

‘Wir verlangen ... das gleiche Recht auch im Gericht zwischen Europäern und Eingeborenen’ – The Togolese perception of German colonial law as expressed in petitions and newspaper publications (1884-1914)

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Abstract: *This chapter examines how the colonised population of Togo perceived and responded to German colonial law between 1884 and 1914, drawing on original petitions and newspaper articles written at the time. Challenging the idea of the silent subaltern, it demonstrates that Togolese actors used their transcultural literacy to contest the arbitrariness and discrimination of the German colonial system. Despite the threat of repression, figures such as Andreas Aku and Octaviano Olympio actively demanded equal legal rights for all, rejecting the racist notion of cultural superiority of Europeans over Africans promoted by colonial officials such as Governor Julius von*

Zech. These indigenous texts reveal the agency and legal consciousness of the colonised, demonstrating that they were not passive subjects but active participants in responding to the dominant colonial discourse. The study therefore argues for the critical inclusion of these sources in colonial historiography to deconstruct oppressive narratives and better understand the dynamics of resistance under German rule.

1 Introduction

Referring to one of Gayatri Chakravorty Spivak's theoretical reflections with the title 'Can the subaltern speak?', the Cameroonian literary scholar David Simo wrote the following in a paper he entitled 'How the subaltern speaks':¹

I am also concerned with the subaltern subject, namely the colonial subject. However, I start from a different observation, namely the difficulty of documenting and discussing traces of the colonial subject in the form of statements or texts. In literature, this situation has meant that it has largely remained a silent subject ... This is due to the fact that the colonial library and the colonial archive consist mainly of texts and testimonies of the colonial rulers.

The situation described by Simo is an established fact that cannot be disputed. The perspective of the colonised people on the colonisation they endured is almost entirely absent. This is because the thoughts and actions of the colonised were not systematically recorded in any medium that we can consult today.

However, if we assume that the colonised people were acting subjects that had an individual and collective consciousness, then we must delve deeper into the colonial archives and into private remaining media all over the world, in both the former metropolises and the former colonies. Original documents produced by the colonised people are not impossible to find. The colonised people have produced content in various forms,² either at the coloniser's request for a specific purpose, or on their own initiative, in the form of correspondence with friends

1 D Simo 'Wie der Subalterne spricht' (2018) 19 trans *Internet-Zeitschrift für Kulturwissenschaften*, <https://www.inst.at/trans/19/wie-der-subalterne-spricht/> (accessed 20 January 2025). This quotation, like most citations in this chapter, originates from German sources. All translations are by the author.

2 Texts, sound recordings, images, etc.

and family members, or as a means of resisting colonisation.³ This last category includes autobiographies, petitions, newspaper articles, translations of books and collections of writings by various authors denouncing colonisation. This study focuses on petitions and newspaper articles written and published by Togolese people during the German colonial period.

The petitions and newspaper articles presented in this chapter are original documents written by colonised Togolese people. The texts were submitted either to the German authorities in the colony of Togo, or sent by post to Berlin, and/or published in newspapers outside the colony. The documents can still be found in archives in Togo, Ghana, Germany and the United Kingdom, among other places. For us today, these texts are valuable witnesses of the colonial era, offering insight into the experiences of colonised people.

This chapter aims to present the perspective of the colonised Togolese on German colonial law and demonstrate that the standpoint of colonised peoples should be considered when writing colonial history. The first part defines petitions as a legal institution and illustrates how they were perceived during the late nineteenth and early twentieth centuries, when Togo was a German colony. It also describes the legal system in place in the Togo colony at the time. This highlights the historical value of the texts. The second part presents the context in which petitions and newspaper articles emerged during the German colonial period in Togo. The third part demonstrates how German colonial law is evaluated in these documents. The fourth part focuses on a specific document written by a colonial authority: a letter from the German governor, Julius Graf von Zech, in response to one of the Togolese petitions. The letter is presented as a confirmation of the standpoint of the colonised people. The conclusion emphasises the importance of considering the colonised people's perspective in the writing of colonial history.

3 M Kalibani *Verhört! Akustisches Erbe des deutschen Kolonialismus und postkolonialer Tinnitus* (2025); K Abotsi 'Antikoloniale Widerstandsbewegungen in Deutsch-Togo: die Petition im kolonialen Kontext (1884-1914)' PhD thesis, University of Lomé, 2024; KA Akakpo *Discours et contre-discours sur le Togo sous l'Empire allemand* (2014); K Azamede *Transkulturationen. Ewe-christen zwischen Deutschland und Westafrika, 1884-1939* (2010).

2 The political and legal meaning of petitions in the German context around 1900

Besides legal or administrative ways to resolve problems, petitions are letters in which citizens ask their authorities for help or complain about specific issues. It may concern private matters or public political issues. This opportunity to address political authorities with a letter is considered a democratic civil right in many countries today. It is often enshrined in the Constitution and guaranteed by law. For example, in Germany, article 17 of the German Basic Law (*Grundgesetz*) of 1949 states: 'Everyone has the right to submit written petitions or complaints to the relevant authorities and representatives of the people, either individually or collectively.'⁴ Petitions, therefore, are based on political and legal dispositions that give citizens the right to express their views on personal or public issues: This is called the right of petition.

During the period of German colonisation of Togo, from 1884 to 1914, petitions were already perceived in many countries such as Germany similarly to how they are today. In his book *Petitionen. Von der Untertanenbitte zum Bürgerrecht. Geschichte. Rechtliche Grundlagen. Der Petitionsausschuß* (*Petitions. From subject's request to civil right: History. Legal foundations. The petitions committee*),⁵ Schick demonstrates how the perception of petitions and their designation has evolved throughout history. According to Schick, petitions originated in 44 BC during the Roman Empire, initially under the term 'supplication'.⁶ This term is derived from the Latin verb *supplicare*, which could mean 'to humble oneself' or 'to fall on one's knees before someone'.⁷ Since those times, the institution of supplication has undergone many changes, resulting in the petition as we know it today. An important milestone in the German context was the General Prussian Law (*Allgemeine Preussische Landrecht*) of 1794, which codified the use of petitions in its paragraph 156.⁸

On the other hand, everyone is free to express their doubts, objections and concerns about state laws and regulations, as well as their comments and

⁴ The Constitution of the Federal Republic of Germany, 1949.

⁵ R. Schick *Petitionen. Von der Untertanenbitte zum Bürgerrecht. Geschichte. Rechtliche Grundlagen. Der Petitionsausschuß. Der Petent* (1996).

⁶ Schick (n 5) 11.

⁷ As above.

⁸ Schick (n 5) 17.

suggestions regarding shortcomings and improvements, to the head of state and departmental heads. The latter are obliged to examine such reports with the necessary attention.

The fact that this regulation was anchored in the General Prussian Law shows that petitions can be intended not only to contain private requests, but also to enable every citizen to influence public concerns. Schick writes:⁹

This provision of the General Prussian Law gave rise to the political petition, which, by its very nature, is concerned not with individual interests, but with the general interests of the community. With the triumph of the Enlightenment, the concept of supplication disappeared in favour of the term 'petition'. Citizens no longer had to beg for what was rightfully theirs.

The perception of petitioning as a right for all citizens influenced the Constitutions of the nineteenth century in Germany, notably the 1849 Constitution promulgated in the St Paul's Church (*Paulskirche*). Article 159 of this Constitution, as stipulated by the Frankfurt National Assembly, stated the following:¹⁰

Every German has the right to submit written petitions and complaints to the authorities, the representative bodies of the people, and the Reichstag. This right could be exercised by individuals, corporations, and associations, but in the army and navy only in the manner prescribed by disciplinary regulations.

In the period when Germany was a colonial power, the German Constitution promulgated in 1871, unlike that of 1849, did not include fundamental rights for the citizens. Therefore, this Constitution does not contain any specific provisions on the right of German citizens to submit petitions to certain authorities. Nevertheless, the issue of petitions was addressed in both the Constitution and the Parliamentary Rules of Procedure when it comes to regulating the activities of parliamentarians. Article 23 of the Constitution stipulated notably: 'The Reichstag has the right, within its competence, to propose laws to the Empire and to refer petitions addressed to it to the Federal Council or the Chancellor of the Empire.'¹¹ The right to petition, therefore, was not fundamentally contested.

9 As above.

10 Schick (n 5) 18.

11 As above.

However, the political and legal systems in the German colonies were not organised in the same way as in Germany itself. Therefore, the use of petitions by colonised people must be considered in the context of the legal system implemented in the colonies.

The legal situation in German colonies was primarily regulated by the Protectorate Act (*Schutzgebietsgesetz*). Originally enacted on 17 April 1886 under the title 'Gesetz betreffend die Rechtsverhältnisse in den deutschen Schutzgebieten' (*Legislation concerning legal matters in German protectorates*),¹² it came into force on 1 May of the same year. It was amended on 25 July 1900. Governor Julius Zech's letter, which is presented below, referred to this latest version.

The Protectorate Act was the basic law for all German colonies. It provided general regulations on the application of German law to Europeans living in the colonies. It specified that the local populations of the colonies were not subject to German law unless an imperial decree permitted it. Therefore, the Protectorate Act officially established the legal inequality of Africans compared to Europeans in the German colonies.

However, the Protectorate Act did not provide a detailed definition of the structure of the judicial system and local administration in the colonies. According to its penultimate article, this responsibility lay with the German Chancellor or a colonial official to whom the Chancellor had delegated this authority. Consequently, it was the responsibility of the colonial governors and their administrators to organise the colonies politically and legally.

In the case of Togo, it is important to note that there were no specific written laws during the German colonial period. The country was organised as follows: After the military conquest of the territory was complete around 1900, it was divided into eight districts, each headed by a German official as district administrator.¹³ The political administration of the colony thus consisted of the governor of the colony – who was the head of the colonial government and was based in the capital Lomé – and eight district administrators who represented the central government in

12 Bundesarchiv Berlin Lichterfeld (BArch) R 1001/4746, 142–143.

13 The German title is 'Bezirksleiter'. These administrators were also called 'Bezirksamtmänner' or 'Stationsleiter'. T von Trotha *Koloniale Herrschaft. Zur soziologischen Theorie der Staatsentstehung am Beispiel des 'Schutzgebiets Togo'* (1994) 76.

the respective administrative regions of the territory. In addition, there were many colonial officials who supported the governor and the district administrators in the performance of their duties. Within this governance structure, the district administrators played the most significant role in political and legal terms. Von Trotha presents them as the 'true rulers' of the colony of Togo.¹⁴ As military commanders of the police forces at their disposal, their task was to maintain order and enforce colonial rule. Above all, however, they were responsible for exercising jurisdiction over the local population, even though many of them had received no judicial qualification. Erbar writes:

Legislative, executive and judicial powers were combined in the hands of the district administrator. This effectively abolished the separation of powers at the local level in the German colonies, enabling the district administrator to shape the administration of the district according to his own preferences.¹⁵

Whenever a district had a new administrator, he would bring his own legal practices with him; there was even talk of a 'district administrator's law'.¹⁶

The district administrator law was a heterogeneous customary law that drew its substance from the jurisprudence practised by district administrators over many years. It was a mixture of Roman law ... and local legal customs, which these 'legal practitioners' themselves did not necessarily master. The nature of this so-called law was heavily dependent on the person of the district administrator and was a local arbitrary law that did not extend beyond the boundaries of a district.

Local authorities and translators had certainly played a role in this oppressing system of rule. However, collaboration between German district administrators and African chiefs constantly involved a combination of bribery, flattery, threats and violence.¹⁷ Local authorities

14 Von Trotha (n 13) 86.

15 R Erbar 'Die Verwaltung der deutschen Kolonien am Beispiel Togos' (1998) *Annali dell'Istituto storico italo-germanico in Trento* 298, <https://heyjoe.fbk.eu/index.php/anisig/article/download/2130/2130/2131> (accessed 20 December 2022).

16 A Afanvi Rudolf Asmis (1879-1945): *Kolonialrecht Und wissenschaftliche Betätigung als präventive Alternativen für die deutsche Kolonialpolitik in der ersten Hälfte des 20. Jahrhunderts* (2013) 109.

17 K Kabrais 'Rapports entre l'administration coloniale allemande et les chefs traditionnels de la station secondaire de Nuatjä: une culture coloniale à son paroxysme? (1900-1914)' in K Azamede (ed) *Regards sur le passé Germano-africain. Mélanges en l'honneur du Professeur Valentin Amétépé Yawovi Abadji* (2018) 139.

had to carry out the orders of the district administrators, otherwise the latter could punish them, remove them from power or order their banishment to distant places.

From 1904 onwards, the Togo colony had a *Gouvernementsrat*, a council that acted in an advisory role. This council consisted of German officials, traders and missionaries. Togolese people were excluded from membership, despite numerous requests to join. They were rejected on the grounds that they were not sufficiently cultivated to participate in discussions about the administration of their own country. In the words of Governor Julius Graf von Zech: 'The natives of the protectorate are not yet capable of participating in decisions on issues that require a broader perspective.'¹⁸ This statement aptly summarises German colonial ideology, and it was on this basis that the political and legal system was designed.

As a result, Togolese citizens had no legal means of participating in the administration of their own country. There were no formally established procedures for submitting petitions in the colony of Togo. Nevertheless, thanks to their transcultural knowledge of administrative, political and legal processes, their language skills – they wrote the petitions in German or in English – and their experience with writing and posting letters at a local and international level, some Togolese were able to use petitions as a means of making themselves heard and drawing attention to violence and injustice. In doing so, they claimed a right and, thus, a legal subjectivity that was not recognised by the colonial regime but explicitly denied them. The petitions described below should, therefore, be seen as a form of resistance and not, as in the German Empire, as a peaceful means of communication between citizens and authorities.

3 The context of the emergence of petitions and newspaper articles during the period of German colonisation in Togo

Today's Republic of Togo and part of today's Republic of Ghana formed the German colony of Togoland from 1884 to 1914. The official beginning of German colonisation in this area was marked by the signing of a so-called protection treaty in a place called Baguida on 5 July 1884. However, several months before the treaty was signed, some significant

18 Erbar (n 15) 298.

events occurred in the neighbouring Kingdom of Aného that prompted the publication of the first Togolese protest texts against Germany. Aného is located in the south-east of Togo, on the Gulf of Guinea near the cities of Agbodrafo and Baguida.

In fact, in the 1880s there were trading posts of African, French, British and German trading companies on the coast of what would later become the German Togoland. The main places were Be-Beach (today's capital town of Togo Lomé), Baguida, Porto Seguro (today's Agbodrafo) and Little Popo (today's Aného).¹⁹ Although these places were not occupied by any European country, British influence was very strong in the area.²⁰ The territory west of Lomé had been under British colonial rule since 1874 and was known as the Gold Coast Colony (today's Republic of Ghana) and the British colonial government aimed to expand its colony onto Lomé and Baguida in order to prevent smuggling in these places. Additionally, the Kings of Aného, namely, the Lawsons, maintained very good relations with the British and had sent a request to the British government in 1861 for their country to become a British protectorate.²¹ Therefore, the non-British trading houses based in these places were under constant threat of invasion by Great Britain, which would have put their business at risk. In fact, the respective European trading agents wanted their own countries to take possession of the territory where they were trading in order to ensure that they could continue their business and enjoy favourable customs conditions.

Following the death of King George A Lawson II of Aného in May 1881, when no new King was enthroned, the French merchant Joseph Cantaloup, who also performed consular duties, succeeded in persuading influential figures in Aného, Agbodrafo and the surrounding area to request a protectorate from France.²² A letter was sent on 18 August 1881. Subsequently, the French government issued a decree declaring a protectorate over Agbodrafo, Aného, Grand Popo and Agoué.²³

19 The current names of these places are used in this chapter, except in quotations.

20 NL Gayibor *Le Togo sous domination coloniale* (1997) 9; P Sebald *Togo 1884-1914. Eine Geschichte der deutschen 'Musterkolonie' auf der Grundlage amtlicher Quellen* (1988) 19.

21 Y Marguerat *La naissance du Togo selon les documents de l'époque* (1993) 137.

22 Marguerat (n 21) 120.

23 The last two places, Grand Popo and Agoué, later became part of the French colony of Dahomey and are now located in the Republic of Benin. Sebald (n 20) 39.

However, the decree was never published because the French feared the reaction of the British authorities, who had been informed of the situation through letters sent by the Lawsons.

In fact, in October 1881, Thomas William George Lawson, the oldest son of the Lawson family who was living in the British colony of Sierra Leone, sent a letter to the French vice-consul in Freetown, Mr Bareste.²⁴ In the letter he officially rejected French protectorate over Aného, pointing out that the country had been negotiating with Great Britain on this issue for several years, and that the individuals with whom Cantaloup negotiated the protectorate request were not legitimate representatives of the country. While awaiting a response from the French consul, Lawson also wrote to the British Governor in Gold Coast and to the Secretary of State for the Colonies in Great Britain to seek their help.²⁵ The consul eventually replied by questioning also the legitimacy of the Lawson family in Aného.²⁶ However, France was unable to occupy the country on this occasion.

In September 1883, a new King from the Lawson clan – George A Lawson III – was enthroned in Aného, thereby again increasing Britain's influence in the country. The new King had once again declared the French protectorate over Aného illegal and appointed his cousin – William Thomas Georges Lawson – from British Sierra Leone head of government.²⁷ King Lawson III took control of all matters concerning foreign traders and abolished all tax payment practices that had existed prior to his reign and in which prominent figures in the country with close ties to French and/or German interests had been involved. Taxes had to be paid to him and according to his terms. The French and German traders on site saw all these as a dangerous strengthening of British prestige against their businesses and tried to find a solution with the authorities in their countries of origin. The German trading companies asked Germany for help, and the government responded by sending a war ship to Aného in the spring of 1884.²⁸

24 Marguerat (n 21) 137.

25 Marguerat (n 21) 130.

26 Marguerat (n 21) 138.

27 Sebald (n 20) 39.

28 W Gbadamassi & AP Oloukpona-Yinnon *Stubenrauchs Berichte aus Westafrika (Januar bis Februar 1884): Dokumente zur Geschichte Togos. Aneho en janvier-février 1884 selon les rapports du Capitaine W Stubenrauch Commandant de la SMS 'Sophie'* (2012) 13.

Upon arriving on the coast of Aného, the captain of the German war ship ‘SMS Sophie’, Captain Stubenrauch held a meeting with German traders and representatives of King Lawson III to discuss the matter of customs payment. At the end of the meeting, Stubenrauch presented the King with a decree to sign, stipulating that he now agreed to share management of the country’s foreign trade centres with other prominent figures who had been among the signatories of the request sent to France.²⁹ Not only did King Lawson refuse to sign the document sent by Stubenrauch, but he also sent him a virulent letter reminding him that he was the King of Aného and that it was up to him to decide what should happen in his country. The letter sets out a few rules of conduct that foreign traders would have to follow if they wanted to remain in Aného:³⁰

I desire to say for the information of your Government that I endorse the assurance expressed yesterday by my cousin Mr WTG Lawson for the safety of the lives and property of the German merchants here expecting in the event of war provided –

1st they take my advice;

2nd they do not in any way interfere with native affairs;

3rd and they obey the laws of the country.

In conclusion I repeat that I demand as my right the whole of the duties and public rents in the place and I certainly will not allow them or any part of them to be paid to anyone without my express orders.

Consequently, on 3 February 1884, Captain Stubenrauch sent a detachment of 100 sailors from the ‘SMS Sophie’ to storm Aného. Stubenrauch and his men laid siege to the King’s palace, killing one man and taking Minister William Lawson and two of King Lawson III’s advisers – Gomez and Wilson – hostage. However, in the British colony of Nigeria, at Lagos, William Lawson was released thanks to the intervention of the British governor, as he was considered a citizen of British Sierra Leone. Gomez and Wilson were taken to Germany.³¹ This demonstration of force did not solve the problem. King Lawson III remained defiant and sent a new request for protection to the British. A pamphlet was also written denouncing the Germans’ actions. Entitled ‘The Germans’ inhuman actions at Little Popo on Sunday morning,

29 A Jones & P Sebald *An African family archive: The Lawsons of Little Popo/Aneho (Togo) 1841-1938* (2005) 266.

30 Jones & Sebald (n 29) 265-266.

31 Gbadamassi & Oloukpona-Yinnon (n 28) 29.

3 February 1884,³² it was written by an official from the New London Palace – as the royal palace in Aného was called – and described the intervention of the German navy as a violent and completely illegal act. This pamphlet was apparently sent to the British alongside the other letters in order to demonstrate the country's need for protection.

All this demonstrates the extent to which the people who inhabited the coast of the territory that would become Togoland, particularly their leaders, were engaged in international correspondence. This involved writing and the use of the postal service to communicate with people near to them in West Africa or far away in Europe. Most importantly, they have been using letters as a means to protest against the injustices they faced. This was the basis for the resistance that these populations would later wage against the German colonial government through petitions and newspaper articles.³³

In July 1884, the military surgeon and newly appointed German Commissioner for West Africa, Dr Gustav Nachtigal, returned the two Aného hostages on board the 'SMS Möwe'. Rather than freeing them, they were kept on board the war ship until a protection treaty had been negotiated and signed in Baguida on 5 July 1884, making Lomé, Baguida and Agbodrafo a German protectorate; Aného was added later onto the space of the protectorate.³⁴ Immediately after the treaty was signed, Nachtigal appointed Heinrich Randad, a German trader based on the coast, especially in Baguida, as provisional consul of the newly acquired protectorate. The local chiefs and kings, who had not been involved in the negotiations, responded to the protection treaty with letters they sent to the provisional consul. Heinrich Randad received the first written complaints from King John Mensah of Agbodrafo.³⁵ The protection treaty referred to Agbodrafo as well as Baguida and Lomé. However, Nachtigal had not reached any agreements with the King of Agbodrafo. Therefore, King John Mensah did not accept the treaty.

32 Jones & Sebald (n 29) 268-271.

33 Abotsi (n 3) 104.

34 P Sebald 'Les cinq jours du Dr Gustav Nachtigal au Togo (2-7 juillet 1884)' in AP Oloukpna-Yinnon (ed) *Le Togo 1884-2004: 120 ans après Gustav Nachtigal. Connaître le passé pour mieux comprendre le présent. Actes du Colloque International de Lomé des 27, 28 et 29 septembre 2004* (2007) 28.

35 Jones & Sebald (n 29) 329.

Even the chiefs of the place called 'Togo', the owners and paramount rulers of the cities of Lomé and Baguida, on whose behalf the treaty had been negotiated and signed despite none of them being present, addressed a collective petition to Heinrich Randad. They demanded that the treaty be annulled, since the negotiations had been conducted with messengers they sent to Baguida for other purposes, rather than with themselves as legitimate chiefs of the Togo territory.³⁶

Togo Town, 20th September 1884

To H. Randad Esqr.

Dear sir

I beg to inform you that we are rather in trouble as since we had got your flag over us as a German protection, and we beg to let you know in order that you may see into the matter and let us remain at peace.

...

... we beg to put the matter under your mind and shall ask you at once to settle the matter finally. Leaving it is sh[o]wing now that Kudajay and his followers are the hiers [= heirs] of our land and of which not late Galar, Gbosoo & Avorkon who are our grandfathers the rightful heirs of the Bey lands and we beg to announce per property and if you do not hear us and seize over hearing Kudajay, Ocloo and Placoo³⁷ we shall be obliged to protest against the proclamation for the whole lands of us. After protesting bear in mind that we shall hand over our land to whatever Government we shall think proper. Then you can see who has the right in putting Beh lands under any Government Protection. Hence we let you know their descendants. We shall thank you to forward a copy of this to your Government if you cannot settle the matter here. Should you find it convenient please call here and have a meeting with the whole town to settle the matter that we may be at peace in our lands.

...

With our due regards and trusting you are well and remain to be Dear sir

Yours truly

(sgd) King Agbojan Gborsoo, Chief Ajarah Galar, Sarbah Dogbe Akli, war captain Akpodoway Yermemoo, Asi gbeyoern, Asenor.

36 Jones & Sebald (n 29) 361-362.

37 These are the messengers the Togo chiefs sent to Baguida for other purposes, and with whom Heinrich Randaad and Gustav Nachtigal negotiated the treaty.

Heinrich Randad ignored these complaints, focusing instead on preparing for the establishment of a German colonial administration in Togo. This beginning, marked by protests from local leaders against German colonial interests, was followed by the organisation of military expeditions by Germany. German colonial officials conducted military expeditions and negotiations with British and French officials in order to conquer more territory and determine the borders with neighbouring colonies. By 1900, Germany had conquered a territory spanning 87 000 square kilometres and had established an administration across the entire region. After the colonial administration had been effectively established, the use of petitions by the local people of German Togoland to express their opposition to colonial rule increased considerably.

In August 1902, Chief Kukovina of Atakpamé came to seek the help of Governor Waldemar Horn in Lomé by presenting orally to him some demands of the population of the district of Atakpamé, about 160 kilometres north of Lomé. The petition of Kukovina had been written many months before he had the opportunity to come before the governor; the document is dated of 16 March 1902.³⁸ As Kukovina presented to the governor, the demands of the population of Atakpamé concerned their district administrator, Albert Georg Schmidt. They complained about the fact that people were too often forced to perform hard labour; that the district administrator had requisitioned sheep and cattle for his own use; that he had imposed heavy financial penalties in all legal proceedings; and so forth. After having been questioned by the governor on this matter, District Administrator Schmidt returned to Atakpamé and jailed Kukovina. He was released two weeks later on Governor Horn's orders. However, he died three months later, most likely as a result of the physical abuse he had suffered during his imprisonment.³⁹ In fact, District Administrator Schmidt did not believe that a native would decide of his own accord to appear before the governor and accuse him. He suspected that the Catholic missionaries at the Atakpamé station, with whom he had frequently come into conflict, had instigated Kukovina's petition. Following Kukovina's death, the missionaries brought charges against Schmidt in court, accusing him of raping a minor and mistreating the local people. The trials lasted several years, and Schmidt was dismissed

38 Archives Nationales du Togo (ANT) FA2/100, 1.

39 Akakpo (n 3) 222.

from the colony in 1907.⁴⁰ In any case, the Togolese drew an important conclusion from Kukovina's experience: submitting a petition could lead to imprisonment and even death. Consequently, most of the following petitions were signed using pseudonyms. The petitions were smuggled to the Gold Coast Colony or Nigeria and sent to Berlin via the British postal service, either to the German Foreign Office or the Parliament (*Reichstag*). One such petition was a letter from a certain K Maniagou, dated 11 October 1906, which was sent from the Gold Coast to the Foreign Office in Berlin. The Foreign Office sent K Maniagou's petition back to the governor in Lomé. This was the Foreign Office's usual procedure when it received a petition from a colony; the letters were simply returned to the colonial government in the colony. In this case, the colonial administration in Lomé quickly identified Edwin Garber, a local teacher at the Wesleyan Methodist missionary school, as the author of the complaint. Garber had fled Togo and found refuge in the French colony of Dahomey.⁴¹

Like the petition of Edwin Garber, many petitions were sent directly to Germany under pseudonyms between 1904 and 1906.⁴² Believing that some petitions had emerged at the instigation of German missionaries or, rather, the educated Togolese, the German colonial government in Togo attempted to supplement colonial law with new provisions in order to control the use of petitions. On 26 August 1907, an ordinance issued by Governor Julius Graf von Zech was published in the Official Journal for the colony of Togo (*Amtsblatt für das Schutzgebiet Togo*). The new ordinance entitled 'Verordnung des Gouverneurs betreffend die Anfertigung von Schriftstücken für Schreibensunkundige Eingeborene' (Governor's ordinance concerning the writing of documents for illiterate natives) contained three articles.⁴³ The first article, consisting of three paragraphs, stated:

Anyone who drafts a written petition to the authorities of the protectorate on behalf of an illiterate native must:

40 K Adja *Évangélisation et colonisation au Togo: conflits et compromissions* (2009) 79; R Habermas *Skandal in Togo. Ein Kapitel deutscher Kolonialherrschaft* (2026) 139.

41 ANT FA1/282, 57-58; Akakpo (n 3) 222.

42 Although not all petitions from the period between 1904 and 1906 could be found, records and reports from the colonial archive show that more petitions existed than those that can be found today.

43 *Amtsblatt für das Schutzgebiet Togo* (1907) 175.

- (1) translate the content of the document into a language familiar to the native or have it translated, and note on the document that this has been done;
- (2) indicate on the document whether its content has been approved by the native.
- (3) sign the document with their own name and place of residence and, if an interpreter has been used, indicate the name and place of residence of the interpreter on the document.

This ordinance marked a new stage in the use of petitions under German colonial rule in Togo. Due to the regular sending of petitions under pseudonyms to Germany, the colonial government felt compelled to legitimise the use of petitions by colonised peoples, despite this not being provided for by law. At the same time, however, the government attempted to control the use of petitions by requiring the identity and the address of the petitioners, thereby implicitly threatening them.

Two years later, in 1909, a petition was drawn up in accordance with the governor's regulations and submitted to the colonial government in Lomé. It bore the full names of the petitioners, Octaviano Olympio and Andreas Aku, with the latter additionally listed as the writer. Octaviano Olympio was probably the best-known local merchant in the colony. He had been educated in England and spoke several European languages. Andreas Aku, meanwhile, was a teacher and preacher of the North German Missionary Society, having received missionary and professional training in Germany between 1884 and 1887. Peter Sebald describes Olympio and Aku as the 'two most prominent' native citizens of the colony of Togo.⁴⁴ In their petition, from which the title of this chapter is formulated, they demanded equal rights for the local population and Europeans. No reprisals resulted from the petition. Instead, the petitioners received a written response from Governor Julius Graf von Zech, as would be expected in a regular context. This was the only formal response to a petition during the German colonial period in Togo. However, the content was not a new approach – the governor rejected all the demands of the petitioners. The text is presented in detail below.

Following the unsuccessful petition submitted in Lomé by O Olympio and A Aku, at least four other petitions were sent to Germany, to the

⁴⁴ P Sebald *Die deutsche Kolonie Togo 1884-1914: Auswirkungen einer Fremdherrschaft* (2013) 170.

Foreign Office and to the Reichstag before the outbreak of the World War One. However, another petition was submitted in Lomé in October 1913, this time to Dr Wilhelm Solf, the German Secretary of State for the Colonies himself, who was on an official visit to Togo at the time. The petitioners, Octaviano Olympio and many other native merchants and translators, hoped that this petition would finally result in a formal response from the German Colonial Office regarding the legal situation in Togo. However, the Secretary of State did not respond after his return to Germany as he promised the Togolese petitioners who met him in the Palace of the governor Duke Adolf Friedrich of Mecklenburg in Lomé. The petitioners then published their complaints in newspapers in order to put pressure on German authorities. The petition was first published in the London newspaper *The African Times and Orient Review* in December 1913. In an article by one of the petitioners, who signed with the pseudonym 'An Anti-Prussian', the petition submitted to Dr Solf was reproduced in full in German, followed by an English translation. At the beginning of the article, the author provides important information about how they came together at the house of Mr Octaviano Olympio, how they proceeded to the governor's palace, and how they managed to overcome the governor's opposition and deliver the petition to the Secretary of State. In January 1914, in the newspaper *Gold Coast Leader*, which was published in Cape Coast in the Gold Coast Colony, an article by 'A native of Aneho' entitled 'The Germans in Togoland' reviewed the petition given to Dr Solf many months earlier. The article discusses the demands set out in the petition and formulate ten new demands. In this article, as in the previous one, the description of how the petition emerged and the steps taken until its submission to the German Secretary of State, as well as the use of the pronoun 'we', demonstrate that the petitioners were the same people who wrote the newspaper articles, despite signing them with pseudonyms. Many other articles were published under these pseudonyms, especially in the *Gold Coast Leader*.

In fact, the people of Togo were not permitted to publish their own local newspapers during the German colonial period. The only newspapers in circulation in the colony were those published by the colonial government. However, in the neighbouring colony of the Gold Coast, several local newspapers existed in which ideas of freedom

flourished.⁴⁵ Some Togolese people who had migrated to the Gold Coast to escape the cruelty of German colonisation, as well as some who still lived in Togo, began submitting articles to the *Gold Coast Leader* in 1911. The *Gold Coast Leader* was founded in Cape Coast in 1902 by the lawyers Joseph E Caseley-Hayford and Attoh Ahuma. Between 1911 and 1914, around 70 articles denouncing German colonial excesses in Togo were published in this newspaper by Togolese people. In addition, four articles from Togolese writers were published in *The African Times and Orient Review*. *The African Times and Orient Review* is considered Britain's first black journal. It was first published in July 1912. It was edited by the British actor and journalist, Dusé Mohammed Ali, who was of Egyptian descent. Advocating the right to self-determination for peoples colonised by Great Britain around the world, the magazine was anti-imperialist. Articles by individuals from these colonies were therefore very welcome.⁴⁶

The fact that these articles were published in British territories demonstrates how Togolese victims of German colonisation skilfully exploited modern media to further their own interests.

4 German colonial law evaluated in Togolese petitions and newspaper publications

The petition signed by Octaviano Olympio and Andreas Aku, submitted to the governor Julius Graf von Zech in Lomé, 24 May 1909, was entitled 'Request from the residents of Lomé for support in legal matters involving Europeans.' Below is a short excerpt from the two-page petition.⁴⁷

We recognize that the Imperial Government here in the Togo protectorate also wishes for the welfare of the natives and the whole country and is really making great efforts to achieve this. This has become clear to us through many examples.

In recognition of these efforts, we also want to be and remain obedient and grateful subjects of this government.

45 E Batchana 'Acteurs et victimes de la contestation à travers les colonnes de la presse (1911-1958)' in E Assima-Kpatcha & KN Tsigbe (eds) *Le refus de l'ordre colonial en Afrique et au Togo* (2013) 296.

46 N White 'This is the news – our news: The history and importance of the UK's Black press' (15 October 2022), <https://www.independent.co.uk/news/uk/home-news/uk-black-press-history-news-b2202098.html> (accessed 4 July 2025).

47 BArch R 1001/4775, 24-25.

Unfortunately, however, there are also cases that often worry us and cause us to complain. We therefore take the liberty of submitting our case to Your Excellency with the request that you kindly consider it.

...

The matters that particularly concern us are the following:

- (1) Uncivil treatment of the European towards the native. The native is often so agitated by this that he is inclined to return the same treatment to the European. If such a case comes to court, only the native is convicted and punished, with a prison sentence; the European, however, is either not punished at all or only fined.

We consider such unequal punishment for one and the same offense to be unjust and too harsh for us. As a result, such Europeans, who do not regard the natives as fellow human beings at all, and yet want to be revered and respected by them, could become more and more uncivilised towards the natives. The other consequence is that general discontent and hatred is aroused among the natives. The fine seems to be nothing to such Europeans. It is said to have happened that a European has told a native: 'You must not touch me, or hit me, otherwise you will be punished; but if I hit you, I only have to pay a few marks at the district office.'

We sincerely demand and ask for the same right in court between Europeans and natives.

The text is a mixture of praise for the colonists – who are said to have accomplished an important civilising work – and criticism of the legal system, particularly the criminal justice system. The first demand, which calls for Europeans and Togolese to have the same rights in court, is a serious threat to one of the most important ideological pillars of German colonialism: the idea that Europeans are superior to Africans in all regards.

The other two requests made in the letter concerned: '2. The immediate arrest of native people in civil cases between Europeans and natives'; and '3. The release of prisoners in exchange for payment to the district administration'. The petitioners considered these practices to be illegal in the case of request 2 and excessive in the case of request 3.

Another petition concerning the legal situation in the colony of Togo was presented to Dr Solf, the Secretary of State, when he was in

Lomé in October 1913. The petition is presented as ‘Submission by the indigenous people of Lomé.’ It contains seven demands.⁴⁸

We, the natives of Lomé, have the honour of extending a warm welcome to Your Excellency.

Your Excellency may rest assured that we consider this distinguished visit a great honour. On this occasion, we take the liberty of submitting the following to Your Excellency’s most humble consideration:

- (1) better organisation of the legal system.
- (2) abolition of imprisonment in chains and corporal punishment.
- (3) better prison regulations.
- (4) admission of native representation to the Governorate Council.
- (5) introduction of a general national law code.
- (6) reduction of the taxes.
- (7) free trade for the natives.

Through these demands, the petitioners demonstrate their dissatisfaction with the organisation of the legal system in the colony. Above all, they denounce the imprisonment and physical abuse of people. Their request for a general legal code reveals their desire to reduce the level of arbitrariness that was commonplace in the colony.

Petitions that raise legal issues in the German colony Togo particularly describe criminal practices as arbitrary and inhumane. In a petition sent to the German Foreign Office from the Gold Coast in September 1913, a certain Prince Dagadu describes the political, legal and social situation in Togo across 16 points. Points 1 and 8 state:⁴⁹

§ 1

Countless beatings (not just 25) that always lead to the death of the natives, neck chains, suspension, heavy yokes imposed by officials, hermits, even missionaries. For example, if a cook or steward boy leaves his post due to mistreatment, he is taken to prison and given several beatings, then 2-3 months in chains without guilt. If he is mistreated, he must remain silent, even when beaten; failure to do so will result in his salary being withheld without reason. If he takes his adversary to court, he will be answered: ‘You, black monkey whiteman talk you talk?’

48 BArch R 1001/4308, 149-151.

49 BArch R 1001/4308, 141-144.

§ 8 Unjustice

In legal matters involving Black versus White, incognita for this 'Whiteman talk you talk, you black monkey, go away if you dont care I will bring you to palaver house, prison, you sabiy'?

In May 1914, the Togolese petitioners decided to write to the German Parliament instead of the Foreign Office, as the latter was not responding to the petitions or instigating any changes in the colony. The first letter sent to the *Reichstag* was a collective petition from 15 chiefs in the Aného district. In it, they denounce the way in which cases were judged and provide a list of people who had been illegally imprisoned. They describe these practices as appalling and deadly for the local population, who were most often punished unjustly.⁵⁰

In the case of the merchant F de Almeida Brother, owner M Paul Bremen, the case of the missionary G Ricker (now in Halsburg), the case of the Barama Police (Lagosman), the case of Accraman in Hospital, the case of Clerk Mensahvi from Gold Coast, the case between a railroad official and the native Albert Mensah in Lomé, the case of Herbert E. Lawson Anecho the case of Alfred Hulede Anecho (Clerk) the case of William Ajavon the case of Green Lawson, the case of Anani Doe

The case of Daniel Garber Anecho

The case of George Almeida

The case of Chief Enuwomi in Degbenu (Chief)

The case of Madam Kukui

and. so. on. etc.

The government misjudged all of this and put the people in prison.

...

We are never right. But why then? On January 19, Cr: 5½ o'clock in the afternoon 1912, the police master Brauer had a prisoner beaten 25 lashes. The order had been given by the district magistrate Carl Mezger. The prisoner had reported on the morning of January 19th that he had a fever. But no one took care of him. And yet he was given 25 lashes. Unfortunately, we do not know the reason. The prisoner's name is Akagbo from Sohale Togo. Akagbo's family came to us and complained. We can't help because we have no standing with the district administrator. Akagbo died the same day. Is this also written in the court document? The interpreter did not see this in the court papers. Where is the protocol of the prisoner Akagbo from Sohale Togoland?

50 BArch R1001/4235, 154-163.

The second petition sent to the *Reichstag*, also in May 1914, was signed with the pseudonym 'Herald Patriot Diasempa'. Diasempa presents himself as a Togolese man living in the Gold Coast who can be contacted via the *Gold Coast Leader*. His 38-page typewritten petition is the most extensive of all. The aim of the petition is to inform German members of parliament about the atrocities committed by German officials in Togo. Mainly written in German, the text also contains many parts in English and begins with the following sentence: 'I take the liberty of submitting to His Excellency the attached letter about atrocities in Togo, humbly requesting that it be thoroughly reviewed.' With regard to legal issues, Diasempa describes the court proceedings as follows:

At the trial court where the governor participates and is sentenced after an autopsy, the Anthropos is asked:

'Why you returned cause to your Massa, he push you, you push him too? German law dont allow. You can not do what white man do, you be anthropos. Can you make ingine, steamer, gun etc.? How many days you creep from Lome to Palime or Atakpame before? Today you can spend only some hours in going and returning; you must thank white man instead to want same degree or judgement. You must obey your Massa! you sabey?! You Africa Ninger, you black monkey, go to prison!'

...

Black versus white, the defendant (white) sits at the table with the judge, and the plaintiff (black) sits between police officers with orders to slap the victim. When making a motion, he is told, 'Schh, listen, only yes or no.'⁵¹

In the *Gold Coast Leader* 595, published on 3 January 1914, an article entitled 'The Germans of Togoland' by 'A native of Aneho', sets out ten demands for the governor of Togo. Only a few of these points are focusing on legal issues. The article also highlights the importance of publications in the *Gold Coast Leader* for the Togolese people.⁵²

The Germans in Togoland,

By A Native of Aneho

Many thanks for giving publication in our valuable paper to my several articles on the Germans in Togoland. I am aware of the high position you occupy politically,

51 BArch R 1001/4235, 164-202.

52 *Gold Coast Leader* (3 January 1914) 13, <https://infoweb.newsbank.com/apps/readex/user/login?destination=publication-browse%3Fp%3Dwhnpx%26t%3Dpubname%253A12d668222afbe030%2521gold%2520coast%2520leader%26year%3D1914> (accessed 20 May 2025).

socially and otherwise and I would be doing the Devil's work if I publish anything in the 'Gold Coast Leader' that has no truth in it and which may lead to giving of names to your paper.

...

Since writing to the 'Leader' I had never felt that I describe things well enough owing mainly to my defective knowledge in English. Whatever my defects in constructing the sentences are, I pray that you may, dear Mr. Editor, take me very seriously. We have to reach the outside world with our grievances against this Government and good English must not be taken into account.

...

What I want the Governor and his officials to understand are these:

- (1) That we be governed righteously.

...

- (4) That Graf Zech auf Neuhofen, the Ex-Governor, Major von Doering, the present acting Governor, Dr. Gruner, Carpenter-Commissioner Mezger and a host of others be brought to answer for crimes committed and which did not reach the ear of the outside world.
- (5) That the regulation by which any prisoner 5 metres distant from the soldier may be shot be repealed and all soldiers and policemen including the Commissioners be punished.
- (6) That the post of a judge be created instead of the present sham judges who are subservient to the Governor and his higher officials; that the white lawyer may be allowed to plead for the blacks too.

...

- (9) That he should know that it is an insult to our intelligence to take us as bushmen and that people who have their own civilization and laws amongst them for thousands of years and who were in close contact with Europeans of other races for many hundreds of years are above unwritten laws.

The author of this article demands not only justice for Togolese, but he also wants the German officials, even the governors, to be judged so that they can answer for the crimes they have committed in Togo.

These few examples, taken from petitions and newspaper articles written by Togolese people between 1909 and 1914, demonstrate that the Togolese people, at least the authors of the texts, found the German legal system to be arbitrary and racist, involving appalling and inhumane criminal practices.

In this context, writing petitions and publishing newspaper articles was an act of bravery. However, these efforts did not result in any significant changes to Germany's colonial legal system, as the German

authorities deemed such practices to be appropriate for colonised peoples.

5 The confirmation provided by the words of Governor Julius von Zech

Following a career in the Royal Bavarian Infantry Regiment, *Oberleutnant* Julius Graf von Zech auf Neuhofen was sent to Togo in 1895. He held several positions in Togo from 1895 to 1910. Initially, he was district administrator in Kete-Kratschi, and from 1901 he held the same position in the district of Aného. The following year, he became chancellor of the government. In October 1903, he became deputy governor, a position he held until May 1905, when he was officially appointed governor of Togo. He remained governor until 1910, ruling the colony for a total of seven years.⁵³

Governor Julius von Zech took a particular interest in the colony's legal situation. For this reason, he took the initiative to establish a uniform native criminal law for Togo. He commissioned Dr jur and phil Rudolf Amis to visit the tribes of Togo and propose a legal code.⁵⁴ The results of the work of Amis were heavily criticised and rejected, both in the colony by the district administrators and in the metropolis. Consequently, no uniform criminal law was ever established for Togo. Nevertheless, in 1910 Governor Zech published a book entitled *Landesgesetzgebung des Schutzgebiets Togo* (*State legislation of the Protectorate of Togo*), based on various studies of the native law in Togo. However, this code remained merely a book and was never applied as legislation.⁵⁵

The sending of petitions to the German Foreign Office gained momentum during Julius Graf von Zech's governorship. In 1907 he issued an ordinance requiring that petitions be submitted with the real names of the petitioners, as described above. In 1909, Octaviano Olympio and Andreas Aku submitted a petition to him demanding equal rights for Togolese and Europeans in court. The governor, therefore, responded in writing to the petitioners. Below is an excerpt from the five-page letter he sent to the petitioners:

53 B Zurstrassen *Ein Stück deutscher Erde schaffen: Koloniale Beamte in Togo 1884-1914* (2008) 293-294.

54 Afanvi (n 16) 136.

55 Sebold (n 20) 715.

In the petition signed by Octaviano Olympio and teacher Aku dated May 24 of this year, three wishes from the inhabitants of Lomé have been put forward:

...

About the 1st: The basis for the entire legal status of all parts of the population of the German protectorates is the German Schutzgebietsgesetz of July 25, 1900. All subsequent laws and ordinances are based on this law.

This law now makes a strict distinction between 2 sections of the population, the whites and the colored people. For the whites, European law applies, i.e. in the main the laws that also apply in Germany; for the colored people, indigenous law applies, i.e. the tribal rights of the natives, insofar as they are compatible with the German principles of morality and equity, and the general principles of German law adapted to African conditions.

...

This strict distinction between whites and colored people is based on reasons that even the insightful colored person will understand on calm reflection and recognize as justified. It is based on the natural contrast between the two races, it is based on the overwhelming superiority of the white race as a whole over the colored race in cultural terms. Those of you who have been in Germany or England will be able to judge how infinitely great the Europeans have achieved compared to what the natives have accomplished in Africa, and those of you who have only stayed here in Togo will also be able to form a picture of this if you think about what Togo was 25 years ago and what it is now. Draw a comparison between the two: Put even the so-called palace of King Behanzin, whom you all knew as one of the most splendid native chiefs, against one of the many thousands of houses, such as you will find in every town in Germany, put your best canoe next to the smallest launch of one of the many German steamers. Think of the railroads and telegraphs. Remember that it was the Europeans who first taught you to read and write, that in all the earlier centuries you were unable to invent your own writing, that the literature available to you, including literature in your own language, was created by Europeans. I could give you many more examples, but I think these will suffice.

...

I hope that the more intelligent among you will realize after these words that your desire for equality with the whites is unjustified. But if German law makes this distinction between whites and colored people, the law in no way establishes the right of arbitrariness towards colored people. The supreme principle of German law is and remains: 'Justice'. Just as the differentiation between races is a necessary and just consequence of the difference in the degree of culture.⁵⁶

The governor's response to the first point of complaint of the petitioners hardly requires a comment: It clearly demonstrates and confirms how

56 BArch R 1001/4775, 28-30.

deeply the racist ideology was embedded in German colonial ideology. Politics, law, economics, the labour question, social issues can be easily understood in terms of the ideas about the alleged cultural superiority of Europeans over Africans. Despite all the racist argument based on the Protectorate Act, the governor writes that ‘the supreme principle of German law is and remains: “Justice”’, and yet, the ideology promoted and the facts on the ground demonstrated the exact opposite.

6 Conclusion

The Togolese people’s perception of German colonial law is clearly presented in texts they have written themselves. These texts reveal the racist, discriminatory and arbitrary nature of German colonial laws towards colonised peoples. The criminal practices are described as cruel and inhumane. Although the colonial rulers’ documents skilfully acknowledge this to be true, they do not present the situation in the same way. The colonial rulers used to justify their abuse of the colonised people by arguing that they were uncultured and needed to be educated through constraints imposed on them. However, reading the colonised people’s descriptions of the same reality allows us to dismiss any justification of colonisation. The value of documents produced by colonised people, therefore, lies in the fact that they offer a perspective from people who present themselves not as uncultured, but as human beings who did not deserve the injustice of colonial rule. The perspective of colonised people, expressed in various forms, therefore is significant in the writing of colonial history.

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