

Total Control? Law and Administration in German South West Africa

Introduction

The arrival of Imperial Commissioner Heinrich Göring in May 1885 marked the official beginning of the process of establishing German colonial administration in the so-called *Schutzgebiet* of South West Africa. As early as the autumn of 1888, however, the representatives of Imperial Germany were forced to flee into the British territory of Walvis Bay in order to escape the Herero.¹ By the time the Germans surrendered to the South African invaders thirty years later, there were almost 15,000 Europeans living in the colony; the foundations for a settler society had been laid, the greater part of the land previously owned by Africans had become the property of farmers, mining corporations or the colonial state, the traditional economic and social structures of the indigenous societies had been largely destroyed, and the ‘tribes’ in the south and centre of the colony had been dissolved. The African peoples in those areas had changed from being free, economically self-sufficient inhabitants of their own land into dispossessed subjects of the German Empire, forced to undertake dependent labour for their survival. That such a rapid transformation could be effected in just one generation is a clear reflection of the nature of the German colonial state. This was set up so quickly that there was simply no time or opportunity to make adaptations to the system of colonial rule in order to take account of the disparate natures of the traditional societies that were subject to it; indeed, apart from a certain degree of restraint that was practised for tactical reasons during the early stages of colonisation, no such adaptation was ever intended. Basically, the colonial administration that was in the process of being set up simply exported to Africa administrative structures, for which the imperial ‘mother’ country was the model. The colonial state was thus imposed on the German colonies from outside, and that more full-bloodedly than was the case in other countries’ colonies.

The understanding of the state and of state administration possessed by the officials sent to South West Africa to establish colonial rule there was based on contemporary Germany; thus their intention was to build up an efficient economic system founded on a pre-modern idea of a society composed of different ‘estates’, in which the Administration, the settlers and the African population

¹ For an overview of German colonial rule in South West Africa, see Horst Gründer, *Geschichte der deutschen Kolonien*, 3rd edn, Paderborn 1995, pp. 111–127.

each occupied the stations firmly assigned to them. The indigenous population was to be seamlessly registered and controlled, integrated into the colony's economic system as cheap labour and re-educated by a process of social disciplining to be compliant workers. It was assumed that this process would allow the economic 'development' of the colony to make rapid strides, with the exploitation of mineral deposits being facilitated and initial steps being taken towards the orderly development of a settler colony. The end result, it was assumed, would be a uniform economic area within which the African people would be evenly distributed, forming a workforce in line with the needs of the colonial economy. The most important instruments through which this fundamental transformation was to be effected were a bureaucratic administration and a newly created body of Native Law – the sum of those legal provisions that governed the relationships both between the State and its indigenous subjects and between the European² and the African populations.

A closer look at everyday colonial life reveals, however, that what was provided for by law did not correspond to the reality experienced by those who were subject to it. One cannot conclude merely from the fact that certain legal provisions existed that these were actually implemented. Thus any consideration that focuses exclusively on an analysis of the legislation and regulations will not do justice to the real historical situation. Any scholar who wishes not merely to present the declarations of intent emanating from the colonial authorities, but to paint a detailed picture of what life in the colonial state was like in practice – which is an essential precondition for any analysis of the effects of colonial rule – needs to inquire into the question of the degree to which each norm was in fact implemented.

This article will follow such an approach, taking as an example the regulations that aimed to control the African population; these measures were at the very heart of Native Policy, since without them it would not have been possible to realise the desired distribution of the labour force, or to enforce the obligation to take up employment, or to implement the measures for imposing social discipline on the Africans. The colonial bureaucracy too required an overview of the indigenous population in order to function. For this reason, after analysing the German governmental and administrative utopia, that is to say the long-term regulation of the conditions of the indigenous population in the direction of what the colo-

² In this context, the term 'European' includes Afrikaners (also called Boers) who had migrated from South Africa.

nial officials regarded as an ideal state³ and therefore devoted all their efforts to achieving, I will examine the degree to which it was implemented; for both the concept of the 'perfect' state and the failure, at least in part, to realise it in practice equally form part of the reality of German colonialism in South West Africa. In this way, the manner in which the control regulations were created, the visions of colonial rule associated with them and the difficulties involved in implementing them come together to provide an illuminating object lesson in the realities of law and administration in the German territory.⁴

Governmental and Administrative Utopia: Surveillance and Total Control

Tentatively though the German Empire's involvement in South West Africa had begun, with the dispatch of a mere three officials when the territory was first declared to be under German 'protection' in 1884, once Theodor Leutwein had assumed the office of Governor in 1893 the systematic development of a German administration began in earnest. The administrative structure was headed by the Governor, who at the same time was also Commander in Chief of the *Schutztruppe*, the colonial army. According to a plan for civil administration devised in 1894 by Leutwein and the then District Officer in Otjimbingwe, Friedrich von Lindequist, the *Schutzgebiet* was divided up into three *Bezirke* – regions or districts: Keetmanshoop, Windhoek and Otjimbingwe.⁵ By 1903 their number had already increased to six.⁶

At the same time, the first measures for keeping the African population under surveillance were being discussed in the context of a debate on the introduction of a Master and Servant Ordinance (colloquially referred to in German as

3 The term 'governmental and administrative utopia' is used to translate Trutz von Trotha's expression 'Herrschaftsutopie': see Trutz von Trotha, *Koloniale Herrschaft. Zur soziologischen Theorie der Staatsentstehung am Beispiel des 'Schutzgebietes Togo'*, Tübingen 1994, p. 12.

4 For a comprehensive analysis of German Native Policy, the goals associated with it on the German side and their actual implementation in the everyday life of the colony, see Jürgen Zimmerer, *Deutsche Herrschaft über Afrikaner. Staatlicher Machtanspruch und Wirklichkeit im kolonialen Namibia*, Münster/Hamburg/London 2001 [English edition: *German Rule, African Subjects. State Aspirations and the Reality of Power in Colonial Namibia*, New York 2021]. This work also includes extensive bibliographical references, which in this text are therefore kept brief.

5 Gert Sudholt, *Die deutschen Eingeborenenpolitik in Südwestafrika. Von den Anfängen bis 1904*, Hildesheim 1975, p. 125.

6 On the development of the administration, see Walter Hubatsch, *Grundriß zur deutschen Verwaltungsgeschichte 1815–1945, 12 Bundes- und Reichsbehörden*, Marburg 1983, pp. 424–450.

the *Gesindeverordnung*). After von Lindequist had issued a “District Police Ordinance concerning the Relationship between Employers and Workers” in the summer of 1894,⁷ and Gibeon District Office had followed suit with a similar regulation two years later,⁸ Leutwein planned to introduce such an Ordinance for the entire colony in 1896. A response to his plans drawn up by Angelo Golinelli, the head of the Southern (Keetmanshoop) District, mentions on the one hand the aspect of protecting the Africans by providing for their employment contracts to be registered with the police, but on the other hand also the idea of keeping the African population under surveillance. This included every African employed by Europeans being issued with a numbered ‘service token’ when entering into a contract of employment, and registers were to be kept listing the tokens issued. And every African was to wear the service token “attached to his clothing or his loincloth” as a “means of legitimisation”.⁹ Although in the end it did not prove possible to establish uniform regulations governing the employment of African workers before the war, these provisions prefigured central aspects of the Master and Servant Ordinance of 1907.

Another issue which demonstrates the efforts of the German administrators to obtain a better overview and more control over the African population is that of a general pass and registration requirement. In August 1900 Leutwein had put forward for discussion a draft of an Ordinance that provided for every African “who crossed the boundaries of the area allotted to his tribe by the government”, or who wanted to leave his place of residence if it was outside his ‘tribal territory’, to be required to be in possession of a pass. In addition to the date, the pass was to contain the name of the issuer, the name of the African, his ‘tribal affiliation’, his place of residence, his reason for leaving it, the type of employment he was engaged in and, where appropriate, the name of his employer and the authority or person to whom the pass was to be surrendered afterwards. The police

7 Otjimbingwe District Office: “Verordnung betr. das Verhältnis der Arbeitgeber zu den Arbeitern” (“Ordinance concerning the Relationship between Employers and Workers”), 3 July 1894, NAN ZBU W.IV.A.3. Vol. 2, Sheets 5a–7a, reproduced in *Die Deutsche Kolonialgesetzgebung. Sammlung der auf die deutschen Schutzgebiete bezüglichen Gesetze, Verordnungen, Erlasse und internationalen Vereinbarungen mit Anmerkungen und Sachregister* (German Colonial Legislation. A Collection of the Statutes, Ordinances, Decrees and International Agreements relating to the German Schutzgebiete, with Notes and an Index – ‘DKG’), published in 13 volumes, Berlin 1893–1910, here Vol. 2, p. 104.

8 Gibeon District Office: “Verordnung betr. Regelung der Dienstboten-Verhältnisse” (“Ordinance concerning the Regulation of Master-Servant Relationships”), 23 March 1896, NAN ZBU W.IV.A.3. Vol. 2, Sheets 41ea–41fa.

9 Keetmanshoop District Office to Imperial Governor’s Office, Windhoek, 28 August 1896, *ibid.*, Sheets 42aa–42ka.

would be entitled to inspect the pass at any time and it had to be surrendered to the named authority or person at the place of destination. The fact that the authorities could refuse the issue of such a pass for “reasons of security or other good cause” that were not more precisely specified, thereby restricting the Africans’ mobility, points to the fact that the idea of controlling the distribution of the indigenous population across the colony was already in the air. The idea of forced labour is implicit in the proposals as well, as any Africans without a pass could be assigned to work for private European employers.¹⁰ Indeed, a proposal by Outjo District Office that a provision should be added to the Ordinance whereby every African arriving in the District was to be furnished with a “metal token to be worn visibly around the neck”, brought an additional factor into the discussion that anticipated the provisions of the Native Ordinances of 1907.¹¹ It was also proposed that any particular distinguishing features of the person concerned should be entered in the pass to facilitate identification, and also details of any punishments that the ‘Native’ had been subjected to previously, so that the police could impose harsher sanctions in the event of any repetition of an offence.¹²

Ultimately, the colonial authorities were not able to put the Pass Ordinance into effect before the outbreak of the Herero and Nama War. Only in the entirely different political situation after the outbreak of war did some District Offices promulgate local pass regulations. On 18 May 1904, for example, the Swakopmund District Office introduced a general pass requirement by decree,¹³ and Keetman-

10 Imperial Governor’s Office Windhoek, “Verordnungsentwurf betr. die Paß- und Meldepflicht der Eingeborenen” (“Draft Ordinance concerning Pass and Registration Requirements for Natives”), August 1900, NAN ZBU W.III.K.1. Vol. 1, Sheets 7a–8a. The idea of a pass requirement was not new, however; Leutwein was merely trying to make a practice that was already customary in some districts binding throughout the *Schutzgebiet*. In Gibeon District Office to Imperial Governor’s Office Windhoek, 30 November 1900, NAN ZBU W.III.B.1. Vol. 1, Sheet 8a. In the Swakopmund District too, “letters of authority” (*Begleitscheine*) had already been issued: Swakopmund District Office to Imperial Governor’s Office Windhoek, 5 November 1900, NAN ZBU W.III.B.1. Vol. 1, Sheets 5a–6a.

11 At the time, however, this proposal apparently went too far for the Governor’s Office, as is shown by a large question mark drawn in the margin of the document.

12 Outjo District Office to Governor’s Office Windhoek, 21 December 1900, NAN ZBU W.III.B.1. Vol. 1, Sheet 7a f.

13 “Bestimmungen, betr. die Paßpflicht der Eingeborenen im Bezirk Swakopmund” (“Provisions concerning the Pass Requirement for Natives in Swakopmund District”), 18 May 1904, NAN ZBU W.III.K.1. Vol. 1, Sheets 53a–55a. See also: Swakopmund District Office to Imperial Governor’s Office Windhoek, 8 June 1907, NAN ZBU W.III.A.1. Vol. 1, Sheets 26a–27a.

shoop followed suit on 7 October 1904.¹⁴ Grootfontein District issued a Pass Ordinance on 9 February 1905,¹⁵ Windhoek on 8 November 1905¹⁶ and Karibib on 16 January 1906.¹⁷ Outjo District Office also introduced a pass requirement.¹⁸ Thus even prior to the Native Ordinances of 1907 there were regulations of this type in all Districts except Gibeon, Gobabis, Rehoboth and Okahandja.¹⁹

The Herero and Nama War then accelerated the development of the Big Brother-type surveillance state and shifted power in the colony in favour of the Germans. Although this development was of crucial importance, at this point a few brief remarks about the war will have to suffice.

The Africans' loss of ownership of what had been their land, which went hand in hand with the arrival of more and more European settlers, the deliberate humiliation of traditional leaders by the representatives of the colonial state, the breakdown of Herero social structures as a result of their being restricted to ever diminishing areas of land and the economic catastrophe of the rinderpest epidemic had all had a serious impact on the internal cohesion of Herero society. In addition, the settlers who were now entering the country in ever greater numbers increasingly conducted themselves as members of a 'master race', sought confrontation rather than coexistence and interfered with the property and in the

14 "Bestimmungen, betr. die Paßpflicht der Eingeborenen im Bezirk Keetmanshoop" ("Provisions concerning the Pass Requirement for Natives in Keetmanshoop District"), 7 October 1904, NAN ZBU W.III.K.1. Vol. 1, Sheets 62a–63b. See also: Keetmanshoop District Office to Imperial Governor's Office Windhoek, 10 June 1907, NAN ZBU W.III.A.1. Vol. 1, Sheets 28a–29a.

15 "Bestimmungen, betr. Paßzwang für Eingeborene des Bezirks Grootfontein" ("Provisions concerning Compulsory Passes for Natives in Grootfontein District"), 9 February 1905, NAN ZBU W.III.K.1. Vol. 1, Sheets 92a f.

16 "Bestimmungen, betr. die Paßpflicht der Eingeborenen im Bezirk Windhuk" ("Provisions concerning the Pass Requirement for Natives in Windhoek District") [undated], *ibid.*, Sheets 97a–98a.

17 "Bestimmungen, betr. die Paßpflicht der Eingeborenen im Bezirk Karibib" ("Provisions concerning the Pass Requirement for Natives in Karibib District"), 16 January 1906, *ibid.*, Sheets 101a–103a [effective date: 1 February 1906].

18 Outjo District Office to Imperial Governor's Office Windhoek, 27 May 1907, NAN ZBU W.III.A.1. Vol. 1, Sheets 21a–24a. The Ordinance is undated.

19 In many places, however, the local Pass Ordinances existed only on paper, or else were only implemented to a very limited extent. In Grootfontein, for example, the registration of the Africans soon had to be suspended again because not enough pass discs were available – a shortcoming that proved impossible to remedy until 1907. Grootfontein District Office to Imperial Governor's Office Windhoek, 26 August 1907, NAN ZBU W.III.A.1. Vol. 1, Sheets 69a–70a. In Outjo district too, the regulations could only be successfully implemented to a limited extent, since pass discs had only been issued to those 'Natives' settled in Outjo and to the Swartboois of Fransfontein, people who had already been listed in control registers. Outjo District Office to Imperial Governor's Office Windhoek, 27 May 1907, NAN ZBU W.III.A.1. Vol. 1, Sheets 21a–24a. In Windhoek District too, the Pass Requirement does not appear to have been implemented.

lives of Africans without the traditional African leaders having any chance of putting up effective opposition. The resulting discontent came to a head in 1904, when the Herero, and subsequently the Nama, rose up against the intruders. This was the beginning of a brutal colonial war which lasted until 1908, and which saw the German side overstep the boundary to deliberate genocide.²⁰ Even if no precise figures are available for the number of victims on the African side, they must certainly have amounted to tens of thousands. In addition, the traditional social and economic order was severely dislocated by flight and displacement. As far as the German administration was concerned, however, the war opened up the opportunity for it to realise its fantasies of control, as the tactical need to show consideration to the African 'tribes' which had previously governed Leutwein's policies no longer applied. The war was thus a catalyst, facilitating the implementation of ideas that had already been in the air in the pre-war period.

The first step towards the legal implementation of a Native Policy after the war took the form of the expropriation of the African population. The "Imperial Ordinance concerning the Sequestration of Native Assets in the Colony of South West Africa" of 26 December 1905 created the formal conditions for such expropriation to take place. It provided for the Governor to be able to sequester by decree the "tribal assets" of Africans "who had taken part in hostilities and belligerent acts against the Government, against non-Natives or against other Natives" or had "provided direct or indirect support" for such acts, whereby it was sufficient if only a part of the 'tribe' had participated in the acts concerned.²¹ On 23 March 1906 Governor von Lindequist made use of this Ordinance for the first time to sequester the "movable and immovable" tribal assets of all Herero north of the Tropic of Capricorn and also of the Swartoobi Nama of Fransfontein and the Topnaar Nama of

²⁰ On the war against the Herero and the Nama, see: Jürgen Zimmerer, "Kriegsgefangene im Kolonialkrieg. Der Krieg gegen die Herero und Nama in Deutsch Südwestafrika (1904–1907)", in Rüdiger Overmans, ed., *In der Hand des Feindes. Kriegsgefangenschaft von der Antike bis zum Zweiten Weltkrieg*, Köln 1999, pp. 277–294; Tilman Dederig, "The German-Herero War of 1904. Revisionism of Genocide or Imaginary Historiography?", *Journal of Southern African Studies*, 19 (1993), pp. 80–88; Tilman Dederig, "A Certain Rigorous Treatment of All Parts of the Nation. The Annihilation of the Herero in German South West Africa, 1904", in Mark Levene and Penny Roberts, eds, *The Massacre in History*, New York 1999, pp. 205–222; and Gesine Krüger, *Kriegsbewältigung und Geschichtsbewußtsein. Realität, Deutung und Verarbeitung des deutschen Kolonialkrieges in Namibia 1904 bis 1907*, Göttingen 1999.

²¹ "Kaiserliche Verordnung, betr. Einziehung des Stammesvermögens der Eingeborenen" ("Imperial Ordinance concerning the Sequestration of Native Assets in the Colony of South West Africa"), 26 December 1905, BAArch R 1001/1220, Sheets 65a–66b, "Begründung der Verordnung" ("Grounds for the ordinance"), *ibid.*, Sheets 67a–69a. The Ordinance is reproduced in: DKG, Vol. 9, pp. 284–286.

Sesfontein.²² On 8 May 1907 he repeated the procedure in respect of the Witbooi, Bethanie, Fransman and Veldskoendraer Nama, the Red Nation of Hoachanas and the Bondelswarts including the Swartmodder Nama.²³ For the Bondelswarts and the Stuurmann people, who in November and December 1906 had concluded respectively a submission agreement and a peace treaty with the Germans, the exceptions laid down in those treaties applied,²⁴ but this made no more than a minor difference to the overall extent of the expropriations. As a result, the land ownership situation was fundamentally transformed. All the 'tribal land' in South West Africa, except in Ovamboland and the 'Caprivi Strip' and with the exception of the land belonging to the Rehoboth Basters and the Berseba Nama, was now in German ownership.²⁵ Von Lindequist had almost completely realised his intention of doing away with "the independent existence of all the Native tribes who took part in the rebellion for all time", in order to "prevent any future unrest".²⁶

At the same time, also in the year 1907, the various considerations with regard to codifying into uniform regulations, to apply throughout the *Schutzgebiet*, the pre-war Native Policy that had been manifest in the local district regulations governing employment relations introduced in 1894 and 1896 and already mentioned above, and in the discussions relating to general pass and registration requirements in 1900, were brought together in three Native Ordinances.²⁷ These

22 Imperial Governor's Office Windhoek, "Bekanntmachung betr. Einziehung des Stammesvermögens der Herero, Swartbooi- und Topnaar Hottentotten", 23 March 1906, reproduced in: DKG, Vol. 10, pp. 142f. This became legally effective as of 7 August 1905. Imperial Governor's Office Windhoek, "Bekanntmachung, betr. Einziehung des Stammesvermögens der Herero, Swartbooi- und Topnaar Hottentotten", 8 August 1906: DKG, Vol. 10, p. 298.

23 Imperial Governor's Office Windhoek, "Bekanntmachung betr. Einziehung des Stammesvermögens der Witbooi- usw. Hottentotten, sowie der Roten Nation und der Bondelszwarts – einschließlich der Swartmodder-Hottentotten", 8 May 1907, reproduced in: DKG, Vol. 11, pp. 233f. The sequestration became legally effective as of 11 September 1907. "Bekanntmachung, Kaiserliches Gouvernement Windhuk, betr. Einziehung des Stammesvermögens der Witbooi- usw. Hottentotten, sowie der Roten Nation und der Bondelszwarts – einschließlich der Swartmodder-Hottentotten", 11 September 1907, reproduced in: DKG, Vol. 11, pp. 370f.

24 Submission Agreement between Lieutenant Colonel von Estorff and the Bondelswart Hottentots, concluded on 23 December 1906 with the approval of Colonel von Deimling, reproduced in: DKG, Vol. 11, p. 234. Peace negotiations between the German Government and Cornelius Stuurmann, concluded on 21 November 1906, reproduced *ibid.*, p. 235.

25 Gründer, *Geschichte der deutschen Kolonien*, p. 122. Gründer's assessment is essentially correct: there were, however, still some (rare) cases of Africans owning private land.

26 Imperial Governor's Office Windhoek to Colonial Department, 25 April 1906, BArch R 1001/1220, Sheets 131a–134a.

27 Imperial Governor's Office Windhoek: "Verordnung betr. Maßregeln zur Kontrolle der Eingeborenen", 18 August 1907. NAN ZBU W.III.A.1. Vol. 1, Sheets 61a–62b; "Verordnung betr. die Pafßpflicht der Eingeborenen", 18 August 1907. *Ibid.*, Sheets 63a–65b; "Verordnung betr. Dienst- und

Control, Pass and Master and Servant Ordinances were an attempt to regulate all areas of the Africans' lives and to give the administration a comprehensive overview with regard to how many and what Africans were present in any given district at any given time, where they lived, whether they were in employment, and if so, where. For this purpose, every African had to be entered in a Native Register. A pass token, to be worn visibly, was intended to ensure that all Africans could be identified unambiguously. Africans who left their place of residence required a travel pass; it was not permitted either to employ them or furnish them with accommodation without such a pass. As Africans were prohibited from owning, without the explicit authorisation of the Governor, the large livestock or riding animals they would have needed to be economically independent, the only possibility that remained for them was to seek employment with Europeans, as they were otherwise in danger of being punished as 'vagrants'. To ensure that the Africans could be better kept under surveillance, and also to provide as efficiently as possible for an adequate supply of labour throughout the colony there was a provision that no more than ten families or individuals could live in any private *werf*, unless special permission was granted. This was designed to ensure an even distribution of the African population. Employment contracts had to be approved by the police, who issued an Employment Logbook that was supposed to include details of the wages paid, the term of the contract and any reasons for termination. This was intended on the one hand to protect the Africans against exploitation by their employers, but on the other hand also to supplement the system of surveillance.

In these Native Ordinances the governmental and administrative utopia of the colonial bureaucracy was made manifest: its supreme goal was to construct a new social order in South West Africa which can be best characterised as a society of racial privilege. The primary role of the Africans in it was to serve as a cheap source of labour; this was perceived by the colonial 'masters' as being imperative for economic development and for the construction of a settler colony. Yet on the German side the Native Ordinances were by no means regarded as being purely measures of subjugation; rather, they were perceived as an essential foundation for the restoration of 'peace and security'. The mere idea of an unregistered and uncontrollable indigenous population that was able to move around freely appeared to the German bureaucracy to be an incalculable threat, a feeling that was heightened after the outbreak of war by traumatic experiences on both

Arbeitsverträge mit Eingeborenen", 18 August 1907. Ibid., Sheets 66a–68a; "Runderlaß zu den Verordnungen, betr. die Kontrolle und Paßpflicht der Eingeborenen sowie die Dienst- und Arbeitsverträge mit diesen", 18 August 1907. These are reproduced in: DKG, Vol. 11, pp. 345–357.

sides. Accordingly, the only conceivable way forward – from a German perspective – was to register the Africans and integrate them into a narrowly defined legal system of obligations with only limited rights. The aim was not simply to ensure the uniform treatment of the African population, but to allow the bureaucracy to function at all. As every official action required a legal basis, it was not until the Native Ordinances had been put in place that there was – in the eyes of the officials – any basis at all for everyday dealings with Africans.

As has been shown, the three Native Ordinances represent the remote target point that German policy had had in its sights ever since the creation of the *Schutzgebiet* – a continuity that has been overlooked by academic research until now.²⁸ It is, however, crucial to an understanding of German colonial rule, or to put it more accurately, of German Native Policy, since it gives rise to a need to re-evaluate the position occupied by the War of 1904–1908 within the history of German South West Africa. It does not, at least viewed in terms of the programmatic objectives being pursued by the colonialists, represent that crucial turning point in German colonial history it has always been viewed as in the past. And as a result, the policy of exerting total surveillance and control over the indigenous population, can be seen to have formed the very core of German colonial rule ever since 1894, when von Lindequist first considered how to regulate employment relationships.

Total Surveillance and Control on the Ground

The formulation and subsequent implementation of the Native Ordinances were accompanied by a further expansion of the German administration in the central and southern areas of the *Schutzgebiet*, the so-called Police Zone.²⁹ As a result, the

28 The division of the history of German South West Africa into three periods proposed by Bley and Drechsler – the establishment of colonial rule up until the outbreak of the war of conquest (1884–1904), the genocidal war (1904–1907) and the post-war period (1907–1914) as the time of a completely new conception of Native Policy – is still predominant in academic writing today. However, neither is Bley's statement true that it is scarcely possible to derive the post-war situation from the initial policy approaches of the pre-war period, nor was there complete stagnation – what Drechsler termed “the peace of the graveyard” – after 1907. Helmut Bley, *Kolonialherrschaft und Sozialstruktur in Deutsch-Südwestafrika 1894–1914*, Hamburg 1968, p. 193; Horst Drechsler, *Südwestafrika unter deutscher Kolonialherrschaft. Der Kampf der Herero und Nama gegen den deutschen Imperialismus 1884–1915*, 2nd edn, Berlin 1984, pp. 221–236.

29 The northern part of the *Schutzgebiet* was provisionally excluded from German administration in 1906. Imperial Governor's Office Windhoek, “Verordnung, betr. den Verkehr in und nach dem Amboland” (“Ordinance concerning Movements within and to Ovamboland” – the Ovambo-

number of autonomous Districts increased from six to sixteen between the years 1903 and 1914, partly through the carving up of the old large districts and partly through the conversion of former subsidiary districts into autonomous ones.³⁰ As far as the African population was concerned, the District Offices united the executive, legislative and judicial functions of government. The autonomous Districts were responsible to the Governor's Office in Windhoek, while the various police stations were subordinated to them.

In their executive capacity, the administrative authorities were supported by both the *Landespolizei*, the Territorial Police, and the *Schutztruppe*, the colonial military force. The latter was however primarily responsible for securing the colony against internal and external threats³¹ and could therefore only be involved to a limited extent in the day-to-day surveillance of the Africans. Furthermore, a massive reduction in the force's manpower was put into effect immediately after the end of the war, its strength being cut from 3,988 men in the years 1907/08 to 2,431 in 1909 and 1,970 in the year 1912.³² As a result, the Territorial Police became more and more important.

land Ordinance), 25 January 1906, reproduced in: DKG, Vol. 10, pp. 25–27. Imperial Governor's Office Windhoek, "Ausführungsverfügung zur Verordnung, betr. den Verkehr in und nach dem Amboland" ("Implementation Regulations to the Ovamboland Ordinance"), 25 January 1906, reproduced in: DKG, Vol. 10, pp. 27–30. In 1908 the same was done in respect of the Caprivi Strip. Imperial Governor's Office Windhoek, "Verordnung, betr. den Verkehr in und nach dem Caprivizipfel" ("Ordinance concerning Movements within and to the Caprivi Strip"), 16 October 1908, reproduced in: DKG, Vol. 12, pp. 436f. As well as these territories, the areas of Kaokoveld in the north-west and the Kalahari in the border region to the Cape Colony and the Bechuanaland Protectorate were also excluded from the administrative structure. Oskar Hintrager, *Südwestafrika in der deutschen Zeit*, München 1956, pp. 99f. Apart from financial considerations, the key factor was the realisation that enormous military resources would be required to occupy the areas outside the Police Zone.

30 Reichsministerium des Inneren, *Handbuch für das Deutsche Reich* 41, 1914, pp. 403f.

31 This included above all the immediate suppression of any renewed resistance and the defence of the *Schutzgebiet* in the event of war with the British. "Denkschrift über die Möglichkeit einer Verminderung der Schutztruppe für Deutsch-Südwestafrika und einer Verringerung der Ausgaben des Militär-Etats". Heydebreck, Commander of the *Schutztruppe*, to Imperial Colonial Office, 14 July 1912, NAN ZBU classified files IX.B. Vol. 1, Sheets 57a–79b; Theodor Seitz, *Vom Aufstieg und Niederbruch deutscher Kolonialmacht*, 3: Die Gouverneursjahre in Südwestafrika. Karlsruhe 1929, pp. 21f, p. 27.

32 Hintrager, *Südwestafrika in der deutschen Zeit*, p. 122. These figures apply only to German soldiers: the force was supplemented by African auxiliary troops, whose numbers amounted to 635 in 1910. Martti Eirola, *The Ovambobefahr. The Ovamboland Reservation in the Making. Political Responses of the Kingdom of Ondonga to the German Colonial Power 1884–1910*, Rovaniemi 1992, p. 274. In 1913/14 the strength of the force remained stable at 1,967 men.

The origins of the Territorial Police went back to an initiative of Theodor Leutwein's dating from the year 1900; he had seen that there was a need for a force that, unlike the military, was responsible to the civil administration. The proposals made in 1902 for the establishment of a police force separate from the military led to the setting up of the Territorial Police in 1905.³³ Whereas an establishment of 80 officers was envisaged in 1905, already in 1906 this number had been increased to 160. This expansion was all the more important in view of the massive reduction in the size of the military forces after the ending of the State of War on 31 March 1907 and their resulting imminent withdrawal from the places and military posts they had controlled until then. What is more, the introduction of the Native Ordinances, which was planned for August 1907, increased the staffing requirement enormously. This was reflected in the 1907 budget, which provided for the Territorial Police to be strengthened to 720 men.³⁴ This theoretical strength was, however, never achieved. The Territorial Police reached its maximum strength in 1912, with 569 policemen supplemented by an additional 370 African 'police servants', i.e. auxiliary policemen.³⁵ While there were a total of 69 police stations scattered across the colony in 1909, 33 of these were staffed by only two policemen and 19 others by only one; only nine stations had three police officers, and only eight had four or five. Although the number of stations had increased to 108 by 1914, staffed by a total of 393 men, the overall strength of the Territorial Police had fallen to 470 men; of these, on average a quarter were either on leave or sick at any given time.³⁶

These police stations had to exercise surveillance over vast territories: in some cases the distance between them might be as much as 140 kilometres. And not all the policemen were available to keep check on the African population, since they were also responsible for policing the European community. It was not possible to exercise unbroken surveillance of the African population with the manpower available, especially as a considerable proportion of the population were still refugees or on the run. In addition, no proper infrastructure had yet

33 Imperial Governor's Office Windhoek, "Bestimmungen, betr. die Organisation der Landespolizei für das deutsch-südwestafrikanische Schutzgebiet", 1 March 1905, in: DKG, Vol. 9, pp. 64–69. On the history of the Territorial Police, see Hans Rafalski, *Vom Niemandsland zum Ordnungsstaat. Geschichte der ehemaligen Landespolizei für Deutsch-Südwestafrika*, Berlin [n.d.].

34 Rafalski, *Niemandsland*, pp. 56–61.

35 Reichskolonialamt, ed., *Die deutschen Schutzgebiete in Afrika und der Südsee. Amtliche Jahresberichte*, iv (1912/13), Berlin 1914, Report Section, p. 133.

36 Rafalski, *Niemandsland*, pp. 72–90.

been developed, and what there was had been totally disrupted by the war. However, although enormous difficulties ought to have been anticipated, the government planners paid no heed to them. Their self-imposed objective remained comprehensive control.³⁷

In order to ensure uniform surveillance throughout the entire colony, it was intended that the registration and control of the indigenous population should follow a procedure developed by Windhoek District Office. Since Windhoek was among the administrative districts with the most developed and best equipped administrative apparatus, a study of that location tells us more about how the government envisaged that the surveillance of the indigenous population would take place in the future than it does about its actual implementation throughout the *Schutzgebiet*:

As far as Windhoek District is concerned, the intention is to divide it up into individual 'police wards' (*Polizeischaften*), within which the responsible police officer is to inspect all places where Natives live once a month. Every police ward will be allocated pass tokens with numbers of a particular series, which however is big enough to provide for any later growth in the Native population. This has the advantage that if a Native is stopped and checked it is possible to determine immediately which police ward he belongs to. [...] The Governor's Office will consult with the Commander of the *Schutztruppe* in order to ensure the support of the military authorities in any given area for the implementation of the Native control legislation.

It is intended to prescribe that Native Registers should be kept not only at District Offices, but also at police stations and those military posts that are invested with police powers in respect of the Natives under their supervision. [...]

Every time a Native is entered in the Native Register, enough space should be left for all changes of employer etc. to be entered subsequently. In order to ensure that the registers are always up to date the Natives are to be instructed that any births and deaths and any movements into or away from the area [...] are to be reported to the responsible police or military post immediately.

It is considered by this office to be highly desirable that police station superintendents should submit monthly reports to their superior authorities on any changes in the numbers of Natives living in their areas, so that information is available at any time on the number and distribution of Native workers.³⁸

37 Even the responses of the individual district heads to the Native Ordinances, written between May and August, largely remained silent on these issues. For an extensive analysis of the responses of the District Officers to the Native Ordinances see Zimmerer, *Deutsche Herrschaft über Afrikaner*, pp. 96–106 [English edition: *German Rule, African Subjects*, New York 2021].

38 Imperial Governor's Office Windhoek, "Rundschreiben an die Bezirks- und Distriktsämter", 13 May 1907. NAN ZBU W.III.A.1. Vol. 1, Sheets 15a–18a.

A sophisticated reporting system was designed to ensure that information from the individual Native Registers was collated and forwarded to the next higher level of the administration in each case, thereby furnishing the Governor's Office in Windhoek with a comprehensive picture of how the African population was distributed. To achieve this, the individual police stations were to report monthly or even weekly³⁹ to their local district offices, which in turn passed the information on to the autonomous district offices on a quarterly basis. These offices then summarised the returns and submitted them to the Governor's Office in Windhoek every six months.⁴⁰

In order to obtain a complete overview of the African population, many of whom were employed on remote farms, the staff of the local police stations were to carry out patrols that took in these locations at regular short intervals – the intended frequency being once a month.⁴¹ In addition to the inspections of “private *werfs*” [Herero settlements], the purpose of which was apparently only to allow the police to receive a report from the *werf* foreman, the police undertook “searches at three to six monthly intervals in order to identify any Africans who are unemployed or have run away from their places of work”.⁴² But apart from ‘merely’ searching for Africans, these checks also served the purpose of creating a climate of fear and evoking a feeling of total surveillance:

The Natives in Swakopmund itself are continually kept under the impression, by frequent police inspections and unannounced checks of the *werfs*, that they are under constant observation as soon as they do anything to violate the Ordinances they are familiar with [the three Native Ordinances of 1907].

For this reason it is no seldom occurrence that Natives themselves require their employers to register them with the police immediately, and will not take up their employment until they are in possession of the pass token or the Employment Logbook.⁴³

Thus this feeling of being under constant observation had a profound impact on the African population. They knew the obligations imposed on them by the Native Ordinances, and due to the threat of punishment hanging over them they even

³⁹ Lüderitzbucht District Office to Imperial Governor's Office Windhoek, 12 July 1907, *ibid.*, Sheets 33a–36a.

⁴⁰ Imperial Governor's Office Windhoek, “Runderlaß zu den Verordnungen, betr. die Kontrolle und Paßpflicht der Eingeborenen sowie die Dienst- und Arbeitsverträge mit diesen”, 18 August 1907, reproduced in: DKG, Vol. 11, pp. 352–357.

⁴¹ Imperial Governor's Office Windhoek, “Rundschreiben an die Bezirks- und Distriktsämter”, 13 May 1907, NAN ZBU W.III.A.1. Vol. 1, Sheets 15a–18a.

⁴² Windhoek District Office to Imperial Governor's Office Windhoek, 25 November 1908, NAN ZBU W.III.A.3, Vol. 1, Sheets 60a–69a.

⁴³ Swakopmund District Office to Imperial Governor's Office Windhoek, 24 November 1908, *ibid.*, Sheets 47a–51a.

insisted themselves that their employers should observe the regulations. But this also prepared the way for the pass token and the Employment Logbook to become a part of their own identity, thus leading to an internalisation of the identity attributes ascribed to them by the Germans, and in the case of the pass token reducing every individual person to a mere number.

No detailed research has yet been carried out regarding the consequences for the African population of this policy of instilling fear. What is certain is that the forcible intervention in the individual and the collective freedom of the Africans set in motion a process of social disciplining that brought about fundamental changes among the indigenous population. Even though a process of reconstruction did take place within African society after the war, this cannot disguise the fact that every African living in the centre or the south of South West Africa was confronted with a German administration that attempted to regulate the smallest detail of his or her existence. Of course there was resistance; and it was possible for the Africans to put themselves beyond the reach of the control mechanisms or to claim the rights that were also laid down for them in the Native Ordinances. However, when compared to a lifestyle that was self-determined or regulated only by the traditions of their own society, this was no more than a shadow of their former freedom. Secret attempts to revive their own traditions, attempts to flee or to exploit the protective mechanisms enshrined in Native Law were no more than pale substitutes for the pre-colonial conditions.⁴⁴ That independent African social structures did survive despite this difficult situation was facilitated by the fact that it proved impossible for the Germans to realise their governmental and administrative utopia in a perfect Big Brother state. This was due not only to the resistance exercised by the Africans, but also, as will be shown below, to the fact that the German administration was far removed from functioning perfectly. Moreover, some elements in the European population withheld the cooperation with the authorities that was imperative if such a system of control was to operate successfully.

Negligent Officials and Uncooperative Settlers

Even the first step, that of registering the Africans, began with a logistical disaster. In the autumn of 1907 there were no adequate quantities of pass tokens, registers, travel passes or Employment Logbooks available. When the additional materials

44 On this process of reconstruction in Herero society, see Krüger, *Kriegbewältigung*, pp. 123–194.

that were then ordered finally arrived in the colony in June 1908, it did not take long to find out that there were still far too few of them to meet even the District Offices' most urgent requirements.⁴⁵ At the same time, the officials were not particularly well motivated to implement the provisions of the Ordinances, which after all meant considerably more work for them. This could clearly be seen, for example, in the way reports were frequently submitted late. The Governor's Office was compelled to remind the District Offices time and time again of the importance of these reports, which were essential to the whole system of surveillance and control of the African population.⁴⁶ Reproved in such a manner, some of the District Officers admitted that they were overburdened with the implementation of the Ordinances, since the statistical details that were called for represented "a large amount of additional work" that would "keep a whole multitude of officials busy".⁴⁷ No such additional manpower was available, however. The officials also had to admit that communication between themselves and the police stations as the actual executive organs was not working, so that they had not received the necessary data from them.⁴⁸ Thus it became clear that it would not be possible for the clear overview of the situation of the Africans that the Native Ordinances were supposed to provide to be obtained in this way.

In some cases, the District Officers simply did not implement certain provisions of the Native Ordinances, even if it is difficult to make any general assessment of this factor since the officials concerned naturally did not leave any accounts of their own non-fulfilment of their duties on file. Only when the Governor's Office, for whatever reason, began to ask specific questions were the failings revealed. One such instance occurred in 1912 when the Governor's Office, in view of the lack of 'success' in mobilising workers, set about checking the implementation of Sec. 7 of the Control Ordinance (which made it necessary to obtain approval for more than ten families to live in a private *wery*) and obtaining detailed reports on the extent to which this had been enforced.⁴⁹ Okahandja District Office was caught completely off its guard and had to admit that this provision "has not been implemented here, since the big enterprises and farm operations have had

45 Imperial Governor's Office Windhoek, "Rundschreiben an die Bezirks- und Distriktsämter", June 1908, NAN ZBU W.III.B.3. Vol. 1, Sheet 22a–23a.

46 Imperial Governor's Office Windhoek, "Rundschreiben an die Bezirks- und Distriktsämter außer Lüderitzbucht und Zesfontein", 17 October 1908, NAN ZBU W.III.A.3. Vol. 1, Sheet 24a.

47 Keetmanshoop District Office to Imperial Governor's Office Windhoek, 24 May 1909, *ibid.*, Sheets 106a–107a.

48 Windhoek District Office to Imperial Governor's Office Windhoek, 22 October 1908, *ibid.*, Sheet 25a.

49 Circulated Instruction, Imperial Governor's Office Windhoek, 20 January 1912, NAN ZBU W.III.B.4. Vol. 1, Sheet 2a.

more than ten families settled with them for many years already". In order to remedy this failure the District Officer announced that "a strict inspection" would be carried out, but was not in a position to say which enterprises or farms would be subjected to it. He promised to submit the results of the inquiries that were immediately ordered at a later date.⁵⁰ Two months later he then reported that he had instructed eleven farms "to immediately obtain the required authorisation".⁵¹ Zealous declarations that particularly strict and rigorous control was now to be exercised were clearly intended to conceal earlier sins of omission. The District Officer of Maltahöhe tried to talk himself out of his embarrassing position by declaring that "in the few cases in this district where there are more than ten Native families living on a farm or other location, tacit authorisation has been granted". He further attempted to justify himself by stating that no case was known "in which an employer has kept more Natives on his farm than are required to meet his most urgent requirements".⁵² In doing so he appears to have overlooked the fact that the objective of the Control Ordinance had been precisely to avoid allowing employers to decide on the number of their workers themselves.

However, an even more serious factor than this negligent behaviour on the part of the officials was the refusal of the European population to cooperate. They rated their own economic interests higher than the requirements of the control system, while at the same time loudly proclaiming how necessary that system was whenever they thought anybody might be listening. Just when the administration was attempting to use propaganda and to create a climate of fear in order to discipline the indigenous population, to the extent that they "as a general rule anxiously make every effort to always have their pass tags with them", their employers were actually inciting them to do just the opposite: in order to make it impossible for African servants to run away, "it was no rare occurrence" for employers to infringe the Ordinances by taking their pass tags off them and "so preventing them from leaving their service", as Windhoek District Office complained.⁵³ While the authorities were disseminating propaganda in an attempt to free the pass tokens and travel passes from the stigma of being instruments of repression, it was precisely as such that the settlers were using them. The Windhoek District Officer therefore

⁵⁰ Okahandja District Office to Imperial Governor's Office Windhoek, 13 February 1912, *ibid.*, Sheet 6a.

⁵¹ Okahandja District Office to Imperial Governor's Office Windhoek, 10 April 1912, *ibid.*, Sheets 17a–18b.

⁵² Maltahöhe District Office to Imperial Governor's Office Windhoek, 17 February 1912, *ibid.*, Sheet 11a.

⁵³ Windhoek District Office to Imperial Governor's Office Windhoek, 25 November 1908, NAN ZBU W.III.A.3. Vol. 1, Sheets 60a–69a.

demanded that those Europeans who acted in this way should be punished, and complained that the European population was affording insufficient assistance, and that only reluctantly, to the implementation of the provisions on pass tokens and travel passes, and moreover was displaying a lack of interest in the “concerns of the Natives”, as was “noticeable in particular in the way they perform those duties imposed on private individuals by the present Ordinance”.⁵⁴

The severe shortage of labour also led to individual employers abusing the privileges conferred on them by the Native Ordinances to get hold of workers illegally. Ironically enough, of all the provisions of the Pass Ordinance it was Sec. 4, under which Africans did not need a travel pass if they were travelling in the company of Europeans, which left a gap in the control system that was exploited by unscrupulous Europeans. District Officer Schenke of Swakopmund, for example, complained to the Governor’s Office about cases in which

[...] Native women have been abducted by white men without the knowledge of their masters. Similarly, it is often the case that Natives are recruited here by whites and travel to another place in their company without a travel pass. In such cases the police at the place of destination do not know whether the Natives who arrive without travel passes have terminated their previous employment in a proper manner or not, and in order to avoid any further repercussions have no option but to believe what the accompanying whites tell them.⁵⁵

These Africans had slipped through a hole in the surveillance net, because even in respect of their identities the authorities had no other choice but to believe what they or the Europeans accompanying them said.

It was however the case that the ever more serious labour shortage had from the beginning not only led to such infringements of the law on the part of some Europeans, but also generated resentment among employers against the registration requirement. It cost working time, and some employers were apparently not prepared to pay this price for the implementation of the Control and Pass Ordinances. Even government employees joined in the protests. On 7 June 1907, for example, the Department of Works in Windhoek filed a complaint with the Governor’s Office against the District Office there, which on the morning of that day, without any prior notice, had kept twenty-seven Africans who worked there away from work in order to register them. As a result they had come to work

⁵⁴ Ibid.

⁵⁵ Swakopmund District Office to Imperial Governor’s Office Windhoek, 24 November 1908, *ibid.*, Sheets 47a–51a.

an hour late, and the Department of Works was afraid that the enterprises to which it supplied workers would claim compensation for the lost working time.⁵⁶

In this way the control measures came into conflict with the efforts of entrepreneurs to exploit every minute of the Africans' working time. The District Office's argument in its own defence that "such checks in the *werfs* occur only very rarely, and the Department of Works [could] easily put up with such a minor disruption of its operations" did not gain the sympathy of everybody in the Governor's Office, as a note written in the margin of the document testifies: "27 men means 27 working hours. I don't call that a minor disruption."⁵⁷

The lack of a willingness to cooperate on the part of European employers was particularly apparent in relation to the Master and Servant Ordinance. The information contained in the Employment Logbook represented an important link in the unbroken chain of surveillance measures, since it was only this that enabled the Administration to obtain a complete overview of employment relationships. However, since the Ordinance provided for at least some of the basic rights of the African workers in relation to their employers to be explained to them when the Employment Logbook was issued, and some of the crucial conditions of the employment contract, such as its term and the amount and type of remuneration, were required to be set out in it in writing, it was boycotted by the employers. They agitated against the prescribed measures, and the overwhelming majority of them evaded the logbook requirement by avoiding the conclusion of employment contracts with a term of more than one month, for which a logbook was mandatory. "The reason is to be found in the fact that when the Native is issued with his Employment Logbook the police are required to explain not only his duties but also his rights to him. This point is not to the liking of many farmers", Gobabis District Office reported.⁵⁸ In Keetmanshoop,⁵⁹ Lüderitzbucht,⁶⁰ Karibib⁶¹

56 Windhoek Department of Works to Imperial Governor's Office Windhoek, 7 June 1907, NAN ZBU W.III.B.2. Vol. 1, Sheet 5a.

57 Ibid.

58 Gobabis District Office to Imperial Governor's Office Windhoek, 31 October 1908, NAN ZBU W.III.A.3. Vol. 1, Sheet 42a.

59 Keetmanshoop District Office to Imperial Governor's Office Windhoek, 24 May 1909, *ibid.*, Sheets 106a–107a.

60 Lüderitzbucht District Office to Imperial Governor's Office Windhoek, 1 July 1908, *ibid.*, Sheets 7a–23a.

61 Karibib District Office to Imperial Governor's Office Windhoek, 26 November 1908, *ibid.*, Sheets 52a–59a.

and Bethanie⁶² things were much the same.⁶³ In Gibeon, for example, only ninety-six of the 1,768 Africans employed there in August 1908 had an employment contract with a term of more than one month.⁶⁴ This was a situation in which no improvement was noticeable anywhere in the territory over the following years. Thus it was the case that far from displaying the identity of interests as between the bureaucracy and the settlers that is so often invoked,⁶⁵ the latter not only held out against the implementation of a minimum degree of protection for African workers, but also threw spanners into the works of the entire control system.

Africans on the Run; Inadequate Identification

Right from the start, the Native Ordinances had aimed to encompass not merely those Africans living in larger centres of population, those who were prisoners of war and those who were employed by Europeans, but all Africans living in the *Schutzgebiet*, including “Herero, Berg Damara and Bushmen living wild in the mountains, on the *veld* and in the bush”.⁶⁶ Especially after the Herero and Nama War, the existence of thousands of refugees made this appear to be one of the most urgent tasks facing the Administration. However, the provisions of the Native Ordinances did not offer any satisfactory way of resolving this situation. In 1911, therefore, the Governor’s Office had renewed recourse to a procedure that had already been practised during the war, and proposed the setting up of collection points:

In order to get the Natives who are still wandering around in the *veld* to take up a settled existence and to register themselves, it appears necessary to send out police patrols to collect these Natives up again and bring them to collection points.

⁶² Bethanie District Office to Imperial Governor’s Office Windhoek, 10 January 1910, *ibid.*, Sheets 131a–133a.

⁶³ Only Grootfontein District Office reported that it was the Master and Servant Ordinance that “had best proved itself by a long chalk”, since both sides had recognised the advantages accruing to them from it. Grootfontein District Office to Imperial Governor’s Office Windhoek, 24 October 1908, *ibid.*, Sheets 43a–44a.

⁶⁴ Gibeon District Office to Imperial Governor’s Office Windhoek, 23 October 1908, *ibid.*, Sheets 33a–34b.

⁶⁵ This identity of interests is suggested by Drechsler in his chapter on the period after the Herero and Nama War, when he writes in a generalised way of “German imperialism” having turned the Africans into forced labourers. See e.g. Drechsler, *Südwestafrika unter deutscher Kolonialherrschaft*, pp. 221f.

⁶⁶ Grootfontein District Office to Imperial Governor’s Office Windhoek, 26 August 1907, NAN ZBU W.III.A.1. Vol. 1, Sheets 69a–70a.

At these collection points, which would be best located close to a police station and must be under the supervision of a police officer, these Natives should construct their *werf* under the direction of a foreman and be assigned to farmers as workers should there be any demand.⁶⁷

This proposal already in itself bears witness to a realisation, gradually taking shape, that the fugitives could not be tracked down through force alone. This impression is confirmed by the responses of various District Officers to the proposal. They were disillusioned by the success, or lack of it, of the Native Ordinances, but were divided about how to proceed further. Windhoek District Office, for example, feared that the provision of free meals would even create an incentive for other Africans to run away from their places of work:

If they were now to be accommodated at a collection point and given food at the State's expense, then no doubt they would have nothing against this in principle. Because to not work and nevertheless be given food is something that suits the Natives fine. [...] The Natives run away from their masters, throw away their pass tags, move away noiselessly into a different District and present themselves at the assembly point there as having been living out on the *veld* since the war.⁶⁸

The fact that Grootfontein District Office suggested the exact opposite, since the view there was that among the San in particular the “thirst for freedom [...] is unconquerable”, and that they could only be attracted to a settled existence by the lure of free rations and above all of tobacco,⁶⁹ is a clear indication that the District Officers were increasingly coming to feel themselves to be at their wits' end.

It was certainly true that the many inaccessible places of refuge could not be systematically and permanently kept under surveillance either by the police or by the military. Although the District Offices repeatedly reported that Africans had been found and brought in, such ‘successes’ occurred more or less by chance, as the District Officer of Karibib openly admitted:

In this District, however – and predominantly, as has already repeatedly been reported elsewhere, in the thinly populated mountainous and inaccessible areas in the south-west of the District – there are indeed individual Natives and occasionally also smallish bands of vagrant Natives wandering around in the *veld*. But these are almost exclusively runaway *Bambusen* [African army servants] or workers who are all to a greater or lesser extent accused

67 Imperial Governor's Office Windhoek, Circulated Instruction to District Offices and Police Stations, 26 January 1911, NAN ZBU W.III.B.5. Vol. 1, Sheets 8a f.

68 Windhoek District Office to Imperial Governor's Office Windhoek, 14 February 1911, *ibid.*, Sheets 9a–10a.

69 Grootfontein District Office to Imperial Governor's Office Windhoek, 16 February 1911, *ibid.*, Sheet 12a.

of having committed some offence or other and therefore will not give themselves up voluntarily under any circumstances. How extraordinarily difficult it is to lay hands on them has been demonstrated by numerous mounted patrols, some of them patrols of this District's police, some of them strong combined patrols of this and the adjoining Districts, most of which however did not produce any results.⁷⁰

The Africans were obviously taking advantage of the division of the *Schutzgebiet* into administrative areas, and were "almost always to be found close to the District boundaries, so that if they are pursued they can vanish into the neighbouring District".⁷¹ Much the same situation prevailed on the external borders of the colony as well, the borders with British territory having already proved porous during the 1905–07 guerrilla war.

If the Native Commissioner in the Windhoek administration, Kurt Streitwolf, nevertheless called for a stepping up of the number of mounted patrols by the military, whose task it would be to 'clean up' the *sandveld*, the open arid area where the greater part of the free Africans were presumed to be holding out most of the time, this amounted to an involuntary admission that the previous efforts to exercise control and surveillance over the Africans had failed. Prone though he was to come out with statements such as "The more ruthlessly we proceed against the Natives out in the *veld*, the more successful we will be. Not only will we gain hundreds of workers, but we will also put an end to the desertions by Natives who are already working",⁷² these could not conceal the fact that the Native Ordinances were not fulfilling their primary purpose of preventing the continued existence of an uncontrolled African population and the desertion of their workplaces by urgently needed workers.

How wrong Streitwolf was in his forecast that a policy of ruthless severity would serve to stem the flight of the Africans is demonstrated by the course taken by the debate on how to control the Africans in the years 1912 and 1913: it became more and more extreme in particular with regard to the matter of how Africans were to be identified, which right from the beginning had been one of the main obstacles to implementing the Ordinances. As early as March 1911, as a result of the numerous complaints he had received, Governor Theodor Seitz had to admit that "the identification of the Natives is made extraordinarily difficult by

⁷⁰ Karibib District Office to Imperial Governor's Office Windhoek, 15 February 1911, *ibid.*, Sheets 11a f.

⁷¹ Okahandja District Office to Imperial Governor's Office Windhoek, 8 March 1911, *ibid.*, Sheets 18a f.

⁷² Imperial Governor's Office Windhoek, Dept. F (Native Affairs) to Governor, 6 May 1911, *ibid.*, Sheets 26a–27b.

arbitrary changes of name".⁷³ This had been preceded by a complaint from Pastor Johannes Olpp, the head of the Rhenish Mission in South West Africa, that "the Natives have a penchant for giving themselves additional names, which is further reinforced by the fact that masters too often confer new names on their servants. This makes it very difficult, and in some cases impossible, to keep track of who is who."⁷⁴ The solution proposed in response by a clerical officer in the Governor's Office named von Schwerin testifies unambiguously to the desperate situation of the control measures introduced with such great enthusiasm in 1907:

For this reason, a name register for Natives is now to be set up at the District Offices, which every Native in the District is to be entered in and which is to be kept constantly up to date. In the case of unbaptised Natives, the surname and first name are to be entered; in the case of baptised Natives, the surname and the Christian name given at baptism. The Natives should be specially instructed at the time when this entry is made that from that time on it is forbidden for them to use any other name. A penalty must be laid down for deliberately using a false name.⁷⁵

Since these very measures had already been provided for in the Control Ordinance of 1907, von Schwerin was basically demanding that the registration of the African population should be begun all over again. Thus precisely the lack of respect for the individuality and the personality of the Africans on the part of European employers, who were both able to give their workers whatever names they liked and also to change those names arbitrarily, proved to be a serious factor detracting from the functionality of the control system. Olpp himself now gave more concrete details of what was happening: it was often the case that employers who had several servants with the same name would summarily change their names, not infrequently simply because the employer did not like the worker's actual name, or because he thought it was too long.⁷⁶

Olpp's complaints were apparently justified, for Governor Seitz saw a need for action:

I therefore [because of the complaints of inadequate identification] earnestly desire that all means should be applied to ensure that the Native retains the name he has once taken, and furthermore that the master should not simply give his Native some other name. If the master has several Natives with the same name, then he would be well advised to add a number

⁷³ Imperial Governor's Office Windhoek, Circulated Instruction to District Offices, 29 March 1911, NAN ZBU W.III.B.1. Vol. 1, Sheet 26a.

⁷⁴ This is how the clerical officer von Schwerin reported Olpp's complaint. Imperial Governor's Office Windhoek, internal memorandum, 24 January 1911, *ibid.*, Sheets 21a–22b.

⁷⁵ Imperial Governor's Office Windhoek, internal memorandum of von Schwerin's, 24 January 1911, *ibid.*

⁷⁶ Pastor Olpp to Imperial Governor's Office Windhoek, 13 March 1911, *ibid.*, Sheets 24a f.

to the name in order to distinguish them. In the Native Registers the Native's own name and the name of his father is always to be noted in addition to the number of the pass token, so that the custom of using family names as surnames will gradually become established among the Natives.⁷⁷

In this respect as well, it was the behaviour of the European employers that undermined the effectiveness of administrative control. Although they themselves were the ones largely to blame for the fact that measures to 'control' the African population were no more than partly successful, they refused to find any fault in their own conduct, but instead merely applied themselves to raising demands for ever stricter measures. These demands not only express the colonisers' contempt for their fellow human beings, but are also indicative of the ineffectiveness of the policies pursued until then.

Facing increasing pressure from public opinion, the Administration decided to make the control system even stricter. In April 1912 the Governor's Office therefore recommended that "every Native who is found without a pass token is to be punished for contravening the Pass Ordinance".⁷⁸ This was obviously intended to prevent Africans who had run away from their places of work from talking themselves out of the situation by claiming never to have been registered. On 29 March 1912 the Governor's Office then circulated to all District Offices an "Instruction for Undertaking Physical Descriptions", and again ordered on 25 June 1912: "On all official identity documents, passes etc. for Natives, the holder's right thumbprint is always to be impressed, so that identification is possible."⁷⁹ Thus five years after the introduction of the pass requirement it was at last becoming generally recognised that this was the only way "to provide for the certain identification of a person", since the "easily exchangeable pass token does not ensure this."⁸⁰ However, the farmers' representatives were far from convinced that this measure would be successful, and in the months that followed the Farmers' Associa-

77 As an example, Seitz gave "Isaak (son of) Christian (i.e. Christiansen)". Imperial Governor's Office Windhoek, Circulated Order to District Offices, 29 March 1911, NAN ZBU W.III.B.1. Vol. 1, Sheet 26a.

78 Imperial Governor's Office Windhoek to Outjo District Office, 9 April 1912, NAN ZBU W.III.B.1. Vol. 1, Sheet 30a.

79 Imperial Governor's Office Windhoek, Circulated Instruction to District Offices, 25 June 1912, *ibid.*, Sheet 34a et seq. This contains the reference to the Instruction of 29 March 1912. Why the Instruction had to be repeated is not known.

80 *Ibid.*

tions of Waterberg,⁸¹ Gobabis⁸² and Okahandja demanded that “Natives who display a propensity to run away should be identified by a tattoo”.⁸³ They justified this by insisting that it was the only way in which effective control would be possible, since “as has been highlighted in the press on various occasions, runaways throw their pass tokens away and if captured claim never to have worked for a farmer”.⁸⁴ The Administration in Windhoek rejected this measure, however, pointing out that no colonial nation made use of such methods. In addition, it was feared that it would “stir up great unease among the Natives and be met with great resistance”, and that “the implementation of this measure would be exploited at home by elements hostile to colonialism to justify wild agitation”.⁸⁵

The farmers refused to be placated, however, and took the matter up repeatedly in the Territorial Council. Since “the pass requirement for Natives that has existed up until now has proved unsuccessful” they demanded not only tattooing but also “in order to improve surveillance, a strict requirement for registration of residence and a poll tax”.⁸⁶ The Governor remained unyielding in the matter of tattooing, but promised at least to consider issuing an Ordinance concerning a requirement for Africans to register their places of residence;⁸⁷ however, this never seems to have reached the stage of implementation.

Six years after the promulgation of the Native Ordinances, the Colonial Government was practically at a loss with regard to how it might be possible to prevent Africans from deserting their workplaces and how to track down those who were in hiding. On the one hand, the labour shortage demanded that recruiting should be more comprehensive; but on the other hand, the Colonial Government could not bring itself to adopt all too barbarous methods. The only thing that was certain was there was no way in which watertight surveillance of the Africans could be achieved with the control measures introduced in 1907. The outbreak of

⁸¹ Waterberg Farmers' Association to Imperial Governor's Office Windhoek, 2 February 1913, *ibid.*, Sheet 37a.

⁸² Gobabis Farmers' Association to Imperial Governor's O Windhoek, 9 February 1913, *ibid.*, Sheet 39a.

⁸³ Okahandja Agricultural Association to Imperial Governor's Office Windhoek, 16 December 1912, *ibid.*, Sheet 35a.

⁸⁴ Gobabis Farmers' Association to Imperial Governor's Office Windhoek, 9 February 1913, *ibid.*, Sheet 39a.

⁸⁵ This reasoning is that of Outjo District Office. That these remarks also reflected the opinion of the Colonial Government can be deduced from the comment “very true” in the margin. Outjo District Office to Imperial Governor's Office Windhoek, 4 March 1913, *ibid.*, Sheet 29a.

⁸⁶ Grootfontein Farmers' Association to Territorial Council, 1 September 1913, *ibid.*, Sheet 41a.

⁸⁷ Imperial Governor's Office Windhoek to Grootfontein Farmers' Association, 24 November 1913, *ibid.*, Sheet 42a. A local registration ordinance had been in effect in Windhoek District since 1913.

the First World War in 1914 and the surrender of German South West Africa a year later meant that any further planning was in vain.

Conclusion

When one contemplates the development of the 'total' surveillance and control of the indigenous population, the thing that strikes one is the enormous gap between the supposedly binding legal framework and the reality, between the aspirations of the rulers and the stark limitations on the possibility of actually implementing them. From the very outset, German Native Policy was geared towards the creation of a 'model' colonial state best characterised as a society of racial privilege. The African population was assigned the role of a pool of cheap labour which simply needed to be comprehensively mobilised and efficiently deployed in the colonial economy. If this aim was to be realised, it was essential that the Africans should be comprehensively registered and subjected to a system of continuous control.

Native Law was no more than the tool by which the programme of colonial policy was implemented. It did not codify African common law, but rather served to impose European ideas of rulership or domination on the Africans in their daily lives. At the same time, it was only through these legal instruments that the actions of state officials were legitimised and a basis established for the uniform treatment of the African population in all districts of the Police Zone and for the proper functioning of the bureaucratic state administration.

In view of the inadequate human resources that were available and the vast area covered by the colony, however, this goal was illusory from the very outset, a mere expression of the utopian nature of German colonial policy. Although the early years of German colonial rule were much influenced by pragmatic considerations concerning how to deal with Africans who were far superior both numerically and in military terms, the German administration was at the same time engaged in setting up a legal and administrative framework that would enable this colonial policy programme to be implemented. Even at the time when it was still *de facto* necessary for Governor Leutwein to enter into agreements with African leaders in order to secure the very survival of German colonial rule, he and his administrative staff were already drafting regulations that went far beyond mere survival and anticipated the three Native Ordinances of 1907 that were the core of German Native Policy. The German victory in the Herero and Nama War, as a result of which the Herero and Nama were eliminated as factors in the power politics of the colony, appeared to provide the opportunity to implement these policies. But even then, their seamless implementation still proved impossible. The realisation of a perfect Big Brother state with total surveillance and con-

trol failed – due to the negligence of the Administration, the lack of sufficient willingness to cooperate among the European population, the sheer vastness of the country, and the resistance of the Africans.

However, even this incomplete realisation of the German governmental and administrative utopia brought about a radical change in the living conditions of the indigenous population; a change which meant that by the end of German colonial rule economic and social conditions in the colony had been utterly transformed. The repercussions of this are still being felt today.