

## **A Briefing Note - Executions, Hangings and Lynchings in Colonial Namibia**

*This note was prepared in response to the #GallowsMustFall debate in Namibia in June 2020. The issue of the Henties Bay gallows prompted a petition calling for the removal of the gallows - <https://www.change.org/p/henties-bay-municipality-the-gallows-must-fall>*

*While it is accepted that the gallows at Henties Bay were never used for the purpose of public execution, the following information, based on reliable historical sources, clearly demonstrates why the gallows remain a symbol of Namibia's extremely painful and traumatic colonial past – the effects of which are still felt in present-day Namibia. It is simply not true to claim that hangings in Namibia were “obscure happenings” as stated on the Henties Bay [tourism website](#).*

*The information below has been gathered from various historical sources. We welcome suggestions of additional information based on reliable sources that can be added to make the note more comprehensive.*

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**Warning: the following contains accounts of brutality and killings that might be distressing for some readers**

Under Article 6 of the Constitution of Namibia, “The right to life shall be respected and protected. No law may prescribe death as a competent sentence. No Court or Tribunal shall have power to impose a sentence of death upon any person. No executions shall take place in Namibia.”

While the death penalty has therefore been outlawed since 1990, Namibia has a long history of executions—both under German and under South African rule.

Executions—judicial and extrajudicial, by hanging and other means—were perpetrated by whites and used extensively, and almost exclusively, against Africans.

### **Under German Rule (1890-1915)**

In 1883, Germany made its first claims over the country which is now Namibia. In 1884—at the Berlin Conference—European powers divided Africa amongst themselves, which gave nominal control over Namibia to Germany. Germany spent much of the next decade consolidating control over areas of Namibia, which it ruled as a colony known as German South West Africa.

#### *Executions of Namibian leaders*

In March 1894, Theodor Leutwein, colonial administrator of German South West Africa, travelled to Naosonobis, the settlement of Andreas Lambert, chief of the Kai-/Khaus Khoi. Lambert had refused to sign a protection treaty with the Germans, which Leutwein was eager to change. Two days after his arrival, he had Andreas Lambert executed by firing squad for murder and theft. It is likely that the charges were excuses to allow Leutwein to replace Lambert with his more compliant brother. The execution of Andreas Lambert was probably the first German execution of a Namibian leader.

In March 1896, after two years of the German policy of forced removals and an attempt to re-negotiate boundary agreements, the Ovambanderu Khaus Khoi war broke out. The Herero, Banderu and Kai-/Khaus Khoi forces were defeated by troops under German command, and two chiefs were arrested. Nicodemus Kavikunua—recognised by the Germans as the chief of the eastern Hereros—and Kahimemua Nguvauva—chief of the Ovambanderu—were charged with high treason and sentenced to death. In June 1896, Nicodemus Kavikunua was tied to a tree and shot, and Kahimemua Nguvauva was executed by firing squad.

In the German attempt to wrest control of Omaruru from Chief Manasse Tjisisseta in 1894, Leutwein also had Manasse’s nephew Karuhere executed for his role in the killing of an English trader named Christie, who was wanted for murder in Omaruru.

#### *Genocide*

German South West Africa was the site of the first genocide of the 20<sup>th</sup> century in the years 1904-1907, as German colonial powers responded brutally to the anti-colonial wars waged by the Herero and Nama people. In October 1904, Lieutenant-General Lothar von Trotha issued the infamous extermination order, under which German soldiers not only shot at Hereros on sight, but also chased them into the desert to die. According to German

soldiers, 'freshly caught' prisoners of war were tried by field court-martial and hanged. These prisoners of war included women and children.

Hereros working for German farmers or companies, and who did not join the uprising, were not spared. Many were imprisoned, but there were also cases of lynching. In early 1904, three gallows were erected in Windhoek; and hangings became a common spectacle. Often, the bodies remained hanging for several days in an attempt to instil fear into the Herero population. Several pictures of hangings were reproduced as German postcards, with titles such as "German So. W. Africa Hanging Party. 312 Negroes hanged." It is assumed that some German settlers—and not just the colonial soldiers—participated in the hangings. An anonymous letter to a Cape Town newsletter wrote, "We have commenced to hang these black rascals instead of shooting them and I can assure you we hang them nicely."

Hangings were therefore common during the anti-colonial wars, and they continued after they had ended. Von Trotha rescinded the extermination order at the end of December in 1904, and German soldiers shifted to imprisonment. Arbitrary shootings and public hangings remained common, as well as the summary executions of non-combatant women and children. The Germans set up several concentration camps, including Shark Island which had a 70 percent mortality rate. In these concentration camps, hangings were often used as a means to oppress the incarcerated population. Herero men of fighting age were sought out and executed by hanging for their 'complicity in the war'. One such man was Zacharias Kukuri, former *Omuhona* of Otjosazu, whose death was described by the missionary Meier:

"I did not see the slightest trace of fear on him, instead it was as if he were going to a wedding [...]. Having arrived at the execution site, I noticed how he kept looking at the gallows, at which preparations were still taking place. I feared for his tranquillity and asked him to stop looking at it. 'Muhonge,' he said to me, 'I hear everything, why should not look at it? For is it not "my wood" [my cross]?' [...] 'Lord Jesus, you help me,' with this, after he had given me his hand, he climbed up the ladder. Soon the noose was laid around his neck. And then - never will I forget that moment - the unheard of happened, as he fell the noose slipped and the wretch fell to the ground. He lost consciousness for a moment, so too, the observers were dumbstruck. Today I still see how his eyes sought me out. Soon however two soldiers were there, they lifted him up, and then a little to the side, on orders of the major who led the proceedings, he was shot."

In one account, hangings were prevented at the concentration camp in Omaruru after Ngatitwe, the mother of Zacharias Zerawa, challenged the Germans to hang her instead of the men.

From 1904 to mid-1905, German South West Africa was ruled by martial law. German soldiers used this system to execute Hereros who were not involved in the uprisings.

Daniel Esma Dixon, transport driver during the rebellion, gave this account of his time in South West Africa in 1904:

“I spent a great part of my time during the rebellion at Okahandja, loading stores at the depot. There the hanging of natives was a common occurrence. A German officer had the right to order a native to be hanged. No trial or court was necessary. Many were hanged merely on suspicion. One day alone I saw seven Hereros hanged in a row, and on other days twos and threes. The Germans did not worry about rope. They used ordinary fencing wire, and the unfortunate native was hoisted up by the neck and allowed to die of slow strangulation. This was all done in public, and the bodies were always allowed to hang for a day or so as an example to the other natives.”

### *Criminal Law, post-1907*

The legal system that the German colonizers imposed was known as the Imperial German Code. This code relied heavily on lashings and imprisonment as punishments, but it also included the death penalty. Capital punishment was reserved for the crimes of murder and high treason; and the death sentence had to be approved by the Governor. Capital punishment was carried out on Germans by decapitation; for native Namibians the preferred method was hanging.

According to the British Blue Book, “executions were carried out in a very crude and cruel manner. The condemned prisoner was conducted to the nearest tree and placed on an ammunition, biscuit, soap or other box or convenient object, and the rope, after being run around his neck and through a fork of the tree, was fixed to the trunk. The box was then removed and death resulted from asphyxiation.”

The system did not allow for proper legal defence if the accused was African. Below are two cases where the death penalty was given. These cases were used by the British after 1915 to prove the injustice of a system that condemned Africans to death without trial or sufficient evidence of the crimes committed.

1915: “2 bushmen (name unknown) were found slaughtering rams; upon counting stock it appeared some were missing. ‘The unanimous decision [of the court] was that the crime of stock theft had been proved, and that they should be shot. This sentence was carried out on the 9<sup>th</sup> of July [...] under the orders of Lieutenant Veneluth.’”

18 September 1914: “Trial of a native named Alfred for the offence of stock theft: The only evidence given was that of a farmer, Schneider, who stated that he had lost some 50 head of small stock, and that a Herero, by name Simon, had also lost one head; that this native had gone to look for his animal and had come across the accused in possession of some blankets which Simon claimed as his own. [...] ‘Though the accused denies all guilt, yet the Court has come to the conclusion that the accused himself assisted in the stealing of stock and that he has even been the leader of the gang. [...] The court is of the opinion that they must impose the death penalty in order to deter the natives and to protect the neighbouring farmers and small settlers against further serious losses.’”

Both of these executions were illegal as they were carried out without the Governor's consent.

Justice for crimes committed by Germans was almost never carried out. When whites who had killed Africans were found guilty, they were imprisoned for a period of months. When Africans were found guilty of killing whites they were hanged.

Hangings were often a spectacle for the (white) population to enjoy. An eyewitness account from Angra Pequena (Lüderitz) published in the Cape Argus in 1905 stated that the whole town turned out to watch the hanging of a condemned man, who had spent the past three days hung over a wagon wheel. During World War I (before German defeat), nominally formal execution proceedings that expedited if not altogether forbade a defence case for the accused 'spies', traitors or resisters, were commonplace in Namibia.

The northern parts of Namibia remained outside of direct colonial rule, and would only start to experience externally imposed criminal law under South African rule.

### **Under South African Rule 1915–1945**

In 1915, during World War I, South African forces defeated German troops in Namibia, and South Africa gained effective control over the country. Until 1920, South Africa ruled the territory under martial law. Due to the transitional nature of their administration, the Hague Convention ensured that South West Africa was subject to German law, and not the Roman-Dutch law of the Union of South Africa. As such, the death penalty remained in force, but only for the crimes of murder and high treason. Hanging remained the means of execution. In an effort to maintain control over the population (both German and Namibian), the South African-controlled courts rarely passed the death sentence. Moreover, as it was a goal of South Africa to keep control over Namibia with the blessing of the international community, they were constrained in how brutal they could be in suppressing the population.

From 1915 to 1919, the courts sentenced 19 people to death for murder, but nearly all of those were commuted to life imprisonment.

#### *1920 onwards*

During the interwar period, South Africa's administration was overseen by the League of Nations Permanent Mandates Commission. This oversight, however, was often distant, leaving ruling—including the application of criminal law—almost entirely in the hands of South Africa.

In 1920, therefore, the South African administration implemented the Roman-Dutch law practiced in South Africa. The High Court could issue the death penalty for the crimes of murder, treason, and rape. From 1917 to 1935, South Africa's Criminal Procedure, which was also applied in South West Africa, required the death penalty for murder convictions. From 1920 to 1954, the High Court heard 217 cases of murder. At least five of those cases led to the conviction of the accused and their execution. Like under German rule, hanging was the method of execution. In general, however, judges were very reluctant to pass the

death sentence. Legal authorities were far more reluctant to execute women than men, and young men often had their sentences commuted.

Despite its ability to do so, the High Court also rarely issued the death penalty for rape. In 1938, the case of *Rex. v Van Wyk* was the first in which the death penalty was issued for rape. In South West Africa prior to 1945, convictions for the rape of a white female by an African man were rare (there were three in total prior to 1945). Paul van Wyk was one of the three. He was sentenced to death but his sentence was commuted to imprisonment with hard labour.

In the northern areas of the country, South African law and courts were unable to replace jurisdiction by chiefs over crime. Therefore, violent crime was often adjudicated by traditional authorities rather than by the High Court.

### **Under South African (apartheid) rule 1945–1990**

As South African rule over Namibia became internationally less acceptable, and as the occupation became more complete, the judiciary “became a politicised arm of the state,” employing harsh punishments to counter political opposition in Namibia, particularly that presented by SWAPO. In 1966 the United Nations dissolved South Africa’s mandate to administer Namibia, but South African occupation remained until independence in 1990.

Up until 1954, capital punishment was only imposed for inter-personal crimes such as murder. The National Party that came to power in South Africa in 1948, however, began to implement its apartheid policies in South West Africa as well.

The death penalty was extended under apartheid (1958) to include the offence of armed robbery in addition to murder and rape. Under the Terrorism Act of 1967, the death sentence was also passed for political offences. [Amnesty International](#) kept a record of the executions under this law that were reported to them. Aaron Mushimba, Hendrik Shikongo, and Markus Kateka were sentenced to death in 1976, 1976, and 1980 respectively, but the sentences were set aside on appeal. In 1980, five people were sentenced to death, and a further eight in 1981. The prison system was controlled by the South African Prison Service. There were gallows set up at the Windhoek Prison that could execute four prisoners simultaneously. At least one hanging occurred there in 1981.

It is known that South African military forces in northern Namibia were brutal in their [suppression of opposition](#), and likely killed many civilians. An Amnesty International report of 1981 detailed human rights abuses in Namibia including detention without trial, torture, disappearances, extrajudicial killings and the death penalty.

There were several reports of “disappearances” in Namibia, cases in which individuals detained by security force personnel did not return to their families. There were also several cases of detainees dying in custody. In January 1986, several people were arrested in the north of Namibia. One of those was Thomas Shindobo Nikanor, who was arrested on January 22 and found dead five days later in a cell near Otjiwarongo. The police said he

had committed suicide. In another case, in 1982, Jona Hamukwaya died within hours of being detained by Koevoet personnel.

Extrajudicial executions by South African military forces in northern Namibia and southern Angola were also reported by Amnesty International. A former national serviceman in the South African army, Bill Anderson, alleged that many civilians were tortured and killed during 'Operation Cobra' in 1975 and 1976.

In the period of 1979–1988, [18 people were executed](#). The last person to be executed in Namibia was reportedly Sagarias Ariseb in 1988.

### **Further Reading**

Gewald, J.B. (1999). *Herero Heroes*.

Silvester, J., & Gewalt, J.B. (2003). *Words Cannot Be Found*.

Olusoga, D., & Erichsen, C. (2010). *The Kaiser's Holocaust*

Wallace, M. (2011). *A History of Namibia* by M. Wallace.

Kalbing, N. (2015). *A matter of life and death: Criminal law and the death penalty in South West Africa (SWA) under South African rule, 1915-1939*.

Amnesty International: <http://kora.matrix.msu.edu/files/50/304/32-130-1AFB-84-AI%20Namibia%209-82%20opt.pdf>