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Colonial Control and Power through the Law: Territoriality, Sovereignty, and Violence in German South-West Africa

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**Colonial Control and Power through the Law: Territoriality, Sovereignty,
and Violence in German South-West Africa**

Senior Project Submitted to
The Division of Social Studies
of Bard College

by
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Annandale-on-Hudson, New York
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Introduction

The first genocide of the 20th century occurred between 1904-1908 in the German colony of German South-West Africa during the Herero and Nama War. The extreme German response to the indigenous uprising arose out of the fear provoked by Samuel Maharero, who was the leader of the Herero. He had led his men in the uprising to attack Germans in the colony, resulting in the deaths of around 120 German settlers.¹ The German Empire's colonial Protection Force was instructed to quell the uprising of indigenous Namibians in an extermination campaign. Those who lived through the military violence of the campaign were put into forced labor in concentration camps. The orders were given on October 2, 1904 by a German military leader, General Lothar von Trotha, who had already made a name for himself fighting against uprisings in other German colonies.² The German colonial presence in South-West Africa had been preceded by violent episodes in the 1890s, but these prior violent episodes in no way meant that the genocide was inevitable. Yet, there remains a consistent theme of violence in the colonial period that may have been rooted in the motivations of the German Empire to control the indigenous population for economic reasons. These economic motivations underpinned the Germans' actions of corporal punishment, violence, and the policy of protection treaties that were carried out within the German colony leading up to the War. This project seeks to unravel this apparent connection between the violent episodes in the early beginnings of the German colony and the extreme violence that occurred during the Herero and Nama war. The German Empire, through their legal framework, both legitimized usage of violence and projected control

¹ Adam Jones, *Genocide: A Comprehensive Introduction* (New York, NY: Routledge, 2006), 80.

² Jeremy Sarkin, *Colonial Genocide and Reparations Claims in the 21st Century* (Westport, CT: Praeger Security International, 2009), 5.

over the indigenous population. As a consequence, the Germans' implementation of their rule of law changed how indigenous sovereignty functioned in German South-West Africa. It also affected territoriality, because the way people in the colony related to the land changed.

The boundaries of South-West Africa, which now constitutes the Republic of Namibia, were drawn up by the German Empire when they created the colonial state of German South-West Africa. This state arose out of the German protectorate that was founded in 1884 and existed until its dissolution as a result of Germany losing the First World War. German South-West Africa was invaded by the British in 1915, and the Germans lost control of their colonial holding. The Union of South Africa, under the British Empire, maintained control over what was once German South-West Africa for many decades and as a consequence the policies of apartheid that were introduced in South Africa also applied to the region of South-West Africa. In 1990, Namibia was finally able to realize independence from previous colonial powers. The Republic of Namibia is located in Southern Africa along the western Atlantic coast of Africa. Angola and Zambia are neighbors to the North, while South Africa is neighboring to the south, and Botswana to the east. Windhoek is the capital and is the most populous city. The country has a very sparse population density. Namibia contains a very large, mostly coastal desert along the Atlantic coast. Agriculture is still an important part of the economy and farms and land resources are still predominantly owned by white Namibians. This is a legacy of Namibia's German and British colonial past. The Namibian government has land reform plans to resettle 'disadvantaged Namibians' so they may own farmable lands.³

³ See the following article at IRIN, a humanitarian and human rights non-profit, for a snapshot of the on-going land reform and resettlement process in Namibia. "Key step in land reform completed." IRIN. October 2004. <http://www.irinnews.org/news/2004/10/01/key-step-land-reform-completed>.

There are numerous ethnic groups that are indigenous to Namibia and southern Africa, such as the Ovambo, Herero, and Nama. Pastoralist lifestyles were common amongst groups like the Herero and Nama. The pastoralist mode of life practiced by the Herero and Nama in South-West Africa is characterized by living off the land through a mixture of cattle rearing and limited agriculture. The Herero people are indigenous to southern Africa, with the largest population of people residing in Namibia. Both the Herero and Nama populations were targeted by the German suppression and genocide that occurred in the Herero and Nama uprising of 1904. The German response to the Herero uprising resulted in the deaths of many thousands of Herero people, the confiscation of valuable cattle and land, and the internment of people and forced labor.

The Nama of the Khoikhoi ethnic group are indigenous to Southern Africa. They were often referred to in older scholar texts, postcards and literature as the Hottentots, or *Hottentotten* in German. This study will refer to members of this group as the Nama, or Witbooi Nama when more appropriate to distinguish between the general Nama and the particular clan of Nama under the leadership of Hendrik Witbooi. It appears that the origins of Hottentot are a derogatory reference to the sounds of languages from the Khoikhoi language family. Despite that the term *Hottentotten* is outdated and now understood as offensive, there remains usage of it in recent publications. A recent monograph on German military history in Africa, *African Kaiser* (Caliber 2017), by Robert Gaudi, features this outdated term in his chapter on the Herero and Nama Uprising.

Modern Context

While this research is focused on the period of time from 1884 – 1920s, the project should be prefaced with a note on the current, contemporary issues that stem from these events over a hundred years ago. The demand for reparations or an official apology from the German

government is still a hot button issue for Namibians today. The Economist, a weekly British newspaper, featured an article in their May 11, 2017 print edition titled “What Germany owes Namibia”, which outlines how this historical issue is being framed today. The colonial past remains very politicized, especially regarding the lack of an official apology from Germany.⁴ In January of 2018 an article written by Daniel Gross in *The New Yorker* shed light on the dark past of museum acquisition when it was discovered that remains of people who died in the Herero and Nama Genocide were being kept in museum holdings at the American Museum of Natural History.⁵

There has not yet been an official apology made by Germany nor funds paid to the ancestors of the victims. Yet, some Germans who have official positions in the German government have expressed sympathy and even labeled the Germans’ response to the colonial uprising as a genocide, as noted in an article from 2015 from Gross.⁶ Furthermore, Norbert Lammert, who was the president of the German parliament in July of 2015 wrote in the German language newspaper *Der Zeit* that it was a “*Völkermords*”, a genocide.⁷ Lammert also likened the German Protection Force in German South-West Africa to an occupation force in a subjugated country.⁸ Lammert also claimed in this article that, regardless of the official name of

⁴ The Economist. "Salt in Old Wounds: What Germany Owes Namibia." The Economist (London), May 11, 2017, Middle East and Africa.

⁵ Daniel A. Gross. “The Troubling Origins of the Skeletons in a New York Museum”. The New Yorker. January 24, 2018.

⁶ Daniel Gross, "A Brutal Genocide in Colonial Africa Finally Gets its Deserved Recognition," *Smithsonian Magazine*, October 28, 2015. <https://www.smithsonianmag.com/history/brutal-genocide-colonial-africa-finally-gets-its-deserved-recognition-180957073/>.

⁷ Norbert Lammert, "Deutsche ohne Gnade: Wer in der Bundesrepublik vom Armenier-Genozid spricht, darf vom deutschen Völkermord an den Herero und Nama nicht schweigen." [Germany without Mercy: Whoever in Germany Speaks of the Armenian Genocide, Should not be Silent about the Genocide of the Herero and Nama], *Der Zeit* (Berlin, Germany), July 23, 2015. <https://www.zeit.de/2015/28/voelkermord-armenier-herero-nama-norbert-lammert>.

⁸ Lammert’s original German: „Die *„Schutztruppe“* in Deutsch-Südwest war eine Besatzungsmacht in einem unterworfenen Land.“

the colonial ‘atrocities’, Germany had already been supporting projects in Namibia and other former colonies that serve “*Versöhnungsprozess*”, or reconciliation process. However, the official stance of the German government has still been to not pay reparations funds, and many Namibians remain unsatisfied with the way that the government has not fully acknowledged the genocide.

The quest for an official apology and reparations from the current German government has not been successful in gaining traction in the countries involved, but rather, has been taken up in the American court system.⁹ The German government has been mostly displeased by the efforts of ancestors of the Herero and Nama victims of the genocide who are seeking reparations from the German government.¹⁰ A Namibian politician who was involved with the official Namibian government efforts in 2016 to lodge their demands at the German government believes that the German government prefers the term ‘atrocities’ to ‘genocide’, but the German government has not made any official comment on such matters.¹¹ Reporters from the German international service newspaper *Deutsche Welle* were unsuccessful in getting any official comments from many of the German officials involved in the Namibian reparations talks. Namibian newspapers report that many Namibians wish for indigenous leaders to have a more prominent role in leading the talks; the main German position is that the German government continues to emphasize that Germany has spent millions of euros in aid donations to Namibia

⁹ For a contemporary account of the international legal issues surrounding the genocide conducted by German Colonial authorities in GSWA see Rachel Anderson’s *Redressing Colonial Genocide under International Law: the Herero’s Case of Action against Germany*. (California Law Review, Vol 93, Issue 4: 2005)

¹⁰ "Germany Asks US Court to Drop Namibian Genocide Suit," *IOL: International Online* (Cape Town, South Africa), January 26, 2018, <https://www.iol.co.za/news/world/germany-asks-us-court-to-drop-namibian-genocide-suit-12955487>.

¹¹ Daniel Pelz, "Is Germany Responding to Namibia's Genocide Claims?," *Deutsche Welle*, 11 14, 2017, <http://p.dw.com/p/2ndk1>.

and that these funds are paramount to reparations, however, many Namibians are offended as these funds lack an official apology for the colonial genocide.¹²

Historiography

There are a few major monographs that pioneered historical writing about colonial Namibia. Horst Drechsler's *Let Us Die Fighting*, and Helmut Bley's *Namibia Under German Rule* were both produced in the middle of the 20th century, and were grounded in close readings of colonial archives and the personal writings of many German officials. Among my research, these two works seemed to have been the most widely cited by more contemporary historians writing about Namibia.

Horst Drechsler was perhaps the first scholar to make the claim in 1966 that Germany's actions in the colony of German South-West Africa between 1904-1908 should be considered a genocide.¹³ Drechsler framed his writing on Namibia and German South-West Africa in economic terms and terms of economic class struggle. Like Drechsler, this senior project is also concerned with economic issues, but is more concerned with the connections between the law and colonial violence and order. Does the language and reasoning behind the written law provides a better understanding of why instances of violence occurred in the colony? Did how the law was put into effect aid the Germans' ability to project their power over the colony?

George Steinmetz's chapter "German Southwest Africa" in *The Devil's Handwriting* underwent a critical analysis of Drechsler's widely-cited work *Let Us Die Fighting*.¹⁴ According

¹² Staff Reporter, "Reparations Demand made void by aid – German embassy," *The Namibian* (Windhoek, Namibia), April 11, 2018, [Page #],

<https://www.namibian.com.na/66344/read/Genocide-talks-must-involve-traditional-leaders---survey>.

¹³ Casper Erichsen, who authored the November, 2015 Encyclopaedia Britannica entry on the German-Herero conflict of 1904-07 claims that Drechsler was indeed the first scholar to make such a claim and to substantiate it with evidence. <https://www.britannica.com/topic/German-Herero-conflict-of-1904-1907>

¹⁴ Translated from the original German Edition: *Südwestafrika unter Deutscher Kolonialherrschaft*

to Steinmetz, Drechsler's approach was done "by ordering German Colonialism in Southwest Africa according to the economic logic of the transition from free market capitalism to 'imperialism'"; and as such Drechsler looked at mining and other official state sponsored industries that bought up land.¹⁵ Drechsler's work is important because it is one of the only all-encompassing analytical accounts of "the entire thirty-year course of German colonial rule in Namibia", according to Steinmetz.¹⁶

Susanne Zantop, in *Colonial Fantasies*, wrote broadly on the long history of the German imagination about colonization. In her work, she argued that Germany's collective imagination was concerned with overseas colonies for hundreds of years before the colony actually acted concretely upon these imaginations, when Adolf von Lüderitz was given a land grant in South-West Africa. In the introduction to *Colonial Fantasies* she wrote about German literature whose subject matter romanticized colonization.

As seductive master fantasies, German fantasies of colonial mastery continuously rewrote the colonial history made by others: they created an imaginary German colonial history on paper and in the minds of their readers; they were recycled, over and over again, until they acquired the status of factual "reality."

Proliferating in the late 1700s and early 1800s they had become so firmly entrenched in Germany's collective imagination that they formed a cultural residue of myths about self and others that could be stirred up for particular political purposes- progressive as well as reactionary ones, whenever the need

¹⁵ George Steinmetz, *The Devil's Handwriting: Precoloniality and the German Colonial State in Qingdao, Samoa, and Southwest Africa*. (Chicago: University of Chicago Press, 2007), 136.

¹⁶ Steinmetz, 135.

arose.¹⁷

Zantop borrowed the terms ‘latent colonialism’ and ‘manifest colonialism’ from the renowned European historian Mary Townsend. However, Zantop uses the terms “latent colonialism” to denote the longer period of the general imaginative interest in colonization, while the term “manifest colonialism” denotes the period that started in 1884 when Otto von Bismarck granted a land grant to the German businessman Adolf von Lüderitz.¹⁸ Even though Zantop makes a compelling assertion that the German mind had been concerned with “fantasies of colonial mastery” prior to the Scramble for Africa, and thus, devotes her focus to this “latent colonialism”, it is still fruitful to consider the period of “manifest colonization” because elements akin to these fantasies of domination play out through the history of German South-West Africa. Therefore, this chapter will not be so concerned with the history of the Germans’ interest and imagination of the colonies and colonial domination, but instead will be focusing on the colonial policy and administration of this period of “manifest colonization”. In particular, the legal documents produced in this period are useful sources to analyze, as these documents are in some ways the rationalizations of the occurrence of colonialism, i.e. a German legal document justifying use of corporal punishment, because of the colonies’ desire for economic order. This approach is important because the extreme violence that occurred during the 1904-1908 Herero and Nama war often overshadowed the violence occurring throughout the colonial period of German South-West Africa.

A Bard senior project has also written on German South-West Africa. Emily Steinberg’s 2004 project titled, “The Colonial Politics of Respectability: Discipline and Reform in German

¹⁷ Susanne Zantop, *Colonial Fantasies: Conquest, Family, and Nation in Precolonial Germany, 1770-1870* (Durham: Duke University Press, 1997), 3.

¹⁸ Zantop, 1-2.

Southwest Africa, 1884-1914". Steinberg's project also examined some of the legal regulations relating to how land was taken from indigenous Namibians. "The "Native Regulations" essentially robbed Africans in the colony of all land, cattle and wealth in order to sell property to incoming white settlers at low prices."¹⁹ Steinberg also found that the German Empire wished to set German South-West Africa up as a settler colony. Steinberg connected this shift to the aftermath of the costly Herero and Nama War around 1907, as the Germans wished to make a profit after such a high expenditure.²⁰ However, this project believes that the shift occurred much earlier in the 1890s, which will be discussed in the following chapter, as evident by German Chancellor Caprivi's speech, and the evidence from Nama *Kaptein* Hendrik Witbooi's diary that the Germans were eagerly attempting to control the indigenous population in order to benefit economically from the land.

Recent scholarship on colonial Namibia has hinged on the question of continuity between the German Empire's genocidal campaign in German South-West Africa and the Holocaust that occurred during the Third Reich. The idea, called the 'continuity thesis', appears to have its origins in scholarship from the early 1990s. Scholars who write about this 'continuity' draw connections between the 1904 Herero and Nama Uprising and the Holocaust due to the genocidal nature of the German army's brutal suppression and internment of Herero and Nama peoples.²¹ A recent collection of essays approach this continuity idea, titled: *German Colonialism: Race, the Holocaust, and Postwar Germany*. A common way that this continuity is drawn between the time of German Colonialism and Nazi Germany is through the Nazi party's policy of

¹⁹ Emily, Steinberg, "The Colonial Politics of Respectability: Discipline and Reform in German Southwest Africa, 1884-1914." Senior Project, Bard College, 2004, 66.

²⁰ Ibid, 36.

²¹ Tilman, Dederling, "The German-Herero War of 1904: Revisionism of Genocide or Imaginary Historiography?" *Journal of Southern African Studies* 19, no. 1 (1993): 80-88.

Lebensraum. These scholars interpreted colonial policies interested in land-grabbing for the sake of benefiting European settlers as a version of *Lebensraum*. This was understood to be entirely connected to the *Lebensraum* that underpinned Adolf Hitler's plans for the Third Reich's destructive expansion. Thus, as the scholars contend, the concept of *Lebensraum* was born out of the German Empire's colonial experiences. Additionally, the scholars derive their theoretical backing from passages of Hannah Arendt's writings on the connections between colonialism and totalitarianism. Authors in this collection who are in agreement about a 'continuity' appear to be making a few mistakes by making the leap at connecting the German Empire's colonial experiences with Nazi Germany under Hitler. First, it is logically dubious to suppose a direct continuity between very different regimes, which suggests these authors are downplaying that the Weimar republic was an intermediary between the German Empire and the Third Reich. Secondly, directly comparing the two genocides seems to not do justice to the victims of each, as it ignores the individual characteristics that led to each genocide which are quite different from the large, over-arching connections that scholars claim in the 'continuity' idea. The 'continuity' idea overlooks some of the violent events that occurred in many colonies throughout the world that are not unique to just German society, one such example is the indigenous uprising that occurred in the British colony of Rhodesia.²²

Interestingly, there is one dissenting author, Kitty Millet, who was included the collection of essays. This scholar finds that the "lure of seeking historical precedent for the Nazi's actions has promoted some scholars to subtend Nazi actions as evidence of a shared genocidal predisposition inherent in Western societies so that the specific actions directed at individual groups have become reducible to the signs of colonial aggression against the Other throughout human

²² See the following work for evidence of an earlier colonial revolt: T.O. Ranger, *Revolt in Southern Rhodesia: 1896-7, a Study in African Resistance* (London, UK: Heinemann, 1967),

history.”²³ Her point is relevant to the general purposes of this project to seek answers on how colonial violence occurred, as this project is trying to create a more nuanced approach to the history surrounding the conflict through the use and combination of sources which are understood from the perspective of how law and violence relate in the colony.

This project is not concerned with attempting to connect and compare two different historical events that occurred in different continents under different political regimes, despite the analogies that can be drawn between the two areas. However, the project is concerned with attempting to better understand the connections between colonial law and order, which in the case of German South-West Africa manifested itself at times through extreme violence. The build-up of the colonial administration was not a sudden event and the ability of the Germans to exercise control over the whole territory was in fact never fully realized. However, roughly a decade after founding the colony the Germans were able to rope the main indigenous ethnic groups into protection treaties. This happened in parallel to the Germans’ encroachment onto indigenous lands, and is an example of how the law became a legitimizing tool for the Germans. The issue of land is only one facet of a broader issue of the changing dynamics of territoriality within Namibia. The German colonial presence heavily affected land dynamics in the colony. The primary way in which this occurred was the legalized confiscation of indigenous land, through land leasing and the expansion of settlements. Settlers often needed land to farm or to raise their own cattle, which further strained the resources available. In the span of roughly two decades a majority of the indigenous population had been decimated by the conflict; most indigenous Namibians had lost access to their land. Those who had survived the conflict and

²³ Kitty Miller, “Caesura, Continuity, and Myth: The Stakes of Tethering the holocaust to German Colonial Theory”, in *German Colonialism: Race, the Holocaust, and Postwar Germany*. (Columbia University Press: 2011), 111.

aftermath of the Genocide and forced labor, were landless. The Germans actions were often backed by official documents of paper, which were officiated at the highest level of the German government.

The German legal framework that aided the colonial expansion was, in a way, born out of the Berlin Conference that had divided up the lands of the Congo basin in Africa. Germany was late at developing its colonies and this may have contributed to their strong economic concerns in their colonies. The way that the land was drawn up meant that Germany was allowed to stake its claim in what was South-West Africa, nestled next to British colonies to the South and East, while the Portuguese held control to the North. Many of the ordinances concerning the trade of firearms and ammunition that came out of the Conference affected indigenous life in German South-West Africa.

Methodology

This project is concerned primarily with the period starting with the founding of German South-West Africa in 1884 through the end of the German colony in 1915. Thereafter, the British took control of the colony during the First World War, and made formal attempts to retain control over the colony after peace was made following the conflict. This study explores German colonialism through the lens of legality and touches on the tensions between indigenous sovereignty and the German colonial regime, as well as the changing conceptions of how people related to the land. These points are all discussed within the context of the extreme violence that occurred during the Herero and Nama War, as well as forms of cruel corporal punishment that occurred both before and after the conflict. This project will be relying on the following understanding of the phenomena of colonialism as “a practice of domination, which involves the

subjugation of one people to another.”²⁴ This definition is closely interlinked with the concept of ‘control’. Control is used in this project to denote the process that the Germans used to solidify their rule over the colony. Control appeared in myriad ways. From the founding of the German colony in South-West Africa the Germans used the written law as a form of control. This law also called for the allowance of forms of punishment. These forms of punishment were targeted at times on the indigenous population. Therefore, colonial law and punishment are interlinked through the broader concept of control in the colony. In the Herero and Nama War the Germans used forms of punishment that were legalized under German colonial law as weapons. For example, forced labor, imprisonment and confinement were punishments that accompanied the *Schutztruppe*’s direct military assaults on the indigenous community. This project will be referring to Germany in the context of the German Empire from the unification of German lands in 1871 until 1918, when the Emperor Wilhelm II stepped down from his throne.

The first chapter will utilize letters from the diary of Nama chief Hendrik Witbooi to better understand the nature of indigenous sovereignty at the crucial moments of German colonial development. His diary provides a unique perspective on how the dynamics of territoriality were changing during this period relating to the German colonial presence and development of the colony. His perspective is important and even though secondary scholarly sources have come across his letters they have failed at adequately contextualizing his writings nor have they done justice to the task of understanding how Hendrik Witbooi exercised his sovereignty in that crucial period of German colonization in South-West Africa.

The chapter finds that indigenous leaders, like Hendrik Witbooi, had exercised authority over their land and that his letters demonstrate the nature of his authority and also reflect the

²⁴ Margaret, Kohn, "Colonialism", *The Stanford Encyclopedia of Philosophy* (Spring 2014 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2014/entries/colonialism/>>.

relationship between land and power. Witbooi was attacked by the German Protection Force, or *Schutztruppe*, when he had hesitated to submit to the German Protection Treaties. This chapter argues that the Germany's policy of projecting their power over the indigenous population may be seen as a sort of microcosm of the circumstances surrounding the extreme violence committed by the Germans in the 1904 Uprising.

The second chapter is concerned with the expansion of the colonial bureaucracy in German South-West Africa in the context of how the German Empire used the law to legitimize some of their actions. The chapter also established the fundamental economic goals of the colony, which were not fully realized until the years after the Herero and Nama war when mineral riches were being extracted in diamond mining operations that utilized the new surplus of labor that was directly related to the landless population the German Empire had created. The chapter draws these connections between a close reading of a German legal decree from 1896.

A British colonial document produced in 1918 further complicates this argument, which was designed to promote continued British rule over the former German colony post-WW1.²⁵ The document owes its existence to the competition between colonial powers, yet, the evidence included within is concrete and derived from actual court cases and oral testimonies from the German period, which demonstrate the legality of violence within the German colony.

The third and final chapter seeks to expand on the issues brought up in the previous chapters, of colonial order, punishment, and power and their effects on the visual representation of the

²⁵ Jan-Bart Gewald, Jeremy Silvester, and Union of South Africa Administrator's Office, *Words Cannot Be Found: German Colonial Rule in Namibia: an Annotated Reprint of the 1918 Blue Book*, Sources for African History 1 (Leiden, NL: (Co-published) African Studies Center in Leiden, National Archives of Namibia, 2003), 250, originally published as *Report of the Natives of South-West Africa and Their Treatment by Germany* (Windhuk, South-West Africa (Namibia): His Majesty's Stationary Office, 1918).

colony as understood through visual artifacts like photographs and postcards. This chapter draws inspiration from the research conducted by Hartmann, Silvester, and Hayes in *The Colonising Camera* as a launching point for an analysis of photographs from colonial Namibia. This chapter finds that comparisons between German and British hunting trophy photography provides a strong visual metaphor to understand the general dominance of Europeans over African land and nature. The primary source at the heart of the chapter is a war memorial photo album from the Herero and Nama War. A close reading of the visuals in this album give a sense of how German soldiers viewed their role in the German colonial project as inheritors of the Namibian landscape by replacing indigenous males, who were for the most part their enemies. The soldiers viewed themselves as protectors of colonial interest and guardians of the modernizing aspects of the colony. To this end, the album captured the changing sense of transportation and the construction of permanent European style settlement buildings presented in contrast to the temporary nature of the traditional modes of life of the indigenous population.

Chapter One: Law and the Letter: Hendrik Witbooi's Diary and the Tensions between Namibian Sovereignty and the German Rule of Law

Hendrik Witbooi was born around 1830 and died on October 29th, 1905, as a result of bullet wounds after being shot by Germans in the Herero and Nama War against the German Empire.²⁶ The German Empire, in responding to the uprising, committed the first genocide of the 20th Century.²⁷ Hendrik Witbooi was a major figure who was involved in the early colonial scene of German South-West Africa. Witbooi is perhaps best known through his role as *Kaptein* of the Nama Witbooi clan. The title of *Kaptein* was the traditional title held by the leaders of the Witbooi clan, who emigrated into South-West Africa from South Africa.²⁸ He was an interlocutor with high-level German officials and a majority of these correspondences were preserved inside his diary. His diary reveals that even though he had risen to a prominent position in the Nama community he faced difficulties and challenges in leading the clan, namely, in dealing with the shifting power balance that was changing due to the presence of German colonial authorities in South West-Africa.

This project considers Witbooi's diary and letters an artifact of the larger period of colonial history in Namibia. The letters give evidence of the effects that the German colonial apparatus had on Namibians in terms of sovereignty and territoriality. The German Empire's encroachment onto Namibian land and the concomitant introduction of new ordinances and legal

²⁶ Gewald, *Words Cannot be Found*, 167-168.

²⁷ The United Nations Whitaker report concluded that the violent German response to the Herero and Nama communities during the war amounted to genocide. The report cited an official 'extermination order; by the Schutztruppe General, as well as the evidence of the systematic wide-spread attack against the whole community and the huge losses of life. See: Benjamin Whitaker, UN. Special Rapporteur on Prevention and Punishment of the Crime of Genocide, comp., *Whitaker Report: Revised and updated report on the question of the prevention and punishment of the crime of genocide* (United Nations Economic and Social Council Commission on Human Rights, 1985).

²⁸ C. Keulder, *State, Society and Democracy: A Reader in Namibian Politics* (Windhoek, Namibia: Gamsberg Macmillan, 2000), 157.

restrictions on the trading of goods lessened the ability of the indigenous Namibian leaders to exercise their own authority over their territory and their rights as captains and chiefs. The era of Imperialism was characterized by some of the decisions made at the Berlin Conference, and the expansion of a European legal framework. In the case of German South-West Africa, this often wrangled Namibians into ‘protection treaties’ which figuratively, and sometimes literally, sequestered indigenous leaders. Such was the case of Hendrik Witbooi when the stipulations of the 1894 Protection Treaty with the Germans had stripped him of powers he had enjoyed, and confined him to a military garrison at Gibeon. In the next decade, a major war would break-out in the German colony. The conflict further eroded and destroyed basic elements of the leadership structure of indigenous groups, took away ownership, and banned the practice of indigenous religions.²⁹

Witbooi’s accounts from the early to mid 1890s indicated that the Germans had held the values and ways of life of Namibians with little regard a decade before the actual outbreak of war. As a consequence, Witbooi’s early testimony to the behavior of the Germans puts the Germans’ unusually brutal and violent response to the Herero and Nama uprisings in 1904-1908 into a wider context. It suggests that the German response might be understood as merely an amplification of early held prejudices against the indigenous way of life as well as tendencies towards violence as a solution and tool of colonial order, when dealing with the indigenous population. Furthermore, his written observations also reveal the ironic nature of the Protection Treaties. The Germans’ supposed purpose of the treaties, which was that they were for the mutual benefit of all parties in the colony, can be contrasted with the reality that Witbooi presented in his letters.

²⁹ Jan-Bart Gewald, *Herero Heroes: A Socio-Political History of the Herero of Namibia 1890-1923*, Books on Namibia (Athens, OH: Ohio University Press, 1999), 141.

The impact of the violence and forced labor is not accounted for within Witbooi's diary. However, the later portion of this chapter attempts to put the lasting legacy of these violent events into context with the events of Witbooi's diary by analyzing oral histories from ancestors of those who lived through the last decade of German rule.

Marion Wallace, a historian and lead curator at the British Library, wrote that protection treaties helped the Germans to solidify their "domination of the new colony", and that in 1880, "economic tensions, combined with old and new rivalries, led to renewed outbreaks of fighting", despite the relative peace of the previous decade.³⁰ The Germans attempted to justify their presence and interference in South-West Africa as necessary in order to keep the peace amongst the various indigenous groups.³¹ There had been a history of skirmishes between the Herero and various Nama clans. These skirmishes were not comparable to the level of war that engulfed the colony in 1904-1908. However, the Germans considered the skirmishes between indigenous Namibians as a big factor in their call for Protection Treaties. Another issue driving the call for Protection Treaties was the fact that the Germans needed to legitimize the new land claims of their colony. The German Empire had annexed the territory of South-West Africa in August of 1884, and formally ratified their land claim through the Berlin Conference later that year.³² From that point, it was necessary for the German Empire to interfere directly with the affairs of the populations currently residing in their newly declared colony and officials arrived with the authority to begin negotiating with leaders, like Samuel Maharero.³³

³⁰ Marion Wallace, *A History of Namibia: From the Beginning to 1990* (New York, NY: Columbia University Press, 2011), 104.

³¹ Jon Bridgman, *The Revolt of the Hereros* (Berkeley, CA: University of California Press, 1981), 38-39.

³² Helmut Bley, *Namibia Under German Rule*, 1996 ed. (Hamburg, Germany: Lit Verlag, 1968), xxv.

³³ Gewalt, *Herero Heroes*, 31.

Protection treaties serve as a prime example of one of the legal mechanisms in which the German Empire exercised their colonial power, which was expanding with the arrival of a colonial protection force and the expansion of a legal bureaucracy as discussed later in Chapter Two of this study. Chapter Two of this project will be primarily concerned with understanding the issue of violence in the colony as framed through a close reading of legal texts, which reveals the tensions between the written law and the law in practice. This chapter, however, argues that Witbooi's diary can be understood as more than a record-keeping document. Witbooi, in his acting role as *Kaptein* of the Nama, boldly asserted his rights and opinions in his letters and gave indication of his motivation as a leader. He always acted within his honor code. In this way, Witbooi's diary can be compared to the function of a legal document, because his opinions and decisions were like law for those under his authority. Witbooi wished for the Germans to take his wishes seriously and he held his views even under threat of force. The diary can also be understood as evidence of the building tensions between indigenous Namibian groups and the new German arrivals to South-West Africa. The letters provide a close-up view of the how concepts of territoriality were changing in the region. Witbooi's observations in his letters give evidence of how a German legal framework began to aid the Germans' encroachment onto land traditionally held by indigenous Namibians.

In early colonial German South-West Africa power was closely tied with access to land. Most of the indigenous polities that resided in central South-West Africa were pastoralists who needed large tracts of land to freely migrate around with their cattle. There were no strictly set boundaries, but rather a fluctuating and dynamic arrangement of land control by each respective group, whether it was the Herero or Nama. In the eyes of groups like the Herero and Nama, cattle were the most important source of wealth and provisions, which is a common view held by

most pastoralist societies.³⁴ Wealth was derived from cattle and a group needed land to successfully raise such cattle. It follows then that sovereignty that a leader enjoyed came from having access and control over an area of land. The leaders of a respective indigenous group would exercise their authority in matters relating to land control, access, and passage. Hendrik Witbooi refers to the practice of how travelers would be required to seek permission from the respective indigenous leaders of a certain area before embarking on travel.³⁵

For these indigenous political actors sovereignty meant being able to monitor the land, grant access to those traversing the land, and protection of certain parties within the land. However, the Germans had a different conception of land ownership that preferred hard and fixed boundaries that were backed by the written law through deeds or leasing agreements. The ways in which the Germans expanded their control over the territory limited indigenous sovereignty because of how the Germans' conception of land ownership was not compatible with the established status quo. These fixed boundaries did not allow for trespassing and the free grazing of cattle. These fixed boundaries indirectly strained the level of authority that sovereign indigenous leaders held.

Hendrik Witbooi's letters can be read from several angles that approach changing socio-political dynamics of the era of German colonial rule. The most obvious is a political reading, which has been done by scholars like Helmut Bley, whose analysis will be discussed further in this chapter. Less obvious are how Witbooi's diary provides evidence for understanding the broader ways in which the German arrival changed the social conditions of pastoralist life, affecting concepts of territoriality and the structure and leadership of indigenous communities

³⁴ Georg M. Gugelberger, introduction to *Nama/Namibia: Diary and Letters of Nama Chief Hendrik Witbooi, 1884-1894*, ed. Georg M. Gugelberger, African Historical Documents 5 (Boston: Boston University African Studies Center, 1984), 6.

³⁵ Witbooi, translated by Gugelberger, *Diary and Letters of Nama Chief Hendrik Witbooi*, 81.

like the Nama and Herero the two main ethnic groups of colonial Namibia. It is hoped that these angles of approach will provide a greater level of insight into the effect that German colonialism had on indigenous communities in Namibia during the early years of the German colony of German South-West Africa. This illuminates the relationship between these effects and the extreme violence that occurred a decade later in 1904.

Witbooi's decline in power stemmed from the development of a German colonial administration coupled with the projection of military force that allowed the Germans to solidify their power while undermining the status-quo of the authority and sovereignty that Namibian leaders like Witbooi had enjoyed. The main responsibilities and ways in which he exercised his power were all tied to the land, as was the case with most indigenous leaders in South West Africa. Witbooi had a role in deciding the leadership structure of his clan, naming lower-level officials, securing the safe travels of those in his territory and those with signed documents from other chiefs, and in deciding to lease land to certain white settlers.³⁶ Witbooi was firm in asserting his right to remove and evict those who did not follow his numerous guidelines, and notably also extended some official authority to those on his behalf who were responsible for collecting lease rents.³⁷ Witbooi was very hesitant to actually sell land to Germans, and preferred to 'lease' the land. This makes it clear that Witbooi knew that he needed to control the land to maintain his status and position of authority.

The effects of German colonialism jeopardized the variety of actions that Witbooi exercised in his authority as *Kaptein* of the Nama. The relationship between his sovereignty and

³⁶ Hendrik Witbooi, *Nama/Namibia: Diary and Letters of Nama Chief Hendrik Witbooi, 1884-1894*, ed. Georg M. Gugelberger, African Historical Documents 5 (Boston: Boston University African Studies Center, 1984), 101-103. The entries among these pages demonstrates the varied ways in which Witbooi exercised his authority as leader of the Nama Witbooi clan.

³⁷ *Ibid*, 102.

the territory he controlled was threatened by the ideas of colonialism, which were based on resource extraction and land use for farming and settlement. Witbooi drew his authority from his control of the land, and as such his sovereignty was vulnerable to being affected by the German Empire's encroachment onto his territory. His diary provides a detailed view of the actual negotiations leading up to the Protection Treaty, and reveals his reasoning, argumentation, and observations on the arrival of the Germans and the ways in which they affected the social and political landscape of indigenous communities throughout Namibia.

German Colonel Leutwein and his men found and took Hendrik Witbooi's diary. The diary was later published in 1929 in Afrikaans.³⁸ The diary contains entries spanning just over a decade, from June of 1884 to autumn of 1894. The letters are limited to a decade and exclude the tumultuous years that preceded the Herero and Nama War in 1904. However, the decade that was included within his letters does provide a unique perspective and additional evidence on the protection treaties signed between the Nama and Germany. His letters capture in great detail issues that are typically dealt with in broad historical strokes by modern scholars, like Bley and Drechsler. Witbooi's letters contain detailed accounts of the urgent negotiations that occurred between Witbooi and German officials, such as Colonel Leutwein, who would go on to become the governor of the German colony in 1896.

Hendrik Witbooi's diary is a unique kind of primary source that was an object that was personally tied to Witbooi as a private diary, yet the letters within contain very important matters of political concern.³⁹ The preservation of his correspondence suggests that Witbooi intended the

³⁸ Gugelberger, Introduction, 2.

³⁹ Some details about the diary may be confirmed from a visual inspection of the digitized copy of the original diary from the Digital Namibian Archive. The diary itself was leather-bound and made by Barry Arnold and Co. Stationers, located in Cape Town. The entries are written in flowing cursive and mostly are in Afrikaans. The entries are organized chronologically. He or whoever acted as his secretary

diary to be a sort of official record of his official activities and political dealings with neighboring indigenous polities as well as German settlers with whom he was leasing land, and German colonial officials. The translator of the English edition, Edwin Wilmsen, understood the unique qualities of the diary as a primary source:

This is the only known Native document of its kind from nineteenth-century Namibia. It provides information that underwrites the historical depth of current social forms... Witbooi records that a ten-year truce between Maharero and himself was broken by an attempt on his life when he went to get some of his cattle which he had left in the care of Herero. This suggests that a form of mutual obligation involving reciprocal exchange of live cattle was in practice between these groups. That such contracts were in force between Nama and Herero 100 years ago reveals a complexity of relations among these people that is not mentioned in standard anthropological and historical works.⁴⁰

Wilmsen establishes the usefulness of Hendrik Witbooi's diary as a primary source, indicating in a similar fashion to this chapter, that Witbooi's writing can speak to both the changing conditions that affected him and his community, and to how the diary is revealing of certain cultural practices in pastoralist communities like the Nama and Herero.

Hendrik Witbooi had an eloquent style of writing that included bold assertions of his sovereignty when writing to other leaders or colonial officials. The rich nature of Witbooi's diary caught the attention of scholars and writers, such as the German historian Helmut Bley and J.M.

numbered all of his letters, included the date, as well as location of where he wrote the letters from. The chronology of letters also serves as a record keeper of when and to where Hendrik Witbooi had traveled.

⁴⁰ Edwin N. Wilmsen, preface to *Nama/Namibia: Diary and Letters of Nama Chief Hendrik Witbooi, 1884-1894*, ed. Georg M. Gugelberger, African Historical Documents 5 (Boston: Boston University African Studies Center, 1984), vii.

Coetzee, who is a contemporary novelist and essayist from South Africa. Their analyses provide a useful starting point for the close reading of his diary and letters that this chapter undergoes.

Coetzee featured Witbooi in his *Late Essays*. These essays are devoted to influential literary and historical figures. He wrote his last essay entry on Hendrik Witbooi's diary. The logic that Hendrik Witbooi employed in his rhetoric was often concerned with his code of honor, especially regarding his idea that one should only attack when attacked first. J.M. Coetzee was inspired by Witbooi's astounding resilience and concrete adherence to his own internal sense of honor. Witbooi's rhetorical reasoning feed into his later interpretations regarding the actions of the Germans. His essay captures some of the character and humanity of Witbooi as a person and as an inspirational leader. Some of these qualities are lost in a dry political analysis such as Helmut Bley's. Hendrik Witbooi's diary is in "Cape Dutch... the spelling of words is sometimes phonetic. Witbooi clearly intended it to constitute the annals of his reign. This unique document was taken as booty during a German raid in 1893 and found its way to the Cape Archives."⁴¹ ⁴² Coetzee seemed to have been struck by the sense of honor that Hendrik Witbooi conveyed through his actions and writing, and Coetzee connects his attitude within the larger context of how he was a strong, resilient figure against the German Empire's attempt to take control over the colony. However, Coetzee also views Witbooi's code of honor as a fatal mistake: "Witbooi's illusion that European military officers adhered to a code of chivalry had been encouraged by his dealings with Major Theodor Leutwein, the most humanly attractive of the series of German commanders whom he faced on the battlefield".⁴³ Witbooi maintained a very strong sense of

⁴¹ J.M. Coetzee, *Late Essays: 2006-2017* (New York: Penguin Random House, 2017), 276.

⁴² It is worth noting that Coetzee made an error in dating when the diary was taken by Col. Leutwein and the Germans. The last entries in the diary are in 1894, and the final raid that caused Witbooi to surrender occurred in 1894. The raid Coetzee is referring to must be this 1894 raid.

⁴³ Coetzee, *Late Essays*, 279.

morality in his written correspondence with the Germans. Witbooi's sense of morality was also a chief component of how he structured his reasoning with the Germans.

Helmut Bley in his *Namibia under German Rule* was likely attracted to Hendrik Witbooi's diary because of the detailed letters exchanged between Witbooi and colonial leaders because of the insight they gave on the political situation of German South-West Africa. Bley discusses Witbooi's letters with Leutwein in-depth in his chapter, titled, 'Leutwein's Political System'.⁴⁴

Bley's formed a confusing conclusion on Witbooi's negotiations with Leutwein over the Protection Treaty. Bley claimed that Witbooi simultaneously desired independence from European domination yet also welcomed it.⁴⁵ "Despite his [Witbooi's] rejection off the political infiltration of the European powers, Hendrik Witbooi welcomed ties with Europe."⁴⁶ Bley quotes a letter that Witbooi wrote to the head of the Herero in 1890, Paramount Chief Samuel Maharero. In this letter, Witbooi considered there to be a similarity between his clan and the Herero's being that they are both "independent kingdoms". On Witbooi's understanding of statehood, Bley wrote: "It was therefore largely European-Christian ideas of the state which determined the chief's arguments. His biblical knowledge and his contact with the missionaries had given him a considerable understanding of the history of Western Europe and the theory of kingship."⁴⁷ However, Bley's assessment may be complicated by the fact that there was a history of kingdoms in the region, particularly in what is now Northern Namibia.⁴⁸ Furthermore, the term *Kaptein* does have roots from the Dutch, meaning Captain, and is related to the 'commando-like' structure

⁴⁴ Bley, *Namibia under German Rule*, 27-31.

⁴⁵ Bley, 30.

⁴⁶ Ibid, 30.

⁴⁷ Ibid, 29.

⁴⁸ Wallace, *A History of Namibia*, 75.

of some of the groups operating in the Cape Colony border regions south of Namibia.⁴⁹ These points suggest that Witbooi's concept of the state may be more nuanced and complex than just a simple borrowing from his biblical education and knowledge of Western European history. Additionally, it also suggests that concepts of 'kingship' had an older history pre-missionary history in the region. This project also finds that Witbooi maintained sovereignty over his area of influence and did assert certain rights and engaged actively in some responsibilities as leader of his clan which were unique to his situation as the *Kaptein* of a pastoralist group that lived off of the land.

Questions of Sovereignty

How did colonization affect indigenous sovereignty? Hendrik Witbooi's experiences in German South-West show that the German colonial presence affected issues such as access to land resources, and put limitations on access to certain imported goods. These events were all occurring as a consequence of the broader scale phenomenon of imperialism happening within most of the continent at large.

Letter no.68 of Witbooi's diary shows how he understood his own rights and powers as a leader. They also reflect his understanding of the obligations of the European parties in their various signed agreements. Letter no. 68, titled: *Witbooi to Englishmen at Walvis Bay*, was written from Hornkranz, August 4th, 1892. This letter expresses some of Witbooi's strongest grievances against the German Empire on the nature of their behavior in the region and their accompanying 'bad' laws. The intended audience were English officials, but it appears he was unaware of the correct title, names, and addresses of the English officials in the Walvis Bay port

⁴⁹ Keulder, *State, Society and Democracy*, 157.

along the Namibian coast. It is interesting that Witbooi displayed a nuanced understanding of international agreements between European countries, yet, was still in the dark regarding basic facts such as to whom he was writing.

He formats his letter as an inquiry into the "true answer... about the arrival of the Germans."⁵⁰ This appears to both work as an effective rhetorical strategy, and as a way to mask his intentions in inquiring about the possibility of receiving more ammunition and rifles, which were increasingly difficult to get as a result of the Berlin Conference.

The activities of the Germans have by now affected even my territory. They intend to destroy me through war, although I have not the slightest sense of any guilt on my part... I am surprised about his war and do not see what my fault has been to provoke such a war. Why was I attacked? The Germans did not announce that I was going to be attacked; I have not been informed about any reason for this. I am asking you for some information since you might perhaps know something about their deeper reasons. You and the Germans have signed agreements, and when the English and the Germans have signed agreements, and when the English and the Germans are involved, neither of the two nations can do something without informing the other side.⁵¹

Witbooi goes to a considerable length in outlining how he was unaware of what provoked the attack, likely so that he comes out as favorable in view of the British. Witbooi coupled his questions about the German attacks with a display of knowledge of the agreements that the British and Germans have. This was presumably to guard himself from being brushed off by an English official who may feel they can simply say they do not know of the Germans actions. It is

⁵⁰ Witbooi, 81

⁵¹ Witbooi, 81

uncertain to what extent Hendrik Witbooi understood the Berlin Conference and the effect it had on the region. The Conference was concerned primarily with delineating which areas of land were to be under control of which European Empire. A prime component of the conference was also organizing matters of trade and regulating goods throughout the continent.

The timing of his no. 68 August 1892 letter to the Cape Government which asked for guns and ammunition was written only a month after an ordinance was issued regarding trade and sale of arms between British colonies and German East-Africa,⁵² and was written only several days before a similar ordinance concerning the sale of arms in South-West Africa was ratified. These ordinances appeared to have been updates and amendments to pre-existing standing ordinances that had been established in years prior. Hendrik Witbooi's letter seems to suggest that these ordinances did have real impacts on the ability of indigenous people to successfully trade and have access to goods, like rifles and ammunitions.

The British and Foreign State papers also show evidence of dozens of ordinances enacted concerning trade matters, which reveal how trade in Africa had become a major international economic concern between the European Empires involved in the African continent. After-all, the main hopes of the Germans' in South-West Africa were closely tied to benefitting economically in the colony. Likewise, the indigenous population would have the potential to become a labor force for German settlers. Protection Treaties were only the first step in the German attempt to grasp control over the colony.

Letter no. 68 also contained some of Witbooi's most interesting observations about how he regarded the German Protection Treaties. The fact that he made such a negative assessment of

⁵² Augustus Oakes, comp., "*Ordonnance concernant l'Importation des Armes à Feu et des Munitions dans le Protectorat Allemand de l'Afrique Occidentale du Sud.-Windhoek, le 10 Août, 1892*" in, *British and Foreign State Papers: 1891-1892* (London: Her Majesty's Stationery Office, 1898), LXXXIV:[336-337]

the phenomena of the Germans signing Protection Treaties with neighboring indigenous groups, like the Herero, is very interesting given the timing of his comments. He goes on to denounce the Germans' intentions in regards to the protection treaties signed with the Herero:

The Germans declare to the chiefs that they are going to protect them against powerful nations intending to arrive here by force to take away territory and settlements. This seems to imply that the Germans intend to protect the chiefs against unjust and unreasonable men. But to me this appears totally mistaken. From what I have seen here since the arrival of the Germans, it appears that the Germans themselves must be those powerful people trying to get a hold on our land. The German continues his activities here, governs independently by using his own laws. He cannot be concerned with right and truth and never bothers to obtain permission from any chief. He introduces laws at random in this country, laws which are totally impractical and cannot be enforced nor accepted by anyone. In a rather cruel way and without respect for anyone here, he introduces prohibitions.⁵³

Hendrik Witbooi was clearly upset by the effects of the German presence, and in particular, was bothered by how the Germans' deceived those who had signed on to the so-called Protection Treaties. It is important to take note of Witbooi's early accounts of the unfair nature of the German rule of law, especially because in only a few short years Witbooi was to eventually sign a Protection Treaty himself.

Hendrik Witbooi defined what his own priorities were as a leader when he defined the transgressions of the Germans. His letter shows how the Germans are hypocritical in how they

⁵³ Witbooi, 81.

claimed to be forming these Protection Treaties for the benefit and the security of the whole colony. However, the Germans ruled in a governing style that was arbitrary and unjust. He thought that the Germans were not truthful. Witbooi considered truthfulness as an important value for a leader to have. Witbooi often projected his own moral reasoning and sense of leadership onto the Germans. He would evaluate and then judge the Germans' actions through this lens. This letters shows that Witbooi had early concerns with how the Germans were introducing confusing laws that were only hurting the indigenous population. He implied that the Germans are the ones threatening the status-quo of their way of life. He continues on to explain how there were even restrictions on how they may use their cattle.

He even forbids us to hunt our own animals which we need to feed ourselves and which is the only provision God has given us. The Germans recently punished a white who had shot an animal to provide himself with food. Our people in Windhoek have already been penalized. Some people have even been sentenced to death for petty crimes which are never to be punished by a death sentence.⁵⁴

The issue of cattle will remain an important element of the tensions that formed between the various indigenous groups and the Germans. Raising cattle also required access to large tracts of land. Disputes over cattle theft and trespassing violations that arose from cattle raising often led to issues between the Herero and Nama. Thus, with the German arrival and their introduction of contrasting concepts of land ownership it even further restricted the ability of free grazing.

What's especially striking about this passage from Witbooi's letter is the evidence of extreme

⁵⁴ Witbooi, 81.

punishment that was being unevenly applied between the Germans and the indigenous population.⁵⁵

Witbooi finished his letter with a peculiar strategy that referenced how the English were in Southern Africa first, and thus, through some "major conference" agreement, they have decided to let the Germans enter Namibia, and as such they must make them leave. "I am pained and surprised and sorry to see you having sent such people [the Germans] to our land."⁵⁶ He then asked for the letter to be forwarded to the highest officials of the Cape Government in South Africa. "Perhaps another conference can be arranged to call these men back. They do not adhere to their promises. Since it was the English who gave the Germans the right to come to our land, the English ought to be entitled to revoke the same right."⁵⁷ Recall how Coetzee had stated that Witbooi's biggest mistake was how he applied his code of honor to the Europeans. Witbooi viewed the Germans and the English and their respective agreements through the lens of his own code of honor. However, the English were not so concerned with the nature of German rule until it came time for the British to themselves take control over the colony decades later. The Germans never gave Witbooi the same courtesy that he extended to them in the negotiating process.

The way that Witbooi framed this as the British's responsibility to "revoke" the Germans right to be in South-West Africa is reminiscent of his code of honor: he believed the English have an obligation to be responsible for the actions of the Germans, since they had allowed them the right to settle in South-West Africa. Hendrik Witbooi followed up with the British later, on

⁵⁵ Chapter Two of this project examines some later instances of extreme punishment for 'petty crimes', which fit into the general framework that the German Empire had structured to control the indigenous population through legalized punishment and violence.

⁵⁶ Witbooi, 83.

⁵⁷ Ibid, 83.

November 10th, 1892. In letter no. 89, titled, *Witbooi to the Cape Government*, he started off the letter with a general address, "My dear Cape Government!",⁵⁸ perhaps indicating that at that time he *still* was in the dark of the proper titles of the people of whom he was trying to get the attention either because he did not get a response from the English or their response did not address all of his questions.

He had a more urgent tone in letter no. 89 and in reference to his initial letter to Walvis Bay, he added, "the deeds and laws the Germans impose on us have become worse and worse. They have become virtually intolerable for our people and our land."⁵⁹ Witbooi then alluded to the possibility of a conflict building on the horizon. "I feel compelled to let you know our reactions before unfortunate incidents occur between our people and the Germans. I wish Your Highness to be well informed so that you can act before it is too late".⁶⁰ It is not possible to know what exactly Witbooi means by an 'unfortunate incident', but this, combined with language like "act before it is too late", are suggestive of a kind of violent provocation or occurrence that cannot easily find resolution.

It is ironic that Hendrik Witbooi signed a protection treaty with the Germans in 1884, only a few years after having written his strong objections to the Germans and their treaties. How could he have done so when evidence in letters 68 and 89 show Witbooi's heavy denouncement of the intentions of the Germans, and exposed the unsatisfactory nature of German protection?

A possible explanation to Witbooi's shift towards acceptance is that he was forced into accepting by having no other alternatives. The circumstances that are described in his writing leading up to the 1894 agreement seem to suggest that he indeed had no other options. Colonel

⁵⁸ Ibid, 98.

⁵⁹ Witbooi, 99.

⁶⁰ Ibid, 99.

von Francois attacked Witbooi in 1893 in a devastating raid that indiscriminately killed women and children.⁶¹ Von Francois was the military leader in charge of the German *Schutztruppe* in 1893, the colonial protection force. His actions in the colony serve as a prime example of how the German colonial presence was being bolstered by a military force. The military actions that von Francois took against Witbooi in 1893 was a pivotal moment for the power balance between the Germans and indigenous polities in the colony. In the summer of 1893 the Germans attacked the Witbooi clan at Hornkranz. The attack was followed by continued hostilities that lasted several months. Yet, Colonel von Francois was unsuccessful in defeating Witbooi and he continued to refuse to sign a protection treaty with the Germans.

Theodor Leutwein, von Francois' replacement, also attacked Witbooi and his people when he had once again refused to sign an agreement. Witbooi opposed the treaty mostly due to the strong restrictions the Protection Treaty placed on his ability to lead. After the attack in August of 1894, he submitted to the treaty. In late September only a few weeks after signing the treaty in 1894 Witbooi, who was around 60 years old at the time, was still recovering from some injuries he had received. He wrote: "I shall act from now on according to the laws and customs of the German government".⁶² This line is a clear demonstration of his fall from power that occurred and his new subordinate position under German law and custom is in stark contrast to his earlier remarks to the Paramount Chief, Maharero regarding his views that indigenous Namibian groups are 'independent kingdoms' comparable to the European states.

The letters from Witbooi's diary leading up to the attack in late August give a sense of the tense negotiations. Before Leutwein's fateful attack in August of 1894, he was based in the

⁶¹ Horst Drechsler, *Let Us Die Fighting: The Struggle of the Herero and Nama against German Imperialism (1884-1915)*, 4th ed. (London: Zed, 2001), 70.

⁶² Witbooi, Letter no. 117 Witbooi to Leutwein, Tsam, September 21, 1894. Pg. 124

Naukluft mountains, as this is where his letters were sent from. It also was where Leutwein built his military camp that exerted almost tangible pressure on Witbooi to give in to the treaty. It was a stand-off. Leutwein appeared to have attempted diplomacy before resorting to violence, but his nearby presence with the protection troops was a strong show of force. It seems given von Francois' earlier failing, Leutwein was reluctant to launch an attack and indeed he had waited until he was reinforced.

The German historian Horst Drechsler viewed the 1893 raid on Hornkranz as resultant of the way that the German metropole had changed its view of the colony after the Herero and Nama settled on a peace in 1892. With newfound peace, Germans politicians feared that the two groups would be able to unite against German rule. Drechsler cited a speech by the Imperial Chancellor, Count Leo von Caprivi from March 1st, 1893. The speech serves as an indication of why the German stance changed in the early 1890s and called for increasing the size of the protection force and accounted for the shift in tone against Hendrik Witbooi. "South West Africa is ours...our intention is not to wage war, but to become real masters of the country without bloodshed and to consolidate our rule".⁶³ Drechsler believed that Caprivi's real intention was revealed by the fact he ordered more troops to be sent to South-West Africa: "it was only too apparent that the dispatch of reinforcements was the signal for Francois to embark on "his" war against the Witbooi's."⁶⁴

Drechsler points to the fact that the *Schutztruppe* leader at the time, Colonel von Francois, had used the arrival of these reinforcements almost immediately. Von Francois launched a sneak attack against Witbooi at Hornkrans as soon as he received these ammunition and field gun

⁶³ Drechsler, 69.

⁶⁴ Ibid, 69

reinforcements.⁶⁵ The German attack at Hornkrans can be corroborated with the correspondence that Witbooi had with von François's replacement Col. Leutwein. Witbooi himself noted that the attack came without warning: "Francois had approached me and asked me about the protection contract", and after giving it some thought, "Francois arrived here supposedly to receive an answer. At the same time, he attacked me."⁶⁶ The attack also came when he was asleep. What's interesting about how Witbooi described the nature of the attack is that he makes sure to note he was asleep when it started as if to underscore that he was not culpable nor an instigator of the attack.

Before the conflict with von Francois had ceased, Witbooi wrote a letter to discuss terms regarding prisoners. This letter was written on July 24th, 1893, and the subject of the letter was concerned with the state of the ongoing conflict and his shortage of supplies. He asked about the well-being of those taken prisoner by the Germans. He considered his people as innocent, and that the real quarrel should be between himself and the Colonel.

Yet, the sardonic tone of the following lines of the letter are suggestive of more than just a request for supplies: "A great and honest civilization as yours should not stop ammunition for its enemy. In the event that I should have enough ammunition, you are welcome to conquer me. Then you can speak of an honest and great victory for your nation."⁶⁷ Witbooi's strategy was to take the moral high ground. He pointed out the dirty tactics of the Germans. They had ended the supply train of weapons and ammunition while simultaneously pressing on with the attack. This had left him vulnerable and in his view, unable to be a worthy opponent. The sardonic tone that Witbooi used when juxtaposed with his civility and his politeness in writing suggests that he

⁶⁵ Ibid, 70

⁶⁶ Witbooi, 107. Letter no. 97, Witbooi to Leutwein, May 6th 1894.

⁶⁷ Witbooi, 104.

wanted to maintain his own image as being morally superior. In order to critique his opponent, Witbooi made a comparison. He contrasted the image of the German Empire as "an honest and civilized nation" with the not so flattering reality of the German colonel's actions to attack Witbooi sneakily when there was a shortage of ammo, ammo that was necessary for defense, all while still holding Nama as prisoners.⁶⁸

In 1894, Hendrik Witbooi faced a similar situation that was unfolding between himself and the Germans. Witbooi again refused to sign a Protection Agreement and once again, had a German Colonel at his doorstep. The final pages of Witbooi's diary of letters contained correspondence between Col. Leutwein and Witbooi. These letters were exchanged in the summer of 1894 in the weeks leading up to Leutwein's critical attack at Witbooi's camp in Naukluft, where Witbooi had fled to from the attacks the year before by Leutwein's predecessor.

Four days before the attack began, Leutwein responded to some of Witbooi's earlier complaints against the cruelty of his predecessor, von Francois. Witbooi's complaints were centered around the actions that von Francois took during the German attack on Hornkranz. Leutwein's letter underscored what the German Empire wanted in the colony: control. He wrote, "It indeed would have been possible to attack Hornkranz differently... I condemn another bloodshed as much as you do. I am unhappy myself about the bloodshed of innocents at Hornkranz. None of my men intends to shoot at women and children."⁶⁹ Leutwein warned Witbooi that he would indeed attack again if Witbooi would not let go of his "stubbornness". Chillingly, he wrote, "there will never be peace and quiet in the German protectorates until you submit to the German Emperor. All your words shall not change this fact. Stop making

⁶⁸ Witbooi, 104.

⁶⁹ Witbooi, 121. Letter no. 110, Leutwein to Witbooi, August 23, 1894.

continuous reference to your innocence."⁷⁰ Apparently, Leutwein had gotten fed-up with Witbooi's continued resilience against the Germans and with his refusal to submit to the treaty. But it was more than a treaty, as Leutwein asked for entire submission to the German emperor, which is far more severe in tone and has deeper consequences than the supposed mutually beneficial Protection Treaties that the Germans were toting in earlier years.

Bley wrote that the treaty did not entirely disarm them, which was what Witbooi had previously feared,⁷¹ but the Witbooi clan was forced to move to Gibeon and "would live not on tribal land as before, but on Crown land, even though in other respects tribal life was to be left undisturbed."⁷² The 1894 Protection Treaty required in section 7 that a German garrison be stationed at Gibeon, which ostensibly was for the protection and promotion of order, "to support the Chief in his intentions to guarantee law and order, as well as to assure the security of the Chief and his people, a German garrison shall be stationed in Gibeon."⁷³ This was like a bizarre prison arrangement with armed guards, given the fact that the Germans had only so recently attempted to destroy Witbooi in war at Naukluft and Leutwein's severe decree for Witbooi to completely "submit" to the German Emperor. Witbooi was even bound by an amendment to the 1894 Protection Treaty to support the German ranks with his own men.⁷⁴ Oddly, this amendment had a preface explaining that it was a gesture meant to provide assurance that Hendrik Witbooi was seriously agreeing to the treaty, as if all the formalities of the document being signed and sent back to Berlin for ratification were not enough. The amendment stated:

⁷⁰ Witbooi 121

⁷¹ Witbooi, 109. Letter no. 100.

⁷² Bley, *Namibia Under German Rule*, 32.

⁷³ Witbooi, 128.

⁷⁴ *Ibid*, 128.

To clearly and publicly demonstrate how seriously Chief Witbooi accepts the conditions of the Protection Treaty of his Majesty the German Emperor Wilhelm II, which agreement was signed on September 15, 1894, and to demonstrate how loyally Chief Witbooi supports the German cause and to finally stop the rumors spreading through the land which have spread mistrust, the Imperial Commander Major Leutwein and Chief Hendrik Witbooi hereby agree to add the following paragraph to the above-mentioned Protection Treaty.⁷⁵

It is worth calling out the ridiculous tone of this amendment paragraph on the grounds that Hendrik Witbooi, in his position of surrender post-Naukluft attack, afforded him little to no negotiating power. This should undermine the sincerity of Witbooi's agreement to the German demands. After-all, the Germans were removing him from his own land and he sent him to a new location, to be under the watch of a German garrison. It is dubious that Witbooi agreed wholeheartedly to the treaty given the external pressures that were present. Therefore, the purpose of the amendment was to make this farce as believed as possible. It was of course in the interest of the German Empire to not only proudly declare they had control over the last 'rebellious' indigenous group, but to underscore the veracity, and strength of Witbooi's claim to his submission to German authority. The best way to emphasize this was to have the once 'stubborn' leader send his own men to serve the German Empire.

The violence and repeated military attacks that underpinned the official German policy towards forcing Hendrik Witbooi into signing the Protection Treaty was magnified 10 years later in the outbreak of the 1904 Herero and Nama war. For 11 years Witbooi had remained under the terms of the Protection Treaty confined in his military garrison away from his traditional land

⁷⁵ Ibid, 128.

holdings. In October of 1904 Witbooi called for a “united southern uprising against colonial rule”.⁷⁶ Witbooi was joining forces in a way with the Herero, who had already started a rebellion against the Germans earlier in the same year. After nearly two years of intense fighting, and the death of their leader, Hendrik Witbooi, Nama forces surrendered. Witbooi had died. Cornelius Fredricks, who acted as a leader of the Nama forces after Witbooi’s death, ended up suing for peace with the German. Yet, even in peace-time the Germans failed to fairly treat the indigenous community. The Germans did not maintain the terms of the peace agreement that was made between Fredricks and the Germans. Instead, of allowing the Nama to return to their land and their previous ways of life, the Germans uprooted all from their land; men who fought against the Germans, as well as innocent women and children, were “sent to Karibib to perform forced labor on the Swakomund to Otavi railway line.”⁷⁷ What could explain the consistent trend of the Germans violence and harsh punishment of the indigenous population? It seems that economic concerns were driving the policy behind these events.

The focus on economic concerns above all would continue in the years that led up to the Herero and Nama war in 1904 in terms of the forced labor of indigenous Namibians. There was a close link between the violence behind the Protection Treaties in the 1890s and the violence that would occur throughout the late colonial period of German rule in South-West Africa. There was evidence that it was understood there would be a shortage of labor due to the Herero and Nama War, and concentration camps served as a solution to the labor shortage as well as a mean of control over the indigenous population. All of these German actions were in line with the German chancellor Caprivi’s speech discussed earlier in this chapter. The German colonial

⁷⁶ Erichsen, Casper. *What the Elders Used to Say: Namibian Perspectives on the Last Decade of German Colonial Rule*. Windhoek, Namibia: Namibian Institute for Democracy: Namibian-German Foundation, 2008. 25

⁷⁷ Erichsen, *What the Elders Used to Say*, 25.

administration's chief motivations revolved around economic progress, and as such, they desperately need to address the issue of labor. The suffering of entire peoples was enacted by German officials and predicated on a simple bureaucratic wish to address the labor shortage in the colony. In 1904, a District Officer (*Bezirksamtmann*) at Gibeon was well aware of the issue of labor shortage, and wrote a suggestion to make use of the large numbers of Herero that had been captured at an early battle in the town of Waterberg, and that "c 50-100 Men as mine workers... be chained together in groups of about ten men" before being transported to the mines in southern Namibia.^{78 79} The fact that a lower level official was aware of this issue, and so early in the conflict, is indicative of how wide spread economic concerns were amongst the colonial bureaucracy, and how these economic concerns underpinned all colonial decision making, even at times of war.

The events surrounding the German colonial period have left a deep impact on the collective memory of the Nama community and Hendrik Witbooi's diary is only one way of understanding the indigenous perspective to the colonial history of Namibia. Oral histories from members of the Namibian Nama community also shed light on the legacy of German violence in the colony. Casper Erichsen, a historian and anthropologist conducted interviews of members of Namibian communities, especially attempting to speak with elder members of the community whose parents and grandparents lived through the colonial era. These individuals still recall the stories their parents or grandparents told them of life under colonial rule and of horrific stories from the 1904-1908 conflict. This account, a Namibian recalled an ancestor's story. The Nama, and in particular, the majority of the !Aman clan, were victims of one of the cruelest events of

⁷⁸ Gewalt, citing *NNAM, ZBU 454, Kaiserliches Bezirksamt Gibeon. 18/8/04 an das Kaiserliche Gouvernement, Herero Heroes*, 186.

⁷⁹ Note that instances of corporal punishment, such as chaining, were allowed under the German Empire's 1896 legal decree, which is discussed in depth in the following chapter of this project.

the 1904 uprising and war. The Germans abducted them into forced labor “via Swakopmund, to the Shark island concentration camps in Lüderitz, where up to 80% would die of maltreatment, hunger, exposure and disease.”⁸⁰ William Boois, was 78 years old at the time of the 2008 study, and is a member of the !Aman community and he re-told stories that his parents and grandparents had told him about events in the 1904-1908 war. In the report, he told a story of how the !Aman fighters would seek refuge in mountain caves following battles, at the risk of starvation. This was a similar tactic to how Hendrik Witbooi strategically located his camp in the Naukluft mountains, nearly out of reach from German military incursions.

Willem Boois tells a story that his grandfather shared with him, and the story is poignant because of how it describes the actions of the Germans. Often, indigenous forces were short on basic supplies like food. His grandfather’s comrade in arms surrendered to his hunger and picked up ‘foodstuffs’ left behind by German Schutztruppe patrols who were active in the area. The food, it turned out, was laced with poison – possibly arsenic or a stronger acid. The report then continues with quotes from Boois’ oral history. “The German had left food all over the place because they had enough. Isaak Rooi had found some of these biscuits and ate them out of hunger. As he did, his mouth burst open and left a foul smell all over. The smell was so bad that he could not bear it. He showed me the scar of the wound in his mouth.”⁸¹

Erichsen found that Nama oral history stories from around the town of Bethanie do actually match up with archival records. “The best example is Willem Boois’ remark that ‘Captain Paul Fredericks was under house arrest at that time because he also assisted !Nanseb in his fights.’” The report notes that this detail is a “very obscure piece of information unavailable in all existing written accounts of 1903-08.” But, “it does resonate with materials available in the

⁸⁰ Erichsen, *What the Elders Used to Say*, 26.

⁸¹ Erichsen, 26.

Lutheran Mission Archives.”⁸² The report briefly touches on the author’s belief that oral histories, while often fragmented or confusing, can still be useful for historians after being referenced with the archives and other facts. For example, Willem Boois’ interview had accurate descriptions of the types of corporal punishment that can be corroborated within the colonial archives. Boois’ “description of corporal punishment under German rule” noted that “people in Bethanie received ’25 lashes plus five extras as a gift on your naked body’.” The report mentions that the number, aside from the “five extras” lines up exactly with the standard number of lashes prescribed in the infamous General von Trotha’s regulations on corporal punishment of June 1904.⁸³ This project also found that these punishments were regulated by the 1896 legal decree discussed in the next chapter.

Chapter One Conclusion

Hendrik Witbooi provides an indigenous perspective on a period of early colonial development in South-West Africa, lending important insights on the conditions just a decade before the 1904-1908 conflict and genocide against the Herero and Nama. The German colonial presence eroded at indigenous society. This erosion exacerbated some of the tensions behind the unrest that would begin the indigenous revolt in 1904. Indigenous sovereignty was negatively affected from how the Germans grabbed up land. In turn, the German land grabbing affected how the indigenous population related to the land. This picked away at the fundamental aspects of the indigenous pastoralist way of life which relied heavily on freedom of movement.

In the span of a few years Witbooi had lost a significant amount of his authority. This authority was greatly tied to the way that Witbooi was able to project influence over land that he oversaw. The 1894 Protection Treaty marked a defining point in terms of the territoriality of

⁸² Ibid, 27.

⁸³ Ibid, 27

central Namibia. Concepts of territoriality changed as a result of the German Empire's attempts at consolidating control. The authority that Witbooi had been accustomed to and had once exercised, such as the granting of permissions and protection to travel through his lands, now belonged to the Germans, who had finally made all the main indigenous groups sign protection treaties. This loss of land was perhaps a main contribution to the cause of the conflict in 1904.

In 1892, a letter that Witbooi received from his counterpart, Chief Samuel Maharero, of the Herero, indicated one of Witbooi's roles and responsibilities as *Kaptein*.⁸⁴

I am sending you, Captain Hendrik, these few lines. They are to serve as a passport. Some of my white friends are going to come to see you. Please permit them to travel through your territory unharmed. Give them a passport yourself so that they do not encounter difficulties while travelling through your land. I am signing this document. I greet you.

I remain,

Captain Samuel Maharero.

Hendrik Witbooi's 'Passport' responsibilities became irrelevant when the Germans had consolidated their control over Herero and Nama territory following the final ratification of the Protection Treaties. This letter establishes a better understanding of the norms that existed, and the role that the leaders, like Maharero and Witbooi, had in organizing the travel and protection of those in their territory. It demonstrates that the signature from a leader held a kind of political currency, and acted as an official document within a certain context and within a certain territory.

The issue of sovereignty and territoriality are closely linked and these issues were most affected by the German Colonial Administration presence in the South-West Africa. Leadership

⁸⁴ Witbooi, 101.

was defined by whoever had the power to control who had access to land, and whoever was able to project that power over an extended area. In other words, Hendrik Witbooi was *Kaptein* and drew legitimacy as *Kaptein* because of how he was able to maintain control over a set area of land. When Witbooi lost his ability to control land because he had to submit under German laws and authority and be confined in an area far from his former seat of power, he lost his former level of power in the terms of the old order.

The Germans resorted to violence and attacked when Hendrik Witbooi refused to sign a Protection Treaty in both 1893 and 1894. His refusal to submit to the German Empire's rule of law was met with violence because of the increased emphasis that the German Imperial Government had on order and control in German South-West Africa.⁸⁵ The precedent of the German Empire's violent actions against the indigenous polities that refused to submit to the German system were a legacy that was echoed by the Germans' actions in the Herero and Nama War and Genocide. While the responses were more extreme in 1904-1908, they shared in common the simple policy to ensure control over the colony that Imperial Chancellor Caprivi had announced.⁸⁶ control was the main goal and the protection force was the way to achieve it.

⁸⁵ Drechsler, *Let Us Die Fighting*, 70.

⁸⁶ *Ibid*, 70.

Chapter Two: Legitimizing Control and Power through Law: The Legal Basis Behind Colonial Crime and Punishment

The genesis of the German Empire's formal involvement in southwestern Africa can be traced to the establishment of a protectorate in 1884. From that point it was known as German South-West Africa and constituted the region that now makes up the Republic of Namibia. The protectorate was formed from a land grant given to the German businessman Adolf von Lüderitz. The sponsorship and protection that Lüderitz received from the German Empire was in contradiction to what Otto von Bismarck, the German chancellor, had once stated about how the German Empire was to stay out of "colonial politics."⁸⁷ Bismarck, in his changing stance towards colonial politics, hoped to use the British East India Company as a model, and his "overseas policy" for German South-West Africa was "based on private commercial initiatives... supported by coaling stations and trade bases."⁸⁸ For the German Empire to successfully raise a colony, they had to come to terms with the incompatibility of their colonial goals with those of the indigenous population.

By the turn of the twentieth century the German colonial presence had grown significantly in South West Africa. This expansion of German South-West Africa was contrary to Bismarck's original policy, which was to limit German involvement to only economic issues. Bismarck's successor, Leo von Caprivi, took the helm in 1890. Chancellor Caprivi spearheaded policies that transitioned the colony to a type of rule that encompassed the activities of a settler "colony".⁸⁹

⁸⁷ Michael, Hollmann, "Reichskolonialamt: Bestand R 1001 (Finding Aid)," 2003, DDS Center for Research Libraries. Introduction, Section I.

⁸⁸ Sebastian Conrad, *German Colonialism: A Short History*, trans. Sorcha O'Hagan (London, UK: Cambridge University Press, 2012), 22-23.

⁸⁹ See Leo von Caprivi's speech from March of 1893, discussed in Chapter 1 of this thesis.

These activities included “territorial claims and state involvement”⁹⁰, and were not limited to the activities a ‘protectorate’ would imply. The expansion put the colonial bureaucracy on a trajectory which marked a shift away from matters of foreign trade policy. These gradual changes solidified into a proper colonial administrative apparatus and the policy behind it necessitated social order to ensure economic benefits.

The *Schutztruppe* for German South-West Africa was founded on June 25 in 1889 and at that time it had only 21 men under the control of the military leader Curtis von Francois.⁹¹ In 1893, the colony further swelled from the arrival of hundreds of soldiers,⁹² who acted as the enforcers of colonial order. To achieve order the *Schutztruppe* had to control the indigenous population became a priority under the German Empire’s colonial policy. The German colonial soldiers’ authority was supported by German laws, and their presence as an armed colonial protection force also served to legitimize the authority of German rule of law. The arrival of the *Schutztruppe* added further pressure on indigenous Namibians and increased tension in the colony. Recall from the previous chapter the case in the mid 1890s when the surplus of soldiers was used as leverage to wrangle Hendrik Witbooi into a Protection Treaty.

These bureaucratic changes were built on the foundation of a legal framework that both in design and in practice bolstered the German Empire’s colonial authorities’ ability to leverage their power over the indigenous population. This is seen in how the law was applied and through the types of violence that were inflicted on Namibians, including corporal punishment, which was technically allowed under German Empire colonial law.

The Germans’ violent assertion for colonial control over Namibians, and their legal

⁹⁰ Conrad, *German Colonialism*, 23.

⁹¹ I. Goldblatt, *History of South West Africa: from the beginning of the nineteenth century* (Cape Town, Republic of South Africa: Juta & Company, 1971), 111.

⁹² Drechsler, *Let Us Die Fighting*, 70.

implementation of the death penalty for indigenous Namibians, is in contradiction with what was allowable under the law governing the German metropole. This chapter will analyze the instances of disproportionate sentencing and corporal punishment towards Namibians. In doing so, it will answer the question of to what extent the German Empire's economic goals influenced how the law was used as a tool in the German attempt to bring order to German South-West Africa. The first section of this chapter is concerned with how the colonial administration was structured, because the motivations behind the colonial bureaucracy influenced the way the law was written and how it was used in practice. The second section of the chapter focuses on the 1896 legal decree and some instances of excessive corporal punishment when South-West Africa was under German rule.

The 1896 decree is central to this chapter as an example of how different laws were enacted for the German colonies as compared to the German metropole in Europe. The 1896 decree was a legal ordinance that spelled out how crime and punishment was to apply to the indigenous population and with whom would carry out authority over matters of crime and punishment in the colony. The decree was titled "Criminal Jurisdiction With Regards to Natives – German South-West Africa". It was translated into English by the authors of a British colonial Administration document, known as the 1918 Blue book, which appears to have been written as evidence for why the British Empire should retain control over the former German colony post-World War One, because the report overwhelmingly paints the period of German rule as one marked with a plethora of excessive force and violence against indigenous Namibians, using witness accounts and court cases as evidence.⁹³ The 'Blue Book' was reprinted in an annotated

⁹³ Jan-Bart Gewald, Jeremy Silvester, and Great Britain, Union of South Africa Administrator's Office, *Words cannot be found : German colonial rule in Namibia : an annotated reprint of the 1918 Blue Book*, Sources for African History 1 (Leiden, NL: (Co-published) African Studies Center in Leiden, National Archives of Namibia, 2003), xvii, originally published as *Report of the Natives of South-West*

edition titled: *Words Cannot Be Found: an Annotated Reprint of the 1918 Blue Book Report Blue Book*, by Jeremy Silvester and Jan-Bart Gewald in 2003.⁹⁴

The 1918 Blue Book report actually has a ‘missing chapter’ that was published in November of 1918.⁹⁵ The 1918 Blue Book report was rushed into completion and the Colonial Office decided to publish the final chapter of the report later in the same year.⁹⁶ This ‘missing chapter’ was included in a larger issue of telegraph correspondence concerning reports on how the ‘natives’ of respective British colonial holdings viewed British rule. An early summary of what was to be included in the 1918 reports on German Rule in South-West Africa was given in a telegraph in February of 1918. The summary acknowledged that the report was “written under great pressure” and summarized the two main conclusions of the report, “(a) That the Germans in South West Africa have shown themselves to be totally unfired for the responsibility of governing the native races of that territory”, and “(b) That the return of the country to the Germans would be regarded by every native tribe in South West Africa as the greatest disaster in their tribal history.”⁹⁷ Essentially, part ‘a’ of their argument was found within the 1918 Blue Book and part ‘b’ was to be found within this ‘missing chapter’ on the *Wishes of the Natives*. It is interesting that a general strategy of the British Colonial Office was to include testimonies and interviews from indigenous populations throughout not just territories that were taken from the

Africa and Their Treatment by Germany (Windhuk, South-West Africa (Namibia): His Majesty's Stationary Office, 1918).

⁹⁴ This 1918 Blue Book report was produced primarily by two people of the British colony’s Administrator’s office, Major Thomas Leslie O’Reilly, who was responsible for the first 150 pages, and the second half, by A.J. Waters, who was the Crown Prosecutor for Namibia from 1915 and on. in the British Administrators Office, as noted by Silvester and Gewald in the preface of the re-print, xvii.

⁹⁵ Great Britain Colonial Office, *Correspondence Relating to The Wishes of the Natives of the German Colonies* (London: His Majesty's Stationery Office, 1918)

⁹⁶ Gewald, *Words Cannot Be Found*, xvii.

⁹⁷ Great Britain Colonial Office, “Telegram No. 6 Union of South Africa. The Governor-General to The Secretary of State 15th February 1918”, in *Correspondence Relating to The Wishes of the Natives of the German Colonies* (London: His Majesty's Stationery Office, 1918), 7-8.

German Empire in the First World War, but even New Zealand. In fact, there was a remarkably similar report made for the purposes of establishing how the indigenous population, or at least the select few interviewed, favorably viewed the British as compared to the Germans in territory in west Togoland taken from German East Africa in 1914 and 1915. The fact that these reports seem to be just a small part of a larger British strategy to justify their hegemonic dominance over many colonies makes the ‘missing chapter’ seem less significant, given that it was a general practice of the British’ rhetorical strategy at maintaining their rule over their Empire.

There is an easily discernible contradiction between the German Imperial Criminal Code and the 1896 legal decree. A.J. Waters, who was the administrator of the newly arranged province of South-West Africa under the British Union of South Africa, was the chief writer and preparer of the second half of the 1918 Blue Book report. He certainly did not overlook this contradiction.

The introduction to his half of the report sets up the 1896 decree as an example of how the German Empire failed to meet his expectations for exacting and precise law when he compared their ‘native’ law to the German Imperial Criminal Code:

It is remarkable to find that the lawgivers of a nation which could dive so deeply into the innermost recesses of the human mind and find an exact penalty for every separate enunciation of its criminal evolutions, should be content when they came to provide for the similar vicissitudes of native mentality with the following law, promulgated in 1896.⁹⁸

⁹⁸ Jan-Bart Gewald, Jeremy Silvester, and Union of South Africa Administrator's Office, *Words Cannot be Found: German colonial rule in Namibia : an annotated reprint of the 1918 Blue Book*, Sources for African History 1 (Leiden, NL: (Co-published) African Studies Center in Leiden, National Archives of Namibia, 2003), 250, originally published as *Report of the Natives of South-West Africa and Their Treatment by Germany* (Windhuk, South-West Africa (Namibia): His Majesty's Stationary Office, 1918).

A.J. Waters was presumably referring to the exacting detail in which the German Empire went into detailing precise forms of punishment for specific crimes in the Imperial Criminal Code and juxtaposing it to the flexibility of the decree for the “natives”. The 1896 decree relates to matters of the use and jurisdiction of corporal punishment towards ‘natives’. It contains types of corporal punishment that are forbidden in the German metropole, yet, were reserved especially for use in the colony.

The matter of the death penalty and execution for crimes was controversial in Germany and its implementation and legality had shifted from the 1870s to the 1880s. Richard J. Evans wrote in *Rituals and Retribution* that in the 1870s there was a “*de-facto* abandonment of capital punishment by the Prussian King.”⁹⁹ Exceptions for the death penalty were made in particular cases of political treason, which Evans argued laid the way for more uses of the death penalty. By the middle of the 19th century execution was a common punishment for major crimes. Types of crimes included bizarre political assassination plots, such as anarchists who were attempting attacks on political leaders, and even at a more general level in instances of murder.¹⁰⁰ The use of capital punishment on the perpetrators of murder was on the books as part of the existing penal law and was applicable to both Germany and its colonies.¹⁰¹ As the German Social Democrats lost their authority in the German Parliament, they were unable to resist the resurgence and reestablishment of execution as punishment but were still a group concerned that German colonial officials had some responsibility for “numerous gross violations of human rights in the colonies.”¹⁰² It is important to note that there was not a unanimous concern of German

⁹⁹Richard J. Evans, "The People's Executioners," in *Rituals of Retribution* (Oxford: Oxford University Press, 1996), 356

¹⁰⁰ Evans, 370.

¹⁰¹ Evans, *Rituals of Retribution*, 371.

¹⁰² *Ibid*, 372.

parliament in utilizing violent forms of control and punishment, even though the German Chancellor Caprivi, and the head of the German colonial Protection Force, General Von Trotha, were strong voices for the use of violence to uphold colonial control.¹⁰³

Yet, the use of the death penalty as punishment against indigenous Namibians, as discussed further in this chapter, was not limited to the crime of murder. Instead, swift and brutal punishments were given to those who committed crimes of far less severity, such as theft. The 1918 Blue Book provides accounts of how the Germans used laws such as the 1896 decree, in order to establish their hegemony over the indigenous population in a way that was outside of the law as it applied in Germany, but legal enough in the colony. It was more common for disproportionate sentencing and extreme violence to occur in the more isolated pockets of the colony where lower level colonial authorities were able to exercise powerful judgments because of the lack of main supervision under the colonial administration.

It is important to understand that the writers of the 1918 Blue Book were not necessarily writing from a sense of urgency in regards to respect for human rights, but rather, out of the complicated political context that evolved out of the British takeover of German South-West Africa in 1915, during World War I. To be clear, the Union of South Africa needed to categorically explain how unfit the Germans were to enable them to maintain rule over German South-Africa following the reestablishment of peace after the First World War. It was also just as likely that the British desired to point to German misdoings to deflect and detract from the controversial handling of the Boer War in 1900. Political commentary from Europe on the Boer

¹⁰³ It is useful to keep in mind that Germans back in the metropole were acutely aware of violent events unfolding within the German colonies, and were even critical of them. Since the main primary source of this chapter is the British Empire produced 1918 Blue Book Report, it is important to recognize these in-country criticisms of the colonial violence, since the veracity of the 1918 Blue Book report can be challenged based on the obvious bias that Britain held against Germany post- First World War.

war even went so far as to paint the conflict as a ‘David and Goliath’ situation, obviously with the British being Goliath and David being the Afrikaners. “General Kitchener, who took over command, had local women and children rounded up and placed in concentration camps so that they could no longer feed and shelter their fighters,” and disease went rampant in the confined conditions resulting in many deaths from disease.¹⁰⁴

Reinhart Kössler’s review article "Sjambok or Cane? Reading the Blue Book," *Journal of Southern African Studies*, provides a good summary of the problems of the 1918 Blue Book as a source. "...hastily assembled to bolster South Africa's claim for permanent control over the country... In this context, the Blue Book's interest in German oppression of Africans was part of a diplomatic campaign staged by the newly-established South African Union to ensure her central aim in the war: annexation of Namibia, if not in form, then certainly in substance."¹⁰⁵ Yes, the 1918 Blue Book report was biased, however, it does not make their evidence useless, as it does provide a useful starting point in examining the legal structure of the German colony. Particularly useful was the observation of the 1896 decree as being recklessly ill-defined, which was ironic given how the German Imperial Criminal code followed positive law and had precise prescriptions for many circumstances. I would add to Kössler’s critique that A.J. Waters failed to dig further beyond the possibility of a very broad interpretation of the law and did not go into understanding the reasons behind the way the law was written. The consequence of his narrow focus meant that his analysis does not provide any insight into the motivations of why the German Empire wished to create such an ambiguous set of laws for the ‘natives’.

¹⁰⁴ Margaret MacMillan, *The War That Ended Peace: The Road to 1914* (New York: Random House, 2014), 26.

¹⁰⁵ Reinhart Kössler, "Sjambok or Cane? Reading the Blue Book," *Journal of Southern African Studies* 30, no. 3 (September 2004): 703-08.

The authors of the Blue Book report did not critically read the language of the German decree, because their interests were on a more superficial level. As a result, further analysis of the language of the law reveals some interesting points. The unusually nonspecific language of certain sections allowed for colonial officials, including lower ranked officers, to justify their violent actions under a broad interpretation of the decree, which worked to their advantage when put in practice. This allowed for a situation where most officials had unusual amounts of power without direct supervision in deciding and exercising their ability to punish Namibians. Additionally, Waters did not attempt to connect these elements of the decree within the larger context of the German Empire's economic goals in the colony.

Colonial Administration

George Steinmetz in *The Devil's Handwriting: Precoloniality and the German Colonial State*, recounts the beginnings of the German colonial state in South-West Africa. He outlines how the German Empire did not actually start "extending effective control over the colony's inhabitants" until after 1890.¹⁰⁶ Steinmetz gives the impression that the foundation of the German protectorate by Bismarck was a display of sovereignty on paper only. "These "Protection treaties" stipulated that the Namibians would not sign treaties with any other foreign government or alienate land to "a different nation or members thereof" without the German emperor's consent."¹⁰⁷ However, the Germans' drive to ratify Protection Treaties with every indigenous polity in German South-West Africa was a 'tangible' display of German sovereignty because the Germans were asserting their hegemony over the region in their status as military protectors.

¹⁰⁶ Steinmetz, *The Devil's Handwriting*, 9.

¹⁰⁷ *Ibid*, 9.

The German Empire's colonial administration before 1907 was not a large structured bureaucracy, but rather, a single section of the Foreign Office of the German Empire. Initially the colonial administration was handled through existing arms of the German Empire that were concerned with trade, as Hollman, the President of the German *Bundesarchivs*, writes in a Finding Aid: "colonial policy was primarily regarded as an act of foreign trade policy" therefore an official in the Foreign Offices Trade Policy division would take on these "colonial affairs."¹⁰⁸ The German government's decision to have the Trade Policy division take the helm of the colony is telling of the general economic interest that the German Empire had in the new protectorate.

The colonial administration grew dramatically in the decades since its founding in 1884 as the challenges of managing and establishing a colony became known, but also, as a consequence of the German Empire's desires to gain economically from the land and by turning the once protectorate into a settler colony. To this end, the administration of German South-West Africa would grow and restructure itself into a more stand-alone bureaucracy, with the added support of a dedicated armed protection force: the *Schutztruppe*.

The *Schutztruppe*, or Protection Force, was structured like a military force. The ranks consisted of a variety of positions, organized by hierarchy, with officers at the helm, followed by non-commissioned officers. There were also ranked medical staff and other volunteers. Local populations in the colonies were sometimes conscripted into the ranks of the German Empire's colonial Protection Forces. The inclusion of locals into colonial armies was not uncommon by 1890, and the conscription of Africans into the German Colonial Protection Force occurred at the greatest frequency in German East-Africa, where Africans were recruited to form several units

¹⁰⁸ Hollmann, Michael "Reichskolonialamt: Bestand R" Introduction, Section I.

who fought in 1889 to solidify control of what is now the Tanzanian coastline.¹⁰⁹

In German South-West Africa, however, due to the tensions between the Germans and the indigenous populations, conscription of local indigenous populations was less common. The conscription of locals was more as a result of the Germans wishing to fold in men who were once considered combatants as a means of pacification with the result of ensuring hegemony. After Hendrik Witbooi, the leader of the Witbooi Nama, was defeated in 1894 he and his men were “integrated into the *Schutztruppe*... at the hands of governor Theodor Leutwein.”¹¹⁰

In *German Colonial Wars and the Context of Military Violence*, Kuss is writing primarily on issues of German military structure and tactics in order to understand the violence that occurred in the multiple German colonies. Her work is relevant for this chapter in regards to her data on the size of German colonial military forces and her discussion of the violence in colonial rule and the colonial wars. She wrote on the inclusion of Witbooi Nama in the Protection Force and that they were “required to perform military service” under the command of the Germans, noting that they were not equals, yet during conflict they were given standard uniforms, with the exception of wearing white hats, denoting them as members of the Witbooi Nama. “So marked, however, they were transformed into clearly identifiable ages of the colonial authority.”¹¹¹ Kuss is certainly referring to the stipulations that were tied to the 1894 Protection Treaty that the Witbooi Nama agreed to under the threat of force. The Protection Force also included some members from other indigenous ethnic groups. In 1895, the German Empire recruited through contract some several dozen people from the Rehobother Baster as reservists in the *Schutztruppe*

¹⁰⁹ Michelle R. Moyd, *Violent Intermediaries: African Soldiers, Conquest, and Everyday Colonialism in German East Africa* (Athens: Ohio University Press, 2014), 16, 36.

¹¹⁰ Steinmetz, *The Devil's Handwriting*. 11

¹¹¹ Susanne Kuss, *German Colonial Wars and the Context of Military Violence*, trans. Andrew Smith (Cambridge, MA: Harvard University Press, 2017), 103.

Protection Force, who, alongside the Witbooi Nama, saw conflict during the Herero War.¹¹²

There were Namibians who served in non-combatant roles, “as ox drivers, herdsmen, servants, and washerwomen.”¹¹³ The ways in which locals, and indigenous Namibians were conscripted in German South-West Africa suggests a very different picture than was the case in German East Africa, as the indigenous people recruited in South-West Africa were primarily done so by force. This created a complicated role reversal of the Witbooi Nama, who had refused to join the side of the Germans, but then were forced into the position of signing the treaty, and thus, giving their men up for service in the Protection Force.

In 1903, the *Schutztruppe* was still relatively understaffed for the area of land that they were technically supposed to cover in German South-West Africa. At the end of 1903, there were 756 members of the Protection Force available, yet, in response to the uprising, Governor Leutwein requested the expansion of the Protection Force.¹¹⁴ This was accomplished by a mixture of incoming manpower who came from various places: some were reservists, others volunteers, whereas some came from a gun-boat crew, while a sizable portion were from a Marine Expeditionary Unit. These new arrivals put the new count of the size of the *Schutztruppe* closer to 2,000, which more than doubled the number of soldiers that existed at the end of 1903.¹¹⁵

Suzanne Kuss wrote on the 1907 restructuring:

An imperial decree from May 1907 amalgamated the Colonial Department of the Foreign Ministry and the Protection Force High Command into the Imperial Colonial office, which reported directly to the chancellor. Although the Foreign

¹¹² Kuss, 103

¹¹³ Kuss, 103

¹¹⁴ Kuss, 41

¹¹⁵ Ibid, 41

Ministry was given authority only in administrative matters, this change was significant in that it placed a military force under the direction of a civilian authority.¹¹⁶

Kuss' analysis is interesting in how it took note of the subtle consequences of restructuring the colonial administration in a way that combined military and civilian staff under the same 'civilian authority'.

The German Empire was a young empire that was late in entering the colonial scene. Kuss asserts that the Germans were actually underprepared at raising and training a colonial army. She writes, "the organization of German colonial soldiery was still very much in its infancy at the turn of the twentieth century; indeed it was the succession of colonial wars that gave the decisive impetus for a reform and the creation of a colonial military structure."¹¹⁷ Kuss is picking up the fact that the German Empire became motivated in expanding and reforming only in reaction to the challenges of maintaining the colonial state, i.e. the colonial wars, and presumably, after realizing their ill-preparedness for colonial uprisings. Kuss finds that some German policy documents feature directions for the Schutztruppe for all colonies, she writes "...the Protection forces were given the task of "maintaining public order and security in the African protectorates", upholding the peace (Landfrieden), and thus guaranteeing the conditions requisite to the economic development of each colony."¹¹⁸ (80) This provides evidence that there was a concrete colonial policy for maintaining order in the colony, while this is not surprising that the Protection Force would have this mission, it is surprising that the policy so closely links order with "economic development".

¹¹⁶ Kuss, 80.

¹¹⁷ Kuss, 80.

¹¹⁸ Kuss, *German Colonial Wars*, 80.

The German Schutztruppe

What were the motivations of the colonial soldiers in joining the Protection Force, and do these motivations provide an insight into their actions as the enforcers of German colonial order? Suzanne Kuss observed some of the reasons behind why a young German would have been interested in joining the German Empire's Colonial Protection Force. Non-commissioned officers, who made up the bulk of the Protection Force's manpower, had two primary reasons to gain from joining. First, was that back in Germany there were not so many opportunities for social advancement and improvement of one's life if they were in the lower and middle classes.¹¹⁹ The men who signed up for the Colonial Protection Force wanted to make the most of the opportunity to exercise authority and to make as much headway as possible in advancing their social standing. According to Kuss, for these German men being shipped off to the colony offered a rare chance to improve their situations. Those who became non-commissioned officers were often from the lower classes, and made up the lower ranking members of the Protection forces, whereas those who were the higher-level officers were from well-connected aristocratic levels of society.¹²⁰ "As those NCOs had nothing to lose, service in the colonies offered a real chance to improve their position."¹²¹

The fact that these men in the lower-level officer positions had "nothing to lose" had have had a great impact on how they chose to exercise their authority, and as such, may helped to better understand the many instances of violence, such as beatings, military conflict, and corporeal punishment being carried out by Germans unto the indigenous population throughout the period of colonial rule over Namibia. It seemed that for these lower-class men, an

¹¹⁹ Kuss, 90

¹²⁰ Officers were surprisingly drawn from upper class and aristocratic classes of society, see Table 4.2 in Suzanne Kuss, *German Colonial Wars*

¹²¹ Kuss, 90

opportunity to spend some service in the colony was their last chance to make something of themselves. Moyd also wrote on the motivations and fascinations with colonial service that seized the minds of young men who joined the Schutztruppe: “Serving in the Schutztruppe offered a chance to surmount the political and military upheaval of the German conquest, to benefit from the colonial cash economy, and to take steps toward a new variant of respectability within an emergent and fluid sociopolitical contest that favored their positions as salaried employees.”¹²² This ‘nothing left to lose’ and ‘everything to gain’ mentality, once combined with the amount of authority that was given to them in their positions, created a tricky situation that may have set the stage for violent encounters.

What were the effects of the policies of this expanding colonial presence? Stephen Conrad writes in *German Colonialism*: “A systematic colonial policy with viable strategies for its long-term development began only in 1894, when Theodor Leutwein became governor; he remained in this position for ten years.”¹²³ Leutwein’s tenure as governor, and his ‘strategies’ that focused on the ‘long-term’ are further indicative of the functional switch of the protectorate into a fledgling colony.

Suzanne Kuss writing in *German Colonial Wars* also marks Governor Leutwein’s arrival in 1894 as a distinct period, ushering in the period of the expanding colony. Suzanne Kuss writes on Leutwein’s goals for the German South-West Africa, and how he was “aiming to establish a working peace [with Namibians], he sought to force the development of the protectorate so as to attract settlers.”¹²⁴

¹²² Moyd, *Violent Intermediaries*, 41.

¹²³ Conrad, 38.

¹²⁴ Kuss, 38

Suzanne Kuss' analysis of Governor Leutwein's writings and policies paints a very clear picture of the German Empire's goals for the protectorate turning into a settler colony, which wanted to make the indigenous population conform under the German rule of law, and to even utilize the "native population", as she writes, "[Leutwein]... placing heavy yet bearable demands on the native population, the Germans sought to integrate the Africans into the German colonial system as a type of "agricultural civil servant": pastoralists working for the German government."¹²⁵

Stephen Conrad's and Suzanne Kuss' accounts both presented the German colonial governor Theodor Leutwein's policies at the heart of the shift that occurred in colonial policy that saw German South-West Africa change from a 'protectorate' to a settler colony. Additionally, Governor Leutwein was in charge of the colony for a considerable amount of time in the period of ten years directly before the 1904 uprising, therefore Leutwein is a reasonable figure to examine when trying to better understand the impact and effects of the German Empire colonial policy on Namibians.

Governor Leutwein's policies caused an influx of German settlers and these policies drove push for German seizure of land and cattle property to further its colonial aims. Stephen Conrad wrote:

In order to render the colony economically self-sufficient from the motherland and profitable for settlers and merchants, Leutwein began expanding the colonial bureaucracy, as a means of ensuring the rule of law and facilitating a methodical economic exploitation of the territory... deploying a strategy of divide and rule that became known in Germany as the 'Leutwein System'.¹²⁶

¹²⁵ Kuss, 38.

¹²⁶ Conrad, 38.

From this case, we see a German colonial strategy that intertwined the theoretical rule of law with the reality of tangible on the ground settlement. The goal was to make viable and thriving source of food and production for the settlement of Germans and Europeans. It is notable that the policy of the German Empire was so strongly associating order with economic success, and to this end, used the colonial bureaucracy to spread the German Empire's 'rule of law'.

The colonial administration made a few major jumps in size and structure in 1902 when the amount of staff was increased, and most significantly, in 1907, when the German Empire expanded their bureaucracy in the colony to include more officials and office staff.¹²⁷ These changes happened in the backdrop of the ongoing conflict between the Germans and the Herero and Nama. The conflict was discussed broadly back in the German metropole. Therefore, the jumps in the size and structure of the Imperial Colonial Office also occurred during periods of open criticism of the German Empire by citizens, media, and parliament members, who were critically reacting to results of the 'scandals' in the colony.

Hollman writes:

... after the outbreak of the war against the rebellious indigenous people in German South West Africa ("Hereros" and "Hottentotten") in January and October 1904 respectively, open public criticism culminated in fierce controversies in Parliament ("Reichstag"), in the course of which the Catholic Centre Party and the Social Democrats... sharply attacked the Reich Government because of the so-called "colonial scandals", which had received wide press coverage.¹²⁸

¹²⁷ Hollmann, "Reichskolonialamt: Bestand R1001." Introduction to Finding Aid, Section 1

¹²⁸ Hollmann, Introduction Section 2.

These developments are interesting because the decision of the German metropole to increase the size of their colonial administration occurred during the ‘open public criticism’ to news of issues in the colony and the resistance of the Herero and Nama against German rule. These developments in colonial bureaucracy may have happened in response to the challenges of upholding German rule, as noted by Kuss when Leutwein requested more Protection Force members in the face of continued resistance and uprising, but also, these changes could have just as well occurred in the continue interest of upholding order to make the colonial economically viable.

Colonial Economics

Was the colony actually successful in economic terms? George Steinmetz writes in *The Devil’s Handwriting*, “The biggest and oldest of the land and mining societies, the German Colonial Society for South West Africa, (*Kolonialgesellschaft*), was inactive during the colony’s first two foundational decades” and only made a profit during the 1904 “German-Ovaherero war” and in 1908, when mineral discoveries were made.¹²⁹ Steinmetz’s account is very interesting, given the economic emphasis that the Germans developed in the two decades since the 1884 founding of the colony. In Steinmetz’s introduction to *The Devil’s Handwriting*, he provides some theories that generally apply to how a colony constructs its ‘Native Policy’:

Native policy depended on the colonized aggrieving to play their assigned roles.

Where this didn’t occur, colonies felt compelled to look for an alternative approach or to move away from native governance altogether, abandoning the colony or annihilating its inhabitants.¹³⁰

Steinmetz’s theory is useful in understanding the perspective that German political actors like

¹²⁹ Steinmetz, 136.

¹³⁰ Ibid, XIX.

Leutwein had when faced with the pressures of making the colony economically viable, given the resistance by the Namibian population, and the general hardships of the sparse and hard natural conditions of most of the colony. To what extent did the relatively unsuccessfully returns from the colony motivate an uptick in violence as a means of ensuring and establishing order in the colony?

The German Diamond Mining Society's records from the later colonial years do suggest a relationship between economic goals and colonial order, and the violence and corporal punishment that accompanied it. Steinmetz had mentioned that diamonds were discovered in 1908. The 'diamond rush' of 1908 did not fully pan out until the final years of the colony there were more diamonds in carats being mined and the size of the labor force had increased significantly.¹³¹

Interestingly, the Germans founded a protective zone around the wide general area where mineral riches were discovered. A map from the archives shows that the area was along the western coast of the colony in the immediate area around Lüderitz Bay, the earliest German port settlement in the colony. (Figure A) The protected mining zone also extended south along the coast in especially sparsely populated areas that contained desert. The zone was divided in about 14 particular sectors. It appears that only several of these zones were active and successfully being mined for diamonds, in particular.

In the 1914 to 1917 Report, which oddly covered the span of several years after 1915 despite that the colony was lost to the British during the First World War. "Our production reported since the end of July of 1914" was 87.553 carats of diamonds for remaining 6 months of 1914. However, no production was reported in 1915. 1916 has meager returns of 23,685 carats,

¹³¹ Reichskolonialamt: „Deutsch Diamanten-Gesellschaft m.b. Berlin – Berichten. (German Diamond Society – Reports between 1912 -1914), December 1912-1914, Bestand R 1001/1396

and diamond extraction picked up in 1917 and 1918, which 59,198 and 63,945 cartas respectively.¹³² These numbers suggest that the Germans reached the peak profitability from resource extraction just at the start of the First World War.

The Germans had won the conflict against the Herero and Nama, and by 1908, most of the indigenous population was landless and removed from any access to their previous ways of life. The Germans had put many Herero and Nama into forced labor during the war. The Germans also used contract labor in a similar regard, as contract labor was also regulated within the 1896 legal decree concerning criminal punishment for the indigenous population in the colony. Sections of the German Diamond Mining Society reports mention a type of 7-month contract that workers were employed in. When the Germans subjected indigenous people to contract labor these people were also eligible for extreme corporal punishment for crimes as insignificant as 'laziness' or as ill-defined as 'insubordination'.

In 1912, there was a total of around 708 Herero workers and 28 Nama workers listed under Worker Personnel for 1912 for the German Diamond Mining Society. There were also around 1,000 mixed race Namibians, who the Germans listed as "*Farbige*".¹³³ Whereas, the report only lists a total of 92 '*Weisse*' German workers. From these numbers, it is obvious that the Germans did not hold positions of hard manual labor in the means. In just one year these numbers grew to 1,300 for the '*Farbige*' workers and 888 Herero and 45 Nama workers. Yet, the number of German workers stayed the same at 92. It is unclear if these numbers included indigenous laborers who were employed under forced conditions or if they were 'voluntary' labors who had

¹³² Reichskolonialamt: „Deutsch Diamanten-Gesellschaft m.b. Berlin – Berichten. (German Diamond Society – Reports between 1912 -1914), December 1912-1914, Bestand R 1001/1396

¹³³ Reichskolonialamt: „Deutsch Diamanten-Gesellschaft m.b. Berlin – Berichten. (German Diamond Society – Reports between 1912 -1914), December 1912-1914, Bestand R 1001/1396, page 4 of 1912 report.

signed labor contracts.

The ability to profit from these diamond mines was likely a main concern of the British when they took control over the colony following the conclusion of the First World War. There are a handful of letters in English found amongst the materials of the German Diamond Mining Societies reports written between the administrator of South-West Africa, A.J. Waters and German officials in Berlin from 1920 to 1921.¹³⁴ While the exact details of their squabbles are mundane, the bizarre switch in the archives from German to English serves as an interesting symbol of how the Germans had lost their position of hegemony in the region.

Legal Conundrums

There were two factors related to the case of violence and German colonial law. First, was that often the colonial law was obscure and ill-defined. The murkiness of the law created a situation that allowed for excessive violence. Second, was the motivations of those involved: both the individual actors involved, such as a lower-ranked German Schutztruppe soldier, and the general motivations of the German Empire in the colony. When these two points are considered together it can be understood how these instances of violence were allowed to occur. There is a connection between how the document was written and the motivations of the Germans in the colony, and the law provides insight into the issues that were important to Germans and reveals how the law itself reflects the German focus on maintaining order for the sake of ensuring the colony's economic success.

Analyzing the German Empire's legal system, in connection with the empire's economic interests in the colony, effects of the written law, and the colonial law in practice, provides for an

¹³⁴ Bestand R 1001/1396, Letters 74, 83, 84. 1920-1921.

understanding of how power and control were exercised by the Germans within the reaches of their law. The Blue Book reveals that during German rule of South-West Africa there were numerous instances of violence that were directed at the indigenous population by Germans. Although violence occurred on the largest scale during the 1904 uprising, it is not limited to the well-documented 1904 uprising and the ensuing conflict, as was discussed in Chapter 1 regarding the skirmishes that occurred leading up to the signing of the 1894 Protection Treaty.

In Part 2, Chapter 1 of *Words Cannot Be Found: An Annotated Reprint of the 1918 Blue Book Report Blue Book*, the translation of a German Empire law issued in 1896 titled “Natives - Criminal Jurisdiction” sheds light on the ways in which Germans were able to project control and power over indigenous Namibians. Many of these lower ranked soldiers were also given large latitude under the 1896 decree to exercise their own decision making in matters of justice. The Blue Book gives evidence that there were instances of criminal processing against Namibians on the basis of insubordination, cattle theft, or trespassing related offenses.

The decree allotted a significant amount of independence to the various legal authorities, that coupled with the law’s terrible ambiguity, allowed for many scenarios of injustice. The law becomes more nuanced in how it allows the “Bezirksamtman”, or District Officer, to delegate out persons who may act on behalf of the District Officer. These individuals would then carry with them the authority to make decisions relating to punishment of “natives”.¹³⁵ The remaining sections of the 1896 decree give more detailed guidance on how punishment is to be applied for certain crimes and limits and restrictions on to the severity of punishments, yet, it should be noted that there is significant room for openness in interpretation.

This law is significant because it was the legal mandate where the Germans were able to

¹³⁵ Gewalt, Silvester, and Union of South Africa Administrator's Office, *Words Cannot be Found*, 251.

bridge the gap between the German Imperial Criminal Code and its absence of corporal punishment. As the Blue Book report notes, “the code contemplates the following different forms of punishment- Death (by decapitation), serve imprisonment (*zuchthaus*), detention in a fortress (*festungshaft*), lighter imprisonment (*gefängnis*), simple imprisonment (*haft*), and fine.”¹³⁶ These were also forms of punishment that were not allowable, or not in use in Europe, save for some instances of execution through capital punishment.

The 1896 law “Criminal Jurisdiction with regard to natives: German South West Africa” stand out in stark contrast to the German Empire’s criminal code. Types of punishment that the law includes in Section II is as follows: “corporal punishment”, which includes “flogging and caning”, and “imprisonment with hard labour, imprisonment in irons, death.”¹³⁷ These types of punishments were inflicted in the colony for petty crimes and were typical punishments even during times of peace, however; they were also amplified in times of war as part of the extreme violence that occurred in the genocide of the Herero and Nama between 1904 and 1908.

Overall, the 1896 law is significant in two ways. First, is that the law sets up jurisdiction in a way that allows for the district officers to exercise a significant amount of power independent from the Governor by having control over matters of criminal punishment, as well as delegating these powers out to multiple parties. Section II, part 14 provides for the greater potential of an individual to act with the authority of the court, but beyond the realm of sovereignty of the Governor. It states:

In the case of the outlying stations and official expeditions into the interior of the country the provisions contained in sections 1 to 13 of this Ordinance apply save that with regard to the exercise of criminal jurisdiction the officer in charge of the

¹³⁶ Gewalt, Silvester, and Union of South Africa Administrator's Office, *Words cannot be Found*, 250.

¹³⁷ *Ibid*, 251.

station or the chief of the expedition is substituted for the District Officer.¹³⁸

It seems likely that the German Empire would only allow for this extension of power to happen due to the difficulties of covering and extending the colonial rule of law throughout the whole territory, in the hopes that this would allow for quick and efficient resolutions for any disruptions of the law by indigenous Namibians. It is interesting then, that for the purpose of maintaining order in the periphery, the hierarchical nature of the German system of law is forsaken.

Second, is that the types of corporal punishments allowed by this law are exceptional in their severity. Corporal punishment, such as flogging, and chaining, are not accounted for as types of punishments in the German Imperial Criminal Code. Section 2.6 of the 1896 decree gives the Governor the responsibility of regulating the instruments that may be used for corporal punishment and also limits the amount of punishment that may be lawfully inflicted unto a lawbreaker.

The Governor's authority in the matter of regulating punishment is dampened by the loophole in Section 2.14. The independence allowed to the district office to designate agents to act on their behalf in the regions far from the court, again extending the legal authority to carry out these exceptionally severe forms of punishment into a zone that is far from oversight by the colonial governor. E.H.M. Gorges, the South African civilian administrator of British South West Africa, wrote in January 1918 in the Preface of the Blue Book, "The authority delegated to minor officials to flog or chain natives for certain offences was indulged in to the extreme by practically every member of the police force in the most trivial cases of complaint by asters, and it is known that numerous assaults were committed on native women, and for the most part, went unnoticed or unpunished."¹³⁹

¹³⁸ Ibid, 251.

¹³⁹ Ibid, 9-10.

The 1896 decree's connections to the German Empire's interest in maintaining order for ensuring economic benefit becomes clear when considering the way that section 17 of the decree is written. This is the section that is perhaps the most open to many different kinds of interpretation, under the heading, 'Disciplinary Powers of the District Officers and Officers in Charge of Outlying Stations'

Natives employed who are employed as servants or under a contract to work may, on the application of their masters or employers, be sentenced as a disciplinary measure by any other officer entrusted with the exercise of criminal jurisdiction (Sections 1, 14) to the following punishments, viz., corporal punishment, together with imprisonment in irons or imprisonment in irons alone, for a period not to exceed 14 days, for the following offences. Continued neglect of duty and idleness, insubordination or unwarranted desertion from their places of service or employment, as well as any other serious breach of the condition of service or employment. The provisions of Sections 2 to 9 and 12 with regard to judicial punishments are applicable to disciplinary punishments.¹⁴⁰

This section of the decree became dangerous when considering that even for as nonspecific as a "neglect of duty" or "idleness" could be met with severe punishment. It is also noteworthy that the punishment is hardly prescribed, restricted or limited. The only instructions provided are that isolation in "irons" is not to be longer than two weeks. These harsh punishments for rather insignificant reasons, coupled with the ability granted in the 1896 of most German officials to decide the crime and carry out the punishment without first considering higher authorities, creates a dangerous situation where Germans would be able to project power without any checks

¹⁴⁰ Gewald, *Words Cannot be Found*, 252.

on their authority.

Why would this decree deviate from a tradition of German positive law, which describes situations with exacting detail and is known for its rigidity? The section itself is situated in a way that it stands apart from the other sections of the law, underneath its own heading. The topic of the law is in regards to “Natives” who are employed as servants or contracted to work (presumably for the colony), and the section is granting the ability to punish these Namibians to *both* the district officer and their subordinates, and to their “masters” or “employers”. It seems that the German Empire was either trying to entirely prevent instances of insubordination by “Natives” who were employed by the colony or working for German settlers, and of course, the extreme penalty for doing such may have been a deterrent.

If it was indeed the case that the law was a deterrent, then the extreme nature of this section’s punishments in relation to the not as severe crime, would be expected to not have been enacted upon. Yet, there continued to be violence against indigenous Namibians who were working for the colony. A British report, built from interviews by British subjects who had spent time in the German colony, titled “In German S.W Africa: Further Startling Allegations: Horrible Cruelty: British Subjects as Combatants, Cape Argus, 28th September, 1905”, contains disturbing accounts violence against women and children laborers in “working gangs” at Angra Pequena, numbering in the hundreds, they were forced with carrying and transporting extremely heavy loads of grain, and when it became impossible to carry on without resting, they would face corporal punishment from the Sjambok, a type of leather whip.

The British subject who provided the account says, “When they fall they are sjamboked by the soldier in charge of the gang, which is full force, until they get up. Across the face was the favourite place for the sjamboking and I have often seen the blood flowing down the faces of

women and children and from their bodies, from the cuts of the weapon.”¹⁴¹ It is possible that the legality, in the eyes of the soldiers in charge of this forced working gang, was derived from the 1896 decree, in how section 17 allowed for the punishment of idleness with corporal force. In any case, the lack of supervision and restriction on punishment, coupled with the fact that the bulk of the Protection Force constituted non-commissioned officers who, as Kuss highlighted, had ‘nothing to lose’, and likely reveled in their newfound authority and ability to project power.

An additional example highlights how a military court attempted to uphold German rule of law, and in a way, bypass the restrictions of the law itself, to guard against future cattle theft. The case highlights dissonance between the metropole’s conception of legal proceedings, and the independence that the officials of the colonial institutions had in deciding sentences and in carrying out punishments. The case happened in September of 1914 in Waterberg, and concerned a native tried with cattle theft. There was loose and questionable evidence, evidence nevertheless produced by a white German settler, and it seemed the accused pleaded not guilty:

‘Though the accused denies all guilt, yet the Court has come to the conclusion that the accused himself assisted in the stealing of stock and that he has even been the leader of the gang. As a lot of small stock has disappeared in this locality lately, and according to the investigation of the police and troops the offenses has been committed by natives, the court is of opinion that they must impose the death penalty in order to deter the natives and to protect the neighboring farmers and small settlers against further serious losses’.¹⁴²

It is striking how explicitly the court case states that the death penalty was used as a deterrence. I would have expected that this would have been implied and not explicitly made clear. It is hard

¹⁴¹ Gewald, *Words Cannot be Found*, 347.

¹⁴² South West Africa Administrator's Office, Jan-Bart Gewald, and Jeremy Silvester, 254.

to discern the motives of the court in imposing the death penalty. Perhaps the court was wary of organized efforts of Namibians against Germans, as they write, “the Court has come to the conclusion...” that the accused “has even been the leader of the gang”, and notes that missing cattle in the whole locale are attributed to theft by “natives”, therefore, it is possible that the court wanted to quell any chance of organized rebellion, with the memory of the 1904 Herero and Nama revolt in mind.

This case was on the tail end of several years of resurfaced tensions between indigenous Namibians and German settlers. There had been numerous trials of German settlers who, without much provocation, had murdered indigenous persons, often who worked for them on their farms.¹⁴³ The 1918 Blue Book gives evidence that the Governor of the colony believed that his subordinates had acted outside of their allotted jurisdiction and power, which is surprising, given the amount of violence that went unnoticed as the extreme nature of punishment prompted the colonial Governor to telegraph the court:

Governor Seitz telegraphed at once to the President of the Court, Lieutenant von Weiher, forbidding him to execute any more such sentences without His Excellency’s consent. He also drew the attention of the Officer Commanding Troops to the case, pointing out that as the native was not in the service of the Army a field court-martial had no jurisdiction in the matter; that it is not proper to summarily punish stock theft with the death penalty; that it was doubtful whether the members of the Court had not rendered themselves liable to prosecution on account of unlawful proceedings.¹⁴⁴

¹⁴³ There are 9 trials between 1911-1913 featuring German settlers who were charged with either manslaughter or murder of indigenous Namibians, as cited by Helmut Bley, in *Namibia*, 261.

¹⁴⁴ South West Africa Administrator's Office, Jan-Bart Gewalt, and Jeremy Silvester., 254 – 255

The irony of this case is that it becomes evident that the German metropole was facing issues with upholding the order not necessarily from Namibians, but from their own protection force and colonial officials, who had overstepped the boundaries of the law in their own quest to establish their authority over the Namibians.

In 1904, Lieutenant General Lothar von Trotha, who was a prominent military figure in the German Empire, announced some legal decrees for the Protection Force. These “laws of war” substantially expanded the ability of the Protection Force to act violently against indigenous Namibians. Drawing from an earlier legal precedent from 1899 that allowed the German military to use force against “foreign nationals”, von Trotha’s “laws of war” simply replaced “foreign nationals” with “colored natives”, allowing for violent force to be unleashed without any prior judicial check on the use of force.¹⁴⁵ Kuss writes:

According to these regulations, every commanding officer was authorized to shoot all “colored natives caught red handed in the execution of treacherous activities injurious to German troops for example all armed rebels found to be using activities of warlike intent. This is to be performed without prior court proceedings and in accordance with the traditional customs of war (section 7a).”¹⁴⁶

Kuss mainly cites these ‘laws of war’ in regards to responding to the scholarly debate that surrounded von Trotha’s ‘extermination order’, which is often cited as evidence of the genocidal nature of the German response to the 1904 Herero and Nama Uprising. Because she established

¹⁴⁵ Kuss 136-137

¹⁴⁶ Kuss, 137 (citing von Trotha, Bestimmungen für das Militärgerichts-Verfahren etc. während des Kriegszustandes in Deutsch-Südwest-Afrika, (Provisions for the Military Court proceedings, during the war in GSWA, translation by me) 11 June 1904, erlassen (enacted by) von Trotha, BA/MA Freiburg, RW 51/12.

von Trotha's essential reusing of the 1899 law, she claims that he was not "aiming at a specifically cruel war of racial extermination" and, "nor can they be advanced as evidence of a targeted eliminationist policy developed in early 1904."¹⁴⁷ I think Kuss is greatly underestimating the tone and influence of von Trotha's legal regulations of the Protection Force. Kuss even goes on to write, "von Trotha's laws of war did considerably extend the scope for the use of armed force" and "afforded the [Protection Force] men considerable leeway for action." In fact, Kuss also undermines her point in dismissing the severity of von Trotha's claims, as she writes on the following page, that in spite of the German Empire's frequent use of positive law, which is characterized by its rigidity and binding nature, the Protection Force soldiers disregard "the extensive battery of legislation regulating their behavior" and "believed themselves to be virtually immune from punishment."¹⁴⁸

The attitude of the Protection Force soldiers that Kuss highlighted, serves to explain the significant violation of the 1896 degree that occurred, as mentioned earlier in the section on the cattle theft case. The biggest irony of the German Empire's legal system concerning German South-West Africa is the ambiguity found within the supposedly positive law, attempting to bring social order to the colony by mitigating the challenges of a finite ability to spread the rule of law over a vast territory. Yet, the Germans were creating a situation in which most colonial officers would be able to abuse their power in deciding the course of actions in regards to criminal proceedings against indigenous Namibians.

Between 1884 and 1900, German South-West Africa had made numerous major shifts into a full-blown settler colony. Policy changes within the colony made it so that economic gain and social order were intertwined as necessary conditions for achieving financial gains from the

¹⁴⁷ Kuss, 137

¹⁴⁸ Kuss, 138

colony. To this end, the Germans hoped to subdue the indigenous populations and allow German settlers access to land holdings for purposes of cattle and agricultural production.

This chapter argued that there was a legal basis at some level behind some of the instances of violence that occurred in the colony. A legal framework aided the Germans in these economic goals and provided the elements of crime and punishment that ensured that the Germans would be able to establish their hegemony within the territory of South-West Africa. What ensued throughout the colonial period was many instances of cruel punishment. The laws that applied to the indigenous population were different from those that applied to the Germans, creating a double-standard. The 1896 Decree was the prime way in which the German Empire legitimized the usage of violence. Sections of the decree revealed the economic connections between the ambiguity of the law and the provisions for extreme punishments, especially when it came to addressing general issues of insubordination and the supposed 'laziness' amongst indigenous workers.

A darker side of the 1896 decree was how it was utilized after the devastating Herero and Nama War. The disruption that the war caused within the indigenous community created labor shortages and forced labor was practiced and supported by the 1896 decrees allowance for corporal punishment. In the diamond rush between 1908 and 1914 these matters all intersected, where forced or contract labor was used in mining operations. Indigenous workers had lost any other access to means of production in their new landless state and had no choice but to enter into these forced labor situations where they endured harsh conditions and unfair treatment under a German legal framework that put economic gain above the lives and human rights of the indigenous population.

Chapter Three: Colonial Order through the Visual: A Comparison of German and British Colonial Photography in Namibia: 1880 – 1920s

Visual sources provide a different perspective into some of the questions of law and violence, and issues of territoriality in German South-West Africa. This chapter is, at the general level, concerned with how German concepts of colonial order, control, and dominance can be understood through visual artifacts such as photographs and postcards, and if these representations differ in the British era of South-West Africa after 1915. For example, the framing of certain objects, buildings, and people in these photos indicate certain dynamics, such as hierarchies of power, between the colonizer and colonized. These readings are important because they help to construct a more nuanced understanding of the nature of colonial rule in this time period than can be provided from the primary sources that were discussed in the previous chapters. The questions brought forth in the previous chapters will be applied to these photographs, and pertain to the relationship between violence and colonial order, the weakening of indigenous sovereignty in proportion to land control, and the changing dynamics of territoriality.

The shifts in the power balance between the Germans and indigenous people in the colony shifted to the extreme in the onset of the Herero and Nama War in 1904. Land was central to the conflict. The relationship between land and power determined the outcomes of the conflict, as when the Germans controlled access to the land it determined the survivability of whole populations of indigenous Namibians. The German *Schutztruppe*, under the leadership and instruction of General von Trotha utilized tactics of encirclement to drive the majority of the

Herero into the desert. George Steinmetz, quoting General von Trotha's proclamation of Oct. 2, 1904, recounts the most damning aspects of his speech:

The Herero are no longer German subjects... The Herero nation must leave the country... All Herero, armed or unarmed... will be shot dead within the German borders. I will no longer accept women and children, but will force them back to their people or shoot at them.¹⁴⁹

The *Schutztruppe* were tasked with acting on von Trotha's ruthless orders. They translated his message into military action and their tactics called for the forced maneuverings of the indigenous population into the desert as men, women and children retreated from the combat. In this way, the land became a deadly weapon, due to the Germans denying their freedom of movement within it. Germany's announcement and their concomitant military tactics caused the dynamics of territoriality to veer to the extreme. The German *Schutztruppe* utilized their brute force to confiscate indigenous land and to carry-out their genocidal tactics to gain complete control over the indigenous population. Contrary to what occurred in the early 1890s when Hendrik Witbooi controlled stretches of land during the skirmishes and negotiation between the Germans over the Protection Treaty, during the conflict the indigenous population was not able to maintain ownership of land and was therefore unable to maintain any level of authority to challenge the Germans.

This chapter will cover photos from both German and the later British rule over Namibia. The German era photographs are centered around the early part of the Herero and Nama War, circa 1906. However, the photographs from the British era are scattered later, circa 1920. The

¹⁴⁹ George Steinmetz, "The Colonial State as a Social Field: Ethnographic Capital and Native Policy in the German Overseas Empire before 1914," *American Sociological Review* 73, no. 4 (August 2008): 602.

study begins by drawing connections between issues of territoriality, and sovereignty over the land through a reading of a photograph that was widely circulated during the era of the German Empire's rule in South-West Africa. Second, will be a discussion of the relations between violence and photographic representation, and how the camera was an instrument of colonization in parallel to guns and firearms, through a comparison of a German era hunting photograph with some photographs by the British Native Commissioner "Cocky" Hahn. Third, is an analysis of a German war memorial album from 1906. This private album features around two dozen photographs from the Herero and Nama War, and can be read as representations of the modernizing projects of the colony, a defense of the purpose of the Protection force, and an assertion of the German soldiers as inheritors as they replaced the position of the indigenous men who are strikingly absent from the album.

The absences in the photographs provide a different understanding of what the German colonial mission and goals were. An analysis of the photographs of these two similar, yet distinct periods provides for an even more nuanced understanding of possible shifts in how colonial order was suggested in the visual language of these photographs.

The shift to British rule in 1915 resulted in a regime change. This period produced photography that not only displayed the domination and rule over Africans, but the victory over a competing colonial power. The sense of hegemony and power within the territory that the Germans had previously enjoyed was quickly gone. The years immediately after the British took over German South-West Africa display a similar focus on modernizing qualities of the colonial mission, such as emphasis on transportation, economic and resource based extraction, as well as colonial towns and settlements. "The occupation could be conceived as a further extension to the

recently configured South African state, an assertion of South African hegemony, a colonial project to displace alternative indigenous and German assertions of identity.”¹⁵⁰

During the period of German rule, cracking down on instances of cattle theft was a prime issue of concern, as indicated in Chapter 2’s court case review. An early photograph taken in December of 1903 by a German photographer named Stolze features a bizarre staging of a man who seems to stand accused of stealing a goat.¹⁵¹ (Fig. 1)

The archive’s caption ‘Little Goatstealer’, taken from a hand-written caption found with the image in a private collection, leads one to believe that the person in question actually is a boy. On further inspection, however, the boy turns out to be a full-grown man. In Namibia’s colonial situation, one might tentatively argue that the picture choreographs biblical reference, ethnic categorization and infantilisation in order to visualize control, shaming and punishment.¹⁵²

The combination of physical punishment of the man being bound by rope, with the public humiliation of standing on the platform of the pedestal suggests that the overall purpose of the photograph was to instill that the German Empire was upholding order. This reading becomes especially clear given its thematic overlap with a matter that was very sensitive to settler colonialism in German South-West Africa: cattle theft.

The man in the center of the photograph is bound with rope, standing uncomfortably upon a pedestal, and flanked on each side by a group of people. This could suggest a sense of

¹⁵⁰ Jeremy Silvester, "Beasts, Boundaries, and Buildings: the Survival and Creation of Pastoral Economies in Southern Namibia 1915-35," in *Namibia under South African Rule: Mobility and Containment 1915-46*, ed. Patricia Hayes, et al. (Athens, OH: Ohio University Press, 1998), 96.

¹⁵¹ Stolze, *Stolze Album. Little Goat Stealer in Disgrace*, December 1903, photograph, National Archives Namibia: Digital Namibian Archive (NAN 1983).

¹⁵² Wolfram Hartmann, Jeremy Silvester, and Patricia Hayes, eds., “Policing and Control”, in *The Colonising Camera: Photographs in the Making of Namibian History* (Ohio University Press, 1999), 43.

order and control. It also suggests that crimes, even seemingly petty ones, shall not go unnoticed or unpunished. The crowd to the right of the photo are Namibians, while the left side of the photo features Germans, dressed in formal attire.

The public spectacle of the event is especially unsettling. The German men have top-hats and tobacco pipes, suggesting it was a leisurely spectacle. It is difficult to read the emotions of the people in the photograph, and is thus difficult to understand the tone of the gathering, and to what extent the photograph was for a laugh or not.

Everything about the photo draws attention to the man on the pedestal, highlighted by the central framing of him in the middle of the photograph and the elevated positioning atop the pedestal. The viewer's eye may also be drawn to the many people who are pointing at him. The fact that both Germans and indigenous Namibians are joining in on the public shaming is suggestive of how the photographer was interested in projecting that they were able to bring together the Germans and the 'natives' in unison to combat this type of theft through public shame.

However, knowing that this was a widely circulated photograph within Germany allows one to conjecture upon what purpose or meaning that the photograph had in the minds of the German. Did this photograph mean something different for the viewer who was in Europe, as opposed to a viewer who was closer to the reality of crime and punishment in the colony? A German situated back within the metropole they could have viewed this photograph as an indication that the colony was indeed under German control. The type of punishment occurring is lessened, as the caption calls the man a "little goatstealer" lessening his stature and making the crime appear more juvenile. After all it was just one goat. The Germans back in the European continent may have very well been more concerned with general insurrection or colonial revolt;

and the image of the goat stealer only serves to reinforce that the types of crimes to be concerned about are petty and even laughable.

As this essay is undergoing some direct comparison of photographs of Namibia from both the German and British eras, it is important to specify that there is some continuity between the eras, most notable highlighted by Hayes, Hartmann and Silvester: “German colonialism left enormously powerful vestigial influences in the form of settler photographers who remained in Namibia after the mandate, or immigrant photographers who left Germany in the 1920s and 1930s, to say nothing of its huge photographic archive.”¹⁵³ Furthermore, there were similar goals between the two states: both wanted to maintain a sense of order, and the British, especially, were concerned with establishing the legitimacy of their rule.

“Much of the early body of photography extant on Namibia comes from the photographers of a defeated colonial power, Germany, whose administration ended during World War 1.”¹⁵⁴ When the German Empire lost its colony due to the British occupation of 1915, there was a shift in power, or a transition in power from the German Empire to the British Empire. The British needed to justify their continued rule over the colony to an international stage, and to this end, re-used photographs from the German Empire archives with the purpose of painting the Germans in as worst of a light as possible, for example, the 1918 Blue Book.

A comparison between the visual presentations of the ‘Shark island’ *Konzentrationslager* with that of the later German Prisoner of War Camp located in Aus, South-West Africa in 1916 reveals stark contrasts in living conditions, obviously based upon differences in circumstance. Yet, there is a complicated role reversal that occurs for the German *Schutztruppe*. The

¹⁵³ Ibid. 3

¹⁵⁴ Wolfram Hartmann, Jeremy Silvester, and Patricia Hayes, eds., *The Colonising Camera: Photographs in the Making of Namibian History* (Ohio University Press, 1999), 3.

Schutztruppe had once held the hegemonic position. The Germans were the ‘victors’ against the indigenous uprising. However, in 1915 and onwards, after surrendering to the British, they were placed into a prisoner of war camp where most of them remained until the end of First World War.¹⁵⁵ Thus, there was a complete reversal of fortune for the Germans from their once hegemonic power in the colony to the position of prisoner.

While conditions varied widely between the camps, both parties were left to their own devices to construct buildings to live in during their time at the camps. There is a lot of visual disparity between the make shift homes of the Namibians on the island,¹⁵⁶ as compared with the uniform, standard issue tents.¹⁵⁷ (Fig. 2 and Fig. 3) This is amplified later when the Germans constructed their own quarters by manufacturing bricks.¹⁵⁸ (Fig. 4) The result was plain and sparse brick and mortar buildings constructed from scratch. The German camp at Aus was isolated in the harsh desert. The dwellings appeared lavish when compared to the dwellings constructed by the Namibian survivors who had been forced onto the shark island camp.

The ‘War Memories’ Photo Album: The Colony in the Eyes of the *Schutztruppe*

The German *Schutztruppe* Protection Force held an important position in the colony as the enforcers of colonial order. The photos contained within the album can shed some light upon the ways in which the German *Schutztruppe*, who were literally on the frontlines of promoting

¹⁵⁵ Johann Bruwer, <http://www.namibiana.de/de/prisoner-of-war-camp-aus-1915-1919.html>

¹⁵⁶ Fig. 2: Unknown, *Photo of the death camp at Shark Island, German South West Africa (now Namibia)*, circa 1905, photograph, Wikimedia Commons.

¹⁵⁷ Fig. 3: Unknown, German POWs lived in tents at Aus camp during WW1, December 1915, photograph, Namibian National Archives: Digital Namibian Archive (National Monuments Council: Aus: Prisoner of War Camp World War 1).

¹⁵⁸ Unknown, German POWs at Aus making bricks for camp housing, December 1915, photograph, Namibian National Archives: Digital Namibian Archive (National Monuments Council: Aus: Prisoner of War Camp World War 1).

German colonial interest by force, chose to represent the conflict and colony. These soldiers were often the literal enforcers of the law that has been discussed so far in this project. Therefore, turning to the ways that these men choose to represent their colony and the people, landscapes, and events adds an additional layer of understanding of how the German Empire was able to project their control over indigenous Namibians.

The National World War 1 Museum and Archives holds a photo album from the Herero and Nama War.¹⁵⁹ (Fig. 5) The photos were produced circa 1906. There are 24 photos contained in this album. The album cover is pictured below, and is leather bound, and features the seal of the German Empire with the title *Kriegs-Erinnerungen*, which can be understood as ‘War Memories’. A German veteran of the Herero and Nama War likely produced this album. The general context of the 24 images supports this idea. The album starts with a preface page that features a memorialization of fallen or wounded German *Schutztruppe*.

The second image is scan of a page in the album dedicated to German soldiers who died in the war in 1906.¹⁶⁰ (Fig. 6) The list of names is divided by how the men died. The first section reads, “Murdered by enemy”, and has two casualties listed. The second reads [Death] “after a serious disease.” and has eight casualties listed.

While at first glance the photos appear to be of candid unplanned photography, a further analysis recognizes some common threads between the photos. They fall into several categories, one being portraits of indigenous life, the second, scenery of the colony, and the third is modernity as seen through snapshots of colonial buildings, transportation, and railways. Given

¹⁵⁹ Cover of Photo Album, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95).

¹⁶⁰ Image of a memory plate listing the German soldiers who died during the war of 1906, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.21).

the subject matter of the *Kriegs-Erinnerungen* album as relating to the colonial war, and the introductory memorial page of the album, it would be plausible to assume that the album would concern itself with tropes of the visual military language. Yet, within the entire album there are no photos depicting violence, no battles, no scenes of destruction, or post-conflict aftermath, and no inclusion of Namibian males, who were the ‘enemy’ in the eyes of the German Protection Force. There are no formal photographs of the soldiers lined up in uniform. The series of photos are varied in subject matter as if they were a candid vacation photo album.

The people who took the photographs were not interested in depicting violent scenes of a war-like nature. The images do not include any scenes of destruction, and do not overtly display any weapons. Thus, the exclusion of weapons reinforces the idea that the photographer/s were able to portray their military power and control through more subtle forms of visual and symbolic representation. For example, the photographer/s were able to suggest their colonial dominance and power in the way that they framed their photographic subjects. These subtle forms of colonial power manifest through objects of modernity. These new developments in the colony were signifiers of the supposed progress brought on through German colonial rule. Railways signified economic and technological advancements. These pictures portray the Schutztruppe as having a role modernizers and the true builders of the German colonial state. Moyd wrote on the effect of the *Schutztruppe* as a community in the colony: “The end effect was the creation of military communities whose members helped reproduce the Schutztruppe and, in turn, to make the German colonial state.”¹⁶¹ Four photos in the album show a wide range of colonial structures. In Figure 7,¹⁶² there is a wide view of the church at Keetmanshoop and what

¹⁶¹ Moyd, *Violent Intermediaries*, 41.

¹⁶² Church and large fortress - likely Keetmanshoop, GSWA, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.11).

appears to be an armory or some kind of a fortified structure. The church has a dominating spire that has a prominently placed clock. Dozens of people are seen strolling through a central unpaved square or standing near the church. The newly constructed buildings and agriculture related buildings and fields signified the productive goals of the settler colony, and churches, reminiscent of the earlier drives by German and European missionaries in their pre-colonial mission to educate and spread European Christianity. Figures 8 and 9 feature an agriculture field with livestock pens,¹⁶³ and what could be a trading outpost with German soldiers posing on the front porch.¹⁶⁴ (Fig. 8) (Fig. 9) It is notable in figure 8 that the German livestock operation is the exact opposite of the pastoralist way of raising and ranching cattle, as the Germans have the livestock enclosed in rigid fenced areas. It is a visual metaphor of how the Germans are replacing the indigenous forms of production with a new mode of production that favors fixed and sedentary operations.

The inclusion of these major themes amongst the photographs suggests that the photographers were able to represent their sense of power and dominance through other means than violence and force. While modernity is not seen from the advanced weapons, such as the machine gun or through war itself, it is explained by focusing on the tangible aspects of the developing colony. These aspects are what their military mission was ostensibly protecting and supporting, such as the mission of building new colonials settlements and farming.

Figure 10 is of multiple railroad tracks along some out-buildings. The tracks could be near a station, as there are separate tracks converging. The perspective of the photograph is from

¹⁶³ Agriculture field and livestock pens., circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.19).

¹⁶⁴ German soldiers in front of what might be a trading outpost, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.10).

standing on one of the bends of the track, as if the viewer is riding on a train.¹⁶⁵ (Fig. 10) There is a large pile of debris between the two main branches of the tracks, as if the construction had recently finished.

Outdated wagon trains lead by mules would be replaced with new steel railroad tracks. Figure 11 and 12 both feature long wagon trains, that stretch across nearly the whole photograph.^{166 167} Dust is kicked up by the wagons. It is presumed that these wagon trains are carrying goods for the war, as Figure 13 is of a field camp scene at a semi-permanent settlement.¹⁶⁸ This camp has many boxes of shipments that appear similar to the crates and boxes that were shipped in figures 11 and 12. There are various carts and wagons stored at a field camp, with a soldier standing guard. Two pieces of field artillery are seen in the background atop a hill in what is presumably a defensible position, given its height and vantage point over the camp. These carts are on wheels, ready to be strung together in a wagon train. They may have included some munitions, as there are two field artillery cannons, which appear to be the 7.7 cm Feldkanone 96, which was a precursor to the updated FK 96n.A that was widely used in the First World War by the German Empire. These field cannons obviously ushered in a huge advantage over the indigenous population as far as military tactics were concerned.

Despite the exclusion of weapons in the photos there is one trope that is consistent with visual military language and symbolism: the uniform. All German males are in military uniform,

¹⁶⁵ Railroad tracks in GSWA, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.18).

¹⁶⁶ Mule wagon train pulling a covered wagon, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.16).

¹⁶⁷ Mules pulling uncovered wagon. Buildings in background., circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.15).

¹⁶⁸ German soldier standing near many crates and field artillery. Cannons are also emplaced on hill in background, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.8).

which appear to be khaki uniforms. The Germans were wresting control over the 'native' land by conquering the wild landscapes of the colony. Therefore, the fact that several photographs are dedicated to portraits of a single soldier out amongst the expansive wilderness seems to suggest two things, one is a sense of sublime wonder at the natural environment, and the second, suggests a conquering of the land, and a survey of the lands holdings. Figure 14 features a German soldier in uniform standing in front of a panoramic pastoral scene.¹⁶⁹ Despite the seemingly idyllic nature of the photograph, the country-side is littered with small outcroppings of buildings, and the foreground feature a stone livestock pen that is literally enclosing the cattle that otherwise would have been relatively free to roam. Figure 15 and 16 are similar and both feature a soldier posing in the midst of nature scenes. Figure 15 features a man posing in a rocky outcrop in an especially rugged landscape.¹⁷⁰ In Figure 16 a German soldier is standing in the midst of lush vegetation.¹⁷¹ It is difficult to discern if it is the same man in each of the photographs. However, the standard German uniform has a standardizing quality and any German male soldier who owns such a uniform would be able to place themselves within these Namibian landscapes with the confidence knowing that they were in control.

Ethnographic depictions were a main feature of the German colonial imagination. The handful of photos that feature Namibians appear to be an attempt by the photographer at depicting daily lives of the indigenous population, especially given the photographs presence in the album as a counterpoint to the other photos depicting the colonial presence. In a broader

¹⁶⁹ German soldier in uniform standing in front of livestock pen in countryside, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.23).

¹⁷⁰ German soldier standing near rocky outcrop in GSWA, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.22).

¹⁷¹ German soldier standing in patch of vegetation, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.20).

sense, such ethnographic depictions had gained wide popularity throughout the German metropole and were not limited to the medium of photography.

Understanding the past context of these depictions is useful in better understanding the significance of the ethnographic framing of the indigenous women in the *Kriegs-Erinnerungen* album. Especially popular, were ethnographic shows at exhibitions and trade fairs in Germany. “These ethnographic shows presented the Germans as masters of the world, and as benevolent civilizers in the colonies. They also brought home the message to the German audience that there were natural hierarchies of races and peoples, and suggested that the social order in Germany, with its class and gender differences, be regarded as natural.”¹⁷²

Two photographs, Figure 17, and Figure 18, feature portraits of indigenous Namibians. In Figure 17 a woman is posing with her young child.¹⁷³ In Figure 18 there are three women who are posing in front of their home, which is a canvas dome style tent.¹⁷⁴ These homes are tents constructed out of leather hides that were probably placed over a wooden frame structure. Their function is to serve the nature of a highly mobile pastoralist way of life.

The inclusion and presentation of these indigenous Namibians with their homes signify tradition, but also the impermanence of this tradition. In the context of the German colony’s goals to create an economically successful and productive colony; the inclusion of these traditional homes which were suitable only for a semi-nomadic lifestyle characteristic of the indigenous Namibian groups who lived as pastoralists suggests that the ways of life pre-colony

¹⁷² Sebastian Conrad, *German Colonialism: A Short History*, trans. Sorch O'Hagan (London, UK: Cambridge University Press, 2012), 140.

¹⁷³ Indigenous woman and child posing in front of a canvas domed tent, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.4).

¹⁷⁴ Indigenous women standing in front of a dome tent in GSWA, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.5).

are becoming obsolete and are incompatible with the new changes of the colony. Such as with how the rail-road was replacing the wagon train. Recall the living conditions and the make-shift homes constructed at the Shark-island camp, where prisoners had to construct their own makeshift homes in an attempt to survive the inhumane coastal conditions on the rocky island. A common thread between the two is the theme of impermanence. The make-shift structures of the camp, which have the implication of being impermanent and temporary, are not rooted or tied down to an area. Yet, the Germans, in their camp at Aus, even as defeated by the British, were allowed to build permanent structures for shelter.

There are notably no male Africans in these photos of indigenous Namibian homes. This photo album dates to the years of the Herero and Nama Uprising. Therefore, it would be likely that there were no men around, as all men would have been considered combatants under the logic employed by the German Empire's *Schutztruppe*. This exclusion of African men is important as it allows for a more nuanced understanding of how the colonial conflict may have shaped the daily lives of Namibians, and more specifically, underscores the imbalance in the community.

Depictions of the conflict between the Germans and the Herero and Nama indicate the popular imagination of the indigenous males as being especially brutal in demeanor. As discussed in the previous chapters, there were numerous instances of the Germans exercising cruelty, making the Germans' stance hypocritical at best. Recall the attacks on the Witbooi Nama in the 1890s, where there were even civilian casualties. In the 1904-1908 Herero and Nama War and Genocide, many thousands of casualties were civilian.

Patricia Hayes writes on the large postcard industry and photographic economy that existed in German South West Africa: "Photography became a viable economic activity... This

was facilitated by technological innovations and new patterns of photographic consumption in a growing settler society.” She noted that there were numerous photographic studios, and these studios would purchase negatives from people, such as Protection Force soldiers. “Both black-and-white and colour versions of landscapes, buildings and people became available. Images of colonial control, particularly beatings, were numerous.”¹⁷⁵ The private nature of the *Kriegs-Erinnerungen* album as featuring unpublished photography is especially interesting, as it is reflective more upon the individual German, rather than the general German public. In other words, the album gives insight from the personal perspectives of how one or more German *Schutztruppe* soldiers view themselves and their roles amongst the colony and in relation to the indigenous population.

Postcards sent by Germans from German South-West Africa to their friends and relatives in the German metropole feature exaggerated depictions of violence committed by the indigenous population. The one-sided depictions do not display the reality or after-math of the conflict and the toll it took on the Herero and Nama populations.

Figure B is of four postcards that were illustrated with images depicting the Herero and Nama War from 1904-1908.¹⁷⁶ It is striking how the postcards depict the violence and savagery of the Herero. In the top left postcard, a German family appears to have been murdered, and their home engulfed in flames. Herero are seen plundering goods in the background, while another man brandishes a sword, looking at the German male who is captured. This German man is tied to a pole, with blood contrasting heavily against his white shirt. One of the men is wearing a white uniform, with a white hat, a distinctive characteristic of the men of the Witbooi Nama clan.

¹⁷⁵ Hayes, *The Colonising Camera*, 13.

¹⁷⁶ Postcard Collection on Herero and Nama Uprising, *Der Herero-Aufstand in Deutsch Süd-West-Afrika*, c. 1904-1908, illustration, Deutsches Historisches Museum Objektdatenbank (Do 2005/49).

A postcard featuring such violent imagery suggests that the fear of such attacks against German civilians was very prevalent during the war. The postcard itself would serve to heighten a sense of support for the colonial war and the *Schutztruppe*, which was important in a time when there was some scrutiny within the German parliament. Recall Chapter Two's mention of the German Social Democrats, who raised debates and criticisms in the metropole on the grounds of "numerous gross violations of human rights in the colonies."¹⁷⁷ The top right section of the postcard represents the response that the German Empire promised to Germans

Some of the scenes of the Herero attacking settlers has basis in the early conflict, as there were around 100 killings of German settlers. "In almost all the townships there was this strange pause during which, despite unmistakable signs of revolt, even the military would not admit that there was any real danger."¹⁷⁸ Bley wrote that many stemmed from an initial underestimation by the Germans of the seriousness of the revolt, and the lack of Germans taking the threat seriously, including by not heeding warnings from the Herero regarding notice of attacks, and the lack of withdrawal to local forts.¹⁷⁹

The second page of the *Kriegs-Erinnerungen* album listed the majority of casualties from death by serious illness, and seldom are any from direct conflict with the 'enemy', which is incongruous with how the postcards suggest that there were heavy casualties during the conflict. By contrast, the top right postcard features the German *Schutztruppe* version of capturing an enemy. A Herero man is seen captured by a German *Schutztruppe* officer and a soldier. Interestingly, there are three Witbooi Nama men assisting the Germans in fighting the Herero. An exceptional case of Herero who remained loyal in official capacities within the German

¹⁷⁷ Richard J. Evans, "The People's Executioners," in *Rituals of Retribution* (Oxford: Oxford University Press, 1996), 371

¹⁷⁸ Bley, *Namibia under German Rule*, 176.

¹⁷⁹ Bley, 176

protection or police force existed. A regional commander within the Protection Force had recruited 15 young Herero men to join the police ranks, and during the time of the outbreak, were given an ultimatum on whether to stay or not.¹⁸⁰

Another trope featured is cattle, namely, large long-horned cows as well as sheep. In the bottom right postcard, a German Protection Force officers are herding and rounding up the cattle. It is underscoring the ability of the Protection Force to successful control the environment. They control the cattle now, and are bringing control to the cattle. In the background of the postcard there is the aftermath of a battle, flames and dust rise from struggle. In stark contrast, the German soldiers have the cattle in a calm, subdued march: suggesting organized order.

The other photos in the album prominently display German men, who all appear to be in uniform either in field camps, in landscapes, or at a colonial town or outpost, likely Keetmanshoop. The German soldiers' presence as the sole males in the album suggest as if there are the new inheritors of the Namibian landscape. In the absence of indigenous Namibian males, the German soldiers are taking their places. The absence of males in the domestic photographs of indigenous women suggests that these men are absent from their communities.

In the larger context of the ongoing conflict in the Herero and Nama uprising, it can be presumed that nearly all indigenous Namibian men would be considered combatants, especially after 1905, when the Witbooi Nama, who had been assigned by Protection Treaty arrangements to military support duty on the German side, joined the uprising.

Figure 20 from the 'War Memories' album underscores the temporary nature of the indigenous Namibian dwellings, as it shows some of the deconstructed homes, where the hides

¹⁸⁰ Bley, 178

lay in a confusing pile, with wooden sticks and framing jutting out from under the pile.¹⁸¹ Figure 20 shows a less staged portrait of these canvas tents. In this photograph a woman and child are seen amongst the camp. Some women are seen sitting and standing in the photograph in the foreground and background. In the extreme far background, some permanent structures can be seen, which appear to be small stone buildings with corrugated metal roofs. Yet, the main subject of the photograph, as it was framed, was designed to emphasize the canvas tent homes.

Comparing Hunting Trophy Photos

Developing the connection between firearms and the camera provides an interesting way to read some of the photographs from both the German and early British eras of colonialism in Namibia. There are numerous photographs of hunting and wildlife. Paul Landau wrote on the similarities and connections between the gun and the camera. “Like much outdoor colonial photography in Africa, Hahn’s and many of Dickman’s photos register and naturalize white people’s claim to control African landscapes. Their hunting photos in particular assert the mastery of white men over the Namibian environment by displaying the results of white men killing part of that environment.”¹⁸² The digital photography collections of the Namibian National Archives contain numerous photographs of hunting trophies, both from the German era of rule, circa 1890s, and the later British era, including “Cocky” Hahn’s photography.

Figure 21 is an early photograph of a killed zebra that presents the hunt as a very exotic affair.¹⁸³ This hunting trophy photo was also taken by the photographer named Stolze, who had

¹⁸¹ Indigenous woman and a child drying clothes on clothesline near tent camp, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.24).

¹⁸² Landau, in *The Colonising Camera*, 152.

¹⁸³ Stolze, Picture of a dead Zebra, taken in colonial German South West Africa around 1904, circa 1904, photograph, National Namibian Archives: Digital Namibian Archive (Stolze Album).

photographed the ‘little goat stealer’ discussed earlier in this chapter. The staging of two indigenous men, clad with few clothes, posing close to the dead zebra highlights the primitivity that the Germans imagined of the colonies and its peoples. The photo does not fall so neatly into Landau’s characterization of colonial hunting photography as an assertion of “the mastery of white men over the Namibian environment”, as there is no German hunter visible. At first glance, it is ambiguous who killed the zebra, and whether the zebra was hunted by the men in the photograph or not. However, the presence of a camera makes it likely that the hunter was indeed a German. There is no weapon visible in the photograph as if the camera was the weapon.

In figure 22, in a photograph by the British Native Commissioner of Ovamboland, C.H.L. “Cocky” Hahn, a dead lioness is seen in a hunting trophy photograph.¹⁸⁴ Its corpse is draped over the British colonial official “Cocky” Hahn’s vehicle. His dogs are perched atop the vehicle in a whimsical photo. The rifle is seen jutting from the front seat of the vehicle. The vehicle is an updated mode of transportation not typically found in the German era photography; where mules, horses and camels make up the primary modes of transportation. The British era photograph from the 1920s suggests not only that “Cocky” Hahn has dominated the African landscape, but that he has also brought into it luxurious forms of technology, such as the automobile, as well as his dogs, which are also not natural to the environment.

The scene is hard to place, as it is in a featureless grassy field. There are no landmarks visible. If it were not for the lion, the scene could have easily taken place in most parts of the world. Yet, the presence of the British, and European rifles, automobiles, and dogs, suggest that in a way that these unnatural features of the African landscape are in fact becoming normalized.

¹⁸⁴ C.H.L. "Cocky" Hahn, *Dogs of Cocky Hahn with dead lioness on motor-car*, December 1929, photograph, Namibian National Archives: Digital Namibian Archive (Hahn Collection 11873).

Paul Landau also comments on how hunt photography features an “erasure of labour” that was involved in the hunting process. “Men like Hahn use used trackers, gun-bearers, skimmers, and other varieties of African labour. His photographs often efface this use by visually linking the person who put a bullet in an animal with the trophy, and eliminating all the other people involved.”¹⁸⁵ There is a similar erasure of labor in the case of how colonial Namibia was represented in the *Kriegs-Erinnerungen* album. Layered within this erasure is the absence of the presence of male Africans.

In the zebra trophy photograph, the role of the indigenous men may have been as guides, or gun bearers, or in another laborer capacity, any of which would have likely been positions that aided the German in his hunt. Yet, the inclusion of them next to the trophy is not clearly suggesting they were the hunters. Their stances are not triumphant, but rather, they are seated on the ground, down low, actually next to the corpse itself. The positioning is slightly demeaning, suggesting the primitive nature of the men, especially given their dress. In contrast, “Cocky” Hahn’s photograph has no humans. His dogs take the place of the hunter, creating a comical disparity between the small dogs and the giant lioness.

In terms of the ‘erasure of labor’ that Landau notes in colonial photographer, the *Kriegs-Erinnerungen* album features numerous photographs of colonial settlements, as well as a rail-road, both of which likely included indigenous labor. Recall in the previous chapter the numerous instances of forced labor for everything from agriculture to the construction of new rail-ways post-Herero War. These photographs in the album do nothing to suggest that

¹⁸⁵ Paul Landau, "Hunting with Gun and Camera: a Commentary," in *The Colonising Camera: Photographs in the Making of Namibian History*, ed. Wolfram Hartmann, Jeremy Silvester, and Patricia Hayes (n.p.: Ohio University Press, 1999), 153.

indigenous labor played a role in the construction of the colony. Instead, the praise goes towards the Germans, just as how “Cocky” Hahn’s photographer ignored the assistance of Africans.

Instead, these photos of German colonial scenery were suggesting that these are elements of the new modernizing colony. The buildings are designed for the Germans, but are lacking any visual representation of the people who likely constructed these structures. The church featured in the album can be identified as the Rhenish missionary Church at Keetmanshoop, based on a comparison with contemporary photography, as well as a tourist postcard of the building before additions and modifications were made to the structure.¹⁸⁶ (Fig. 22) (Fig. 23)¹⁸⁷ The church appears to have been constructed with local indigenous labor.

The photographers of the *Kriegs-Erinnerungen* album were Schutztruppe soldiers whose primary role in the colony involved equipping rifles and firearms for their duty. Thus, it is interesting that in the album they are instead employing the camera. “Photography already shared a larger vocabulary with hunting, dating back to at latest the 1880s and the heyday of the dry-plate view camera: the Scovill, the Blair, the Anschutz, and the Eclipse.” (151) Applying Landau’s commentary to the photographs of the *Kriegs-Erinnerungen* Album is interesting, as there are no rifles or firearms overtly present, yet, there are indigenous women positioned in the sights of the camera. “One “loaded” the camera, “aimed” and then “shot”, just as one did when using a Martini-Henry or a Peabody rifle.”¹⁸⁸ This is chilling, given that the photographer or

¹⁸⁶ Oddly enough, a contemporary tourist company maintains a website that features entries on historical tourist attractions throughout Namibia that featured a postcard of the church. The architectural features between the church in the postcard and the photo in the album are the same. See Fig. 22.

<http://www.namibia-accommodation.com/listing/rhenish-mission-church-keetmanshoop>

¹⁸⁷ Keetmanshoop Church from side-view, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.24).

¹⁸⁸ Paul Landau, citing Susan Sontag, in "Hunting with Gun and Camera: A Commentary," in *The Colonising Camera: Photographs in the Making of Namibian History*, ed. Wolfram Hartmann, Jeremy Silvester, and Patricia Hayes (Ohio University Press, 1999), 151.

photographers of these photos were likely German *Schutztruppe* members, and as uniformed soldier, their utilization of the camera could be constructed as a metaphor for the gun. “In all these pictures we see the conjecture of hunting and photography, which doubles the effect of obscuring labour and pretending that production and work are being done only by the consumer. The operator of the gun is then masculinized in contrast to a feminized African environment.”¹⁸⁹ The feminization that Landau speaks of in regard to the natural African environment is prevalent within the *Krieges-Erinnerungen* album as well, although, instead it is in a broader context of masculine control over the populations of the colony as well.

The German Empire’s goal to achieve an economically successful colony required, in their view, proper control over the colony. This manifested itself through visual language, especially when the photographer was from the perspective of soldier themselves, who were the main arm of the forceful assertion of German rule of law. The exclusion of African males suggested the replacement of them by male German soldiers, who oddly in this war-time album wielded their cameras instead of rifles. The photographer places the German *Schutztruppe* in a particular role of importance within what the Germans imagined as their colonial project: the simultaneous replacement of the indigenous Namibian male, while replacing traditional aspects of life with new buildings, farming techniques, and related technologies.

¹⁸⁹ Landau, 155.

Conclusion

German rule over South-West Africa began from small beginnings at Lüderitz Bay on the rocky Namibian coast. The land claims were formalized through the Berlin conference, yet the colony faced many challenges. The claims existed only on paper, and the colony itself was surrounded by British and Portuguese colonies to the North, East, and South. The British even maintained an enclave-like port at Walvis Bay, making the Germans share the coast.

The mistrust that stemmed from the German arrival and the subsequent wrangling of indigenous groups into Protection Treaties did little to actually secure the colony. Instead, it caused the erosion of the indigenous community and helped contribute to the animosity that the Herero felt towards the Germans that led up to the 1904 Herero and Nama war. The effects of the war eliminated any of the clauses of the Protection Treaties that respected some abilities of indigenous leaders to practice their customary authority.¹⁹⁰

Overall, this project was concerned with several main questions relating to the relationship between the written law and the law in practice. It was found that there was indeed a close interlinking between the law, especially the law for indigenous Namibians, and the economic goals of the colony. The German Empire utilized the written law for the purposes of economic expansion both early on through the use of Protection Treaties, and later on, through the further implementation of the 1896 decree to acquire and maintain forced labor to make up for labor shortages within the colony after the war had displaced and killed many indigenous Namibians.

The project was also concerned with issues relating to the sovereignty of the indigenous population and how it came into tension with the German Empire's rule of law. To this end, the

¹⁹⁰ Gewald, *Words Cannot be Found*, 165.

project tried to respond to the following: How did the German colonial presence affect the indigenous population in terms of their ability to exercise sovereignty over their land? Recall the first chapter and how it detailed the role of the Protection Treaties in sequestering indigenous authority. The chapter found through an analysis of Hendrik Witbooi's letters that his authority was intertwined with his ability to control his land. Witbooi's loss of land in 1894 echoed the larger loss of land that occurred for the broader indigenous community in the colony in the aftermath of the Herero and Nama War after 1908.

For example, the Herero had lost their ability to own property following the conflict. The landless-ness that followed dramatically altered how the indigenous population would relate with the land, especially as the pastoralist mode of life common before the arrival of the Germans was so deeply tied to the land. One of the few anthropological studies that was contemporaneous with the German period of colonization in South-West Africa was conducted by Heinrich Vedder, whose report provides evidence of the loss of land from the German perspective: "As far as the possession of land is concerned it may be said that since the Herero War 1904-1907, the nation owns no tribal territory. Private acquisition of land is not possible."¹⁹¹ Vedder's account also serves as an example of how an educated European viewed the role of indigenous groups in the colony. Vedder concluded his chapter on the Herero with a warning. He objected to their isolationism, which can be understood simply as their pastoralist mode of life that was viewed as retrograde to the modernizing goals of the colony. "But if they haughtily decline the opportunities offered them for developing and working themselves up and persist in wishing to live an isolated life, according to their own ideas, there are distinct signs that brutalization, degeneration, childlessness, rapidly increasing sexual diseases, bodily debilitation in

¹⁹¹ Heinrich Vedder, *South West Africa in Early Times: Being the Story of South West Africa up to the Date of Maharero's Death in 1890*. (Frank Crass, 1966 2nd Edition), 206.

consequence of spirituous native drinks, will end in their digging their own national grave.”¹⁹² His comments can be understood as a small example of the wider arguments of the European colonizers of Namibia, who wished to make the indigenous population assimilate in a way that was useful and productive for the colony. There was a break between the old ways of life and the new. The tragedy of the 1904-1908 Herero and Nama war produced no “opportunities” for the Herero or Nama communities. Those who survived were landless. “Opportunities” as ‘contract laborers’ in the Diamond Rush between 1908-1915 were likely not safe and fair employment opportunities. The stipulations of the 1896 Decree regarding crime and punishment for the “natives” established the ability of German officials and employers to keep the indigenous population in a state of servitude under the threat and usage of cruel corporal punishment.

The violence that came with the implementation of the law also had a profound effect upon the indigenous population and acted as a catalyst for the expansion of the German colony. Elements of the 1896 decree, especially the allowance of corporal punishment towards Natives, held a special role in the regulation of order within the colony after the Herero and Nama War. Corporal punishment, especially instances of flogging by the Sjambok leather whip, were common punishments inflicted by employers on their indigenous servants or employees. Bley’s analysis of two court cases in 1911 and 1912 respectively revealed common ownership of Sjambok leather whips on farms through South-West Africa. “The practice of beating was so universal that both the Africans and the Germans called on to give evidence could presume a general knowledge of the situation.”¹⁹³ German officials and employers widely practiced beating, which was allowed under the 1896 decree.

¹⁹² Vedder, 208.

¹⁹³ Bley, 262.

German leadership sought to gain ‘mastery’ over the indigenous population. The Germans formulated their strategy of colonial domination on the combination of legally backed confiscation of land and forms of cruel corporal punishment that were both enforced by the armed colonial protection force.

The analysis that this project underwent in attempting to understanding the legal basis behind the colonial history of Namibia is important given that the extreme violence of the period had been overlooked for many decades. However, the Germans’ actions of committing extreme violence against the Herero and Nama through tools of war and legalized methods of punishment during the 1904-1908 Herero and Nama overshadowed the violence that occurred more generally throughout the colonial period of German South-West Africa. As such, the perspective that Hendrik Witbooi provided in his diary of letters is useful at unpacking how the German Empire attempted to gain control over the region of Namibia.

In the public eye, German punishment had the effect of creating scenes of public shaming that promoted colonial control through fear tactics. This was evident in numerous instances, such as the “little Goatstealer” photograph, which publically shamed a man for the ‘petty’ crime of stealing one goat. Numerous court cases in the colony, such as the one discussed in Chapter Two, featured the use of the death penalty for crimes that did not warrant the most severe form of punishment. Hendrik Witbooi wrote to English officials in the 1890s, a decade before the aforementioned instances of public punishment, that the Germans were engaging in unfair and cruel punishments that targeted the indigenous population with more severe forms of punishment than was reserved for the Germans themselves. All of these examples indicated a persistent trend of punishment being used under the German rule of law in order to control the indigenous population.

There are some limitations of this project and the knowledge imparted from the synthetic discussion of the primary sources of this project would be a good launching point into them. This project did not have the chance to expand deeper into issues of comparative colonial law. Some evidence was found that before the Germans had been conducting research into the laws that other European Empires had created for their colonies. This research was conducted leading up to the 1896 decree concerning the crime and punishment of indigenous Namibians in ‘native law’ that was applied only in the colonies. For example, a German envoy to The Hague attempted to better understand the legal systems that were employed by Germany’s European peers and they found that “a particular criminal law” applied for the indigenous population of the Dutch East Indies that utilized some corporeal punishment, save for flogging.¹⁹⁴

An analysis that would compare and contrast the German Empire’s framework of colonial law with that of other European Empires would be fruitful only if the law itself was contextualized with what occurred when the law was put in practice. The goal of this senior project was to understand both how the law was written and how it was used in practice in the case of just one particular colony of the German Empire. However, there is some evidence that in the case of the Union of South Africa, German South-West Africa’s colonial neighbor, corporal punishment was allowed but never flourished to the same extent as in the German colony. German court records show that, for instance, in 1913 “three out of four natives convicted by Courts in German South-West Africa... suffered flogging, while only one native was whipped out of every 150 convicted in the Union [of South Africa].”¹⁹⁵ The colony had a larger

¹⁹⁴ Jakob Zollmann, "Entanglements in Legal History: Conceptual Approaches," *Max Planck Institute for European Legal History: Global Perspectives on Legal History*, 2014, 274.

¹⁹⁵ Great Britain Colonial Office, “Telegram No. 6 Union of South Africa. The Governor-General to The Secretary of State 15th February 1918”, in *Correspondence Relating to The Wishes of the Natives of the German Colonies* (London: His Majesty's Stationery Office, 1918), 8.

indigenous population but instances of corporal punishment, such as flogging, occurred at much lower rates than was the case in German South-West Africa.¹⁹⁶

Someone would be able to complete additional scholarship from where this senior project concluded by comparing and contrasting the occurrences of legalized violence and corporal punishment with other German colonies, and perhaps, colonial competitors, such as the British Empire. This potential analysis would help to better situate the uniqueness of the extreme violence of the German colony and to contextualize my specific argument within the context of other colonial empires, which undoubtedly had violent episodes.

It is also crucial to not forget the contemporary context of Namibian colonial history discussed throughout this project as the relatives of victims of German colonial violence are still seeking an official apology from the current German government. This project did find some answers to how the German Empire's rule of law projected control and power over the indigenous population, and found that the Germans used military violence and legalized corporal punishment in order to secure economic gains. I hope that this project's usage of sources that have not typically been used in historical work on German South-West Africa and colonial Namibian history will help to expand knowledge on how what this colonial period meant in the eyes of indigenous leaders like Hendrik Witbooi, but also from the perspective of the German *Schutztruppe*. Understanding these perspectives and contextualizing them within the legal framework that the Germans built in their colony helps to make sense of a complex period of colonial rule in an area of history that still deserves much work.

¹⁹⁶ Great Britain Colonial Office, 8.

Appendix

Figure A: Map of Mineral Claims – Close-Up of Western Coast of Namibia, near Lüderitz Bay, GSWA.

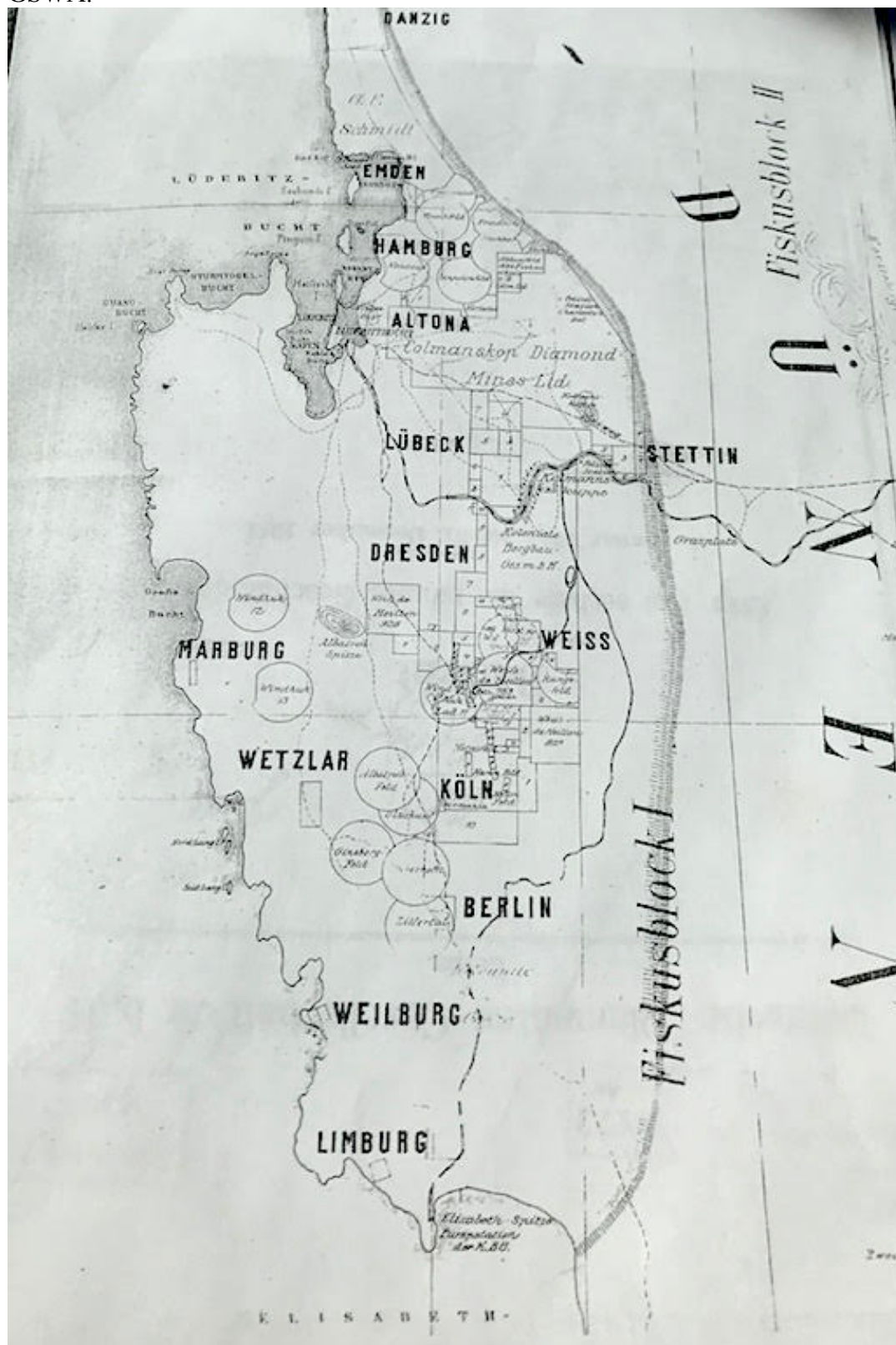


Figure B: Postcard Collection on Herero and Nama Uprising, *Der Herero-Aufstand in Deutsch Süd-West-Afrika*, c. 1904-1908, illustration, Deutsches Historisches Museum Objektdatenbank (Do 2005/49).

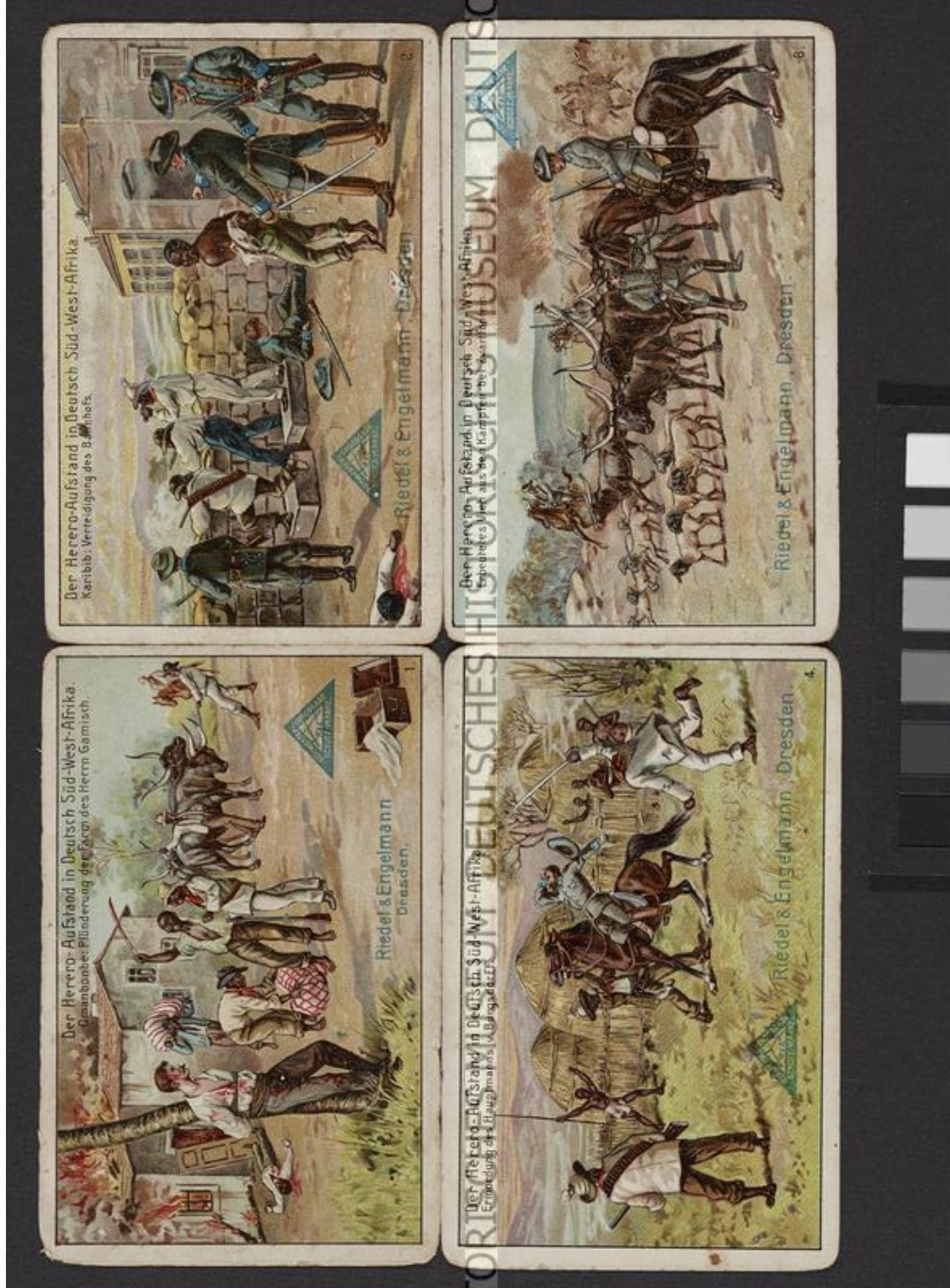


Figure 1: “Little Goat Stealer” Stolze. *Stolze Album. Little Goat Stealer in Disgrace*. December 1903. Photograph. National Archives Namibia: Digital Namibian Archive (NAN 1983).



Figure 2: Shark-island concentration camp. Wikimedia commons.



Figure 3: German POWs lived in tents at Aus camp during WW1. December 1915. Photograph. Namibian National Archives: Digital Namibian Archive



Figure 4: NAN: Aus camp, Germans making bricks to build housing



Figure 5: Cover of Photo Album. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95).

Figure 6: Image of a memory page listing the German soldiers who died during the war of 1906. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.21).

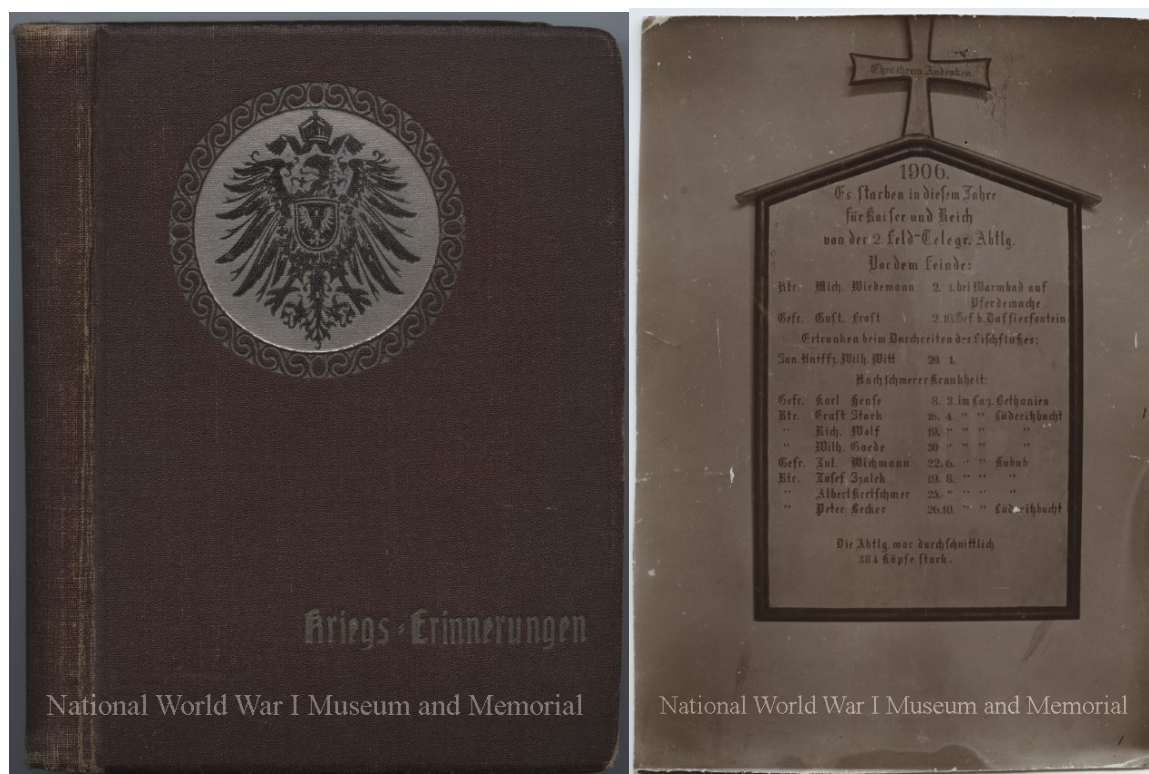


Figure 7: Church and large fortress - likely Keetmanshoop, GSWA. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.11).



Figure 8: Agriculture field and livestock pens. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.19).



Figure 9: German soldiers in front of what might be a trading outpost. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.10).

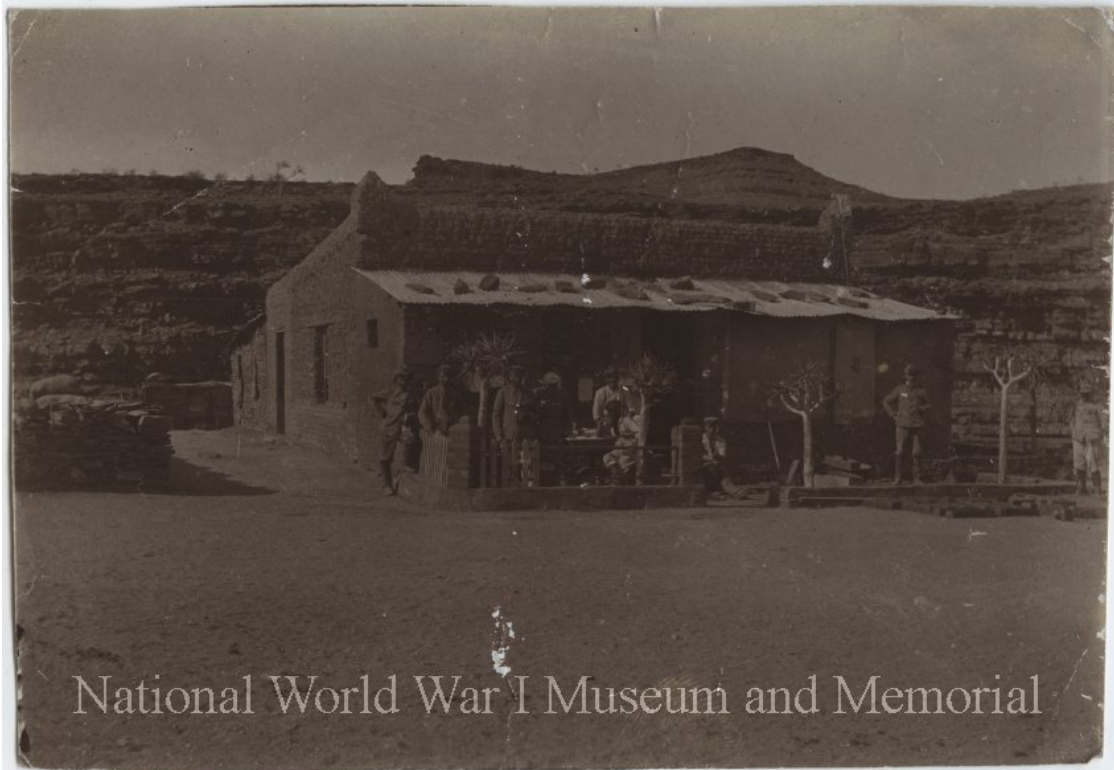


Figure 10: Railroad tracks in GSWA. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.18).



Figure 11: Mule wagon train pulling a covered wagon. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.16).



Figure 12: Mules pulling uncovered wagon. Buildings in background. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.15).



Figure 13: German soldier standing near many crates and field artillery. Cannons are also emplaced on hill in background. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.8).



Figure 14: German soldier in uniform standing in front of livestock pen in countryside. circa 1906. Photograph. National WWI Museum and Memorial: (2012.95.2.23).



Figure 15: German soldier standing near rocky outcrop in GSWA. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.22).



Figure 16: German soldier standing in patch of vegetation. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.20).



Figure 17: Indigenous woman and child posing in front of a canvas domed tent. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.4).

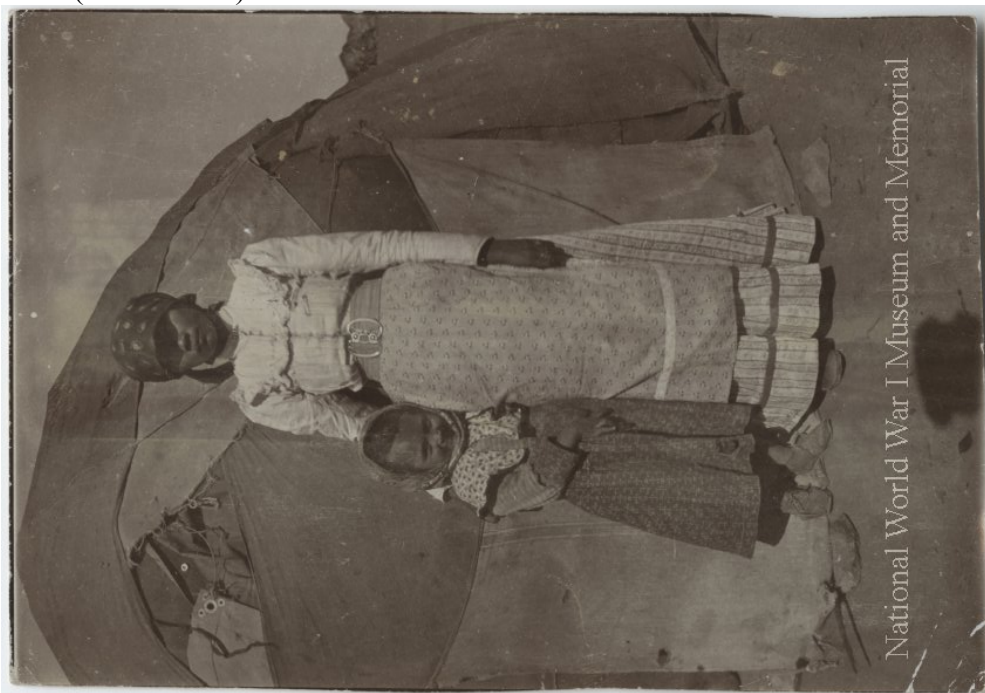


Figure 18: Indigenous women standing in front of a dome tent in GSWA. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.5).



Figure 20: Indigenous woman and a child drying clothes on clothesline near tent camp. circa 1906. Photograph. National WWI Museum and Memorial: (2012.95.2.24).



Figure 20: Stolze. Picture of a dead Zebra, taken in colonial German South West Africa around 1904. circa 1904. Photograph. National Namibian Archives: Digital Namibian Archive



Figure 21: Hahn, C.H.L. "Cocky". *Dogs of Cocky Hahn with dead lioness on motor-car.*
December 1929. Photograph. Namibian National Archives: Digital Namibian Archive
(Hahn Collection 11873).



Figure 22: Keetmanshoop Church Postcard

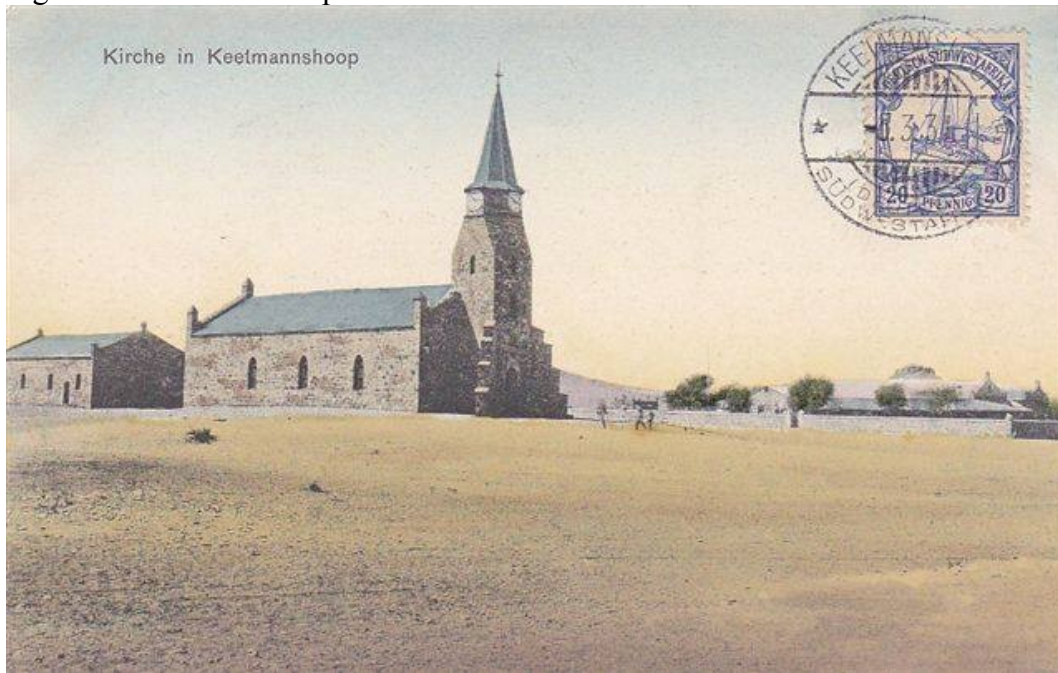


Figure 23: Keetmanshoop Church from side-view, circa 1906, photograph, National WWI Museum and Memorial: Online Collections Database (2012.95.2.24).



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German POWs at Aus making bricks for camp housing. December 1915. Photograph. Namibian National Archives: Digital Namibian Archive (National Monuments Council: Aus: Prisoner of War Camp World War 1).

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Church and large fortress - likely Keetmanshoop, GSWA. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.11).

Cover of Photo Album. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95).

German soldier in uniform standing in front of livestock pen in countryside. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.23).

German soldiers in front of what might be a trading outpost. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.10).

German soldier standing in patch of vegetation. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.20).

German soldier standing near many crates and field artillery. Cannons are also emplaced on hill in background. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.8).

German soldier standing near rocky outcrop in GSWA. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.22).

Image of a memory plate listing the German soldiers who died during the war of 1906. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.21).

Indigenous woman and a child drying clothes on clothesline near tent camp. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.24).

Indigenous woman and child posing in front of a canvas domed tent. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.4).

Indigenous women standing in front of a dome tent in GSWA. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.5).

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Mules pulling uncovered wagon. Buildings in background. circa 1906. Photograph. National WWI Museum and Memorial: Online Collections Database (2012.95.2.15).

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