

The effect of the German rule on the Rwandan legal system

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Abstract: *This chapter examines the application of colonial law in the Rwandan legal system, focusing on how Rwandan society perceived German colonialists and how their laws and policies influenced domestic practices. It begins by noting that there is limited information about the actual activities of the Germans in Rwanda, particularly in the legal sphere. Existing scholarship offers only a partial perspective on how German administrators managed the legal system. Preliminary research indicates that the impact of German colonial laws on the contemporary Rwandan legal system remains significantly under-researched. The chapter evaluates the colonial practice and argues that some aspects of the contemporary legal system in Rwanda still date back to German colonisation. It examines the German colonialism and its effect on the Rwandan legal system. It is demonstrated that prior to the arrival of colonialists, Rwanda's government was a form of feudal monarchy. The Mwami or King was the sovereign ruler, exercising his authority over feudal lords by means of a well-developed central administration. The sources of law were customary law and King decrees. This chapter follows a broad approach, using the historical review and exploration of archival documents and early publications related to this matter. Towards the end, impacts and effects from the time period discussed on further developments will be lined out*

by interpreting the consequences Germany's rule had on the current Rwandan legal system.

1 Introduction

Prior to colonial rule, Rwanda's government was a form of feudal kingdom.¹ In this period, the legal system of Rwanda was based on customary law and the unwritten *Mwami* or King's decrees.² At the 1884 Berlin Conference, the territory of Rwanda was assigned to Germany as part of German East Africa.³ Although the 1885 Conference of Berlin declared that Rwanda would be under German control, it was nine years after this conference that the first European travelled into Rwanda. In 1899, a protectorate, known as Ruanda-Urundi, was created under the administration of Count von Götzen who later became the governor of German East Africa.⁴ Under the German colonial rule, the Germans ruled indirectly through the political structure created by the *Mwami*. The Germans did not initially interfere with existing domestic institutions, governing the territory under what was essentially military command.⁵

Between 1908 and 1916, the German colonial administration in Dar es Salaam appointed a resident official to Rwanda, thereby introducing civilian governance and establishing the initial structures of judicial and taxation systems. In historical scholarship,⁶ German rule in Rwanda is often portrayed as comparatively less intrusive than the subsequent Belgian colonial regime, which is strongly associated with the formalisation of ethnic divisions between Hutu and Tutsi – a development widely regarded as contributing to the trajectory that culminated in the 1994 genocide against the Tutsi. Moreover, German rule in Rwanda is generally considered less violent than the policies implemented in German South West Africa or in parts of Tanganyika.

1 AW Schabas & M Imbleau *Introduction to Rwandan law* (1997) 4.

2 E Mutabazi *Rwanda's legal system and legal materials* (2025), <https://www.nyulawglobal.org/globalex/Rwanda1.html> (accessed 31 July 2025).

3 United Nations 'Rwanda: A brief history of the country', <https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml> (accessed 31 July 2025).

4 As above.

5 K Bachmann & J Bar (eds) *German colonialism in Africa* (2018) 15.

6 As above.

Throughout this period, the German administration largely relied on the existing monarchical systems that were in place prior to colonisation.

The aim of this chapter is to develop a more nuanced understanding of German colonial rule and its impact on contemporary Rwandan law. It provides a brief historical overview of Rwanda and investigates how German influence shaped the country's legal development. This inquiry centres around the overarching research question: What was the impact of German rule on the Rwandan legal system?

This study adopts a broad approach, combining historical review with an analysis of archival documents and early publications related to the subject. In the concluding parts, the article outlines the lasting effects of German colonial rule on subsequent legal developments by interpreting how this period influenced the current Rwandan legal framework. Drawing primarily on primary sources such as reports, letters, decrees and diary entries collected from university libraries and online archives, this chapter seeks to deepen an understanding of colonial law in Rwanda and its enduring legacy within the country's contemporary legal system.

The chapter further identifies that the Germans used indirect rule that gave power to the King and local authorities. In 1906, however, Germans introduced civilian rule in Rwanda, carrying out a census of population, raising taxes and creating a police force and judicial system. In this regard, capitation tax was introduced in 1917.

2 History of Rwandan law

Rwanda is situated in the heart of Africa, known as the Great Lakes region of Central Africa. It is a relatively small country (26 338 square kilometres).⁷ The relief of the land is jagged. A chain of volcanoes in the North gives way in the east and south to wooded savannah and plateaux dotted with innumerable hills. The West is dominated by the Zaire-Nile watershed, a group of rugged mountain ranges dissected by deep valleys. It is hardly surprising that Rwanda is known as the land of a thousand hills.⁸

7 Government of Rwanda, Ministry of Lands, Environment, Forests, Water and Mines *National Land Policy* (2004) 7.

8 Rwanda: Land of a thousand hills (2004), https://rema.gov.rw/rema_doc/Policies/National_land_policy_english_version_.pdf (accessed 31 July 2025).

In the pre-colonial period, Rwanda had well-organised state structures.⁹ According to an attaché at the Belgian Ministry of Colonies, Vanhove, who studied early customary organisation and laws of Rwanda, was surprised by how similar they were to the European feudal system.¹⁰

It is observed that before colonialism, Rwanda, like any other African community, was organised in kinship and followed legal rules that derived from customs or unwritten decrees issued by the King.¹¹ This shows that Rwandan law did not start with colonisation but, rather, it has evolved throughout the country's history. To understand the history of Rwandan law, it is imperative to examine the four key phases of the Rwandan history – the pre-colonial era, the colonial era with focus on German colonial rule, the subsequent colonial period, and the postcolonial era.

2.1 Pre-colonial Rwandan law

To understand the guises and passions that accompany the applicability of Rwandan law in the twenty-first century, it is essential to comprehend its origin. Rwanda formed as a politically organised society around the tenth and eleventh centuries, known as the *Nyiginya* Kingdom.¹² It should further be noted that Rwandans share one common language, *Kinyarwanda*, and common partisanship within a set of state structures that long pre-existed the arrival of Europeans at the end of the nineteenth century.¹³ The kingdom of Rwanda survived more than eight centuries with strong institutions and legal tools based on the principles of customary law and King's decrees and precedents.

According to Kagame, the pre-colonial institutions of Rwanda and early legal system had two main objectives: to establish a strong hierarchised society with an absolute monarchy at its summit, and to

9 M Mamdani *Politics and class formation in Uganda* (1976); W Bgoya & G Hyden 'State and the crisis in Africa: In search of a second liberation' (1987) *Development Dialogue* 8.

10 JM Kamatali *Introduction to Rwandan law* (2020).

11 A Sohier *Le mariage en droit coutumier congolais*, Mémoires de la Classe des sciences morales et politiques, tome XI, fasc 3 (Librairie Falk & G Van Campenhout 1943) 39.

12 K Alexis *Un abrégé de l'Ethno-Histoire du Rwanda* (1972) 39; L Delmas *Généalogies de la Noblesse du Rwanda* (1950) 41; B Lugan *Histoire du Rwanda, de la Préhistoire à nos jours* (1997) 65.

13 C Newbury 'Background to genocide: Rwanda' (1995) 23 *A Journal of Opinion* 12.

develop a customary law that balanced the requirements of the 'social army' with those of a system of communal justice transcending kinship.¹⁴ The Belgian governor of Ruanda-Urundi also stated that

Rwandan institutions were based on custom and tradition. The pre-colonial political legal system finds its sources in (1) *ubwiru*, comparable to the constitutional legal system; (2) the King's decrees and precedents; and the *umuco* or custom. Under pre-colonial rule, no one was above the law, even the King was in a way a slave of tradition because what the ancestors had declared had to be respected.¹⁵

2.2 Rwandan law in the colonial period

In 1886, an Anglo-German treaty partitioned the East African territory into British Kenya and German East Africa comprising present-day Tanzania, Rwanda and Burundi.¹⁶ The study of history and evolution of Rwanda in colonial Rwanda can be divided into four phases: (i) German Protectorate (1897-1916); (ii) the Belgium occupation (1916-1924); (iii) the Belgium Mandate (1924-1945); and (iv) the Belgian United Nations Trusteeship (1945-1961). For the purpose of this study, the focus will be on the German colonial rule and its impact on the Rwandan contemporary law.

2.2.1 *History of German colonial rule*

German colonisation of Rwanda began with the coming of European explorers to Africa. This was around 1880, when Africa experienced an increase in European explorers. One of the factors that drove explorers to Africa was the desire to discover the source of the river Nile. From 1856, the Geographical Society of London had started to organise regular exploration missions to discover the source of that river Nile. Some of the explorers who visited Rwanda include Sir Henry Morton who reached Akagera River in 1875, Dr Oscar Baumann who arrived in Southern Rwanda on 11 September 1892, and Comte Gustav Adolf

14 Alexis (n 12) 4.

15 Postiaux, interview notes from 19 August 1929 between Musinga and his mother Nyirayuhi, CPI, cited in D Byanafashe & P Rutayisire (eds) *History of Rwanda from the beginning to the end of the twentieth century* (2016) 246.

16 F Meier & Z Selhausen 'German colonialism in Africa and the Pacific, 1884-1914' (2025) *African Economic History Working Paper* 4.

von Götzen, who entered Rwanda after crossing the Akagera river above Rusumo Falls. Von Götzen was guided by Prince Sharangabo, the son of King Rwabugiri. He was later received by King Kigeli IV Rwabugiri on 25 May 1894 at Kageyo in Kingogo in present-day Ngororero District, Western Province.¹⁷

The German colonial rule can be divided into three phases, corresponding to three periods: the 1884-1885 Berlin Conference; the military phase (1897-1907); and the civil administration phase (1907-1916). The Rwandan colonial history started with the 1884-1885 Berlin Conference. This conference on the partition of Africa had officially recognised Germany's claim to colonial authority over Rwanda.¹⁸ The implementation of the German rule was to be attained, first, through the military phase: 1897 to 1907. This military phase was characterised by military occupation of Rwanda.

During this phase, the German government was to give support to the local leaders to suppress several insurrections. In this way, the military posts created by the German government at Shangi and Gisenyi had only the role of bringing the population in the areas under German rule and, therefore, under local Rwandan rule headed by King Musinga. In this period, the German Protectorate was committed to ensuring indirect rule over Rwanda. This means that by this system of administration, the local traditional leaders and the culture would be maintained.¹⁹

Second, the German rule was established through the civil administration phase (1907-1916). This phase started when Rwanda became a residence and administrative services were transferred to Kigali from Usumbura, followed by the appointment of a civilian resident called Richard Kandt. He was charged with the responsibility of establishing a civilian rule in Rwanda, carrying out a census of population, raising taxes and creating a police force. In 1908, he founded Kigali as an imperial residence which would become the capital of independent Rwanda.

During this phase, the German government helped the local authorities to suppress several rebellions, markedly, the rebellion of Ndungutse and his acolytes, Rukara and Basebya. Rukara's rebellion was

17 German and Belgian colonisation (1897-1962), <https://elearning.reb.rw/course/section.php?id=12637> (accessed 31 July 2025).

18 Colonial Rwanda (1897-1962), <https://elearning.reb.rw/course/section.php?id=6383> (accessed 5 February 2026).

19 German and Belgian colonisation (n 17).

suppressed with support from the German chief of Usumbura district, von Grawert.²⁰ Rukara's followers were massacred, the number of victims is still unknown. Rukara was captured and imprisoned, and later executed. The German military killed over 50 rebels, which stands out as the largest killing of a disruptive local population during the German regime. To dissuade further rebellions, the Germans publicly executed the opposition's leaders, and punished the local population by destroying crops and burning down houses. Their goal was to obtain complete submission of the region.²¹

Another major development during this phase of civil administration was the delimitation of Rwanda's borders. It was at a conference held in Brussels on 8 February 1910 between Belgium, Germany and Britain where Rwanda's northern and western frontiers were demarcated.

2.2.2 *Influence of German colonial rule on Rwandan law*

As previously stated, the Rwandan pre-colonial legal system drew its sources in custom, royal decrees and established precedents, while the post-colonial legal system still reflects influences dating back to colonisation.²² During the colonial period, the central body of legislation governing Rwanda was established by colonial authorities, who had replaced many traditional laws. Colonial era laws remained in effect until 2019, when the Rwandan Parliament made a historic decision to abolish all such laws.²³ In conducting our review, we examined the repealed laws to understand what had been modified and, more importantly, to determine whether colonial influence persists within Rwanda's contemporary legal framework.

20 JP Chrétien (1972) 'La révolte de Ndungutse (1912) Forces traditionnelles et pression coloniale au Rwanda allemand' 59 *Revue française d'histoire d'outre-mer* 645.

21 German and Belgian colonisation (n 17).

22 A Binagwaho, R Freeman & G Sarriera 'The persistence of colonial laws: Why Rwanda is ready to remove outdated legal barriers to health, human rights, and development' (2018) 59 *Harvard International Law Journal* 48.

23 Law 020/2019 of 22/08/2019 Repealing all Legal Instruments Brought into Force before the date of independence, *Official Gazette* 37 bis of 23/09/2019; art 3 states that 'all legal instruments, brought into force before the date of independence of Rwanda, are repealed'; A Binagwaho & R Freeman 'Decolonisation of the Legal Code: The end of colonial laws in Rwanda and a model for other post-colonial societies' (2021) 62 *Harvard International Law Journal* 66.

Under the German protectorate system (*Schutzgebiete*) the fundamental law of the colony and other principal laws were to be adopted by the German Empire. According to the fundamental laws of the German colonies, at the apex of each colony was the governor appointed by the emperor; and the governor was assisted by civil servants, among whom was a chancellor (*Kanzler*) and a civil servant in charge of finance as well as a high judge (*Oberrichter*).²⁴ Because the German protectorate sought to preserve the *status quo* in both public and private customary law, they opted for indirect rule. By this system of administration, the local traditional leaders and the culture would be maintained. The German administration relied on the traditional royal oligarchy in place prior to colonisation.²⁵

In Rwanda, indirect rule was understood to mean:

- to support and enhancement of the power of the King by protecting him against any form of attack;
- to support the extension of the power of Tutsi chiefs and the establishment of schools for Tutsi children in 1910;
- to maintain traditional socio-political institutions, with non-interference in the daily affairs of local communities, provided they did not undermine European administration.

In supporting the power of the King, Germany used two approaches, namely, physical force and religion.

However, the support for loyal authority was not supposed to last indefinitely. In the letter sent to Dar es Salaam, Wintgens, a German resident, reported that there was 'deep bitterness against Watutsi rule in the entire country'.²⁶ He reported that this posed a danger to the Germans, and that the best way to confront it was not to support the Watutsi with guns, but gradually to replace the arbitrary rule of the Watutsi with the rule of law. Although this never materialised because of World War I, it demonstrates the commitment of the German administration to

24 JM Kamatali 'Ethnicity and constitutionalism in post-genocide Rwanda' in J Oloka-Onyango (ed) *Constitutionalism in Africa: Creating opportunity, facing challenges* (2001) 110.

25 Schabas & Imbleau (n 1) 4.

26 Rwanda history, <https://www.africa.upenn.edu/NEH/rwhistory.htm#:~:text=The%201885%20Conference%20of%20Berlin,governor%20of%20German%20East%20Africa> (accessed 31 July 2025).

establishing the rule of law, promoting power sharing among indigenous groups and respecting human rights.

The German colonial period in Rwanda marked a transformative phase in Rwanda's governance, economy and legal system. From an economic perspective, the German protectorate opened the country to trade, supported the role of missionaries in social and health development, introduced a currency known as the 'rupee', and established a tax system.²⁷ In German East Africa, the tax functioned as a general business and occupational levy. Trades and occupations were divided into classes according to their character, the amount of capital employed, the income derived, and so forth. In addition, the German administration introduced both a capitation (head) tax and a house tax. The capitation tax required every male native of working age to pay an annual payment of one rupee. This levy functioned as a compulsory personal tax independent of income or property ownership. Notably, the capitation tax remained in force, with various statutory modifications, until its eventual abolition in 1994. An inheritance tax was also imposed upon the successions of natives. The rate was 2 per cent for first-class heirs and 5 per cent in all other cases.²⁸

The house tax was also introduced in two general classes: houses built according to European, *hindoo* or Arabian models and houses and huts built according to native custom. Each of these classes is subdivided into (a) urban houses and (b) houses in the country. The annual rate was as follows:

- Class I (a) 5 per cent of the rental value to exceed 100 R;
- Class I (b) 3 grades 10 R, 20 R, 30 R;
- Class II (a) 2 grades 6 R, 12 R;
- Class II (b) 3 R.²⁹

In class II, there was a possibility to pay the taxes '*in natura*'. It is noted that forced labour was permitted as measures for the enforcement of the tax. When the forced labour was carried out, it was to be used in the first place for the improvement of the roads in the district where the party

27 F Reyntjens *Pouvoirs et Droit au Rwanda Droit public et évolution politique 1916-1973* (1986) 38.

28 I Loeb 'The German colonial fiscal system' (1900) 15 *American Economic Association* 40.

29 Loeb (n 28) 446.

resides. The local administrative authorities would decide on the 'value' of the forced labour and natural products.

The introduction of cash and taxes in Rwanda changed the foundations of the Rwandan economy from a cattle-based economy to a cash-based economy. Changes in the economy had unintended consequences for the traditional authority of the King. First, citizens started cultivating cash crops such as coffee and tea and selling their cows to make money in order to pay tax. Second, the obligation to pay capitation tax contributed to a shift in allegiance from the kingdom to colonial institutions. As paying tax is not only a duty, but also a source of rights, the tax payers expected some obligations from the tax collector in exchange for tax paid. In the case of Rwanda, tax payers expected the German administration not only to provide protection, but also to shield them from the obligations imposed by traditional rulers and customary law.³⁰

Regarding land management, the German administration found the customary land tenure system mainly based on *ubukonde*³¹ and *isambu-igikingi*.³² The former was a system by which land was owned by a particular clan or lineage, with the head of the lineage granting access and occupation rights to others. This was the case mostly in the northwest of Rwanda. The second system was *igikingi*, which referred to the pastoral land areas in the other regions known as the Central Kingdom. It was a system in which individual land tenure was granted by a political authority as common grazing land. In both systems, land tenure was held in usufruct and ultimate ownership rights remained with the applicable political authority or head of lineage.³³

The German colonial authority found this system in place (the King's authority over land). While German colonial authority initially

30 RV des Forges *Defeat is the only bad news: Rwanda under Musinga 1896-1931* (2011) 89.

31 *Ubukonde* or clan rights, were held by the chief of the clan, who was the first land clearer. The chief could own vast tracts of land on which he would resettle several families, known as *Abagererwa*. The latter enjoyed land rights, subject to some customary conditions. Republic of Rwanda *National Land Policy* of 2004 10.

32 *Igikingi* or right to grazing land, granted by the King or one of his chiefs known as *Umutware w'umukenke*, to any family that reared livestock. B Blarel 'Tenure security and agricultural production under land scarcity: The case of Rwanda' in JW Bruce & SM Migot-Adholla (eds) *Searching for land tenure security in Africa* (1994) 71; H & C Huggins 'Land reform, land scarcity and post-conflict reconstruction: A case study of Rwanda' in C Huggins & J Clover (eds) *From the ground up: Land rights, conflict and peace in sub-Saharan Africa* (2005).

33 C Andre *Rwandan land: Access, policy and land reform* (1998) 3.

recognised the customary land tenure system, they also introduced profound changes in land administration, which later contributed to the destruction of the traditional system.³⁴ The German authority institutionalised a land registration system founded on three pillars: land ownership for agricultural purposes, livestock and security; all aimed at guaranteeing prosperity. Under this system, the first Catholic and Protestant missions acquired land and obtained the land ownership. The German colonial land tenure system influenced modern property laws, where formal land ownership registration had become essential, reflecting German administrative practices. Rwanda's land tenure regularisation programme reflects earlier German colonial land documentation practices, designed to formalise land ownership and reduce disputes. Since then, it has developed a strong land tenure system and has been ranked as the first African country to complete land registration across its entire territory.³⁵

Also, until the establishment of German colonial rule, the King was regarded as the most important human figure, a man of integrity whose authority was not to be questioned or contradicted. His orders and decisions were both fair and final, and his decisions were without appeal.³⁶ However, traditional judicial systems were criticised for the way traditional courts handled and often poorly adjudicated criminal cases. In an effort to maintain order and ensure justice, the colonial authorities established several territorial courts and police posts with jurisdiction to adjudicate offences under written criminal law, including those committed by local populations. The police force, primarily composed of local recruits under German supervision, was instrumental in ensuring compliance with taxation policies and labour obligations. This, therefore, marked the beginning of a weakening of the traditional institutions such as *ubuhake*, and the social army that for long had served as the foundations of the Rwandan legal system. Fortunately for the Kingdom of Rwanda, German colonialism did not last long as it ended with the defeat of Germany in World War I.

34 Republic of Rwanda National Land Policy (2004) 11.

35 S Takeuchi & J Marara 'Land law reform and complex state-building process in Rwanda' in S Takeuchi (ed) *African land reform under economic liberalisation* (2022) 137.

36 Byanafashe & Rutayisire (n 15) 755.

2.2.3 *The end of colonial laws and their enduring influence on modern legal practice*

As discussed in the previous part, Rwanda abolished all colonial laws in 2019. Through Law 020/2019 of 22 August 2019, the country repealed more than 1 000 pre-independence laws without providing replacements.³⁷ This comprehensive abolition raises two main issues: first, how conflicts that were previously governed by colonial laws should now be solved; second, how post-colonial legislation that refers to these repealed laws, such as Law 45/2011 of 25 November 2011 Governing Contracts, should be interpreted in their absence.³⁸ Legal practitioners have expressed uncertainty about how to address the interpretative ‘gap’ created by the abolition of the colonial laws.

In cases involving statutory interpretation of this nature, courts continue to depend on established case law (precedents), general principles of law and established legal doctrine to interpret statutes or to reach equitable solutions in matters previously governed by colonial legislation. Although the colonial laws have been repealed, the jurisprudence developed under them remains valid and is still used to resolve disputes that were once governed by now defunct colonial rules. At the time of writing, no replacement legislation has been enacted for certain repealed laws, including those governing torts and contracts, even though these areas were exclusively governed by colonial law. Nevertheless, the Rwandan legal system appears to be adapting to address the normative gap left by the abrogation of the colonial laws. Implicitly, it appears that colonial legislation continues to exert influence, persisting beyond its formal repeal through the continued operation of underlying jurisprudence.

3 Conclusion

The German colonial period in Rwanda, though relatively brief, from 1897 to 1916, left a profound and lasting impact on the country’s legal

37 The abolished legal instruments are listed in the annex to Law 020/2019 of 22/08/2019 repealing all legal instruments brought into force before the date of independence.

38 Law 45/2011 of 25/11/2011 Governing Contracts *Official Gazette* 04bis of 23 January 2012.

and institutional development. Prior to colonisation, Rwanda had a well-established and structured legal system rooted in customary law, royal decrees and communal justice. With the establishment of German rule, especially under the framework of indirect rule, colonial administrators initially maintained existing local structures. However, they gradually introduced Western administrative, legal and economic systems that began to reshape the foundations of Rwandan governance.

The German administration's establishment of civil institutions, including tax systems, police forces, judicial bodies and land registration frameworks, signalled a departure from purely customary authority. These changes not only began the erosion of the Mwami's absolute power, but also laid the groundwork for the formalisation and codification of laws that are now central to Rwanda's modern legal system.

Furthermore, the introduction of cash-based taxation, land ownership documentation and formal judicial institutions disrupted traditional power dynamics, weakened clan-based authority, and influenced the evolution of property and criminal law. These legacies are still visible in Rwandan legal and institutional landscape today, particularly in areas such as land tenure regulation and the formal structure of courts and administrative governance.

In a nutshell, while German colonialism in Rwanda was characterised by indirect rule and a reliance on existing traditional systems, its influence catalysed a transition from customary to codified legal frameworks. Although the colonial period was short-lived, it marked a turning point in Rwandan legal history, with effects that continue to resonate in the country's legal and administrative institutions. A continued study of this formative period is essential for understanding how colonial legacies shaped, and still inform, Rwandan modern legal order.

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