thought it sufficient to bind him over.

3. The position now is that we have taken the rather unusual course of calling for the minutes of the case and asking the Acting Lieutenant Governor to suspend action. The minutes have been sent without the Acting Lieutenant Governor's comments and we do not know what the Crown Solicitor at Kaduna would have advised or what action His Honour would have taken. In the circumstances, however, the Acting A.G.'s opinion in 29 (minute of 7 April 1921) should be conveyed to the Acting Lieutenant Governor who will have no choice but to quash the conviction?

4. The Acting Lieutenant Governor to be asked to enquire and if necessary, to send the minutes of the proceedings in Alkali Gwarzo's case?

5. Your Excellency will see from annexure that Mudi and Mama have been convicted of slave dealing. Without having seen the minutes I have

⁴⁰SNP 8 10/1921 G.J.F. Tomlinson, 7 April 1921, Minutes, Extract from Nigerian Secretariat Minute Paper No. N.C.71/1921, enclosed in Appointment of Alkalin Kano.

some doubts whether Mudi at any rate could be properly convicted under C.C. s.369. He ostensibly ransomed the girls who thereupon became free. Shall I enquire what has been done?

6. A minor point is the amounts (£8 and £13) paid as ransom money. Usually there is a fixed sum for each Province. In Kano I am pretty sure it was not so much as £13.

7. Ransoming or “pansa” in Muslim Courts is the process by which the majority of domestic slaves in the Hausa states gain their freedom. It is therefore very important to do nothing to impair its usefulness. But this case suggests the advisability of enquiring whether there is no section of the Law under which persons who make use of the process as a cloak for concealing slave dealing can be brought to book and if not, whether some amendment is not necessary.

XIV

Sir: In continuation of my Conf.27/21 of 2.3.21, and with reference to His Honour’s minute thereon, I have to report as follows: The whole matter of the selection of a suitable candidate for the Alkalinchu of Kano has been carefully gone into.⁴¹

2. In the first place all the Chief Mallams with legal qualifications were interviewed by the District Officer, Kano and myself. The object was two-fold: (1) To gauge the capacity and character of all these men who were employed on judicial work in the Kano Native Administration and to decide whether any should be replaced, and (2) to discover the outstanding members from whom, a final selection should be made, for reasons of intelligence, capability and character.

3. The following were interviewed:

(A) *Members of Judicial Council*

Mallam Usumanu

Mallam Ibrahimu

Mallam Ahmadu

Mallam Abba

Mallam Abdulkadiri

(B) *Members of Alkali’s Court*

Mallam Yahaya

Mallam Salihi

Mallam Bashir

Mallam Dao [Dawu]

⁴¹SNP 8 10/1921 The Provincial Office, Kano, 13 April 1921, A.C.G. Hastings, Acting Resident Kano, to Secretary, Northern Provinces, Kaduna (conf.27/21); the Appointment of Alkalin Kano.

(C) Alkalin Gaya, M. Osumanu

4. In addition, the following names were submitted by the Waziri, but not interviewed then: Mallam Jafaru dan Ibrahim; Mallam Ahmadu dan Nuhu, Sarkin Shanu.

5. The Waziri and Mabudi, Emir's messenger to the District Officer were present at this interview. The examination took the form of enquiry into the past history and careers of the Mallams and their characters and reputations as known in Kano, the information being checked and corroborated by the Waziri. Full opportunity was given to them to express an opinion on the working of the council and Court, of which it need hardly be said they did not avail themselves, and Mr. Wightwick and I judged as best we could, from their replies and demeanour, of their general intelligence and character. It is not an easy task to get deeply into the minds of such people by a single interview. The following summarises the information and conclusions arrived at by Mr. Wightwick, myself and the Waziri.

6. (A) Council Members

Mallam Usmanu: A son of former Liman of Kano, born in Kano, known to Waziri since childhood. Liman for 1 year, member of Alkali's Court for 3 years with Alkali Diko who resigned owing to deafness. Since then on Judicial Council, he appears to be of moderate intelligence, no strength of character, and probably concurs with other members' opinions. Waziri states that his knowledge of law is sound. He is about 55 years of age.

Mallam Ibrahim: On Judicial Council since the time of Emir Alieu, succeeded his father, Amadu, on the Council. A man of strong character and with good knowledge of law, he is very hot-tempered. Waziri does not consider he could be relied upon in a position such as Alkali, from his temperament. The Emir concurs in this. He is about 65 years of age.

Mallam Ahmadu dan Abbas: Son of Emir Abbas, he is a Kano Mallam who had held no position. He was for 7 years employed in the Beit-el-Mal and succeeded Mallam Faraku on the Judicial Council; aged 59. His legal qualification is stated to be sound, but he is certainly not a strong character, and did not impress us of great intelligence; reputation, by native report, said to be good.

Mallam Abba: Liman Galadinchi for 28 years, nearly 2 years on the Council. Of very moderate intelligence, his legal knowledge said to be fair; considered too old for a new appointment.

Mallam Abdulkadir: A protégé of Waziri, aged 40, he is well known to Waziri who considers his knowledge good for his age, but insufficient for candidature as Alkali. He is not remarkable for character or intelligence.

7 (B) Members of Alkali's Court

Mallam Yahaya: 27 years in Kano Court, he understands practice and Court procedure, and advises with knowledge but would not get out of a

groove, or naturally protest against any corruption if it came to his knowledge.

Mallam Salihi: Aged 52, 13 years in Court, born in Gerko, son of Mohamadu who was the brother of a former Alkalin Gerko. Advises with knowledge, Salihi is well used to Court practice, and content to let things go on as they have always done.

Mallam Bashir: 55 years old, 17 in Court, knowledge of law is good, but quite obviously of weak character, though nothing is known against him.

Mallam Dao: 41 years old; one year in Alkali's Court, formerly messenger between Alkali and District Officer on all questions of Court work. A quiet man, he is of fair intelligence.

8 (C) *Alkalin Gaya*: Mallam Osumanu, 70 years old, born in Wudil, 24 years as Alkalin Gaya, son of Mohamadu who was a Katsina Mallam. General reputation is extremely good, no complaints ever received against his character and judgments. A quiet, dignified old man, he is possibly not of remarkable independent character, but of impressive personality.

Of the two other names submitted, *Mallam Jafaru dan Ibrahim dan Mohamadu*, aged 42 years, born in Kano. His grandfather Mohamadu was Liman of Kano. Jafaru was appointed to Government Service on 1.9.1908. Mr. Gowers commented on him in 1918, "an industrious, courteous scholar." Previous to Government Service, his record and reputation in Kano have always been good.

Mallam Ahmadu dan Nuhu, aged 30, a district mallam with Chiroman Kano; reputation and learning reported good, but the Emir does not consider him available for Alkaliship. It is considered he may one day be eligible for District Administration Sarauta [office].

9. Of all the men interviewed or submitted the selection rested, as before reported, upon the two, Mallam Ahmadu dan Abbas and Mallam Jafaru dan Ibrahim. The Alkalin Gaya had qualities recommending him, but his age militated against him, and the Emir advanced the rather feeble suggestion that it would be a matter of 'shame' to seek an Alkali from the District, as showing one could not be found in Kano City.

10. At His Honour's suggestion, both candidates acted as Alkali in turn. Mallam Ahmadu sat for 10 days, and Mallam Jafaru the same. Both the District Officer and myself attended for over two hours in each case, and the District Officer gave another sitting in the case of Mallam Ahmadu. The result was interesting. We found in Mallam Ahmadu's case that he permitted all the Court to speak continuously, to interrogate witness at will, to interrupt his own interrogations. He seemed uncertain in his questions, and undecided in his views, constantly referring to any and all the members on the smallest points and did not seem to have them in hand. Even when at my suggestion the other members were requested to restrain their speech, that I

might hear Mallam Ahmadu conduct the investigation himself, he was frequently at a loss and compelled to look to one or other of his subordinates for assistance.

11. Mallam Jafaru conducted himself infinitely better. Although unused to the Court practice at times, as was Ahmadu, he spoke and questioned quietly and firmly, and had his Court well in hand and in a very little while would be the predominant figure. The day following my visit he was examined in his knowledge of law before the Emir, Waziri and Mr. Wightwick with very satisfactory results.

12. Finally a consultation was held at which the District Officer, myself, the Emir and Waziri were present. I explained to the Emir the whole action taken, the examination of the mallams, the test of court work, the examination of Mallam Jafaru in legal knowledge. I pointed out that the choice lay between the same two men and asked which he preferred. He replied: Mallam Ahmadu. Asked whether he would disapprove of Mallam Jafaru, supposing Mallam Ahmadu had not existed, the Emir replied in the negative. He said his recommendation of Ahmadu was based on his personal knowledge of the man in Treasury and Council work, and stated that he had never found or heard of his doing wrong. Asked if he had any other reason for recommending him, he replied none. Asked if Jafaru's previous record was good, he replied yes, but from the date of his entering Government service, he knew nothing of him. Asked if he was prepared to accept the good opinion of Jafaru held by various Residents in the last 12 years as recommendation, he replied that he would. Asked if he had any other reason of any kind for preferring Ahmadu, he answered none.⁴²

13. The Waziri ventured no further opinion at this meeting. He had submitted the names of Jafaru and Ahmadu dan Nuhu (Chiroma) to me when the Alkali was dismissed. He had stated at a previous interview that Jafaru was competent to fill the post from his legal qualification, and to the District Officer on another occasion, had said that Jafaru would not 'tuntube' like the former Alkali.⁴³ In the final interview I watched him carefully while I discussed the merits of each candidate, and I know from the expression of his face at every mention of Jafaru that he definitely prefers that Jafaru should be appointed.

14. The conclusions at which I have arrived and with which the District Officer, Mr. Wightwick, fully concurs are these:

(i) The Emir in his recommendation is not whole-heartedly trying to get the best man from the point of view of real integrity and independence of character. He supports Ahmadu chiefly because he is a Kano Mallam of

⁴²Marginal note from Kaduna: "of course he did!"

⁴³Meaning, Jafaru would not succumb to corruption.

standing (equal though not superior to that of Jafaru) and because he states that he has never heard of his doing any wrong. That he may be a mere figurehead, or liable to 'tuntube' under temptation, weighs little with him. The Emir's age and disposition incline him to favour a continuance of the old regime, even if that should mean incompetence or corruptness, rather than strike out a new line.

(ii) I believe that the Waziri is honestly and conscientiously trying to assist us, in his undoubted preference for Jafaru. If he had merely an axe to grind, in that the acceptance of Jafaru would strengthen his hand, since his preference would thereby be acknowledged, it would be a most regrettable thing, but I cannot believe such is the case. Even if such an idea were at the back of his mind but secondary to his honest conviction, yet I think his recommendation is preferable.

15. I informed the Emir that I would lay the whole matter before you with all the steps taken, exactly as they had occurred. I added that it would be my duty, acting in the best interests of himself and his administration to inform you that my considered opinion was that Mallam Jafaru would be the best selection for the Alkalinchi from the point of view of honest endeavour, resistance of temptation, and general high level of character, and emphasized the point once more, that that was the end we were aiming at. To this last expression the Emir, outwardly at least, agreed. I therefore recommend Mallam Jafaru for the appointment. I have the honour to be, Sir, Your obedient Servant.

XV

H.A.G. [Attorney General]: This file together with O/P.Cs/175/15, 243/20 and 401/20 is referred again for your advice.⁴⁴

2. It is not in dispute that the transaction which took place before Alkalin Kano and at which the Alkali connived was in effect a slave-dealing transaction of a particularly glaring kind. It has, however, been held in 11 [Minute by Attorney General, 26 May 1921] that the fact that the upshot of the transaction was the issue of a Certificate of freedom is a complete answer to a charge under C.C. s.369 (2).

3. In 15 the Acting Lieutenant Governor, Northern Provinces [26 May 1921] raises three questions:

A. Will a further review of the facts cause the opinion in 11 to be modified?—i.e., can it be held that the proceedings up to, but not including, the

⁴⁴SNP 8 10/1921 G.J.F. Tomlinson, 5 May 1921, Minutes, Extract from Nigerian Secretariat Minute Paper No. N.C.71/1921, enclosed in Appointment of Alkalin Kano.

issue of the certificate of freedom may be regarded as an offence under the Section?

B. If the answer to A. is still in the negative, under what sections of the law, as it stands, can the parties to such transactions be properly charged? Generally the chief offender is the person from whom the slave is ransomed. Sometimes (as in *Rex v. Idirisu*) it is the ransomer. The Native Court is of course not always a conniving party.

C. What amendments of the law are necessary? An amendment of Ordinance 35 of 1916 is suggested in paragraph 13 of 15. Would it perhaps be advisable to widen the suggested clause and make it an offence to treat a free person as a slave?

4. The importance of this question is fully explained in 15. It is just essential to maintain the utility of the process of ransoming in Mohammedan Courts as to prevent its abuse.

5. Would you advise generally as well as with regard to the specific points raised—and also as to what course should be taken in *Rex v. Idirisu* and *Rex v. Mustafa*?

XVI

H.C.S. [Chief Secretary], I have had the advantage of discussing this matter with His Honour the Chief Justice and with the Hon. Acting Secretary, Native Affairs.⁴⁵

2. *The principal fact which must not be lost sight of in considering all these cases is that the granting of a certificate of freedom is the act of a Court—not the act of an individual person.*

3. *From this the following important consequences flow: (a) There is no power under the present law to punish criminally the president of a Court for the act of the Court over which he presides (save in cases of corruption). (b) Persons making false statements to the Court in order to secure the grant of a certificate are guilty of perjury.*

4. *Applying these principles to the cases on which I am now asked to advise; (a) Rex vs. Aminu (ex Alkali of Kano): Here the alleged offence was the act of a Court and I am bound to advise that the conviction and sentence are bad and ought to be quashed; (b) Rex vs. Mustapha (Alkalin Gwarzo): Here again the alleged offence was the act of a Court and I am bound to advise that the conviction and sentence were bad and ought not have been confirmed, but they have been confirmed and there is no machinery for altering that order of confirmation. I recommend the grant of free pardon;*⁴⁶

⁴⁵SNP 8 10/1921 Minute by the Attorney General, Donald Kingdom, 26 May 1921, the Appointment of Alkalin Kano.

⁴⁶Emphasis mine.

(c) Rex vs. Idirisu, Galadima of Zaria: In this case the accused was convicted of (1) taking a slave contrary to section 369 (1) of the Criminal Code; (2) perverting justice contrary to section 126 (2) of the Criminal Code, and sentenced to 2 years imprisonment on each charge to run concurrently.

Both convictions and sentences have been confirmed. I am satisfied for reasons I state below that the conviction under section 369 (1) cannot be upheld. The conviction under section 126 (2) can, I think, be upheld, though it is not the section under which I should have elected to proceed. Sufficient evidence could, I think, have been obtained to have supported a charge of “counseling and procuring” (Criminal Code section 7 (d)) the commission of perjury (section 117), for which a sentence of 14 years might have been awarded. I recommend that the convict be allowed to serve his time and that no action be taken.

5. Now as to the question of what offences are committed by transactions of this nature, I am satisfied that there is no offence against any sub-section of section 369 of the Criminal Code. It has been suggested that the acts might constitute an offence either against sub-section (1) or against sub-section (2). I will deal with each separately.

6. *Criminal Code section 369 (1)*: This impliedly recognizes the existence of slaves in spite of section 2 of the Slavery Ordinance 1916 (XXXV of 1916) and whilst allowing possession of slaves prohibits dealing in slaves or transferring possession, etc. of slaves. It aims at protecting slaves not at preventing free persons being treated as slaves. The word “take” in the section merely means “receive on transfer.” It is not used here in the sense it is used in the phrase “take a slave before a Court.” In all these cases one of the points is that the person in respect of whom the certificate is sought is not a slave. The sub-section is therefore inapplicable.

7. *Criminal Code section 369 (2)*: This aims at preventing persons who are free being so dealt in that they become slaves. The word “take” here has the same limited meaning as in sub-section (1) (vide last paragraph). To establish an offence under this section there must be proof of some definite act of dealing in, or trading in, or purchasing, or selling, or transferring, or receiving on transfer a person with the intention that that person shall after such act be treated as a slave.

No such act is committed in the class of case under review and I agree that the fact that the transaction results in the grant of a certificate of freedom is a complete answer to a charge under this sub-section.

8. In most cases, the natural section under which to proceed against the persons who seek to obtain a certificate of freedom by making a false statement as to age or otherwise to a Native Tribunal is *Criminal Code section 117—Perjury*. Both the persons making the statement and all those procur-

ing it to be made can be prosecuted under the section and the maximum punishment is 14 years imprisonment.

9. Another section under which the persons seeking to obtain the certificate could be punished is *Criminal Code section 425*—Obtaining certificate by false pretences. The maximum punishment for this is one year's imprisonment.

10. If conspiracy can be proved then the parties can be proceeded against under *Criminal Code section 516 or 517*.

11. I think also that proceedings under *Criminal Code section 126 (1)*, if conspiracy is proved, or under *126 (2)*, if no conspiracy can be proved, can be supported; but I do not recommend recourse to this section where a clear offence under another section can be established.

12. Now as to what amendment (if any) of the present law is required.

13. I am of opinion that no amendment of the Criminal Code is necessary or desirable.

14. I think however that the provisions of the Slavery Ordinance 1916 (no.XXXV of 1916) want clarifying by an amendment of section 3a which now reads as Follows: "3a. Any Native Tribunal in the Northern Provinces administering Moslem Law may grant certificates of freedom to persons who have acquired their freedom in accordance with such law."

15. It is agreed that freedom under such a certificate bears a "Hall Mark" which does not attach to freedom by Ordinance (Vide *Political Memoranda*, 1918, pp. 219, 220), and it might well be contended that this section 3a expressly gives to Native Tribunals the power (and therefore, in proper cases, the duty) to grant a certificate of freedom under Moslem Law to all persons regardless of when they were born or brought within the Northern Provinces. I am aware that executive instructions have been issued to Native Tribunals to the effect that such certificates cannot be granted to persons born in or brought within the Northern Provinces after 31 March 1901, but must be confined to the cases of persons who were slaves in the Northern Provinces prior to that date; and on careful consideration of the section, read in conjunction with sections 2 and 3, I am of opinion that this is the correct interpretation of it, but the opposite view is, at the least, arguable.

16. I recommend, therefore, that this point should be definitely cleared up by making the law on it beyond all possibility of question. This can be done by adding to the section the following: "provided that no such certificate shall be granted to any person who is free owing to having been born in or brought within the Northern Provinces after March 31 1901."

17. At the same time it may be desirable to make regulations under section 6 of the Ordinance prescribing procedure to be followed by Native Tribunals in granting such certificates. It might be laid down, for instance, that

the President of the Native Tribunal must see the person in respect of whom a certificate is applied for before it is granted, so as to satisfy himself that the person was not born since 31 March 1901. And any similar safeguards that may be suggested could be introduced into such regulations.

18. The following important question of policy remains to be considered: Is it or is it not expedient for the punishment criminally of members of Native Tribunals who knowingly ignore the restriction on the power to grant these certificates and grant them in such cases as the Alkali of Kano and the Alkalin Gwarzo have done?

On the one hand there is usually little doubt that the Alkali is “in the know” and it is necessary to keep a tight hand and see that he does not abuse his powers; it is also very necessary rigorously to suppress anything which can encourage the acquisition of slaves. On the other hand it is of the utmost importance to give confidence to and uphold the independence of Native Tribunals. I think such an important and, in a sense, backward step, as making the act of a Court a criminal offence ought not to be taken without very careful consideration of its consequences which may be far-reaching and not necessarily direct. I should have thought that in such cases removal from office was a severe and sufficient measure.

19. I suggest that this difficult question, viz. whether it is desirable to make the Alkali punishable criminally in such cases, should be referred to His Honour the Lieutenant Governor, Northern Provinces for report after consultation with the Residents.

20. If after full consideration it is decided that it is desirable, then I should recommend that a sub-section be added to section 3a of the Ordinance (no.XXXV of 1916) providing that every member of a Native Tribunal granting a certificate of freedom illegally (i.e. with the knowledge that the person was born in or brought within the Northern Provinces after 31 March 1901) should be guilty of an offence and punishable with a term of imprisonment or a fine or both. But I do not, at present, recommend the inclusion of such a provision in the Ordinance.

XVII

The occasion which has led to the proposed amending of the Law is the three cases of the Alkalis of Kano and Gwarzo, and Galladima Zaria.⁴⁷

⁴⁷SNP 8 10/1921 H.R. Palmer, Acting Lieutenant Governor, 10 July 1921, Fictitious Ransom—Vide Paragraphs 14, 17, 18 and 20 of the Honourable Attorney-General’s Minute of 26 May; the Appointment of Alkalin Kano.

2. The reasons for which it is proposed to amend are set forth in Mr. Arnett's minute of 26 April 1921.

3. I entirely agree with the Honourable Attorney-General and Secretary, Native Affairs that, it is not desirable to make members of Native Courts personally and criminally responsible for Judicial Acts, and further think that, in the case of acts which, however much at variance with the spirit or letter of our Laws, are not contrary to Native good conscience customs and laws, there is the less reason for urging such a course. Removal from office exists as a practical and severe deterrent.

4. I deprecate the change suggested in paragraphs 18-20 of (21a) in any case and under any circumstances.

5. There remains therefore the question whether it is advisable to add to section 3a of the Slavery Ordinance the clause suggested in paragraph 16 of the Honourable Attorney-General's minute.

6. The Honourable Attorney-General in this regard seems to assume that there is general agreement as to the inadvisability of Native Courts issuing Certificates of Freedom to persons who are already free, and states that executive instructions have been issued to Native Tribunals to that effect.

7. This may be so in some Provinces but I have never heard of these instructions, and on the contrary have frequently directed Alkalai to issue certificates declaratory of the status of a person free under our Law owing to being born since 1901.

8. In the case of the Galladima Zaria it will be noticed how anxious the mother was to get the Alkali of Maikarifi to give her daughter a certificate of freedom. The case is entirely typical, and I can recollect many instances of mothers with young children coming to ask for such certificates, in order to give them the 'Hall Mark' which so much affects their status in native Society.

9. I can see however that if the 'Certificate of Freedom' in its capacity of 'Hall Mark' is allowed to be regarded as conferring a 'new status' on the recipient i.e. as the instrument actually conferring freedom, there would be grave objection to Alkalai purporting to free people who are already free by law, but as I shall endeavour to show below, the assumption that this is the case, is entirely erroneous so far as Moslem Law and native Custom is concerned. Its de facto existence, where it does exist, is entirely due to mistaken ideas of the function of an Alkali, which have led to the adoption of wrong procedure.

10. I do not see any good reason why an Alkali should not be allowed to declare in public the Act of the Government, and, as far as my experience goes, I see advantage to the cause of freedom and 'status' by its being done as often as possible.

11. The fictitious pretence moreover that the Alkali's Act does *affect* or change the legal *status* of the individual concerned, is entirely inconsistent with our law, for how can any action on the part of an Alkali alter for the better the legal status of people in whose case the legal status of slavery has already ceased to exist.

12. From the point of view of Moslem Law also, this fictitious assumption that the act of the Alkali in giving the certificate affects the 'legal status' of, for instance, a marriageable girl who has the 'social status' of a slave, puts the Alkali in an impossible position not only in regard to our Law but his own.

13. I consider that all Certificates of Freedom by Alkalai are useful as 'Hall Marks' but that they should only be used in two ways:

(a) In publishing and declaring an act of Government, i.e., that all persons born since 1901 are free.

(b) In publishing and declaring the fact that persons of slave status born and in the country before that date have, either by their own act or the acts of others, escaped from their contract of service.

The declaration by the Alkali in these latter cases regulates the 'labour market' and acts as a check on the social disorganization which would be the result of too rapid abandonment of economic custom.

14. The word 'slave', is as far as I am aware, not defined in our Laws and Regulations, but I think it is necessary to distinguish two distinct connotations which it now bears:

Its real connotation of 'chattel' or possession liable to 'sale.' In the case of 'small children' or very ignorant adults who do not know the local language, it is possible for a native to really hold a slave in this sense. His tenure is however precarious, as the child grows up, and the adult learns the language.

The Gwarzo case is a case of this type—but as far as my experience goes, most of these cases are direct and simple sales mainly conducted by butchers and *Yan Tugu* (receivers of stolen goods)—and it is I think very exceptional indeed for an Alkali to risk burning his fingers by having anything to do with them. I do not concur with Mr. Arnett that this type of 'ransom' is 'a practice.' Gwarzo is however a well known slave trading centre—was so years ago 1904-1907—and no doubt lack of supervision induced the Alkali to yield himself to the influence of the environment.

I regard the Alkali Gwarzo's offence as in altogether a different category to those of Alkali Aminu of Kano and the Galladima Zaria.

15. He was in fact '*slave trading*' or conniving at it and knew perfectly well the risks he ran under our Law.

16. There is however a secondary meaning of the word ‘slave’ (bawa which is the result of our somewhat illogical, though in practice very excellent laws, as administered now for 21 years. The great bulk of ‘slaves’ (bayi) in this country are not ‘chattels’ which can be sold, and they know it perfectly well.

The prevalent form of so called ‘slavery’ therefore is in effect a particular form of contract of service regulated according to the Law and Custom of the Moslem Courts and enforced by them ‘Exceptis exceptandis’, though not enforced by our Courts.

17. But apart from its aspects as a ‘contract of service’ it has another and almost more important aspect from the Native point of view—i.e. it connotes a ‘caste of people’ or in other words ‘social status.’

18. It is immaterial whether a person of this class, which includes all pagans both in Nigeria and from Adamawa [Cameroons], has a master or is actually subject to sale, they are all bayi or be bayi (slaves), i.e. persons of ‘servile status’, the ‘working classes.’

19. Now most Residents would I think agree that 99% of ‘slave’ cases in which either technically or essentially the action of Alkalai is open to question, are cases where a woman or girl of marriageable age of this class is involved.

20. Thus in the two cases in question, that of Alkali Aminu of Kano and the Galladima Zaria, there could be I think no reasonable doubt that whether or not the intention to eventually ‘enslave’ was present or not, the immediate and patent motive of the ‘ransoming’ was for purposes of sexual cohabitation.

21. In the cases in question there is no evidence of intention to ‘enslave’, in the first and proper sense of that term, and that ‘intention’ is as will be seen, categorically denied by the Galladima Zaria in his defence.

22. Now the point of that defence—which is I think well worth noting—is this, that underlying the theoretical acceptance of Moslem Law by natives of the upper classes as governing their marital relations, there exists a corpus of Custom e.g. pre-Muhammadan Hausa Custom, which all Alkalai in practice allow to modify the strict letter of their Law in some respects, though not in others.

23. Perhaps the most pertinacious and universal custom of this type is that when one man takes over a woman from another he repays the first husband what the latter has spent in acquiring her. This has nothing to do with Moslem Law—it is a survival of Hausa custom, and a system of marriage by bride price (‘mahr’) paid to the relatives, as opposed to *sadaki* (dowry to the woman herself).

24. In theory of course the Muhammadan Law substituted 'sadaki' for 'mahr', but in practice 'mahr' is still paid in the great bulk of cases, and Alkalai are bound to deal with it on customary lines.

25. It is however the 'decay' of the payment of a *substantial* 'mahr' consequent on the frequent impossibility of recovering the sum paid, if the woman leaves her husband, which is responsible for the growing tendency to weaken the marriage tie in certain provinces which was brought forward by Mr. Hastings last year and forms the subject matter of Minute Paper no.306P/1920.

Now concurrently with the growth of this latter tendency in certain areas, Political Officers were from the earliest days faced with the difficulty of what to do with young female slaves of marriageable age. They took in most Provinces what seemed to them the best course—they handed such girls over to the Alkalai or other persons as wards for 'marriage' and insisted on their being ostensibly 'freed' by the Alkalai. But in so doing they placed the Alkalai in an anomalous position in two ways.

26. The 'Certificate Freedom' is not in Muhammadan Law and Native Custom an instrument which confers freedom. It is simply either a plain statement of existing fact, freedom or otherwise, or a mere record of the 'purchase of freedom' to a slave by the person who according to their Law is entitled to do it, to do so being regarded as a pious act. The act of conferring freedom is thus the act of the manumittor not the Act of the Court, which latter is merely a witness to the fact.

27. To expect Alkalais to find for ordinary girls of servile status suitors, who would be willing to 'marry' them as 'legal wives' in Moslem Law, was expecting an impossibility in many if not most cases. The point here was not the 'legal status' but the 'social status', i.e. a native of the upper classes would be willing to receive them as concubines but not as legal wives. The Alkalai then in many instances had the choice of doing one of two things: (1) leaving the girls in their own houses to work for them as 'slaves' in fact if not in theory. (2) Allow men to come and 'ransom' them either ostensibly for 'marriages'—it being of course obvious that the Alkali could not control the future, and see that the intention to 'marry' was carried out, or for 'concubines' with deferred freedom, i.e. freedom in the death of the master (husband). But concubinage in this sense means 'slavery' (slave status) in Moslem Law.⁴⁸

⁴⁸For interpretations relating to women slavery, redemption marriages, and concubinage see Christelow, "Women and the Law," 132-37; Lovejoy/Hogendorn, *Slow Death for Slavery*, chapter 8; and Fika, *British Overrule*, 198-201.

With regard to the latter it is of course obvious that if the certificate of freedom meant what is said the whole transaction became from the point of view of Moslem Law a legal absurdity for no Moslem can legally cohabit with any woman except (a) his legal wife or (b) his slave in the full and proper sense of the term.

If then, an Alkali gave a certificate to say the girl was 'free' her suitor must either (a) marry her—a priori impossible in most cases; (b) live with her in a state of zinna (fornication), for a Moslem cannot enter into a state of legal Moslem concubinage with a free Moslem woman.

Alkalai therefore, as will be seen, were almost forced to take one of two courses; (a) issue the certificate of freedom in contemplation of concubinage, in which case the certificate of freedom was an obvious lie or fiction from the point of view of Moslem Law; (b) issue the certificate and trust (vainly) that the suitor might 'marry' the woman. (Political Memoranda, p.229). The suitor might of course change his mind—in which case the so called 'enslaving' was not the act of the Alkali.

28. Now we have knowingly allowed the Alkalai to pursue these two courses to settle our difficulties for many years, and concurrently neither we, nor they, can escape from the force of public opinion which decrees that if a man pays 'mahr' for a woman and she leaves him for another man, the second shall refund to the first his loss.

29. It is clear therefore that if all such transactions are to be regarded in essence as prima facie cases of dealing in 'slaves' as was done in the cases of Galladima of Zaria, and Alkali of Kano, we must number the offenders not in hundreds but thousands—and all of them are liable to prosecution.

30. I therefore am unable to escape the conclusion that in default of clear and positive evidence that the object of the ransomer in such cases is to deal with the woman as a 'slave' in the true sense of the term, i.e. sell her or treat her as a slave without marital rights, we have no right to assume that the transaction is one which brings it within the arm of our Law as to slave dealing, on the sole ground that 'a slave' is the logical outcome of such transactions by Moslem Law, and that an Alkali or other person, who is accessory to such a transaction after the fact, is stopped by his own law from denying his guilt.

31. That is however in fact the finding in the two cases mentioned above as against Alkalin Kano, and Mudi and Galladima Zaria—the principals to the 'ransoming', but I must say I do not concur that is an equitable finding, nor having regard to the fact that there is no evidence of intent to 'treat as a slave', a correct finding. Put briefly it comes to this.

32. Is Government prepared to hold that all cases in which women are 'married' by purchase ('mahr'), and handed on by 'compensation' are 'slave

dealing?’ Scores of pagan tribes, the Shuwa Arabs, and Nomad Fulani, effect their marriages in this way, and in a large proportion of Hausa marriages, the ‘bride price’ (mahr) is the important thing, the ‘dowry’ (sadaki) being nominal and often trivial sum.

33. If the Government is not prepared to hold this, and I do not see how in practice it can, then if they are regarded as slave dealing the test of whether a man is or is not ‘slave dealing’ in these cases would become ‘how pious and orthodox a Muhammedan he is’—which is absurd.

34. My conclusion is that the only classes of cases in which this kind of ‘ransom’ ought to be held to be ‘slave dealing’ so as to come under our law, are the cases in which either the ‘ransom’ is clearly not made in contemplation of sexual cohabitation, or the intention to treat as a ‘slave’ is or can be definitely proved—and is not a mere matter of inference from the strict letter of Moslem Law.

35. I think however that the implied sanction to the continuance of ‘servile status’ which may be said to attach to the circumstances attending unions of this nature by reason of the intervention of a Native Court, could and ought to be abolished by restoring to the Alkalai their proper function in these matters, and limiting them to it. The certificate given by the Alkalin Kano, Mallam Aminu, in the case in question reads as follows:

Know that a man of the people of the city of Kano called Mudi has ransomed a female slave born in Adamawa, a girl of 25 years of age or thereabouts called ‘Uwaye Tawa’ [fn: there is no mention of *Mairo* by name], and the reason of the ransoming is that she may be free and in order that he may marry (nikah) her. The ransom paid was eight pounds, her master Mama has agreed, and was paid the amount in the present of the Alkali of Kano, etc, etc.

Now this document is quite inaccurate in point of Moslem Law—it was not Mudi that freed the girl, but her master (Mama). The consideration does not matter. The objects for which the freedom is granted are in reality no concern of the Alkalis at all—it is *we* ourselves who have made them so, and it is *we* who are practically responsible for causing certificates in this form to be issued. It is not an Alkali’s business to marry or give in marriage—that by native custom is the function of the head of a family, Village Head, District Head or Emir.

36. As regards ‘Certificate of Freedom’ therefore I would suggest that much of the present difficulty would be avoided, and a wholly illogical position terminated, by laying down as a definite rule (i.e. confirming the really correct procedure) that The Alkali’s Certificate of Freedom is merely

declaratory of the status of the individual in question and is not an instrument which confers status either present or future, and should not purport to do so.

That Political Officers should not ask Alkalai to be guardians to persons of servile status or responsible for their marriages.

That in the cases of Natives born before 1901 a Certificate of Freedom may only be issued on the application of either the person to be 'free' or his or her parents, guardians or some other person in a fiduciary capacity. The Alkali may call for proof that the applicant is no longer of servile status, for example, a receipt from the master or mistress for 'pansa' and proof of its authenticity.

In the case of Natives born after 1901, the Alkali may only issue a certificate; (a) if the applicant, assuming male, is over 16 or female over 18, and makes personal application to the Alkali for a Certificate; (b) an application is made by parents or guardians or other person in a fiduciary position, for a certificate in the case of males under 16, or females under 18.

37. If these rules were observed it would mean that the parents of all girls of the servile class of marriageable age would be in a position to make their own terms with suitors. The Alkali would drop out of it and he would not be responsible for the nature of the sexual relation entered into.

38. If the 'parents' like to take 'bride price' (*mahr*) from the suitor and to call the relation 'concubinage' or 'amre' in its loose sense, as was done in a recent case at Sokoto, I do not see that Government is called on to interfere, or that we are bound to vindicate the letter of the Moslem Law, especially in view of the growing difficulties in connection with modern Native Moslem Marriage which are said to exist in parts of the country. But the great advantage of the rules I propose would be that the Alkalai would be freed from functions which they never sought and which are not really theirs.

39. The proper person to be *wali* (guardian) of all and sundry women or girls of servile origin who float about the country looking for husbands, is not an Alkali, but either an Emir, District Head or tribal Head or Chief. These are the men who should give in marriage where no parents are available, and on whose shoulders should fall the punishment if marriage or other sexual relation by purchase or compensation, an idea which runs all through Native Law and Custom and is too deeply rooted to eradicate, is used as a cloak to slave trading transactions.

40. It is the function of an Alkali to dissolve marriages and to adjust the relations of subsisting marriages, but it is not his function to register and make marriages or give certificates of marriage, like a clergyman in Europe, for a fee.

41. If some Regulation or Order could be made charging Heads of Villages, Districts, Emirs etc. with the 'registration' of marriages whether Moslem or otherwise, I think we should probably find that, even though the registers were far from complete at first, the recognition of the Chiefs' authority in such matters would have an excellent general effect, and disabuse the natives of the idea that 'marriages' otherwise 'wrong' can be made 'right' by gaining an Alkali's sanction, express or implied, to ransoms which are logically 'absurd' but not as a rule intended to be either *fraudulent* for the purpose of acquiring a 'slave' in the real sense of that word.

XVIII

Your Honour: With reference to 27A [Acting Lieutenant Governor's minute of 26 May 1921] I agree with paragraph 3 especially as to these cases of ransom.⁴⁹ We ask the Alkalai to administer our Slavery Ordinance which of course in its essence is one which is repugnant to them and we should be lenient when they fail to follow the Ordinance. For this reason I agree with Your Honour's paragraph 4. The offences of this kind are better dealt with by removal from office as the Attorney General suggests.

2. Paragraphs 6-7. I agree it is quite common for persons to ask to have the declaratory certificate when they realize they are free born and feel they are in danger of being treated as slaves. As Your Honour knows, they are never satisfied with a certificate from a Political Officer, but do not really feel free until they have been before an Alkali.

3. Paragraphs 9-13. I agree with all this.

4. Paragraphs 14-28. I agree, and also with the conclusions in 29, 30 and 34. These concubines in the majority of cases improve their condition by entering the ransomer's house and are no more slaves than is a mistress of a man living in a European community. But there are undoubtedly hard cases; for example, where a young girl born after 1901 is fraudulently ransomed to be put into the harem of an old leper *against her will*. She should receive the protection of our law as she is free, but she could also be protected by other sections of the criminal code, and this would be a sufficient safeguard. As long as the girl *wishes* to be a concubine or wife of the ransomer I cannot see that it is "enslaving" unless as Your Honour says she is regarded merely as a manual labourer without marital rights, though it is hard to see how her subsequent treatment can be foretold.

⁴⁹SNP 8 10/1921 G.S. Browne, Secretary, Northern Provinces, 15 July 1921, Minutes, Extract from Nigerian Secretariat Minute Paper No. N.C.71/1921, enclosed in Appointment of Alkalin Kano.

5. I agree with the 4 proposals in paragraph 36. With regard to the second proposal I do not think this practice is very widespread. It used to be done more frequently ten years ago.

6. With reference to 27 action has been taken on paragraph 1.

7. Paragraph 3 of 27, the cases are now put up.

XIX

Secy [Secretary]: Please write a separate letter enclosing O/PC 54/1921 and referring to my minute on the main question to AG's para. 6, and point out that no evidence has been produced to show that Mudi intended to treat the girl as a 'slave', or did so in fact.⁵⁰

XX

*Your telegram T2245 dated 26.7.22:*⁵¹ The Emir was informed by the District Officer that it was decided the Alkali [Ahmadu dan Abbas] should be retired and he was requested to submit the name of a candidate verbally at their next meeting.⁵²

2. The District Officer now writes, "On arrival this morning he told me that he wished to appoint Mallam Jafaru, the Government Political Agent. Generally speaking and as a result of personal experience, I am not in favour of giving important posts in the Native Administration to men who have been in Government employ but in this case the Emir had had an absolutely free choice and I do not think it can be said that we have in any way 'pushed' Jafaru's candidature.⁵³ He is, as you know, the grandson and great-grandson of former Limam in Kano, is undoubtedly a scholar of no mean ability and seems eminently suitable for the post. I hope, therefore, that his nomination will be approved."

3. I concur with Mr. Middleton and wish to support his and the Emir's recommendation. I consider that Mallam Jafaru's candidature stands on his own merits. The fact that he has worked for Government has given us a better knowledge of him than we should have obtained, but it has not I think influenced the Emir.

⁵⁰SNP 8 10/1921 H.R. Palmer, 16 July 1921, Minutes, Extract from Nigerian Secretariat Minute Paper No. N.C.71/1921, enclosed in Appointment of Alkalin Kano.

⁵¹SNP 8 10/1921 E. Arnett, Resident of Kano Province to Secretary, Northern Provinces, Kaduna (conf. no.264/1921), 2 August 1922; the Appointment of Alkalin Kano.

⁵²Ahmadu served as Chief Alkali of Kano from April 1921 to August 1922.

⁵³Prior to 1914 many political agents held important positions in the subordinate administration, including district head, treasurer, and alkali: Philip Atsu Afeadie, "The Hidden Hand of Overrule: Political Agents and the Establishment of British Colonial Rule in Northern Nigeria, 1886-1914" (Ph.D., York University, 1996), chapter 7.

XXI

I am directed by the Lieutenant-Governor to inform you that the Alkali of Kano (Mohammadu Aminu) was removed from his office in February 1921 after being tried and convicted in the Provincial Court on a charge of aiding and abetting slave dealing.⁵⁴

2. The choice of a successor was difficult. The claims of all suitable candidates were investigated with care and the result is given in a confidential letter from the Resident Kano, dated the 2nd March, 1921, a copy of which was forwarded to you under cover of my Confidential letter no.10/1921 dated the 14th March, 1921. The only two candidates who appeared really suitable were Mallam Amadu dan Abbas and Mallam Jafferu. The matter was submitted to the Governor and His Excellency's reasons for deprecating the appointment of the latter were given in your Confidential letter no.N.C.71/1921 dated the 19th March, 1921.

3. A further report on the possible candidate was submitted by the Acting Resident Kano on the 13th April 1921; a copy of this letter is attached.

4. As the result Mallam Amadu dan Abbas was appointed. After a year's experience it had become clear that he was quite unfit to discharge the duties of the office and he has been permitted to retire.

5. The question of a successor again arises and the recommendation of the Resident is contained in his Confidential letter no.264/1921 dated the 2nd instant, a copy of which is enclosed.

6. His Honour feels very strongly the weight of the objections originally urged by His Excellency against the appointment of a Mallam in Government employment; on the other hand His Honour thinks there is this to be said: Mallam Jafferu is probably, so far as character and ability go, the best man that could be found. Had he not in 1908 accepted Government employment he would, in all probability, have long ago obtained a judicial post under the Native Administration and it is quite likely, in His Honour's opinion, that by this time he would already have become Alkali of one or other of the Kano courts. To His Honour it hardly seems fair that the fact of his having worked under Government directly, instead of under the Native Administration for 14 years, should disqualify him for offices for which he would otherwise have been eligible and for which he would have been selected.

7. The Lieutenant-Governor quite agrees with what Mr. Arnett says about the character and ability of Mallam Jafferu whom His Honour has known well since 1909, and in view of the failures we have experienced in

⁵⁴SNP 8 10/1921 Kaduna, 16 August 1922, Secretary, Northern Provinces, to Chief Secretary to the Government, Lagos, the Appointment of Alkalin Kano.

finding a satisfactory Alkali since the unfortunate downfall of Mallam Ibrahim, His Honour now thinks that in spite of the objections to it the experiment of allowing the Emir to appoint Mallam Jafferu should be tried, and His Honour is prepared to endorse the Resident's recommendation.⁵⁵

8. If this appointment is made His Honour thinks that it is imperative that the Political Staff of the Kano Emirate should hereafter take the most scrupulous care to avoid any action which might lead to any suspicion that Mallam Jafferu is being consulted in regard to any matters of politics or is interfering in them in the slightest degree.

⁵⁵The circumstances of Alkali Ibrahim's downfall are not known. He is probably Mallam Abdulkadir Ibrahim, formerly chief scribe in emirate administration (*magatakarda*), who was appointed Chief Alkali of Kano in 1909 by Emir Abbas, with Resident Charles L. Temple's approval: Fika, *British Overrule*, 128, 195-96.

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