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Taxation and penal sanctions as instruments of exploitation in the colony of German South West Africa

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Abstract: *German tax policy in the German colonies exhibited considerable variation. Nonetheless, a common feature across all territories was that, under the pretext of tax collection, the indigenous population was subjected to various forms of exploitation, serving ultimately to advance the interests of the German state. The German*

colonial administration implemented a specific 'tax rationality' that was intended not only to secure revenue, but also to discipline the behaviour of the population.

This chapter examines taxation and penal sanctions as interlocking instruments of colonial domination in German Africa, with a focus on German South West Africa. It first situates colonial fiscal governance within the broader framework of the German 'tax state' by outlining the Empire's fiscal federalism, the colonies' special legal status, and the delegated ordinance making through which legislative authority and legal segregation structured colonial rule. It then turns to colonial practice by mapping the principal fiscal techniques deployed across the German colonies on the African continent – monetary taxes, tax-equivalent labour obligations, in-kind exactions, military levies and pass fees – and asks how these demands were assessed, collected and enforced. The analysis proceeds to the criminal law dimension of the prosecution of fiscal non-compliance and the punitive repertoire that translated fiscal rules into coercion-backed obligations. Building on this comparative perspective, it offers a closer account of German South West Africa's fiscal regime and closes by tracing the transformation and afterlives of colonial fiscal governance after 1915/1919.

1 The German tax state

The criminal punishment of tax offences by the German colonial administration was not merely a tool of disciplinary control over the indigenous population. It must also be situated within the German understanding of taxation as a cornerstone of 'state legitimacy'.[1] By the nineteenth century, legally ordered taxation and fiscal administration were widely treated as constitutive of modern statehood. Transplanting taxation to the colonies thus served as a technology of state making, creating administrative capacity and institutionalising authority in line with the logic of the imperial tax state of 1871. This explains why violations of tax obligations were treated not only as economic offences

1 M Buggeln *Das Versprechen der Gleichheit: Steuern und soziale Ungleichheit in Deutschland von 1871 bis heute* (2022) 37.

but also as legal and moral transgressions.[2] In this context, the criminal prosecution of tax offences can be understood as part of a broader process of law enforcement and 'administrative transplantation'. Here, 'administrative transplantation' refers to the selective transfer and reconfiguration of legal concepts – tax liability, tax enforcement, tax collection and the sanctioning of tax non-compliance – into colonial administrations, mediated through ordinances, circulars and everyday administrative practice. This was not a straightforward 'import' of the German tax system. Rather, administrative templates and enforcement logics were taken up and adapted to local conditions, fiscal priorities and the unequal legal status of different population groups. From this perspective, tax offences became a key site at which the colonial state translated fiscal norms into coercion-backed practice. The tax system became a symbol of an 'exported system of order' based on efficiency, legality and fiscal control.[3]

1.1 Tax federalism in the German Empire: State-level income taxation

Any discussion of 'the German tax state' for the pre-war German Empire must start from its fiscal federalism. The tax system of the German Empire of 1871 was significantly influenced by the reforms adopted at the Congress of Vienna in 1814/1815. The Congress of Vienna led to the transformation of the former empire into the German Confederation (*Deutscher Bund*), a federal alliance of 35 virtually sovereign states and four imperial cities. Each of the states developed its own tax constitution.[4] The federal structure of the German Empire is reflected in the Imperial Constitution (*Reichsverfassung*) of 1871, also in matters of public finance and taxation. Imperial competence was designed as a limited catalogue and covered, in particular, customs and commercial legislation as well as 'taxes to be used for the purposes of the Empire' (article 4(2)), whereas a general imperial competence for direct taxation was not intended. At the same time, imperial tax legislation was institutionally embedded in a federal legislative process, since imperial

2 Buggeln (n 1) 23.
3 See JW Hidien & A Jürgens *Die Besteuerung der öffentlichen Hand* (2023) 11.
4 E Schremmer *Steuern und Staatsfinanzen während der Industrialisierung Europas England, Frankreich, Preußen und das Deutsche Reich 1800 bis 1914* (1994) 176.

laws required the joint participation of the Federal Council (*Bundesrat*) and the Parliament (*Reichstag*) (article 5). Substantively, the Constitution concentrated imperial taxing powers primarily on customs duties and certain excise taxes (article 35), while expressly reserving specific areas to particular federal states (notably Bavaria, Württemberg and Baden) (article 35(2)). Administration and collection remained largely with the constituent states. As a rule, 'collection and administration of customs and excise taxes' were entrusted to 'each federal state', subject to imperial supervision exercised through attached imperial officials (article 36). The fiscal constitution also expressed federalism in the system of financing. Imperial expenditures were to be covered first from shared revenues such as customs duties. Insofar as these were insufficient, and as long as imperial taxes had not been introduced, contributions from the federal states were to be raised according to their population (articles 69, 70). Finally, the participation of the states was institutionalised through standing Federal Council committees, including those for 'customs and taxation' and for 'public accounts' (article 8). In its basic structure, this constitutional design partly drew on arrangements found in the Prussian Constitution of 1850.[5] These antecedents included, in particular, the Prussian income tax. It was introduced by the Act concerning the introduction of a class tax and a classified income tax of 1 May 1851 (*Gesetz, betreffend die Einführung einer Klassen- und klassifizierten Einkommensteuer vom 1. Mai 1851*)[6] and designed as a two-tier system. Tax payers with lower incomes were subject to a class tax, while higher incomes fell under a 'classified' income tax, which in essence established a broadly general personal liability to tax for natural persons with annual incomes of 1 000 thalers and above. The introduction of this tax also marked a victory for the principle of direct state taxation, especially in the form of personal and income taxation. By contrast, yield-based taxes such as the land tax and the business tax were not fundamentally reformed.[7] In this way, the Prussian personal and income tax significantly shaped the fiscal-constitutional design of the German Empire as well.

5 C Gröpl ‚Staatseinnahmen und Staatsausgaben im demokratischen Verfassungsstaat' (2008) 133 *Archiv des öffentlichen Rechts* 21.
6 Steuer-Regulativ für die Stadt Berlin (1861) 7.
7 A Wagner ‚Die Reform der direkten Staatsbesteuerung in Preussen im Jahre 1891' (1891) 8 *FinanzArchiv/Public Finance Analysis* 75.

1.2 The legal status of the colonies

In order to understand tax legislation for the German colonies, it is helpful to first take a look at the general legislative structure in the colonies. This primarily concerns their legal status. The constitutional status of the German colonies was controversial from the outset. The Imperial Constitution of 1871 was closely linked to German colonial policy, as it created the constitutional basis for the empire's overseas expansion. Although the Imperial Constitution contained no explicit provisions on colonialism, it established the institutional and administrative structures that made imperial foreign and colonial policy legally possible and politically favourable.[8] Article 4 of the Imperial Constitution merely referred to the fundamental responsibility of the German Empire for regulating 'colonisation' and emigration to countries outside Germany.[9] According to article 2, the Constitution itself was limited to the federal territory. The Protectorate Act (Act on Legal Relations in German Protectorates of 17 April 1886; *Schutzgebietsgesetz* [*Gesetz, betreffend die Rechtsverhältnisse der deutschen Schutzgebiete vom 17 April 1886*])[10] did not define the German colonies as an integral part of the German Empire, but as so-called 'protectorates' (*Schutzgebiete*) with a separate administrative structure. Section 9 paragraph 3 SGG declared the 'protectorates' to be part of the domestic territory within the meaning of section 21 of the Act on the Acquisition and Loss of Federal and State Citizenship of 1 June 1870 (*Gesetz über die Erwerbung und den Verlust der Bundes- und Staatsangehörigkeit vom 1. Juni 1870*).[11] Accordingly, the German Emperor (*Kaiser*) could not declare the 'protectorates' to be foreign territory.[12] German citizens, therefore, retained their citizenship even after several years of residence in the 'protectorates', in accordance with section 9(3) in conjunction with section 21 of the Act on the

8 For the constitutional debate, see also H Stoecker *Drang nach Afrika. Die deutsche Kolonialbewegung und ihre Opfer* (1984) 78ff.

9 See U Kaulich *Die Geschichte der ehemaligen Kolonie Deutsch-Südwestafrika* (1884-1914) (2000) 74.

10 Later replaced by sec 3 of the Protecorate Act (*Schutzgebietsgesetz*) of 10 September 1900.

11 Federal Law Gazette of the North German Confederation (*Bundesgesetzblatt des Norddeutschen Bundes*) 20 (1870) 355ff. This law was adopted as imperial law in 1871 and remained in force until its revision in 1913.

12 E Backhaus *Das Verordnungsrecht in den deutschen Kolonien* (1908) 21.

Acquisition and Loss of Federal and State Citizenship of 1 June 1870. Furthermore, in accordance with section 9(3) SGG, there was no double taxation in the 'protectorates'.[13]

1.3 Reflection on the authority to legislate in the colonies

Section 1 of the Protectorate Act stipulated that the German Emperor should exercise 'protective power' (*Schutzgewalt*) in the German 'protectorates' on behalf of the empire. This formed the basis of colonial constitutional law and, for the first time, a general regulation of the emperor's legal status in the colonies. The Emperor was designated as an organ of the empire, responsible for exercising all colonial state power.[14] The German Emperor could delegate legislative and administrative authority to colonial governors, who in practice exercised broad discretion in issuing tax laws and regulations. Pursuant to section 1 of the Protectorate Act, the transfer of protective power to the Emperor also entailed a transfer of fiscal sovereignty, that is, the competence to enact fiscal legislation and to exercise fiscal administration (notably over public revenue and expenditure). The beginning of an orderly tax and customs administration was marked by the Act on Revenue and Expenditure of the Protected Territories of 30 March 1892 (*Gesetz über die Einnahmen und Ausgaben der Schutzgebiete vom 30. März 1892, Schutzgebietsetatgesetz* – SEG).[15] Each 'protectorate' had to draw up its own budget and was responsible for both managing the protected area and generating income through taxes and customs duties.[16] Ongoing administrative expenditures, in principle, were to be covered by the 'protectorates' own recurring revenues, especially taxes. In practice, however, regular revenues were insufficient to meet current expenditure, so that the deficits of the 'protectorate' budgets had to be continuously offset by substantial subsidies from the Empire. With the establishment of the Reich Colonial Office (*Reichskolonialamt*) in 1908, this system of extraordinary subsidy financing was increasingly replaced by the so-called

13 I Czeghun 'Das Verordnungsrecht in den deutschen Kolonien' (2008) 4 *Der Staat* 613.
14 K Münstermann *Die Rechtsstellung des Kaisers in den deutschen Schutzgebieten* (1911) 41.
15 Federal Law Gazette (*Reichsgesetzblatt* – RGBl.) 1892 19 369ff.
16 HJ Fischer *Die Deutschen Kolonien* (2001) 134.

combined loan system (*Kombiniertes Anleihesystem*). This involved issuing 'protectorate' bonds on the open capital market, coupled with joint and several liability among all colonies and a state guarantee assumed by the Empire.[17] Before 1892, the Emperor could exercise financial sovereignty without any restrictions. By virtue of his right to issue decrees, he could set direct and indirect taxes, customs duties and other levies and, above all, regulate the budget of the colonies without any involvement of the Bundesrat and the Reichstag.[18] Only in cases where a subsidy from the Empire was necessary for 'protectorates' was the Emperor bound to obtain the consent of the Bundesrat and the Reichstag.[19] The SEG transferred all expenditure and revenue of the protected territory to the government budget. The responsibility for its lawful administration was transferred to the German Chancellor (*Reichskanzler*).[20] However, contemporary academic literature disputed whether the Chancellor's right to issue regulations could really be interpreted in such a way as to restrict the Emperor's right to issue regulations.[21]

In German South West Africa, the 'import' of German taxation took the form of an ordinance-based fiscal regime under gubernatorial administration rather than the transplantation of a state-level income tax system. In line with the SEG of 1892, the 'protectorate' was organised around its own budgetary accounts and revenue generation through taxes and duties. The resulting tax mix was characterised by a combination of indirect consumption-type levies and fees and sector and asset-related taxes that reflected the economic structure of the colony. Examples include ordinances on the taxation of real property (for instance, the 1909 regulation on the taxation of land ownership [*Verordnung des Kaiserlichen Gouverneurs von Deutsch-Südwestafrika betreffend die Besteuerung des Grundeigentums im Deutsch-südwestafrikanischen Schutzgebiete vom 19. März*])[22] and fiscal measures targeting the

17 Schremmer (n 4) 205ff.
18 A Petri *The Emperor's regulatory power in the colonies* (1913) 41.
19 F Kersting *Das öffentliche Recht der deutschen Schutzgebiete* (1911) 73; Czeghun (n 13) 615.
20 *Norddeutsche Allgemeine Zeitung* 'Die Südwestafrikaner und die Reichsregierung' reprinted in German Colonial Journal (*Deutsches Kolonialblatt*) (1910) 438.
21 German Federal Archives (*Bundesarchiv* – BArch) *Schreiben des Staatssekretärs des Reichsjustizamts (Lisco) an den Staatssekretär des Reichs-Marineamts vom 1. Januar 1914* 54 R 1001/7523.
22 L Sander *Geschichte der Deutschen Kolonial-Gesellschaft für Südwest-Afrika in ihrer Gründung bis zum Jahre 1910* (1912) 393.

extractive economy, most notably the 1913 Diamonds Tax Ordinance for diamond mining operations.[23]

Importantly, the fiscal federalism of the German Empire could not be transferred to the colonies as such. The 'protectorates' were not incorporated into the federal structure of the Empire as tax-sovereign 'states'. Instead, colonial taxation was constructed through a centralised framework of imperial authorisation and delegated ordinance making in the 'protectorates', that is, through administrative rather than federal tax sovereignty.

1.4 Legal segregation in colonial rule

On the basis of section 4 of the Protectorate Act, the indigenous population in the colonies was accorded a distinct legal status. Under this provision, it was in principle excluded from the application of the entire body of formal and substantive law, unless an imperial ordinance provided otherwise in a particular case. Nevertheless, apart from the scope of sections 2 and 3, of the Protectorate Act itself also applied to the indigenous population. In particular, like the *white* population, it was subject to the 'protective power' exercised by the Emperor pursuant to section 1 Protectorate Act.[24] Under this premise, numerous ordinances and directives were issued, for example, the Directive of the Reich Chancellor concerning jurisdiction over natives in the African 'protectorates' of 25 February 1896 (*Verfügung des Reichskanzlers betreffend die Gerichtsbarkeit über die Eingeborenen in den afrikanischen Schutzgebieten vom 25 Februar 1896*)[25] and the Directive of the Reich Chancellor on the exercise of criminal jurisdiction and disciplinary authority over natives in the German 'protectorates' of East Africa, Cameroon and Togo of 22 April 1896 (*Verfügung des Reichskanzlers wegen Ausübung der Strafgerichtsbarkeit und der Disziplinargewalt gegenüber den Eingeborenen in den deutschen Schutzgebieten von Ostafrika, Kamerun und Togo vom 22 April 1896*).[26] Their scope of

23 Verordnung über die Besteuerung von Diamantenabbaubetrieben in Deutsch-Südwestafrika (1913) RGBl. 2 30. Dezember 1912 5.
24 P Bauer ‚Die Strafrechtspflege über die Eingeborenen der deutschen Schutzgebiete' (1905) 19 *Archiv des öffentlichen Rechts* 36.
25 See V Kolisch *Die Kolonialgesetzgebung des deutschen Reichs mit dem Gesetze über die Konsulargerichtsbarkeit* (1896) 76.
26 See Kolisch (n 25) 801.

application was extended to this 'protectorate' as well by the Directive of the Governor of South West Africa of 8 November 1896 (*Verfügung des Gouverneurs von Südwestafrika vom 8. November 1896*),[27] subject to the jurisdiction contractually reserved to indigenous tribal leaders. The Protectorate Act stipulated that the indigenous population could have been subject to the criminal law regime for *white* persons by imperial decree. However, such a decree was never issued.[28] A distinction can and must, therefore, be made between the enforcement of taxes on the indigenous population and on the *white* German inhabitants. The 'officially' named decrees that came into force were mostly not directed at the colonised population.

In addition to these laws and regulations, 'protection treaties' with indigenous tribal leaders or captains were also taken into account in German South West Africa,[29] in which the latter were to a certain extent granted jurisdiction over their tribesmen. Where this was the case, indigenous judges ruled according to the laws of their tribe.[30] These rules were by no means designed to safeguard and preserve traditional legal concepts. Instead, the predominance of the colonisers' law in most cases entailed a significant restriction of the legal status and rights of the indigenous population as they were directly and indirectly exposed to various forms of repression by the colonial rulers against whom they were unable to defend themselves.[31] The application of German laws to Empire citizens was made possible by consular jurisdiction, more precisely in accordance with section 2 of the Protectorate Act. The Protectorate Act transferred the model of consular jurisdiction to 'protective jurisdiction'. According to section 2 of the Protectorate Act, civil and criminal law for the 'protectorates' was to be determined in accordance with the provisions of the law on consular jurisdiction. The consul was replaced

27 Kolisch (n 25).
28 K von Stengel *Die Rechtsverhältnisse der deutschen Schutzgebiete* (1901) 62.
29 A compilation of these treaties can be found in Von Stengel (n 28) 278ff.
30 See W Knitschky 'Gewohnheitsrecht und Gerichtsgebrauch' (1898) 2 *Archiv des öffentlichen Rechts* 192; Bauer (n 24) 24.
31 For a comprehensive overview: M Iffert 'Das deutsche Kolonialstrafrecht: Ein Einblick in ein rassistisches Rechtssystem' (2025) 2 *Kritische Justiz* (176); U Lindner *Koloniale Begegnungen, Deutschland und Großbritannien als Imperialmächte in Afrika* 1880-1914 (2011) 325.

by an official authorised by the Chancellor to exercise jurisdiction, and the consular court was replaced by the court of the 'protectorate'.[32]

2 Fiscal power – Tax system in the German colonies in Africa

2.1 Tax law

In the former German colonies in Africa, a rudimentary but locally reasonably systematic tax system was established as part of the colonial administrative organisation. This served primarily to finance the colonial administration and the political and economic control of the indigenous population and was less an expression of modern constitutional tax policy than an instrument of colonial discipline and exploitation. The main forms of taxation included a poll tax, a hut tax and indirect payments in the form of forced labour if cash payments were not possible.[33] The Protectorate Act already provided a direct basis for potential tax legislation based on the regulatory power, although this was neither subject to parliamentary control nor restricted by constitutional principles. The majority of regulations concerning tax collection date back to the beginning of the twentieth century, which leads to the assumption that local tax collection was given greater importance.[34] A striking example of the application of this tax policy can be found in German East Africa, where a general poll tax was introduced in 1898 by gubernatorial decree for all African males between the ages of 16 and 60.[35] This tax had to be paid in cash, which forced many members of the local population to take up wage labour, as they had previously lived in pre-monetary economic systems.[36] The poll tax thus not only had a fiscal effect, but also a socially disciplining effect by integrating the indigenous

32 H Hammen 'Kolonialrecht und Kolonialgerichtsbarkeit in den ehemaligen deutschen Schutzgebieten' (1999) 32 *Verfassung und Recht in Übersee* 200.
33 See regarding Cameroon: BArch R 1001/7523 Ordinance of 20 October 1908 concerning the taxation of indigenous persons *(Verordnung vom 20. Oktober 1908 betreffend die Heranziehung der Eingeborenen zu Steuerleistungen)*, DKG Bd. 12 442ff. Ordinance of 4 November 1893 concerning the levying of inheritance tax and the regulation of estates of persons of colour *(Verordnung vom 4. November 1893 betreffen die Erhebung einer Erbschaftssteuer und die Regelung von Nachlässen Farbiger)* 41 *Deutsches Kolonialblatt* (1893) 22.
34 Stengel (n 28) 225.
35 See J Iliffe *A modern history of Tanganyika* (1979) 112.
36 A Coulson *Tanzania: A political economy* (2013) 64.

population into the colonial monetary economy and the colonial labour regime. However, there was no explicit uniform tax legislation from the German government for the German colonies. Instead, legal foundations were created by means of ordinances issued by the colonial administration, which was vested with extensive powers.

2.2 Tax forms and tax-equivalent obligations

It can certainly be said in general terms that the taxation of the indigenous population was primarily intended to satisfy structural financial needs, thus creating incentives (or constraints) to direct labour into colonially organised wage and forced labour regimes, even though their precise modalities varied.[37]

2.2.1 Money-based forms of taxation: Poll taxes and hut taxes

As previously mentioned, the colonial administrations also introduced monetary tax burdens. One example is the introduction of the so-called hut tax in German East Africa from the 1890s onwards. This was a flat-rate tax linked to the ownership of residential huts, which could only be paid in cash. Thus, the hut tax was designed as a fixed levy per hut or residential unit/household, thereby tying taxation to a basic social unit that the colonial administration could identify and count with relative ease. Precisely because liability and the amount due were linked to the individual structure, its collection depended on practices of assessment and enumeration. The number of taxable huts, their attribution to particular taxpayers, and the commencement and cessation of liability had to be recorded administratively. In practice, collection was often organised through local intermediaries (for instance, chiefs) in conjunction with the district administration.[38] This measure was preceded by a protracted debate over whether the levy should take the form of a pure hut-and-house tax or a pure poll tax (as mentioned in 2.1). The Colonial Council (*Kolonialrat*) ultimately opted for a hut-and-house tax. One reason

37 See A Bursian *Die Häuser- und Hüttensteuer in Deutsch-Ostafrika* (1910) 3; with a detailed overview about the tax forms in the former German colony togo: C Döllefeld 'Steuererhebung mit der Nilpferdpeitsche – Vorarbeiten zu einer Geschichte des Steuerrechts der deutschen Kolonien' (2024) 101 *Steuern und Wirtschaft* 354-379.

38 Iliffe (n 35) 145.

was pragmatism. The hut tax was considered substantially easier to introduce, since it was already familiar in the coastal areas as a municipal levy, from where its gradual extension across the territory was intended to proceed. At the same time, the chosen design had a distributional effect that favoured Europeans: It primarily affected those who owned a house, thereby presupposing, at least typically, a more substantial level of property ownership. By contrast, a poll tax was feared to deter the desired influx of Europeans, since it would have applied to everyone rather than – like the hut tax – only to house owners, who almost without exception were wealthy.[39] As a result, large sections of the population were forced to take up wage labour in order to meet their tax obligations which also benefited companies operating in the colonies.[40] The hut tax thus was not only a fiscal instrument, but also served to discipline and mobilise the indigenous workforce for the colonial labour market – for example, in railway construction or on large agricultural estates.[41]

Nevertheless, in inland districts the tax was also levied in the form of a poll tax. As a personal levy that was not tied to individual transactions but to tax liability as such, the colonial poll tax in the German imperial context regularly was more than a mere revenue instrument. Its application to indigenous labour was explicitly attributed an 'educational' purpose. Tax policy was intended to provide practical support to plantation owners in recruiting the workforce required for their operations. This was reflected in specific concessions. Thus, plantation workers who were accommodated in plantation housing were required to pay only a monthly poll tax of 1½ rupees,[42] instead of the otherwise applicable 3 rupees. In addition, workers who had been continuously employed on the same plantation for more than six months were exempt from the tax for the duration of their further service with the same employer.[43]

39 Bursian (n 37) 6ff.

40 S Firth 'German firms in the Western Pacific Islands 1857-1913' (1973) 8 *The Journal of Pacific History* 24.

41 A Greiner 'Colonial schemes and African realities: Vernacular infrastructure and the limits of road building in German East Africa' (2022) 63 *The Journal of African History* 338.

42 The rupee was introduced as the official currency by Verordnung betreffend das Münzwesen des deutsch-ostafrikanischen Schutzgebiets vom 28. Februar 1904 *Denkschrift über die Neuordnung des Münzwesens des Deutsch-Ostafrikanischen Schutzgebiets Reichstag* 11. Legislatur-Periode 1. Session 1903/1904 No. 354 87.

43 Bursian (n 37) 15ff.

2.2.2 Tax equivalents in the form of forced labour

The colonial tax measures regularly met with resistance, especially where they involved forced labour and violent enforcement. To ensure compliance with tax obligations, both the colonial administration and private enterprises systematically resorted to coercive measures, including the use of mercenary troops, askaris[44] or 'punitive expeditions'. The repressive measures were partly informal and partly covered by colonial law, for example, through the granting of sovereign powers to private companies such as the German East African Company (*Deutsch-Ostafrikanische Gesellschaft* – DOAG). Taxes were regularly collected through the use of physical violence, forced detention and public punishment. These excessive measures contributed significantly to the outbreak of the Maji Maji uprising (1905-1907), which can be seen as a direct response to the violent tax and labour practices.[45] A striking feature of colonial tax practice was the use of labour as a substitute for monetary taxes. The indigenous population was required to perform so-called 'public works' on a large scale, partly based on specially enacted forced labour regulations. In practice, however, this constituted a form of structural forced labour.[46] These 'labour taxes' were used in German East Africa and Cameroon to provide private concession holders – mainly in the plantation economy – with cheap, largely disenfranchised labour. The Ordinance concerning the Levying of a House and Hut Tax in German East Africa of 1 November 1897 (*Verordnung, betreffend die Erhebung einer Häuser- und Hüttensteuer in Deutsch-Ostafrika vom 1. November 1897*)[47] that came into force in German East Africa in 1898 created the first legal basis for forced labour in German East Africa. From 1898 to 1905, the terms 'tax labour' and 'forced labour' were synonymous.[48] Without the 'involvement' of the indigenous population,

44 Indigenous soldiers or police officers in the colonial forces of European powers.

45 J Iliffe 'The organisation of the Maji Maji rebellion' (1967) 3 *The Journal of African History* 497; K Bachmann & G Kemp 'Was quashing the Maji-Maji uprising genocide? An evaluation of Germany's conduct through the lens of international criminal law' (2021) 35 *Holocaust and Genocide Studies* 237.

46 P Class *Die Rechtsverhältnisse der freien farbigen Arbeiter in den deutschen Schutzgebieten Afrikas und der Südsee* (1913) 74ff.

47 Verordnung betreffend die Erhebung einer Häuser- und Hüttensteuer in Deutsch-Ostafrika vom 1. November 1897 *Deutsches Kolonialblatt* (1898) 50.

48 B Arnold *Taxation and wage labour in South-Western German East Africa, 1891 to 1916* (1995) 77.

any economic activity would have been impossible.[49] In contemporary writings, the linkage between compulsory labour and tax liability was even portrayed as particularly beneficial for the indigenous population. It was argued that, unlike in the era of slavery, the 'native' was – within certain limits – free to choose a form of gainful employment suited to them. In this way, they would supposedly provide for their own welfare, since the taxes they paid would remain in the territory and thus ultimately benefit them as well, even if this was not immediately apparent to the indigenous population.[50] The Circular of 1 November likewise reaffirmed the 'educational' rationale attributed to taxation, emphasising that the government was concerned less with generating 'large revenues … from the outset' than with gradually 'educating the inhabitants of the colony'.[51]

2.2.3 Taxes in kind

In the German colonies in Africa, taxes in kind played a central role in the system of colonial exploitation. In agrarian regions, the local populations were obliged to supply certain products such as palm oil and cotton to the colonial administration. The payments in kind were levied at a flat rate regardless of individual capacity. In some cases, there were no clear legal provisions for converting payments in kind into labour, which further increased the vagueness and arbitrariness of the colonial tax regime.[52] This non-monetary taxation served not only to finance the colonial infrastructure but, above all, to force the indigenous population into the externally controlled colonial economic system. The obligation to pay taxes forced many to grow marketable export goods, undermining subsistence economies and creating economic dependencies. A particularly clear example of a natural resource-based compulsory levy is the so-called 'copra tax', which was practised mainly in Pacific colonies such as German New Guinea. Here, the indigenous population was obliged to regularly hand over dried coconut meat

49 BArch R 1001/1229 *Bericht über Hereros im Ngamilande 2. Dezember 1907* 17.
50 Bursian (n 37) 3ff.
51 Deutsches Kolonialblatt (1898) 35.
52 See JA Bennet 'Pacific coconut comestible, comfort and commodity' (2018) 4 *The Journal of Pacific History* 359.

(copra) to the colonial administration as tax.[53] The aim of this measure was to increase the export of important raw materials for European industry (for instance, for soap and oil production) through state-enforced copra production without having to levy cash taxes. At the same time, this established a form of productive forced mobilisation that enabled the colonial powers to direct and control the labour force. No direct 'copra tax' was levied in the German colonies in Africa, as copra was not an economically relevant resource there. Nevertheless, there were systems of compulsory levies that were functionally comparable, in which natural resources or agricultural products were demanded.[54] In parts of Togo, for example, palm oil or rubber had to be supplied, while in German East Africa, levies were often replaced by forced labour on plantations or in road construction.[55] Overall, levies in kind were a central instrument of colonial rule in the German colonies in Africa. They combined fiscal, economic and political functions and helped to establish an asymmetrical system in which coercion, economic control and legal disenfranchisement were closely intertwined.[56]

Another illustrative form of taxation in kind emerged after the massive livestock losses suffered by the OvaHerero and Nama as a result of war, expropriation and confiscation after 1904-1905. As a consequence, the remaining African livestock holdings were not only subjected to restrictive administrative treatment but were also incorporated into local levy regimes. Already the 1907 system of 'native control' prohibited the African population from owning large livestock, thereby depriving it of a central basis of reproduction and wealth – contemporary reports likewise document confiscations and the structural marginalisation of African cattle keeping.[57] Contemporary agrarian and administrative

53 See J Linnekin 'The teacher and his copra – Debts, taxes, and resistance in colonial Samoa' (1994) 4 *Ethnohistory* 539ff.

54 S Utermark *,Schwarzer Untertan versus schwarzer Bruder': Bernhard Dernburgs Reformen in den Kolonien Deutsch-Ostafrika, Deutsch-Südwestafrika, Togo und Kamerun* (2011) 67.

55 Fischer (n 16) 183.

56 See J Zimmerer *Von Windhoek nach Auschwitz? Beiträge zum Verhältnis von Kolonialismus und Holocaust* (2011) 92ff.

57 Union of South Africa, Report on the Natives of South-West Africa and their Treatment by Germany (1918) South African History Online (SAHO); section on measures to control the indigenous population (including a ban on owning large livestock under the ordinance of 18 August 1907), https://ufdc.ufl.edu/UF00072665/00001/images (accessed 16 March 2026).

policy justifications framed this marginalisation explicitly as a means of protecting and promoting the German farm economy, which helps to explain the shift in economic power in favour of *white* settlers.[58] In 1912, the official gazette of the 'protectorate' published a corresponding by-law (a cattle-head tax) as well as, in parallel, a government ordinance introducing branding requirements for large livestock, thereby institutionalising identification and control of cattle as administrative, sanction-backed practices.[59] Taken together, this coupled levy collection with control techniques (branding and registration regimes) in a way that impeded the reconstitution of African herd economies after 1904-1905, deepened economic dependencies, and facilitated resource transfers into the settler economy.

2.2.4 Military tax

In several German colonies, especially in German East Africa, men were recruited to serve as askaris or were pressured into military service under considerable economic and social pressure.[60] Although this service was not referred to as a tax in the classical sense, its function and effect were similar to other forms of colonial taxation. The conscription of the indigenous population served the purposes of political control, economic exploitation and discipline within the colonial system of rule. Military service thus was part of a broader repertoire of colonial coercive measures that was closely linked to other forms of taxation. Conscription also aimed to make the colonial population economically exploitable, to integrate them into colonial structures and, above all, to strengthen colonial rule. African soldiers were even used to conquer new territories.[61] In both cases, the indigenous population was forced to provide services – whether through productive labour or military service – without

58 J Zollmann 'Becoming a good farmer – Becoming a good farm worker: On colonial educational policies in Germany and German South-West Africa, circa 1890 to 1918' in D Matasci, M Bandeira Jerónimo & H Gonçalves Dores (eds) *Education and development in colonial and postcolonial Africa: Policies, paradigms, and entanglements, 1890s-1980s* (2020) 115ff.

59 Official Gazette for the Protectorate of German South West Africa (*Amtsblatt für das Schutzgebiet Deutsch-Südwestafrika*) (1912) 13 209.

60 MR Moyd 'Making the household: Making the state – Colonial military communities and labour in German East Africa' (2011) 80 *International Labor and Working-Class History* 53.

61 Moyd (n 60) 53.

these being formally recorded as financial tax payments. However, the consequences for the indigenous population were comparable since they included loss of labour, social insecurity and political marginalisation. In summary, military service as a form of colonial obligation was not only a security measure, but must also be regarded in functional terms as part of a comprehensive colonial tax and coercion system.

2.2.5 Pass fees

Whether passport fees can be classified as 'taxes' is primarily a question of terminology and categorisation. In classical tax theory, taxes are generally understood as monetary payments that are not levied in return for a specific government service (in Germany, for example: section 3(1) of the Fiscal Code (*Abgabenordnung* – AO)), while fees and charges are typically linked to the use of a specific administrative service, such as the issuance or renewal of a document. However, colonial passport regimes undermine this dogmatic distinction in their practical functioning. By linking the legal possibility of moving, settling or taking up employment to an administrative practice that is subject to fees and sanctions, they transform mobility into a relationship of taxation and control. The instrument labelled as a 'fee' thus effectively acts as a coercive, often regressive levy, whose significance goes beyond mere cost recovery to include the disciplining and control of colonial subjects.

For German South West Africa, this logic can be illustrated particularly clearly by the passport and control regime introduced after 1904. The *Ordinance of the Governor of German South West Africa concerning the passport requirement for natives of 18 August 1907* (*Verordnung des Gouverneurs von Deutsch-Südwestafrika, betreffend die Paßspflicht der Eingeborenen vom 18. August 1907*)[62] established a comprehensive requirement to carry a pass or identification token (*Passmarke/Pass*) and tied everyday mobility to police supervision. In substance, this translated mobility and 'lawful' residence into a system of mandatory documents, fees and, upon non-compliance, cost liabilities and penal threats. Although framed administratively as a fee regime, the mechanism produced effects akin to taxation and governance in the shape of coercion, revenue extraction and disciplinary control. This

62 Deutsches Kolonialblatt (1907) 1182.

also becomes apparent from the fact that the passport ordinance was closely interwoven with two ordinances promulgated on the same date: the *Ordinance of the Governor of German South-West Africa concerning Measures for the Control of Natives of 18 August 1907* (*Verordnung des Gouverneurs von Deutsch-Südwestafrika, betreffend Maßsregeln zur Kontrolle der Eingeborenen vom 18. August 1907)*[63] and the Ordinance of the Governor of German South West Africa concerning service and employment contracts with natives of the South West African Protectorate of 18 August 1907 (*Verordnung des Gouverneurs von Deutsch-Südwestafrika, betreffend Dienst- und Arbeitsverträge mit Eingeborenen des südwestafrikanischen Schutzgebiets vom 18. August 1907*).[64]

2.2.6 Land confiscation

The introduction of a colonial tax regime had far-reaching economic, social and political consequences for the indigenous population. Taxation not only served fiscal purposes, but was also closely linked to structural changes in ownership and the social order. Above all, it enabled the massive expropriation of land and resources that had previously been under the collective or individual control of African societies. A legally and economically significant dimension of the colonial tax system was the systematic fiscal privileging of European settlers and companies. They received large land concessions, were often exempt from direct taxes and benefited from state-guaranteed infrastructure. At the same time, indigenous populations were subject to a *de facto* double system of compulsory taxation and labour. The resulting economic inequality was not merely a by-product, but inherent in the system.

The land question thus is structurally intertwined with this regime. After 1904-1905, dispossession was not only implemented in practice but also framed in law – most notably through the Imperial Ordinance providing for the expropriation of native properties in South West Africa (*Kaiserliche Verordnung, betreffend die Einziehung von Vermögen Eingeborener im südwestafrikanischen Schutzgebiet vom 26. Dezember*

63 Deutsches Kolonialblatt (1907) 1181.
64 Deutsches Kolonialblatt (1907) 1179.

1905)[65] as well as subsequent proclamations that explicitly ordered or enabled confiscations, including the *Proclamation by the Governor of German South West Africa concerning the confiscation of tribal property belonging to the Herero, Zwartbooi and Toopnar Hottentots of 23 March 1906* (*Bekanntmachung des Gouverneurs von Deutsch-Südwestafrika, betreffend Einziehung von Stammesvermögen der Herero, Zwartbooi- und Toopnar-Hottentotten vom 23. März 1906*)[66] and the Proclamation by the Governor of German South West Africa concerning the confiscation of the tribal property of the Witbooi, and so forth, Hottentots, as well as the Red Nation and the Bondelzwarts, including the Swartmodder Hottentots of 8 May 1907 (*Bekanntmachung des Gouverneurs von Deutsch-Südwestafrika, betreffend Einziehung des Stammesvermögens der Witbooi- usw, Hottentotten sowie der Roten Nation und der Bondelzwarts-einschließlich der Swartmodder-Hottentotten vom 8. Mai 1907*).[67] At the same time, land allocation and agrarian-administrative support systematically favoured the settler economy. Both contemporary and post-colonial land orders rested on the removal of Black Africans from high-quality grazing areas, the parcelling of these lands into private farms, and the concentration of African communities in small, overcrowded 'native reserves' within the 'police zone'.[68] Through a series of legal measures and administrative decrees, land rights were systematically transferred from the indigenous population to European settlers and companies. The colonial administration pursued the goal of securing economically exploitable regions – especially agriculturally valuable land and areas rich in raw materials – for European investment projects. This redistribution was often enforced through coercive measures, such as the revocation or non-recognition of traditional land rights. In many cases, this meant the forced resettlement of indigenous communities from fertile regions to more remote, less usable areas.[69]

A striking example of this form of colonial land policy is the expropriation of land for diamond mining and railway construction.

65 Deutsches Kolonialblatt (1906) 1.
66 Von Gerstemeyer & Köbner *Die Deutsche Kolonialgesetzgebung* Zehnter Band 1906 (1907).
67 Deutsches Kolonialblatt (1907) 981.
68 JB Forrest 'Land, agriculture and racial inequality in South West Africa' (2001) 46 *Historia* 357.
69 Zimmerer (n 56) 97.

The booming raw materials sector – especially after the discovery of diamond fields in the 1900s – required large-scale access to land that had previously been used locally. At the same time, railway projects, such as the connection between Lüderitz Bay and the interior, were made possible by the appropriation of strategically located land, with indigenous inhabitants being expropriated and forcibly displaced.[70] The economic burdens of taxes, especially the smelter tax, contributed to social destabilisation. It forced many indigenous men to work on farms, in mines or in railway construction in order to pay the taxes. This form of fiscal control was closely linked to colonial labour and land policy: only those who submitted to colonial structures could earn the necessary income to avoid criminalisation for 'tax evasion'.

3 Enforcement and collection mechanisms of taxation

The enforcement of colonial taxes and tax-like obligations was organised as part of a police-backed regime of order and labour. Contemporary administrative records, as reconstructed by researchers from police records, show, first, the close involvement of the colonial police in the implementation of administrative and control standards.[71] Direct taxes such as hut, poll or head taxes were often administered by local intermediaries (chiefs, 'native authorities').[72] They had to keep tax lists, collect payments and (at least in practice), ensure compliance, while district officials monitored the procedures and set targets.[73] Particularly common were summary interferences with property, such as the confiscation of livestock or agricultural produce. These measures not only had an immediate punitive effect but also struck at the affected persons' economic means of reproduction, thereby seeking to compel payment structurally. In addition, practices can be observed that relied on collective responsibility and indirect pressure. In certain constellations, local authorities or other key individuals were detained

70 See PO Heinemann, 'Die deutschen Genozide an den Herero und Nama: Grenzen der rechtlichen Aufarbeitung' (2016) 55 *Der Staat* 461-487.
71 See for an comprehensive overview J Zollmann 'Communicating colonial order: The police of German South-West-Africa (c 1894-1915)' (2011) 15 *Crime, Histoire & Sociétés* 33.
72 Bursian (n 37) 20ff.
73 A Gwaindepi 'Taxation in Africa since colonial times' in E Frankema and others (eds) *The history of African development* (2023) 4ff.

until the required amounts were raised by the respective community.[74] Where taxes had to be paid in cash without corresponding opportunities to earn monetary income to the same extent, fiscal claims were moreover converted into labour obligations. Tax payers were compelled to work on settler enterprises or on public works. In some cases, their wages – often in an amount corresponding to the arrears – were paid directly into the colonial treasury. Finally, the enforcement repertoire also included social and familial pressure mechanisms. Relatives of tax payers who evaded collection were deliberately intimidated or harassed in order to induce the persons concerned to pay, to present themselves to the authorities, or to perform the required labour.[75]

4 Penalties for tax offences

In the event of non-payment, the colonial administrations resorted to an arsenal of repressive measures. A particularly common punishment was corporal punishment by caning or whipping. In German East Africa, corporal punishment was carried out in public with the so-called *kiboko* – a heavy whip traditionally made from hippopotamus hide, valued for its toughness and ability to inflict severe pain – to enforce tax discipline and achieve a deterrent effect.[76] Such practices were also widespread in German South West Africa and the colonies of Cameroon and Togo. In addition to physical violence, forced labour was also used as a form of punishment for tax offences. In all four German colonies in Africa, people who were unable to pay their taxes were forced to perform unpaid labour, for example, in road construction, on plantations or in mines. In cases of alleged tax offences, for example, entire herds of cattle were confiscated – a measure that contributed significantly to the economic impoverishment of these ethnic groups.[77] In other cases, huts and fields were destroyed to enforce 'tax discipline'. In particularly serious cases, the

74 Iliffe (n 35) 134.
75 P Chaul & H Kangalawe 'Evading the tax collector – Native responses to the head tax in colonial Njombe, Tanzania, 1920-1960' (2024) 1 *Zamani* 265; JL Giblin *The politics of environmental control* (1992) 145ff.
76 Döllefeld (n 37) 377.
77 R Klein-Arendt 'Ein Land wird gewaltsam in Besitz genommen: Die Kolonie Deutsch-Ostafrika'in F Becker & J Beez *Der Maji Maji-Krieg in Deutsch-Ostafrika 1905-1907* (2005) 43.

colonial authorities also resorted to imprisonment and deportation.[78] There are reports of defaulting tax payers being sentenced to several months in prison or sent to remote labour camps, especially in German East Africa.[79] In practice, however, colonial criminal prosecution followed a strictly racist pattern. While increasingly formalised procedures applied to *whites*, criminal tax law served primarily as an instrument of colonial discipline and power consolidation against indigenous peoples. This unequal treatment points to the structural violence of colonial law, which linked fiscal control and social hierarchisation.

5 Taxation in German South West Africa

The colonial tax system in German South West Africa was strongly geared towards the economic interests of the German settler society and the German Empire. The main sources of income for the colonial administration were customs revenues, in particular import and export duties, as well as trade and mining levies.[80] These indirect taxes mainly affected German companies and traders operating in the region. An additional source of revenue was the land tax, which had to be paid exclusively by German settlers. For the indigenous population, on the other hand, there were no direct tax as, for instance, the *Eingeborenensteuer* in Cameroon and in Togo.[81] The widespread introduction of poll taxes – as was common in other colonies – did not take place on a large scale in German South West Africa. This underlines the repressive nature of the colonial fiscal system, which was based not only on economic but also on military and political control. Despite these sources of income, the colony was permanently dependent on subsidies from the imperial budget. Its own revenues were insufficient to cover administration, infrastructure and military costs.[82] The financial dependence on the German Empire thus points to the structural deficits

78 M Wallace *Geschichte Namibias* (2015) 258ff.
79 M Buggeln 'Were concentration camp prisoners slaves? The possibilities and limits of comparative history and global historical perspectives' (2008) 53 *International Review of Social History* 105.
80 S Conrad *German colonialism: A short history* (2014) 88.
81 BArch R 1001/7523 *Schreiben des Staatssekretärs des Reichskolonialamts an den Rechnungshof des Deutschen Reichs 30. Juni 1910* 22.
82 Stenographic Reports of the Proceedings of the German Reichstag (*Stenographische Berichte über die Verhandlungen des Deutschen Reichstags)* 30 April 1912 285 51st session 1549D.

of the colonial tax regime in German South West Africa and the limited viability of the colonial economic model.

5.1 Legal basis

The tax law foundations in German South West Africa were established during the course of colonial administration through various ordinances and proclamations, which regulated different forms of taxation and tax collection. Early on, the Ordinance on the Importation of Firearms and Ammunition of 19 August 1892 (*Verordnung betreffend die Einfuhr von Feuerwaffen und Munition in das südwestafrikanische Gebiet vom 19. August 1892*)[83] not only regulated the import trade in weapons, but also included fee-based permits, which served as a fiscal measure to control and generate revenue.[84] Similarly, the Ordinance on the Trade in Spirits of 1 April 1890 (*Verordnung betreffend den Handel mit Spirituosen vom 1. April 1890*)[85] aimed at regulating the lucrative spirits trade through licence fees and duties, thereby generating tax revenue for the colonial administration.[86] Furthermore, the Ordinance on the Levying of Export Duties (*Verordnung betreffend die Erhebung von Ausfuhrzöllen*)[87] included the fiscal component of trade by imposing duties on exported goods, thereby controlling the economic resources of the colony in the interests of the imperial administration.[88] A local example of a usage-based levy is the proclamation on the introduction of a levy for the use of the waterhole in Otjimbingwe of 26 June 1891, which for the first time introduced a specific infrastructure-related tax liability and strengthened the municipal revenue base.[89] These regulations illustrate the diverse and differentiated approaches of colonial tax and levy policy which, in addition to direct fiscal purposes, also fulfilled control and disciplinary functions. The respective legal basis was established by individual government regulations or proclamations, which defined the narrow

83 Deutsches Kolonialblatt (1892) 484ff.
84 Law and Ordinance Gazette for the German Protectorates (*Gesetzes- und Verordnungsblatt* – GVBl) Nr 14/1892.
85 See V Kolisch *Die Kolonialgesetzgebung des deutschen Reichs mit dem Gesetze über die Konsulargerichtsbarkeit* (1896) 501.
86 GVBl Nr 8/1890.
87 See Kolisch (n 85) 501.
88 GVBl Nr 11/1891.
89 Quoted in H Schreiber *Die Verwaltung von Deutsch-Südwestafrika* (1910) 45.

scope of action of the colonial administration within the constitution of the 'protectorate'.

5.2 Tax payers in the colony

> The natives are therefore to be called upon to work, and if this fate threatens them, they can escape it by paying taxes. From what? They must work before they pay these taxes.[90]

The colonial order in German South West Africa was characterised by a profound legal, social and political hierarchy. The central basis of this hierarchy was the distinction between the *white* settler society, the indigenous population and a mediating, particularly stigmatised group: the descendants of relationships between European men and African women, who were pejoratively referred to as 'bastards' or 'half-breeds' in colonial parlance.[91] Legally and socially, these people – such as the so-called Rehoboth Basters, a community that had immigrated from the Cape – had an intermediate status. They were granted a certain degree of self-government, property rights and even the right to bear arms, which gave them a privileged position over other indigenous groups. At the same time, however, they were not recognised as equal members of *white* society. Rather, they were regarded as a 'useful intermediate class' whose loyalty to the colonial power was perceived as fickle and whose rights could be restricted at any time.[92] They were a close-knit, stable community that sought no contact with *white* society. In 1910, the colonial government decided to include the Baster in a new property tax regulation (*Grundsteuer*). They protested and submitted a petition to the German Emperor, arguing that this violated a 'protection' treaty of 1885 and an agreement on tax exemption from 1895.[93] Between 1904 and 1908, in the context of the OvaHerero and Nama wars, the institutional exclusion of these groups increased significantly. Colonial officials increasingly denied them loyalty, discipline and 'cultural suitability' – a

90 Alfred Henke (SPD member of the Reichstag), Stenographic Reports of the Proceedings of the German Reichstag (*Stenographische Berichte über die Verhandlungen des Deutschen Reichstags)* 4 March 1913 125 session 4261.
91 G Steinmetz *The devil's handwriting* (2007) 217ff.
92 Steinmetz (n 91) 219.
93 Steinmetz (n 91) 237.

development that led to the denial of access to education, land rights and civil equality.

A report in the *German Colonial Journal* (*Deutsches Kolonialblatt*) from 1913 documents, for example, the sanctioning of a diamond mining company for failing to pay the prescribed levy based on the Diamonds Tax Ordinance (*Verordnung über die Besteuerung von Diamantabbaubetrieben in Deutsch-Südwestafrika*) of 1913, which regulated the taxation of diamond mining operations. The ordinance stipulated that companies engaged in diamond mining were subject to a tax that affected a significant portion of their income. More specifically, this concerned the taxation of rough diamonds. The ordinance also contained detailed penalties for violations of the tax regulations. Under sections 33 *et seq* of the ordinance, tax offences were punishable by fines and imprisonment of up to three months. The purpose of this taxation was to secure for the colonial administration a share of the substantial profits generated by diamond mining. In the case at hand, in addition to a significant fine, the authorities threatened to revoke the prospecting licence – suggesting an increasingly disciplinary fiscal strategy toward European tax payers.[94] In contrast, the treatment of African tax payers often remained vague or invisible in official sources. Administrative reports refer to 'tax arrears among the natives' and the need for 'disciplinary measures' – formulations that suggest the systematic use of coercion and violence in tax collection.

5.3 Tax enforcement actors

In German South West Africa, tax collection was firmly embedded in the colonial administrative structure, which was highly centralised and hierarchically organised. The colonial administration, headed by the governor, was primarily responsible for setting and collecting taxes.[95] The actual collection of taxes – such as the hut tax, the poll tax or levies on livestock and land ownership – was often carried out by so-called colonial officials in the field, in particular station managers and

94 *Deutsches Kolonialblatt (*1913) 117 'Punishment of a society for failure to pay taxes'.

95 BArch R 1001/1961 *Kommunalsteuern in Deutsch-Südwestafrika* Bd. 1 68 Schreiben des Kaiserlichen Gouvernements von Deutsch-Südwestafrika vom 24. Mai 1910.

police officers, who were vested with extensive executive powers. These officials could register tax debtors, demand payment and, in the event of non-payment, initiate coercive measures – such as seizure of property, compulsory labour or imprisonment. In some cases, taxes were also collected by private companies, especially in areas administered by private trading and plantation companies. This was particularly the case in the original organisation of German colonisation, when the German Imperial Government did not want to pursue official, classical 'state-led' colonisation and was sceptical about especially economic advantages through colonialism.[96] The concession economy model was also particularly widespread in the early phases of colonial rule because the German government wanted to keep administrative costs low. Within the already established central tax system, increasingly differentiated forms of tax collection at the municipal level were added in the course of colonial administration. Of particular relevance here were municipal taxes, which formed a separate category alongside state levies. These mainly comprised property and building taxes, trade taxes and levies for certain municipal services (for instance, water connections, rubbish collection or road maintenance). However, a central problem in the early phase was the lack of a systematic legal basis for municipal tax collection. This was also recognised by the colonial administration itself. As a result, local tax statutes were introduced, which regulated not only types of taxes but also the procedures for collection and appeal. The budget for the town of Lüderitzbucht for the year 1910/1911 listed property tax, native head tax, dog tax and diamond tax as taxes.[97] The budget for the municipality of Karibib for 1910/1911, on the other hand, listed entertainment tax and income tax in addition to dog tax.[98] Only the municipality of Swakopmund enacted a local law on the levying of a personal tax. Thus, there was no uniform tax legislation for all districts of the colony of German South West Africa. Instead, the individual districts decided for themselves and implemented their decisions at the ordinance level.

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96 See on the matter of colonial sceptic O von Bismarck in a letter addressed to A von Roon Minister of War (1868) quoted in H Spellmeyer *Deutsche Kolonialpolitik im Reichstag* (1931) 3.

97 BArch R 1001/1961 *Kommunalsteuern in Deutsch-Südwestafrika* Bd. 1 55 Haushaltsplan für die Stadt Lüderitzbucht pro Berechnungsjahr 1910/1911.

98 BArch R 1001/1961 *Kommunalsteuern in Deutsch-Südwestafrika* Bd. 1 59.

Also worth mentioning in this context is the introduction of legal remedies against municipal tax assessments, in particular, appeal procedures and the possibility of administrative court review. This contributed to the institutionalisation of legal protection in tax administration procedures in German South West Africa, even if in practice this remained largely limited to the *white* population. The municipal tax forms in German South West Africa thus exemplify the transfer and selective application of German administrative techniques in the colonial sphere.

5.4 Comparison of the tax system in German South West Africa and German East Africa

With regard to colonial tax systems, it is particularly useful to compare German South West Africa and German East Africa (today Tanzania, Rwanda and Burundi) along three dimensions: colonial-economic orientation, administrative model of rule, and the design and enforcement of taxation and its link to labour.

5.4.1 Colonial-economic orientation

German South West Africa was the only German settlement colony in which a significant number of German colonists settled permanently. In the view of German colonisers, the territory appeared to offer relatively modest economic prospects. Attempts to mine copper were unsuccessful, agriculture did not thrive, and the climate posed substantial constraints (partly cold and dry, partly hot and rainy).[99] German East Africa, by contrast, resembled a classic exploitative colony centred on agricultural production (cotton, sisal, coffee) and, therefore, was economically more important. In this sense, settlement colonialism stood in contrast to administrative or commercial colonialism. Overall, local revenues in South West Africa covered barely 10 per cent of public expenditure. This fell even further when German subsidies to finance the campaign against the Herero and Nama (1904-1908) and the expansion of the railway network rose sharply. During this period, South West Africa received

99 WA Crabtree 'German colonies in Africa' (1914) 53 *Journal of the Royal African Society* 1.

around 15 times as much in subsidies as East Africa.[100] This placed a heavy financial burden on the German Empire. After the genocide of 1908, declining military expenditure and the mining of diamonds and copper led to an increase in customs revenue from mineral exports, which resulted in a rise in locally generated revenue, covering half of the colonial budget. In the last five years of German colonial rule, diamonds and a small population drove German South West Africa's gross public revenue per capita to the highest level in colonial Africa (with the exception of South Africa) until the end of German colonial rule in 1914. However, this was not enough to offset the losses of the previous two decades.

5.4.2 Administrative model of rule

The colonies also differed in their governing arrangements. In German South West Africa, a direct model of rule prevailed, marked by a high degree of military control by colonial officials and 'protection' troops. In German East Africa, due to the small settled population, indirect rule through local authorities was preferred (including rule through local rulers and a so-called collaborator system), producing a different social dynamic.

5.4.3 Taxation, enforcement and the labour link

After German East Africa was officially recognised as a German 'protectorate' in 1891, the first taxes were collected in 1898, and money in the form of *rupees* and *pesas* was introduced.[101] German East Africa relied on a comparatively systematic regime of direct taxation of the African population, which pushed many into wage labour and, upon non-payment, into forced labour, fuelling discontent and resistance. By contrast, in German South West Africa the tax system was less detailed, not least because administrative infrastructure for assessment and collection was weaker.[102] Colonial authorities, therefore, relied more heavily on indirect methods of control and exploitation, especially

100 F zu Selhausen 'German colonialism in Africa and the Pacific, 1884-1914' (2025) 80 *African Economic History Working Paper Series* 14.
101 Arnold (n 48) 77.
102 Zollmann (n 71) 39.

labour-market regulation and forced recruitment for public and private projects.[103] Taken together, these differences underscore that there was no uniform colonial tax system across German territories.

5.5 Resistance and criminal repression

> Whether the Hereros actually wanted to come to us or not, who could say?[104]

It is clear that the application of tax forms was often accompanied by punishment for tax offences. The German colonial rulers made little effort to create a legal basis for taxation of the indigenous population through laws or regulations. Instead, they cloaked forms of oppression and exploitation of the indigenous population for their economic plans in tax forms such as forced labour or military service.

The fiscal policy of the German government in German South West Africa was not only an instrument of economic exploitation, but also a central trigger for profound political conflicts. Growing economic and social pressure led to acts of resistance in several regions, which were brutally suppressed by the colonial power. This led to mass arrests, deportations and executions.[105] At the same time, land expropriation continued in favour of *white* settlers and colonial infrastructure projects such as railways and diamond mining.[106] This double disenfranchisement – economic and territorial – led to an organised uprising against German colonial rule in 1904 by the OvaHerero under Samuel Maharero and the Nama under Hendrik Witbooi. The German response to the uprising was characterised by extreme military and criminal severity. Under the command of Lieutenant General Lothar von Trotha, the German military pursued a strategy of total repression, which found expression

103 Labour shortage; coercion of the natives to work through taxes; levying of a tax on women; conscription of the Ovambos, https://www.reichstagsprotokolle.de/Sach_bsb00003392_001558 (accessed 16 March 2026).

104 BArch R 1001/1229 ‚Ob die Hereros tatsächlich Lust hatten zu uns zu kommen oder nicht, wer kann es sagen?' *Bericht über Hereros im Ngamilande 2. Dezember 1907* 13.

105 J Zimmerer *Von Windhoek nach Auschwitz? – Beiträge zum Verhältnis von Kolonialismus und Holocaust* (2024) 161.

106 BArch R 1001/1232 Bd. 6: In a letter dated 20 April 1912 from the imperial governor of German South West Africa to the German colonial office, he referred to the many sick and dead workers in Lüderitz Bay in his demands for Indian labourers, 17.

in the 'Extermination Order' of 2 October 1904. This order stipulated that all Herero – including women and children – were to be expelled from the colony or exterminated.[107] In the course of these operations, tens of thousands of people were driven into the Omaheke desert, where they were systematically cut off from access to water sources. The survivors were interned in camps such as Shark Island,[108] where they were forced to perform hard labour, often under deadly conditions.[109] The effects of the OvaHerero and Nama 'uprising' and its suppression were catastrophic. Eighty per cent of the Herero population and 50 per cent of the total Nama population were killed.[110] The economic foundations of these population groups were completely destroyed. Cattle herds were confiscated, land was expropriated and traditional political structures were dissolved. Cultural practices and social institutions such as tribal leadership, marriage rules and religious rituals were also undermined in the long term by colonial policy. Beyond the immediate genocide, the repression left lasting structural damage in the affected societies. The loss of property, the collapse of social orders and the systematic deprivation of rights led to ongoing economic marginalisation, which continued even after the end of German colonial rule in 1915.[111]

6 Transformation and afterlives of colonial fiscal governance

The legal transition from German colonial rule in the former colony of German South West Africa to South African military occupation and subsequent administration after 1915 is best understood not as an abrupt

107 H Drechsler *Let us die fighting: The struggle of the Herero and Nama against German imperialism* (1884-1915) (1980) 157ff.
108 A former island and now a peninsula in the far south-west of Namibia in the South Atlantic Ocean in Lüderitz Bay.
109 National Archives Windhoek, File 456 of the Central Office of the government of German South West Africa (Zentralbureau des Gouvernements von Deutsch-Südwestafrika) D IV 1.3: Campaign against the Hereros (Feldzug gegen die Hereros), 1905-1906: Prisoners of war (Kriegsgefangene), 1904-1913, 5; taken from J Zimmerer & J Zeller *Völkermord in Deutsch-Südwestafrika – Der Kolonialkrieg (1904-1908) in Namibia und seine Folgen* (2003) 83.
110 UN Whitaker Report on Genocide (1985).
111 According to a report by the Land Portal platform, less than 5 000 (mostly white) commercial farmers own 48% of the land, while over 70% of the population lives on communal land, which accounts for only 35% of the total. These massive inequalities stem directly from colonial land expropriation, (https://landportal.org/news/2021/08/righting-wrong (accessed 16 March 2026)).

rupture in fiscal ordering, but rather as a two-step transformation: first, an interim phase of continuity under wartime or military law (martial law), and, second, the formal reception of a new common law framework in 1919-1920.

After the capitulation of the German troops in July 1915, the former German colony of German South West Africa was governed under South African military occupation and martial law. During this transitional period, German law continued to apply as a default, subject to repeal or modification by martial law proclamations. German law thus remained 'in force unless specifically repealed', and later proclamations confirmed legal measures adopted under the occupation regime.[112] Accordingly, 1915 did not automatically dismantle the legal architecture of fiscal coercion. Even where particular German tax instruments or administrative regulations became impracticable in practice, the transitional framework preserved a substantial part of the inherited normative order unless and until it was actively displaced. The 'default continuity' principle thereby created the legal conditions for functional persistence – whether through direct retention, selective repeal or the replacement of German rules by new proclamations pursuing comparable governance objectives. A clearer legal turning point was the *Administration of Justice Proclamation (South West Africa) 21 of 1919.* It established Roman-Dutch law (as existing and applied in the Cape Colony at the date of commencement) as the territory's 'common law' and repealed conflicting laws to the extent of inconsistency.[113] At the same time, the Proclamation provided that proclamations issued during the period of military occupation could continue in force insofar as they remained operative on the commencement date, and that rights and obligations already accrued were to be determined according to the law in force at the time they arose.[114] Legal-historical overviews, therefore, consistently treat this Proclamation as a watershed that embedded

112 GM Geraldo & I Skeffers 'Researching Namibian law and the Namibian legal system' (2007) GlobaLex (web blog), December 2007, https://www.nyulawglobal.org/globalex/namibia.html (accessed 16 March 2026).

113 Administration of Justice Proclamation (South West Africa) Proclamation 21 of 1919, sec 1(1), NamibLII, https://namiblii.org/akn/na/act/p/1919/21/eng@1995-09-07 (accessed 16 March 2026).

114 Administration of Justice Proclamation (South West Africa) Proclamation 21 of 1919, sec 1(2)-(3), NamibLII, https://namiblii.org/akn/na/act/p/1919/21/eng@1995-09-07 (accessed 16 March 2026).

Roman-Dutch law in the territory and shifted the doctrinal reference point away from German law.[115] Even though the doctrinal foundation changed, the Proclamation thus contained mechanisms to preserve parts of the occupation era legal regime (including administrative measures with fiscal relevance) and to stabilise pre-existing legal positions.

Against this background, the legal transition in South West Africa can be read as a shift in the formal legal sources of fiscal governance from German ordinances and German law institutions to a Roman-Dutch common law baseline supplemented by occupation era proclamations – without necessarily implying an immediate shift in the underlying logic of fiscal ordering. Coercive enforcement could thus be re-justified under new doctrinal premises, allowing the advantages of compliance and enforcement mechanisms, particularly in the agriculture and extractive sectors, to remain compatible with settler and corporate interests.

7 Conclusion

Taxation in German South West Africa and the other German colonies on the African continent was not a neutral administrative technique but a legal-administrative mechanism of domination enmeshed in land expropriation and coerced labour.[116] German South West Africa is particularly instructive in this regard, because its combination of settler colonial land appropriation and an extractive, licence-based economy foregrounded how fiscal demands could simultaneously structure indigenous dependency and discipline European economic activity. Fiscal rules and tax-equivalent obligations produced enforceable monetary pressures, and penal sanctions translated non-compliance into punishable conduct. Together, they formed a governance repertoire that shaped labour, mobility and everyday economic behaviour. The analysis, therefore, suggests that, for colonial contexts, the boundary between tax and tax-equivalent obligations is often less a matter of doctrinal form than one of enforcement architecture and sanctioning practices. The

115 HG Goitom 'Laws of Namibia – Global Legal Collection Highlights' Library of Congress (web blog), 19 March 2015, https://blogs.loc.gov/law/2015/03/laws-of-namibia-global-legal-collection-highlights/ (accessed 16 March 2026) noting the role of the Administration of Justice Proclamation (SWA) 21 of 1919 in establishing Roman-Dutch law as common law.

116 Gwaindepi (n 73) discussing coercive compliance mechanisms in colonial 'native taxation'.

post-1915-1919 transition further serves as a test case for transformation. Regime change did not automatically dissolve colonial fiscal governance. Continuity under martial law preserved German rules unless specifically repealed, and the later shift to Roman-Dutch law maintained important occupation era measures and accrued rights through savings clauses. This two-step transition foregrounds a legal-historical question that extends beyond restatement: not only which norms changed, but which functions of colonial fiscal governance persisted, were reconfigured or were dismantled.

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