

THE ASSOCIATION FOR MORAL
AND SOCIAL HYGIENE,
LIVINGSTONE HOUSE,
BROADWAY,
WESTMINSTER, LONDON, S.W.1.



Correspondence
relating to the
Welfare of Women
in
Tropical Africa
1935-37

*Presented by the Secretary of State for the Colonies
to Parliament by Command of His Majesty
July, 1938*

LONDON

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HAPPINESS OR SLAVERY?

EXTRACT FROM "EAST AFRICA" DATED 14TH NOVEMBER, 1935.

The Status of African Women.

African marriages and the position of the African woman in the community were discussed in London last week by a conference convened by the British Commonwealth League to consider "Marriage and Slavery."

Mrs. Guy Innes, who presided, said the conference was the outcome of a letter from Archdeacon Owen of Kavirondo to the *Manchester Guardian* of 26th August referring to cases of cruelty to Native wives in Kenya. One case involved the flogging of a woman who had run away from marriage; another girl had run away three times from her polygamist husband, but was compelled to return to him because her family refused to redeem her.

The British Commonwealth League did not believe all Native marriages were without the consent of the woman, but that a great many marriages were effected without consent; in such cases the married state of the woman approximated to slavery. Archdeacon Owen had recently written that some of the Kavirondo Native Councils were considering the matter and had recommended the registration of marriages.

Dr. L. S. B. Leakey said the subject concerned the whole world, and that in examining the problem in Kenya certain major points must be remembered. Each tribe had its own customs relating to sex, marriage and the position of women, and it was impossible to judge on the basis of what happened in one tribe. Secondly, what the women of one country regard as ideal was not necessarily ideal to women of another country; England did not necessarily aim at the same things as France, and the French aim was perhaps not that of the Kikuyu. Care was therefore needed not to urge changes and regulations which would take away what the people more or less wanted and give them something they did not want.

Thirdly, missionaries, being primarily concerned with Natives who had broken away from tribal law and customs and become Christians, nominal or real, were concerned with a different Native from the mass, for in Kenya only a very small percentage of the Native population was Christian and detribalised. Undue prominence must not be given to matters affecting a small minority.

Marriages, European and African.

Finally, had English marriage laws and customs worked for the benefit and happiness of the men and women of this country? Dr. Leakey said they did not really make for equality and happiness in marriage, and that many people would regard it as a great misfortune if the Governments in East Africa forced on Africans marriage laws which were not giving ideal results in the country of their origin. It was far easier to get laws made than altered or repealed, and a bad law might cause more suffering and injustice than would exist without that law, even though the law was intended to have the opposite effect.

Some people who urged that every Native marriage should be registered at the District Officers' court did not realise what that step meant. He knew the Natives of the three most important tribes of Kenya fairly intimately, and he knew their family life and their tribal law and customs. He did not say that the position of Native married women was ideal, but he certainly believed that in a number of ways it was better from the point of view of equality and freedom than the position of married women in so-called civilised England.

In almost all the tribes of Kenya, except where Muhammadan influence held sway, the position of married women was more closely safeguarded than that of English women. Under English law a man had a right to his wife. In East Africa among most tribes a man who forced a woman to cohabit with him against her will was derided, and often turned out of the tribe: the fact that she was his wife did not give him the right to demand the sex act against her will. It was also quite a false belief that every African had more than one wife; only a very small percentage had additional wives. People with only a superficial understanding of the meaning of the transactions accompanying marriage between Africans spoke of the awfulness of "buying" wives, though the so-called purchase price was really a guarantee of good behaviour, a security, a form of marriage insurance.

The position of widows was frequently quoted as a proof of the evils of the African marriage system, and men and women in England held up their hands in righteous (or unrighteous) indignation when they were told that widows were inherited. On the death of a man a brother or a male relative certainly inherited the widow, but what was actually inherited was the responsibility to clothe, house, and feed her. There was no question of inheriting the right to cohabit with her against her will, for even the husband had not that right. Children born to a widow were considered as the children of her deceased husband, but their father she could usually choose for herself. It was not unusual for a widow to become the wife or lover

of her husband's brother or other relative who had inherited the responsibility of providing for her, but she did so willingly. Coercion and pressure were rare.

Nowadays there were not infrequent attempts to make girls marry men they did not wish rather than that they should marry a Christian. Protection was being afforded by the Government, but the remedy lay not in forcing the unsatisfactory English marriage system on Africans, but in finding the causes beneath the present evils and removing them. They were usually economic, due to the disruption of Native life, and one of the greatest evils in Kenya was prostitution. The greatest service the British Commonwealth League could perform was not to interfere at the moment with the marriage system, but to fight against that evil which could not be checked simply by legislation.

Dr. Leakey expressed great regret that some of the Kavirondo Local Native Councils, probably under pressure from local officials and missionaries, had urged the registration of all those marriages. Councils were often dominated by detribalised Natives, who were asking for legislation which might benefit that small detribalised, missionised community, but which could not but be a burden of misery on the great mass of their own tribe.

Dr. Leys on Native Marriages.

Dr. Norman Leys, whose paper was read from the chair, said people who believed that women ought to be free to choose husbands for themselves should realise that that idea would be thought revolutionary in nearly all countries. Over most of the world marriage was a family business, and the great majority of girls in tribal life saw nothing strange in the fact that their husbands were provided for them. An Economic Commission in South Africa recently reported that the dowry system was the rudder of African society, without which it would go to wreck. It ensured that every new family started with some provision for the future, and it acted as an insurance against misbehaviour by the husband. For a girl to refuse the man to whom she was promised meant the repudiation by her family of an important financial contract, and it was therefore easy to see why tribal law should forbid her to refuse, but when he lived in East Africa he had heard of quite a number of cases in which girls successfully objected to the men to whom they were betrothed, and managed to marry men of their own choice.

Romantic marriages were, however, very rare in Africa, and it had to be admitted that in tribal society marriages arranged by parents turned out quite as happily as under our different system. The chief new influences were the Christian missions,

schools, and modern industry, under which the individual, and not the family, became the unit of production. These new influences encouraged young people to choose their partners rather than to leave the choice to parents, but many people living in Africa thought this a change for the worse as an abandonment of tribal law and custom.

British Governments in Africa ought to abandon the policy of trying to keep tribalism intact, and encourage and make provision for those who wished to escape from tribalism. That would allow the old way of life to die gradually out in the reserves, would give town-dwellers healthy conditions, and, by providing individual holdings, give country-dwellers the opportunity of a free life.

African Advisers "Mutually Contradictory."

Miss Alison Neilans said that on behalf of the League she had sent a questionnaire all over Africa on the specific points raised by Archdeacon Owen. The replies had nearly all been "mutually contradictory." One essential feature of the problem was that as Africa passed from the cattle system to dealings in cash, and a hire-purchase system of wives came in, the effect on the outlook of men on their womenfolk would be appalling.

Mr. Julius Lewin said that if the case quoted by Archdeacon Owen had come before an English court, the man's action would have been stigmatised as illegal and the court would have decided in the woman's favour. The grounds for divorce under native law were wider than under English law, and he thought that before natives were married under the Christian law they should be informed of the awful consequences of Christian marriage in England. It would be his idea to marry under native law rather than under English law. With regard to the cases mentioned by Archdeacon Owen, it would be a good thing to get a test case in a Kenya court; he believed that the court would uphold the English decision that a man could not detain a woman against her wish.

Mrs. Macgregor Ross suggested that the Government of Kenya should be asked to give African girls the best education; complained that there was not a single African member on the Legislature, though there were Africans sufficiently educated to become members of it; described the discovery of gold in Kavirondo as most unfortunate; and said that only by education could they deal with the problem of the African woman in marriage.

Mr. Johnston Kenyatta, a Kikuyu, said his own father and uncle had died during the War, and another uncle, a missionary, said he would inherit responsibility for the two widows,

notwithstanding the missionary laws, and he built huts for them next to his own; though he had his own wife, he had accepted that additional responsibility, and the two widows were still living in the same village, though not cohabiting with him.

He thought the case of flogging a native woman in Kavirondo had been exaggerated, but in any case the whole African community should not be judged on one isolated report. Under the English marriage system people were sometimes driven to suicide; that did not happen in Africa. "What the African needs is economic emancipation. You can help us in the bigger things of life and the smaller social questions will solve themselves," he declared.

Describing the marriage of a Kikuyu couple, Mr. Kenyatta said the actual wedding day was a dramatic occasion. Female relatives of the bridegroom watched the girl, who was supposed to be working in the fields, "captured" her, and carried her off—the whole thing by arrangement with the bride. That is very likely what the Archdeacon had seen. (Laughter.)

"You who are interested in African problems must not read letters like the Archdeacon's and be agitated. Go calmly into the matter, and when you ascertain the cause of the trouble, I think you can do great service to the people. I look round to-day but I see no African women, though there are many in London whom you should approach to ascertain their views."

It was stated from the chair that a number of African women had been invited to attend, but that no replies had been received.

Professor W. Macmillan, formerly of Witwatersrand University—who described himself as a "detrribalised Macmillan"—regretted there had not been more talk about the health of African women. One bad habit of the Kikuyu was to make beasts of burden of their women; he could vouch for a case of a woman who weighed only 90 lb. carrying a load of 120 lb. a good many miles uphill.

The prime cause of the backwardness of Africa was the health problem, and that brought them back to the political situation and the difficult situation in Kenya. The best way to meet the clamour of European settlers there was to put up another clamour, and thus by achieving a balance between one political force and another political force get the Government of Kenya back to a position of independence.

Then there was also the obvious educational remedy, and one of the most hopeful signs in Bechuanaland was the education of women: in one of Bechuanaland's co-educational schools there were 67 pupils, 66 girls and one boy, the reason being that it was a cattle country and that the boys had to go herding many miles from their villages.

"Give your support to the pleas for the education of women." Professor Macmillan concluded. "Find more Miss Shaw's and send them to Africa. Abuses can be dealt with only by strengthening the position of society as a whole. I am not a feminist; I am a humanist. See that the law of humanity and civilisation is enforced when it is broken."

Mr. Kenyatta said that if Professor Macmillan had questioned the Kikuyu women they would have told him that they carried as much as they possibly could, because under their licence they could take away only one load of wood from the forest. That burden had been put on Kikuyu women not by tribal custom but by civilisation.

Dr. Leakey, replying to the discussion, asked if there was any country in the world where some women were not flogged against their will? Kenya native women had legal safeguards against such treatment, either through the District Office or the native chief, and the laws were perfectly fair; it was only a question of enforcing existing laws. "If civilisation gives us your divorce laws, capital punishment, and your system of punishment for various crimes (such as three months' imprisonment for stealing a loaf of bread)—if that is civilisation in the ideal, I would rather have my African form."

Reference is made to this conference under Matters of Moment.

No. 2.

MARRIAGES IN KENYA.

Reluctant Girls Paid for in Goats.

To the Editor of the *Manchester Guardian*.

SIR,

Last year you kindly allowed me to draw attention to some barbarous features of African marriage customs. I gave instances of violently protesting girls being dragged forcibly along the public roads in the Reserves, to "marriage" with men who claim them, in spite of their resistance, because they have paid to the girls' relations a certain number of cattle or goats, the "bride price." Mr. J. Kenyatta wrote that tribal custom did not sanction girls being forced in this way.

The *East African Standard* reports the trial of a Tanganyika girl named Kekwe, 18 years old. In true African fashion her people accepted the bride price from a man towards whom

she had expressed her aversion. She ran away to the man she preferred, was followed, and, in the presence of her relatives, stabbed the man who wished to take her away. Unfortunately, the stab proved fatal. She was convicted of manslaughter and sentenced to 18 months' imprisonment.

The fact that 18-year old Kekwe was resisting in spite of the sanction of her family and tribe does not seem to me to invalidate her right to defend her physical person and her spiritual personality. What girl under such circumstances could keep so cool-headed as to take heed that the knife went in thus far and no farther? I see Kekwe as a victim of a custom which is barbarous, a custom which has broken the lives of countless thousands of African girls. (The girl I mentioned in my last letter has since died.) Had Kekwe no right to withhold her body from the detested man, whose only claim was that he had paid a certain number of goats that he might possess that body? In previous letters I wrote that "in certain circumstances native marriage customs seem to involve a kind of slavery for reluctant women." It took me long years in Africa before I would yield to a conclusion so condemnatory of African social life. I tried to defend it, but the anguish of decent girls, oft repeated, broke down my defence.

There are in England noble women. I mourn the loss of one of them, the late Miss Winifred Holtby, a true friend of African women. She wrote to me when I first raised this question in your columns last year, and at the time of her death was planning how she could help to remedy what she terms "a desperate situation." I had hoped that the British Commonwealth League would help.

The degradation felt by African girls when dragged off is unspeakable. Although they are "only Africans," their anguish is no less deep than the anguish of English girlhood. I would that I could make your readers see and hear it. What were Kekwe's feelings when she thrust the fatal knife?

I have reason to believe that the time is ripe for an effort to heal this age-long sore in Africa. Public opinion in England now may turn the scale with the Colonial Office. If influential people in England are still reluctant to believe, as I was, that it is possible for girls to be outraged in this way under our administration, cannot some questions be asked in the House of Commons and supplement the Press report of Kekwe's case? I am not writing of conditions of which I do not know to the hilt.

To you I owe a great debt of obligation. You were the first to come to the help of Kavirondo in 1932. You have consistently backed up progressive policies for Kenya Africans. The fact remains that the friends of Africa in England have

rendered inestimable service. But some friends of Africa amongst your readers think that I do the best interests of Africans a dis-service in giving publicity to this evil. They fear lest such publicity should give a handle to those who are not sympathetic to helping on the economic and political development of Africans. They say that the evil will right itself in time.

In the meantime, what of the Kekwes of Africa? The remedy is simple. We fine Africans large sums in money if they are convicted of allowing a noxious weed called striga, parasitic to millet and maize, to develop amongst their crops. We pay no heed whatsoever to the plea of the African that the striga has always been with them and that it does no harm. We fine them if the old cotton plants are not unrooted by a certain date each year. We impose economic measures without scruple, in spite of their protests. A simple law requiring that as a preliminary to marriage notice must be given to the tribal authority, whose duty it will be to register such marriage, would give ample opportunity to girls to state that they were being forced against their wills.

We must, for the sake of African girlhood, teach the tribes that without consent there is no true marriage.

Yours, &c.,

W. E. OWEN,

Archdeacon of Kavirondo.

Ng'iya, P.O., Yala, Kisumu,

Kenya, 16th June.

No. 3.

HOUSE OF COMMONS.

EXTRACT FROM OFFICIAL REPORT OF 22ND JULY, 1936.

TANGANYIKA (MARRIAGE CUSTOMS).

25. Miss RATHBONE asked the Secretary of State for the Colonies whether he is aware that a girl named Kekwe, in Tanganyika, was recently sentenced to 18 months imprisonment for the manslaughter of the man chosen by her parents to marry her against her will; and whether he will consider promoting a law in Tanganyika, and in other British dependencies in Africa, requiring notice of intending marriage to be given to

the tribal authority, who shall register such marriage and prevent it if the girl refuses, or will he take other steps to prevent the forced marriage of African girls?

Mr. ORMSBY GORE: I have seen a reference in the Press to the case mentioned by the hon. Member. As regards the general question involved, I understand that in all British African Dependencies women are free to bring cases of attempted coercion to the notice of the authorities, in which event appropriate steps would be taken. I am asking the Governors of the Dependencies concerned whether the present practice is, in their view, sufficient to prevent abuses, and if not, what further steps they consider might be taken in the matter.

Miss RATHBONE: Is the right hon. Gentleman aware that the authority in that particular case was Archdeacon Owen, who has very great knowledge of the customs in the Colony: and will he, perhaps, communicate with Archdeacon Owen and take his statement?

Mr. ORMSBY GORE: In the first part of my reply I said that I have seen a reference in the Press. It was a letter from Archdeacon Owen in the *Manchester Guardian*. It is quite true that he has great knowledge of the Kavirondo tribe. In most African tribes the old idea of coercion is completely eradicated.

No. 4.

Despatch from the Secretary of State for the Colonies to the Officer Administering the Government of

1. Kenya.
2. Uganda Protectorate.
3. Nyasaland.
4. Tanganyika Territory.
5. Northern Rhodesia.
6. Nigeria.
7. Gold Coast.
8. Sierra Leone.
9. Gambia.

(Answered by Nos. 11, 8, 10, 12, 5, 13, 9, 7, and 6.)

Downing Street.

17th August, 1936.

SIR,

I have the honour to enclose a copy of a question* recently addressed to me in the House of Commons by Miss Rathbone, M.P., concerning action which, she suggests, should be

* No. 3.

taken by the Governments of the British Dependencies in Africa with the object of preventing the forced marriage of African girls. A copy of the reply* which I returned to her question is also enclosed.

2. It will be seen that this question arose out of the recent trial of an African girl in Tanganyika for manslaughter. I have no report of the case itself, but I enclose a copy of a letter† concerning it sent to the *Manchester Guardian* on the 16th June by Archdeacon Owen of Kavirondo. The general question of the marriage of African women was discussed by a Conference convened by the British Commonwealth League in November of last year, and you may be interested to see the enclosed copy of an extract from *East Africa*‡ giving an account of the discussion at that Conference.

3. I realize that it would be rash to generalize on a question of this kind; that conditions may well vary widely between tribes in a single Dependency, and that the extent and evil of the pressure which may be exercised on African girls to marry against their will are capable of exaggeration. At the same time, I should be obliged if you would be good enough to forward such information as is possible on the following points:—

(a) Whether cases of real coercion (involving perhaps some physical coercion) are considered to be at all frequent;

(b) Whether in cases of attempted coercion, women are free to bring such cases to the notice of the District Officer or to other appropriate authorities, and whether, in point of fact, such a right is freely exercised;

(c) What action is normally taken in the event of such complaints being received;

(d) Whether you are satisfied that the present practice is sufficient to prevent serious abuses; and

(e) Whether, if the answer to (d) is in the negative, you consider that other measures (e.g., the compulsory registration of marriages by a tribal or other authority) would be desirable and practicable.

4. I am sending a similar despatch to the Officers Administering the Governments of all the East and West African Dependencies, with the exception of Somaliland and Zanzibar.

I have, &c.,

W. ORMSBY GORE.

* No. 3.

† No. 2.

‡ No. 1.

No. 5.

Despatch from the Governor of Northern Rhodesia to the Secretary of State for the Colonies.

(Received 9th October, 1936.)

(Answered by No. 14.)

Government House,
Northern Rhodesia.

16th September, 1936.

SIR,

I have the honour to refer to your despatch of the 17th August* on the subject of the forced marriage of African girls, and to say that now that slavery has been abolished African girls are seldom married against their will. There may be occasional attempts at compulsion on the part of the girl's parents and possibly the girl will often defer to the wishes of her parents or guardians in the matter. In the event of force being employed, however, the girl would not hesitate nowadays to appeal to the Native Authority or, if necessary, the District Officer, and in such a case the marriage would be disallowed. I am quite satisfied that the present practice is sufficient to prevent serious abuses; in fact, some anxiety is felt because girls are becoming too independent and are tending to flout the influence which parents may rightly exercise over them.

2. With regard to the registration of African marriages, the recent Conference of Provincial Commissioners recommended the voluntary registration of such marriages by Native Authorities and Sir Hubert Young directed that the views of the Native Authorities on this recommendation be obtained. Reports are now being awaited. The registration was not, however, designed to prevent forced marriages but rather to tighten the marriage tie, which is what the Native Authorities themselves so much desire.

I have, &c.,

CHARLES DUNDAS,

Deputy to the Governor.

* No. 4.

No. 6.

Despatch from the Governor of the Gambia to the Secretary of State for the Colonies.

(Received 23rd November, 1936.)

(Answered by No. 14.)

Government House,
Bathurst, Gambia.
6th November, 1936.

SIR,

I have the honour to refer to your despatch dated the 17th August, 1936,* on the subject of the forced marriage of African girls.

The matter is one of which, owing to my recent arrival in the Colony, I can claim no personal knowledge, and I am indebted to my advisers for the views expressed in this despatch.

2. Though it cannot be denied that cases of coercion do occur in the Gambia, it is difficult to estimate the extent of the practice as the instances in which coercion is employed are not, it is believed, always brought to light. There may be cases of physical compulsion, that is, the systematic ill-treatment of a girl by her parents until her will is broken to theirs, but I am inclined to think that such cases are rare and that the force more commonly used is moral coercion. A girl may be betrothed when quite young to a man much older than herself, and when of marriageable age, feel nothing but dislike for her intended husband. All the forces of a patriarchal society may be against her, the elders of the village, because her action is, in their eyes, a protest against traditional authority, the men, because she is attacking their position of dominance, her family, because she is disobedient to their will. As a result, in the majority of cases, the girl will probably withdraw her refusal and enter upon the marriage.

3. If the girl has the strength of will to continue her resistance she is free to lay her complaint before the Commissioner of the Province or the Native Authority. Such complaints, however, cannot be taken as a reliable index of the number of forced marriages which occur. If the girl were to come forward with her complaint it might be that the stigma of her action would adhere to her name in her own village; she might have to face the resentment of her family and the disapproval of her elders,

* No. 4.

and she might seriously prejudice her chances of acquiring another husband and feel that, after all, she had only freed herself from one fate at the cost of enduring something worse. Considerations such as these would deter many women from laying complaints before the Commissioner or other authority.

4. When such a complaint is brought forward and the facts proved, the marriage can be forbidden, and in the event of physical force having been used, a charge of assault or abduction can be brought. If the marriage is forbidden the woman's family would be required to refund the dowry to the man. If the marriage has already been consummated, it can be annulled. In this latter case, however, it is important to have adequate proof of coercion, for it must be borne in mind that the woman may have entered upon the marriage willingly, and may, by laying complaints of coercion, be trying to annul the marriage without the penalties attaching to a divorce, if she should happen to have been unfaithful.

5. In the light of these remarks it cannot be said that the freedom to lay her complaint before a Commissioner or native authority is sufficient always to prevent serious abuse. It is the native marriage custom which is at fault and not the procedure for hearing complaints. No change in procedure and no introduction of legislation making registration of marriages compulsory would in any way remove these hardships which at present a woman may suffer owing to her compliance with the custom of her tribe. Even were legislation introduced to provide stringent rules against forced marriages, any woman who utilized these laws to escape a contract made by her family might still have to suffer the social ostracism which may result from her use of the existing procedure. The right of a woman to freedom from an unwanted marriage exists and is known; the more general exercising of this right and the gradual disappearance of the "forced marriage" will only come with the education of the native to a greater respect for individual liberty, especially as against patriarchal authority.

6. The situation to-day is by no means identical with that existing a generation ago and there is sufficient evidence to justify the statement that the rate of progress towards emancipation of women in the Gambia is increasing from year to year. It should be realized that this progress is causing some consternation in a society founded for centuries on patriarchal authority and having all the deep-rooted conservatism characteristic of an agricultural people. Administrative officers in the Protectorate are receiving with increasing frequency expressions of alarm from the older members of native society concerning the liberties being demanded and taken by their women, and in the present transitional stage any artificial interference by legislation or

otherwise in order to hasten the change might have the most disruptive effects and actually retard a reform which is happening now with a minimum of inconvenience.

7. I therefore consider that it is very important to avoid any interruption of the gradual process of emancipation by means of the intangible forces of civilization which are already at work while enforcing at the same time a careful administration of the existing procedure whereby forced marriages can be prevented or diminished.

I have, &c.,

W. T. SOUTHORN,
Governor.

No. 7.

Despatch from the Governor of Sierra Leone to the Secretary of State for the Colonies.

(Received 21st December, 1936.)

(Answered by No. 14.)

Government House,
Sierra Leone.
5th December, 1936.

SIR,

I have the honour to acknowledge the receipt of your despatch of the 17th August, 1936,* enclosing a copy of a question recently addressed to you in the House of Commons by Miss Rathbone, M.P., concerning action which, she suggests, should be taken by the Governments of the British Dependencies in Africa with the object of preventing the forced marriage of African girls.

2. In regard to the five questions asked in paragraph 3 of your despatch, I am advised by the Provincial Commissioners:—

(a) That no instances of real coercion are known in this country.

(b) That if women *were* coerced, they would undoubtedly be free to complain to the District Commissioner, if they obtained no satisfaction from the Paramount Chief; but that no such complaints are received.

(c), (d) and (e) do not, therefore, appear to arise.

* No. 4.

3. The Commissioner of the Southern Province adds:—

“ In Sierra Leone if the girl was sought in marriage by a man to whom she expressed marked aversion, her family would not force her to marry him. Where pressure is put on a woman by her family is in those cases where a husband and wife disagree and the wife returns to her parents; as a rule the parents are reluctant to refund the bride-price and bring pressure to bear on the woman to return to her husband; but this, of course, is merely upholding the sanctity of marriage and is not at all the same thing as forcing an unmarried girl on a husband she does not care for.”

I have, &c.,

HENRY MOORE,
Governor.

No. 8.

Despatch from the Governor of Uganda to the Secretary of State for the Colonies.

(Received 4th January, 1937.)

(Answered by No. 14.)

Government House,
Uganda.
3rd December, 1936.

SIR,

I have the honour to refer to your despatch of the 17th August,* on the subject of the forced marriage of African girls.

2. From the replies which I have received to the inquiries which I caused to be made it is clear that cases of real coercion are very infrequent in Uganda.

Occasional cases do, however, occur as they do in more highly civilized communities, but women are free, and are not loath, to bring complaints of this nature to District Officers or to their tribal authority. In all cases the matter is dealt with by the tribal or clan authority and in cases in which physical coercion has occurred the offenders are tried by the local native court. Native authorities take a serious view of such cases and

* No. 4.

this attitude together with a strong public opinion has caused the practice of forcing girls into marriage to be now of rare occurrence.

3. I am satisfied that the existing legislation and practice provide an efficient remedy for such abuses as may occur. Compulsory registration of marriages, instituted for other reasons, already exists in two Districts and voluntary registration is in operation in two other Districts but I do not consider that there is any present necessity to extend this system to the rest of the Protectorate.

4. It is to be observed, as was pointed out by one speaker at the Conference convened by the British Commonwealth League, that the real problem in modern Africa is the breakdown of traditional moral restraints and the spread of prostitution. It may be that tribal custom in relation to marriage produces an occasional abuse or injustice, but anything which tends to weaken it may result in far worse evils, for it is not excessive restraint which is the most serious danger for the women of Africa but excessive licence.

I have, &c.,

P. E. MITCHELL,

Governor.

No. 9.

Despatch from the Governor of the Gold Coast to the Secretary of State for the Colonies.

(Received 7th January, 1937.)

(Answered by No. 14.)

Government House,

Accra,

20th December, 1936.

SIR,

I have the honour to refer to your despatch of the 17th August, 1936,* on the subject of the prevention of forced marriages of African girls.

* No. 4.

2. Careful enquiry has been made into this matter, and I am now able to inform you as follows:—

(a) Cases of real coercion are not considered to be at all frequent;

(b) In cases of attempted coercion, women are free to bring such cases to the notice of District Commissioners, and such a right is freely exercised;

(c) Forced marriages are contrary to native custom and, in the few cases in which complaints have been laid, the publicity accorded to the matter by its ventilation in the District Commissioner's Court, backed by the weight of public opinion, has been sufficient to ensure satisfactory adjustment;

(d) The present practice is sufficient to prevent serious abuses.

I have, &c.,

ARNOLD HODSON.

No. 10.

The Governor of Nyasaland to the Secretary of State for the Colonies.

(Received 11th January, 1937.)

(Answered by No. 14.)

Government House,

Zomba, Nyasaland,

17th December, 1936.

SIR,

I have the honour to refer to your despatch dated the 17th of August* on the subject of marriage of African girls.

2. It may be convenient if I offer a few general observations on this subject with regard to the customs followed in Nyasaland before replying to the specific questions which were asked in your despatch.

3. Native marriage customs may be divided roughly into two classes, namely, those in force among matrilineal tribes and those in force among patrilineal tribes.

4. Under the former system, the marriage is arranged by agreement between the two families. No bride-price passes

* No. 4.

between them; but relatives, usually two in number, of the contracting parties meet and enter into a formal pact, for which the consent of the girl herself is always required. The husband then builds a house at the village of his wife's mother and takes up his abode there. He must hoe a garden and perform other duties for his mother-in-law before being fully received into the family, and, later on, he cannot take his wife to live at his own village unless another formal agreement is made. It will thus be seen that his position is a somewhat subservient one and that the success of the marriage and the privilege of living with his children depends upon his own good behaviour towards his wife and her family. The wife has the upper hand from the beginning, and there is little chance of a girl being compelled to marry a man against her wish. It is certain that physical coercion is never exercised. Perhaps, as in more civilized lands, it may happen occasionally that a parent will advise a daughter as to the eligibility of a certain suitor and even persuade her by such means to marry a man for whom she has not formed any particular or deep affection, but it is certain that she will not agree to do so if she wishes to marry another.

5. Under the patrilineal system, bride-price passes and the union is consolidated in the same way by relatives of each party who act as the formal witnesses. The consent of the girl is as necessary as under the matrilineal system. After the marriage the wife lives in a house built for her by her husband in his own village. Money has now taken the place of cattle and other articles which were formerly passed in consolidating a marriage pact. This property remains in the hands of the woman's people as security for the good conduct of the husband towards his wife, and is lost by him upon divorce if it is due to his misconduct towards her. The woman is always free and her witnesses are always accessible to her to enable her to express her complaints. As in the matrilineal system, there is extremely little opportunity for any form of coercion to compel a girl to contract a marriage against her wish. There are occasionally cases of persuasion on the part of parents to ensure the marriage of their daughter to a man of wealth who is able to put up a satisfactory and adequate bride-price, but it is not unknown for parents in other parts of the world to react in a similar way in the same circumstances, and it must be remembered that even these dowry payments pass on and that little profit can be made out of them. The father and his relatives receive bride-price by the marriage of the daughters of their house, but as they are also obliged to find bride-price for the marriage of the sons, the dowry of the daughter's marriage is often passed on in the son's marriage. Generally it may be said that the status of native women in Nyasaland is high, and that compulsion or

coercion in the marriage of girls is generally resented and would not be countenanced by any native court. The whole system is aimed at guarding the interest of the women, who are honoured tribally as the mothers of the people.

6. I will refer also to the law of the levirate, under which the wives of a deceased man are inherited by his heir. This custom is still observed, but its only effect is to cast obligations upon the heir and to ensure the future security of the widows, and in no circumstances can any of the widows be compelled to cohabit with the heir against their will. The majority of these widows are old, and it is then incumbent upon the heir to support them; but, if they are still of marriageable age and do not wish to enter into connubial relations with the heir, it is his duty to arrange marriages for them with the men of their choice.

7. In conclusion, I will submit the following answers to the questions asked in the third paragraph of your despatch:—

(a) Cases of physical coercion and what I presume to be meant by real coercion do not occur. In this respect, the native girl of Nyasaland is as independent and as little subjective to discipline as the young Englishwoman of to-day; and cases of response to parental pressure are probably less frequent in Nyasaland than they are in England.

(b) In the extremely remote chance of attempted coercion, a girl would not hesitate to complain to the Village Headman, or to the Native Authority or District Commissioner, if necessary.

(c) If a complaint of this nature were brought before a Native Court and attempted coercion were proved, the parent responsible would be publicly reprimanded, ordered to pay costs and probably fined for breach of native law and custom.

(d) I am satisfied that serious abuses do not occur. If they were attempted, the present practice would be adequate to prevent their actual commission.

(e) This question does not arise; but I may mention that many Native Authorities of their own volition have introduced rules for the voluntary registration of marriages. This tendency may be expected to spread, and meanwhile I do not consider that compulsory registration is either necessary or desirable.

I have, &c.,

HAROLD B. KITTERMATER,
Governor.

No. II.

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

(Received 25th January, 1937.)

(Answered by No. 14.)

Government House,
Nairobi, Kenya,
31st December, 1936.

SIR,

With reference to your despatch of 17th August, 1936,* requesting certain information in regard to the extent and evil of the pressure which may be brought to bear on African girls to marry against their will, I have the honour to make the following observations on the points raised, which have been thoroughly investigated.

2. I propose to deal with each point separately, the first being:

(a) Whether cases of real coercion (involving perhaps some physical coercion) are considered to be at all frequent.

The position in this respect varies to a certain extent according to whether the tribe is still in a primitive stage of development, or whether the impact of civilization, and the growth of individualism have tended to break down tribal customs. Generally it may be said that among the former, such coercion as exists is produced by the pressure of established practice, rather than by individual violence, while among the latter, instances of real coercion which were at one time not infrequent, are now rare. For instance, in the Nyanza Province, inhabited by the Luo, Kisii, Bantu Kavirondo and Kipsigis tribes, I have every reason to believe that cases of coercion have greatly diminished in recent years and are now practically non-existent. The same remarks apply to the Central Province, in so far as the Kikuyu, Kamba and Embu are concerned. On the other hand, among the Meru, it is generally recognized that in accordance with tribal custom a girl must marry the man of her father's choice, and although in a large number of cases, marriage is by agreement between the parties, instances of coercion do undoubtedly occur. Occasionally it may happen that a girl of this tribe who is reluctant to marry the man chosen for

* No. 4.

her is seized and carried off to the husband's hut. The average Meru girl would not normally resist her father's will, and her method of overcoming the difficulty of marrying a man of her father's choice in preference to one of her own choosing, is to comply with her father's wishes, live with her husband for a short time, and then desert him and go to her lover. According to Meru custom once a girl has left her home and lived with another man, her father's powers of compulsion are ended, and he has no option but to return the bride-price.

3. It should be explained that among the Luo of the Nyanza Province and the Kikuyu of the Central Province (and probably among other tribes) a woman is always expected to show some reluctance to her future husband as a sign of her respectability. This relic of marriage by capture manifests itself in apparently atrocious scenes of struggling girls being dragged to the villages of their husbands, an instance of which is related by an officer engaged on tsetse fly control in the following terms:—

“ Recently I was shocked when a girl was literally carried kicking and screaming into my camp. I intervened, ordered her to be put down and sent home unmolested. She was. Next day, she returned on her own, and I found her in camp living with the very man to whom she had been carried screaming. It was only after I had taken the parties before the headman to get the marriage voluntarily registered, that I discovered that the apparent resistance was part of the customary marriage ceremony, and my intervention a matter for the amusement of all concerned except myself.”

I have no doubt that similar incidents have sometimes created a misleading impression in the minds of others besides this particular officer.

4. In the Coast Provinces instances of coercion are not considered to be frequent, although the somewhat unusual marriage customs found among the Digo and Duruma tend to restrict the liberty of girls to choose their own husbands. In the case of these two tribes there exist, side by side, two distinct systems, one matrilineal, the other patrilineal, and in the coastal belt the influence of Islam makes itself felt, giving rise to a curious mixture of Digo custom and Mohammedan law.

The matrilineal system is the original one among the Digo and Duruma and is probably still predominant, although it is steadily losing ground to the patrilineal system. In accordance with the former the girl selects her own husband, subject to the veto of her father and uncle. The uncle has the final word. The woman has thus a reasonable measure of freedom, and the right of veto appears to be a wise provision. *Why?*

The patrilineal system is imported, and originated in the days of slavery. Women of other tribes who were seized in war were sold as slaves, and became the absolute property of the men who bought them. The children of these women belonged only to the father who could bequeath all his property to them; in the circumstances there was obviously no maternal uncle to be considered. In time this practice was extended to women of the Digo and Duruma tribes who would be married in return for a cattle payment. Intending husbands have not been slow to realize the advantages of obtaining complete control over their wives and children, and also of acquiring the right to bequeath their property to their own children. Needy fathers and uncles are also tempted by the much higher bride-price—10 cows as against a sum of money varying from £6 to £8 for a matrilineal marriage. Wealthy men are not anxious to marry their girls under the patrilineal system as they then become lost to the clan, but those in poor circumstances are quite ready to do so, and thus bad years, whether arising from economic conditions or from locusts, drought, or famine, tend to increase the number of this type of marriage, in which the girl has no say in the matter but is forced to marry the man chosen for her. If she objects there can be little doubt that physical coercion may be used. In a later paragraph of this despatch, I shall indicate what action is being taken to remove the objectionable elements of the system.

5. In the previous paragraph, reference is made to a mixture of Digo custom and Mohammedan law which is found in the Coast belt. Here, dowry payments are made under both systems, and in accordance with Mohammedan practice the girl has no option but to marry her father's choice, whatever her own feelings in the matter may be.

6. Among the Duruma cases sometimes occur in which preliminary arrangements for future marriages are made when girls are quite small. The maternal uncle usually resorts to this procedure only under pressure of financial circumstances, the girl being handed over to her future father-in-law on payment by him of the dowry. This custom does not exist among the Digo except in a very modified form whereby money or cattle are advanced against the security of the dowry to be obtained from the marriage of a girl when she comes to maturity. Attempts are being made to bring the Duruma custom into line with the more humane practice existing among the Digo, by the influencing of public opinion through the Local Native Council.

7. In the case of the other tribes, instances of coercion occur with varying frequency according to whether the tribe is in a backward or a more advanced state, but it is interesting to note that among the Turkana, one of the most primitive tribes in the

Colony, coercion is practically, if not quite, unknown. This may possibly be due to the fact that the Turkana do not regard marital faithfulness as one of the major virtues.

8. Turning now to the second point:

(b) Whether in cases of attempted coercion, women are free to bring such cases to the notice of the District Officer or to other appropriate authorities, and whether, in point of fact, such a right is freely exercised.

It is universally the case that complaints of attempted coercion are rarely brought to the notice of District Officers, and since forced marriages do occur, among some tribes, this fact can only be ascribed to parental restraint, and the force of public opinion which favours non-interference and accepts the subjection of women as a natural and proper condition.

9. The third point is:

(c) What action is normally taken in the event of such complaints being received.

Complaints would normally be dealt with by reference, in the first instance, to the Native Tribunal, subject to appeal to the District Commissioner. In a case recently tried by a Native Tribunal in the Teita District, the husband concerned was fined Shs.90 and the woman freed to marry the man of her choice. In the South Kavirondo District, when a wife leaves her husband, the Tribunal would generally order her to return, but the third time she deserted, they would send her back to her father, who would then be compelled to pay back the dowry.

10. This brings me to the fourth and fifth points, which I propose to deal with together:

(d) Whether you are satisfied that the present practice is sufficient to prevent serious abuses: and

(e) Whether, if the answer to (d) is in the negative, you consider that other measures (e.g., the compulsory registration of marriages by a tribal or other authority) would be desirable and practicable.

In the light of what has been written in this despatch, the answer to (d) must be that the existing practice does not invariably prevent incidents which to the non-native mind may appear to be serious abuses of individual liberty since native public opinion countenances the system which gives rise to such incidents. At the same time I do not consider that the position as it exists to-day calls for any drastic intervention by Government, and indeed I would go further, and say that such action would be most unwise and might well have undesirable effects. Interference with deep rooted tribal customs, however deplorable, must be done with great caution, as any sudden removal

of parental control would have disastrous results and might in fact shatter the tribal social system. A basic change should be brought about by a natural growth and variation of ideas emanating from within the tribes, assisted by external influences and propaganda. It is along these lines that Government has been working for some time past. In this connection a Committee appointed in 1926 to enquire into the working of the Marriage and Divorce laws of the Colony in their application to Africans, recommended the introduction of legislation providing for the registration of pagan marriages, but the Governor-in-Council decided that the matter should be referred in the first instance to the Local Native Councils. In consequence, certain Local Native Councils passed a Standard Resolution, a copy of which is attached, providing for the voluntary registration of marriages, but little advantage appears to have been taken of the system.

Since then, the North Kavirondo and Kiambu Local Native Councils have passed Resolutions with a view to making the registration of marriages compulsory, and I would remind you that the Native Authority Bill includes provision for the making of such resolutions. The indirect effect of economic and social development will, as time goes on, result in other Local Native Councils following the example set by Kiambu and North Kavirondo, but it would be a fatal mistake to rush matters, and it is very necessary that the social customs and ethnology of each particular tribe should be fully considered before any such measures are introduced. For instance, in the case of the Digo and Duruma, referred to in the fourth paragraph of this despatch, no useful purpose would be served by introducing the registration of marriages, and the correct line of approach to the problem—which is being followed at the present time—is to endeavour to persuade the Local Native Council to pass resolutions conferring the freedom enjoyed by girls under the matrilineal system upon girls married under the patrilineal system.

II. I have dealt with these matters at some length in this despatch in order that it may be appreciated that the whole problem of the status of native women is one which must be approached with the greatest caution and sympathy.

I have, &c.,

A. DE V. WADE,
Acting Governor.

Enclosure in No. II.

STANDARD RESOLUTION NO. 4.

REGISTRATION OF NATIVE PAGAN MARRIAGES.

“(a) This Council is of opinion that facilities should be provided for the Registration of Native Pagan Marriages in this district by the Administration Officers and requests Government to take the necessary steps in the matter.

(b) That for the present such registration should be voluntary.

(c) That no registration should be effected unless both parties to the marriage are present together with the father or guardian of the woman.

(d) That the Register should contain details as set out in the Schedule annexed hereto.

(e) That subject to the provisions of (c) above existing marriages contracted before the institution of marriage registers may be registered provided that the District Officer is satisfied as to the bona fide nature of the application to register such a marriage.

(f) That necessary native clerical assistance should be provided at the cost of the Local Native Fund.

(g) That no fee be charged for the registration but that a District Officer may issue a (certified) extract from the register on payment of a fee of 1s. Such fees shall be paid to the Local Native Council.

(h) That on the annulment of any marriage the parties and suitable witnesses shall appear before the Administrative Officer, who shall thereupon cause a note of such annulment to be made in the marriage Register.”

The desirability of registering native pagan marriages, not only with a view to obtaining reliable statistics but also for preventing disputes in connection with the payment or repayment of dowry, is generally admitted. Native opinion is not sufficiently advanced at present to render it possible to consider immediately the introduction of compulsory registration. This resolution provides for voluntary registration and it is anticipated that as the advantages of the system are appreciated the demand for compulsory registration will arise among the more progressive tribes.

Schedule.

SCHEDULE.
FORM OF CERTIFICATE.

District.....

Location.....

I. Date of Marriage.	II. Name of man.	III. Chief.	IV. Name of woman.	V. Father or Guardian.	VI. Chief.	VII. Name of Witness.	VIII. Marriage Terms.	IX. Payments. made.	X. Balance due and date due.	Remarks.
						1. 2. 3.				

Date of Registration.....

.....
Signature of Registering Officer or
Designation.

Signature or thumb-print of man.	Signature or thumb-print of woman.

No. 12.

*Despatch from the Governor of Tanganyika Territory to the
Secretary of State for the Colonies.*

(Received 15th February, 1937.)

(Answered by No. 14.)

Government House,
Dar-es-Salaam.
6th February, 1937.

SIR,

With reference to your despatch of the 17th of August, 1936,* regarding the question of forced marriages of African girls, I have the honour to inform you that a full examination of the matter, covering the whole Territory, has now been carried out. This has involved some delay in replying to your despatch but it seemed to me that the importance of the subject justified widespread enquiries.

2. As you point out in your despatch under reference, it would be rash, in view of the varying conditions among the different tribes in the Territory, to generalize on a question of this kind, but, so far as it is permissible to do so, it may be stated that the underlying principle of betrothal customs generally in this Territory is that the parental wish in the choice of a husband carries great weight. There is, of course, nothing novel or surprising in this principle which, until towards the end of last century, was accepted by most young girls of our own race. It is also safe to say that, throughout all tribes, custom decrees that a girl may properly refuse to marry a certain man and that she will generally be supported in her refusal by the tribal elders against her family.

3. The gist of the matter is well put by Mr. Bagshawe, the Senior Provincial Commissioner in this Territory, who has twenty years experience and a profound knowledge of the African. He says:—

“ Undoubtedly a certain amount of coercion is exercised to make girls marry men chosen for them by their parents. This coercion, however, is moral, and is similar to that sometimes exercised in non-native communities. I have not heard of physical coercion for years, and I doubt if modern native public opinion would permit it. If a real attempt

* No. 4.

at physical coercion occurred it would be confined to elderly natives: the younger generation, which is largely Christian, would report it to the Missionaries who would see that the nearest administrative officer was informed. I remark, however, that young African girls do not often put up much resistance to the wishes of their parents concerning marriage: they obey and subsequently elope. Parents know that when this happens repayment of bride-price must be made by them, and for this reason they are usually afraid to make girls marry if they are decidedly against the proposal. This is the real remedy against coercion and the women make free use of it. "Capture" by the bridegroom is a part of many tribal marriage ceremonies; it is correct for the bride to "resist," but this is prearranged and understood, and must not be mistaken for real coercion.

Women are free to bring any grievances, which would, of course, include coercion, to the notice of administrative officers, or their tribal courts. The tribal court is a great protection to women in such matters: few men will face in open native court a description by a woman of the reasons why she does not want to marry a particular individual.

It is difficult to describe the action which would normally be taken by an administrative officer on receipt of a complaint by a woman of coercion: every case would be decided upon its facts, including tribal laws and customs. During many years of experience I have never found any difficulty in obtaining for a native woman physical freedom from a man who was really abhorrent to her. The usual practice is to obtain—if possible—for the disappointed bridegroom or husband restitution of anything which he has paid for the woman, and to tell him and her that he has no further claim to her. This, in my opinion, is amply sufficient to prevent serious abuses."

4. It will be convenient to deal *seriatim* with the points on which you ask for information:—

(a) No. Marriages are usually arranged by parents, and as there is usually more than one aspirant with satisfactory qualifications, it is customary to consider the girl's wishes in such cases. Among the more primitive tribes the parental wish is rarely questioned and persuasion is usually all that is required to overcome any objections on the part of the girl who, rather than defy her parents, will consent to the marriage and later sue for divorce on some ground or another. In that case the parents will have to return the bride-price and for this reason they are chary of forcing their children into the arms of unwelcome suitors. That is, in fact, the real remedy against coercion and the women are well aware of it.

The more sophisticated a tribe becomes the more is parental control likely to be relaxed and it is the constant cry of family and tribal elders that the younger generation show diminishing respect for conventions and are becoming increasingly independent. In these circumstances parental pressure to contract an unwelcome marriage will rarely be exercised with success.

(b) Yes. The right of refusal to marry on the part of women is recognized generally by tribal custom and is indeed freely exercised. A few cases of refusal have come to the notice of the Administration but the women are well aware of the remedies open to them, and the tribal authorities are willing to help them.

Complaints normally go to a Native Court in the first instance with, of course, the right of appeal to the District Officer but they may be, and sometimes are, laid direct before the District Officer to whom all persons have direct access.

(c) On receipt of a complaint the Native Courts may grant a divorce, and may punish the offending party if real coercion is proved. In one of the few cases which have occurred recently the offending parties were sentenced to terms of imprisonment ranging from 3 to 6 months.

(d) Yes, though under no system can the rare case of abuse be completely ruled out.

(e) This does not, strictly speaking, arise under the terms of your despatch. Certain comments may not, however, be out of place.

The compulsory registration of marriages by Native Administrations would be of little effect in preventing coercion since registration would only take place after the marriage was consummated. Compulsory registration has been adopted by some Native Administrations but only in order that the amount of dowry paid may be recorded in writing and that the frequent disputes in regard to it may be more easily settled. The compulsory registration of *projected* marriages as a further safeguard against undue influence does not seem to me practical. The Arusha Native Authority, it is true, have introduced a compulsory registration system of betrothals between Arusha girls and Masai men but this was done in order to discourage parents, tempted by large dowries, from coercing girls into unwelcome unions with men of another tribe, and in passing these rules the Waarusha elders have, I assume, been moved not so much by regard for the feelings of the girls as by a desire to prevent their women-folk leaving the tribe.

With the remedies open to women, I do not think that any attempt to introduce compulsory registration, either of marriages or betrothals, is necessary or advisable. It would certainly not achieve its purpose unless it had the support of native opinion and unless the move for its introduction came from within the tribe and not from outside it.

6. You have asked for a separate report on the case of the woman Kekwe, and I attach a copy of the judgment of the trial Judge, which contains all the facts.

I have, &c.,

HAROLD MACMICHAEL,
Governor.

Enclosure in No. 12.

IN HIS MAJESTY'S HIGH COURT OF TANGANYIKA AT MOSHI.

Criminal Sessions Case No. 49 of 1936.

REX Prosecutor

versus

Kekwe d/o Muningafi Accused.

JUDGMENT.

The accused, a young woman who, according to the 3rd witness Dr. Panvalkar, is aged between 18 and 20 years and according to Dr. Wilcocks (the 6th Prosecution Witness) is 17 years at the least—is charged with the murder of a man Ndemfoo s/o Nshau. It is established in the first place that the accused caused Ndemfoo's death by striking him with a knife (Ex. A.). The point of entry of the wound was about $\frac{1}{8}$ of an inch inside the left nipple line and a little above the left nipple. The knife, I find proved, penetrated downwards and inwards and backwards. On what I have heard here I am satisfied that the blow was struck while the accused's right arm was being held by Ndemfoo and while others were holding her round the waist for the purpose of carrying her to the house of one Olendo (a cousin of Ndemfoo) to whom she was betrothed. The accused was, it is abundantly clear to me, about to be taken away against her will: she was betrothed to Olendo but had transferred her affections to one Sambera at whose place she had spent the previous night. Her father had brought her back thence to her home and had sent word to Olendo and his family to come and fetch her: they accordingly came. After lengthy and unsuccessful pressure, when the accused refusing to go with them got up, as I find, to go inside her house, she was stopped by the family of Olendo as the result, I am satisfied, of her father telling them finally to take her. I am convinced that unlawful force was used against the accused for the purpose of making her go with them. She had a knife (Ex. A.) in her left hand which she had brought out of the house: I fully believe the accused's story as to why she had come out with this knife.

She demonstrated what happened of everything—she would have me believe, as she induced the assessors to believe, that in suddenly moving the knife backwards and then forwards she unintentionally stabbed Ndemfoo. I find myself unable to agree with the assessors that she accidentally struck Ndemfoo with the knife. Her demonstration as to the way she moved the knife has left me unimpressed in this regard. The blow I am convinced, upon the evidence of Dr. Panvalker, must have

been a severe blow; his evidence also shows to my mind that the blow must have been delivered in a vastly different way to the way the accused says the knife struck Ndemfoo. On all that I have seen and heard here I am convinced beyond any doubt that the accused intentionally stabbed Ndemfoo. To my mind the case is a clear one of an unlawful killing committed by the accused in the heat of passion caused by sudden provocation within the meaning of section 192 of the Penal Code.

In the result I acquit the accused of the charge of murder and convict her under section 188 of the Penal Code of the offence of manslaughter. Accused asked if she has anything to say why she should not be sentenced says: "I have nothing to say".

Haywood asks for a lenient sentence.

Remanded for sentence.

(Sd.) I. G. BATES,
Judge.

18th May, 1936.

21st May, 1936.

Vernon for prosecution.

Accused and Haywood for her.

I sentence accused to fifteen months imprisonment with hard labour from to-day.

(Sd.) I. G. BATES,
Judge.

21st May, 1936.

No. 13.

Despatch from the Governor of Nigeria to the Secretary of State for the Colonies.

(Received 22nd March, 1937.)

(Answered by No. 14.)

Government House,

Nigeria.

27th February, 1937.

SIR,

Referring to your despatch of the 17th of August, 1936,* on the subject of the coercion of African girls into marriage, I have the honour to inform you that comprehensive reports on the subject have now been received from every part of Nigeria. The general tone of these reports is most reassuring.

* No. 4.

2. It cannot be denied that coercion is practised and that in very rare instances physical coercion may take place, but such practices are becoming less and less frequent. Indeed, in many places the weakness of parental control over women now gives more cause for anxiety than the excessive exercise of it.

3. In Moslem areas the law permits coercion by a parent but not by a guardian, and then only in the case of a girl who has never before been married. But, although custom permits a parent to cause the marriage ceremony to be performed, annulment is in all cases possible previous to consummation and, in general, anxiety lest a girl should run away and seek a less permanent form of union, restricts coercion to moral suasion and such discomforts as result from acute parental disapproval.

4. Among the pagan tribes of the Northern and Southern Provinces the system of bride-price and child betrothal is almost universal. This system necessarily involves moral coercion in a greater or less degree, since the bride-price is normally paid in part during the girl's childhood and her refusal later to accept the husband chosen for her involves her parents in a refund of the money received. She is, however, entitled so to refuse, and except in very rare cases, which would not be favourably regarded by public opinion, excessive pressure would not be brought to bear on her to marry against her will.

5. The fact that the parents are aware that they will be compelled to refund the bride-price if their daughter deserts her husband after marriage has a steadying effect on their choice. Furthermore, it is the almost universal custom for a betrothed girl to pay visits to her proposed husband's family before marriage, and she is thus provided with an opportunity of estimating his character. Should she express dislike of her betrothed, neither the parents nor the proposed husband will be too insistent about the marriage unless the circumstances of the case are exceptional. From the purely practical point of view both realize that parental control over grown-up girls is no longer strong enough to ensure the permanence of an ill-assorted marriage, and every tribe, primitive or otherwise, must be given credit for some delicacy of feeling about such matters and for a great deal of natural affection between parents and children. These general characteristics are apt to be overlooked by those who form their opinions on isolated cases.

6. In all cases in which pressure is being brought to bear upon a girl to marry against her will, she is at liberty to complain to the native authorities or to the District Officer, and this right is freely exercised. When such complaint is received the families concerned are called together and an attempt is

made to settle the matter amicably. Failing this, proceedings for termination of the contract are instituted in the Native Court.

7. I am satisfied from the reports received that the present practice is sufficient to prevent serious abuses and that cases of real coercion are now rare and becoming more so. Isolated cases in which parents, actuated by greed or cruelty, compel their daughters to accept unwanted husbands do undoubtedly occur, but such cases are exceptional and normally come to the notice of the authorities. The only sure way of stamping out such evil practices is by the formation of public opinion against them, and in this direction great progress has been, and is being, made.

8. During the course of a recent enquiry which followed representations by certain Mission authorities on the subject of native marriage and divorce, the possibility of registration of such marriages was closely considered. It was shown that in areas where public opinion is not in favour of it compulsory registration cannot be successfully introduced but that voluntary registration may serve a useful purpose and possibly prepare the way to the acceptance of a proper system of registration later.

9. To sum up, the answers to the questions in the third paragraph of your despatch are as follows:—

(a) Cases of real coercion are rare and becoming more so: cases of physical coercion are very rare indeed and would almost certainly come to the notice of the authorities.

(b) Women are free to bring to the notice of the District Officers or other authorities any case of coercion, and this right is freely exercised.

(c) In the event of such complaint being received an attempt is made to achieve an amicable settlement. Failing that, divorce is granted by the Native Court.

(d) I am satisfied that the present practice is sufficient to prevent serious abuses.

(e) Does not therefore arise, but the voluntary registration of native marriages will be encouraged where public opinion in any area has become sufficiently favourable to ensure its success. The cure must come from within, through the improved attitude of the people themselves, and cannot be brought about by legislation or by alien restrictions for which the people are not yet prepared.

I have, &c.,

B. H. BOURDILLON,

Governor.

No. 14.

Despatch from the Secretary of State for the Colonies to the Officer Administering the Government of

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| 1. Kenya. | 6. Gambia. |
| 2. Uganda. | 7. Sierra Leone. |
| 3. Tanganyika Territory. | 8. Gold Coast. |
| 4. Nyasaland. | 9. Nigeria. |
| 5. Northern Rhodesia. | |

Downing Street, 9th July, 1937.

SIR,

I have the honour to refer to [To 1: Mr. Wade's despatch of the 31st December, 1936,*] [To 2: your despatch of the 3rd December, 1936,†] [To 3: Sir Harold MacMichael's despatch of the 6th February, 1937,‡] [To 4: Sir Harold Kittermaster's despatch of the 17th December, 1936,§] [To 5: Mr. Dundas' despatch of the 16th September, 1936,||] [To 6: your despatch of the 6th November, 1936,¶] [To 7: Sir Henry Moore's despatch of the 5th December, 1936,**] [To 8: your despatch of the 20th December, 1936,††] [To 9: your despatch of the 27th February, 1937,‡‡] concerning the question of the coercion of African girls into marriage, and to express my appreciation of the care and thoroughness with which the enquiries which I made on this subject have been answered by the Colonial Governments consulted.

2. The replies which have been received contain a wealth of interesting information, and indicate clearly both the present position and the efforts which are being made to deal with such abuses as still occur from time to time. It is clear that, generally speaking, cases of coercion are not frequent; that African girls are free to appeal to the District Officer or to the appropriate Native Authorities for redress if coercion is attempted; and that, in the case of such appeals, effective action can be taken to assist the complainants. It is clear,

* No. 11.

‡ No. 12.

|| No. 5.

** No. 7.

‡‡ No. 13.

† No. 8.

§ No. 10.

¶ No. 6.

†† No. 9.

too, that any real and lasting advance in this matter must necessarily be a slow process of education and enlightenment, and that the problem is one which must be handled with great caution and sympathy.

I have, &c.,

W. ORMSBY GORE.

