

REPARATIONS AND RECONCILIATION:  
NEGOTIATING CLAIMS OF HISTORICAL INJUSTICE  
IN THE CASE OF THE HERERO GENOCIDE

by

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This thesis was prepared under the direction of the candidate's thesis advisor, Dr. Williams O'Brien, and has been approved by the member of her supervisory committee. It was submitted to the faculty of the Harriet L. Wilkes Honors College and was accepted in partial fulfillment of the requirements for the degree of Bachelor of Arts in Liberal Arts and Sciences.

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Final thanks go to Forest Casey -- for brewing the coffee and for keeping me sane.



Figure 1.1907: Surviving Herero, public domain, courtesy of Galerie Bassenge.

When millions of people have been cheated for centuries, restitution is a costly process. Inferior education, poor housing, unemployment, inadequate health care — each is a bitter component of the oppression that has been our heritage. Each will require billions of dollars to correct. Justice so long deferred has accumulated interest and its cost for this society will be substantial in financial as well as human terms. This fact has not been fully grasped, because most of the gains of the past decade were obtained at bargain rates.

Martin Luther King, Jr.

If you stick a knife in my back nine inches and pull it out six inches, that's not progress. If you pull it all the way out, that's not progress. The progress comes from healing the wound that the blow made. They haven't even begun to pull the knife out. They won't admit the knife is even there.

Malcolm X

## ABSTRACT

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To date, Germany has denied any obligation to financial compensation for the Herero genocide of 1904-1907. The Herero began petitioning in 1995 and haven't yet seen results. The reconciliation process has been slowed by German denial and Namibian politics alike. Germany maintains that genocide was not technically illegal until the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, an argument that contradicts the hundreds of millions of dollars they continue to pay to Jewish victims as restitution for WWII. Historians argue that there are extensive links between German colonialism and the Jewish Holocaust. German concentration camps in Namibia developed extermination techniques that later enabled Jewish Holocaust, and both used the victims' bodies for scientific research. In 2012, a delegation of Namibians retrieved 20 skulls of Herero and Nama victims from Germany. The repatriation of the skulls stimulated a resurgence of debate about reparations, motivating the Left Party to make a motion in German parliament that outlines an apology, repatriation, reparations, and continued partnership between the two nations.

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## ABBREVIATIONS, ACRONYMS, AND TRANSLATIONS

*Bundestag* – German lower house of Parliament

Claims Conference – Conference on Jewish Material Claims Against Germany

CPPCG – Convention on the Prevention and Punishment of the Crime of Genocide

FRG – Federal Republic of Germany

GSWA – German South-West Africa

HPRC – Herero People’s Reparations Corporation

ICJ – International Court of Justice

*Schutztruppe* – German colonial military forces

SWAPO – South West Africa People’s Organization

*Vernichtungsbefehl* – Extermination Order



## INTRODUCTION

In most scholarly and popular discourse, the intersection of Germany and genocide has one focus: the Jewish Holocaust. Germany has struggled to move forward from this historic legacy. German nationalism has proved itself dangerous, and as such, Germans and foreigners alike receive it skeptically to this day. What many fail to realize, however, is that the Jewish Holocaust (in Hebrew, *Shoah*) was not the first German genocide. Around thirty years prior to the *Shoah*, German soldiers sent to live in what was then called German South-West Africa (GSWA) used the ideology and techniques later used in the *Shoah* to exterminate 80% of the Herero people with techniques including concentration camps. Beginning in 1995 in what today is the country of Namibia, the Herero assembled the Herero Genocide Committee to petition the German government for US\$600 million in reparations for their suffering under German rule and the genocide committed against their ancestors.<sup>1</sup> Paramount Chief Kuaima Riruako, a leader of the committee and of the Herero people, argues that the genocide served to considerably oppress their ancestors and the Herero of today by reducing their numbers and appropriating their land and cattle, which has left them a struggling minority in the most unequal country in the world.<sup>2</sup>

The Herero genocide (in Otjiherero, *Otjitiro Otjindjandja*) may seem to fall under the context of a colonial war of over territorial control. Certain aspects betray the genocide for what it was, however, including the statement of German colonial Commander in Chief of GSWA, Lothar von Trotha, who made this *Vernichtungsbefehl*, or Extermination Order:

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<sup>1</sup> Sidney Haring, "German Reparations to the Herero Nation: An Assertion of Herero Nationhood in the Path of Namibian Development?"

<sup>2</sup> Ibid.

I, the great general of the German troops, send this letter to the Herero people... All Hereros must leave this land... Any Herero found within the German borders with or without a gun, with or without cattle, will be shot. I shall no longer receive any women or children; I will drive them back to their people. I will shoot them. This is my decision for the Herero people.<sup>3</sup>

Despite the clear objective of this statement, generations of Germans have since denied its intent and historical impact. Instead of acknowledging their transgressions, German officials since that time have depicted the conflict as an imperial war, which they claimed to have won. Germany constructed military statues immediately following the event celebrating this perceived victory on the very grounds of the concentration camps that held the Herero. Despite meeting formally at least three times over as many years to discuss the issue, Germany failed to take public responsibility for the act until 2004, and still have not issued an official apology, rejecting any obligation to financial compensation.<sup>4</sup>

The German government cites the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (UNCPPCG) as the reason why they are not financially obligated to pay reparations to the Herero.<sup>5</sup> The guidelines of the UNCPPCG were not set until fifty years after the genocide of the Herero took place. However, the 1899 Hague Convention could arguably still apply, which addresses human rights in wartime and colonial settings. Beyond that, Germany's response to the Jewish claims for *Shoah* reparations is what disproves this claim. Beyond symbolic measures such as the dozens of historical sites maintained in order to educate the public about the *Shoah* and the huge *Shoah* memorial in Berlin, the German government has paid over US\$89 billion

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<sup>3</sup> BBC News. "Germany Regrets Namibia 'Genocide'"

<sup>4</sup> *Bundestag Printed Paper*, "Answer of the Federal Government..." printed December 1, 2011.

<sup>5</sup> Response to *Bundestag Printed Paper*, "Answer of the Federal Government..."

in cash reparations to the state of Israel and to individuals.<sup>6</sup> Furthermore, amendments to the Conference on Jewish Material Claims against Germany (referred to as the *Claims Conference*) open the reparations to more and more recipients as time passes.<sup>7</sup>

Though 80,000 Herero and 6,000,000 Jews are not similar in scale, they are statistically comparable, as 81 percent of Hereros were killed in comparison to 67 percent of the Jewish population of Europe.<sup>8</sup> Yet, Germany continues to widen the net to include anyone who was kept in a ghetto or camp at any time, and expands opportunities for victims of the *Shoah* while wholly rejecting the Herero petition. Germany's defiance betrays a contradiction of principle that has led some to charges of racism: What does it imply when European victims continue to be accumulated and accommodated while Germany dismisses claims made by the Herero? The double standard that Germany betrays with these acts does not reflect a commitment to preventing genocide in the future. Rather, it seems to imply that only Europeans are deserving of remuneration from past suffering. Arguments that Germans make against reconciliation efforts for the *Otjitiro Otjindjandja* appear contradictory when considering the comparable generosity of *Shoah* reparations.

Germany is not solely responsible for the failure of the Herero petition to date. Namibia has its own political and social obstacles to supporting the claim in a unified way. Partially due to Namibia being a young country that is still balancing nationalism and interethnic conflicts, not all Namibians want the Herero to receive reparations. Power relations within Namibia have made it easy for Germany to ignore the petition and let

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<sup>6</sup> Mark Weber, "West Germany's Holocaust Payoff to Israel and World Jewry," *The Journal of Historical Review*, summer 1988 (Vol. 8, No. 2), 243-250; does not include memorials, museums, etc.

<sup>7</sup> Melissa Eddy, "For 60<sup>th</sup> Year, Germany Honors Duty to Pay Holocaust Victims," *The New York Times*, November 17, 2012

<sup>8</sup> Lucy Dawidowicz, *The War against the Jews, 1933-1945* (New York: Bantam Books, 1986), 403

responsibility rest in the hands of divided Namibian politicians. In order to navigate those ethnic and political tensions, the reparations process will be a difficult and delicate one. That does not mean that it is not worth doing.

Whether future reparations come in the form of direct financial restitution or internal improvements, the current German response to the Herero petition is inadequate. Though Germany retreated from GSWA in 1915, they left behind remnants of genocide and colonization that still scar Namibia today. The few Herero who survived German occupation lost homes and livestock, and as a result, remain oppressed and disadvantaged. As author Jeremy Sarkin put it, “the lasting effects of population decimation, land dispossession, and political marginalization continue to haunt the Herero and impede their economic, social, and political progress.”<sup>9</sup> Furthermore, Germany continues to prosper at Namibia’s expense and refuses to acknowledge the debt that Germans left unpaid in southern Africa. To mend this disparity, reparations need to be regionally focused. This approach is necessary to accommodate and acknowledge those most severely and systemically disadvantaged by German presence in the 20<sup>th</sup> century.

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<sup>9</sup> Jeremy Sarkin, *Colonial Genocide and Reparations Claims in the 21st Century: The Socio-Legal Context of Claims under International Law by the Herero against Germany for Genocide in Namibia, 1904-1908* (Westport: Greenwood Publishing, 2008) 182

## HERERO HISTORY

Documented history of the Herero is not agreed upon across sources until the 1800s, when differing accounts begin to align. Climatic conditions fundamentally influenced their geographic location. They were cattle herders and required constant water supply and land for grazing. Herero communities deferred so much to the power of cattle ownership that those who had the most cattle were, by default, the headmen. The wellbeing of the Herero was deeply dependent on and interconnected with their cattle. “The Herero was a cattle farmer par excellence, in fact his whole culture centered on his cattle,” Gerhard Pool explains in a biography of Herero leader *Samuel Maharero*. The numbers of lost cattle, not men, were counted after war.<sup>10</sup>

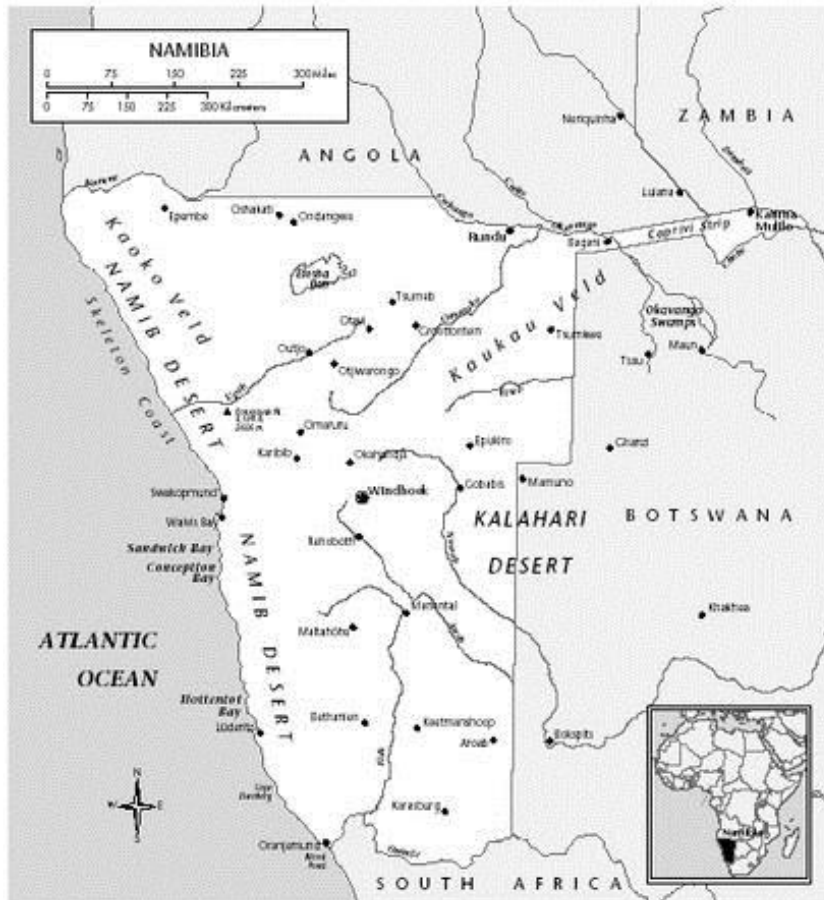


Figure 2: Map of Namibia. Eastword Publications Development

Prior to German occupation, settler Jonker Afrikaner raided Hereroland for cattle throughout the first half of the 19<sup>th</sup> century, driving the Herero into the Kaokoveld. Hereroland was left with no cattle,

<sup>10</sup> Gerhard Pool, *Samuel Maharero*. Windhoek: Gamsberg Macmillan Publishers, 1991, 6-7, 17

jeopardizing the lives of those who relied on traditional sources of reproductive wealth. Without their cattle, Pool argues, “Jonker’s raids [had] robbed the Hereros of the basis of their existence,” and “it is perfectly understandable that they should remember this period in their history and try to prevent a repetition of it.”<sup>11</sup>

The Herero’s main contacts with foreign influence in early colonial times were with the Rhenish Missionary Church and through conflicts with Afrikaners. Afrikaner and Herero delegates signed their first peace treaty on September 23, 1870, in Okahandja. The two groups agreed that the land of Windhoek would belong to the Herero, but the Herero would loan the land to the Afrikaners. And with that, Hereroland was peaceful for the first time in documented history. However, Hereroland was also no longer truly a home for the Herero, as their rights to the land were at this point revoked.<sup>12</sup>

The security of peace led to increases in the Herero cattle population. More cattle led to a demand for more land. From Okahandja, the Hereros moved to the South and began to use Nama grazing lands, which led to inter-ethnic conflict. From an accusation about a stolen, pregnant cow, Hereros killed some two dozen Nama people in Okahandja – considered Herero territory. The Namas responded by capturing 30,000 cattle and aligning with Afrikaners who then killed Wilhelm Maharero, the son of a prominent Herero leader.<sup>13</sup>

Before the conflict with the Nama and Afrikaners, Wilhelm Maharero’s father Kamaharero reached out to the British-controlled government of Cape Colony (now South Africa) for protection. Their response to the dispute was to send the former Rhenish missionary Carl Hugo Hahn to mediate between the factions. Hahn and two

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<sup>11</sup> Gerhard Pool, *Samuel Maharero*, 16-18

<sup>12</sup> *Ibid.*, 32

<sup>13</sup> *Ibid.*, 50-51

other missionaries were successful in negotiating peace in 1882 between the elder Maharero and four separate Nama groups. Three years later, fueled by his dissatisfaction within the British envoy William Coates Palgrave, and in the company of the Rhenish missionaries, Maharero signed a protection treaty with Heinrich Ernst Göring, the Imperial Commissioner of Germany. The treaty included no transfer of land, but it did grant Germany mining rights to Ovaherero territory. After it was signed, Maharero felt the missionaries had allied themselves too closely with German interests and closed their mission in Okahandja. In 1887, annoyed by the lack of German intervention in a long-standing skirmish with Hendrik Witbooi, Maharero ordered the protection treaty nullified. It was re-instated just before his death. His youngest son, Samuel Maharero would deal with the implications of that German protection for years to come.<sup>14</sup>

The German Empire arrived late to the practice of colonization, having only come into existence in 1871. When he assumed power, Chancellor Otto von Bismarck was chiefly concerned with establishing a Germany safe from European opposition. Bismarck viewed colonization of South West Africa as a task for private enterprise, with the might of the German government to protect their interests.<sup>15</sup> Colonization was indeed preceded by private investment, when trader Adolf Lüderitz purchased the coastline between the Orange and Kunene rivers between 1883 and 1885. Yet the arrival of German troops did not come until years afterward, annoying the local German officials and making it impossible for them to keep their promises of protection for the Herero people.

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<sup>14</sup> Dr. Klaus Dierks, "Biographies of Namibian Personalities"

<sup>15</sup> J. H. Esterhuysen. *South West Africa 1880-1894*, 88

## COLONIAL CONTEXT

### *Berlin Conference of 1884-1885*

GSWA came into existence through the Berlin Conference, which ran from November 1884 to February 1885. Inundated with support branching from the establishment of the German Colonial League of 1882, the German government believed that established territories abroad were a necessary political move and began to seriously consider colonization. ‘*Lebensraum*’ propaganda emerged during this time period, though the word is linked more frequently with Adolf Hitler’s explanation of the *Lebensraum* ideology in *Mein Kampf*. The concept as expressed by Hitler was that Germans had the right to take control of land or reclaim it from non-Germans in order to allow the German Empire to grow.<sup>16</sup> Earlier, Fredrich Ratzel, a geographer who had noted GSWA’s potential as a German colony, developed the term into a formal theory consisting of three cardinal points. He began by outlining how much space individuals need to live, and proceeded to claim that empires must acquire more physical space in order to grow, which led to his third point that only nations that utilized the land efficiently in an agricultural sense would prosper. Ratzel observed that war or domination had been used for centuries to battle over geographic space, and he believed that acquisition of new lands was acceptable when rationalized with pure necessity or superiority of the conquering country.<sup>17</sup>

Even before the decision in 1885 in Berlin to divide up the continent among the European powers, the German government decided it wanted to take control of the

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<sup>16</sup> Shelley Baranowski, *Nazi Empire: German Colonialism and Imperialism from Bismarck to Hitler*, 47-59

<sup>17</sup> Benjamin Madley, Yale University. "From Africa to Auschwitz: How German South West Africa Incubated Ideas and Methods Adopted and Developed by the Nazis in Eastern Europe." *European History Quarterly*, 2005: 429-457



southwest African coast and sent soldiers disguised as tourists to Walvis Bay. Walvis Bay was a British territory, so it was necessary to appear innocuous. They quickly traveled inland to Windhoek, which would become the capital under German rule. Within hours of their arrival, the men began to construct a fort, claiming the land for Germany and visibly showing their control over the region despite the remaining British presence. By 1890, British trading companies were bankrupt, allowing the *Deutsche Kolonialgesellschaft für Südwest-Afrika* (German Colonial Society for South West Africa) to obtain control of the region's trade.

Increasing numbers of settlers mean an increasing desire for land. As Longmire argues, "German interests pursued a policy of immigration and settler ranching that required ever increasing amounts of land."<sup>18</sup> Through pitting ethnic groups against one another and manipulating inter-group politics, the colonists were able to deal with conflict relatively well, but eventually, as more German colonists came to the shores of Namibia, the groups together began to consider retaliation. Two warring groups, the Herero and the Nama, aligned. Their alliance and actions scared the Germans and compelled them to bring military backup to the area. As more soldiers arrived and the government had more time to prospect the land that they had acquired, Germans discovered the mineral wealth of the area. In addition to the *Lebensraum* theory, Germans saw the land as highly valuable due to the resources that were to be mined there. In 1895, tensions grew throughout tribal communities when natives were no longer allowed to

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<sup>18</sup> Philip Longmire, "Land and Labour in the Namibian Economy," *Studies in the Economic History of Southern Africa*, edited by Z.A. Konczacki, Jane L Parpart, and Timothy M. Shaw . Volume 1, 1990: 200

enter colonial settlements as a result of the German penal code's enforcement.<sup>19</sup> Settlers, traders, and train tracks restricted the pastoralists' access to grazing land, which put their livelihood, health, and culture at risk.

### *1904-1908 War of Resistance*

As the tribes struggled to negotiate and respond to German occupation, they also had other crises to consider. Records show that an epidemic killed about half of the Herero cattle population, leaving many areas without food or trading power. Colonial railways divided the land they depended on and traders had begun to steal cattle to reclaim debts.<sup>20</sup> Governor Theodor Leutwein demanded that the Herero give up all weapons, and thinking that he had solved the problem, sent approximately half of the *Schutztruppe* (German colonial military forces) back to Germany. Soon after, he regretted his decision and appealed to Berlin for help. As the Herero gathered in the North and the Nama in the South, the two groups led small resistance efforts throughout the occupation. It was, however, Leutwein's continued violation of treaties that led them to stage a large rebellion in 1904, killing around 100 colonists.

On the third of May 1904, Berlin responded by appointing Lieutenant-General Lothar von Trotha Commander in Chief and sending with him 14,000 soldiers to control the area.<sup>21</sup> After a summer of skirmishing, von Trotha pursued the surviving Herero, led by Samuel Maharero, to a dry river valley in Waterburg and surrounded them. Wearied

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<sup>19</sup> Horst Dreschsler, *Let Us Die Fighting: The struggle of the Herero and Nama against German imperialism (1884-1915)*, London: Zed Press, 1980, and Gerhard Pool, *Samuel Maharero*. Windhoek: Gamsberg Macmillan Publishers, 1991

<sup>20</sup> Jon Bridgman, *The Revolt of the Hereros* (Berkeley: University of California Press, 1981), in Samuel Totten, Williams S. Parsons, and Israel W. Charny (ed.), *Century of Genocide: Critical Essays and Eyewitness Accounts* (New York: Routledge, 2004) 16

<sup>21</sup> Clark, Christopher. *Iron Kingdom: The Rise and Downfall of Prussia 1600–1947*. Cambridge : Belknap Press of Harvard, 2006. And Erichsen, Casper W. "Concentration camps were used by the Germans in South West Africa ." *The Mail & Guardian*, November 16, 2001

by the long trek and lack of water, Maharero held out hope that a peace treaty would be signed between the Herero and the German troops.<sup>22</sup> But von Trotha's intentions were clear:

My initial plan for the operation, which I always adhered to, was to encircle the masses of Hereros at Waterberg, and to annihilate these masses with a simultaneous blow, then to establish various stations to hunt down and disarm the splinter groups who escaped, later to lay hands on the captains by putting prize money on their heads and finally to sentence them to death.<sup>23</sup>

The battle at Waterburg would be a decisive one. Realizing there was no alternative but to fight, Maherero hid his forces in the waterholes on the banks of the Hamakari River and awaited the German advance. The Herero surprise attack decimated Germany's Eleventh Field Company and caused the Tenth to retreat, but the victory was short-lived. Von Trotha ordered a full-scale bombardment from his headquarters, and the heavy guns forced the remaining Herero to flee into the night.<sup>24</sup>

This marked the beginning of Germany implementing aggressive extermination policies. Directly after issuing von Trotha's *Vernichtungsbefehl*, German troops shot many of the Hereros. The *Schutztruppe* then poisoned the water supplies in many villages, making it known that the Herero should not take the Order lightly. Upon realizing that they must leave their lands, most of the remaining Herero community sought refuge in neighboring deserts and starved to death. Herero who survived the German attack stayed in the desert, where German patrols gradually picked them up and took them to one of five concentration camps. Many attribute the use of the term *Konzentrationslagern* (concentration camps) to the Third Reich and the Final Solution,

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<sup>22</sup> Gregory Poole, *Samuel Maharero*, 253

<sup>23</sup> *Ibid.*, 251

<sup>24</sup> *Ibid.*, 263

but it first appeared in documents regarding their existence in GSWA around the same time period that the British used camps in South Africa against Boers, from 1899 to 1902.<sup>25</sup> Benjamin Madley, a scholar who argues that the extermination of the Herero directly influenced the later extermination of European Jews, states that the nature of the camps was more that of an extermination or death camp than a concentration or labor camp.<sup>26</sup> German *Schutztruppe* had already killed the Herero men, so the camps housed primarily women and children. Death rates were well over 50% due to illness, exhaustion, and malnutrition; inhabitants were given only rice, with no means to prepare it. Leather whips were used liberally to motivate and to punish. Pre-printed death certificates cited exhaustion as the cause of death.<sup>27</sup>

After half of the Nama and the majority of Herero peoples were exterminated quickly and brutally by German troops, Germany decided to close the camps. German forces then dispersed the Herero throughout the country as laborers for German settlers. Their rights to own land or cattle were stripped and they had to wear a numbered disk as identification.<sup>28</sup> The systemic processing of individuals as property to be used as labor is consistent with the *Shoah*, as are the restrictions on property rights.<sup>29</sup>

South Africa took over GSWA in 1915 by military force. An army of 8,000 South Africans led by General Jan Smuts advanced on the German capital of Windhoek outnumbered by 1,000 men and took control of the city after months of fighting. With the

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<sup>25</sup> Henning Melber, "How to Come to Terms with the Past: Re-visiting the German Colonial Genocide in Namibia." *Afrika Spectrum* 40 (2005) 1

<sup>26</sup> Benjamin Madley, "From Africa to Auschwitz: How German South West Africa Incubated Ideas and Methods Adopted and Developed by the Nazis in Eastern Europe," *European History Quarterly* 35 (2005): 429-457

<sup>27</sup> Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (New York: Cambridge University Press, 2005)

<sup>28</sup> Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism and the Genocide in Rwanda* (Princeton: Princeton University Press, 2001)

<sup>29</sup> *Ibid.*

First World War waging in Europe, a German counterattack was out of the question. When the war ended in 1919, the Treaty of Versailles mandated the transition of authority from Germany to South Africa. Under the ruling by the newly-formed League of Nations in 1920, South Africa was expected to “promote to the utmost the material and moral well-being, and the social progress of the inhabitants of the Territory.”<sup>30</sup> Yet the South African overseers proved to be similarly self-interested. Scholar Peter H. Katjavivi concludes, “South Africa not only failed to promote the ‘material and moral well-being’ and ‘social progress’ of the people of Namibia, but actively set about moulding them into servants of white society.”<sup>31</sup>

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<sup>30</sup> R.W. Imishue, *South West Africa: An International Problem* (London, Pall Mall Press, 1965), 67

<sup>31</sup> Peter H. Katjavivi, *A History of Resistance in Namibia* (Trenton: Africa World Press, 1988), 13.

## THE GENOCIDE DEBATE

The Convention on the Prevention and Punishment of the Crime of Genocide

(CPPCG) defined genocide in 1948. Article 2 states:

[Any] of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.<sup>32</sup>

Between the extermination order and verified and uncontested accounts of subsequent actions, the crimes Germans carried out against the Herero in the early 20<sup>th</sup> century were genocide according to this definition. The CPPCG clearly lays out what constitutes genocide and what is considered a crime within its context, but it does not advise any retroactive restitution or sanctions to serve as restorative justice. Diplomats at the Conference were concerned mostly in laying out the groundwork, which is problematic when countries seek reparations, as there is no obvious legal framework for their implementation.<sup>33</sup>

There has been ongoing debate about how far Germany needs to go to acknowledge and recognize their part in the development of the territory formerly known as GSWA. Henning Melber and Benjamin Madley, two historians specializing in colonial Namibian history, both argue that Germany must recognize its political

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<sup>32</sup> Article 2, *Convention on the Prevention and Punishment of the Crime of Genocide*

<sup>33</sup> Ibid.

responsibility due to inescapable parallels between the *Otjitiro Otjindjandja* and the *Shoah*.<sup>34</sup> On the other hand, Birthe Kundrus argues that studying the *Otjitiro Otjindjandja* in relation to National Socialism and the Holocaust detracts from both as they are not perceived in their individual contexts. Seeking links between the two atrocities should not, according to Kundrus, be seen as ignoring their separateness in time and space, but instead as an exercise in bridging the gap between a somewhat popular subject in history and one that the majority is unaware of.<sup>35</sup> The *Otjitiro Otjindjandja* is unlike other colonial African human rights abuse due to its systematic nature and policy of annihilation. Germans deliberately and systematically removed the Herero from their lands and then imprisoned them, either in forced labor camps or extermination camps, not initially for labor or resources, but for land.<sup>36</sup> Though historians debate the specifics of the issue and where it falls contextually into genocide studies, colonial/imperialist narratives, and reparations precedents, they agree that the issue is important, and one that is consistently ignored in favor of more prolific and recent human rights violations. Benjamin Madley and Dan Stone draw direct parallels between the Second Reich's war on the Herero and the Third Reich's war on Jewish peoples, including people involved, techniques, ideological justifications, and historical injustices. The Herero and Jewish peoples differ most of all in how their cases for reparations have been treated retrospectively.

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<sup>34</sup> Henning Melber, "How to Come to Terms with the Past: Re-visiting the German Colonial Genocide in Namibia." *Afrika Spectrum* 40 (2005) 1: 146

<sup>35</sup> Birthe Kundrus, "From the Herero to the Holocaust? Some remarks on the current debate." *Afrika Spectrum* 40 (2005) 2: 300

<sup>36</sup> Benjamin Madley, "From Africa to Auschwitz: How German South West Africa Incubated Ideas and Methods Adopted and Developed by the Nazis in Eastern Europe," *European History Quarterly* 35 (2005): 429-457

Birthe Kundrus, Michael Mann, and others see the conflict in GSWA as resulting from escalating tensions between settlers and natives. Schaller and Zimmerer go on to emphasize the importance of settler colonialism. “Settler colonialism needs to be distinguished from other forms of imperial expansions that were aimed exclusively at military or trade advantages... ‘Land is life—or, at least, land is necessary for life. Thus contests for land can be—indeed, often are—contests for life.’ This fact indicates that settler colonialism and genocide are closely related to each other.”<sup>37</sup> Settler colonialism is based around the idea of one people taking land from another people. This is especially true in the Herero case, as they were pastoralists who were reliant on their cattle and grazing lands for them. In 1894, Governor Leutwein wrote a letter to Berlin explaining differences between Herero and German understandings “which directly conflict[ed] with [their] colonial efforts.”<sup>38</sup> For one, “the Herero were unwilling to sell land to white people,” and two, “they did not commercialize their livestock but tried to increase it infinitely.”<sup>39</sup>

Even today, one of the main problems cited when it comes to land aggrandizement is that there are no willing sellers, whether they are white or black. Von Trotha not only issued the Extermination Order, but later justified it with this statement “in a local newspaper in Windhoek: ‘At the beginning of the colonization, the Europeans cannot do it without the natives. But later they must disappear. Wherever the climate conditions allow the white man to take up work, philanthropic attitudes will not manage

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<sup>37</sup> Dominik J Schaller and Juergen Zimmerer, “Settlers, imperialism, genocide: seeing the global without ignoring the local—introduction,” *Journal of Genocide Research* (2008), 10 (2), June, 195-196.

<sup>38</sup> Jensen, Steven L. B., “Genocide: Cases, Comparisons and Contemporary Debates,” The Danish Center for Holocaust and Genocide Studies 2003

<sup>39</sup> *Ibid.*, cited Horst Drechsler 1966 *Sudwestafrika unter deutscher Kolonialherrschaft. Der Kampf gegen der Herero und Nama gegen den deutsch Imperialismus*. Berlin (East). Von Einem Generaloberst (1933), *Erinnerungen... 1953-1933*. Leipzig



to displace Darwin's law of the survival of the fittest,"<sup>40</sup> reiterating not only the social Darwinian justifications for their actions but also the necessity of the Herero extermination for the benefit of the settlers.

Tilman Dederling argues that "settler shock was... provoked by the tenacity and fighting skills of the Herero," essentially stating that because they gave the Germans a run for their money during the Herero-German War, the settlers felt threatened enough to go along with even genocidal retaliation policies.<sup>41</sup> Helmut Bley paints a similar picture of mainly settlers, not military leaders, motivating anti-Herero policy. Bley calls the Germans "Dependent Masters" and defends their actions as a desperate necessity because "[Governor Theodor] Leutwein's system managed to lull [the settlers] into a false sense of security and importance. It made them easier to govern, yet when their security was destroyed it made them more prone to extremism."<sup>42</sup>

Mann outlines three factors that he sees as having caused the genocide. The first of them is the Herero's 'unexpected' rebellion, thereby blaming the Herero for aggravating German forces. The rebellion spurred not only factional fighting among German politicians, but also challenged the complacent attitudes of the settlers, turning them against the Herero quickly and with passion. In Germany, military factions won the debate over what was to be done in GSWA, putting General von Trotha in control of the territory as he was well known for "exemplary repression of natives." When he arrived in

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<sup>40</sup> Dominik J Schaller and Juergen Zimmerer, "Settlers, imperialism, genocide: seeing the global without ignoring the local—introduction," *Journal of Genocide Research* (2008), 10 (2), June, 195

<sup>41</sup> Tilman Dederling, "The Annihilation of the Herero in German South West Africa, 1904," in *The Massacre in History*, ed. Mark Levene and Penny Roberts (New York: Berghahn Books, 1999), 206

<sup>42</sup> Helmut Bley, *South-West Africa under German Rule, 1894-1914* (Evanston: Northwestern University Press, 1971) 174-196; title of Part 3, Section 3; 46

GSWA, he realized the problem was much worse than he had first thought and reacted as he felt fit-with a *Vernichtungsbefehl*, or extermination order.

Dederling explains that Kaiser Wilhelm was distracted by increasing tensions between larger powers in the international sphere, Russia and Japan, and left GSWA to be handled exclusively by von Trotha. Since he was appointed by the military, von Trotha's power was not checked by any colonial or African authority. Dederling goes on to conclude that "the German-Herero war more closely resembles the actions of German soldiery on its eastern front during the Second World War, rather than the specificity of Nazi death camps."<sup>43</sup> Like Bley and Kundrus, he also defers to the argument that had Germany believed in the use of genocide, they would have employed it more than once in colonial Africa, as they did have other opportunities. Mann concludes that von Trotha's unchecked power alongside a settler-run democracy allowed militarism to escalate into genocide, not recognizing the premeditation that Madley points out.<sup>44</sup>

This view is further supported by one of the most comprehensive historical works done on the Herero, Jan-Bart Gewald's book, *Herero Heroes*. Gewald includes a considerable amount of documentation on the Herero-German War, including a section on "The Camps," where he notes that the labor camps were not built to profit the Kaiser directly. German settlers picked up Herero prisoners as day laborers who were held by the *Schutztruppe* at the camps when they weren't working. The camps were of course horrible, but Gewalt never once uses the word genocide; he claims that "the jingoistic

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<sup>43</sup> Tilman Dederling, "The Annihilation of the Herero in German South West Africa, 1904," in *The Massacre in History*, ed. Mark Levene and Penny Roberts (New York: Berghahn Books, 1999)

<sup>44</sup> Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (New York: Cambridge University Press, 2005) 106

attitudes of the settlers” and “German paranoia” made “the outbreak of war... inevitable.”<sup>45</sup>

On the other hand, Dan Stone, Benjamin Madley, and others agree that the Germans went into Africa under the pretense that they would do anything for land, even kill for it. When the Herero did not acquiesce to colonial Germany’s demands for land, von Trotha gave the *Vernichtungsbefehl* and, further, published a letter in the *Swakopmunder Zeitung* where he admitted that “the destruction of all rebellious tribes [was] the aim of [his] efforts.”<sup>46</sup> Madley sees very clear ties between the *Otjitiro Otjindjandja* and the *Shoah*: their definitions as *Rassenkämpfen*, or ‘race wars,’ a similar policy of annihilation, the systematic murder of captives and civilians, and the rationalization of the genocide under the pretext of medical research.

Dan Stone reaffirms these notions in his essay where he investigates the role of anthropologists’ views at the time, particularly on race. According to him, anthropologists were “ambivalent towards colonized peoples” as their understanding was that qualities were still tied to race, thereby permitting the actions in Africa to continue unchallenged.<sup>47</sup> Similarly, Africans were thought to be perfect specimens for medical research, especially genetic research done on race and qualities tied to race. Before Josef Mengele did experiments on twins and other genetically unique Jews at Auschwitz, Eugen Fischer took the mixed children as prisoners (those presumably half-German and

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<sup>45</sup> Jan-Bart Gewald, *Herero Heroes: A Socio-Political History of the Herero of Namibia, 1890-1923*. Oxford [U.K.]: James Currey, 1999

<sup>46</sup> Benjamin Madley, “From Africa to Auschwitz: How German South West Africa Incubated Ideas and Methods Adopted and Developed by the Nazis in Eastern Europe,” *European History Quarterly* 35 (2005): 430, 441-442. He notes that this was originally recorded by a Nazi by the name of Vedder. He does not note how Vedder knows this, as it is unlikely that the events of 1905 were well reported in Germany, especially under National Socialist rule. He cites an unpublished work for this evidence, so its legitimacy is questionable.

<sup>47</sup> Dan Stone, “White Men with Low Moral Standards? German Anthropology and the Herero Genocide,” *Patterns of Prejudice* 35 (2001) 2: 35-36

half-Herero) and examined them and injected them with diseases from which they subsequently died. His research, which justified genocide of ‘inferior’ races such as colonial Africans, went on to influence Mengele greatly.<sup>48</sup>

Bridgman and Worley include the story of the Herero rebellion and subsequent German response as the first chapter in their book, *Century of Genocide*, and acknowledge several potential problems with classifying it as genocide. They primarily blame von Trotha as an individual and claim evidence of domestic protests to the enacted policies as evidence of genocide. Despite some concerns about the label, they conclude, “this was genocide because it was an attempt by representatives of the German government to destroy a whole people with the knowledge and the tacit approval of the Kaiser and the General Staff.”<sup>49</sup> With this, they begin their book – leaving the *Otjitiro Otjindjandja* as the first of the 20<sup>th</sup> century, what they call the *Century of Genocide*.

Though some see the Hereros as in one way or another provoking the Germans to military action, the evidence that the official German intention was to exterminate the indigenous peoples in the name of expansion is overwhelming, no matter the reason why. Whether out of frustration due to Herero fighting expertise, their ‘inferior’ racial status, or for acquisition of land, Germans did exterminate a vast majority of the Herero people after they had already been pushed off of their land and had in effect, surrendered.<sup>50</sup> Even

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<sup>48</sup> Benjamin Madley, “From Africa to Auschwitz: How German South West Africa Incubated Ideas and Methods Adopted and Developed by the Nazis in Eastern Europe,” *European History Quarterly* 35 (2005)

<sup>49</sup> Jon Bridgman, *The Revolt of the Hereros* (Berkeley: University of California Press, 1981), in Samuel Totten, Williams S. Parsons, and Israel W. Charny (ed.), *Century of Genocide: Critical Essays and Eyewitness Accounts* (New York: Routledge, 2004) 16

<sup>50</sup> South-West Africa, Jeremy Silvester, and Jan-Bart Gewald, *Words Cannot Be Found: German Colonial Rule in Namibia: an Annotated Reprint of the 1918 Blue Book*, in *Sources for African History*, v. 1. (Leiden: Brill, 2003) 106, 108. The authors claim that von Trotha’s order to “kill every one of them... and take no prisoners” was completely unnecessary as “nearly all their chiefs had fled... [and the tribe was] disorganized, leaderless, and harmless.”

as they were marched into the desert to die, German troops poisoned their water supply, picked off those who lagged behind, and refused any Herero effort to compromise or communicate. “Truly a genocide had taken place,” as 80% of the Herero population had been exterminated.<sup>51</sup>

Eventually, Germany admitted that the events following the Herero uprising would be considered genocide by modern conceptions of the term, as will be covered in the section entitled “Reconciliation Attempts to Date.”

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<sup>51</sup> Jon Bridgman, *The Revolt of the Hereros* (Berkeley: University of California Press, 1981), in Samuel Totten, Williams S. Parsons, and Israel W. Charny (ed.), *Century of Genocide: Critical Essays and Eyewitness Accounts* (New York: Routledge, 2004) 24

## REPARATIONS

Reparations are the only part of the transitional justice process that has the power to directly change the lives of those survivors who have suffered the violation of their human rights. According to the United Nations (UN), transitional justice dictates that the victims of injustice have a right to be compensated for their suffering, and that the body responsible for that suffering has a duty to provide that compensation.<sup>52</sup> Reparations can consist of financial compensation or symbolic measures. Reparations are controversial because they require one entity to take responsibility for violating another entity's rights to such an extent that the victim has become systemically oppressed. People often struggle to embrace the idea of reparations because in many cases the related crime actually affected generations living prior to those who must manage compensation.<sup>53</sup>

Reparation is a fairly new concept, and the fundamental meaning has changed considerably in the last century. After World War I, Germany paid reparations to the victorious governments – the ‘winners’ of the war got to dictate the terms and, therefore, the ‘losers’ had to provide the compensation. Later in the century, after World War II, reparations schemes turned more generally towards compensating victims of human rights abuses, such as the victims of the Holocaust. These two interpretations of reparations have considerably overlapped. Germany just finished paying WWI reparations in 2010, after abstaining in the 1930s.<sup>54</sup> They are still paying reparations to *Shoah* survivors, and will continue to do so until all survivors pass away.

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<sup>52</sup> UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violation of International Humanitarian Law: resolution / adopted by the General Assembly*, 21 March 2006

<sup>53</sup> Pablo de Greiff, *The Handbook of Reparations*, 2008, the United Nations

<sup>54</sup> Claire Suddath, “Why Did World War I Just End?” 4 October 2010

Reparations schemes are all situation-specific and usually complex. Addressing all of the facets of the problem in order to find and implement an appropriate solution is a very delicate process, as evidenced by the *Shoah* case and other movements that have been less successful. Most movements that have been successful have been victims of American colonialism and subsequent effects on Native American populations. Another notable case is that of the interned Japanese-Americans during World War II, who in 1990 all got equal cash payments of \$20,000 for the hardship they suffered fifty years earlier.<sup>55</sup>

Reparations have the power to change the lives of entire communities and countries, but they also present a downside: they reaffirm the one entity having control over the situation of the other. The victim is still dependent on the financial relationship to the perpetrator. Because of this relationship, the perpetrator thinks they have done enough because cash payments are going out. Many of those who disagree with awarding reparations in the case of the Herero do so because of these neo-colonial concerns.

It is important to recognize in this case that Germany maintains a prominent position within Namibia even though it has been a century since their colonial rule ended. German descendants still own the majority of grazing lands and land re-distribution processes implemented by Namibia have failed to effect any great change.

The precedent set by Germany in regards to reparations is the main reason why the Herero case should be resolved as soon as possible. Its continuous refusal to acknowledge the event is a glaring double standard that carries with it an unseemly implication: The German genocide of European Jews will be prioritized while the German genocide of African Herero will not be

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<sup>55</sup> See Figure 3.

## *Jewish Claims*

Jewish Holocaust deniers are almost universally met by indignant outrage. There is no scholarly or serious debate regarding if or when the treatment of European Jews became that of genocide, and research shows that the atrocities are far more wide-spread than originally thought.<sup>56</sup> An article written at the 60<sup>th</sup> anniversary of the first reparations states “Germany’s postwar reparations program has become such a matter of fact that many Germans are not even aware that their country, after paying \$89 billion in compensation... still meets regularly to revise and expand the guidelines for qualification. The aim is to reach as many of the tens of thousands of elderly survivors who have never received any form of support.”<sup>57</sup> To that end, the reparations agreement has been re-negotiated many times over the years.

Last year, for survivors of ghettos, the amount of time spent there to qualify for compensation was reduced to 12 months from 18 months. As of Nov. 1, the program was opened to survivors living in countries previously under Soviet influence, making an estimated 80,000 more people eligible for one-time payments of \$3,250. Starting next year, eligibility will extend to anyone who can prove that they hid from the Nazis for at least six months.<sup>58</sup>

In addition to financial reparations doled out to individual victims, “in prominent places among the government buildings in the heart of a reunified Berlin, Germans have placed

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<sup>56</sup> Eric Lichtblau, “The Holocaust Just Got More Shocking,” *The New York Times*, March 1, 2013

<sup>57</sup> Under the framework of the original reparations and compensation agreement between West Germany and the Israeli government on behalf of the Jews of the world, the first shipment of goods was delivered to Tel Aviv on August 14, 1953. The agreement itself was signed in Luxembourg on September 10, 1952 by West German Chancellor Konrad Adenauer and Israeli Foreign Minister Moshe Sharett, *The New York Times*, “First Reparations Arrive in Israel,” August 15, 1953. And Melissa Eddy, “For 60<sup>th</sup> Year, Germany Honors Duty to Pay Holocaust Victims,” *The New York Times*, November 17, 2012.

<sup>58</sup> Melissa Eddy, “For 60<sup>th</sup> Year, Germany Honors Duty to Pay Holocaust Victims,” *The New York Times*, November 17, 2012



new memorials honoring the Jewish, gay, and Sinti and Roma victims.”<sup>59</sup> Between monetary reparations, symbolic recognition, and continued support and research, Jewish Holocaust survivors have been on many levels considered and accounted for in the historic registry of Germany, both before and after reunification. Additional resources afforded Holocaust survivors include free reference services to research lineage and/or find family members including an international tracing service, survivors registry, and access to a centralized database on the whereabouts and status of both survivors and victims.<sup>60</sup>

Compensation for the Jewish Holocaust has been “supported through the years by German governments on both sides of the political spectrum,” despite evidence of fraudulent claims amounting to \$42 million dollars.<sup>61</sup> The chairman of the Holocaust claims conference, Julius Berman, goes so far as to claim that “[The compensation program] has never been about money. It was always about recognition.”<sup>62</sup>

The recognition, however, comes in the form of money. There are many different aspects of the reparations programs. The Hardship Fund, which pays reparations to Jews from former Soviet countries that were not under Nazi rule but were forced to flee, provides approximately \$3,600 in a one-time payment to victims. The Article 2 Fund recompenses those who lived in Jewish ghettos or concentration camps with around \$400

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<sup>59</sup> Melissa Eddy, “For 60<sup>th</sup> Year, Germany Honors Duty to Pay Holocaust Victims,” *The New York Times*, November 17, 2012

<sup>60</sup> United States Holocaust Memorial Museum website, [ushmm.org/research/collections/resourcecenter/](http://ushmm.org/research/collections/resourcecenter/)

<sup>61</sup> Mosi Secret, “US Says Holocaust Fund was Defrauded,” *New York Times*, November 9, 2010

<sup>62</sup> “Germany and Claims Conference Agree on Continued Payments, Homecare for Holocaust Survivors to Mark 60 Years of Compensation Agreements, ‘News’ on *Claims Conference: The Conference on Jewish Material Claims Against Germany* website.

a month for those who earn less than \$16,000 per year. Per the Claims Conference and subsequent resolutions, that will continue so long as surviving victims remain alive.<sup>63</sup>

In Christian Pross' book, *Paying for the Past: The Struggle over Reparations for Surviving Victims of the Nazi Terror*, it becomes clear that Germans handled the original requests with a "combination of professed concern, lip service, and cold-blooded indifference," but also that Germany eventually handled and processed the claims, despite the fact that many Germans did not want to take full financial responsibility for the actions of the Nazis.<sup>64</sup> Though the expense of the reparations scheme is a financial burden, German citizens now consider it a moral obligation. As more research goes into what happened in the Holocaust, more victim populations surface which are then incorporated into the reparations claims. It is only through this thorough and deliberate research and subsequent processing that the current German government can claim that the victims have received just compensation for what the Nazi government took from them. Pross argues that even after the reparations were perceived by the public to be effectively and completely dispersed, "Germans hoped that the victims would finally leave Germany in peace."<sup>65</sup> So, while Germans are not particularly *willing* to pay reparations, they will do so if moral obligations win out over feelings of being victims of their ancestors' deeds.

*Paying for the Past* catalogues the many ways in which the German people and government sought to deny victims reparations. Despite reluctance, however, Germany

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<sup>63</sup> "Germany and Claims Conference Agree on Continued Payments, Homecare for Holocaust Survivors to Mark 60 Years of Compensation Agreements, 'News' on *Claims Conference: The Conference on Jewish Material Claims Against Germany* website.

<sup>64</sup> Christian Pross, *Paying for the Past: The Struggle over Reparations for Surviving Victims of the Nazi Terror* (Baltimore and London: The Johns Hopkins University Press, 1998), 14

<sup>65</sup> *Ibid.*, 165

processed the reparations claims and the victims of the Holocaust won political restitution against great odds. Considering that the Jewish fight for reparations came to an end in 1965, only 20 years after the end of the war, one could argue that it is now much too late to acknowledge the suffering of the Herero. Others would argue that Herero reparations are not only feasible but are perhaps an easier case to defend, define, and draft a reparations design for than the voluminous and complicated Jewish claims case. The Jewish claims were numerous and hard to define and then carry out, but dedicated lawyers and organizations ensured that they eventually happened. The Herero case is considerably smaller, and even the most elaborate of reparations schemes would reflect that. After all, the entire Namibian population is around two million individuals, and of that, only 7% are Herero – that's about 150,000 individuals. For purposes of comparison, there have been millions of claims filed and billions of dollars in reparations dispersed in the Jewish case; \$89 billion total, as opposed to \$0 designated to the Herero.

#### *Herero Claims*

The Herero campaign for reparations began in 1995, 90 years after the genocide itself. Many factors delayed the campaign, but it was put off primarily by the lack of Namibian independence, which did not occur until 1990. Over 300 Hereros, led by Paramount Chief Kuaima Riruako sought to deliver a petition to German Chancellor Helmut Kohl during his visit to the country, but he declined the meeting and instead vacationed in the tourist town of Swakopmund. The petition requested US\$600 million. German officials ignored the petition, so Chief Riruako and the Chief Hosea Kutako Foundation filed a US\$2 billion lawsuit against three German companies that allegedly

profited from the occupation of Herero land. The claims the Herero made should not have been a surprise to the German government, as Sidney Haring argues:

Herero did not ‘invent’ their demand for reparations. Rather, it is derived entirely from their careful reading of modern German history. Germany is making reparations to both individual Jews and the State of Israel for acts of genocide in the 1930s and 1940s, scarcely thirty years after the Herero War. The Herero ask an obvious question: what is the legal- or moral- distinction between German genocide directed at Jews and German genocide directed at Africans? Surely, in the modern world, a racial distinction cannot account for this difference in policy. Or is the distinction based on some meaningful difference between genocide in the Herero War and World War Two? As it was simply put by Mburumba Kerina, a Herero activist, ‘[The] concerns of the Hereros must be seen in the same light as that of the Jewish people.’

The Herero claim for reparations is directly grounded in the characterization of Germany’s history as particularly violent and as a former racist imperialist and colonial power, with a history of acknowledging this violence by paying reparations. Indeed, there is evidence that the virulent racism that promoted the holocaust not only the characterized German colonization of Africa, but was also partially formed there: the Germans began experiments with sterilization in the name of the science of eugenics, the creation of a “master race” in German South West Africa at the turn of the century. Herero prisoners of war were the subjects of these experiments.<sup>66</sup>

Still, the Federal Republic of Germany claims that “Germany has no obligations to pay compensation” to the Herero.<sup>67</sup> If they had no obligations to pay compensation for genocides until 1955, then it does not make sense that victims of the Jewish Holocaust have been receiving compensation. It would imply that demands from Israel more worthy than demands from the Herero. Further, if only binding legalities dictate Germany’s

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<sup>66</sup>Sidney Haring, “German Reparations to the Herero Nation: an Assertion of Herero Nationhood in the Path of Namibian Development?” 104 *West Virginia Law Review*, 393-398, 401-410 (Winter 2002)  
<sup>67</sup> *Bundestag Printed Paper*, “Answer of the Federal Government...,” printed December 1, 2011. Answer to question 8.

respect for human rights, it is worth mentioning that the Hague Convention in 1899 outlined war crimes.<sup>68</sup> Articles 4, 5, and 6 address Prisoners of War, which Herero and Nama peoples would be considered if the genocide is instead understood as war. Those articles declare that prisoners of war “must be humanely treated,” “all their personal belongings, except arms, horses, and military papers remain in their property,” they may be “bound not to go beyond certain fixed limits; but they can only be confined as an indispensable measure of safety,” and that “the State may utilize the labor of prisoners of war.” Article 7 explicitly states, “failing a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters, and clothing, on the same footing as the troops of the government which has captured them.”<sup>69</sup>

The Herero’s petition sought benefits only for their own ethnic group on the basis that the extermination order was specific in naming only the Herero to be exterminated.<sup>70</sup> They have rejected the government’s suggestion that Germany give the reparations to the government of Namibia. 80% of Herero peoples were killed, but so too were 50% of Nama peoples and also some Damara. Neither of those groups is included in the Herero petition. If the Namibian government is refusing to endorse the claim because of its ethnic exclusivity, then reparations could take the form of regional or national reparations schemes instead of cash payments to the survivors, which would heighten inter-group tension. Hereros originally steered away from this general payments route due to long-standing and wide-spread arguments that most aid and investment in Namibia goes to all

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<sup>68</sup> Convention with Respect to the Laws and Customs of War on Land, 29 July 1899.

<sup>69</sup> Ibid.

<sup>70</sup> Uazuva Kaumbi, “Namibia: official support for Herero reparation struggle; At last, the Namibian Parliament has unanimously adopted a motion calling for reparation negotiations with Germany over the genocide committed against the Herero, Nama and Damara people between 1904 and 1908,” *The Free Library*, 2006

of the regions in Namibia except the Omaheke (Kalahari) region where the majority of Herero reside. This claim is reasonable considering the majority of infrastructure developments to date is going to developing uranium and tourism trades, neither of which have any footing in the Omaheke region.<sup>71</sup>

Uneven development in Namibia has left the Herero's region neglected, which lends credence to calls for regional compensation. Chief Riruako, the Herero leader in the charge for reparations, argues that it is not necessarily only the near extinction of his people that should be repaired, but also the "dispossession, displacement, and inter-generational destruction," that are the legacy of the *Otjitiro Otjindjandja*.<sup>72</sup> He stated:

Reparation is the act of repairing a wrong or an injury to a person or nation... We all understand the principle of reparations. If you break something that belongs to someone else, you must repair it. If you steal something, you give it back... Reparation seeks to identify and redress wrongdoings so that the countries and people who suffered will enjoy full freedom to continue their own development on more equal terms...

Some of us tend to think that only the dead are victims. When children lose parents, that loss is felt... by generations to come. When people are displaced, they lose their sense of security and belonging. They experience fear and anxiety and lose hope for the future. As a result, they are deprived of knowledge, goals, and aspirations which could help them to build the future and wealth of their families and communities...

We all stand on the shoulders of those who came before us—people whose lives and accomplishments had been destroyed, whose wealth had been stolen, and who thus had nothing to stand on. They had nothing to leave as their

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<sup>71</sup> Mathew Murphy, "Decision on Namibia uranium mine close," *The Sydney Morning Herald*, April 6, 2011

<sup>72</sup> Uazuva Kaumbi, "Namibia: official support for Herero reparation struggle; At last, the Namibian Parliament has unanimously adopted a motion calling for reparation negotiations with Germany over the genocide committed against the Herero, Nama and Damara people between 1904 and 1908," *The Free Library*, 2006

legacy, and we as their heirs have less to build on for our children and generations to come.<sup>73</sup>

So too do the current generations of Germans stand on the shoulders of their grandparents who served in the military and settled in Namibia. Namibia is one of the most unequal countries in the world, according to the World Bank.<sup>74</sup> Riruako believes that the disparity between rich and poor is a legacy of the country's history, and it would be difficult to argue that he is wrong unless there is some alternative motive for denying this blatant truth. Equality is far off, but normalizing quality of life in Namibia overall would be a tremendous change.

Through careful study of the Jewish case, those leading the Herero petition's charge are rightfully indignant about Germany's refusal to even consider their proposals. Today's Namibians would like for there to be acknowledgement of the wrongdoings that German hands performed against them. They would appreciate acknowledgement of the prolonged influence that the acquisition of Herero land and cattle has had in addition to the atrocities of war, concentration camps, and orders of extermination. Germany has acknowledged the impact of these crimes in the past, such as the Jewish case, and there is no reasonable excuse for their refusal to do the same in the Herero case.

#### *Parallels in Ideology and Methods*

The reparations design is dependent on time, the payers, and the recipients of the reparations. In this case, payment from Germany is justifiable because von Trotha did not freelance. He worked under the auspices of the German government, and his

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<sup>73</sup> Uzuva Kaumbi, "Namibia: official support for Herero reparation struggle; At last, the Namibian Parliament has unanimously adopted a motion calling for reparation negotiations with Germany over the genocide committed against the Herero, Nama and Damara people between 1904 and 1908," *The Free Library*, 2006

<sup>74</sup> World Bank website, "Namibia" in *Countries*

extermination order and subsequent murderous actions in the name of Germany by many individual actors and not von Trotha alone. Similarly, the government held beliefs of racial inferiority, as did anthropologists, scientists, and the general public.<sup>75</sup> At the time, Germans considered anthropologists progressive, yet anthropological insight on the subject of the Hereros shifted from indecision to that of the social Darwinist's 'inferior' savage.<sup>76</sup> Here, Stone explains the connection between differing depictions of the Herero according to anthropologists:

[Before] 1900, the Hereros were often portrayed in a positive light, as a noble warrior race, whose bodily stature and pride in their cattle and cattle-breeding knowledge distinguished them from the 'lower' Bushmen or Hottentots (Nama). But thereafter, when the Germans became increasingly frustrated by the Hereros' refusal to sell their cattle, they were depicted as wild children, whose warlike propensities made them a threat to the safety of the colonists. Rather than noble and beautiful, now they were more likely to be seen as unreliable, lazy and ungrateful for the benefits that German civilization had brought.<sup>77</sup>

In the name of the German fatherland, troops then invaded Namibia; leaders wrote, signed, and disregarded treaties; seized land and cattle, killed large percentages of entire communities, while intellectuals back home related the Herero's refusal to submit to white colonial paternalism to the behavior of impertinent children. Though von Trotha was particularly extreme in his racism (and racism was ubiquitous), some of the *Schutztruppe* saw the Herero as formidable opponents, arguing that "the dreadful, cunning cruelty with which the Hereros murdered the Germans at the start of the revolt is

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<sup>75</sup> Dan Stone, "White men with low moral standards? German anthropology and the Herero genocide," *Patterns of Prejudice*, (2001) 35: 2, 34-35

<sup>76</sup> *Ibid.*, 39

<sup>77</sup> *Ibid.*, 30



a vivid warning that the widely held view that the Negro is a child needs to be fundamentally revised.”<sup>78</sup>

The German demand for land was the first step to demanding the death of the Herero. In this way, the case is different than many other crimes of colonization. The base of the argument comes down to theories of land ownership and rights that did not exist in GSWA prior to German occupation. The new land tenure rules were manipulated politically and legally to keep the Herero compliant while expropriating their land and cattle through supposedly peaceful and fair treaties. When it later became clear that the Germans had no intent of protecting the Hereros as the treaty outlined, the rebellion began. When news of the revolt reached Berlin, people demanded action: to immediately suppress the conflict and protect German lives. Leutwein was unwilling to commit to such a serious tactic at that time. It is at that time that Lothar von Trotha was brought in to quell the growing violence. Instead of attempting to work with the natives, he decided to eliminate any need for cooperation by ordering their extermination.<sup>79</sup>

Scholars have accused Germany consistently of being particularly bent on exterminationism as a policy rather than merely colonization.<sup>80</sup> *Lebensraum* theory was used as a justification, and fortification of arguments were rooted in hierarchical social race theory and colonialism, which are cited as the main reason for statements such as Leutwein’s, and later, those of Adolf Hitler in *Mein Kampf*. People in Germany would have had to feel it perhaps necessary to leave their homeland in order to survive.

Prevailing social Darwinist views in Europe argued that Germans had more of a right to

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<sup>78</sup> Ibid., 42

<sup>79</sup> Michael Mann, *The Dark-Side of Democracy: Explaining Ethnic Cleansing*, 2004

<sup>80</sup> George Steinmetz, “From ‘Native Policy’ to Exterminationism: German Southwest Africa, 1904, in Comparative Perspective,” University of Michigan’s *Theory and Research in Comparative Social Analysis*, University of California, Los Angeles 2005: 30

life than native Africans and was cited by those living in GSWA. But, what did the domestic public of Germany think of the decisions that their counterparts abroad were making on their behalf? All things considered, GSWA was not a particularly attractive emigration option to domestic Germans during this period. Millions were migrating to the United States, while in the ten years before the Herero uprising, the German population in Namibia increased by only about 4,500.<sup>81</sup>

In a report from 1893 drawn up by an emissary from the Department of Colonial Affairs in Berlin one can read that the Herero in the face of German military force will withdraw to reservations and there slowly die out. The underlying assumption is that the African tribes confronted with German colonization and development will either give up their traditional way of life and become a class of workers or waste away in reservations... Leutwein underlined in 1895 that should the Herero refuse to conform to these demands then there were only two alternatives: that German withdraw from Herero territory or that the Herero be annihilated by military force.<sup>82</sup>

Though Leutwein himself wanted to avoid war, white settlers were upset at his lack of control over the natives, but refrained from being too actively political until the uprising in 1904. Leutwein was essentially removed due to his inability to handle the uprising in an ‘appropriate’ way; that being the militaristic disarming of the Herero and the acquisition of their land for settling and their bodies for labor. “German colonists, especially the farmers, had support from sections of the German Reich press and in the movements for colonial expansion through which the settlers could exert pressure on decision makers in Berlin.”<sup>83</sup> Additionally, the people of domestic Germany were more

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<sup>81</sup> This figure includes soldiers and government officials. Steven L. B. Jensen, *Genocide: Cases, Comparisons, and Contemporary Debates*, The Danish Center for Holocaust and Genocide Studies, Copenhagen: 2003, 25

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

or less compliant in colonial schemes out of a belief that the acquisition of African land was integral to their progressive success as a nation. This view prevailed until the uprising led them to believe that their fellow Germans were being put at risk by Leutwein's lack of intervention, at which point they aligned for the most part in support of the 'resolution' against the uprising, which was essentially the beginning of the subjugation and genocide of the Herero.

It would be unrealistic to expect German taxpayers to financially provide for the reparations – the generally agreed-upon statute of limitations in design schemes for reparations is that one cannot expect a payer that is more than three generations (that is, the children of the children of those who were directly affected) removed from the crime.<sup>84</sup>

### *Legal Claims*

Due to the complexities of reparations schemes that rely on taxpayers, the Herero also sued individual companies that financially supported and benefitted from the acquisition of land, labor, and resources during colonial rule. Without economic motivations, the military aspirations would not have been as justified. The defendants of the case were the Federal Republic of Germany, Terex Corporation, Deutsche Bank, and Woermann Line/DAL Transport. The Herero People's Reparations Corporation (HPRC) represented the Herero with Philip Musolino of Musolino & Dessel, located in Washington, DC.<sup>85</sup> All claims except the one against Germany were thrown out due to

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<sup>84</sup> Eric Posner and Adrian Vermeule, "Reparations for Slavery and Other Historic Injustices," *Columbia Law Review*, 689 (2003)

<sup>85</sup> Allan D Cooper, Reparations for the Herero Genocide: Defining the limits of international litigation," *African Affairs*, (January 2007) 106 (422): 113-126

changes in management, and Germany was able to avoid taking financial responsibility because of American legal protections afforded them before a claim is even considered.<sup>86</sup>

The trial was not held in Namibia. Nor was it in Germany, or in the International Court of Justice (ICJ). The HPRC filed the case in the United States under the Alien Torts Claim Act. These claims were quickly dismissed for various reasons, including changes in management. Under the Alien Torts Claim Act, if a corporation being accused has changed hands or managing bodies, the decisions of one do not carry over to implicate the other. Allan D Cooper argues that because this outcome is not unexpected considering the limitations of the HPRC's political support, those seeking reparation should abandon the idea of suing through American courts and instead insist on being heard at the ICJ. In order to do that, however, they would need to garner support from the government of Namibia at large and to sue as a nation and not merely as a corporation of Hereros. Hereros will have a hard time getting this widespread support because they are marginalized by the government-dominating SWAPO, the political party that dominates the government as well as the rich, white elites.

Despite the fact that representatives of the German government consistently emphasize their 'special historical and moral obligation to Namibia,' their actual spending does not support that claim. According to Jeremy Sarkin's 2011 book, *Germany's Genocide of the Herero: Kaiser Wilhelm II, His General, His Settlers, His Soldiers*, Germany spends approximately five times as much in Egypt (per year, on average) on aid when compared with Namibia. Ngondi Kamatuka, a Namibian immigrant to the US and scholar at the University of Kansas, notes that when one analyzes Germany's foreign investment after 1990 (Namibia's year of independence), Namibia is

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<sup>86</sup> Ibid.

actually twentieth on the list.<sup>87</sup> From these numbers, Namibia does not appear to have a ‘special relationship with Germany’ or priority as a foreign partner to the government or to business leaders. Potential arguments about the security of investing in Namibia can be rebuked by studies from the 1990s to present that show Namibia as having one of the best business climates in the African region.<sup>88</sup>

There is no forthcoming economic evidence that Germany prefers Namibia over any other country in Africa except that some tourist destinations in Namibia remain very popular with German tourists. Not only should the numbers more closely reflect the German rhetoric, the German government should more appropriately acknowledge how they have profited, and continue to profit, from their relationship with Namibia. The government is, after all, primarily responsible for the actions von Trotha took in Namibia, and should not be forgiven because they continue to export valuable resources from the country they colonized over 100 years ago.

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<sup>87</sup> Ngondi Kamatuka, “Press Release by the Association of the Ovaherero Genocide in the USA On the Return of the Human Skulls from Germany to Namibia,” October 10, 2011. Acquired from the author

<sup>88</sup> Jacques Morisset, “Foreign Direct Investment in Africa: Policies also Matter,” Policy Research Working Paper 2481 November 2000, 6-9

## OBSTACLES TO RECONCILIATION

### *Reconciliation Attempts to Date*

After the Herero filed the petition and the courts dismissed the case, German President Roman Herzog went to Namibia in 1998, where he met with Herero leaders including Chief Munjuku Nguvauva. Nguvauva took the opportunity to request an apology and reparations from Germany, but Herzog did neither. Instead, “Herzog said too much time has passed for a formal apology to the Hereros to make sense,” and he “argued that no international legislation existed at the time under which ethnic minorities could get reparations.”<sup>89</sup>

Germany did not acknowledge the *Otjitiro Otjindjandja* as the first genocide of the 20<sup>th</sup> century until 2004, when it made a formal apology that failed to acknowledge existence of concentration camps or slavery and came without reparations or compensation to those Hereros descendants demanding it. The German government argues that no international law regarding treatment of civilians existed at the time of the Herero-German war and that any financial repercussions should be considered as covered by the 11.5 million dollars invested annually in modern-day Namibia by the Federal Republic of Germany.<sup>90</sup> Cornelia Pieper, Minister of State in the German Foreign Ministry, wrote an open letter in response to demands for reparations: “in accordance with the wishes of the Namibian Government, the Federal government of Germany does not maintain special relations with individual ethnic groups.”<sup>91</sup>

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<sup>89</sup> John Grobler, “The tribe Germany wants to forget,” Johannesburg, South Africa, March 13 1998

<sup>90</sup> Meryem Songul, “First Genocide of the 20th Century: Herero and Nama Genocide,” *The Journal of Turkish Weekly*, 9 February 2009

<sup>91</sup> Magreth Nunuhe, “Pieper justified German’s defiance,” New Era Newspaper (Namibia), October 5, 2011

## The Ex-Post Facto Argument

According to Jacques Morisset, “there is no consistent legal basis for any of the modern reparations regimes. The concept of reparations is rooted in natural law, the common law, and international law; it is an equitable principle that the beneficiary of an ill-gotten gain should make restitution, both as an act of contrition and good will, but also simply to restore the victim to some part of their previous life.”<sup>92</sup> The Federal Republic of Germany made the argument in 2011 that...

The Convention on the Prevention and Punishment of the Crime of Genocide (UNCPPCG) was adopted on 9 December 1948 and entered into force on 12 January 1951. The Federal Republic of Germany has been bound by its provisions since 22 February 1955. It does not apply retrospectively. The Federal Government does not undertake retrospective evaluation of past events based on the application of international legal provisions which were not in force in the Federal Republic of Germany at the time these events occurred.<sup>93</sup>

Rachel Anderson argues that regardless of the 1948 UNCPPCG, genocide could still be considered illegal at the time of the Herero-German conflict. Most directly, “the 1884-1885 Berlin West Africa Conference... established guidelines for the European colonization of Africa, [including] humanitarian obligations such as the ‘preservation of native tribes,’ the suppression of slavery and the slave trade, and the protection of religious freedom.”<sup>94</sup> Germans framed the Herero for instigating the Herero-German War and would argue that they were merely defending themselves, but imperialism was the initial aggressor, not the Herero.

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<sup>92</sup> Jacques Morisset, Foreign Direct Investment in Africa: Policies also Matter, Policy Research Working Paper 2481 November 2000, 6-9

<sup>93</sup> *Bundestag Printed Paper*, “Answer of the Federal Government...,” printed December 1, 2011

<sup>94</sup> Rachel Anderson, “Redressing Colonial Genocide under International Law: The Hereros’ Cause of Action against Germany,” *California Law Review* Vol.93, No.4 (July 2005): 1155-1189

International law functions primarily under an assumption of *jus cogens*, or peremptory norm; meaning that international law is built on customs and norms of the members of the international community over which the law rules. *Jus cogens* for international law includes prohibition of genocide, maritime piracy, slaving, torture, and wars of aggression or territorial aggrandizement.<sup>95</sup> Particular to this situation and time period, the treaties that constitute documentation of the prohibition of genocide include the 1889 German-Dutch Agreement, the 1890 German-Belgian Agreement to Criminalize Trade in Girls, the 1904 Agreement on Administrative Regulation to Ensure Effective Protection against Trade in Girls, the 1815 Second Paris Peace Agreement, and the 1841 Quintuple Treaty. All of these treaties acknowledged and safeguarded native Africans long before 1948. German representatives attended all of these meetings and signed all of these agreements, acknowledging their obligation to maintain human rights even under colonization. Furthermore, prior to the 20<sup>th</sup> century, international law was based primarily on customs, and the 1885 Treaty of Friendship and Protection between Germany and the Herero was clearly violated by the conflict that ensued from 1904-1907.<sup>96</sup>

Part of the problem with providing reparations, according to Germany, is that the request has not come from the Namibian government itself, but from the Herero. According to the German Bundestag, “the Namibian Government has so far not raised the issue of reparations in the form of an official dialogue with the Federal Government [of Germany]. It has so far not pronounced the demands for reparations of the Herero, which were endorsed by the Namibian National Assembly in a resolution adopted on 26

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<sup>95</sup> M. Cherif Bassiouni. (Autumn 1996) “International Crimes: ‘Jus cogens’ and ‘Obligatio Erga Omnes’.” *Law and Contemporary Problems*. Vol. 59, No. 4, pg. 68

<sup>96</sup> Rachel Anderson, “Redressing Colonial Genocide under International Law: The Hereros’ Cause of Action against Germany,” *California Law Review* Vol.93, No.4 (July 2005): 1155-1189. More on that treaty is included in the section “Herero History.”



October 2006, as its own towards the Federal Government.”<sup>97</sup> However, in 2006, the Namibian parliament did just that – they passed a motion to support the Herero demand for restitution from Germany.

Supporters of this measure include significant representatives from both the Namibian and German sides: The Nangof Trust, the German Alliance of Non-Governmental Organizations, The Initiative of Black People in Germany (Initiative Schwarze Menschen in Deutschland), Berlin Postkolonial e.V., AFROTAK TV, Solidaritätsdienst-international e.V., AfricaAvenir Berlin Section<sup>98</sup>, Afrika-Rat Berlin-Brandenburg, Afrika-Rat Nord, Arbeitskeis Panafrikanismus München, Artefakte, Berline Entwicklungspolitischer Ratschlag, Deutsche-Afrikanische Gesellschaft Berlin<sup>99</sup>, and members of the German Bundestag from the SDP, Alliance 90/The Greens and the Left Party.<sup>100</sup> So indeed, part of the problem is the refusal of the Namibian Government, a SWAPO-dominated structure that is highly dependent on German foreign aid, to support the Herero petition *to Germany*. The Namibian government has not gone on behalf of the Herero to the Bundestag to request these reparations. However, it did actually pass a resolution in favor of the reparations.

A problem with this German defense is the fact that it did not pay all claims of Jewish reparations through Israel. There were political reparations between states, but only because that particular state also politically represents the persecuted group. Not all

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<sup>97</sup> *Bundestag Printed Paper*, “Answer of the Federal Government...,” printed December 1, 2011, answer to question 10.

<sup>98</sup> *Pambazuka News*, “The book of condolence,” March 20, 2012, Issue 577.

<sup>99</sup> “Resolution: Genocide is not barred!” AfricaAvenir with 113 non-profit signatories calls for Germany to acknowledge Motion 8767 on 7 March 2012

<sup>100</sup> *Bundestag Printed Paper*, “Answer of the Federal Government...,” printed December 1, 2011, in preliminary remarks.

of the reparations went through the Israeli government and in most cases of compensation individuals filed without the support of the state of Israel.

The Hereros seeking reparations know that their case is not unique despite the lapse of time since 1908. In the Motion on the Ovaherero Genocide introduced in the Namibian Parliament by the Honorable Kuaima Riruako, Paramount Chief of the Ovaherero People presented on September 19, 2006 that was overwhelmingly passed, Riruako lists the cases that he considers precedent, which are represented in a table.<sup>101</sup>

<b>Year</b>	<b>Amount</b>	<b>Payer</b>	<b>Recipient</b>
<b>1952</b>	\$822 million <sup>102</sup> Claims Conference	Germany	Holocaust survivors
<b>1971</b>	\$1 billion, 44 million acres Alaska Native Claims Settlement Act	USA	Alaska natives
<b>1980</b>	\$81 million	USA	Klamaths of Oregon
<b>1988-1999</b>	Access to billions <sup>103</sup> Indian Gaming Regulatory Act	USA	American Indians
<b>1988</b>	250,000 sq. miles of land Nunavut Land Claims Agreement	Canada	Inuit
<b>1988</b>	\$230 million Redress Settlement	Canada	Japanese Canadians
<b>1985</b>	\$32 million	USA	Chippewas of Wisconsin
<b>1985</b>	\$12.3 million	USA	Seminoles of Florida
<b>1985</b>	\$105 million	USA	Sioux of South Dakota
<b>1990</b>	\$1.2 billion (\$20,000 per claim)	USA	Japanese Americans who were held in internment camps
<b>1990</b>	\$25 million	Austria	Holocaust survivors

*Figure 3. Table of Riruako's examples of reparations*

<sup>101</sup> Riruako, Kuaima. Motion on the Ovaherero Genocide (Sept 19, 2006) Parliament of Namibia

<sup>102</sup> Though this is the number that the motion includes, it is much lower than present estimates regarding the cost of reparations from Germany to Holocaust survivors found in Christian Pross' *Paying for the Past*. It can be assumed that as more people become eligible and as time goes on, this amount will continue to rise until all survivors' cases have been 'resolved' (deceased—language comes from the claims conference paperwork itself).

<sup>103</sup> Since the passage of this bill, there has been no significant increase in quality of life or income for those affected by the Indian Gaming Regulatory Act. The motion cited "making billions for the American Indians," but this claim was premature, per Jonathan Taylor and Joseph Kalt's "American Indians on Reservations: A Databook of Socio-Economic Change between the 1990 and 2000 Censuses," in *The Harvard Project on American Indian Economic Development*, January 2005.

Germany is not taking responsibility for the *Otjitiro Otjindjandja* and their share of reparations as other western countries have done, nor as they themselves did in the case of the Jewish *Shoah*. The Namibian government has let Germany defy its responsibility for the *Otjitiro Otjindjandja*, and Germany compromised by making small apologetic gestures and insisting that aid is enough. Unfortunately, both the Namibian government and German government must take responsibility for the non-responsiveness of their regimes to the survivors' claims. They must offer alternative solutions that serve as restitution to the three tribes most affected but also the rest of the Namibian nation so as not to stir up ethnic tensions or promote further disunity.

#### *Namibian Politics*

Germany has designated 20 million Euros for “rural water supply, agriculture/horticulture, transport, provision of equipment for schools and fire services” in “areas inhabited by those ethnic groups that endured particular suffering under German colonial rule” as a tangible expression of the “special relationship” the two countries have.<sup>104</sup> But it is important to remember, according to Hewat Beukes, a spokesman for the Nama Technical Committee, that Namibia is “a nation in which for every N\$5 billion spent on infrastructure, the taxpayer only gets N\$1 billion in infrastructure,” as “the rest goes into the pockets of white corporate businesses.”<sup>105</sup>

Beyond the corrupt dealings of the private sector in Namibia when it comes to aid and investment, there are arguments that avoiding the reparations discussion is not helping Namibia come to terms with modern issues of ethnic tension. The Ovambo-heavy Federal Government of Namibia declined support of the petition because it was

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<sup>104</sup> Magreth Nunuhe, “Pieper justified German’s defiance,” *New Era Newspaper* (Namibia), October 5, 2011

<sup>105</sup> *Ibid.*

exclusive; it would benefit the Herero and not the other tribes of Namibia. This considered,

[I]f the Namibian government does not treat the genocide question as a priority theme in its bilateral relations with Germany, it is less likely that Berlin would treat demands for reparations in a manner that is respectful and urgent. The controversies surrounding the return of the skulls merely confirm the absence of this question on the Namibian government policy agenda with Germany. Since independence, there has been no official discourse on the genocide and reparations on the part of the Namibian government. Germany merely plays its negotiating position on the basis of a policy vacuum on this question... With increasing inequalities and hegemonic politics, seen and argued through the perspective of ethnicity, the genocide debate and the concomitant demands for reparations seen have taken on a deep existential tone. As such, these emotive and identity issues ought to be dealt with urgently by the Namibian government.<sup>106</sup>

As additional motions are put to the Bundestag, more and more people come forward to support the Herero case, despite the passage of time and the widening gap between victims and those petitioning. Just as the German Claims Conference argued in the Jewish case, it is not about the money. It is about the sentiment—the moral obligation that they feel toward their historical trespasses.

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<sup>106</sup> Riruako, Kuaima. Motion on the Ovaherero Genocide (Sept 19, 2006) Namibian National Assembly

## REVIVED RESISTANCE

### *The Return of the Skulls*

In October 2011, the German government allowed for 20 human skulls to be returned to Namibia. These remains were just a fraction of those that German killers harvested from the concentration camps in GSWA, which the *Schutztruppe* sold and sent to medical and anthropological research facilities in Germany during the colonial period. This section will describe some of the Namibian voices that wrote about this event and what the Herero considered disrespectful behavior of Germans and Namibian government officials alike. The return of the skulls is important to include in this discussion because it revived conversation in Namibia. The event dominated news headlines for several weeks and increased pressure on both Namibian and German governments, which led to Motion 8767, the first attempt from within the German Bundestag to acknowledge this history.

On October 4, 2011, three years after the initial admission that the remains existed and after several meetings regarding the issue, a delegation of Namibian officials returned to Namibia with twenty skulls from among those that had been “taken to Germany for racist experimentation to apparently prove preconceived notions that whites were more intelligent than blacks.”<sup>107</sup> The skulls came from Shark Island, the site of perhaps the most extreme of the concentration camps operated by German troops in the early 20<sup>th</sup> century, where at a death rate of 60%, predominantly women and children victims were buried in shallow graves and presumably swept out to sea. Their lives in the camps were sustained by bags of rice, for which they were given no utensils to prepare or

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<sup>107</sup> New Era Newspaper, “Two wrongs don’t make a right,” *New Era Newspaper*, October 25, 2011.

consume.<sup>108</sup> The victims died and were then beheaded by German soldiers with the intent of profiting financially from the sale of the skulls to Universities and medical researchers in Germany.

Eugen Fischer studied the skulls in Namibia in 1904 and went on to write *The Principles of Human Heredity of Race Hygiene*. Adolf Hitler read the book when he was writing *Mein Kampf*; Fischer also taught the now-infamous Josef Mengele.<sup>109</sup> Fischer's studies were used to justify Germany's dominion over the Herero and Nama peoples and then led to the social Darwinist justification of the *Shoah*. The role of the skulls in the development of ideology supporting further oppression of African peoples has been evident, according to Dan Stone, Benjamin Madley, and others.<sup>110</sup> However, many members of the current generation would prefer to minimize their historical importance.

Nahas Angula, former Prime Minister and current Minister of Defense, has accepted the repatriation of these skulls as reconciliation enough for the historical injustices that still plague Namibia.<sup>111</sup> Others argue that this is not the case and that the return of 20 skulls is inadequate in the grand scheme of things, especially considering the bi-lateral relationship that continues to profit from Namibian natural and labor resources.

Gwen Lister, editor of *The Namibian* newspaper, found it "both right and appropriate that the Herero and Nama skulls be returned from Germany to where they belong," but found the means by which they were returned to be a failure of both German

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<sup>108</sup> Toivo Ndjobela, "Our human remains: How did they end up in Germany?" *New Era Newspaper*, 5 October 2011

<sup>109</sup> Toivo Ndjobela, "Our human remains: How did they end up in Germany?" *New Era Newspaper*, 5 October 2011.

<sup>110</sup> Benjamin Madley, "From Africa to Auschwitz: How German South West Africa Incubated Ideas and Methods Adopted and Developed by the Nazis in Eastern Europe," *European History Quarterly* 35 (2005): 429-457 and Dan Stone, "White Men with Low Moral Standards? German Anthropology and the Herero Genocide," *Patterns of Prejudice* 35 (2001) 2

<sup>111</sup> Ngondi Kamatuka, "Press Release by the Association of the Ovaherero Genocide in the USA on the Return of the Human Skulls from Germany to Namibia," October 10, 2011, acquired from the author.

and Namibian governments.<sup>112</sup> After three years of discussion, the German and Namibian governments agreed that Namibia would recover 20 of the many skulls. The Namibian government paid for several dozen officials to go to Germany and personally escort the skulls back home at a huge expense. Lister argues that this irresponsible use of scarce government resources is Namibian greed to travel, but the Germans are also to blame: to require the people who have already suffered so much at German hands to pay for their ancestors to be returned is, at the very least, rude. Had this been a matter of *Shoah* skulls, this part of the issue would have almost certainly been more contentious.

The return of the skulls exacerbated tensions within Namibia beyond government spending concerns. In a letter to the editor of *The Namibian* on September 23, 2011, Frank Talk expressed his disappointment in both governments regarding the ceremonies upon the return of the skulls where he claims there were no representatives present:

There was no representative of the Namibian Government. There was no representative of the German Embassy. No white Namibians besides a foreign young male. No representatives of the German Cultural committee. No descendants of the German Schutztruppe... If one Herero is hurt, a Namibian is hurt. If an Afrikaner is hurt, a Namibian is hurt. If an Ovambo is hurt, a Namibian is hurt. Is a San is hurt, a Namibian is hurt. Why then, why, are only Namas and ovaHerero celebrating and mourning at these events? ...Oshiwambo and German-speaking Namibians must also pay respect to the fallen heroes or otjiHerero and Nama-speaking Namibians... to the officials sent here by Germany to represent their country: an honest...partnership and honest reconciliation would mean to be present on these occasions.<sup>113</sup>

Reparations would mean not only that the skulls are returned in their entirety, but also that both governments make an effort to acknowledge what happened from 1904 to 1908

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<sup>112</sup> Gwen Lister, "Political Perspective," *The Namibian*, 23 September 2011.

<sup>113</sup> Frank Talk, "Namibians, I am Disappointed," *The Namibian*, 23 September 2011.

and make it a part of the educational curriculum to learn about this history. Upon the return of the skulls, educating the public about this history became the job of newspapers and media, a fact that unveils the general public ignorance surrounding the issue across the board in both Namibia and Germany.

Ngondi Kamatuka, president of the American Association of the Ovaherero Genocide, said in a press release regarding the return of the skulls that both governments have been neglectful of their obligation to this history. Kamatuka goes on to call for a national monument in memorial of the victims of the *Otjitiro Otjindjandja*. To those like Nahas Angula, who have suggested that the repatriation of the skulls serves as restitution for the genocide, Kamatuka says that unless the skulls are accompanied by an official apology from the Bundestag, the return of the skulls is not enough.<sup>114</sup> Furthermore, Kamatuka suggests that the return of 20 of hundreds of skulls taken from the territory is merely the start to the repatriation process.<sup>115</sup> The reparations process will only be able to begin after the repatriation is finished and an official apology is made by the German Bundestag.

#### *Motion 8767 in the German Bundestag*

On February 28, 2012, nineteen Bundestag representatives presented a motion alongside the Left Party to acknowledge “German colonial crimes in former German South-West Africa as genocide” and to work “towards restorative justice.”<sup>116</sup> This motion includes acknowledgement of scale far beyond that requested by Herero leaders,

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<sup>114</sup> Ngondi Kamatuka, “Press Release by the Association of the Ovaherero Genocide in the USA on the Return of the Human Skulls from Germany to Namibia,” October 10, 2011, acquired from the author.

<sup>115</sup> Ibid.

<sup>116</sup> *Bundestag Printed Paper 17/8767*, “Motion tabled by the Members of the German Bundestag... acknowledging German colonial crimes in former German South-West Africa as genocide and working towards restorative justices,” printed February 29, 2012.



including admissions of “expulsions, expropriation, forced labour, massacres, rape, medical experiments, deportations to other German colonies, and inhuman confinement in internment camps.”<sup>117</sup> The Left Party’s motion also accepts that “the war of extermination between 1904 and 1908 resulted in the deaths of up to 80 percent of the Herero, over 50 percent of the Nama, and a large part of the Damara and San.”<sup>118</sup> The motion goes on to accept the term genocide as “fulfilling the criteria for Genocide,” and apologize to those affected. It conveys “profound shame, regret, and sadness,” and “recognizes and honors the African people’s long, active and courageous resistance to colonial rule.”<sup>119</sup> The authors reiterate the statements that were made in April 1989 and June 2004 about the genocide and Germany’s “special historical and moral responsibility... towards present-day Namibia and the Namibian population,” and acknowledge the Namibian National Assembly’s unanimous decision on 26 October 2006 to support the Herero call for reparations.<sup>120</sup>

The motion goes on to describe a reparations scheme. From “increased bilateral cooperation”<sup>121</sup> to education policy, parliamentary dialogue, and the establishment of a “structural compensation fund or foundation, over which the Namibian National Assembly and government, involving the affected population groups, will have power of

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<sup>117</sup> *Bundestag Printed Paper 17/8767*, “Motion tabled by the Members of the German Bundestag... acknowledging German colonial crimes in former German South-West Africa as genocide and working towards restorative justices,” printed February 29, 2012, i.1.

<sup>118</sup> *Ibid.*, Section I, 1.

<sup>119</sup> *Ibid.*, Section I, 3, 4

<sup>120</sup> *Ibid.*, Section I, 5, 6.

<sup>121</sup> *Ibid.* Section I, 7. “Development cooperation... is fundamentally different from restorative justice. The former cannot replace the latter. Restorative justice is not a form of aid, but the claim of an injured party arising from recognition of injustice suffered,” The motion includes addressing arguments that aid can substitute reparations.

decision,”<sup>122</sup> the motion calls upon the German Government to acknowledge and work towards restoring justice. Section 1, 8 states:

The German Bundestag is aware that the consequences of the genocide and German colonialism in former German South-West Africa are still evident in the social and economic reality of present-day Namibia. The expulsion of the native population and the appropriation of land and livestock in violation of traditional land rights resulted in an unjust system of land distribution that still exists today. The Herero, Nama, Damara and San in particular lack the means to purchase land or to compensate in other ways for the losses they suffered in the past and to re-establish a new basis for their economic independence. Restorative justice should start on this level and pursue the aim of balancing out these structural disadvantages that began in colonial times and still exist today.<sup>123</sup>

This kind of admission of guilt and subsequent responsibility for the systemic problems within Namibia has never come from the German Bundestag before. It was followed by a call from many human rights organizations within Germany for proactive restorative actions to truly “pursue the aim of balancing out... structural disadvantages.”<sup>124</sup>

In their quest for restorative justice the motion then calls for the German government to take ten further steps:

1. Acknowledge the war of extermination as genocide,
2. Apologize to the affected groups and the Republic of Namibia,
3. Welcome dialogue on the issue and the reparations proposals,
4. Offer compensatory funds to offset historical disadvantages,
5. Get some of those funds from the corporations who benefitted,
6. Return the skulls and other artifacts to their rightful owners,
7. Collaborate with institutions and states to repatriate remains,
8. Encourage strengthening the German-Namibian relationship,
9. Offer a textbook commission that would employ both perspectives,

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<sup>122</sup> *Bundestag Printed Paper 17/8767*, “Motion tabled by the Members of the German... acknowledging German colonial crimes in former German South-West Africa as genocide and working towards restorative justices,” printed February 29, 2012, Section III, 4.

<sup>123</sup> *Ibid.*, Section I, 8.

<sup>124</sup> *Ibid.*

10. Urge Education ministers to incorporate this history in curriculum in both Namibia and Germany.<sup>125</sup>

These suggestions are reasonable when one considers reparations history, and it is a promising sign that they came from within Germany itself. However, the motion did not pass.

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<sup>125</sup> Paraphrased from *Bundestag Printed Paper 17/8767*, "Motion tabled by the Members of the German Bundestag... acknowledging German colonial crimes in former German South-West Africa as genocide and working towards restorative justices," printed February 29, 2012, Section III, 1-10.

## CURRENT PROPOSALS AND CONSIDERATIONS

### *Removal or Re-Appropriation of German Memorials*



Figure 4. 2008: Afrikastein with Namibian colonial tile in Berlin, Joachim Zeller

In 2004, a memorial to fallen Herero was erected amidst many other historical monuments in a cemetery in Berlin. It is a tile that has been installed directly under the *Afrikastein*, or African stone, a memorial to the fallen colonial soldiers. The juxtaposition of the two can be seen in the image above.<sup>126</sup> The irony of linking these two messages is undeniable, especially when one considers that all German memorials in Namibia are for their soldiers, not the natives of GSWA who were massacred in disproportionate numbers due to a military order to exterminate them. Though the creation of the monument does publicly declare responsibility, the scale and seclusion of the memorial casts doubt on

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<sup>126</sup> Joachim Zeller, „Eine Delegation aus Namibia wird in Kürze in Berlin eintreffen, um die Schädel ihrer Vorfahren entgegenzunehmen. Was erwartet sie bei ihrem Besuchsprogramm in der Stadt?“ in *Reise in ein unkämpftes Terrain*, September 2011.

Germany's potential contrition. The stone honoring the soldiers who killed those recognized is significantly larger and names seven individuals, whereas the Herero memorial tile simply reads,

In remembrance of the victims  
of German colonial dominance  
in Namibia 1884-1915,  
particularly the colonial war  
of 1904-1907.

The Municipal Assembly  
and  
the District of Neuköln of Berlin

*Only he who knows the past has a future.*  
*Wilhelm von Humboldt*<sup>127</sup>

Due to its wording, this monument does not actually recognize the events of 1904-1907 as genocide, nor does it recognize the many Herero leaders who were exterminated at this time or the volume of the killings. In addition to the small scale and questionable reasoning behind placing the stone—clearly a floor tile can be stepped on, whereas an upright memorial cannot—the memorial to victims of colonial crimes has been vandalized several times. It seems that though the Municipal Assembly and the District of Neuköln of Berlin want to “know the past,” they still maintain some distance from it and fail to take responsibility for the historical injustices and atrocities committed under the guise of colonialism.

Also important, however, is the removal or re-appropriation of the standing German memorials in Namibia. Decolonizing Namibia demands not only that Germany apologize for the past, but also involves reclaiming Namibia for Namibians. One easy way to do this is to have public memorials reflect the struggle for Namibian unity, instead

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<sup>127</sup> Joachim Zeller, “Post-Koloniale Monumente. Demalinitativen erinnern an die imperiale Übersee-Expansion Deutschlands

of memorials that reflect Germany's revisionist history. Windhoek's landmark *Christuskirche*, a prominent Lutheran church positioned on a hill in front of the Parliament buildings and the neighboring *Reiterdenkmal*, statue of a horse and rider, and recreation facility on Shark Island all serve as paramount representations of German colonial presence.

The majority of Windhoek's attractions have a colonial legacy, and that applies to other regions, as well. Recreational businesses hawk riding four-wheelers between Walvis Bay and Swakopmund on top of known Nama burial grounds. A basic respect for the history of the land is expected in African culture, and academics and politicians alike cannot deny historical evidence in these matters. Given this history, Namibians have the right to expect a certain level of decorum and respect. Ngondi Kamatuka points out: "Today, Shark Island serves as a major tourist attraction site, yet there is no monument reminding the tourists that, when they visit, they are standing on hallowed ground. The Namibian government will be well advised to erect a monument dedicated to the victims of the Shark Island concentration camp at the site."<sup>128</sup>



Figure 5. Shark Island panorama, photo by the author, 24 March 2012

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<sup>128</sup> Ngondi Kamatuka, "Press Release by the Association of the Ovaherero Genocide in the USA on the Return of the Human Skulls from Germany to Namibia," October 10, 2011, acquired from the author.



Figure 6. *Christuskirche* in Windhoek; photo by the author, 2011

This process has already begun. The Independence Museum has already replaced the *Reiterdenkmal*'s location and the *Alte Feste* has been turned into the Windhoek State Museum; Heroes' Acre is a good start at building a common public history that honors many including Maharero and Kutako.

However, the *Reiterdenkmal* was merely moved to a different location, in front of the *Christuskirche*, which is a memorial to the Lutheran Church in Namibia and one of the largest constant reminders of colonial influence on Namibia. Also in Windhoek, there is also the Old Prison Building, which was used to hold prisoners of war during colonial times, built at the same time as the genocide, which now stands a looming reminder to the imprisonment of Namibian natives. Outside of Windhoek, the memorials are exclusively German, including the Martin Luther steam engine, Hohenzollern House, Duwisib Castle, and Woermann Haus, which are all privately owned or monuments that house colonial memorabilia and antiques without a mention of those who died in order for them to be built.

Perhaps the most disturbing demonstration of a complete failure to come to terms with the realities of history is seen on Shark Island, a small peninsula off of Lüderitz. Shark Island was used as the grounds for the largest of the concentration camps during





Figure 7: Memorials at Shark Island. Top: Cornelius Fredericks; middle: German shipwreck, 1976; bottom: German memorial to “the First Pioneer;” photos by the author, 2012.

the *Otjitiro Otjindjandja*, and was also used to hold Namas captive, as they are more dominant in the region.<sup>129</sup> Today it is a public recreation space with campsites and braai pits and is visited primarily by German tourists who know nothing of its history. That is not necessarily their fault, as there are few headstones and memorials to individuals who are thought to have died there (including Cornelius Fredericks, Herero leader in the beginning of the 20<sup>th</sup> century), and no official acknowledgement or memorial to the masses who shivered and died in the icy waters of the Atlantic. It is time for this space to reflect what has gone on there and for it to be reclaimed as the location of thousands of deaths under German rule, not for it to be a tourist destination still oriented around the enjoyment of Germans.

Once the history of the nation has been effectively and exhaustively researched and established in public facilities, memorials, statues, and educational centers around the country, as it is with Jewish Holocaust museums located worldwide, the nation’s people will be able to make sure that these

<sup>129</sup> New Era Newspaper, “Shark Island – Namibia’s Nazi Death Camp,” 5 October 2011.



atrocities are not committed again. Instead of ignoring the problem and exacerbating contentious inter-ethnic views, it would serve everyone well to realize the interconnectedness of their history and struggle throughout both the eras of German and South African rule.

### *Regionalized Reparations*

For cash reparations claims to be successful, they must be directed toward a finite group of people. The proposed construction of institutions with reparation funds in the Herero regions will significantly improve the lives of those who are still living in their ancestral lands and open up opportunity in struggling regions. To supply the Herero region with an accredited university and hospital will not only benefit the Herero, but also Namibia as a whole, as those resources are not abundant throughout the country. This type of development is what Namibia needs, as the University of Namibia (UNAM) has to reject applicants every year in a country where only 45% graduate high school.

As Lombardo and Howard-Hassman conclude, African reparations movements have not been very effective thus far, but that does not have any relationship with their merit.<sup>130</sup> Western countries, institutions, and organizations owe “Africans acknowledgment of, and apology for, the harms [they have] perpetrated against them. Africans are also owed memorials, museums, and other symbolic and educative reparations. With regard to financial compensation, however, we believe that Western governments, institutions, and individuals are obliged to assist all Africans in realizing their economic rights, regardless of whom or what caused current problems.”<sup>131</sup>

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<sup>130</sup> Howard-Hassman, Rhoda E. and Anthony P. Lombardo, “Framing Reparations Claims: Differences between the African and Jewish Social Movements for Reparations,” *African Studies Association* 50 (Apr., 2007): 27-48.

<sup>131</sup> *Ibid.*, 27-28

### *Internationally Accredited University*

Outside of the context of Motion 8767, there are other ways in which German institutions that have benefitted from historical injustices can attempt to systemically change their relationship with Namibia to a more productive one. Though UNAM is a great resource for those who are accepted and can afford to attend, for those who aren't so lucky, there are few other options for viable tertiary education. UNAM is about one third of the size that it needs to be to handle all of the applicants. For the 2012 year, *The Namibian* reported on January 26 2012 that 15,577 applied and 4,366 were admitted, leaving 11,211 without a spot at the only national university.<sup>132</sup> There is also the Polytechnic of Namibia, which has professional training programs and also offers degrees, and there are multiple teaching colleges and private schools, but none are accredited internationally to be competitive in the worldwide job market like their neighbor, South Africa.

South Africa has more opportunities for advancement and higher education than Namibia, which is adversely affecting Namibia's ability to keep their best citizens. The best students have their parents cobble together the funds to send their child to a good university out of the country, which encourages and enables brain drain. One way to resolve this problem would be to have the German reparations payments fund more universities or expand the offered programs and locations at UNAM and get it up to a level that is competitive with its' neighbors to keep the brightest students in the country. To the same end, it would be well-advised to offer scholarships to the best and brightest, which will motivate children from early years to do well in academics.

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<sup>132</sup> Paulus Ashipala, "UNAM turns thousands away," *The Namibian*, January 26, 2012.

## CONCLUSION

The Herero request for reparations has been denied by the Federal Republic of Germany multiple times through various specious political and legal arguments. The time has not come for the Herero to succumb to German defiance, however. Motion 8767 may so far be supported only by the far left of the German parliamentary opinion, but increasing political pressure as called for by Germans and Namibians in 2012 will hopefully make the Left Party's proposal a motion to be considered in the near future. An even better solution would be to reconsider the suggestions after the repatriation of all of the skulls and an official apology is made. That would enable the incorporation of the concerns and specifics of the Namibian national, social, political, and economical landscape according to Namibians for Namibians, which is the only way to move towards the decolonization and true independence of the young country.

Germany owes reparations for the *Otjitiro Otjindjandja* because they set a precedent with their treatment of the *Shoah*. To deny the Herero their petition shows a prioritization of European white suffering over that of African blacks that is unseemly and inappropriate. This is especially the case considering Germany's supposed dedication to preventing future ethnic tensions that lead to atrocities such as genocide. German denial is unbecoming particularly because it continues to mine and profit from Namibia's natural resources far more than does Namibia due to legacies from colonial times. Reparations from Germany would serve to reduce inequality in the country and offer opportunities that ought to exist in a young and yet globalized nation.

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