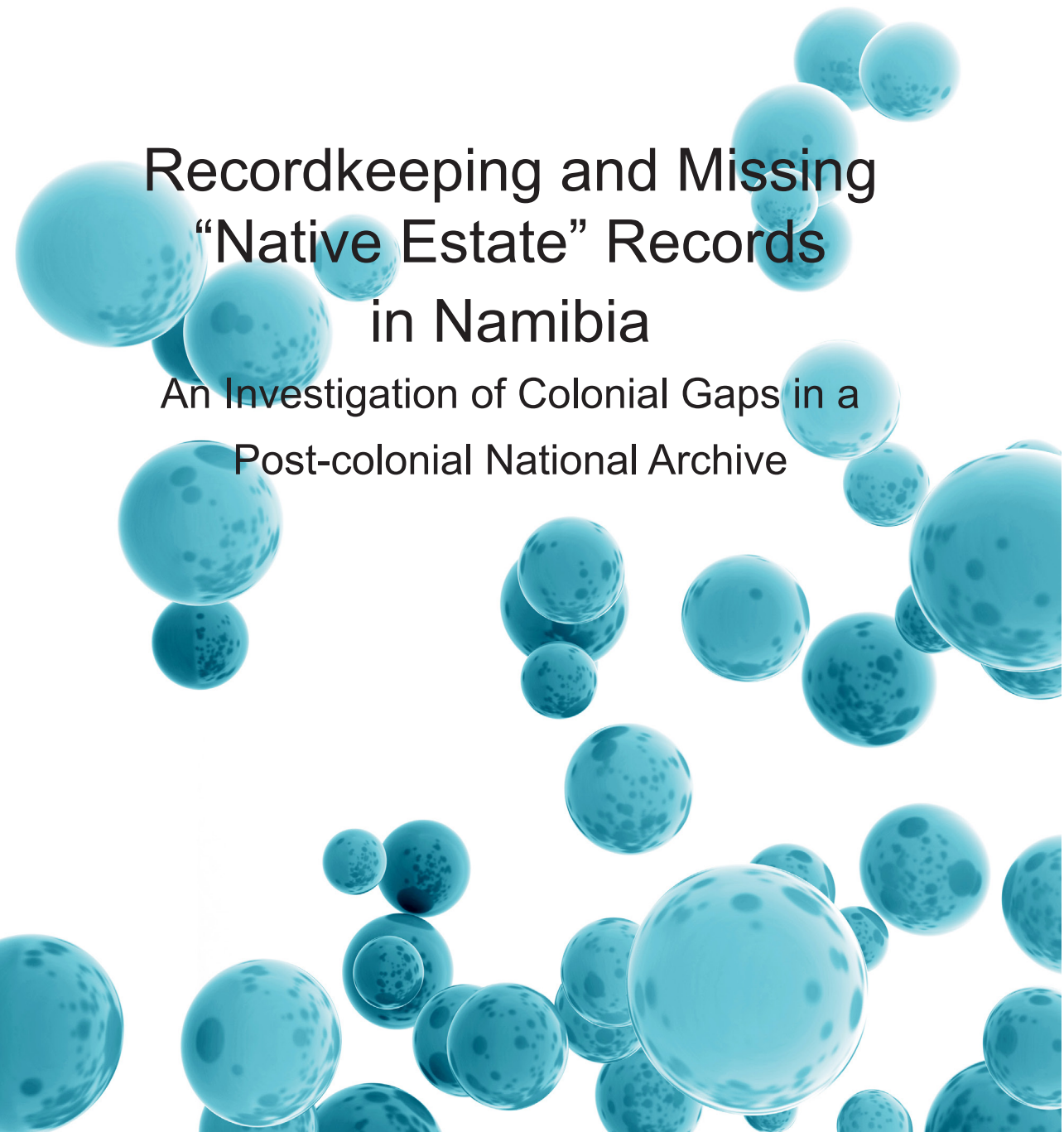


ELLEN NDESHI NAMHILA

Recordkeeping and Missing “Native Estate” Records in Namibia

An Investigation of Colonial Gaps in a
Post-colonial National Archive





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ACADEMIC DISSERTATION

To be presented, with the permission of
the Board of the School of Information Sciences of the University of Tampere,
for public discussion in the auditorium Pinni B 1097,
Kanslerinrinne 1, Tampere, on 18 September 2015, at 12 o'clock.

UNIVERSITY OF TAMPERE

ELLEN NDESHI NAMHILA

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Acta Universitatis Tamperensis 2085
Tampere University Press
Tampere 2015



UNIVERSITY
OF TAMPERE

ACADEMIC DISSERTATION
University of Tampere
School of Information Sciences
Finland

The originality of this thesis has been checked using the Turnitin OriginalityCheck service in accordance with the quality management system of the University of Tampere.

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Cover design by
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Distributor:
verkkokauppa@juvenesprint.fi
<https://verkkokauppa.juvenes.fi>

Acta Universitatis Tamperensis 2085
ISBN 978-951-44-9883-1 (print)
ISSN-L 1455-1616
ISSN 1455-1616

Acta Electronica Universitatis Tamperensis 1579
ISBN 978-951-44-9884-8 (pdf)
ISSN 1456-954X
<http://tampub.uta.fi>

Suomen Yliopistopaino Oy – Juvenes Print
Tampere 2015



Abstract

This dissertation explores the practical challenges experienced in user services of the post-colonial National Archives of Namibia (NAN) and the systemic trajectory of their origin. It is motivated by the observation of anecdotal evidence that many requests by Black Namibians for civic records such as divorce orders, adoption records, and estate records from the period of colonial and apartheid rule in Namibia cannot be served by the NAN despite intensive time-consuming searches, while similar requests by White Namibians can be served without problems within minutes. Further rationale originated in the observation that, while there is a substantial body of literature about the problems of archives in decolonized countries, this literature is primarily concerned with issues of current records management, maintenance, preservation, staff training, and occasionally the problem of migrated or entangled archives, while it rarely addresses the issue why and how the colonial situation affected the content and accessibility of the archives concerning the colonized persons.

This study employs a historical case study design, taking an in-depth exploration of the colonizers' records at the National Archives of the decolonized Namibia, using deceased estate records of Black Namibians (or "Native estates" in contemporary parlance) as a case study. It explores the colonial legal framework for the creation and management of the estate records, the actual Native estate files in custody of the NAN, as well as the finding aids, archives databases and the own administrative files of the NAN. It explores the relationship between the historical legal environment, the creation, management, disposal, listing, appraisal, destruction, archiving, indexing and metadata enhancement of the Native estates records over the colonial period, between 1884 to 1990, and their alleged absence from the NAN.

The study discovered a large but erratic corpus of 11,256 Native estate case files which had been assumed destroyed or lost, but also established substantial gaps in the holdings of Native estate records. Only few of those gaps could be explained by documented destructions, but the study traces the causes for the loss of substantial records to racially discriminatory legislation, a confusing and haphazard legislative and regulatory framework for Native estates, and an all-pervasive

apartheid ideology that also affected the appraisal and the creation of discovery tools at the Archives.

The dissertation concludes with a programme to “decolonize the archives”, recommending to unlock the full potential of the previously hidden “Native” records, not only by recording and indexing them in discovery tools but also by enhancing search options to alleviate the search problems caused by unstandardized name spellings and non-Western naming and kinship systems.

It is anticipated that this study will raise awareness about similar gaps, stir debate and lead to further research about archival deficiencies with other types of person-related records, in Namibia as well as in other decolonised nations, in order to establish how far their national archival records are responsive to the needs of all citizens.

Acknowledgments

I thank the heirs of the late Simon Zhu Mbako for the kind permission to reproduce his poem “We come and die as numbers”.

I am grateful to the National Archives of Namibia for the permission to research their records, and especially to the staff for not only fetching endless piles of records but also getting actively involved in the elusive search for more Native estate records than those that were indicated in their finding aids.

My gratitude goes to my employer, the University of Namibia, who covered indispensable costs and provided one year of study leave that made it possible to concentrate on this enduring research. I thank the Vice-Chancellor Professor Lazarus Hangula for his dedication to staff development which allowed me to take study leave. Without his support, this work would not have been possible.

My supervisors Prof. Pertti Vakkari and Prof. Pekka Hentonen gave me their valuable guidance and innumerable support throughout the writing process of this dissertation.

I am grateful to the School of Information Science who generously provided me with a fully equipped office space and full privileges of access and use of all their facilities.

I thank my always helpful colleague Ritva Niskala who had to carry my workload during my study leave.

I am indebted to my husband, Werner Hillebrecht for his valuable translation of the German texts and for reading and commenting on various versions of this dissertation.

Kalervo and Ritva Jarvelin have generously opened their home to me and have often provided me a family support.

My friends Anu and Kari Hakari, Tuula Haavisto, Kaisa and Matti Sinikara have created a de-stressing environment during my stay in Finland.

My daughters Monde, Mwalengwa and Ndadilepo had to miss much motherly care during my long absences and the late hours of writing. I thank them for their understanding and support.

This said, I am solely responsible for the interpretation of the data and any shortcomings that may be contained in this study.

Context

We Come and Die as Numbers

By Simon Zhu Mbako (1950-1994)¹

When we enter the mines,
We receive our numbers;
Marked on a plastic “bracelet”;
Welded onto our wrists.
For one or two years,
We are baptised as numbers.

We serve as numbers;
We clock in as numbers;
Our white bosses call us by numbers;
We clock out by numbers –
Our only identity on the mines.

We get our wages as numbers;
As numbers we have accidents;
We go to hospital as numbers;
As numbers we die;
And we enter our coffins as numbers.

We enter the compounds as numbers;
As numbers we leave the compounds;
We get our meals as numbers;
As numbers we sleep and wake up;
And we move around as numbers.

When we are sucked dry
By the murderous speed of work;
We are sent to the reservations as numbers,
When we are sick of poisonous gasses;
We are denied compensation –
For it is not worth numbers.
When the fine dust eats away our lungs;
We are sent to our graves -
as numbers.

So we come and die as numbers.

¹ Mbako, S.Z. (1989:26)

No. 15/1929.

ARREARS

Deceased Batate

Jombili



Estate file cover of Tshombiri (Jombili) Amutenya ya Kanipembe
with wristband for contract workers' identification numbers
found in the file National Archives of Namibia: NAW [47] Estates 1929, no. 15/1929

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1 Introduction

1.1 Motivation and Goal

This study explores the inclusion and exclusion of a certain category of records in the archives preserved by the “Archives Depot of the Territory”, now the National Archives of Namibia (in the following referred to as NAN) during Namibia’s colonial period, 1884 to 1990. Having observed the apparent neglect of person-related records of indigenous Namibians, it examines the extent to which the former colonial governments’ systems created, ingested, maintained, preserved and made accessible deceased estate records as an example of person-related records.

It is a case study of racially discriminating creation, management, disposal and retention, destruction or transfer, appraisal, archival processing and indexing practices of person-related records in colonial archives. It deals with the questions whether such records about the indigenous people are missing because they have not been created or have been destroyed; whether they are existing but difficult to retrieve because they are in forgotten repositories, or have not been processed and ingested into the archives, or have been processed and ingested but not adequately indexed for easy retrieval.

The study situates the problems associated with records of indigenous Namibians in the legacy of racial segregation and apartheid practiced during colonial administrations of Namibia before her independence in 1990. It examines the various action levels (legislative basis, record creation and management, transfer, appraisal, archival processing, description/indexing) the records were subjected to, and their effect on the rights of citizens. It finally aims at recommending measures to deal with the effects of previous neglect.

The need for this study became obvious whilst I served as the Director of the Namibia Library and Archives Services under the Ministry of Education between 1998-2007, when challenges emanating from gaps in the archival collections became a daily experience. Although I was not involved in the day-to-day administration of the archives, various issues concerning the apparent lack of archival records came to my knowledge. These included cases of birth

records, marriage records, divorce records, death records, adoption records, and estate records of indigenous Black Namibians that could not be found, while the corresponding records of the descendants of white settlers were readily retrievable. The availability of such records has an enormous impact on the individual in terms of citizenship matters, inheritance and property disputes, not to speak of the emotional and social value of genealogical data and a family identity.

That such records are not readily available clearly violates the “Principles of Access to Archives” of the International Council on Archives, in particular the Principle No.5 “Archives are made available on equal and fair terms”.²

This study is therefore motivated by:

1. The empirical observation that many requests by Black Namibians for civic records such as divorce orders or deceased’s estates cannot be served by the National Archives of Namibia despite intensive time-consuming search, while the same type of requests by White Namibians can be served without problems within minutes
2. The empirical observation that, however, sometimes intensive search in the archival sources can yield the required information because it may be actually present but is insufficiently registered and revealed by finding aids and databases
3. The assumption that the reason for the abovementioned established fact lies in the colonial history of Namibia and the Namibian archives, which resulted in a structural division and discriminatory treatment of records of the colonizers and the colonized
4. The observation that, while there is a substantial body of literature about the problems of archives in decolonized countries, this literature is primarily concerned with issues of current records management, maintenance, preservation, staff training, and occasionally the problem of displaced or entangled archives, while it rarely addresses the issue why and how the colonial situation affected the content and accessibility of the archives concerning the “Natives”.^{3 4}

² International Council on Archives (2012)

³ In fact, in a literature survey for the initial research proposal, not a single mention of the problem could be found. While the scope of this study will not go beyond Namibia, it is likely that the mechanisms producing differing treatment of records are the same across countries colonized by a certain power.

⁴ See the Glossary concerning the term “Native” and related terminology in the colonial and apartheid context. - This is a historical treatise. It inevitably has to deal with racist terminology, such as “Native”, “Bantu”, “Coloured”, “Bastard”, and their German and Afrikaans equivalents. The use of these terms by the author does not signify any approval of the ideology which invented them; their use is simply unavoidable as they have been used to classify people, with

The practical benefit of a thorough research into this problem is obvious. If the reasons and mechanism of the supposed discriminatory treatment are clearly identified, the study could initiate affirmative action to make hidden archives accessible through a focused programme of registration and indexing. It could lead to the discovery of neglected but still not destroyed records at their offices of origin whose transfer to the archives has to be initiated. Where gaps in the archival records of the state are identified, it could lead to a programme of identifying and sourcing surrogate or alternative records, such as census records, church records, pass issue lists, and others that might be identified, including oral genealogies.

Therefore, the aims of this study are to establish the extent of and the reasons for the perceived problem, in order to improve on service delivery of the National Archives of Namibia.

It is obvious that the basis for the unequal availability of records to different section of the population must be the colonial situation and the politics of racial segregation and unequal treatment according to skin colour that were dominating Namibia until its independence in 1990. However, the exact mechanisms that brought about this unequal treatment of records have apparently not been researched systematically. The scholarly contribution of this work is to establish the procedures of producing, managing and archiving Native records in a colonized country.

Namibia, which before its independence had sometimes been labelled “the last colony”,⁵ was one of only two countries⁶ that suffered institutionalized racism in the specific form of “apartheid”, and was colonized for 106 years. Apartheid as a political concept was formulated by the National Party in South Africa in the 1940s and 1950s. Although discriminatory legislation for “Natives” in South Africa existed already earlier, the National Party extended

very real consequences for their lives (and deaths), and therefore they cannot be replaced by cosmetic changes to “politically correct” terminology.

⁵ E.g. in the book title “Namibia. The last colony”, ed. Reginald Green, Kimmo Kiljunen and Marja-Liisa Kiljunen, London: Longman, 1981. Namibia was indeed the last remnant of European colonialism in Africa to be decolonized; remaining independence movements such as Western Sahara, Eritrea and Southern Sudan were directed against domination by other African states.

⁶ The other country being, of course, South Africa, where a similar situation can be expected but has not yet been researched. Critical research on the content of South African archives has focused on the issue of missing or destroyed records of the repressive state apparatus, especially its secret services, as is evident from the work of the non-governmental “South African History Archives” (SAHA), <http://www.saha.org.za>

and perfected the system of discrimination and oppression for “non-white” people after it came to power in 1948, and extended apartheid to the mandated territory of Namibia.⁷ Based on a crude Social Darwinist theory of assumed fundamental developmental differences between “races”, apartheid proposed a “separate development” which was nothing but a thinly veiled disguise for institutionalizing and perpetuating white dominance. Spurned by domestic resistance and international condemnation, the concept underwent perpetual cosmetic change under various names until its final demise with the South African democratic elections in 1994.⁸

Namibia might therefore have been particularly affected by the phenomenon of discriminatory treatment of person-related records, and as a settler colony with a sizeable White population; any differential treatment would appear more obvious and detectable. It thus offers a well-suited case study subject. However, it is well known that many (if not all) countries under colonial rule were subject to discriminatory treatment of the colonized people, even if this might take a more “benevolent” form of paternalism and indirect rule.⁹

For this reason, a closer investigation of this previously un-researched problem would be a significant contribution to archival science that is not limited to the specific case of Namibia. While, for example, the emancipation of women and the feminist movement have detected the absence of women from the archival record, and similarly the oppression of sexual minorities has become the subject of archival research,¹⁰ studies of archival content in colonial archives have mostly concentrated on the issue of the local non-availability of migrated archives¹¹, while the poor coverage of person-related records of the

⁷ The retired missionary and apartheid apologist Heinrich Vedder, appointed by the South African government to the South African Senate (second Chamber of Parliament) as representative of “the native races of South West Africa” (!), proudly declared in a Senate speech on 19 January 1951 that “in South West Africa we have the only country in the world where *apartheid* has been exercised in an increasing degree for fifty years [...] separate residential areas for separate tribes, this is something which we already have in South West Africa as regards the institution of reserves and the Union Government has continued along those lines; the German Government started this.” (as cited in: United Nations, Report of the Committee on South West Africa, General Assembly, Official records: Twelfth Session, Supplement no.12 (A/3626), 1957, p.10)

⁸ For a brief summary of apartheid ideology and practice, see United Nations (1982).

⁹ See the UNESCO (1990), in particular Chapter 13: Methods and institutions of European domination, p.143 ff.

¹⁰ See also <http://www.clga.ca/> Canadian Lesbian and Gay Archives

¹¹ This has been established in detail by the literature survey for this study

colonized people remained unrecognized and un-researched. The present study could open up a new subject of archival studies, and invite further case studies in former colonial countries that lead to the improvement of their respective archival services.

Current scholarly works on colonial archives tend to depict the colonised communities and peoples as “non-record producing majorities”¹², “silent”, “voiceless”¹³, but do not elaborate how they arrived at this status or were held in this status. Moreover, the issue of lacking person-related records is not being taken up in the archival literature (see Chapter 1.8). It is clearly a research gap worthy to be filled.

However, the issue is not of purely academic interest but a matter of vital importance for the concerned citizens. The historical legacy of colonialism and apartheid has shaped the archives, and dealing with this legacy requires identifying clearly how the currently existing archives have been brought into existence.

There are other legacies of the colonial past that are being dealt with by government policies. For example, in several former settler colonies, including Namibia, the land theft by colonialism and the resulting unequal distribution of land is dealt with by land reform policies. The previous unequal access to education, not only in former colonies but also in other racially divided societies like the U.S.A., can be dealt with by policies of “positive discrimination” or “affirmative action”. Could there be options to deal with the unequal situation regarding archival records? Identifying the mechanisms as to how “non-white” records were seemingly excluded from the archives could lead to various strategies to mitigate the situation, be it by locating existing but forgotten record repositories, by identifying surrogate records such as church registers, or by describing and indexing existing but neglected archival records to the same level as the previously advantaged “white” records.

1.2 The selection of the research object

This study was motivated by the apparent lack of case records of births, marriages, divorces, deaths, adoptions, and estates of Blacks – the colonised majority – from the archives generated in colonial Namibia.

¹² Bastian, J.A. (2006:269)

¹³ Ibid. p.267 and 284

These records can be described as person-related records. Person-related records are, in the context of this study, defined as records that supply official and/or (depending on the specific legal environment) legally valid information¹⁴ about the life dates, marital status, ancestry and offspring, residency, religious affiliation, employment, fixed property, as well as other vital details of specific natural persons. While the term is not widely used in English language, although it appears in connection with World War II genocide and war crimes and also in the context of person-related electronic data,¹⁵ this definition is modelled on the usage of the German term *personenbezogene Unterlagen*.¹⁶ It has to be clearly distinguished from the term personal records which apply to the records collected or compiled by a person. Personal records (or personal papers) of cultural, political or historical significance are often acquired by archives, where they are registered as private accessions, and are not the subject of this study.

Preliminary investigations revealed that this is an extremely wide field of records, involving many different agencies and different sets of legislation. Person-related records of high importance for the identity, legal status and rights of an individual which are often requested by the concerned individuals or their descendants, and which had initially been considered for this study, include:

¹⁴ The boundary between what is considered official and legally valid, or non-official and not legally valid, can be very fluid. For example, the German colonial administration in Namibia (1884-1915) usually considered marriages conducted by an authorised government officer (*Standesbeamter*) as well as those solemnized in church as legally valid; however, when it came to marriages between “Whites” and “Natives”, it disregarded church marriages and even retrospectively nullified marriages that had been conducted by a government marriage officer, and considered them as not legally valid. Cf. Henrichsen, D. (2008), Lindner, U. (2008) and ZBU [666] F.IV.r.1: *Mischehen und die daraus entstammenden Nachkommen*. *Generalia*.

¹⁵ Examples for English language archival use of the term are the “Statement by Robert Wolfe” in connection with the United States *Nazi War Crimes Disclosure Act*, <http://www.archives.gov/iwg/research-papers/wolfe-statement-september-1999.html> , accessed 2012-05-09; and the website of the International Tracing Service of the International Committee of the Red Cross in Arolsen, <http://www.its-arolsen.org/en/homepage> , accessed 2012-05-09, where the term is used for data on victims and survivors of Nazi persecution. In terms of current records, it is e.g. used in the Record Retention Policy of the State University of New York, http://portal.rfsuny.org/portal/page/The%20Research%20of%20SUNY/home/doing_business_with_rf/policies/se_record-retention-policy-paper-data-records_pol.htm , accessed 2012-05-09.

¹⁶ “*Personenbezogene Unterlagen*” in German usage means any record linking specific persons to specific information about that person; the information may be anything from a birth date to a state security surveillance record.

(1) Birth records; (2) Adoption records; (3) Marriage records; (4) Divorce records; (5) Death records; (6) Deceased estate records; (7) Land title deeds; (8) Citizenship records; (9) Employment/pension records.

This list is by no means exhaustive; also criminal court case records, passport applications, immigration records, war internment records, police and prison records, education / examination records may be needed by an individual at some stage.

As this study is concerned with the records that are present or would be expected to be present at the National Archives of Namibia, the following have been excluded from the outset:

- **Birth, marriage and death records** are in Namibia the domain of the Ministry of Home Affairs and are not routinely transferred to the NAN, although the vagaries of colonial displacement and postcolonial restitution of records caused some of those to end up at the NAN
- Likewise, **land title deeds** are the domain of the Registrar of Deeds, with his own archives
- **Pension records** are the domain of the various pension funds (although supportive employment evidence is occasionally requested from the NAN)
- **Citizenship records** have not been considered for this study, because during the colonial period they almost exclusively concern European immigrants, while the focus is on the apparent lack of records of indigenous Black Namibians.

This leaves **adoption, divorce and deceased estate** records as potential key areas of study. All of these are usually transferred to the NAN after the legally prescribed periods.

In the course of initial research, it was established that the case of **deceased estate records** would best allow the study of the entire life-cycle of the relevant records.

From the onset of colonialism, the creation of estate records was treated in different legal contexts for “Native” versus “White” records, and in both cases left a clearly identifiable record trail by files labelled “Estates” (Afrikaans: Boedels; German: Nachlassakten). Divorces, on the other hand, although also governed by different sets of legislation for “Natives” and “Whites”, tend to be hidden away among other civil case records of the courts and are therefore difficult to quantify, and to trace in the archival correspondence about disposals

and transfers. Adoptions are a special case which warrant a study on their own, because they were not legally treated differently between black and white; the absence of Black adoption records at the NAN came in the wake of the creation of Bantustans in a late development of the apartheid state.¹⁷

Deceased estate records are of vital importance for several reasons. They are indispensable for solving later inheritance disputes, and the finalization of the estate of a surviving spouse. The death notices and other documents that may be present in estate records are also a handy tool in genealogical research, which can be important for resolving citizenship issues; and genealogical research can be a matter of high emotional value for the concerned families. Moreover, because of a variety of attached other documents, estate records may serve a number of academic research agendas, especially in social history.

Therefore, this study is focusing on deceased estates. The main research question to be answered is: How were deceased Native estate records produced, managed and archived in colonial Namibia, 1884 to 1990 and why are they not retrievable when requested by post-colonial users?

In the Methodology, Chapter 3.4, the various facets of this question are elaborated.

1.3 The concept of “colonial archives”

The term “archive” and the corresponding terms in most of the other modern languages are derived from the Latin “archivum”. The derivation of this word leads via the Greek “archeion” not to “archaios” (old) or archaic, but to the radical “arche” (authority, government office).¹⁸ The Archives is a place where people can go to gather first hand facts, data, and evidence from letters, reports, notes, memos and other primary sources. National Archives are government collections of records of enduring value that record important events in a country’s history. The Merriam- Webster dictionary defines Archive as (1) a place in which public records or historical documents are preserved;

¹⁷ Preliminary research in the context of selecting the focus of the present study revealed that there were no racially discriminating legislative provisions about the registration of adoptions, and that until 1973 all adoption case files were kept by the Registrar of Adoptions. However, beginning with 1973 these files had been separated according to "race", and only the cases referring to Whites were eventually transferred to the NAN.

¹⁸ Austrian State Archives (1996)

also: the material preserved - often used in plural; (2) a repository or collection especially of information”¹⁹

A record is “all information created, sent and received in the course of carrying out the business of an agency. Records and archives have many formats, including paper and electronic. Records provide proof of what happened, when it happened and who made decisions. Not all records are of equal importance or need to be kept”²⁰ and not all records become archives.

National archives of former colonial territories constitute a particular group of archives, because their older records were created in a colonial situation of inequality between the colonizers (the imperial master state, and the colonial settlers) and the colonized (the indigenous population).

“Colonialism is a practice of domination, which involves the subjugation of one people to another. One of the difficulties in defining colonialism is that it is hard to distinguish it from imperialism. Frequently the two concepts are treated as synonyms. Like colonialism, imperialism also involves political and economic control over a dependent territory. The etymology of the two terms, however, provides some clues about how they differ. The term colony comes from the Latin word *colonus*, meaning farmer. This root reminds us that the practice of colonialism usually involved the transfer of population to a new territory, where the arrivals lived as permanent settlers while maintaining political allegiance to their country of origin. Imperialism, on the other hand, comes from the Latin term *imperium*, meaning to command. Thus, the term imperialism draws attention to the way that one country exercises power over another, whether through settlement, sovereignty, or indirect mechanisms of control.”²¹

Colonial archives are, in the context of this study, defined as both archival records and archival institutions that were created and maintained under colonial rule, i.e. in the political context of a territory that is not sovereign but ruled by another country, and in a colonial situation, i.e. in a social context where people are treated in a discriminatory manner according to their ethnicity, race or origin. The timeframe of this definition extends beyond the formal independence of a country, because the colonial archival heritage

¹⁹ “Archive.” *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 15 Sept. 2013. www.merriam-webster.com/dictionary/archive , accessed 2013-09-15

²⁰ www.naa.gov.au , accessed 2011-02-20

²¹ <http://plato.stanford.edu/entries/colonialism> , Stanford Encyclopedia of Philosophy, accessed 2011-1-29

remains and its character is not automatically changed by the country's new legal status.

In the context of Namibia, colonial archives originated from the 1884-1915 German colonial period and the 1915-1990 South African colonial and apartheid era. This means that, although the NAN is the archives of an independent nation, the majority of the records it accommodates are colonial archives, created under colonialism.

1.4 Geographical and historical background of Namibia

Namibia is a large country covering 823,680 km² and is sparsely inhabited with 2.1 m inhabitants (preliminary figure from 2011 census).^{22 23} Its climatic conditions allow only extensive livestock farming for the central and southern parts of the country, while the somewhat higher rainfall in the northern parts allows crop farming during the rainy season. Therefore the population density in the southern and central parts is generally very low, except in the urban centres, while the majority of rural people live in the northern quarter of the country. These climatic and human geography conditions have shaped the history of Namibia, insofar as the North was not considered suitable for White settlement, and therefore was affected by colonialism in a different way than the central and southern regions; the North was considered by the colonial power mainly as a reservoir of cheap contract labour for the mines, farms and industries in the South.²⁴ This settlement pattern had an important impact on the pattern of creation of Native estate records, as will be detailed in Chapter 6.

Namibia is home to people of diverse linguistic and cultural backgrounds, a factor that South Africa's apartheid rule tried to exploit by dividing the black majority into "tribal" and ethnically exclusive mini-states in order to perpetuate White rule. Independent Namibia abolished these mini-states in Article 147 (Schedule 8) of its 1990 constitution,²⁵ but their impact (in practical, legal, and socio-psychological terms) can still be felt.

²² Mendelsohn, J. (2002:40)

²³ Namibia. National Planning Commission (2012)

²⁴ Moorsom, R. (1977)

²⁵ Namibia. Laws(1990): Constitution of the Republic of Namibia. (Government Gazette of the Republic of Namibia ; No.2)

Namibia's history can for the purpose of this study, be divided into the following periods:

1. Several millennia of human habitation without written records that can only be reconstructed through the archaeological record,²⁶ historical linguistics²⁷ and some myths of origin, until about the turn of the 19th century.
2. Roughly 100 years of slowly encroaching colonial penetration, starting during the late 18th century. This period is recorded in various writings as well as in living oral traditions, and is marked by an ever-increasing impact of global forces on local events. Socio-political and economic conditions undergo fundamental changes during this period through the interlinked influences of getting integrated into the global capitalist markets,²⁸ of being influenced by Christian missionaries,²⁹ and of getting affected by migrations of indigenous people displaced by European settlers in the neighbouring Cape Colony.³⁰
3. Thirty years of German colonialism 1884-1915. Colonialism in Namibia actually started with the annexation of the port of Walvis Bay by Britain in 1876 and continued with the proclamation of the rest of Namibia as a German "protectorate" under the name of German South West Africa in 1884. Beginning with a more symbolic than factual presence in 1884, the German Reich steadily extended its influence by concluding treaties, interfering with local conflicts, imposing unequal trade relations, and increasingly by using military force. The German colonial period can be divided into three sub-periods:³¹
 - 3.1. 1884-1892 with a slowly growing German presence, concluding treaties with indigenous leaders and establishing a military force;³²
 - 3.2. 1892-1903 with armed German colonial aggression but continued presence of traditional Namibian governance structures;³³
 - 3.3. 1904-1915 with total colonial aggression, the destruction of traditional structures and formalization of a completely unequal relationship between colonizer and colonized. The genocidal German-Namibian War of 1904-1908 sealed the fate of the indigenous people as an oppressed majority in a colonial situation for the next 80 years by the wholesale expropriation of land

²⁶ Kinahan, J. (2011)

²⁷ Pfouts, A. (2003)

²⁸ Lau, B. (1987)

²⁹ Dederling, T. (1997)

³⁰ Lau, B. (1987)

³¹ Most aspects of the the German colonial period have been researched in detail. In the following, only the most influential works are cited

³² Esterhuysen, J.H. (1968), *passim*

³³ Drechsler, H. (1980), *passim*; Gewalt, J.B. (1999), *passim*; Zimmerer, J. (2001), *passim*; Bley, H. (1996), *passim*

and other means of production in central and southern Namibia. Namibia became a settler colony with a substantial influx of white settlers.³⁴

4. 75 years of South African colonialism, 1915-1990, which can be divided into five sub periods:³⁵
 - 4.1. The 1st World War ended in Namibia with an early defeat of the German forces by British-South African forces in 1915. The following period of military occupation during World War I is characterized by a limited liberalisation of repressive conditions for indigenous Namibians, 1915-1919; and by extending effective colonial control through military aggression to the northern regions which before had only nominally been a German “sphere of interest”.
 - 4.2. At the Versailles Peace Conference, Namibia was assigned as a League of Nations mandate to the British Crown, to be administered by the Union of South Africa. South Africa accepted this responsibility with the intention to annex the territory. It introduced its racial legislation in Namibia and continued to increase the settler element while denying educational and economic opportunities to the black majority. As a result, the situation for indigenous Namibians did not improve; only the colonial master was changed. The period of the League of Nations Mandate for South West Africa saw the imposition of the South African system of “Native administration” with basic inequality between white and black, 1915-1948;
 - 4.3. The period after the Second World war saw the imposition of the policy of “apartheid” with a radicalisation of the racial policies in all respects after the election victory of the National Party in South Africa, 1949-1968. On the other hand, organised resistance against the South African rule increased substantially. This led to the formation of a liberation movement which followed a two-pronged strategy of diplomatic and military means to liberate the country, and a steadily increasing guerrilla war against the occupation started in 1966.³⁶
 - 4.4. Against the background of an escalating liberation struggle, the 1969-1978 period saw the carving up of Namibia into “Bantustans” and the partial direct takeover of certain sections of administration by South Africa.³⁷
 - 4.5. Rising international pressure on South Africa and further escalation of the military struggle led to the gradual liberalisation of certain “petty apartheid” policies, combined with the introduction of nine quasi-federal ethnic

³⁴ Ibid.

³⁵ The South African period is far less researched than the German period. The only work covering the entire period, Wallace, M. (2011), is based on a multitude of smaller studies but is nevertheless limited by the lack of detailed original research, especially into the 1960s-1980s.

³⁶ Du Pisani, A. (1985:129-158);

³⁷ Dugard, J. (1973:431-435); Du Pisani, A. (1985:184-188)

“governments” to ensure de facto White supremacy, from 1978 until independence 1990.³⁸

5. Independent Namibia, 1990-, which brought about the abolishment of apartheid policies and legislation, although remnants of discriminating legislation and a legacy of economic inequality remain and are addressed by continued law reform, and policies of positive discrimination (“affirmative action” and “Black economic empowerment”) as well as a gradual land reform programme.³⁹

1.5 History of records management and archives in Namibia

To understand the background of the National Archives of Namibia and its holdings, it is necessary to draft an outline of records management and archiving in the country; this is particularly important for this study, as so far no historical overview of this sector in Namibia has been provided anywhere.

Based on the five main historical periods listed above under heading 1.4 (Historical background), the following overview traces the effect of political/administrative changes upon the creation and keeping of records in Namibia, and pays particular attention to the development of the National Archives of Namibia and its response to the political/administrative changes. The institutional setup and capacity of the National Archives is a key factor in the keeping and accessibility of records.

The periodization is based two main criteria, namely:

- Where political changes initiated major administrative re-arrangements affecting the record-keeping of government bodies
- Where major decisions concerning the establishment and legal standing of the archives were taken

1.5.1 Period 1 and 2: Prehistory and documented pre-colonial history

Pre-literate societies in Namibia did, like other pre-literate societies around the world, devise methods of keeping a historical and genealogical record through

³⁸ A detailed historical analysis of the nine ethnic administrations and their legislative bodies is still lacking. Only the “Legislative Assembly of the Kavango” has been the subject of an academic study (Nambadi 2007)

³⁹ Namibia. Government (2007), in particular p.7-8, 101-104, 165-167. See also Namibia. Government (2000) and Melber, H. (ed.) (2000)

more or less formalised oral traditions. Famous in this regard are the *omitanda* of the Ovaherero, praise songs of localities interwoven with names of cattle owners and, very significant for a cattle-raising society, the names of famous cows and bulls.⁴⁰ Similar traditions exist in most of Namibia's indigenous cultures, although they have not been systematically recorded, and even the recorded ones mostly remain unpublished and hardly accessible in scattered archival and private collections.⁴¹

With the arrival of missionaries and traders in the first decade of the 19th Century, the era of written record-keeping began. Not only that missionaries reported in writing to their mother bodies in Europe, they also kept a local record of their proselytizing effort in the form of baptism, marriage, and death registers as well as local chronicles,⁴² while traders kept a written record of their accounts, and in particular of local debtors.⁴³ The indigenous societies soon realized the importance of reading and writing as a tool – in particular in a vast and sparsely populated country where messages had to be relayed over vast distances – and eagerly learnt this new skill. There was a noticeable synergy between the different foreign influences: while the missionaries were eager to teach these skills in the indigenous languages which they alphabetized,⁴⁴ it has been reported that local communities urged that their young people be taught reading in the *lingua franca* Dutch which had penetrated from the Cape of Good Hope, so that they could not be cheated by the traders.⁴⁵ As from the middle of the 19th century, there are plentiful examples of indigenous

⁴⁰ Henrichsen, D. (2011:7-12)

⁴¹ To cite some examples: The extensive recordings from the Kavango region by Dr Maria Fisch (Sound recordings, transcriptions, and translations) remain in private hands; the recordings of Damara orature by Dagmar Wagner-Robertz are unpublished and have only in 2012 been deposited at the NAN (see NAN: A.1003); recordings from the Kunene region by many academic researchers, focusing on the Himba people, are scattered world-wide; an important unpublished written collection from North-Central Namibia (the Liljeblad Collection) is housed in Finland (with a microfilm copy at the NAN, see NAN: A.0685) and has been translated into Finnish but not into English

⁴² As exemplified by the Archives of the Evangelical Lutheran Church in Namibia. See Moritz, Walter (1971)

⁴³ As exemplified by NAN: A.650 (Hendrik Witbooi Journals II + III), which consists of two traders' account books that were later "recycled" by the Witbooi community to serve as correspondence record books.

⁴⁴ The first biblical texts in the indigenous Nama language, translated by Missionary Schmelen and his Nama wife Zara, were printed at Cape Town in 1831. See Trüper, U. (2006)

⁴⁵ Vedder, H. (1981:387-388)

correspondence in Dutch, but also occasionally in Nama language (Khoekhoegowab) and Otjiherero.

Apart from using letters in communicating with traders and other local leaders, and drawing up written treaties and constitutions, it is proven for at least one local leader, Hendrik Witbooi, to take up the idea of the church register and to introduce secular birth and death records as well as lists of government officials as part of his governance. Although the surviving examples of such records fall already into period 3 (German colonial rule), they stem from the period when the Witbooi community still maintained a measure of autonomy.

Also the idea of keeping archives was developed, or taken up from the missionary example, in the indigenous communities. Three of these pre-colonial archives are preserved in the National Archives of Namibia: the papers of Hendrik Witbooi, who kept ledgers where he copied all his incoming and outgoing correspondence;⁴⁶ the papers of Maharero kaTjamuaha,⁴⁷ who entrusted his records for safekeeping to the local missionary; and the “Vaderlike Wette” (Paternal laws) of Rehoboth, maintained by that community’s council.⁴⁸

1.5.2 Period 3: German colonialism (1884-1915)

1.5.2.1 Period 1884-1892

Although Germany formally claimed “protectorate” status for the territory then known as South West Africa (or alternatively, Namaqualand / Hereroland / Ovamboland) in 1884, the initial German presence was minimal, starting with only three civilian German officials and slowly growing mostly on the military side.⁴⁹ The Germans also introduced some basic form of records management, mainly to preserve the “protection treaties” (the originals of which were sent to Berlin) and related correspondence with indigenous leaders, a few court cases, mining and prospecting licences, as well as reports on their extensive travels

⁴⁶ NAN: A.0002, A.0650 and AACRLS.117 (The Hendrik Witbooi Papers)

⁴⁷ NAN: A.0003 (The Maharero Papers)

⁴⁸ NAN: A.0219 (Rehoboth Basterraad)

⁴⁹ Esterhuysen, J.H. (1968:99)

and cartographic efforts.⁵⁰ This ran parallel to indigenous recordkeeping by leaders such as Maharero and Witbooi (see above). It should be mentioned that this period also saw a first indigenous attempt at writing down oral traditions, the manuscript about Witbooi history by Hendrik Witbooi Jr. (Klein-Hendrik) from 1900.⁵¹

1.5.2.2 Period 1893-1903

Period 3.1 ended with the unprovoked attack of the German Landeshauptmann Curt von Francois on Hendrik Witbooi at his settlement Hoornkrans, the first of a series of wars against indigenous communities. Significantly, this attack also resulted in the capture of Hendrik Witbooi's registry book (or "diary", as it has been incorrectly called).⁵²

The ensuing drawn-out war against Hendrik Witbooi resulted in further heavy military reinforcements of the Germans, as well as an expansion of the civil administration including expanded record-keeping. A bureaucracy according to the Prussian model was being established, including the Prussian style of record-keeping by sewing individual items (letters, legal documents) permanently with needle and thread into blue file covers, listing them on a table of contents called Rotulus, and separately recording each incoming and outgoing correspondence item in a register book (Journal).⁵³

It should be noted that indigenous record-keeping did not cease during this period. Although his first letter-copy book had been looted by the Germans, Hendrik Witbooi continued with recording his correspondence as well as administrative matters; two more such books are preserved,⁵⁴ as well as a

⁵⁰ While some of these records were later re-arranged as part of the new filing system, some are still preserved as a separate section of the German records at the NAN ("Landeshauptmannschaftsakten", ZBU Abteilung 6)

⁵¹ Archiv- und Museumsstiftung Wuppertal, Archives of the Rhenish Mission, RMG 2/635a

⁵² See Francois, H. von (1895 : 227) who mentions that the captured book was taken to Germany by his brother. The same author also writes: *Hendrik führte ein vollständiges Bureausystem* (Hendrik maintained a comprehensive office system) (ibid., p.227). – Today Witbooi's registry book is kept in NAN: A.0002

⁵³ ZBU [69] A.II.n.1 Band 1

⁵⁴ NAN: A.0650

fragment of a fourth,⁵⁵ while a fifth one has been mentioned in archival correspondence but disappeared.⁵⁶

During this period, the German administration also introduced a system of civil person-related records. In accordance with the German practice, Standesamt offices were introduced to record births, marriages and deaths. As will be discussed later, these offices only registered German citizens (with Natives not being considered as citizens, and not worthy a civil record).

1.5.2.3 Period 1904-1915

Period 3.2 ended with the Herero uprising, which led to the genocidal war against the Herero and Nama between 1904 -1908. German record-keeping, initially disrupted by the state of emergency and the military, was eventually further extended, including efforts to control the indigenous population by means of pass tokens and workers' pass books. The German administration's recordkeeping was also further developed by the introduction of new filing systems in 1906 and 1912.⁵⁷

The establishment of a local archives institution was discussed in 1912, but not implemented for financial reasons.⁵⁸

With the establishment of civil administration districts (1897)⁵⁹ and later local authorities (1909),⁶⁰ these decentralise authorities took over most functions of creating person-related records, such as birth, death and marriage certificates, as well as "Native administration" which included issuing pass marks and creating lists.

Under the war conditions and the later suppression of indigenous governance structures (with very few exceptions, such as Rehoboth), indigenous written records management apparently came to a standstill. At least there are no surviving examples of any such efforts after 1904 except for Rehoboth.

⁵⁵ NAN: AACRLS.117

⁵⁶ See Subchapter 1.5.4.3

⁵⁷ NAN: Finding aid 1/1/1, p.viii-ix

⁵⁸ ZBU [69] A.II.n.3

⁵⁹ Bley, H. (1996:47)

⁶⁰ Külz, W. (1909)

1.5.3 Period 4: South African colonialism

1.5.3.1 Period 1915-1920 - Military government

The First World War terminated German rule in Namibia. South African troops invaded Namibia, and the local hostilities ended with the surrender of the German troops to the South African forces on 9 July 1915.⁶¹ Until 13 September 1920, the country remained under military rule by the South African occupation forces, with Sir Edward Howard Lacam Gorges as Military Administrator.^{62,63}

The terms of surrender included a provision that all German government property, including records, should be handed over to the Union (of South Africa) Government.⁶⁴ As a result, almost the entire central civil German records remained intact and unharmed in the country, although a small section of German records, in particular staff records, were removed to Germany by Ludwig Kastl, the official appointed by the German Governor under the terms of surrender to deal with the handover.⁶⁵ The fate of the German military records remains unclear, and it seems they were almost entirely destroyed by South African officials before the archives depot was established.⁶⁶

South African records management during this period remained rudimentary, as can be deduced from the haphazard filing system of the retained records.⁶⁷ The German civil administration was largely terminated, and all German civil servants were forcibly repatriated to Germany at the end of the war.⁶⁸ The district administration of the Germans was replaced by a network of Military Magistrates. The Magistrates were also responsible for the creation of person-related records. At least in some cases, they continued with using the

⁶¹ Dierks, Klaus (2002:163)

⁶² A detailed history of this period is given by Schoeman, S.J. (1975), the archivist who organized and appraised the archival fonds ADM which covers the military administration.

⁶³ Schoeman, S.J. (1975:32 and 190)

⁶⁴ Surrender of the forces of the Protectorate of German South West Africa (1915: par.11, p.12)

⁶⁵ Bundesarchiv Berlin. Findaid R 1002

⁶⁶ ARG [2] 4/2/8. Oorplasing van Dokumente en Publikasies van Regeringskantore na Argief: Militêre Afdeling (1954-1954)

⁶⁷ NAN: Findaid 1/1/045

⁶⁸ Great Britain. High Commissioner for the Union of South Africa (1920)

German record books and stationery before receiving South African stationery.⁶⁹

1.5.3.2 Period 1920-1949

As a result of the Versailles Peace Conference, The British Crown received the mandate to administer the former German colony South West Africa as a League of Nations mandate, to be administered by the Union of South Africa.⁷⁰ As a “Class C” mandate which was not deemed capable by the League of Nations to become independent in the near future, Namibia could be ruled by South Africa as the South African government liked with only a few restrictions. Although Namibia was never fully incorporated into South Africa, most of its racist laws were made applicable in Namibia; basically there was no change in its status as a colony and in the status of its indigenous population as “Natives” who were not considered equal to the Whites.

For almost twenty years, records management in the mandated territory developed without supervision of an archival institution, as the South African National Archives (which dates back to the establishment of the Archives of the Cape of Good Hope in 1876)⁷¹ seemed not to be interested in exercising any control. The filing of the records of the South West Africa Administration seems to have developed haphazardly, without a preconceived system, as the need to file their records arose.⁷² The Administration officials (who were mostly drawn from the South African civil service) applied what they had learned, or not learned, in South Africa about the filing of records. There was little the rest of the administration could draw upon except their common-sense. As nobody was monitoring it, there is also no record of which records were destroyed during this period. The South African Public Archives Act, Act 9 of 1922, which gave the Chief Archivist the right to advise any government office on record-keeping, was not made applicable to the Namibian territory.⁷³

⁶⁹ As is evident, for example, in BMD [1] GR BET 2, Military Magistrate Bethanien Birth and Death Certificates 1915-1921.

⁷⁰ League of Nations (1921)

⁷¹ <http://www.tanap.net/content/archives/archives.cfm?ArticleID=203>

⁷² This is evident from the listing of the archival fonds SWAA (South West Africa Administration, A-files), Finding Aid 1/1/46

⁷³ South Africa. Laws (1922:30-35)

The remaining German records had been left in the Administration Building where they were kept in the loft and the basement. In 1937, the Chief Archivist of the Union of South Africa, Graham Botha assessed the situation of records on a visit to Windhoek, and recommended to establish an archives.⁷⁴ A historically-minded civil servant, the Clerk of the Legislative Assembly⁷⁵ Kristian Waldemar Schreve, apparently took the initiative to further the process.⁷⁶ This led to an “Archives Depot” being formally established to house and process the German records. As from 1939, the South African archives in Pretoria seconded archivists to Windhoek, starting with D.J. Pieterse,⁷⁷ and by 1948 the archivist J.H. Esterhuysen reported that the most important record groups of the central German administration had been arranged and listed and could be used for historical research if a research room would be made available.⁷⁸

1.5.3.3 Period 1949-1969

The “Archives Depot of the Territory” remained under the direct responsibility of the “Administration for South West Africa”. The South African Archives Act No.22 of 1953 finally made archival legislation and regulations applicable in South West Africa.⁷⁹ This Act did not change the status of the Archives Depot as a division of the SWA Administration, but enabled the Archives to exert some measure of control over records management in the public administration.

The archives no longer only cared for the German records, but started to ingest and process records of the South African administration in Namibia. It also started to collect “Private Accessions”; under this heading, it recorded amongst others some important indigenous records, such as the Witbooi

⁷⁴ ARG [2] 1, fol.3-11

⁷⁵ The “Legislative Assembly” was a whites-only settler parliament with rather limited mandate which was established in 1926. Grotper, J. J. (1994:280)

⁷⁶ ARG [1] 1, fol.30

⁷⁷ *ibid.*, fol.27-30

⁷⁸ *ibid.*, fol.114-115

⁷⁹ Act to consolidate and amend the law relating to the custody and control of the public archives of the Union, to provide for the custody and control of the public archives of South-West Africa, Act No.22 of 1953; in particular Section 17

Papers, the Maharero Papers, and the Vaderlike Wette of Rehoboth.⁸⁰ However, the focus of collection of private accessions soon shifted almost exclusively to documenting the history of white settlement in the country, as documented in the chronologically arranged list of accessions.⁸¹ Both in the collection of private accessions and in the transfer of government archives, a special emphasis on the “Angola Boers” and “Dorslandtrekkers” (a small group of high ideological importance for the dominant National Party) can be detected, while at the same time a significant further set of Witbooi documents, reported to have been donated in 1964, even disappeared without a trace and without being recorded in the list of accessions.⁸² The precarious physical accommodation improved with the move to a new purpose-built archives/library/museum building in Lüderitz Street in 1958,⁸³ which was then occupied by the archives until it could move to its present location in Eugene Marais Street during 2000.

1.5.3.4 Period 1969-1978

During this period, the Archives Depot in Windhoek was no longer administered under the Administration for South West Africa but under the direction of the South African Minister, as decided by the South African government in 1968.⁸⁴ This move coincided with the carving up of the country into a Whites-only territory and a number of “self-governing territories” or Bantustans, creating an administrative nightmare of eventually ten parallel bureaucracies, in the wake of the “Odendaal Plan”.⁸⁵ During this period, the Archives Depot also lost control over the archives of the Walvis Bay territory,

⁸⁰ NAN: A.0002, A.0003, A.0219

⁸¹ National Archives of Namibia (1996): Guide to Accessions

⁸² The donation was reported in South West Africa Administration (1964:11). It is not reflected in the National Archives’ correspondence files, which for the period 1956-1969 under Archivist D.W. Krynauw are extremely scanty, in marked contrast to the meticulous record-keeping by his predecessor J.H. Esterhuyse and his successor J.H. Mienie.

⁸³ Gebhardt, L. (1967)

⁸⁴ South Africa (1968:21) decrees: “78. *The Archives in Windhoek already falls under the Director of Archives of the Republic, and the powers vested in the Administrator in terms of the Archives Act, No.6 of 1962, as far as South West Africa is concerned, will be transferred to the responsible Minister.*”

⁸⁵ The “Odendaal Plan” or “Odendaal Report” was drawn up by a commission under the chairmanship of the Administrator of the Transvaal, Frans Hendrik Odendaal. See South Africa (1964). Eriksen, T.L.E. (1985:121-122) provides an overview of the related documents.

which South Africa split off from South West Africa in 1977 to be administered by the Cape Province.⁸⁶ An important innovation during this period was the creation of an electronic database of archival files as part of the South African database, which had commenced in 1974. The Depot started contributing data to this system in 1976.

1.5.3.5 Period 1978-1990

During this period, the archives in Windhoek was again under “local” control – if one could call it so within the neo-colonial dispensation which South Africa now envisaged for Namibia as a country with a nominal “government” still under complete control of South Africa, and ethnically fragmented to maintain the supremacy of the White settler population. Under pressure of an intensifying liberation war and international opinion, frequent short-lived administrative and political re-arrangements for a so-called “internal solution” under exclusion of the liberation movement SWAPO were orchestrated by the South African apartheid government. Under a proclamation that became popularly known as “AG-8”, the South African Administrator-General promulgated a complete ethnic fragmentation of public services.⁸⁷ In most cases, the ethnic administrations were not adequately funded to maintain these services, let alone maintain proper records. The administrative details of this fragmentation are still un-researched and un-documented; adding to the problems the archives is facing with records from that period.⁸⁸

Unlike Library services, which were split up between “ethnic” governments, the Archives remained a central institution under the “Department of National Education”. It started to assert a measure of autonomy with a programme of source research for a revision of the colonial historiography, a take-over of its digital catalogue data which had been hosted in South Africa, and a programme of acquiring microfilmed sources from abroad, in particular missionary records

⁸⁶ South Africa. Proclamation R202(1977); Berat, L. (1990:68). Substantial archives about Walvis Bay were transferred from Windhoek to Cape Town, and only restituted to the NAN in 2002.

⁸⁷ South West Africa. Laws (1980)

⁸⁸ To this date, a solid academic analysis of the implementation of the Odendaal Plan (see South Africa (1964)), leading to the creation of the Bantustans, and of the administrative reshuffling after 1978, is sorely lacking.

which could counteract the previous focus on White settler history.⁸⁹ It got its own Archives Act in 1987.⁹⁰

However, the NAN faced serious problems with the influx of archival material emanating from the closure of offices in the wake of the far-reaching administrative changes in 1969 and 1980.⁹¹ The problems concerned storage space as well as the staff capacity to organize this material.⁹²

1.5.4 Period 5: Independence (1990-)

On 21 March 1990, Namibia became independent after a negotiated settlement and UN-supervised elections in November 1989. The remaining apartheid laws were repealed, and the ethnic fragmentation of the country was eliminated in the new constitution.

For the Archives – now called the National Archives of Namibia, and administratively positioned in the newly created Ministry of Education and Culture⁹³ – this posed a challenge which even surpassed the challenges from the 1969 and 1980 administrative re-arrangements.

1.5.4.1 Planning for independent Namibia

At this point it is necessary to digress on developments outside Namibia. In cooperation between the international community (the United Nations and a number of specialized UN agencies) and the Namibian liberation movement SWAPO, a “Nationhood Programme” to train Namibians in almost all vital fields, and to prepare policies and blueprints, was launched to prepare for the eventual independence of Namibia.⁹⁴ Apart from a programme of bursaries for Namibian exiles to study and to undergo vocational training in a wide range of

⁸⁹ See South West Africa: Director of Archives (1981-1989)

⁹⁰ South West Africa. Laws (1987)

⁹¹ South West Africa. Director of Archives (1981-1989)

⁹² Bley, H. (1990:245-246)

⁹³ Several administrative rearrangements did not affect the National Archives, which remained in the Ministry of Education, Culture, Youth and Sport (1990-1991), the Ministry of Education and Culture (1991-1995), the Ministry of Basic Education and Culture (1995-1999), the Ministry of Basic Education, Sport and Culture (2000-2005), the Ministry of Education (2005-2015), and currently the Ministry of Education, Arts and Culture (2015-)

⁹⁴ United Nations Council for Namibia (1981)

countries, the United Nations Institute for Namibia in Lusaka was established in 1976 “to meet the need for trained middle-level administrators for the civil service of a future independent Namibia”.⁹⁵ However, the need for trained records managers and archivists was apparently completely overlooked in this programme. No archivist or records manager was trained under the Nationhood Programme. Also, the impressive set of blueprints compiled to serve as a guideline to transform a future independent Namibia did not take archives and records management into consideration.⁹⁶ The voluminous authoritative handbook “Namibia: Perspectives for national reconstruction and development” issued by the United Nations Institute for Namibia does not mention archives and records management at all.⁹⁷

1.5.4.2 Transition to independence

With hindsight, the lack of any planning by the liberation movement and the international community for the transition of the archives and records management sector had most unfortunate consequences. The management of the archival consequences of the transition from colonial apartheid and a fragmented society to independence and a unified state with equal rights for all was left entirely in the hands of the existing National Archives institution taken over from the colonial dispensation, which was clearly unprepared for this task. A comprehensive programme for archival transition did not exist.

The National Archives itself had no concept for the urgent tasks that were posed by independence. The documented transition programs of the NAN focused on few details: the audio-visual archives, the transfer of the existing catalogue database, and the construction of a new extended archives building.⁹⁸ An emergency plan for the orderly safeguarding and transfer of records from the various terminated apartheid institutions, in particular the ten “ethnic governments”⁹⁹ whose separate administrations were dismantled, was not drawn up. The strategic concept for the transformation of the National

⁹⁵ Ibid., p.[4]

⁹⁶ See for example, United Nations Commissioner for Namibia (1982)

⁹⁷ United Nations Institute for Namibia (1986)

⁹⁸ Documented in Bley, H. (1990)

⁹⁹ The Administrations for “Whites”, “Namas”, “Damaras”, “Coloureds”, “Tswanas”, “Hereros”, “Caprivians”, “Kavangos”, “Ovambos” and the “Government of Rehoboth”. An “Administration for Bushmen” was planned but never created.

Archives that the Head of Archives Brigitte Lau formulated at the Symposium “Archives and Users in Changing Societies”, Pretoria 1992, focused on facilitating access to the public, without contemplating the content that easier access should open up.¹⁰⁰ A new Archives Act, passed by the Parliament of independent Namibia in 1992, was in essence a copy of the South West African Archives Act of 1987.¹⁰¹

The approved staffing structure of the National Archives remained unchanged, despite the widely extended tasks posed by the transition, and despite it now being responsible for the records of a fully independent nation state instead of a stunted colonial administration.¹⁰² De facto, the staff component was even shrinking, because it was impossible to retain professional staff due to a revised salary structure¹⁰³ that left archivists and librarians at the bottom of the scale of professional government employees.¹⁰⁴

As a result, the National Archives was overwhelmed by the influx of poorly organised records from the colonial Bantustan institutions, which were not transferred in an orderly manner because nobody felt responsible for them anymore. While some records were dumped at the Archives, others were taken over by the newly created Ministries, without the procedures prescribed by the Archives Act for inter-office transfers being followed. Others were simply abandoned, forgotten and left in their previous storage, prone to accidental destruction (by fire, floods, and termites) or deliberate destruction (when the storage space was required otherwise). The inadequate staff at the National Archives could not keep up with processing the transferred disorganised records. Up to this date, about 10 % of the National Archives holdings are unregistered and not properly organized, while another 30 % are organized but not adequately processed into databases and finding aids.¹⁰⁵

¹⁰⁰ Lau, B. (1993)

¹⁰¹ Namibia. Laws (1992): Archives Act (Act No.12 of 1992)

¹⁰² Mercer, M. (1993:48)

¹⁰³ Namibia. Wage and Salary Commission (1995)

¹⁰⁴ Hillebrecht, W. (2002)

¹⁰⁵ Oral communication, estimate by Chief Archivist Werner Hillebrecht (21.5.2012)

2 Literature Review

2.1 Introduction

Colonial archives do not feature prominently in the literature of archival science, although there has been a rising interest during the last decade, when scholars begun questioning the dominant narratives of the colonizers' records and searching for the voices of the colonized. Despite this interest, it is striking to observe that none of this proliferating literature has actually studied an archives in depth with a view on what these archives contain, what they neglect, what they lack altogether.¹⁰⁶ Studies about the problems of archives in decolonized countries, and in particular African countries, tend to focus on problems of current and semi-current records management (Tough 2009), maintenance, and preservation (Ngulube 2005), training (Kigongo-Bukenya 1993), and occasionally on displaced archives (Banton 2013; Mnjama 2005). Where questions about their content are asked, they focus on academic issues of historiography: whether or how they reflect realities or actual processes (Arondekar 2005); or how the colonial process of archiving shapes historical perception (Stoler 2002).

One would expect that the interest in colonial archives would lead to a detailed questioning of their content. However, retrieving literature through a Boolean search in library catalogues and relevant online databases, such as JSTOR, EBSCO HOST, DOAJ, Emerald, SAGE, Springer Link, using various relevant keyword combinations (colonies, archives, Natives, content, person-related, estate, records) has been a frustrating exercise. The results consisted of references to literature that was not directly related to this study, such as migrated archives, or treatises on colonial ideology where the term "archives" did not refer to archival institutions but was understood in a much wider sense as any source of recorded information, or even as a set of opinions and beliefs without any physical location.¹⁰⁷

¹⁰⁶ For an exception, see the remarks about Lihoma, P. (2012) in Ch. 2.3

¹⁰⁷ As for example in Richards, T (1993)

2.2 Archival science literature

The issue that (apart from their academic research value) archives have a highly practical value for ordinary citizens, and how these citizens' expectation can be fulfilled, is rarely asked – if at all. This can be further exemplified with an analysis of the subjects of articles in the 2001-2009 issues of ESARBICA journal, the leading archives journal in Eastern and Southern Africa. A rough classification by the author revealed the following trend: In a total of 101 articles, 27 articles dealt with records management (including electronic records management); 21 articles with preservation and maintenance issues; 14 with access including “Freedom of Information”; 9 with use of information technology; 9 with general questions of archival management including appraisal and description; 8 with oral history and indigenous knowledge; 4 with archival training, while 9 articles dealt with various other subjects. One single article, Phumzile and Wamokoya (2007)¹⁰⁸ touches upon the question whether archives users find what they are looking for, but it does not ask what the questions are that do not get answered by the available archives collections. Moreover, it focuses on academic users.

While the author has not done such a quantitative analysis on earlier periods and a wider range of journals, the same pattern seems to reign generally in the writings of archivists. Even the highly innovative volume “Refiguring the archive” (Hamilton et al., 2002)¹⁰⁹ is silent about this issue, although it originated from a 1998 seminar series at the University of the Witwatersrand to explore the argument “that the country’s [South Africa’s] archives require transformation, or refiguring.”¹¹⁰ The book’s introduction acknowledges Foucault’s influence “in the proposition [...] that archives are often both documents of exclusion and monuments to particular configurations of power”.¹¹¹ The mundane issue how these exclusions and configurations of power have shaped simple but important issues such as the availability of vital documents to ordinary citizens is however not explored. In his article “The archival sliver” in this volume, Verne Harris provides a sweeping overview of the Apartheid State’s destruction and exclusion of documents. Researching the many leads Harris provides about this history would warrant a volume on its

¹⁰⁸ Phumzile, H. (2007) and J. Wamakoya

¹⁰⁹ Hamilton, C. et al. (eds.) (2002)

¹¹⁰ Ibid., p.7

¹¹¹ Ibid., p.9

own, but the issue of simple “unpolitical” person-related records is not mentioned. Interestingly, in the same article Harris remarks in a footnote that “From the 1980s the State Archive Service [of apartheid South Africa] began shaping its user services around the needs of its largest clientele grouping – genealogical (almost exclusively white) researchers”, without further reflecting about the implications of this observation for black archives users, then and twenty years later.¹¹²

Even the brilliant exposé by Mwiyeriwa (1983)¹¹³, which (despite being obsolete in technical detail) to this day remains an excellent and almost comprehensive introduction into the subject of African archival problems, is silent about the gaps in colonial archival content. Likewise, the very perceptive up-to-date overview by Mazikana (1997)¹¹⁴ who picks up looming problems that many African archivists have yet to realize, such as the records of privatized state functions slipping through their fingers, does not touch the issue of inherited content, except for the need to complement it with oral history and repatriated records from former colonial powers.

The issue of repatriation of migrated archives remains a highly contentious issue and may be larger than previously acknowledged, as the recent (2012/2013) opening (but not repatriation!) of migrated colonial records at the National Archives of the United Kingdom indicates.¹¹⁵ Although the content of those records that were kept secret for decades may be highly important for individuals, such as the Mau-Mau prisoners in Kenya who are suing the British government, those are not the type of person-related records that were found lacking in the Namibian archives.

The lack of recognition in archival science literature that the content and coverage of person-related records in inherited post-colonial archival collections is a problem leaves that issue to the historians, sociologists and anthropologists.

One particular trend in the literature on colonial archives is rather obvious – although it appears strange when dealing with an institution that is considered the primary source par excellence: Many authors rely solely on secondary sources, and reiterate what others have already observed (or also copied) elsewhere.

¹¹² Harris, V. (2002:139 footnote 16)

¹¹³ Mwiyeriwa, S.S. (1983)

¹¹⁴ Mazikana, P. (1997)

¹¹⁵ See Banton, M. (2012) and The National Archives [UK] (2013)

2.3 African case studies

Nevertheless there are a few studies more closely related to the subject of the present study.

Lihoma (2012)¹¹⁶ presents one of the few recent detailed historical country studies of African archives and records management. Whilst he compares the records management and archives service in colonial Nyasaland favourably with the post-colonial situation in Malawi under the dictatorship of Dr Hastings Banda, he does not touch on the issue of person-related records. Lihoma however prominently mentions the extensive destruction and displacement of records at the end of British rule in Malawi. This issue, affecting many former colonials, has only quite recently come to wider public attention (Banton 2012).¹¹⁷ Given the current situation of public access to the National Archives of Malawi, which still operates under the restrictive legal provisions of the Banda regime (requiring research permission by the Minister), it is not surprising that possible gaps in person-related records have not been brought to attention through enquiries from the public.

A recent issue of the International Council on Archives' journal *Comma* focused on recordkeeping in sub-Saharan Africa. It contains three country case studies providing a substantial historical outline of the development of archival services (in Nigeria, Tanzania, and Zimbabwe),¹¹⁸ (Abioye 2013; Magaya and Lowry 2013; Murambiwa 2013), whilst most other articles concentrated more on current government recordkeeping. These studies recognise the important role played by the inherited colonial records in the respective countries and mention post-independence efforts to supplement them by oral history, exile materials, or repatriation of displaced archives. The issue of colonial bias in the creation and preservation of records in the inherited collections is however not being explored.

¹¹⁶ Lihoma, P. (2012)

¹¹⁷ Banton, M. (2013)

¹¹⁸ Abioye, A. (2013); Magaya, C. (2013) and J. Lowry; Murambiwa, I. (2013)

2.4 Person-related records in the international context

While the academic literature on African colonial archives apparently neglects the issue of person-related records entirely, Rowell (2011)¹¹⁹ explores such problems in another settler colony, Australia, and documents a lack of archived information about approximately 500,000 Australian children removed from their families, either in a racially motivated context to enforce Western cultural values on native Australians (Aborigines) or as war-related migrants from Europe. Whilst Rowell focuses only on these specific groups of people, her article highlights the causes of the neglect of their records and the subsequent psychological and practical identity problems of these individuals due to the insufficient information about their own descent. It further outlines the archival and other programmes established in Australia to address their plight. It is therefore providing valuable clues for dealing with the wider issue of the neglect of records of the colonised majority in Africa.

Similarly, the lack of person-related records (due to deliberate destruction) has also been of immediate concern in post-World War II Europe in connection with Nazi Germany's "Lebensborn" programme and the related abduction of children from a number of European countries, which left many displaced children stranded far from their families without personal documentation. This problem had been tackled by intensive archival and other efforts to elucidate these children's identity and origin and assist repatriation (Valderhaug 2011; Hillel 1975). Although not strictly "colonial", these examples also arise from a context of racism, discrimination and human rights violation and provide valuable clues about dealing with such problems in a context of colonialism and decolonisation.

2.5 The transition to postcolonial archives

According to Awe (1996)¹²⁰ colonial Archives in Ghana and Nigeria were in a fortunate position in that, before the end of the colonial period there was a growing realisation, amongst the colonized, that archives should belong to the people whose countries produced them as they constitute useful sources for

¹¹⁹ Rowell, H. (2011)

¹²⁰ Awe, B. (1996)

their history. This was illustrated by the case of K. Dige, a local researcher who came across valuable historical records on Nigeria, most of them decaying in colonial government offices. “He reported this situation to the government and offered to work for the recovery of the documents without any salary. His offer was accepted and he was appointed in 1951 to direct a survey of available historical documents.”¹²¹ By the time Nigeria and Ghana gained their independence from Britain,

“their archives were firmly established to play a new role in the preservation of the records of the people’s history [...] To avoid destruction or loss of important documents, archival workers in independent Ghana and Nigeria started the systematic search for papers in private hands, and they succeeded in getting many Ghanaians to deposit their papers. Staffing was increasing to cope with the increased volume of work, and there was greater use of the documents by researchers, lawyers, chiefs and others anxious to get information for their own purpose.[...] inventories and guides of what was available in the archives were being published.”¹²²

It is not clear from Awe’s article whether there was a systematic study done to understand the total content of colonial archives in Ghana and Nigeria at the time of their independence or not. In the context of the current study, it would have been beneficial to know what informed the needs for Ghana and Nigeria to undertake projects collecting private papers or at least to benefit from what information gaps these projects were meant to fill and how these gaps were established. Whether these collection efforts were targeting perceived information gaps in the colonial archives or objective needs, the article does not give clarity on this, as it does also not make any reference to any previous work which made collections of private papers obvious. Nevertheless, the experiences gained from Ghana and Nigeria were remembered during the Pan-African archival conference at Abuja in 1994 when, at the height of excitement over democracy and abolition of apartheid in South Africa, Awe Bolanle asked:

“Questions however, need to be asked as to concept of archives in this state which was formerly under an apartheid regime which gave no quarter to its large African population. Did the archives in the past reflect the cosmopolitan nature of that society and with the advent of

¹²¹ Ibid: p.75

¹²² Ibid: p.76

democracy, will the archives reflect the rights and activities of all races in that nation?"¹²³

Although this question was left unanswered, it remains pertinent to the current study.

The demise of apartheid in South Africa brought forth a lively discussion about the role of archives under the previous regime, and the need to transform the archives. The compilation "Refiguring the archive" is an impressive outcome of this discussion, taking it towards new frontiers.¹²⁴ Unfortunately, the analysis of record creation, management, preservation, destruction and archiving in South Africa has largely focused on the records of the immediate organs of repression – the police, army, and state security, whose records were to a large extent deliberately destroyed or hidden from public scrutiny. This issue played a large role in the South African Truth and Reconciliation Commission (TRC) and seems to have overshadowed the need to have a closer look at other aspects of the colonial record.¹²⁵

2.6 Interpreting and re-appropriating the colonial archives

Bastian (2006)¹²⁶ provides a comprehensive overview of attitudes and use of archives by post-colonial scholars who find that colonial records offer the voices of the master narrative but do not reflect the voices of the oppressed and voiceless. She brings across the well-worn point that "history is written by the winners" which is befitting to the understanding of colonial archives because "the archival records were also created by the winners."¹²⁷ In post-colonial societies the colonial archives have been subject of scholarly research to read them "against the grain" in an effort to extract information and voices that had been silenced. In "Sub-altern Studies" and "post-colonial discourse", she writes, "the records of colonialism have been deconstructed, reconstructed, parsed and diced in an effort to correct injustices, identify and vindicate the oppressed, demystify the 'winners,' and confront colonialism in all its

¹²³ *ibid*: p.78

¹²⁴ Hamilton, Carolyn et al. (ed.) (2002)

¹²⁵ South Africa, Truth and Reconciliation Commission (1998)

¹²⁶ Bastian, J.A. (2006)

¹²⁷ *Ibid*: p.268

ugliness.”¹²⁸ Theories on colonial and post-colonial studies have gradually shifted together with the social thinking from privileging the winners and the powerful to celebrating the resilience and resistance of the colonized. As a conclusion, she proposes to expand the interpretation of provenance as a theoretical tool to deal with the issue.

Several authors warn about the fallacy to take the colonial record at face value. Knight (2005)¹²⁹ takes the Umbgrove Commission in Java as an example how colonial information collection was already, in its attempt to compile statistical information of the “Native” society so that it could be better exploited economically, distorting the information towards preconceived familiar concepts, and how this distorted information became an autonomous source for economic and social change. As one of the few empirical studies dealing with the content and compilation of colonial archives, this is highly relevant to the present study. Knight observes that “colonial projects of measuring, counting and classifying were enterprises not only of discovery but of construction, which left their impression both on the minds of colonial administrators and, mediated through a whole variety of influences, on rural society itself.”¹³⁰

He also makes important observations on the role of the (mostly lacking) language proficiency of colonial administrators and their reliance on local intermediaries in the collection of information. These are important issues in the recording of person-related records as well: How far were colonial administrators able to grasp the indigenous naming system? Were they able to understand their phonetics, and render them adequately in writing? How far were they tempted to just invent names more convenient to their own phonetic system, or just use numbers (contract numbers, pass numbers)?¹³¹

Likewise, Hagan (1978)¹³² stresses the point that basically all records on American Indians in U.S. archives are the product of non-Indian administrators who “are often lamentably ignorant of what they were observing and trying to describe. [...] Probably neither of these white men had known anything about Indians before being assigned as Indian agents. Nevertheless, to students

¹²⁸ *ibid*: p.269

¹²⁹ Knight, G. Roger (2005)

¹³⁰ *Ibid*: p.553

¹³¹ cf. the frontispiece with the poem by Simon Zhu Mbako, and Figures 26 and 29

¹³² Hagan, W.T. (1978): Archival captive – The American Indian, *The American Archivist*, vol.41, no.2, p.135-142

reading their reports a century later, they are primary sources and they carry weight.”¹³³

Nevertheless, American Indians in the United States are today engaged in efforts to make such sources as well as the scholarly works of anthropologists and their museal collections available to their respective communities, as recently discussed in a special issue of the “Journal of Western Archives”.¹³⁴ This has to be seen against the background that, like in Canada and Australia, an entire generation of “Natives” was forcibly alienated and stripped of their cultural identity in institutions such as boarding schools with the declared intention to “kill the Indian and educate the man”,¹³⁵ and the chain of oral and practical cultural transmission broken. The efforts described in these articles, however, focus on recovering a lost cultural heritage of a community, and not on re-establishing individual genealogical ties to this community.

The articles discussed above are those that come closest to ask the questions of the present study. They are mainly based on the evaluation of secondary sources; none of them has done a systematic evaluation of the contents and procedures of archives with regard to the omission or suppression of indigenous archives. Most of the literature studies from the African continent on colonial archives and the immediate post-colonial era are mainly concerned with technical detail problems; in particular preservation issues that arise from climatic conditions and the lack of financial and human resources.¹³⁶

A number of other studies are contributing to various aspects of the problem of colonial archives. Noteworthy are the following:

Lovering (2010)¹³⁷ rightly observes that “Colonial administration has been the subject of extensive study. However, this has rarely cast light on recordkeeping habits and technologies.”¹³⁸ He then proceeds with detailing the technicalities of recordkeeping in today’s Zambia and Malawi under colonial rule. Unfortunately, this again is a work based almost exclusively on secondary literature, and Lovering focuses on the administrative processes and does not

¹³³ Ibid., p.137

¹³⁴ Journal of Western Archives, vol.6, issue 1; in particular O’Neal, J.R. (2015) and Lewis, D.G. (2015)

¹³⁵ O’Neal, J.R. (2015:6)

¹³⁶ A typical example is the UNESCO-sponsored RAMP study, “The status of archives and records management systems and services in African member states”, Paris: Unesco, 1985

¹³⁷ Lovering, T.J. (2010)

¹³⁸ Ibid: p.2

attempt at all to establish which kinds of records were compiled and preserved, and why.

Manoff (2004)¹³⁹ discusses, amongst other, the inflationary and indiscriminate use of “the term ‘archive’, which has become a kind of loose signifier for a disparate set of concepts.”¹⁴⁰ She refers to contemporary discussions about the definition and interpretation of “archives”, and observes that (parallel to the development of women’s studies) “postcolonial studies is highly suspicious of the colonial record and could be defined, in part, as an attempt to locate the voices of the silenced native within the literature produced by colonial powers.”¹⁴¹ And – highly relevant for the present study – she observes that “there is currently a widespread sense that even government records that appear to be mere collections of numbers are, in fact, already reconstructions and interpretations. Someone decided what was worth counting and how to count it.”¹⁴² But again, this article is purely based on secondary literature.

Punzalan (2007)¹⁴³ explores, using the example of the Philippines, the apparent contradiction that an archives is “materially a colonial creation and a manifestation of colonial domination” but at the same time “represents a common and collective past that consequently contributes to the formation of a ‘national consciousness’ and ironically reinforces the idea of nationhood of the formerly colonized territory.”¹⁴⁴ This is after all not so ironic: it only reflects the fact that modern nation states are often creations of colonialism that did not exist as entities before colonialism. Punzalan’s article is based on primary archival research, and contrary to Lovering (see above) he is acutely aware of the wide gap between colonial record and the reality of the colonized. However, he also does not explore the actual forms in which this gap manifests itself.

¹³⁹ Manoff, Marlene(2004): Theories of the archive from across the disciplines, *Libraries and the academy*, vol.4, no.1, p.9-25

¹⁴⁰ Ibid: p.10

¹⁴¹ Ibid: p.15

¹⁴² Ibid: p.13

¹⁴³ Punzalan, Ricardo L. (2006): Archives of the new possession, *Archival science*, vol.6, p.381-392

¹⁴⁴ Ibid: p.381

Stoler (2002)¹⁴⁵ is exploring the use of the colonial archives as a source for anthropological research, and the “move from archives-as-source to archives-as-subject”. She cites examples of research based on reading colonial archives “against the grain” but cautions, “How can students of colonialism so quickly and confidently turn to readings ‘against the grain’ without moving along their grain first?”, or in other words, understanding the processes how they were created. The study presented here is trying to do exactly this at the example of Native estate records: exploring the chain of actions that created and archived or destroyed them.

2.7 Conclusions

In conclusion, one can confidently state that the problems inherent to the use of colonial archives as a source of information have been widely discussed, that however an empirical study on the absence or inaccessibility of certain information in colonial archives is sorely missing. In addition, none of the reviewed literature (with the possible exception of Josias (2011)) takes the needs of the non-academic user of archival information, in particular person-related records, such as an estate or adoption records into consideration: all studies claiming the one-sidedness of colonial archives are written from the standpoint of the academic researcher. One can also state that the awareness of this problem amongst African archivists is acutely lacking, and that while observing the lack of a record-keeping culture amongst postcolonial government bureaucracies, they fail to realize, and might possibly perpetuate the shortcomings of colonial record-keeping and archiving.

There is no single study of gaps in archival collections due to the colonial procedures that are leading to unanswered requests by current users. Studies about the problems of archives in decolonized countries, and in particular African countries, tend to focus on problems of current records management, maintenance, training, preservation and displaced archives. Questions about the content of colonial archives - what their collections included or excluded and how these collections support person-related inquiries by citizens - are rarely asked.

¹⁴⁵ Stoler, Ann Laura (2002): Colonial archives and the art of governance. *Archival science*, vol.2, p.87-109

A recurrent feature of the literature about colonial archives, and African archives in particular, seems to be the tendency to re-iterate and re-use already published research, without adding further original source research. It was observed by CODESRIA that one of the major weaknesses of contemporary social research in and about Africa is its lack of careful attention to epistemological and methodological issues, as well as misapplication of theory and methods, leading to pre-determined outcomes taking precedence over science. “The result is that in those debates, studies produced on Africa come across as a mix of purely literary discourses without an empirical anchorage, or anecdotes hidden under a “scholarly” discourse that is not only pretentious but also vacuous. Consequently, the knowledge produced is bereft of heuristic value and simply becomes an element that, wittingly or unwittingly, justifies a predetermined set of economic, political and social policies.”¹⁴⁶

While postmodernism has contributed to a critical reading and interpretation of archival sources, it might at first sight appear not be particularly helpful in targeting the apparent gaps of simple factual information that most non-academic users are looking for. Nevertheless, postmodernist archival thinkers may contribute more insight into recognising and possibly closing the colonial archival gaps than industrious records managers. In his thought-provoking article “Jacques Derrida meets Nelson Mandela”, Verne Harris (2011)¹⁴⁷ offers no detail analysis of the content of archives but he highlights the importance of working with archives. Referring to South Africa’s “Truth and Reconciliation Commission” (TRC) that dealt with the legacy of the human rights abuses in apartheid South Africa, he says,

“The really hard work, the work which will truly embrace damage and offer healing, remains to be done. And this challenge confronts the country in a context where the national archival and heritage systems, the ‘deep memory’ systems if you like, are, in truth, national systems in name only.”¹⁴⁸

This observation goes right to the core of the problem. And Harris makes another important observation:

¹⁴⁶ CODESRIA Sub-Regional Workshop for Social Research in Africa, 2011 Session for Eastern and Southern Africa: pp.1. <http://www.codesria.org>, accessed 2011-03-11

¹⁴⁷ Harris, Verne (2011:117)

¹⁴⁸ Ibid.

“Legacies are never received; they are only ever made and re-made.”¹⁴⁹

In other words: The colonial archives that we have inherited are not something that remains the same; it is up to each generation to earn it by working on it. This sentiment can only be underlined by any archivist who has ever organized, appraised and described archival fonds. Harris cites Derrida (2002): “To inherit is to select, to sort, to highlight, to reactivate [...]. A legacy must retain an undecidable reserve.”¹⁵⁰ This is, of course, meant here in the context of interpretation of the inherited text. But it is just as well applicable to the discovery work required from the archivist when it comes to the seemingly missing person-related records.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

3 Methodology

3.1 Introduction

This is a historical study following the inductive methodological approach to collect and analyse data. Taking a cue from the observation of anecdotal evidence – namely that there have been fruitless searches for requested “Native estate” records in the colonial archival collections in custody of the National Archives of Namibia – it interrogates specifically the “deceased estates” along the timeline of their existence.¹⁵¹

3.2 General methodological considerations

The present study employed a historical case study design, exploring the relationship between the historical legal environment, the creation, management, disposal, listing, appraisal, destruction, archiving, indexing and metadata enhancement of the Native estates records and their alleged absence from the NAN.

An in-depth exploration of documents and records was done with an open mind, using multiple sources of data in order to gain a deeper understanding of the Native estates records creation, management and archiving history from various perspectives. The choice of case study as an appropriate design for the present study is further supported by Yin (2009:4), who opined that, case study is relevant when the research “question requires an extensive and in-depth description of some social phenomena.”

“Case study research is useful in the study of “why” and “how” questions because these deal with operation links to be traced over time rather than with frequency or incidence”, (Benbasat, Goldstein and Mead, 1987: 371).

¹⁵¹ I am consciously avoiding the term “records lifecycle” that lately has become a catchphrase for narrow-minded business records managers – for a salient example see Hoke, GEJ (2011), in contrast to the inclusive “records continuum” as proposed by Atherton, J (1985)

The process of collecting data for this study was exploratory because the study does not adopt any hypothesis for testing. The hypothesis usually originates from the explanations emerging from the review of the literature. The topic being investigated in this study is under-researched, and therefore there is inadequate “experience, knowledge, or information from the literature upon which to base propositions.” Baxter & Jack (2008:554). This study explored the case for the “deceased Native estates records” in depth, in order to understand and explain retrospectively what contributed to them apparently not being available at the NAN.

Given the unproven assumptions about the cause of this discriminatory trend, it was necessary to review the entire process through which such records were produced or wherever the neglect of various steps in the records continuum may have led to the virtual disappearance of these deceased Natives’ estates records.

The research process was historical; it investigated the phenomena retrospectively both in its legal environment and in the actual administrative work processes. The research procedures and processes adopted in the present study are supported by Thomas (2011:146), who reported that, retrospective studies involved the collection of data related to the past.

The study adopted an inductive methodological approach to guide the exploration of the documents. Data collection and analysis took place sequentially, from the South Africa and South West Africa legislation to the administrative processes of record creation, management and disposal among others, following the logical steps of continuous custodianship of these records after their transfer to the Archives, such as listing, appraisal, destruction or preservation, indexing and public access.

3.3 Data collection

The main sources of data for this study were extant records, such as, legislative documents, National Archives of Namibia administrative files, finding aids, as well as the deceased estates records themselves. Data collection relied mostly on records and documents, because most resource persons who had decision making authority in the estates records production and preservation processes at the time, and who should have naturally been targeted for participation in

the study are now no longer alive, thus leaving the record as the only source of evidence of what happened.

An effort to interrogate written personal testimonies about the involved processes was made but remained fruitless, as the few existing published reminiscences of Magistrates and Native Commissioners who worked in the former South West Africa are silent about this aspect of their work.¹⁵²

Data collection instruments included document analysis, observation and data triangulation.

It should be mentioned here that, as this study is dealing with person-related records, due consideration has to be given to ethical issues of confidentiality and privacy. Although under Namibian law all the interrogated records are publicly accessible, the researcher has to consider whether the mentioning of personal names from case files would violate the privacy of the concerned officials or their descendants, or the privacy of the descendants of the deceased persons.

Since the officials have been mentioned only in the context of actions done in their official capacity, this concern does not apply to them.

With regard to the named deceased whose estate files were interrogated, the researcher has taken care that no details are mentioned that could harm or embarrass any descendants. While it might have been possible to anonymize the data and to conceal names in the facsimiles, the researcher feels that this would be a mechanical application of principles, and would again deny those persons the honour of a name, just as the colonial system denied it to them by reducing them to numbers.

3.3.1 Legal and administrative provisions

The study starts with the legal provisions for creating, administering, and disposing of estate records (Chapter 4). This required looking into the historic legislation and subsidiary legislation on the administration of estates; on the racial division of the population; on the administrative set-up of the administering institutions; and into archival legislation.

3.3.1.1 Primary legislation

¹⁵² Ahrens, F.W. (1948); Guthrie, F.H. (s.d.); Blignaut, B. (1961); Blignaut, B. (1965)

The methodology to find the relevant primary legislation followed standard legal reference works, which allowed the researcher to proceed backwards from current legislation to the earlier historic versions by following the trail of repeals (which are always mentioned in later versions).¹⁵³ Here the researcher had to take the complicated legislative history of Namibia into account, which is a mix of locally (South West African) promulgated legal instruments and South African legislation. In all cases, it had to be carefully established whether and when a South African legal instrument was made applicable in Namibia.

3.3.1.2 Subsidiary legislation

For the subsidiary legislation (that is, law made by an executive authority under powers delegated from a legislature by enactment of primary legislation), the researcher relied on collections of administrative circulars which could be extracted from the archival files. Unlike the primary legislation, which has to be published in government gazettes and is retrievable through legal textbooks, commentaries, and indexes, the subsidiary legislation is often not getting immediately into the public domain, being not published but only communicated in administrative circulars through government channels.

Most of the circulars concerning the administration of Native estates were issued by two different South African government departments (the Department of Justice, and the Department of Native Affairs and its successor departments¹⁵⁴), and therefore the primary archival copy of these circulars would be preserved in the South African National Archives, which could not be consulted in the course of this study. However, local South West African offices had usually collected these circulars as a basis of their daily operations, and had often transferred them to the Archives, while theoretically they could have destroyed them as mere duplicates after the prescribed retention period. Therefore fortunately a reasonably complete set had been preserved in scattered locations within the NAN. These circulars (retrievable through the databases and finding aids of the NAN) were researched systematically for references to estate records.

¹⁵³ NAMLEX (2010); Burman's (1997); Rosenow, R.E.G. (1957-1962)

¹⁵⁴ The Department frequently changed its name, see Chapter 4.2.2.

3.3.2 Identifying existing Native estate records and their coverage in databases and finding aids

Subsequently, the study interrogates the archival holdings for the presence of Native estate records in three steps (Chapter 5). To identify the Native estate records, a careful reading was applied to:

1. All electronic finding aids (databases) of government and court records;
2. All manual finding aids of all archival fonds where, according to the legal and administrative frameworks, such records could be expected;

And the existence of actual estate records was then confirmed by:

3. Direct examination of the resulting file references.

A statistical overview of the occurrences of Native estate records was drawn up.

Documents and records were observed, read and triangulated to extract meaning and to construct reality from the perspective of the creators and to inductively provide explanations and interpretations of the findings. The appearance of the Native estate records identified was captured photographically, alongside the space they occupied at the NAN, how they physically looked like and how they were structured as physical entities. A comparison with the corresponding Whites' estates records revealed/established colonial or racial bias.

3.3.3 Following the trail of estate records

This is followed by an analysis of all potential or actual steps from creation, through maintenance and transfer or destruction, to ingestion and appraisal at the archives, in order to establish why estate records are present or absent at the Archives (Chapter 6). The chapter will establish to which extent estate records were created, how they were maintained and shifted between offices in the course of their administration, whether they were possibly destroyed at the record-creating office with or without authorization by the Archives, whether they were transferred to the Archives, and whether they were possibly destroyed after appraisal at the Archives.

The only available source to follow these steps is the paper trail left by archival inspections, disposal requests and responses, destruction certificates, transfer requests and responses, appraisal reports and annual reports in the correspondence files of the NAN and in the correspondence files of the creating institutions.

3.3.4 Assessing access at the Archives

In Chapter 6.1, the various steps for facilitating retrieval of records at the Archives are analysed and the ease of access to the estate records is interrogated and discussed. Drawing on the identification of estate records as done in Chapter 5, the steps that are currently needed to find a specific estate record at the NAN are traced and a comparison of the required steps for finding White estates and Native estates is made. The process of archival processing and indexing at the NAN is interrogated by analysing annual reports, work programs and minutes of staff meetings.

3.4 Research Questions

The present study was guided by the main research question: (1) How were deceased Native estate records produced, managed and archived in colonial Namibia, 1884 to 1990 and why are they not retrievable when requested by post-colonial users? This main research question is broken down into the following sub questions:

- 1.1. How did the legislation deal with the creation of deceased estate records for persons previously classified as Natives under colonial and apartheid administration of Namibia?
- 1.2. How was the legal framework implemented, did it lead to Native estate records being registered/created, managed and archived?
- 1.3. To what extent were the Native estates records processed and indexed by the Archives?

Table 1 below shows how the main research question was broken down further into sub-questions taking into account the different stages or phases and steps in the records production process.

Table 1. Breakdown of Research Questions

Research Questions	Sources of Data	Methods Used
1.1.How did the legislation deal with the creation of deceased estate records for persons previously classified as Natives in Namibia under colonial and apartheid rule?		
What was the legal basis for creating estates records?	Laws, regulations, notices, ordinances, proclamations, circulars	Document analysis, Data triangulation
Were there discriminatory legal provisions between white and Native estates?	Laws, regulations, notices, ordinances, proclamations, circulars	Document analysis, Data triangulation
1.2.How was the legal framework implemented, did it lead to Native estates records being registered/created, managed and archived?		
How were the legal provisions followed in practice?	Correspondence files, Estate records if present	Document analysis, Data triangulation
Were Native estate records destroyed, and to what extent?	Correspondence files	Data triangulation, Document analysis
Were Natives' estates records actually transferred to the Archives, and to what extent?	Correspondence files, Finding aids, Databases, Estate records if present	Observation, Document Analysis, Data triangulation
1.3.To what extent were the Native estates records processed and indexed by the Archives Depot?		
What happened to the Native estate records after their transfer to the Archives?	Correspondence files, Internal procedural records of the Archives, Finding aids	Document analysis
To what extent were the Native estates records processed and indexed by the Archives?	Finding aids, Databases, identified estate records	Observation, Document analysis, Data triangulation

3.5 Data Analysis

It is not applicable to this study to establish a clear-cut distinction between data collection and analysis because data analysis started as soon as the collected data became available, but also because data collection was guided by what needed to be analysed. To avoid collecting useless data, what needed to be analysed was always in mind in deciding what data to collect. Data analysis was done in stages, starting with analysing legislative framework because this was important firstly to establish the legal basis of creation, management and archiving of the Natives' estates records.

3.5.1 Analysis of the Legal Framework

Step 1: Data analysis procedures started with the individual review of every collected Natives estates legislation to establish whether (1) the specific South African act was made applicable to South West Africa and in what context; (2) a government notice announcing the coming into effect of the particular legislation existed; (3) regulations providing guidelines on how the act or ordinance should be implemented and under what administrative structures.¹⁵⁵

Each legal instrument was analysed by reading it in order to understand its meaning and its intentions. The acts passed by parliament have no consequences unless their application is guided and put into practice by subsidiary legislation.¹⁵⁶ Therefore the analysis had to take consideration of the amendments, repeals, announcements, notices, regulations and codes.

¹⁵⁵ It is important to note that South African laws were not automatically applicable in the mandated territory of South West Africa, and that the settler parliament under the name of "Legislative Assembly" which existed in South West Africa, had no power to pass Acts of Parliament, although it could issue Ordinances. Laws were passed by the South African Parliament and made applicable to South West Africa by inserting a specific clause in the act or in the regulation or by a notice in the government gazette.

¹⁵⁶ "Subsidiary legislation" is the term commonly used in Namibia for what is known elsewhere also as "delegated legislation". Wikipedia defines: "Delegated legislation (also referred to as secondary legislation or subordinate legislation or subsidiary legislation) is law made by an executive authority under powers given to them by primary legislation in order to implement and administer the requirements of that primary legislation. It is law made by a person or body other than the legislature but with the legislature's authority. Often, a legislature passes statutes that set out broad outlines and principles, and delegates authority to an executive branch official to issue delegated legislation that flesh out the details (substantive regulations) and provide procedures for implementing the substantive

The study used data triangulation to authenticate the act. For example, if no government notice announcing the coming into effect of legislation was issued, it means that such a law was never made applicable, never came into operation, and therefore cannot be analysed.

This is illustrated by section 119 of Administration of Estates Act, No. 24 of 1913, which states that this act “shall commence and come into operation on a date to be fixed by the Governor-General by a Proclamation in the Gazette.”¹⁵⁷ As well as, section 27 of Natives Administration Proclamation, No. 15 of 1928, which provides that, this proclamation “shall commence upon a date to be fixed by the Administrator by Notice in the Gazette: Provided that in such Notice the Administrator may exclude from application any specified part or provision of this Proclamation which shall thereupon not apply until brought into operation by further Notice in the Gazette¹⁵⁸.”

The first stage of data analysis has to deal with these issues including having to establish whether a South African act was applied to Namibia whole, or whether it was made applicable only to specific areas of the country and or to specific group of people.

The legislative documents were analysed whole (the act or ordinance together with its amendments, proclamations, repeals, notices, and regulations) to identify the prescribed process, the steps and procedures how the Natives' estates records were created, managed, disposed and archived. This analysis revealed a complicated picture of frequent successive repeals, amendments, exclusions, definitions and redefinitions and reservations.

3.5.2 Analysis of the NAN Administrative Files

Step 2: Document research on the “archives of the archives”, which is a group of archival records containing the NAN's administrative decisions and its correspondence files on disposal (transfer and destruction), listing, appraisal,

provisions of the statute and substantive regulations (procedural regulations). Delegated legislation can also be changed faster than primary legislation so legislatures can delegate issues that may need to be fine-tuned through experience.”
http://en.wikipedia.org/wiki/Delegated_legislation accessed 2014-04-06

¹⁵⁷ Administration of Estates Act, No. 24 of 1913 was only applicable to the Whites' estates

¹⁵⁸ Natives Administration Proclamation, No. 15 of 1928 regulated the administration of deceased Natives estates

indexing and meta data enhancement, as well as, minutes of staff meetings and annual reports, was carried out.¹⁵⁹

NAN's administrative files "Archives of the Archives" were read and analysed to establish whether, deceased Natives' estates records were destroyed by their creators or transferred to the NAN and how the NAN dealt with them after taking over their custody.

The preliminary review of the archives administrative files identified major processes or stages which the Natives' estates records went through before they could be accessed by the public at the NAN. These processes include creation, maintenance, transfer, listing, appraisal, destruction or preservation, indexing and public access. The study traced incidences of neglect in steps and procedures in each process and how they were linked to the research questions.

In working with the primary records, the study followed Yin (2009:149), who put it lightly that: "Play with the data in a preliminary sense, as a prelude to developing a systematic sense of what is worth analyzing and how it should be analyzed." These administrative processes formed part of the analytical framework for examination and presentation of the findings.

3.5.3 Analysis of Written and Digital Discovery Tools

Step 3: The NAN's access tools (databases, finding aids, lists) used to retrieve records were analyzed and compared with the actual NAN holdings to establish whether the deceased Natives' estates records can be physically present in the archives without them being processed in the finding aids and archives databases.

Both written and digital finding aids were analyzed to establish the type of information entered in them, and how it was entered. This enabled the study to establish whether it is possible to search for estates file for a deceased Native by name, as compared to deceased Whites. Qualitative analysis of the various written and digital discovery tools at the NAN established the level of effort invested in the accessibility of the existing deceased estates records¹⁶⁰ and

¹⁵⁹ These are largely contained in the "archives of the archives" (archival fonds [ARG](#) at the National Archives of Namibia)

¹⁶⁰ Written finding aids in various stages of completion; databases FILES (for government records) and COURT (for court records)

establish the extent of colonial and racial bias in the analytical processing (listing, digitization, subject indexing) by the NAN.

The finding aids were analyzed qualitatively by describing and explaining what was observed on the database or on the lists or on the written finding aids. To some extent, these took a form of a quantitative assessment of whether the observations showed a significant trend or were merely accidental.

Step 4: Qualitative assessment of databases, conventional finding aids and subject indexing were further analyzed to establish whether additional processing was done by the NAN in order to facilitate preservation and particularly to provide access to deceased Natives' estates records and to establish whether there were colonial and racial bias in the analytical processing (listing, digitization, subject indexing) at the Archives.

Based on the results of the above empirical research, the author

1. Presents explanations on the legal and ideological framework leading to the assumed gaps;
2. Makes recommendations on future processing and indexing of Native estates;
3. Establishes options for surrogate records to be explored to complement the shortcomings of the Native estate records in the archives.

4 Legal Framework for Administration of Deceased Native Estates

4.1 Introduction

The entire process through which “deceased Native estates records” were produced, maintained and disposed in colonial Namibia was explored in order to understand and explain retrospectively what contributed to them not being traceable at the National Archives of Namibia (NAN), while the corresponding records of the White settler population are easily located¹⁶¹ and served to clients. This chapter presents results of the study, which are reported in two parts.

Part one focuses on the legal framework which regulated the registration, management and disposal of deceased Native estates records. It presents the findings for research questions (1.1 - 1.2)¹⁶² in two parts. The first part covers the German colonial period (1884-1915) while the second part reports on the South African colonial and apartheid period (1915-1990).

Presentation of research results follow a convention that, the racial terms (Native, Bantu, White and Coloured) are always written with a capital to indicate that these are labels given by apartheid, and not generic terms, but, in citations the original spelling is followed.

4.2 Legislative context

4.2.1 Colonial Succession and the Fate of Records

¹⁶¹ The archival group of White estates “EST Deceased Estates” is accessible at the National Archives of Namibia and it is searchable in a separate finding aid arranged alphabetically, as well as in the database “FILES” which provides metadata of archived government records on a file-by-file basis. No comparable listing exists for the native estates in the National Archives of Namibia.

¹⁶² See Table 1: Breakdown of research questions

Several indigenous communities in South West Africa/Namibia established government structures that had adopted a culture of documenting their business transactions and written constitutions.¹⁶³ Customary law was dealing with various aspects of their administration including inheritance.¹⁶⁴ Their records included registration of birth, death and marriage. This was mainly done by missionaries, but among the many innovations that Hendrik Witbooi introduced, he also apparently established a civil registration process which can be inferred from fragmentary notes and reports in his papers, although no consolidated lists or registers have survived.¹⁶⁵

When imperial Germany claimed Namibia as a “Protectorate”, it introduced a sophisticated record keeping system and created records, including estate records. A central registry was set up, a filing system was made mandatory for the officials, and each correspondence item was sewn by hand into blue cardboard folders.¹⁶⁶ Although the establishment of an Archives was being considered in 1912,¹⁶⁷ the German administration did not manage to set it up during their 30-year long rule over Namibia. When South Africa, which was part of the British Empire invaded Namibia during World War I, they found voluminous records all over the seventeen districts of the country.¹⁶⁸

The authority over records seemed very arbitrary since the abrupt end of the German rule and before the League of Nations mandate had come into force. The Union of South Africa which took colonial power following the German surrender placed the country under military rule. Later, after the Versailles Peace Conference stripped German of its colonies, the South African Parliament passed the Treaty of Peace and South West Africa Mandate Act, Act 49 of 1919, to establish a civil administration.¹⁶⁹ Interestingly, this Act was passed before the League of Nations awarded the Mandate to the Union of South Africa. The centre-piece of Act 49 of 1919 is section 2 which gave the Governor-General of the Union of South Africa the power to make and repeal

¹⁶³ Vaderlike Wette, in: NAN: Private Accession A.219; Ryksboek of Bethanie, in: NAN: Private Accession A.0925 (ELCRN Archives, no. X 15.21)

¹⁶⁴ Schultz-Ewerth, Erich (1929-1930)

¹⁶⁵ Birth register for Gibeon 1900, in: NAN, A.650, part G, no.1; Death register for Gibeon 1900, in: NAN, A.650, Part 2, p.77v + 80; Death register in letter by Schoolmaster Johannes Frederiks to Hendrik Witbooi, Gibeon 12.6.1891, in: NAN, A.769, item L.1054

¹⁶⁶ ZBU [69] A.II.n.1: Gouvernementsbüro, Registratur, Kanzlei, Bibliothek. Generalia.

¹⁶⁷ ZBU [69] A.II.n.3: Archiv und archivmässige Bearbeitung der Akten

¹⁶⁸ Harper, S. (1973)

¹⁶⁹ The Laws of South West Africa, vol.1 (1915-1922), p.10-12

laws, and to appoint the Administrator for South West Africa/Namibia. The Administrator also acted as Natives Affairs Commissioner.¹⁷⁰ The Versailles Treaty and Act 49 of 1919 did not have a clause on succession of archives or how the new rulers should deal with the records created and abruptly left behind by the defeated enemy.

The peace settlement between Germany and the Allied Powers that officially ended World War I, the Treaty of Versailles signed on 28 June 1919, forced Germany to surrender its colonies.¹⁷¹ The Council of the League of Nations, the world body formed after World War I, in pursuance of article 22 of the Treaty of Versailles, mandated on 17 December 1920, the Union of South Africa to administer the territory of German South West Africa/Namibia, and subject to the terms of the said mandate.¹⁷² The Union of South Africa accepted the mandate “to promote to the utmost the material and moral wellbeing and the social progress of the inhabitants of the territory.”¹⁷³

On 27 July 1925, the Union of South Africa passed the South West Africa Constitution Act (Act 42 of 1925), which revoked the powers of the Governor General and instead provided for the establishment of a Legislative Assembly for South West Africa.¹⁷⁴ This Whites-only “Legislative Assembly” was opened on 18 June 1926,¹⁷⁵ but had no full legislative power. “Except with the consent of the Governor – General previously obtained on any particular occasion and communicated to the Assembly by message from the Administrator, it shall not be competent for the Assembly to make an Ordinance in relation to any subject falling within the following classes of matters”.¹⁷⁶ These excluded matters ranged from (a) to (k) covering almost a full page. The Legislative Assembly was reduced to a reprinting service for the annual publication “The Laws of South West Africa” which was limited to reprinting of South African Acts that were made applicable to Namibia, as well as proclamations, regulations, notices by the Administrator for South West Africa. This Legislative Assembly had no

¹⁷⁰ South Africa (1936): Report of the South West Africa Commission. p.9, par.18

¹⁷¹ Germany. Treaty (1919)

¹⁷² <http://www.sahistory.org.za/dated-event/south-africa-mandated-govern-south> ; Preamble of the South West Africa Constitution Act, No. 42 of 1925

¹⁷³ South Africa. Laws (1925): South West Africa Constitution Act, No. 42 of 1925. Preamble, p.734

¹⁷⁴ Statutes of the Union of South Africa, 1925, p.734-800

¹⁷⁵ Dierks, Klaus (2002:185)

¹⁷⁶ Africa. Laws (1925): South West Africa Constitution Act, No. 42 of 1925, p.752

power to pass Acts, but only Ordinances. Matters relating to Native Affairs were amongst those excluded from its competence.¹⁷⁷

Out of the 46 articles of the South West Africa Constitution Act, No. 42 of 1925, none of them make any provision on how the Union of South Africa would “promote to the utmost the material and moral wellbeing and the social progress of the inhabitants of the territory”¹⁷⁸ which was mentioned in the preamble of the act and mandatory in terms of article 22 of Treaty of Versailles. According to Part 1 of the Schedule of South West Africa Constitution Act, No. 42 of 1925, qualification to vote or to be voted for as members to the Legislative Assembly is:

“1. Every European male person who- (a) has been in the territory for twelve months immediately prior to the date fixed under paragraph 3 of this schedule for the commencement of the provisional list; and (b) is 21 years of age or upward at that date; and (c) is a British subject.”¹⁷⁹

The Natives were not eligible to vote or to be voted for in the Legislative Assembly, because obviously they were neither Europeans nor British subjects; yet, the avowed principle of the League of the Nation mandate was to prepare them for self-rule.

As was in the case of the Versailles Treaty of Peace, and the Treaty of Peace and South West Africa Mandate Act, Act 49 of 1919, the South West Africa Constitution Act, No. 42 of 1925, did not have a clause to guide the handling of records in these successions from Germany (1884-1915), to the military period (1915 -1920), to the South African colonial period (1920-1990).¹⁸⁰ As there was also no legal protection and instructions to preserve the German records until the establishment of the Archives Depot in 1939, many records were wilfully destroyed or left to deteriorate. This is evident from the file about the establishment of the Archives,¹⁸¹ and the correspondence of the Archives

¹⁷⁷ *ibid.*, Article 26(a), p.752

¹⁷⁸ *ibid.*, p.734

¹⁷⁹ *Ibid.*, Schedule Section 1 (a), (b), (c), p.766

¹⁸⁰ Ignorance about the importance of records and archives seems to be a common feature of internationally negotiated transitions. As can be inferred from the comprehensive document collection of the Namibian independence process (see Namibia Communications Centre (1989)), the same mistake was incidentally made in the United Nations Security Council Resolution 435 which led to negotiations and agreements preparing Namibian independence between the years 1988 to 1990. This omission has led to the removal of substantial records from Namibia to South Africa during the transitional period.

¹⁸¹ ARG [1], file 1, fol.1

with Magistrates, as well as inspection reports, throughout the country in the 1940s, which contain ample evidence that Magistrates in several districts during the military period and until World War II acted in total disregard of the value of the German records which were often burnt or left to destruction by unsuitable storage. As a result, from more than half of the German districts only the records of White land ownership and a few other accidental files are left, as can be deduced from the finding aids of those district files in the NAN.¹⁸²

4.2.2 Defining the main concepts of the study

As this study is about “Natives” and how the colonial regimes dealt with the administration of their “estate”, it is important to pay attention to the use of the term Native, as a concept, as well as, estate, both as a concept and as a legal process, particularly as understood in the context of the legislative documents reviewed as well as the estates records that resulted from this legal process.

The analysis of the legal framework faced problems in dealing with legal terms and concepts such as “Native” “estates”. This is, particularly, because these Natives estate records were produced within a historical legacy of racial segregation and apartheid governing policy practiced during colonial administrations of Namibia before her independence in 1990. The concept “Native” had been defined in the context of the law but the legal use of the term had been in constant change over time along with political connotation to persons to whom the concept was applied. While the concept “Native” had been frequently (and not always consistently) defined in legislative texts, no single definition of estate was found in all the legislations reviewed.¹⁸³

¹⁸² Of the seventeen surviving district records, only seven (Rehoboth, Swakopmund, Windhoek, Keetmanshoop, Omaruru, Okahandja, and Lüderitzbucht) do somewhat comprehensively reflect the scope of administrative and judicial activity of the offices.

¹⁸³ Administration of Estates Act, No. 24 of 1913; Native Administration Proclamation, No. 15 of 1928; Administration of Estates Act, No. 66 of 1965; General Law Amendment Act, No. 102 of 1967; Administration of Estates Amendment Act, No.54 of 1970; Administration of Estates Amendment Act, No. 79 of 1971; Administration of Estates Amendment Act, No. 15 of 1978. [Later amendments of this South African Act were not made applicable in Namibia]

4.2.2.1 The concept “Estate”

The Shorter Oxford English Dictionary provides thirteen different meanings of the word “estate”, and the meaning applicable to the subject of this thesis is “The collective assets and liabilities of a person, esp. one deceased or bankrupt”.¹⁸⁴ Sisson (1960:256) defines “Estate” as “the property, whether movable or immovable, of a person, partnership or company”,¹⁸⁵ a definition which has to be narrowed down to the property of a deceased person in the context of this study. The study had therefore adopted a post-independence definition of estates because it echoes the essence of what is contained in the estate files that were examined under this research.

An Estate means “all property, movable or immovable, claims and transferable rights which belong to a deceased person but excludes property which immediately before the death of a deceased was family or traditional property held in trust for the benefit of others in accordance with customary law and property which was institutionalized property of a traditional authority and had been acquired and was being held as part of the traditional authority’s property.”¹⁸⁶

The documentation of the legal process of administering an estate of a deceased person results in an estate case file. An estate case file is a file containing estate records and correspondences relating to an individual deceased person. This process¹⁸⁷ includes identifying the deceased person, identifying and registering all assets, establishing whether debts or other claims have to be settled from the estate, establishing whether a valid will (testament) exists, identifying legal heirs, settling all claims and finally distributing the remaining assets to the heirs. In this process, records are created and registered in an estate file.¹⁸⁸ Once this legal process is concluded, the estate file is closed and maintained until it reaches maturity, whereupon it can be transferred to the Archives for permanent preservation.

¹⁸⁴ Brown, Lesley (ed.) (1993)

¹⁸⁵ Sisson, J.J.L. (1960)

¹⁸⁶ Namibia. Law Reform and Development Commission (2012:13-14)

¹⁸⁷ Chapter III and IV of the Administration of Estates Act, No. 24 of 1913 and Chapter IV of Native Administration Proclamation, No. 15 of 1928

¹⁸⁸ Section 8 of the Administration of Estates Act, No. 24 of 1913; Section 8 (4) (c) of the Native Administration Proclamation, No. 15 of 1928; Section 98 (1) of the General Regulations for Bantu Tribal Authorities No.939 of 1953 (in: N.A.77 Proclamations and Government Notices / Native Affairs Department)

Estate files are primarily created to facilitate and document this process. But even when all claims have been dealt with and the estate has been distributed, estate files do not become redundant, they retain a permanent value. Firstly, they might be needed again in a property dispute, for example in settling the estate of a spouse. Secondly – and this is a long-term value for many future generations - they are an indispensable tool for genealogical and family history research. An estates file usually contain a death notice giving details about the deceased such as occupation and last address, and often information about the circumstances of death, many clues about his or her position in life, as well as his or her business connections.

Most important is that an estate file is naming the surviving next of kin and the biological relationship (grandson, daughter, wife, brother) to the persons to whom the property is distributed. It provides information about the age of the person at the time of death (for example, 70 years and five months) from which the date of birth can be deducted from the date of death. This would be particularly important to “Natives” to whom birth registration had not been accessible. Estates files indicate whether the deceased was married or single and the type of marriage because the property would be distributed in accordance to whether the marriage is in or out of community of property and whether civil or customary unions.

The correspondence contained in the estate file can give clues about their addresses, maiden and married names, etc.

For this study, it is also relevant that the correspondence contained in an estate file allows identifying the offices and officers involved, and the procedures followed, in the administration of the estate.

Lastly, an estate file inevitably provides information about the status of a deceased person in life, which allows conclusions not only about the concerned individual, but also generalizations about the socio-economic position of certain classes of people, especially if a large number of such estate records can be statistically evaluated.

4.2.2.2 The concept “Native”

The South African legislation reviewed by this study first uses the term “Native”¹⁸⁹; this changed considerably over time to “Bantu”¹⁹⁰ and “Black”¹⁹¹; but this legislation does not consistently and unambiguously define these terms. They were probably written in the understanding to refer to the indigenous people of Namibia who were resident in the country before European colonization and were subjected to an inferior status during colonization.

While researching written historical and legal sources, it must be borne in mind that names and concepts – and in particular, concepts that have an ideological connotation – change their meaning and definition over time. Such changes can to some extent be traced by comprehensive and contemporary dictionaries. However, when it comes to an extremely fluid and extremely ideological term such as “Native” in a given historical situation of colonial and apartheid rule, and particularly when it comes to the interpretation of legal and administrative texts, it is necessary to consult the appropriate legal definitions and legal dictionaries and further contextual reading. In the context of this study the Dictionary of legal words and phrases, compiled by C.J. Claassen¹⁹², a former Judge of the Supreme Court of South Africa was consulted. Its references to “Native” fill three pages, and include cross-references to 49 other keywords, a clear indication of the complexity and fluidity of the term. Likewise, Sisson (1960:491-492) devotes one and a half pages to this term, citing 28 often contradictory court decisions.¹⁹³

As outlined in Table 2 below, not only the meaning but also the term of an ideological concept may change over time, sometimes arbitrarily chosen for political or “cosmetic” reasons. This is evident from the legal documents used by this study where the official name of the government department of “Native Affairs” changed to “Bantu Affairs” and eventually to “Plural Relations and

¹⁸⁹ Section 2 of the Administration of Estates Act, No. 24 of 1913; Section 35 of Native Administration Act, 38 of 1927; section 1 of Population Registration Act 30 of 1950

¹⁹⁰ Section 8 of the Native Affairs Amendment Act, No. 46 of 1962

¹⁹¹ Native Administration Act, No. 38 of 1927, this legislation was amended more than 40 times and in some cases with a different name such as, Plural Relations and Development

¹⁹² Claassen, C.J. (1976:vol.3,p.3-6)

¹⁹³ Sisson, J.J.L. (1980:491-492)

Development” while persons administrated by these departments changed from being called “Native” to “Bantu” to “Black.”¹⁹⁴

Ulrike Lindner discusses extensively how these terms emerged and how they were contested in Namibia under the German rule.¹⁹⁵ The corresponding German term for “Native” was “Eingeborener”. For the contemporary general public, the term seems to have been considered as self-evident; the most extensive German encyclopaedia of the time, Meyer’s *Konversationslexikon*, does not even list the term.¹⁹⁶ The German colonial encyclopaedia defines “Eingeborene” as:

“nach dem Sprachgebrauch die von den Europäern in fremden Ländern angetroffene Bevölkerung, soweit sie dort heimisch war. [...] Zu den Eingeborenen gehören ferner alle Mischlinge, sofern sie nicht durch eine rechtsgültige Ehe ihrer Eltern eine Staatsangehörigkeit besitzen. Eingeborene haben keinen Anteil an der Rechtsordnung der Weissen.”

(“In general usage the population found by Europeans in foreign countries, as far as it was indigenous. [...] Mixed-race persons are considered Natives, unless they are citizens though a legally valid marriage of their parents. Natives are not part of the legal system of the Whites.”)¹⁹⁷

The main German law defining the position of the German colonies, the *Schutzgebietsgesetz* of 1900,¹⁹⁸ uses the term *Eingeborene* in par.2 (where it excludes *Eingeborene* from the legal procedures laid out in the law), but does not define it. The authoritative commentator Gerstmeyer acknowledges the lack of a definition but interprets that “Es sind darunter die Angehörigen der im Schutzgebiet heimischen farbigen Stämme zu verstehen, einschliesslich der Mischblutstämme, z.B. der Bastards in DSWA.” (“This is to be understood as

¹⁹⁴The Department of Native Affairs was renamed “Bantu Affairs and Development” with Verwoerd’s first Cabinet in October 1958 (State of the Union yearbook for the Union of South Africa, 1959-60, p.31) and “Department of Plural Relations and Development” in 1978 (Official yearbook of the Republic of South Africa 1978, p.162) and soon thereafter in “Department of Co-operation and Development” until it was eventually split in 1985 into the “Department of Constitutional Development and Planning“ and the „Department of Development Aid“ (http://de.wikipedia.org/wiki/Bantu_Administration , accessed 2015-03-22)

¹⁹⁵ Lindner, U. (2008)

¹⁹⁶ Meyer’s *Grosses Konversationslexikon* (1905ff.), 5. Band: Differenzgeschäfte bis Erde.

¹⁹⁷ Schnee, H. (1920). Translation by W. Hillebrecht

¹⁹⁸ Gesetz betreffend die Rechtsverhältniss der deutschen Schutzgebiete, Reichs-Gesetzblatt 1900, p.813

the members of the coloured tribes indigenous to the territory, including the mixed blood tribes, e.g. the Basters in German South West Africa¹⁹⁹. The German settler society in the colony tried to put in place a classification system that would distinguish White persons from persons born out of marital unions of German settlers and “Native” women. They eventually solved the problem by declaring persons from such unions as “illicit” and eventually “Native”.²⁰⁰ Such a decision is by no means obvious, and it was highly contested not only by the respective married couples but also by some (by far not all!) representatives of the Christian mission churches as well as by the (Catholic) Centre Party and the Social Democrats in the German Parliament.²⁰¹

While the German colonial administration followed a rather simplistic dichotomy between “White” and “Native”, the South African apartheid administration evolved a complicated multiple classification system²⁰² which not only distinguished between “White”, “Bantu”, “Coloured”, “Asian” but also within those “groups” by further “tribal” classifications, all of them with legal implications which again changed over time. The impossible task of defining a scientifically unsound category such as “race”²⁰³ was revealed in all its absurdity in the racial re-classifications of individuals.

There were no standard criteria by which the term Native was defined. For example,

- by 1913, the definition of the term Native was by belonging to “an aboriginal race or tribe of Africa”;²⁰⁴
- by 1927, a Native was also any “person living in residential area under the same conditions as a Native”;²⁰⁵ possibly this definition was invented to exclude from the exclusive White brotherhood any persons who were “going native”

¹⁹⁹ Gerstmeier, J (1910:25). Translation by W. Hillebrecht

²⁰⁰ There is a growing literature about this subject; apart from the cited U. Lindner see e.g. Becker, F. (2004); Roller, K. (2002); Schwirck, H. (1998); Sippel, H. (1995)

²⁰¹ Sippel, H. (1995:153)

²⁰² Population Registration Act 30 of 1950, this act is also known as the pillar of apartheid

²⁰³ Modern geneticists agree that the concept of human “races” as developed during the 19th century is scientifically untenable. See e.g. Dubow, S.(1995)

²⁰⁴ Section 2 of Administration of Estates Act 24 of 1913

²⁰⁵ Section 35 of Native Administration Act 38 of 1927

- by 1950, being a Native was by “acceptance” as a member of any aboriginal race or tribe of Africa, while the same act defined being a “White” person by appearance;²⁰⁶
- by the late 1950s the term Native was to be eradicated by another term “non-European” which was tautologically defined as “a person who is not a white person”;²⁰⁷
- while at the same time a “white person” was defined in a way that left it wide open for arbitrary decisions;²⁰⁸
- by 1962, the term Native was no longer fashionable, the law was amended to eradicate the term Native and instead such persons were referred to as “Bantu” which “has same meaning as native”;²⁰⁹ and,
- by 1963, “Bantu” was defined as “a person both of whose parents belongs or belonged to an aboriginal race or tribe of Africa”.²¹⁰

Wherever it appeared convenient, these definitions were brushed aside and replaced with ad-hoc new definitions. For example, a “Coloured” living in an area set aside for “Natives” is a “Native”. Natives were generally exempt from taxation upon persons, lands, or income, but the High Court of South West Africa decided in 1953 that a Coloured person, although living in a Native reserve, was not to be regarded as a Native for the purpose of the Income Tax Ordinance and therefore liable to pay income tax.²¹¹

Table 2 provides an overview of the inconsistent and tautological definitions of racial terms in the South African legislation.

Table 2. Definitions of “Native” and “Coloured” and “White” in South African legislation

Source	Definition
Section 2 of Administration of Estates Act 24 of 1913	“native” shall mean and include any person belonging to any of the aboriginal races or tribes of Africa South of the Equator

²⁰⁶ Section 1 of the Population Registration Act, 30 of 1950

²⁰⁷ Section 1 of Land Settlement Act, 21 of 1956

²⁰⁸ Section 1 of the Population Registration Act, 30 of 1950

²⁰⁹ Section 8 of Native Affairs Amendment Act, 46 of 1962

²¹⁰ Section 37 of Births, Marriages and Deaths Registration Act, 81 of 1963

²¹¹ The South African Law Reports, 1953(3), p.65

Source	Definition
Section 1 of Native Administration Proclamation, P.11 of 1922	“native” shall mean every male over fourteen years of age one of whose parents is a member of some aboriginal race or tribe of Africa
Section 35 of Native Administration Act 38 of 1927	“native” shall include any person who is a member of any of the aboriginal tribe or races of Africa : Provided that any person residing in an area proclaimed under section six (1) under the same conditions as a Native shall be regarded as a Native for the purposes of this Act
Section 1 of the Population Registration Act, 30 of 1950	<p>“coloured person” means a person who is not a white person or a native</p> <p>“native” means “a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa”</p> <p>“white person” means “a person who in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a coloured person”</p>
Section 1 of Land Settlement Act, 21 of 1956	<p>“non-European” means a person who is not a white person and includes any non-European company</p> <p>“non-European company” means “any company wherein a controlling interest is held by or on behalf or in the interest of a non-European”</p>
Section 8 of Native Affairs Amendment Act, 46 of 1962	“Bantu” has the same meaning as “native”
Section 1 of Coloured Persons Education Act, 47 of 1963	“Coloured person” means “a person classified under the Population Registration Act, 1950 (Act no.30 of 1950), as a member of the Cape Coloured, Malay, Griqua or Other Coloured Group”

Source	Definition
Section 37 of Births, Marriages and Deaths Registration Act, 81 of 1963	“Bantu” means “a person both of whose parents belong or belonged to an aboriginal race or tribe of Africa and includes any person of mixed race living as a member of any Bantu community, tribe, kraal or location.”

Despite the tautological absurdity of these “definitions”, it is necessary to establish the socially and legally defined meaning attached to such terms at their given time, place, and social context, to interpret the historical documents correctly. There is an English proverb “Sticks and stones can break my bones, but words can never hurt me”. But these terms were not mere words, they had concrete and existential consequences for the persons upon whom they were applied, and consequences for their records – for example Native estates records, which is the theme of this study.

4.3 The administration of estates in general under German rule (1884-1915)²¹²

The German Civil Code (*Bürgerliches Gesetzbuch*) which came into effect on 1 January 1900 regulated the administration of estates records during the latter part of German colonial period. The German Civil Code is a comprehensive compilation of private law²¹³, published in a series of five books. The Fifth Book of the German Civil Code, paragraphs 1922-2385 is the most important one for this study as it covers extensively the German Law of Inheritance.²¹⁴ An English translation of the German Civil Code by Chung Hui Wang was published in 1907 and this study utilized the English terminology of German legal concepts in this section.²¹⁵ The law of inheritance regulated the

²¹² It should be mentioned here that it would not have been possible to research this section without the foresight of the National Library of Namibia to preserve the German legal literature that was once held by the German administration library (*Bibliothek des Kaiserlichen Gouvernements*). The holdings of this, as well as other historical special libraries, are kept in the National Library’s “Last Copy Collection”.

²¹³ Achilles, A. (1906)

²¹⁴ Kruger, F.K. (1914:128)

²¹⁵ Chung Hui Wang (1907)

registration process that led to the production of the estates records in German South West Africa during the latter part of the German colonial period.

The Law of Inheritance makes provision for Probate Court (*Nachlassgericht*) to be responsible for dealing with legal aspects of the estates of deceased persons. The Probate Court was not an institution on its own, but in terms of paragraph 72 of Voluntary Jurisdiction Act (*Gesetz über die Angelegenheiten der freiwilligen Gerichtsbarkeit*) vom 17.Mai 1898), Probate Courts functioned under the auspices of the Magistrate Courts.²¹⁶ These courts were generating court records in their daily business transactions. These court records were maintained by the Magistrate Court Registries. The business rules for the Magistrate Court Registries (*Geschäftsordnung*) task the Magistrate Courts (*Amtsgerichte*) with responsibility for the function of the district court records (*Gerichtsschreibereien der Amtsgerichte*). Section 8, paragraph 56, of the Voluntary Jurisdiction Act provides detailed rules about the registration process of deceased estates and creation of an estate file.²¹⁷

The Messenger of the Court (*Gerichtsvollzieher*) is responsible for compiling Estate inventories (lists of the property of the deceased person).²¹⁸ In case of the various business actions and transactions of the Probate Court, for example the official appointment of an Estate custodian (*Nachlasspfleger*), standard forms were developed to be used by the court. The Estate custodian was responsible for the processing of the estate files.²¹⁹ All the actions and transactions of the Estate Custodian had to be documented and can be traced.

However, not the entire estate files were deemed worthy of permanent preservation. The appraisal and destruction of court records was regulated by a “General Ordinance about the Appraisal and Destruction of Records” (*Allgemeine Verfügung über die Aussonderung und Vernichtung der Akten*) of 22 October 1900.²²⁰ In accordance with paragraph 10 of this ordinance, files about estate inquiries were to be destroyed after 30 years,²²¹ but Paragraph 9 of the General Ordinance provides that, inheritance certificates (*Erbscheine*), contracts between co-inheritors, refusals of inheritance, property registers and testaments

²¹⁶ Kayser, Paul (1901:896)

²¹⁷ Kayser, Paul (1901:233-234)

²¹⁸ Müller, H. (1909:216)

²¹⁹ Weizsäcker, Hugo (1900) and Karl Lorenz, p.77-92

²²⁰ Published in Justiz-Ministerialblatt für das Deutsche Reich, 1900, p.582 (Cited according to Müller, H., 1910:1022)

²²¹ Müller, H. (1910:1025)

must be kept for permanent preservation. These estates files which have a permanent value had to be filed separately from other estates correspondence files that had to be destroyed after 30 years (par.13).²²² Appraisal decisions about destruction or preservation of records were regulated by law and not by common sense. The files destined for destructions were seemingly the voluminous correspondence with creditors and debtors. However, evidence of all actions about what was destroyed, when and under whose authority the destruction took place, must be filed and preserved.

4.3.1 German Civil Code in SWA

The German Civil Code was applicable to all territories under German jurisdiction. In German South West Africa, however, the General Ordinance about the Appraisal and Destruction of Records had no practical relevance, because German rule in Namibia lasted only 30 years and no regular destruction would have taken place between 1900 when the code was published and 1915 when German surrendered the territory to the British Empire.

Under the German legislation about inheritance, there are no provisions to discriminate on grounds of race. An exception is a special provision made under paragraph 73 (a) of the Voluntary Jurisdiction Act, for the Magistrate court when administering a case of a foreigner who does not have his/her residence in Germany. This provision regulates that in such a case, the court in whose area any property of the deceased is found will be responsible, while otherwise the permanent place of residence is the decisive factor.²²³

However, until the anti-colonial resistance war of 1904-1908, disputes between Natives (which would include their estates) were expressly excluded from the German jurisdiction by the provisions of the “Protection Treaties”.

4.3.2 Protection Treaties with Local Leaders

The colonial acquisition of German South West Africa was formally based on so-called “protection treaties” between the German Empire and leaders of indigenous communities. In all these initial treaties, the administration of justice

²²² Müller, H. (1910:1024-1025)

²²³ See also, Kayser, Paul (1901:896)

in cases between Natives is reserved to the Native communities' customary law systems. This is evident from the treaty with Joseph Frederiks of Bethanie of 28.10.1883²²⁴; with Jacobus Izaak of Berseba of 28.7.1885 (Article 2)²²⁵; with Manasse !Noreseb of the Red Nation of 2.9.1885 (Article 2)²²⁶; with Hermanus van Wyk of Rehoboth of 15.9.1885 (Article 5)²²⁷; with Maharero of 21.10.1885 (Article IV)²²⁸; with Willem Christiaan of the Bondelzwarts of 21.8.1890 (Article 4)²²⁹; with Jan Hendriks of the Veldschoendragers of 21.8.1890 (Article 4)²³⁰; with Hendrik Witbooi of 15.9.1894 (par. 4).²³¹

These provisions were also explicitly acknowledged in the Imperial Ordinance concerning the legal matters in the South West African Protectorate of 10.8.1890 (par.1)²³² and in the Regulations concerning the administration of justice in the South West African Protectorate of 27.8.1890 (par.1).²³³ Both the ordinance and the regulations state that the jurisdiction of legal cases between Natives is the prerogative of the traditional justice systems (customary law).

²²⁴ Hesse, Hermann (1905: 11)

²²⁵ “*Seine Majestät der Deutsche Kaiser verpflichtet sich,[...] den Kapitän weder in der Erhebung der ihm nach den Gesetzen und Gebräuchen seines Landes zustehenden Einnahmen, noch in der Ausübung seiner Gerichtsbarkeit über seine Untertanen zu beeinträchtigen*”. (His Majesty the German Emperor obliges [...] not to encroach upon the Captain neither in raising the income that is due to him according to the laws and customs of his country, nor in executing his jurisdiction over his subjects [transl. W. Hillebrecht]). Cited in Hesse, Hermann (1905:12-13)

²²⁶ Hesse, Hermann (1905:13)

²²⁷ “*Die Zivil- und Kriminalgerichtsbarkeit im Gebiet von Rehoboth betreffend, wird festgesetzt, dass alle Streitigkeiten der Rehobother Bürger unter einander durch deren eigene Richter und nach ihren eigenen Gesetzen abgeurteilt werden sollen.*” (Concerning the civil and criminal jurisdiction in the area of Rehoboth, it is ruled that all disputes among citizens of Rehoboth shall be judged by their own judges and according to their own laws [transl. W. Hillebrecht]). Cited in Hesse, Hermann (1905:14)

²²⁸ “*Alle Rechtsstreitigkeiten zwischen Hereros unter sich, sowie die von ihnen gegen einander begangenen Vergehen und Verbrechen unterliegen der Gerichtsbarkeit der Landeshäuptlinge*”. (All legal disputes among Herero, as well as the crimes committed among themselves, are subject to the jurisdiction of the country's chiefs. [transl. W. Hillebrecht]). Cited in Hesse, Hermann (1905:15)

²²⁹ “*Dagegen behalte ich mir die Gerichtsbarkeit in allen anderen Fällen vor*”. (However, I [i.e. Willem Christiaan] reserve jurisdiction in all other cases. [transl. W. Hillebrecht]). Cited in Hesse, Hermann (1905:18)

²³⁰ Ibid.

²³¹ “*Innerhalb seines Gebietes entscheidet bei Streitigkeiten zwischen Eingeborenen der Kapitän selbständig.*” (Within his territory, the Captain decides autonomously in all disputes between Natives. [transl. W. Hillebrecht]). Cited in Hesse, Hermann (1905:48)

²³² Verordnung, betreffend die Rechtsverhältnisse in dem südwestafrikanischen Schutzgebiet, vom 10. August 1890. Reichs-Gesetzblatt, 1890, p.171

²³³ Dienstanweisung, betreffend die Ausübung der Gerichtsbarkeit in dem südwestafrikanischen Schutzgebiet vom 27. August 1890. Cited in Hesse, Hermann (1905:31)

Furthermore, in all “protection treaties” the jurisdiction in cases between Whites was reserved to German courts, while the jurisdiction in cases between Whites and Natives was either reserved to German courts with the provision of a Native associate judge²³⁴ or explicitly mentioned as a matter to be regulated in later agreements,²³⁵ which were apparently never concluded (so in the treaties with Manasse !Noreseb and with Maharero).

4.3.3 Customary Laws and Inheritance

The administration of Native estates was a matter of private law, and estates of Natives would in all likelihood not involve German citizens as inheritors. Therefore, the legal situation outlined above implies that before the uprising of 1904, the administration of estates of Natives was to be treated as an internal matter of private customary law by the traditional authorities.

The various communities in Namibia had their distinct customary laws regulating inheritance. These laws were collected around 1908-1910 in an extensive research project entitled *Die Rechte der Eingeborenen in den deutschen Kolonien*, and published much later in summarised form in 1929-1930. The often very detailed original responses to the standard questionnaire, mostly by missionaries, included the issue of inheritance. They were printed in a limited edition as separate brochures with the common heading “*Beantwortung des Fragebogens über die Rechte der Eingeborenen in den deutschen Kolonien*”. These brochures prove that elaborate rules how to deal with the property of deceased

²³⁴ E.g. in the treaty with Witbooi: “*Bei Streitigkeiten zwischen Weissen und Eingeborenen, sowie zwischen Weissen unter sich entscheidet das Kaiserliche Deutsche Gericht, doch soll im ersteren Falle der Kapitän berechtigt sein, einen seiner Ratsleute als Beisitzer abzuordnen.*” (In disputes between Whites and Natives, as well as between Whites among themselves, the Imperial German Court decides, however in the former case the Captain shall be entitled to delegate one of his councillors as member. [transl. W. Hillebrecht]). Cited in Hesse, Hermann (1905:48)

²³⁵ E.g. in the treaty with Manasse !Noreseb: “*Auf welche Weise die Streitigkeiten zwischen den deutschen Reichsangehörigen oder anderen weissen Leuten und den Eingeborenen abgeurteilt und wie die Schuldigen bestraft werden sollen, soll später durch Übereinkunft zwischen der deutschen Regierung und dem Kapitän der roten Nation festgestellt werden.*” (The issue how disputed between German citizens of other White people and the Natives shall be judged and the culprits be punished, will be determined later in an agreement between the German government and the Captain of the Red Nation. [transl. W. Hillebrecht].) Cited in Hesse, Hermann (1905:13)

persons were in place in all indigenous communities, but none of these included the creation of written records.²³⁶

However, there were individuals generally classified as “Natives” present in German South West Africa who were not under the jurisdiction of a traditional leader who signed the protection treaties. These were, in particular, migrant workers from West Africa, especially Liberia, which were commonly termed “Kru Boys”, and migrant workers from the Cape Colony, mostly “Cape Coloureds” and Xhosa. Under the German law, their estates should have been treated like any other foreigners by the German administration if they died while working in German South West Africa.

4.3.4 Expropriation of Natives Properties by German Government

With the uprising of 1904, the German government alleged that the protection treaties had been unilaterally broken by the Herero and Nama communities, and were therefore considered no longer binding.²³⁷ A formal annulment of the treaties, as proposed by the law scholar Hesse,²³⁸ was never issued by the German government. Such an annulment is, however, tacitly implied in the Imperial Ordinance concerning the confiscation of the property of Natives in the South-West African Protectorate, issued on 26 December 1905,²³⁹ and in the Governor’s Ordinance concerning measures for the control of Natives, issued on 18 August 1907.²⁴⁰

As a result of coming into effect of the Imperial Ordinance, the jurisdiction about legal issues between Natives in the area under effective German control, i.e. the so-called Police Zone,²⁴¹ was referred to the German District Officer (Bezirksamtman) of the relevant district.²⁴² While the number and delimitation

²³⁶ These brochures are very rare, and the sets often incomplete. This assessment is based on the complete set of Namibia-related brochures in the National Library of Namibia under call numbers XX/3828 A, XX/3829 A, WH/0073 Z

²³⁷ Hesse, Hermann (1905:159)

²³⁸ Ibid.

²³⁹ Kaiserliche Verordnung, betreffend die Einziehung von Vermögen Eingeborener im südwestafrikanischen Schutzgebiet. Deutsches Kolonialblatt, vol.1906, p.1

²⁴⁰ Verordnung des Gouverneurs von Deutsch-Südwestafrika, betreffend Massregeln zur Kontrolle der Eingeborenen. Deutsches Kolonialblatt, vol.1907, p.1181

²⁴¹ The “Police Zone” excluded northern Namibia – Ovamboland, Kavango, and the Caprivi Strip. See also the Glossary

²⁴² Schultz-Ewerth, Erich (1929-1930) and Leonhard Adam

of districts was changing over time, the German government had eventually created seventeen districts at the time the First World War broke out.²⁴³

Subsequently, when the District Officers were tasked with jurisdiction over cases between Natives, one might expect some records dealing with estates of Natives in the surviving district files. However, at the same time, Natives were hardly authorized to own any property that would have been worth inheriting. While in pre-colonial societies the land was owned communally and could therefore not be inherited, private property existed mainly in the form of livestock, especially cattle, goats, sheep, horses, donkeys, jewelry and ornaments which were the main issues in inheritance.

The cattle of the Herero and Nama, however, had been entirely confiscated by the German government by an Imperial Ordinance concerning the confiscation of the property of Natives in the South West African Protectorate of 26 December 1905. This ordinance empowered the Governor to issue two government notices, first to expropriate all properties of the Herero, the Topnaar Nama and the Zwartbooi Nama²⁴⁴, and subsequently the remaining southern communities with the exception of Berseba and Rehoboth which had not joined the uprising.²⁴⁵ Moreover, the Ordinance by the Governor of South West Africa concerning measures for the control of Natives was expressly forbidding Natives to own land, riding animals or cattle, except with special permission by the Governor.²⁴⁶ This seriously curtailed the opportunities of Natives to acquire again any wealth that could be passed on as inheritance, except cash income from labour.

²⁴³ Translating the German administrative terminology easily leads to confusion, as there was a distinction between *Bezirk* and *Distrikt* - both terms being usually translated into English as *district*. The *Distrikt* offices were subordinate to the *Bezirk* offices, but with a considerable degree of autonomy which however seems to have not been clearly defined and changed over time. In 1913, there were 11 *Bezirke*: Gibeon, Grootfontein, Karibib, Keetmanshoop, Lüderitzbucht, Omaruru, Outjo, Rehoboth, Swakopmund, Warmbad, and Windhoek; and 6 *Distrikte*: Aroab (Hasuur), Bethanien, Caprivizipfel, Gobabis, Maltahöhe, Okahandja,

²⁴⁴ Bekanntmachung des Gouverneurs von Deutsch-Südwestafrika, betreffend Einziehung des Stammesvermögens der Herero, Zwartbooi- und Topnaar- Hottentotten, vom 23. März 1906. In: Die deutsche Kolonialgesetzgebung, vol.10(1906), p.142-143

²⁴⁵ Bekanntmachung des Gouverneurs von Deutsch-Südwestafrika, betreffend Einziehung des Stammesvermögens der Witbooi- usw. Hottentotten sowie der Roten Nationen und der Bondelzwards- einschl. der Swartmodder-Hottentotten, vom 8. Mai 1907. In: Die deutsche Kolonialgesetzgebung, vol.11(1907), p.233-234

²⁴⁶ Verordnung des Gouverneurs von Deutsch-Südwestafrika, betreffend Massregeln zur Kontrolle der Eingeborenen, vom 18. August 1907. Deutsches Kolonialblatt, 1907, p.1181.

The German government never issued any legal instrument regarding the estates of Natives in South West Africa.²⁴⁷ This is in contrast to two other German colonies, German East Africa (the present-day Tanzania) and German New Guinea, where the Governors issued ordinances or regulations about the estates of “persons of colour”, including the taxation of estates.²⁴⁸ The wording of the East African ordinance suggests that the main motive behind it was the collection of revenue from the sometimes rather wealthy residents of Arab or Indian origin in those colonies, who also fell under the German definition of “Native”. The Governor’s preamble to the New Guinea regulations provides a clear motivation: it was aimed at Chinese migrant labourers, and it states that in the beginning their estates had been treated in accordance with the German law, but in later times the courts tended to disregard the German law. The Governor’s regulations aim at re-instating proper adherence to the law, in the interest of safeguarding a steady supply of migrant (mainly Chinese) labour. They also state clearly that the inheritance of local Natives is a matter of customary law.²⁴⁹ The following Table 3 provides an overview of relevant German legislation.

Table 3. The administration of justice concerning Natives under German rule

Enacted	Legislation	Subject	Discriminatory?	Administered by
10 Aug. 1890	Imperial Ordinance concerning the legal matters in the South West African Protectorate	Jurisdiction in matters of Natives and White administration	Yes – different court authorities	German Courts; Customary Justice System;
27 Aug. 1890	Regulations concerning Administration of Justice in South West African Protectorate	Regulations for implementing the Ordinance of 10.8.1890	Yes – different court authorities	German Courts; Customary Justice System

²⁴⁷ This was verified in the indexes of *Die deutsche Kolonial-Gesetzgebung (1897-1910)* and the *Amtsblatt für Deutsch-Südwest-Afrika (1910-1916)*

²⁴⁸ Verordnung, betreffend die Erhebung einer Erbschaftssteuer und die Regelung von Nachlässen Farbiger in Deutsch-Ostafrika, vom 4. November 1893. In *Deutsches Kolonialblatt*, 1894, p.41.

²⁴⁹ Runderlass und Dienstanweisung des Gouverneurs von Deutsch-Neu-Guinea, betreffend die Behandlung der Nachlässe Farbiger, vom 22.Juli 1904. In: *Die deutsche Kolonialgesetzgebung*, vol.8(1904), p.161-162.

Enacted	Legislation	Subject	Discriminatory?	Administered by
17 May 1898	Voluntary Jurisdiction Act (<i>Gesetz über die Angelegenheiten der freiwilligen Gerichtsbarkeit</i>)	Designates Magistrate court to implement Magistrate Court Registry Rules, supervise over Probate Court – appoint messenger of court to compile estate inventory & estate custodian to administer estates files	-	Magistrate Courts
January 1900	German Civil Code (<i>Bürgerliches Gesetzbuch</i>)	Structure for administering estates	-	Probate Court
22 Oct 1900	General Ordinance re Appraisal and Destruction of Records (<i>Allgemeine Verfügung über die Aussonderung und Vernichtung der Akten</i>)	Guides appraisal and destruction of court records		Probate Court
26 Dec. 1905	Imperial Ordinance re confiscation of Natives property SWA Protectorate	legalizes confiscation of properties of Natives in South West Africa	Whole Ordinance was aimed at expropriation of Native property	German District Officer (Bezirksamt-mann)

4.4 End of German Rule

After the World War I invasion by British and South African forces in 1914/15, the subsequent South African Military Administration was not bound to continue with the German legal system. They were also not familiar with the German rules and in some cases they did not see value in keeping records created by a defeated enemy.²⁵⁰ However, out of the seventeen districts created

²⁵⁰ Cf. the report of the Assistant Archivist J.H. Esterhuyse 6 November 1947, complaining that German police records were destroyed on the orders of a senior police officer; SWAA

under German rule, only seven Native affairs jurisdiction records survived to be centralized in the National Archives of Namibia. Records created by the other ten districts were destroyed, actively or through neglect, by officials of the South African Administration, even as late as the 1940s.²⁵¹

4.5 Laws Governing Estates under the South Africa Colonial Period (1915-1990)

The legal process through which deceased estates records were created, managed and disposed in colonial Namibia was complicated and laborious. However, unlike the German Civil Code which was automatically applied to the registration of estates for all deceased Germans who died in the colonies, the South African laws were not automatically applicable to Namibia. They were made applicable in various ways:

- By inclusion in the legislations a specific clause making the law applicable to the then South West Africa (Namibia);²⁵²
- Through amendment acts;²⁵³
- Through regulations and government notices;²⁵⁴ and,
- Through proclamations by the Administrator for South West Africa or ordinances by the Legislative Assembly.²⁵⁵

(2562) A 668/11/1/2. Argief: Inspeksie Maltahöhe Magistrate. (Inspection: Maltahöhe Magistrate Records).

²⁵¹ see also Introduction Chapter 1.5.4 about the history of the National Archives

²⁵² Section 1 (a), 10 and 11 (3) of the Administration of Estates Amendment Act, No. 54 of 1970

²⁵³ The preamble of Administration of Estates Amendment Act, No. 54 of 1970 provides: “to amend the Administration of Estates Act, No. 66 of 1965, so as to apply that act to the territory of South West Africa” which implies that the whole purpose for amending the law was to make it applicable to Namibia.

²⁵⁴ Government notice No. 70 of 1954, published “regulations framed under the provisions of sub-section (9) of section 18 of the Native Administration Proclamation, No. 15 of 1928, for the administration and distribution of native estates in that portion of the territory, north of the police zone.”

²⁵⁵ Better Administration of Justice Proclamation No.52 1921, which made Act No. 24 of 1913 applicable to the administration of the estates for absentee and deceased whites in Namibia

Therefore, this study sought to determine with all the examined South African legislations whether and under which conditions they were made applicable to Namibia, by critical reading a chain of legal documents. Included in these legal documents are: the acts and ordinances, their various amendments, notices, proclamations and regulations. The unfolding picture was often extremely complex. The relevant acts could be:

- Either applied in Namibia whole²⁵⁶ or only certain sections;²⁵⁷
- Applied to the whole country Namibia or only to specific regions, or excluding certain regions, such as, the Caprivi, Rehoboth, North of the Police Zone;²⁵⁸
- Applied to all racially segregated population groups (“white, native, coloured” as defined in the Population Registration Act, No. 30 of 1950)²⁵⁹ or only to specific groups;²⁶⁰
- Applicable or not applicable to specific groups only under certain circumstances, such as Blacks married under customary law²⁶¹, or persons classified as Rehoboth Bastards residing in the “Rehoboth Gebiet”.²⁶²

Therefore, unlike the legal framework that regulated the administration of the estates during the German colonial period which is presented in a single 30 year period (1884-1915), because it was short and estates records produced during their reign were left up to the management, transfer, appraisal, disposal, preservation and indexing of the succeeding colonial regime, the South African colonial period will be presented chronologically in periodization because it was much longer and eventful.

²⁵⁶ Better Administration of Justice Proclamation No.52 of 1921, which made the Administration of Estates Act 24 of 1913 applicable to SWA/Namibia stated in its schedule (page 9) that: “extend of appeal” is “the whole” but if one read further, it says, “except in so far as it relates to section 115*bis* of the Administration of Estates Act, 1913 (Act No.24 of 1913), as applied to the territory.”

²⁵⁷ Government Notice No. 67 of 1954, The Laws of South West Africa, 1954, p.1171-1173; Proclamation No. 36 of 1941, The Laws of South West Africa, 1941, p.314

²⁵⁸ Government Notice No, 67 of 1954, *ibid.*; Section 10 of the Administration of Estates Act, No. 54 of 1970; Department of Bantu Administration and Development, No. R. 192 of 1974

²⁵⁹ Administration of Estates Act No. 66 of 1965; Administration of Estates Amendment Act No. 54 of 1970

²⁶⁰ Section 10 of Administration of Estates Amendment Act No. 54 of 1970

²⁶¹ Section 1 (a) (i) and 1 (b) of the regulations published under Government Notice, No.70 of 1954

²⁶² Department of Bantu Administration and Development, No. R. 192 of 1974; Section 10 of the Administration of Estates Act, No. 54 of 1970

4.5.1 South African Military period (1915-1920)

The Administration of the Estates Act, No.24 of 1913, was the first legislation this study looked into for answering to the research question, because it was in force in South Africa at the time when the Union of South Africa invaded German South West Africa during World War I. Unfortunately, Section 3(1)(d) of Administration of the Estates Act, No.24 of 1913, states that:

“This Act shall not apply... –to the estates of natives, which shall continue to be administered under the law in force in any Province immediately before the commencement of this Act.”

This section left a legal vacuum because the applicability of German law was effectively ended with the surrender of the German armed forces, on 9 July 1915²⁶³, and martial law was declared²⁶⁴ by the South African military occupation forces. Furthermore, Native Administration Act No.1 of 1909 which regulated the administration of the estates for the Natives in South Africa was not made applicable to Namibia, while the application of German law was terminated on the date of the surrender. The administration of the estates for the Natives was seemingly left with no legal protection. This however did not deter military Magistrates from registering Native estates, at least from 1917 onwards, as Table 20 in the Appendix shows.

4.5.2 South African Colonial Period (1920-1990)

The Natives Administration Proclamation No.15 of 1928 was the first legislation to regulate the estates for the Native/Black/Bantu in Namibia during the South African colonial period. From all the relevant acts, proclamations, ordinances and notices examined under this study²⁶⁵, it can be stated that there was no legal framework regulating the administration of the estates for the Natives in Namibia until 1930 when proclamation no.15 of 1928 was brought into effect. Table 4 below outlines in a chronological order the

²⁶³ See historical overview in NAMLEX (2010)

²⁶⁴ Proclamation of Martial Law, P.5 of 1915 passed on 13 August 1915, Official gazette of the protectorate of South West Africa in military occupation of the Union forces no.1, p.2

²⁶⁵ Administration of Estates Act, No. 24 of 1913; Native Administration Act, No.1 of 1909; Proclamation No.52 of 1921

proclamations, amendments and regulations that affected the administration of the deceased Native estates in colonial Namibia (1920-1990).

Table 4. Laws that regulated the administration of deceased Native estates

In force since	Legal instrument	Provides for	Discriminatory Reservation	Administration
1930-	Native Administration Proclamation No.15 of 1928	Regulatory framework for administering Natives land, marriages, estates, labour etc.	Only applicable to administration of persons designated by colonial laws as Natives/Bantu/Black	Administrator for SWA, Magistrates and Native Affairs Commission
1930-	Government Notice 165/1929	Brought the commencement of Native Administration Proclamation No.15 of 1928 into effect	Notice excluded Chapter IV which deals with administration of estates	Administrator for SWA, Magistrates and Native Affairs Commission
1950-	Government Notice 67/1954	Brought into operation some sections of Chapter IV (17 (6) and 18 (3) and (9))	Made them applicable only to area north of the Police Zone ²⁶⁶ and other Native populations were excluded	Administrator for SWA, Magistrates and Native Affairs Commissions
1954-	Government Notice 70/1954	Issued the Regulations in terms of 18 (9) of Administration Proclamation No.15 of 1928	Made section 17 (6) and 18 (3) and (9) applicable selectively to different Native areas and not applied equally to all Natives population groups	Administrator for SWA, Magistrates or Native Affairs Commissions, Bantu Tribal Authorities
1974-	Government Notice R.192 of 1974	Brought all subsections of section 18 into operation and made them applicable to all Native population groups	In Native areas known as Kavango, Eastern Caprivi and Owambo only section 18 (3) and (9) applied	Administrator for SWA, Magistrates and Native Affairs Commissioners

²⁶⁶ Development of Self-Government for Native Nations in South West Africa Act, 54 of 1968 refers to area north of the police zone as in section 2 (1) (d) Kavango, (e) Eastern Caprivi and (f) Owambo.

In force since	Legal instrument	Provides for	Discriminatory Reservation	Administration
1985-	Native Administration Proclamation Amendment Act 27/1985	Deleted section 18 (3), (4), (5), (6), (7), (8) and (9)(c); Retained section 18 (1) and (2) and made them applicable to all Native population groups	In areas known as Kavango, Eastern Caprivi and Owambo only sub-sections (9) excluding (c) applied.	Administrator for SWA, Magistrates and Native Affairs Commissions

Table 4 above shows that Natives Administration Proclamation No.15 of 1928 was issued by the Administrator and published in Government Gazette in 1928, but did not become operational until 1930. This was mainly due to section 27 of this legislation which states that this proclamation “shall commence upon a date to be fixed by the Administrator by notice in the Gazette ... in such notice the Administrator may exclude from application any specified part or provision of this Proclamation which shall thereupon not apply until brought into operation by a further notice in the Gazette.” Accordingly, the Natives Administration Proclamation No.15 of 1928 was brought into operation by the Government Notice No.165 of 11 December 1929 with effect from 1st January 1930, excluding Chapter IV.

The administration of deceased Native estates was not regulated by a dedicated legislation. Unlike the Administration of Estates Act, No. 24 of 1913, which was a dedicated Estates Act regulating the administration of deceased Whites’ estates, the Native Administration Proclamation No.15 of 1928 consists of six chapters each focusing on different legal aspects of a specific subject area. The outline of Natives Administration Proclamation No.15 of 1928 is as follows:

- Chapter I. Administration, -focusing on the structures through which the act is to be administered, such as, Chief, Headman, Chief Native Affairs Commissioner or Magistrate;
- Chapter II. Tribal Organization and Control, -stating the power of the Administrator and Secretary for South West Africa over the so called tribal authorities;

- Chapter III. Judicial Organization and Procedure, -courts and what law to be applied in Native Commissioner's courts, appeals, assessors, court records;
- Chapter IV. Marriage and Succession, focusing on marriages of Natives, property rights and succession;
- Chapter V. Prevention of misconduct and disorders, regulations of Native living, and control of certain villages and townships; and,
- Chapter VI. General issues which include exemptions, penalties for breach of notices, rules or regulations and interpretation of terms, as well as repeals and amendments.

The exclusion of Chapter IV negated the intention and purpose of the law, which although in a limited scope was meant to maintain an efficient regulatory framework for administering the estates for the Natives. The subject estates as described in the Administration of Estates Act, No. 24 of 1913 covers a space of seventy four (74) pages for the Whites' estates, while in the case of Natives Administration Proclamation No.15 of 1928, it is covered in a space of nearly two and half (2½) pages. Nonetheless, the importance of Chapter IV is in that it includes particularly section 17 (6) and 18 (3) and (9) which affects directly the administration of the Native estates. Section 17 (6) regulates the estates of Natives in polygamous unions and asserts that marriages between Natives shall be out of community of property; while section 18 (9) provides that the Administrator may make regulations. The Native Commissioner also acted as the Magistrate.

The Natives Administration Proclamation No.15 of 1928 was brought into effect, but the part which regulated the administration of Native estates was left dormant. Sections 17 (6) and, 18 (3) and (9) were later brought into operation by Government Notice No. 67 of 1954, to be applied retrospectively with effect from 1st August 1950. Although the G.N.67 of 1954 applied the law retrospectively to 1950, this would not bring back the cases of persons who died before the date when this notice was made public. In effect, the Native estates were still not regulated until 1954, although legislation for the administration of Native estates was passed by Parliament and published in the 1928 Government Gazette.

The regulations in terms of section 18 (9) were also published in Government Notice 70 of 1954, but they only provide for the administration of the estates of certain Natives who die without making a will, as well as those

who contracted civil marriages so that upon their death “the property shall devolve as if he had been a European.”²⁶⁷ Natives may get married through the church or through the Magistrate. Such marital unions are known as civil or statutory law marriages. They could also get married through traditional transitional rites, called customary law marriages. The type of marriage entered into by a Native affected the administration and distribution of his/her estate.

Section 18 (3) provides that the administration and distribution of the Natives estates is in accordance with the Native law and any disputes arising from this process shall be determined by the Native Affairs Commission or Magistrate. However, the Government Notice No.67 of 1954 which brought Section 17 (6), 18 (3) and (9) into operations made them only applicable to the area north of the Police Zone.²⁶⁸ The notice did not provide an explanation why these sections were only applicable North of the Police Zone and how the estates of Natives in the rest of the country were to be regulated. Sections 17 (6), 18 (3) and (9) were not made applicable to the rest of Namibia until the publication of Government Notice R.192 of 15 February 1974, which made all subsections of section 18 applicable to the whole of Namibia, but this time excluding the areas North of the Police Zone.²⁶⁹

Proclamation No.15 of 1928 was later amended by the Natives Administration Proclamation Amendment Act, No.27 of 1985. Prominent change was section 7 of the amendment act, which truncated nearly the whole of section 18 by deleting subsection (3), (4), (5), (6), (7), (8) and (9) (c). This amendment act betrayed the intention of the legislation, which was to maintain an efficient regulatory framework for administering the estates for the Natives in Namibia. For example, it deleted section 18 (3) which provides that disputes arising from the administration and distribution of the Natives estates in accordance with the Native law shall be resolved by the Natives affairs Commissioner or by the Magistrate. While section 18 (9) (c) which gives this power to the Magistrate and Native affairs Commissioner to supervise over the estates of Natives was equally deleted alongside section 18 (3). Both were repealed by the amendment proclamation leaving the administration of the Native estates in limbo.

²⁶⁷ Government Notice No. 70 of 1954

²⁶⁸ The Development of Self-Government for Native Nations in South West Africa Act, 54 of 1968 refers to area north of the police zone as in section 2 (1) (d) Kavango, (e) Eastern Caprivi and (f) Owambo.

²⁶⁹ Government Gazette of 15 February 1974

The implementation of section 18 (1) and (2) which remained in force was also made redundant by the deletion of section 18 (3) and 9 (c) because the Native Affairs Commissioners/Magistrates were not part of customary law system and the sections which gave them the jurisdiction to administer the Native estates were now defunct. The deletion of these subsections immobilized the Native affairs Commissioner/Magistrate in estate matters, as their responsibility was reduced to a ‘wait and see’ role because it was only when a serious dispute or litigation arose that the matter was referred to their offices.

On the other hand, section 18 (1) and (2) applied to the whole country except Kavango, Eastern Caprivi and Owambo and the only section which applied to these regions was subsection (9) excluding (c) which was now repealed. Section 18 (9) excluding (c) as it applied to Kavango, Eastern Caprivi and Owambo is silent on the legal validity and extent to which a Black person would make a will because section 18 (2) which provides that “property of whatsoever kind belonging to a Native shall be capable of being devised by will” had never applied to these regions.

It has therefore been a complex inquiry into the trajectory of the legal framework surrounding the administration and distribution of the estate, testate and intestate of Black Namibians. The legal provision evidently existed, it also provided a structure for administering Native estates, but the regulations, notices and their amendments were a major stumbling block. They often deleted clauses which empowered the structure to implement the act, or deferred the relevant section of the act from coming into operation. The law was applied selectively to different population groups and regions of the country. The amendments, regulations and notices often contradict the principal purpose of the act, preventing the act from coming into effect and denying the implementation structures the legal mandate to enforce the legislation. It can be assumed that the administrators dealing with these legal provisions were often unsure how to apply them, in particular if (like the majority of Native Administration officers) they had no extensive legal training.

4.5.3 South African Laws Governing Whites' Estates

4.5.3.1 Military Period (1915-1920)

The Administration of Estates Act, No.24 of 1913, was exclusively passed to govern the administration of the estates for the deceased Whites under British ruled South Africa, and was in force at the time the Union of South Africa invaded German South West Africa/Namibia during World War I. This study could not establish from all the legislation²⁷⁰ that were in force during the Military period (1915-1920), how the creation, management and disposal of estates records were regulated. Administration of the Estates Act, No.24 of 1913, which regulated the administration of the estates for deceased Whites in South Africa was not made applicable to Namibia, while the application of German law was terminated on the date of their surrender on 9 July 1915. As was the case with the legal framework for the administration of Native estates which seemed non-existent during the South African military occupation period, the administration of the estates for the deceased Whites seemingly suffered the same fate.

4.5.3.2 South African Colonial Period (1920-1990)

Separate legal and administrative systems regulated creation, management and disposal of deceased Whites, Natives and colored persons in Namibia during the South African colonial period. This study focuses on Native estates, but employs the legal and administrative system for Whites' estates as a bench mark to demonstrate extend of differences. The legal and administrative system for Whites' estates is presented in Table 5 below.

²⁷⁰Proclamation of Martial Law, No. 15 of 1915; (b) the Treaty of Peace and South West Africa Mandate Act, No. 49 of 1919 signed on 17 May 1919; (c) the Treaty of Versailles of 28 June 1919; and, (d) the South West Africa Constitution Act, No. 42 of 1925

Table 5. Administration of the Absentee and Deceased Whites Estates

Period	Legal instrument	Provision	Discriminatory Reservation	Administration
1915 by default	Administration of Estates Act, No.24 of 1913	Applicable to absentee ²⁷¹ and deceased Whites' estates	"This Act shall not apply... –to the estates of natives" ²⁷²	Centrally administered by the Master of High Court
1921-	Proclamation No.52 of 1921	Amendment made Act 24 of 1913 applicable to SWA/Namibia	Enacted the above clause	Centrally administered by the Master of High Court
1965-	Administration of Estates Act, No. 66 of 1965	Did not repeal the estates laws in force for other racial groups	Abolished Section 3 (1) (d) of Estates Act (Act no. 24 of 1913) and makes no racial reservations ²⁷³	Centrally administered by the Master of High Court, but makes no provision for the estates of racial groups falling outside the structure of the Master of High Court ²⁷⁴
1970-	Administration of Estates Amendment Act, No. 54 of 1970	Made Act, No. 66 of 1965 applicable to SWA/Namibia	Extends the applicability of the Act to the Caprivi Zipfel, but excludes Rehoboth Gebiet ²⁷⁵	Centrally administered under Master of High Court

²⁷¹ Section 1 of the Administration of Estates Act, No. 66 of 1965 defines: "absentee means any person of whom the Master, after enquiry, believes that his whereabouts are unknown and that he has no legal representative in the Republic"

²⁷² Section 3 (1) (d) of Estates Act (Act no. 24 of 1913)

²⁷³ Although the discriminatory provisions were deleted from the Act, the Act and its regulations did not make further provisions extending its applicability to other racial groups from which it was initially excluded.

²⁷⁴ The administrative provision of the Act is placed under the Master of High Court and it makes no provision for Magistrates Courts or Natives Affairs Commission or the so called Bantu Tribal Authorities.

²⁷⁵ Section 10 of the Administration of Estates Amendment Act, No. 54 of 1970

Table 5 shows that the Administration of Estates Act, No. 24 of 1913 was made applicable to Namibia by Proclamation No.52 of 1921. However, this Proclamation did not repeal or delete section 3 (1) (d) which provides that this act shall not apply to the estates for the Natives. Therefore, this law was only applicable to the administration of the estates for the White settler population and the deceased Native estates were accordingly left with no legal protection. The Administration of Estates Act is a very comprehensive legislation which regulated the administration of Whites' estates in Namibia. It consists of six Chapters, all of them dealing with various aspect of estates administration within a space of 74 pages. In addition it has two pages of preliminary dealing mainly with definitions of legal terms.

- Chapter I focuses on Administration, dealing mainly with structure for implementing the act;
- Chapter II is about estates of deceased persons, dealing with the registration process and procedures, it is the longest chapter covering about 34 pages;
- Chapter III focuses on Estates of minors and absent persons;
- Chapter IV deals with Guardian's Fund;
- Chapter V focuses on Legal Proceedings –Offences and Penalties;
- Chapter VI deals with Generals and Miscellaneous, which include schedules of laws repealed.

Act No. 24 of 1913 was later repealed by the Administration of Estates Act No. 66 of 1965, which brought in notable changes. (1) It deleted the word Native from the definitions, and (2) made the act to seem widely applicable to any racial groups. However, while repeals and amendments acts provide a schedule of all laws repealed or amended, no law applicable to the administration of Natives was included in the list of laws repealed by act 66 of 1965. This implies that although there was this apparently all-inclusive legislation, Natives continued to be administered under a separate acts and separate structures.

Act No. 66 of 1965 was made applicable to Namibia through the Administration of Estates Amendment Act, No.54 of 1970. Unlike Native Administration Proclamation No. 15 of 1928 which was brought into effect by bits and pieces, Act No 66 of 1965 was brought into operations as a whole.

The main purpose of the amendment was “to apply that Act to the territory of South West Africa”. Section 10 of the amendment act extended the applicability of the Act and any amendment thereof to Namibia, “including the Eastern Caprivi Zipfel, but shall, in the territory known as Rehoboth Gebiet... of the territory not apply to the estates of any person to whom Proclamation no.36 of 1941 of the territory applies.”

It may be understandable that, a dedicated legislation, Administration of Estates “Rehoboth Gebiet” Proclamation, No.36 of 1941 regulated the registration of deceased estates for the Rehoboth Basters who live in Rehoboth. But, the intention of the amendment act and the regulation for singling out the Caprivi Zipfel are unclear and they are not explained by the act. It is also not clear how this act applied to other areas of the country that are not mentioned in the Act. The fragmentation of the country into different ethnic and territorial units made the legal situation incredibly difficult to understand, probably even for contemporary persons without legal background. This refers to Walvisbay,²⁷⁶ Caprivi Zipfel²⁷⁷ and Rehoboth Gebiet,²⁷⁸ which are part of South West Africa/Namibia, but were often administered externally or as if they were a government inside another country.

Although Act 66 of 1965 appears to be widely applicable to any racial group in the territory, this intention is tainted by section 10 which excludes the Caprivi, although it is part of the “territory”. This makes one wonder, which legislation was applied to that area. Likewise, the Act did not repeal the Administration of Estates “Rehoboth Gebiet” Proclamation No.36 of 1941, as well as, Chapter IV of Native Administration Proclamation No.15 of 1928, again leaving exceptions in force without them ever being mentioned in the Act. Furthermore, the administration of Act 66 of 1965 is under the Master of High Court and Chapter I does not provide for the administration of estates for the deceased person falling under the structures of the Native Affairs Commission.

²⁷⁶ For more information please see Walfish Bay and St. John’s River Annexation Act, No. 35 of 1884; Walvis Bay Administration Proclamation, No.3 of 1922; Walvis Bay Administration Proclamation, RSA Proclamation No. R.202 of 1977

²⁷⁷ For more information on the Caprivi Zipfel, please see, South Africa Proclamation 12 of 1922; South Africa Proclamation 23 of 1922; South Africa Proclamation 196 of 1929; Caprivi Zipfel Administration Proclamation 26 of 1929; SA Easter Caprivi Zipfel Administration Proclamation 147 of 1939

²⁷⁸ Rehoboth Affairs Proclamation 31 of 1924; Rehoboth Gebiet Affairs Proclamation , No.9 of 1928; Rehoboth Gebiet Affairs Ordinance, No. 20 of 1961; Rehoboth Self-Government Act, No.56 of 1976; Government of Rehoboth Power Transfer Proclamation, 1989 (AG32/1989)

The applicability of Administration of the Estates Act No. 66 of 1965 to all racial groups in South West Africa/Namibia therefore requires further investigation. The continued presence of “Native Estates” in several Magistrate records after 1965 (cf. Table 20b) indicates that it was interpreted as not applicable to “Natives”.

4.6 Summing up the Legal Framework

The analysis of the examined acts and ordinances, their amendments, proclamations, regulations and notices has shown a complicated picture of frequent successive repeals and amendments²⁷⁹, exclusions and reservations²⁸⁰, definitions and redefinitions according to political expedience.²⁸¹ It revealed:

1. The German Civil Code²⁸² did not have discriminatory clauses on the basis of race, it was however, not made applicable to the registration of the Natives estates in South West Africa/Namibia on the basis of the so called protection treaties²⁸³. Native estates were administered in accordance with Customary Law until 1905 when the German government issued an Ordinance forbidding Natives in South West Africa to own certain key properties (land, cattle, riding animals).²⁸⁴ The tacit assumption that the anti-colonial uprising implied annulment of the protection treaties, did also imply that legal disputes between Natives were no longer to be resolved by their own courts. This further implied transferring the administration of their estates from customary law to the statutory law system under the German Civil Code, although the far-reaching expropriation of the Natives forestalled that there was any meaningful property to be inherited.²⁸⁵

²⁷⁹ Administration of Estates Act, No. 24 of 1913; Administration of Estates Act, No. 66 of 1965; General Law Amendment Act, No. 102 of 1967; Administration of Estates Amendment Act, No. 54 of 1970; Administration of Estates Amendment Act, No. 79 of 1971; Administration of Estates Amendment Act, No. 15 of 1978. [Subsequent amendments of the South African Act were not made applicable in Namibia]

²⁸⁰ Section 3 (1) (d) of Estates Act (Act no. 24 of 1913); Section 10 of the Administration of Estates Amendment Act, No. 54 of 1970; Section 1(iii) of Births, Marriages and Deaths Act, 58 of 1970

²⁸¹ Section 2 of the Administration of Estates Act, No. 24 of 1913; Section 1(x) of the Population Registration Act, 30 of 1950; Section 1 of Marriage Act, 25 of 1961; Section 1(iii) of Births, Marriages and Deaths Act, 58 of 1970.

²⁸² German Law of Inheritance which is the 5th book of the German Civil Code (*Bürgerliches Gesetzbuch*) came into effect on 1 January 1900, and was applicable to all German colonies

²⁸³ see Chapter 4.3.2.

²⁸⁴ see Chapter 4.3.4.

²⁸⁵ see Chapter 4.3.4.

2. Under the South African colonial administration, three distinctive parallel legislative and administrative systems²⁸⁶ with multiple layers of legislative documentations²⁸⁷ regulated the creation, management and disposal of deceased estates records, namely, a systems for (1) deceased Whites,²⁸⁸ (2) deceased Natives,²⁸⁹ and (3) “Coloureds” and “Basters” respectively²⁹⁰;
3. While the German colonial administration used the protection treaty with local leaders and citizenship to determine whether or not the German law applied to the administration of estates for the deceased, the South African legal system used the skin colour as criteria to determine the legislative system that applied to the administration of the deceased estates;²⁹¹
4. The law regulating Native estates was, during the South African colonial period, applied differently to every deceased Native depending on the area of the country where that Native resided,²⁹² whether the deceased Native was married in or out of community of property, and whether they left a will or whether they were married under statutory or customary law²⁹³;

The analysis of the legal framework surrounding the administration of Native estates is contrasted with the Whites’ estates is outlined in Table 6 below to demonstrate further characteristics of these legislations, how they were applied and implemented.

²⁸⁶ The Department of Justice, the Department of Native (later: Bantu) Affairs and a separate Department of Coloured (later: Coloured, Rehoboth and Nama Relations existed in the South African government structure.

²⁸⁷ See page 1-2 of the Administration of the Estates Act, 66 of 1965, which shows that the Administration of the Estates Act, 24 of 1913 was repealed once and amended nine times and every repeal and amendment may require an amendment of the regulations. Every Act or Ordinance was read concurrently with all its amendments, repeals, regulations, government notices and sometimes circulars carrying instructions

²⁸⁸ Regulated by the principal act, Administration of Estates Act, No. 24 of 1913 and all its amendments, repeals, regulations and instructions

²⁸⁹ Native Administration Proclamation, No. 15 of 1928 and its amendment, notices as well as the Bantu Affairs Code of 1972 and the Justice Code regulating the system for creating the estates for the natives

²⁹⁰ Proclamation no.36 of 1941 and its amendment was passed specifically for regulating the estates records for the Rehoboth Basters who lived in Rehoboth Gebiet, they had their own system separated from the others.

²⁹¹ Population Registration Act, No. 30 of 1950; Reservation of Separate Amenities Act, Act No 49 of 1953

²⁹² Government Notice No.67 of 1954; Department of Bantu Administration and Development No. R. 192 of 1974

²⁹³ These are provided for under section 2 (a) (i) & (ii) and (b) of the Regulation, published under Government Notice No. 70 of 1954

Table 6. Comparison of the laws regulating Native and White estates

	White	Native
Principal Act	Administration of Estates Act, No.24 of 1913	Native Administration Proclamation No.15 of 1928
Coverage	A dedicated estates act consisting of six chapters covering extensively the various aspects of estates procedures and processes	General law covering several aspects of Native administration consisting of six chapters and estate is narrowly covered by some subsections of section 17 and 18 of chapter four.
No. of Pages	Act 24 of 1913 covers seventy four (74) pages	Chapter IV of Proclamation No.15 of 1928, which deals with Native inheritance barely fills up two and half (2½) pages
Operational	Act was brought into effect as a whole ²⁹⁴	Came into effect in bits and pieces contradicting each other and the purpose of the act ²⁹⁵
Regulations	Practical implementation of the act is supported by the regulations covering all the prescribed part of the act ²⁹⁶	Narrowly explain how certain part of the proclamation should be implemented, they contradict the purpose of the act ²⁹⁷
No. of pages of the Regulation	Thirty (30) pages	Half a page
Amendment	Strengthen the purpose of the act ²⁹⁸	Destroyed the principle of the part of the act which deals with the administration of estates ²⁹⁹
Thoroughness	In-depth	Superficial

Table 6 above demonstrates further discriminatory practices in legislation. While the administration of Whites' estates was regulated by a dedicated Act covering 74 pages, thoroughly explaining the Act in-depth, the law that

²⁹⁴ Proclamation No.52 of 1921; Administration of Estates Amendment Act, No. 54 of 1970

²⁹⁵ Government Notice No.165 of 1929; Government Notice No. 67 of 1954; Government Notice R.192 of 1974

²⁹⁶ Government Notice GNR 473 of March 1972. Regulations published in terms of section 103 of the Administration of Estates Act, No.66 of 1965

²⁹⁷ Government Notice No.70 of 1954. Regulations issued in terms of section18 (9) of Administration Proclamation No.15 of 1928

²⁹⁸ Administration of Estates Act, No.66 of 1965

²⁹⁹ Native Administration Proclamation Amendment Act 27/1985

regulated the administration of Native estates shallowly explains in 2½ pages. The same applies to the regulations, covering 30 pages for the Whites while those for the Natives cover half a page. It is evident that the Administration of Estates Act, No.24 of 1913 was brought into operation whole so that it can fulfil its intention, while Native Administration Proclamation No.15 of 1928, was brought into operation in bits and pieces, contradicting the intention of the Act.

As it would become evident in the next chapter on outcomes from procedure of implementing the law, these discriminatory legal practices have serious implications for the estates registration process and also for the records that resulted from this process. In spite of this complex and complicated legal framework, Native estates were registered and records produced, maintained and haphazardly transferred to the Archives depot of the then South West Africa. The examined legislations established that: (1) creation, management and disposal of deceased Native estates records was a legal requirement; (2) discriminatory procedures in the registration, management and transfer existed between the estates records for deceased Whites and deceased Natives; and (3) separate legal and administrative systems for Whites and Natives existed in colonial Namibia.

The next Chapter will highlight in Part 2 the findings for research question 1.3, which focuses on the administrative processes about how the Archives dealt with the Natives estates records after they were transferred into its holdings. The findings are reported in themes as they emerged sequentially from the records production processes, such as, transfer, listing, appraisal, destruction or preservation, indexing and public access, and the estates records.

It may be mentioned here that while the Namibian Constitution of 1990 outlawed any racial discrimination as unconstitutional, the law reform process of a detailed dismantling of the inherited racist legislation of over hundred years is taking its time. Only with the promulgation of the Namibian Estates and Succession Amendment Act, Act 15 of 2005, were the Section 18 of the Native Administration Proclamation No.15 of 1928 and some other discriminatory provisions finally and formally repealed.³⁰⁰

³⁰⁰ Government Gazette of the Republic of Namibia No.3566 of 29 December 2005

5 Administrative Structures and Processes

5.1 Introduction

Analysis of the regulatory framework for the administration of deceased Native estates showed that it was characterised by highly unsystematic and contradictory legal provisions – see Chapter 4. This chapter provides answers to research question 1.2 and it aims at establishing how the legal framework was implemented. Whether it led to any structures clearly mandated with the creation (registration of deceased Native estate cases) and management of the deceased Native estate records resulting from this registration process until their disposal or transfer to the Archives depot.

The findings of this chapter are reported in three parts. The first part explores the administrative structures that were mandated with the registration (creation), management and archiving of deceased Native estates, in order to establish whether structural weaknesses might have led to the loss of information. It focuses on two key structures:

District Magistrates/Native Commissioners who were responsible for registration (creation) of deceased Native estate cases; management of the resulting Native estate records and their disposal³⁰¹ in accordance with their disposal schedules which was either by destruction, by transfer to other offices or by transfer to the Archives depot in Windhoek.

The Archives which carried out inspections³⁰² of records in Magistrate Registries; approved or disapproved destructions;³⁰³⁺³⁰⁴ accepted transfers³⁰⁵ of

³⁰¹ Section 6 (a) (i) of the Archives Act, No. 6 of 1962

³⁰² Section 7 of the Archives Act, No.22 of 1953; Section 3 (2) (b) of the Archives Act, No.6 of 1962

³⁰³ Section 3 (2) (b) of the Archives Act, No.6 of 1962

³⁰⁴ Consolidated Standing Circular Instructions: Filing Systems (1921); Annexure B, Paragraph 19 of the Consolidated Circular Instructions Justice Code: Records (1951)

³⁰⁵ Section 4 (2) (a) of the Archives Act, No.22 of 1953; Section 6 (a) (ii) of the Archives Act, No.6 of 1962

records of enduring value into its custody; listed, appraised and indexed them for permanent preservation and public access (see Chapter 6).

The second part of this chapter examines the actual deceased Native estate records found, to establish whether by reading them, it is possible to reconstruct the actual creation, management and disposal processes and to identify gaps, inconsistencies, and or duplication of functions that might have led to the loss of records.

The third part deals with the continued custodianship of the deceased Native estate records by the Archives depot before their final processing for permanent storage and research (which is dealt with in Chapter 6). It presents results of the examined Archives of the Archives fonds (U), in particular (1) Inspection Reports, compiled after inspections, in accordance with the Archives Act;³⁰⁶ (2) Disposal correspondence, conducted in accordance with the Archives Act;³⁰⁷ (3) Transfer correspondence, conducted in accordance with the Archives Act;³⁰⁸ and (4) Appraisal Recommendations.³⁰⁹ Possible gaps or inconsistencies in these processes which might have led to Native estates records not being present at the National Archives of Namibia were in this way identified.

The findings were inductively inferred and interpreted from the deceased Native estate records and estate correspondences found, the various justice codes, circular instructions, and transfer and destruction files.

5.2 Administrative Structures for the Creation and Administration of Native Estates Records

Section 3(1) (2) and (3) of the Native Administration Proclamation 15 of 1928 states that the orders and directives issued under this proclamation “may be carried into execution by or under the supervision of the Chief Native Commissioner or by a Magistrate, Native Commissioner or an assistant Native Commissioner [...]”³¹⁰ Accordingly, the Magistrates and Native

³⁰⁶ Section 7 of the Archives Act, No.22 of 1953

³⁰⁷ Section 3(1)(a) of the Archives Act, No.22 of 1953

³⁰⁸ Section 4(2) and 4(3) of the Archives Act, No.22 of 1953

³⁰⁹ Section 3(1)(a) and Section 6 of the Archives Act, No.22 of 1953

³¹⁰ South Africa (1929):Regulations and Circular Instructions for the Administration and Distribution of Native Estates

Commissioners were the structures mandated with the registration (creation) and management of current estate records of deceased Natives. A central weakness of this legal construct was that it included officers falling under two different Departments of the South African Government, and both Departments issued their own subsidiary legislation in the form of government notices and circular instructions which had to be followed and reconciled by the officers on the ground. It doubled the tedious task of maintaining an up-to-date set of instructions for their daily practice. It does not surprise that under these circumstances legal provisions were simply ignored, or the follow-up in difficult cases abandoned, as in the case of Kashona Mpareke, where the Magistrate Grootfontein gave up on securing a workmen's compensation for the estate.³¹¹

According to Bantu Affairs Circular No.11 of 1959, which focuses on the Administration of Bantu Estates, the Magistrates/Native Commissioners, Officers-In-Charge, Welfare Officers, Works Foremen and Agricultural Foremen³¹² formed a chain of the structures responsible for the administrative processes leading to the creation, management, and disposal of deceased Native estates records. In practice, however, any medical practitioner, compound manager, location superintendent and South African Police station commander also formed part of this chain, although not listed in this circular. The White estates did not go through this many administrative structures because they were centrally administered under the Master of the High Court.

The Magistrate/Native Commissioners were required to establish registries, for the custody and care of all records created by them, including deceased Native estate records. They were also required to appoint registry clerks and to supervise over their work, including the disposal schedules.³¹³ The records from the Magistrate/Native Commissioner Registries were disposed of in three ways, either by destruction or by transfer to other Offices, or by transfer to the Archives depot in Windhoek.³¹⁴

Paragraph 27 of the Justice Code: Records (1951) provides that records earmarked for destruction must be listed

³¹¹ LGR [3/1/3] 2/7/3 case 33/37

³¹² BDA [7] N1/4/1 Estate Circulars, Vol.1, (1943-1947)

³¹³ Paragraph 25 of the Justice Codified Instructions: Records (1951), in: JUS [10], J.1/48, Code Instructions: Records Vol.3 (1963-1967)

³¹⁴ Paragraph 31-36 of the Justice Code: Archives (1951)

“in strict sequence according to correspondence registers Annexures A and B to the Code: Correspondence. [...] Lists of all records destroyed should be placed in file 17/6/3 and retained permanently in the office. It is of utmost importance that these lists should be carefully preserved as they constitute the sole record of the disposal of the records.”³¹⁵

It was compulsory to issue destruction certificates for all destroyed records and as was in the case for the list of destroyed files, destruction certificates were also issued in duplicates. One copy of the list of destroyed files and destruction certificate were sent to the Archives depot, and the second copy was to be retained for permanent preservation in the Magistrate Registries.³¹⁶

Therefore, it should theoretically be easy to establish whether Estate records were destroyed in the Magistrate or Native Affairs offices or after their transfer to the Archives depot. However, in reality, most Magistrates (or their registry clerks) shied away from the effort to compile diligent lists of files for destruction. Many destruction certificates sent to the Archives depot contained only summary statements, such as when the Magistrate of Rundu certified that he had destroyed 5 linear m records “*waarvoor daar in die Justisiekode ‘Archives’ en Bantoesake ‘Korrespondensie’ magtiging vir vernietiging is*” (for which the Justice Code Archives and the Bantu Affairs Code Correspondence give authority to destroy).³¹⁷ Exactly how the Magistrate had interpreted those codes and which files were actually destroyed, is left to the imagination of the archivist.

Procedures for transfer to the Archives were as follows: (1) The Magistrate/Native Commissioner wishing to transfer its records compiled a list of all records intended to be transferred and sent this list to the Chief Archivist with a covering letter requesting for permission to transfer the listed records;³¹⁸ (2) in terms of paragraph 36 and 39 of the Justice Codes: Records (1951) the Archives approved and authorised the transfer; (3) The Magistrate/Native Commissioner dispatched the files with the list and a covering letter to the Archives depot; (4) The Archives depot was obliged in terms of paragraph 30 of the Justice Code: Archives (1951) to issue an acknowledgement of receipt to

³¹⁵ Paragraph 27 of the Justice Code: Records (1951)), in: JUS [10], J.1/48, Code Instructions: Records Vol.3 (1963-1967); Paragraph 30 of the Justice Code: Archives (1951)

³¹⁶ Paragraph 50 (b) of the Justice Codes: Records (1951)), in: JUS [10], J.1/48, Code Instructions: Records Vol.3 (1963-1967); Paragraph 30 of the Justice Code: Archives (1951)

³¹⁷ ARG [21] 10/2/5/2/10/12 Kontrolering van Vernietigingsertifikate. Kavango Regering. Dept. Justisie

³¹⁸ Paragraph 36 of the Justice Codes: Records (1951)

the transferring Magistrate/Native Commissioner. Records generated in the cause of this documented transactions of transfer were kept as permanent record in both offices.

As the disposal processes were supposed to be fully documented (although this was not always the case),³¹⁹ it has been possible for this study to trace the lifecycle of Native estate records by reading not only the estate records but also the correspondences about them. The disposal files – destructions and transfers transactions - were preserved in the administrative files of the Archives or “Archives of the Archives” (NAN fonds ARG).

5.2.1 Magistrates / Native Commissioners

The administrative structure and line of command is important because the law cannot implement itself from the air, it has to be implemented through a formal structure, with clear rules and procedures. In this case a specific structure was mandated with the responsibility to register estate cases and for ensuring that records resulting from the registration process do not get lost, but that they were maintained according to sets of principles.

The decision making authority in the Administration of deceased Native estates rested upon the Chief Native Commissioner for South West Africa - he authorized all decisions made on all Native estate cases registered.³²⁰ However, he carried out this responsibility through the district Magistrates who in terms of the Regulations for the Administration and Distribution of Native Estates (1929), also acted as Native Commissioners.³²¹ The legal basis for this mandate is contained under section 18 (3) & (9) (c) of Native Proclamation No.15 of 1928, which charged the Magistrates/Native Commissioners with the responsibility to administer deceased Native estates. This re-enforced the legal provision provided for under section 65(1) of the Administration of Estates

³¹⁹ There is a conspicuous gap of such files for the 1960s, when the archivist in charge at the time apparently did not care much for the keeping of his own records. See NAN: Findaid 1/1/057 (ARG)

³²⁰ Paragraph 1(a) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa: Estates (1956). In: LKW [3/5/1] UA.01. For practical evidence see LGR [3/1/3], (2/7/1; 2/7/2 & 2/7/3; 2/7/4; 2/7/5; and 2/7/6)

³²¹ South Africa (1929): Regulations and circular instructions for the administration and distribution of native estates.

Act, No.24 of 1913, which, however, in terms of Native estates, was only formally “applied to South West Africa from the 1st April 1972.”³²²

Similarly, paragraph 1(a) of the “Consolidated Instructions Related to the Administration of Native Affairs in South West Africa: Estates” (1956)³²³ equally places the administration of estates of local Natives (i.e. all Natives excluding: extra territorial or northern Natives) under the auspices of “the district Magistrate or Native Commissioner.”³²⁴

5.2.2 The Chief Native Commissioner

The administration of estates for Extra-territorial and Northern Natives was placed under “the Office of the Chief Native Commissioner, Windhoek” (CNC) until 30.9.1959; after that date, the Magistrates or Bantu Affairs Commissioners of the district where the death occurred were made responsible.³²⁵ According to the same instructions, the Office of the CNC is “not concerned” with estates of “local Natives” (those resident in the Police Zone). Nevertheless, about 5 % of the estate cases dealt with by the CNC were found to be of local Natives (see Chart 4).

5.2.3 The Master of the High Court

However, Native Affairs Circular 4/1947 dated 13.8.1947³²⁶ charged the Master of the High Court with the administration of the Native estates in cases where

³²² S.W.A. circular No.11 of 1959, In: LKW [3/5/1/] UA.01

³²³ It is due to the Magistrate Karasburg that a copy of these instructions was transferred to the Archives and it is now benefiting this study. The issuing date of this circular could only be established by close observation of the worn-out and badly damaged cover page, which appears to be 1st June 1956. Two date stamps belonging to the Magistrate, Karasburg are found on the inside of this file, one dated 29 April 1959 and the other dated 8th February 1960. The transfer date of the whole file (LKW [3/5/1]UA.01) where this consolidated instructions are found is also not known, because the file belong to unregistered archives (UA).

³²⁴ Paragraph Estates 1 (a) of the Consolidated Instructions related to the Administration of Affairs in South West Africa (excluding native reserves). In: LKW [3/5/1]UA.01

³²⁵ Paragraph Estates 1(a) and (b) of the Consolidated Instructions Related to the Administration of South West Africa (Excluding Native Reserves), (1956). In: LKW [3/5/1] UA.01, p.37-38

³²⁶ Paragraph Estates 1(b) of the Consolidated Instructions Related to the Administration of South West Africa (Excluding Native Reserves), (1956). In: LKW [3/5/1] UA.01

a Native left a will (testate estate), as well as in cases of intestates (where there is no will) if the value of assets in the estate exceed £100 and the deceased was married according to European law.³²⁷ This was later changed again to “Intestate estates of deceased Natives married according to European law will also be administered by the Master if the assets exceed R200³²⁸ but not if the estates can be satisfactorily dealt with by the heirs even though the assets exceed that amount.”³²⁹

This estate property value of R200 and £100 was superseded by the amount of R600, provided for under section 18 (3) of Administration of Estates Act, No.66 of 1965, which states that: “If the value of any estate does not exceed six hundred Rand, [R600] the Master may dispense with notice under sub-section (1) [i.e. a notice published in the Gazette] and with the appointment of an executor and give directions as to the manner in which any such estate shall be liquidated and distributed.”³³⁰

This provision was well linked to section 2 (a) (i) and (ii) of the Regulations published under Government Notice No. 70 of 1954, as well as to Paragraph 1 (c) of S.W.A. 2nd Circular Minute N1/4/1, dated 13 March 1958,³³¹ which also highlighted the property value for deceased Native estates. The estate asset value was amended by Department of Bantu Affairs General Circular No. 20 of 1962, dated 6th September 1962, which provided that the Master of High Court will administer the Native estates if the assets value exceed R20,000 and the deceased is not survived by spouse and children and or R40,000 in cases where the spouse is survived by spouse and children.³³²

Paragraph 1(c) of the S.W.A. 2nd Circular Minute N1/4/1 states that “estates of Coloureds are administered by the Master of the High Court and do not concern the Native Affairs Department.”³³³ Unlike the German colonial

³²⁷ cited in LKW [3/5/1/] UA.01, p.38, par.1c

³²⁸ In February 1961, South Africa abandoned the British currency (British Pound, £) in favour of its own currency (South African Rand, R) and all legally established monetary amounts were converted according to a fixed schedule.

³²⁹ Sub-paragraph 1(d) of the Native Affairs Circular No.8 of 1956, dated 1st June 1956. In: LKW [3/5/1/] UA.01

³³⁰ See also, SWA Circular No.11 of 1959, as it amends Circular No.8 of 1956. In: LKW [3/5/1/] UA.01

³³¹ Procedures relating to “local” Estates. in : LKW [3/5/1/] UA.01

³³² Section 2 (b) (i) & (ii) of the General Circular No.20 of 1962, Estates of deceased Bantu: Completion of Certificates for Death Duties Purposes (Form Revenue 256). In: BDA [7] N1/4/1 Estates Circulars, Vol.1, (1943-1947)

³³³ In: LKW [3/5/1/] UA.01

administration which did not know a distinction between “Coloureds” and “Natives” (see Chapter 4.2.2.2), the law under the South African colonial administration placed the administration of estates for Coloureds³³⁴ under Master of High Court, alongside the estates for the Whites.

It appears that nevertheless this referral to the Master of the High Court did not happen too often. Due to the difficulties in identifying persons classified as “Coloureds” (who usually carry European-style names) among the “White” estates, this study did not attempt to quantify such occurrences. A few could, however, be found as they were referred to in the Native Estate files.³³⁵

Therefore, although Magistrates/Native Commissioners had a clear legal mandate for the administration of deceased Native estates, the practical implementation of the law was not that simple. For example, the Regulations No. 1664 published under section 23 (10) of Native Administration Act, No. 38 of 1927 provides various procedures to determine which structure was eligible to administer an estate for a deceased Native. For example, at various times there were specific instructions issued in the case that a Native died under the following circumstances:

1. Leaving a valid will (testate estate);³³⁶
2. Married under statutory law and did not make an anti-nuptial contract;
3. Leaving money and or assets in the estate exceeding £100,³³⁷ R200,³³⁸ R600, ³³⁹ R20,000 or R40,000;³⁴⁰
4. Being a Native Nama, or a Native from the Caprivi Zipfel, a Coloured or Rehoboth Baster;³⁴¹
5. Leaving no will (intestate)
6. Married under customary law or under the church;
7. Leaving a poor estate

³³⁴ See the Glossary for these terms

³³⁵ e.g. EST [495b] 4077/4 Estate Anna Maria Duncan (Cloete)

³³⁶ LKW[3/5/1] UA.01, p.38, par.1c,

³³⁷ ibid.

³³⁸ ibid., glued-in amendment, undated

³³⁹ Section 18 (3) of Administration of Estates Act, No.66 of 1965

³⁴⁰ General Circular No.20 of 1962, in: BDA [7] N1/4/1 Estates Circulars, Vol.1, (1943-1947)

³⁴¹ Government Notice No, 67 of 1954; Section 10 of the Administration of Estates Act, No. 54 of 1970; Department of Bantu Administration and Development, No. R. 192 of 1974; Administration of Estates (Rehoboth Gebiet) Proclamation No.36 of 1941

8. Being an Extra Territorial or Northern Native;³⁴²
9. Being a local Native;³⁴³
10. Living in Walvis Bay.

Although the law had clearly placed the mandate for the administration of deceased Native estates in the hands of the Chief Native Commissioner and the Magistrates/Native Commissioners, there were exceptions. The administrative structure of estates for deceased Natives under criteria (a), (b) (c) and (d) above was the Master of the High Court. These Native estate cases were administered as if the Natives were Europeans.³⁴⁴ While the administration of deceased Native estate cases under the criteria (e) to (i) fell under the Magistrates/Native Commissioners and the Chief Native Commissioner. These criteria were not easily identifiable and their provisions were not made explicit under one single legal instrument but in a variety of Acts, regulations, or circulars and codes. There was no single legislation or one regulation or one codified instruction where all of these criteria are spelled out. They were also changing over time, for example when in 1968 the Nama were re-defined from “Bantu” to “Coloured”.³⁴⁵ The criteria had to be searched from various laws, and, some of which do not directly deal with the administration of Native estates.

The administrators for the White estates were not subjected to these multiple criteria and their legal framework was not spread over many unrelated legislations, they strictly followed the Administration of Estates Act, its amendments and regulations. The only criteria they seemed to have followed was that the deceased needed to be classified as a White or Coloured at the time of death.³⁴⁶

The second problem is revealed from the multiple administrative structures that were mandated with the administration of deceased Native estates. These include the Compound Manager, Superintendent or Station Commander of Police, Officer in Charge of Native Affairs, Welfare Officer' Magistrate/Native

³⁴² Paragraph 1(a) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa: Estates (1956). In: LKW [3/5/1] UA.01

³⁴³ Ibid.

³⁴⁴ Section 2 (a) & (b) and 3 (1) of the Regulation No. 1664, regulations and circular instructions for the administration and distribution of Native Estates of 20th September 1929;

³⁴⁵ See: South Africa (1968): Memorandum. Decisions by the Government on the financial and administrative relations between the Republic and South West Africa, p.20, par. 66(a)

³⁴⁶ “At the time of death”: it has to be realised that the arbitrary nature of the South African race classification led to frequent re-classifications.

Affairs Commissioner and finally the Chief Native Commissioner for SWA and in some cases Secretary for SWA. Although not all Native estates cases had been complicated to be registered and not all had to go through the chains of correspondences between these offices. As will become evident in the section dealing with the Native estate records found, the registration process of several deceased Native estate cases went through so many offices, including some not mentioned above, such as the Attorney General, from whom sometimes legal opinion was solicited.³⁴⁷ From the moment of their creation Native estates records were handled like a roving microphone constantly being forwarded from one office to another, so that it is almost impossible to establish which of the administrative structures retained what records. The White estate records were not subjected to this tossing and dicing between multiple structures, they were safely administered under one structure, the Master of the High Court. As a result of too many offices involved in the administration of one Native estate, there were incidences of some deceased Native estate cases that were issued up to 3 death notices, each by a different office.³⁴⁸

These many structures handling one Native estate case had implications to the disappearance of some records. Several examples of letters from the police or the compound manager addressed to the Magistrate are listing the documents attached, but such documents were absent from the case file. Missing records that are mentioned in the estate correspondence are a common feature in the found estate case files. Although several examples exist, the case of Shidute is a typical example, with the important documents spread over three different fonds.³⁴⁹

In some cases an estate records is moved between four different offices and back to the originating office and there is overwhelming evidence on case files found where in a correspondence from the superintendent to the Magistrate, a death notice was attached, but the study did not find it on the file. In a representative sample of every 20th file in the fonds NES, 12.6 % of the files did not contain a death notice; yet it is inconceivable that an estate file would be opened without a death notice; 47.9 % of the sampled files were lacking passes, and 84 % were lacking an inventory. (See Figure 4)

Although the paragraph 34 of the Justice Codes: Records recognized that correspondences from one office to another and official transfers were to be

³⁴⁷ For example LGR [3/1/3], 2/7/5 case 13/39; AHE [66], N1/4/1

³⁴⁸ LGR [3/1/3] 2/7/5 case 13/39

³⁴⁹ LGR [3/1/3] 2/7/1 case 13/39; NAT [12] 6/305; NES [45] N.E.5324

done by mail, evidence from the examined records shows that the delivery modes used was by hand, rail, donkeys and this exposed them to many risks. Even in the transfer of files to the Archives depot, not all transfers seemed to have arrived at the Archives. Some seem to have disappeared between the transferring Magistrate and the Archives.³⁵⁰

In contrast to the White estates which were neatly bound into volumes (see image Figure 15), it was expressly prohibited to bind Native estate records (probably to save the expense).³⁵¹ What was permissible was to tie them, and this rendered them fragile to being damaged or dismembered when transported on long distances.

This section has therefore shown that the district Magistrates/Native Commissioners were fully responsible for the administration of Native estates – ensuring that every death case reported was registered and that records emanating from the registration process were maintained, managed and disposed of according to disposal schedules.

The next section deals with the registration of deceased Native estate cases, a key process through which Native estate records were created. It is also through this creation process that many bottle necks resulting from illogical and unsystematic legal frameworks become a real challenge.

5.3 Administrative Processes

5.3.1 The Registration Process

The registration process is the first activity undertaken by the Magistrates/Native Commissioners in their administration of deceased Native estates. Deceased Native estate records were produced from this process. The registration process supports answering the research question on whether the legislative framework had been followed and whether it led to the creation of deceased Native estates records. The study examined the practical steps and

³⁵⁰ See correspondence in file, SWAA [2352] A514/15 Records and Correspondence. System in Magistrates Offices, Vol.1 (1939-1956), especially the correspondence between Magistrate Bethanie, the Archivist and the Secretary for SWA

³⁵¹ Paragraph 28 of Justice Consolidated Standing Instructions, Vol.4 (1950-1952). In: SWAA [2295] A506/6/1 Circulars

stages in Native estate creation process, the actual deceased Native estates records generated from this process and their correspondences, in order to identify gaps in the registration/creation process that might have led to the loss of records.

Without reading the correspondence it may be difficult to deeply understand how estate records were produced. These correspondences facilitate understanding how the estate laws, regulations, codified and circular instructions worked in practice and how according to what they prescribe a death notice or an estate voucher was being issued or not issued. And, even when the administrative value of such an estate records ceased to exist and the record is destroyed or transfer to the archives, there is still a letter communicating such decision. The enduring value of an estate correspondence to research is essential.

Section 13, 14 and 15 of the Regulations for the Native Labour Regulation Proclamation,³⁵² was the first legal instrument to make provisions for the registration of deceased Native estates, even though this refers strictly to the case of Native labourers. Section 13 states that, “upon death of a native labourer the employer shall immediately hand over to the competent authority or an officer nominated by the said authority, any wages then due to such labourer and any money or goods belonging to such labourer which may be in his possession, custody or control.”³⁵³

The legal basis for this provision was strengthened under section 2 (1) and (2) of the Prohibition of Credit to Natives Proclamation No. 18 of 1927, which sanctions that, when any wages due to a deceased Native are collected, it should be remembered that no deductions can lawfully be made for any credit given to the Native.³⁵⁴

This provision was further reinforced by Extra Territorial and Northern Natives Control Proclamation No. 29 of 1935, which contains another principle that imposed a duty on the employer of Extra Territorial or Northern Natives to report the death of such Native to the nearest authorized officer.³⁵⁵ This legislation obliged the employer to transmit to that competent authority,

³⁵² Government Notice No. 26 of 1925. In: *The Laws of South West Africa* (1925:22-33)

³⁵³ *Ibid.*, Section 13, p.24

³⁵⁴ Prohibition of Credit to Natives Proclamation 18 of 1927. In: *The Laws of South West Africa* (1927: 134-137)

³⁵⁵ Section 13 (1) of the Extra Territorial and Northern Natives Control Proclamation No. 29 of 1935. In: *The Laws of South West Africa* (1935: 156)

the identification pass and the personal effects of the Native together with any wages due to him.³⁵⁶ It further states, that if any Extra Territorial or Northern Native “who is not in employment dies, the person having control of the land or premises on which the death occurs shall immediately report the fact to the nearest authorised officer and transmit to such officer the identification pass of the deceased native.”³⁵⁷ However, the landowner is not bound to transmit the personal effects of the Native or any wages due.³⁵⁸

The instructions required that in cases where the wages were not received by the Magistrate or Native Commissioner, “he should take the necessary steps to recover such wages from the employer.”³⁵⁹ Wages due were important because in most cases it was one of the few property the Natives were legally authorized to own under the colonial rule. Also, wages contributed to the value of an estate, which was a decisive factor for the structure under which an estate of a Native may be administered. If the assets and monetary value in the estate exceeded the non-taxable amount, such a Native estate case was administered by the Master of the High Court. On the estate voucher form, for example, there were two columns in which to insert the money accrued from outstanding wages or sale of personal effects. All these amounts of monies were added up to constitute the estate value, which was in most cases given in monetary terms. Even in cases of deceased Natives who owned horses, livestock and dwelling places, an assessor was appointed to evaluate the property value, as happened in several cases, among them Fritz Heita Shikundiko³⁶⁰ and Anton Tjikongo.³⁶¹

In case of Natives who died on duty in mine accidents, for example, the consolidated instructions further compels the Magistrate or Native Commissioner of the district where the death took place to investigate the possibility of compensation payable by the employer, as soon as the death of a Native is reported to them.³⁶²

³⁵⁶ *ibid.*

³⁵⁷ *Ibid.*, Section 13 (2)

³⁵⁸ *ibid.*

³⁵⁹ Paragraph 4(b) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa (1956). In: LKW [3/5/1] UA.01

³⁶⁰ LGR [3/1/3] 2/7/2 case 12/1936

³⁶¹ AHE (66) N1/4/2

³⁶² Paragraph 6(c) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa (1956). In: LKW [3/5/1] UA.01

Magistrates or Native Commissioners were further obliged to collect the assets of the deceased and to hand these over to the nearest relative(s) for distribution in accordance with “Native law and custom”. In the majority of cases, this provision was difficult to put in practice and involved the assistance of other offices, as the vast majority Native estate case files found belonged to “Northern Natives”, who were used as a mass of cheap labour in the mines and major industries of the colonial economy. They were primarily known by their Identification Pass (IP) number. It was only after their death that Magistrates were now tasked by law with an impossible task to trace their relatives in the far North of the country to inherit their meagre estates. Their personal belongings were sold in the Police Zone, outstanding salaries were collected from the employers, and the money realized became an estate. The estates records shows overwhelmingly that these estates were close to nothing, the typical inventory list shows, one old blanket, two old shirts, a pair of old shoes (see Figures 23 and 27). In the early years of estate administration, in most cases of these deceased Natives their relatives could not be found and the file covers carry the stereotypical remark “Untraceable”. Of the first surviving 100 case files in the fonds NES, dating from 1917-1918, only in 30 cases the relatives could be traced. This rate improved slowly over the next decades.

The law required that: “a receipt must always be issued in respect of any assets, cash, or wages received, and a list of the assets should be made out in triplicate.”³⁶³ However, in the representative sample from the fonds NES, only 16 % of the case file carried such an inventory. It could not be clarified whether this task was widely neglected, or whether the inventories were in most cases not forwarded to the CNC.

Estate correspondence from Magistrates often carries the remark that the personal effects of a deceased were “worthless” and “dilapidated” and had been destroyed. However, this seems to have not been taken well by families. Paragraph 6 (a) of the Consolidated Instructions Related to the Administration of Native Estates in South West Africa: Estates (1956) states that, the personal effects of a deceased Native must always be taken into custody, no matter how dilapidated and worthless they may be. It further states that, Natives, especially “Northern Natives, attach great importance to the personal effects of a deceased.” The instructions require that all the assets in the estate must be sent to the relatives of the deceased. The only exceptions to this rule were

³⁶³ Paragraph 4(b) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa (1956). In: LKW [3/5/1] UA.01

considered in cases “where a Native dies of an infectious disease.” In this case, any personal effects in the estate must be disinfected before being handed to another person. A certificate must then be obtained from a Medical Officer, certifying that the personal effects are germ-free and may safely be handed to another person. But, where the personal effects are completely worthless, they may be destroyed by burning.³⁶⁴

The instructions further provide that, if a relative of the deceased Native is at hand, a declaration in duplicate should be obtained from him setting out the name, full address and relationship of the deceased’s next of kin, who, in accordance with Native law and custom, will inherit the assets in estate.³⁶⁵ If the deceased Native was resident in another district the assets should be forwarded to the Magistrate or Native Commissioner of that district for disposal.³⁶⁶

Government Notice No. 26 of 1925 provides instructions to the Magistrate or Native Commissioner of the district to whom the assets in the estates were sent for distribution to the next of kin.

“On receipt of any sum due to the estate of any deceased Native labourer such Magistrate shall distribute the estate according to the law of deceased’s tribe, provided that any amount which shall be unclaimed for a period of twenty years shall be paid into public revenue.”³⁶⁷

Paragraph 3 of South West Africa Native Administration Circular No. 16 of 1956, further provides that, the personal effects of Ovambos who died in the Police Zones are to be disposed of, as follows:

1. All personal effects of the deceased are to be sent to Ovamboland, “Oshikango in the case of members of the Ukwanyama tribe and Ondangwa in the case of all other tribes;”
2. Where there is sufficient cash in the estate, the railage is to be paid from such cash; but,

³⁶⁴ Paragraph 4(d) of the Native Administration Circular No.4 of 1947. In: LKW [3/5/1] UA.01; Paragraph 6(a) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa (1956). In: LKW [3/5/1] UA.01

³⁶⁵ Paragraph 4(d) of the Native Administration Circular No.4 of 1947. In: LKW [3/5/1] UA.01

³⁶⁶ Para.3 of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa (No.8 of 1956), In: LKW [3/5/1] UA.01

³⁶⁷ Section 15 of the Government Notice No. 26 of 1925. In: The Laws of South West Africa (1925: 24)

3. Where there is no or insufficient cash in the estate, a portion of the effects is to be sold in the Police Zone to cover railage costs on the remainder.³⁶⁸

Every step and action taken in this registration process was documented in writing. The records produced in this registration process are referred to as estate records or estate correspondence. Deceased Native estate records generated were filed in annual volumes consisting of individual estate case files, which were maintained and preserved in the Magistrate/Native Commissioner Registries.

Since the authority over the administration of all Native estates rested with the Chief Native Commissioner, Windhoek, paragraph 4(e) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa: Estates (1956), instructs Magistrate or Native Commissioner to forward to the Chief Native Commissioner, the following undermentioned estate records on every deceased Native estate case they administered.

1. Deceased Estate Voucher (NA 12);
2. Death Notice (NA 16) duly completed by a Medical Officer;
3. Declaration by a relative (if any);
4. List of assets; and
5. Identification Pass of the deceased. (If this is not available a copy of the Register card will suffice).³⁶⁹

These estate records were to be forwarded in duplicates and with a covering letter, reflecting the Name and Identity Pass Number of the deceased, his Tribal Trust Fund Card Number (if available) and his Urban Areas Contract Number (if applicable) to the Chief Native Commissioner, Windhoek. A copy of every estate record send must be filed in the Office of the originating Magistrate or Native Commissioner Registry. The Identification Pass should, however, also be consulted in order to establish the district or area of domicile of the deceased Native.³⁷⁰

³⁶⁸ Paragraph 3 (1), (2) and (3) of South West Africa Native Administration Circular No. 16 of 1956. In: BDA [7] N1/4/1 Estates: Circulars, Vol.1 (1943-1947)

³⁶⁹ Paragraph 4(e) of the Consolidated Instructions Related to the Administration of Native Affairs in South West Africa (1956). In: LKW [3/5/1] UA.01

³⁷⁰ Native Administration, South West Africa Circular No.7 of 1958, dated 30 August 1958, in: LKW [3/5/1] UA.01

A comparison with an ideal White estate file reveals that certain mandatory features of a White estate are generally lacking in a Native estate: in particular the appointment of an Estate Administrator or Executor (Sections 31ff. of the Administration of Estates Act), and the publication of a Notice to Creditors in the Gazette (Section 46).

If legal and administrative processes had been followed, each estate case file should contain all the documents mentioned in the above numbered list, as well as (where applicable) a work contract and a Tax Card (if the deceased was a taxpayer), and estate correspondences with other offices. However, the majority of Native estate case files examined had only some of the above stated records, and some had none. (See Figure 4 for a statistical evaluation). In some cases an estate record for five Natives is written on one piece of paper.³⁷¹ These estate records are described in terms of their contribution to an estate case file as follows:

5.3.2 Estate Correspondence

The estate correspondences are important to this study because they provide an understanding of the provenance of these records, which cannot be found anywhere else. Estate correspondence refers to letters, usually a covering letter accompanying an estate record and minutes of meetings with resolutions of decisions taken in the administration of an estate. Apart from the substance or content, the letter provides addresses of sender and receiver. Both letters and minutes are usually dated and contain notes from the receiving office written on them, dates when letter was sent and when the reply with a decision came back, the action that was taken and how the case was concluded. The information, which is characteristic of estate correspondences help interpret an estate record within its context. Even the policy documents that regulated the creation and management of Native estate records were delivered with a covering letter. The letter shows how procedures were communicated, decisions taken and how they were followed through a chain of authorities. Estate correspondences help explain the process through which the estate records were generated and maintained.

³⁷¹ LGR [3/1/3], 2/7/2 and 2/7/3

5.3.3 Estate records relating to the deceased's identity

5.3.3.1 Death Notice for Native Hospital

The document that sets the entire chain of Native Estate administration in motion is the Death Notice. One expects at least a Death Notice in every estate case file, although even this crucial detail is sometimes missing (cf. below, Figure 4). There are three types of death notices found in the records, differing not so much in content but in the authority printing the forms.

These were, (1) the Department of Native Affairs (South West Africa) which printed the form “N.A.16 S.W.A” form “Death Notice” (see Figure 17) (2) the Department of Native Affairs in South Africa which printed the form “D.N.L.10” (see Figure 18), and (3) the South African Railways and Harbours which had their own death notice form for their Native employees (see Figure 19). The content of these forms is similar; the difference was only in the issuing authorities. The Death Notice forms for Natives (usually the form N.A.16 SWA, see Figure 17) differ from the Death Notices for Whites (see Figure 20) in several respects. In particular, they do not provide the age (apparently on the assumption that “Natives” do not know their birth date) and they do not specify the children. Instead, the Death Notice forms provide space for the employer and for “tribal” affiliation.

While the Medical Certificate of the Cause of Death (see next sub-chapter) was strictly issued by a medical practitioner and in the hospital, about 80% of the Death Notice for Native Hospitals examined by this study were issued by Compound Managers or Employers, and the rest by the Station Commander of SA Police, and it is very doubtful whether these officials filled in the forms with due diligence. For example, in the case of Benjamin Moseitie, the Medical Certificate of the Cause of Death (Form B.M.D.8) issued by Dr. Janssen stated as cause of death “Angina – heart failure” with contributing cause or illness “Endocarditis”, while Swanepoel, Police Station Commander at Otavifontein, writes on the Death Notice for Native Hospitals under cause of death “R.M. Official Medical Certificate states Tonsillitus” [sic; probably Tonsillitis is meant].³⁷² The parallel file about Moseitie kept by the Chief Native Commissioner contains even two Death Notices for Native Hospitals with the misleading, misspelt and medically improbable diagnosis “Tonsillitus”, the one

³⁷² Several Notices exists e.g. Kapenda Benjamin Moseitie, LGR [3/1/3] 2/7/2 case 40/37

from the Police Station Commander and the other from one J.A. Hoeksema, Railway Inspector at Otjiwarongo, but no copy of the doctor's certificate.³⁷³

The cause of death is an important item on the Death Notice, especially for persons that died on duty, in accident related cases which made their dependents eligible to receive compensations from the employers. The Magistrates utilized the information entered on the cause of death column to demand compensations from the employers.³⁷⁴ As is clear from these cases the employers had always tried to put allegations that the deceased wilfully caused the accidents in order to avoid paying compensations. Where the Magistrate was committed to follow the law, compensation was paid out although after a prolonged period, sometimes over three years. These delays have implications on the deceased Native estate case file, because they remained open until the case was concluded; and in most cases they result in the split of the deceased estate records as evident from case Weinhardt Shidute which has evidence of correspondence between seven offices.³⁷⁵

While the legal provision demands that the death notice be issued by a medical practitioner who attended to the deceased during the last illness, in terms of deceased Whites, the death notice for Natives were in general signed by the compound manager on behalf of the employer, as well as, by the Police, Magistrate or Native Commissioner. The information about cause of death is highly important both for family research and social history, and even for medical epidemiological research, because many other relevant sources like hospital records seem to have been destroyed. However, the validity of the "cause of death" information is not always reliable, as such entries have occasionally been made by employing farmers or by compound managers, and not by medical professionals. It is not clear how persons who were not medical practitioners could determine the cause of death of a person who was already dead? Also, the majority of Native deaths were verbally reported by friends, co-workers, employers and family members and notices of death were issued by the police, Magistrate, Native Commissioner, compound manager to whom these cases were reported, only occasionally backed up by a medical practitioner. Regardless of whether death was reported orally or by death notice from a medical practitioner, in both cases, death notices were issued to Natives in circumstances where it was possible to do so.

³⁷³ NES [38] N.E.4937

³⁷⁴ LGR [3/1/3] 2/7/5 case 13/39

³⁷⁵ Ibid.

5.3.3.2 Medical Certificate of the Cause of Death

A Medical Certificate of the Cause of Death was issued in terms of section 23 (1) and 32 of Birth, Marriage and Death Registration Act, No.17 of 1923, by a medical practitioner who attended to the deceased before his or her death. The law required that:

“In the event of the death of any person who has been attended during his last illness by a medical practitioner such practitioner shall, if satisfied that such death was due to a natural causes, forthwith sign and issue without fee or reward to some person required by this Act to give notice concerning the death, a certificate stating to the best of his knowledge and belief the cause of death [...]”³⁷⁶

Section 32 of Birth, Marriage and Death Registration Act, No.17 of 1923 provides that:

“Whenever any medical practitioner has attended during the last illness of any person outside the boundary of any urban areas, it shall be the duty of such medical practitioner ... to send to the district registrar or assistant district registrar without fee or reward a certificate of the cause of death.”

The Medical Certificate of the Cause of Death is a predesigned form that was published as an annexure to Act No. 17 of 1923. It was made compulsory for a medical practitioner to issue this certificate on every patient who died under their care. There was a £25 “penalty for neglect” to medical practitioners who failed to comply.

This legal provision was, however, not really applicable because section 33 of Act No. 17 of 1923 provides that: “Nothing in this Act contained shall be construed as applying to the registration of birth and death of natives...” Also, the law made reference to District Registrars who were not part of the structure of the Magisterial Districts/Native Commissioners, but under the auspices of the Master of High Court. This Act was not meant to apply to the registration of deceased Natives. Nevertheless, some medical doctors occasionally issued the Medical Certificate of the Cause of Death to a few Natives. While this was not a widespread practice, the study found cases where medical practitioners

³⁷⁶ Section 23 (1) of Birth, Marriage and Death Registration Act, No.17 of 1923

like Dr R.W.J. Scheel³⁷⁷ and Dr F.W.H. Janssen³⁷⁸ issued the Medical Certificate of the Cause of Death for deceased Natives at the hospital in Grootfontein. Although this practice was not based on legal provisions the police officer Sergeant Joseph Shortt³⁷⁹ co-signed the certificate.³⁸⁰ These two cases were issued with the Medical Certificate of the Cause of Death, as well as the Death Notice for Native Hospital.

It is interesting to note that the Police and the Magistrate ignored the provisions of the Birth, Marriage and Death Registration Act and went along with the medical doctor who issued the Medical Certificate of the Cause of Death to deceased Native without raising a query about the provisions of section 33 of the Act. This indicates that there was confusion about the separate legislations between Whites and Natives, and that the implementing agencies who in their busy schedule had to be mindful of the race of their deceased patients, something which might not have been part of their professional training, were prone to ignore the racial laws.

5.3.3.3 Identification Pass

Native estate case files usually contain an identification pass and/or a work contract with a number (see Figures 21 and 22). The pass carries a (supposedly) unique number issued to a Native as a temporal right of being in a specific place in the Police Zone or residing temporarily for the duration of a contract and in a specific place. In much of the correspondence, this number replaced the name of a person to whom it was issued, especially, the so-called ET&N Natives, as they were called by this Identification Pass and not by name. The pass also often specifies some of the detail of “tribal” affiliation and next of kin that was then copied into the death notice, although this information on the death notice may also have been provided by fellow workers.

After death, it became important again to establish the real name of the deceased, especially the contract workers who worked for the mines and other

³⁷⁷ LGR [3/1/3], 2/7/6 case 18/40. - Meinert's Directory of South West Africa (1939:187) lists Dr Scheel as medical practitioner at Grootfontein

³⁷⁸ LGR [3/1/3], 2/7/3 case 40/37. - Meinert's Directory of South West Africa (1939:101) lists Dr. Janssen as medical practitioner at Tsumeb

³⁷⁹ Meinert's Directory of South West Africa (1939:198) lists Short, Jos. Cl. Viv. Head Constable, S.W.A.P., Tsumeb

³⁸⁰ LGR [3/1/3], 2/7/6 case 18/40

industries, to be able to trace the heirs of their estates who would know the name but not the pass number.

5.3.4 Information relating to the deceased's possessions

5.3.4.1 Inventory

Firstly, the possessions that were in the custody of the deceased at the time of his (or rarely, her) death. If they are in cash, they are usually mentioned already on the Death Notice. Other possessions such as clothes and other personal effects, or even houses and cattle and savings book, are listed in an inventory (see Figure 27).

The inventory, a list of all personal effects of the deceased, was usually compiled by the Police who took the effects into custody and rendered them to the Magistrate or Native Commissioner. There was no pre-printed form to record the inventory; it took the form of a simple handwritten or typed listing. Depending on the circumstances, these effects would be either handed to the relatives, or sold at an auction so that the inheritors received cash, or destroyed if deemed worthless or infected.

This could be accompanied by notes about related procedures, such as when items that were deemed “totally worthless” or posing a danger of infectious diseases were destroyed, or when items were sold by auction so that cash could be transferred to the distant inheritors.

Secondly, any wages due to the deceased at the time of his death. These were usually collected by the Police and also noted in the Death Notice, but might entail correspondence about disagreements with the employer. Occasionally, documentary items such as proof of worked shifts were added to the file.

Thirdly, if the death was caused by a work-related accident, any monies due to dependants according to the Workman’s Compensation Act (see Figure 31).

5.3.4.2 Estate Voucher

Eventually, an Estate Voucher is compiled detailing the entire value of the estate (see Figure 23).

An estate voucher is a form, document or record that gives the final information about the value of an estate or part of an estate of a deceased person. It is a document that was issued by the police or Magistrate or Native Commissioner after receiving or collecting money (mostly outstanding wages), as well as, after selling the personal effects of a deceased Native in colonial Namibia.

5.3.5 Correspondence relating to the potential inheritors

The local Magistrates and Native Commissioners were the ones who first registered the estate, but were reporting to the CNC for finalising the case. The CNC took up correspondence with reluctant employers to pay compensation, with the Attorney-General to advise in difficult decisions, with the NCO, ANC and with foreign countries to pay out inheritance and with the Guardian's Fund to deposit undistributed estate funds. But the Magistrates and ANCs also corresponded on their own to inheritors or stakeholders whom they believe can help trace inheritors or clarify the genuine claimant of the estate.

In the majority of cases of contract workers, a formal notice is sent to the Native Commissioner Ovamboland (NCO) or Assistant Native Commissioner Rundu (ANCR) with the request to identify the inheritors and pay out the inheritance. (See Figure 24)

The issue becomes more complicated when the deceased had dependants (wife, children) in the Police Zone and their rights have to be determined, or if the deceased is an "E.T.N" (Extraterritorial Native) and diplomatic channels have to be followed to identify inheritors and pay the inheritance.

There is a high incidence of cases where no next of kin could be identified as inheritors. This is also reported back with a formal notice. (See Figure 30)

The NCO blamed this on purposely wrong information by the contract labourers, which they supplied out of fear of prosecution in case of breach of contract.³⁸¹ This is of course a direct result of the repressive contract labour system which made breach of contract a criminal offense. Whether wrong information was indeed the main cause of non-identification, or whether the efforts made by the NCO were not sufficient, can hardly be established anymore.

³⁸¹ Letter from Major Manning (Resident Commissioner Ovamboland) to Secretary for the Protectorate, dated 8.1.1918, in RCO [2] 2/1916/1

All these correspondences were filed and supplied relevant information about the seriousness or negligence with which the estates of Natives were administered, which supported answering the research questions.

5.3.6 Documentation of the financial transactions

Wherever money was involved, it had to leave a paper trail so that it could be audited. Any money that was taken into custody by the Magistrate or Native Commissioner as cash possessions of the deceased, as outstanding wages, from the auctioning of possessions, or Workman's compensation, had to be registered on the Estate Notice; had to be transferred to the instance who paid out the estate to the inheritors (e.g. the NCO) with the request to trace the next of kin (Figure 24); the NCO himself had to get a receipt from the inheritor (Acquittance of inheritance, Figure 25); reported back to the Magistrate who had registered the estate (Figure 26); and if no inheritor could be found, the transfer of the money to the Revenue Fund had to be documented (Figure 30).

5.4 Management of Estate Records in the Creating Offices

5.4.1 General rules

The law mandated the Magistrates or Native/Bantu Affairs Commissioners' Offices with the responsibility of the registration, management and disposal of Native estate records. In fulfilment of these tasks, the Magistrate were issued with the Filing System, various codified instructions and circular instructions as standard practical tools to help them ensure that estate records created did not get lost, but effectively managed. These subsidiary legislations were instructions issued by the Department of Justice and the Department of Bantu Affairs and Development in Pretoria. In addition, the Administrator for South West Africa and Chief Bantu Affairs Commissioner, Windhoek, both issued monthly circular instructions to Magistrates and Native Commissioner Offices. There was also an Archives Commission, which together with State Archives in Pretoria and Archives Depot in Windhoek, carry out regular inspections and

enforce adherence to good records management practices in Magistrate or Native Commissioner Offices.

Justice Consolidated Instructions: Correspondence Filing System (1921) was the first instrument that guided the Magistrates or Natives Commissioners in organizing according to the classification scheme, all the estate records they created and received, as well as, managing them while in their custody and care to facilitate easy retrieval of such records when needed for administrative purposes. The filing system also provides the disposal schedule for various types of records including Native estates. This is meant to assist the registry staff to understand the disposal schedule for estate record already at the time of opening and closing a case file in order to facilitate adherence to disposal schedules.³⁸²

The Department of Justice Codified Instructions Records (1951) further provided solid instructions on management of records while in offices of their creators. The code is structured in seven parts, but the most relevant for this study are those dealing with “Creation, Care, Custody and Arrangement of Records”, “Binding of Records”, “Destruction of Records”, “Transfer of Records to the Archives” and “Transfer of Records to other Departments”.³⁸³ This code “Records” is at the core of this study because some of its provisions might have led to some estate records being destroyed. It played a pivotal role in management of records while in the offices of their creators. Management of records is very important because even if records were created, if they were not maintained, there would be no records to transfer to the Archives.

The instructions to the Registry Officers on how to open and close an estate file is exhaustively dealt with under Part II of the Department of Plural Relations and Development Circular No.2 of 1978 dated 18 April 1978.³⁸⁴ It provided step by step instructions on how to open an estate file, in which order records must be organised in each file. Part IV deals with the administration of estates and exhaustively spells out how to administer a case file, in case where the deceased Bantu is: (a) temporary worker, (b) permanent worker (c) government employee (d) Bantu businessman (e) unmarried Bantu (f)

³⁸² Correspondence Filing System: Magistrates’ Offices, including Rules to secure Uniformity in dealing with Correspondence and Records (1921). In: SWAA [3196] Justice Consolidated Instructions (1921)

³⁸³ This Justice Code Records was made applicable to SWA under Circular No.13 of 1952. In: JUS [10] J1748, Vol.3 (1963-1967).

³⁸⁴ Part 1, of DPRD Circular No.2 of 1978, Estates. In LOW [3/2/29] N1/4/1 Estates Circulars (1946-1978)

pensioner and (g) foreign Bantu. This circular goes into a lot of details including burial feast, which has always been a big deal for the Natives because they can go on for days and part of the estate may be used up by it. It also provides instructions what to do in case of a dispute over the body and or a dispute over children, as in some cultures children may also be inherited.

However, no earlier set of such detailed instructions could be found. It appears that this was a belated attempt to introduce better guidance into the discriminatory system at a time when the foundations of apartheid already started crumbling.

The instructions provided under Part IV are important for all involved in the administration of estates for the deceased Bantu/Native, however, what is key to the registry staff is the fact that, it is they who have to open the file, and they need to know the administrative value of all the incoming estate records, where to file them according to how the deceased Native was classified. Once the administrative value of these records ceased to exist and the file was no longer active, the general closing procedure applied to all estate files dealt with by Magistrates or Native/Bantu Commissioner offices.

There were four codes, namely, (1) Justice Code: Records; (2) Justice Code: Archives; (3) Justice Code: Correspondence; and (4) Bantu Affairs Code. These codes were meant to guide Magistrates in creation and management of their records, but they often became a cause for confusion particularly in the disposal of Native estate records. For example, the disposal schedule of the Justice Code: Records contradicts disposal schedules for all the other codes. In addition, there were Circular instructions, consolidated circular and monthly circulars issued by different offices and like the codes, they were also a cause for confusion and contradiction. The Magistrate would have done a good job if they were issued with a single instruction from one specific office.

5.4.2 The Filing System

Justice Consolidated Standing Instructions Correspondence Filing System (1921) was issued to all the Magistrates or Native Commissioners, under Circular No.2 of 1921, in order to guide the administration of records in these offices. The filing system was the bedrock upon which the registration of estates in such offices rested. "The cardinal principle of the system is that the communication is always found in a subject file under the department to which

the subject belonged. To prevent congestion of papers in a subject file the principle of careful subdivision of files must be followed. The rule is to group cognate subject under a common head and avoid having too many separate subject files.”³⁸⁵

Part 1, section 2 of the Filing System, compelled Magistrates to report on “how far the system has been studied and is grasped by every member of the staff, and how it is being carried out, and the resulting state of the office records.” The filing system is described as “continuous subject index filing system.” Section 2 (a) explains that: “continuous means that a file is always numbered the same and always found in a certain place” while 2 (b) maintains that, “the twin factors which determine the filing are Subject in conjunction with the Department.”

Magistrates were compelled in terms of section 6 of the Filing System, “to constantly supervise the building up of the files in their offices.” Section 14 deals with the “estates files” and “the estates register” and provides instructions on creation of estate records: -death notice, will, inventory, minutes of meeting, liquidation accounts, and that all correspondence related to each estates will be kept together in its own file cover, which on its own become one of the annual set, i.e. 50 sets may be filed in 1920. Each estate case file is given its serial number as it is registered, regardless of alphabetical order. It is however indexed alphabetically in the register and bears the serial number assigned to it at the time of registration. Each year the serial numbers are started afresh.³⁸⁶

Justice Code Records of 1951, dealt with care and custody of records, including estates records. Paragraph 4(a) provides that records should be handled carefully and not be packed too tightly so as to avoid their being mutilated. It further instructs that if a record is removed from a file for use in the office, such a file should not be left untied on floors or shelves pending the eventual return of extracted record from it for temporal use.³⁸⁷

Paragraph 4(b) states that: “The best arrangements possible should be made to safeguard records against loss or destruction. Most offices are provided with records strong rooms in (which) must be preserved records of permanent nature, including those which must eventually be transferred to the Archives, as

³⁸⁵ SWAA [3196] Justice Consolidated Standing Instructions Correspondence: Filing System, issued under Circular No.2 of 1921, [D.J.1/338/10]

³⁸⁶ Paragraph 14 of Justice Consolidated Standing Instructions Correspondence: Filing System, issued under Circular No.2 of 1921. In: SWAA [3195] [D.J.1/338/10]

³⁸⁷ Consolidated Circular Instructions Justice Code Records of 1951

well as other records as can conveniently be stored therein. The care and control of these repositories must be assigned to particular officers on duty sheets, and Magistrates should conduct regular inspections thereof. Offices where adequate accommodation is not available, should communicate their requirements to the Department, if it has not already been advised thereof.”

Lists of the various binding methods applicable to specific government record types, as well as lists of binding service providers who were eligible for binding specific records types, were provided for under paragraph 5. However, paragraph 15 provides that, “estates files in Magistrate offices should not be bound, but tied up in open back portfolios with tie-on labels attached.” The instruction has no explanation for this discriminatory treatment, because individual records in each estates case file from Master of High Court were hand stitched and bound together in one volume. They were transferred to the Archives shelves ready.

5.4.3 Magistrate Registries

The estate case files which were produced as a result of the registration process were brought under the custody and care of the Magistrate Registries in every district. Paragraph No.25 of the Justice Code: Records obliged the Magistrates to appoint the Registry Clerks³⁸⁸ who took on the supervision of records management in Magistrate Registries. The Justice Codified Instructions: Records (1951) further states that: “in offices where the Magistrate’s immediate subordinate is a clerical assistant grade 11, the Magistrate should himself undertake the supervision.”³⁸⁹

In carrying out this supervisory role, Magistrates/ Native Commissioners were supported with highly developed codified standards and procedures, providing defined rules and practical examples on the management of these records including their disposal schedules. These codes and circular instructions were clearly written and were an important reference tools for the Magistrates/Native Commissioner offices. Nonetheless, they also added to the inconsistencies and contradictory problem already observed with the legislations. For example, the disposal schedule for deceased Native estate

³⁸⁸ Paragraph 25 of the Justice Codified Instructions: Records (1951), in: JUS [10], J.1/48, Code Instructions: Records Vol.3 (1963-1967)

³⁸⁹ *ibid.*

records as provided for under the Justice Codified Instructions: Records (1951) contradicts the provisions made under Justice Codified Instructions: Correspondence (1951) on this same subject. These two codes were issued by one office, the Department of Justice, during the same year.³⁹⁰

The disposal schedule is very key to the research questions of this study because it is the very first step when the fate of a deceased Native estate records was made –whether such records were to be destroyed for eternity or to be transferred to the Archives depot. When the Magistrates were faced with contradicting official instructions -destroy after 3 years,³⁹¹ or destroy after 10 years,³⁹² and or transfer to the Archives after 30 years,³⁹³ they chose either, and in this way some deceased Native estate records were most likely being officially destroyed.

5.4.4 Disposal of Records

The disposal of records from the creating offices is discussed in Part III and IV of the Department of Justice Codified Instructions Records (1951).³⁹⁴ According to this Code, records are disposed of in two ways, by destruction and by transfer to the Archives. Part III, Paragraph 18-30 deals with the destruction of records, while Part IV (paragraph 31-39) focuses on the transfer of records to the Archives.

5.4.4.1 Destruction of Records

The underlying principle behind the destruction of records is to reduce congestion in office space by removing redundant and obsolete records on a regular basis. This would enable the registry staff to dedicate more time and efforts to care for valuable and irreplaceable records, instead of being overwhelmed by a large quantity of records that has no value. The Department

³⁹⁰ See Department of Justice Codified Instructions: Correspondence (1951). In: ARG OA.13/1; Department of Justice Codified Instructions: Records (1951). In: JUS [10], J.1/48 vol.3

³⁹¹ Department of Justice Circular No.78 of 1965. In: JUS [10] J1/48, Vol.3

³⁹² Annexure B, paragraph 19 of the Justice Codified Instructions: Records (1951). In: ibid.

³⁹³ Paragraph 20 and 32 of the Justice Codified Instructions: Correspondence (1951). In: ARG OA.13/1

³⁹⁴ Department of Justice Codified Instructions: Records (1951). In: JUS [10], J.1/48 vol.3

of Justice Codified Instructions Records is published with two Annexures A and B which contain list of records by subject for which Archives authority to destroy as a routine matter has been obtained from the Archives Commission, in South Africa. Annexure A is concerned with records originating from the Attorney-General, Masters, and Registrars of Supreme Court structures originating the White estates records.

Annexure B contains “lists of group of records in offices of Magistrates/Native Commissioner and Special Justice of Peace for the disposal of which the authority of ... Archives has been obtained.” These were the structures through which Native records were created, managed and disposed of.

Although lists of groups of records for which authority to dispose have been published, paragraph 18 of the Codified Instructions: Archives (1969) underlines that: “Under no circumstances, whatsoever, may records be destroyed or otherwise disposed of unless such disposal is specifically authorized.”³⁹⁵ In spite of the pre-approved disposal lists, the disposal of any record was still subjected to further approval prior to them being disposed. Paragraph 20 and 21 of Annexures A and B explain the symbols used to denote the approved group of records for disposal:

A Files to be transferred to Archives.

D Files to be destroyed.

P files to be retained permanently.”

These paragraphs further explain that, the numerical number used in conjunction with symbols such as A.30, D.5 and P.15 “denote the number of years, from the date of the last document in any file, that such file must be retained before it is either transferred to Archives or destroyed.” Paragraph 20 (c) provides that: “Notwithstanding any authority for the destruction of a correspondence file, the contents of each file should be carefully examined to ascertain whether it contains information of historical value. Any paper containing such information should be extracted from the file and transferred to Archives.”³⁹⁶ Therefore the use of symbol D was not to be interpreted literally, but a mere guideline to be applied to each file on the basis of value.

³⁹⁵ Codified Instructions: Archives (1969). ARG [OA 13/1-25] OA 13/1-168

³⁹⁶ Paragraph 20 (c) of the Justice Codified Instructions: Records (1951). In: JUS [10], J.1/48 vol.3

The instruction does not offer any explanation about what is meant by “historical value”, how value is determined and, the extent to which it may be applied to each file.

As evident from circular no.51 of 1936, records had been destroyed in Magistrate/Native Commissioner offices without any authorization. The Department of Justice

“is informed by the Secretary of Interior, Pretoria that cases have occurred where records of considerable historical interest have been destroyed without prior approval having been obtained from the Archives Department.”³⁹⁷

The circular did not specify what types of records were being destroyed. However, in what appeared to be a desperate call, the Secretary of Interior, on 8th November 1937, issued another circular to re-enforce adherence to instructions issued under Justice Circular Minute No.51 of 1936 by calling on all Heads of Departments, Magistrates and Whole-Time Special Justices of the Peace in the Department of Justice to strictly adhere to instructions contained in and further urge officers “to guard against the destruction of records which may be of value to the Archives.” On this same circular, he urged that, in cases where labour involved in listing unsorted and loose records would be considerable, these records may be forwarded to the Archives without an inventory.³⁹⁸ The situation must have been quite bad that the Secretary for Interior had to take such desperate measures, which shifted the workload to the Archives.

Below is Table 7 containing lists of approved disposal instructions related to estates records as extracted from various Codes.

This table shows the disposal schedules as provided for under different codified instructions issued to the Magistrates/Native Commissioners by the Department of Justice and Department of Bantu Affairs and Development. One of the main objectives for issuing these instructions was to bring about uniformity in the administration of Native estates in the offices of the Magistrates/Native Commissioners. The contradictions in some of these instructions might have betrayed this intention and instead most likely to have

³⁹⁷ Justice Circular No. 51 of 1936. In: SWAA [2291] A506/6 Circulars Justice, Vol.12 (1939-1942)

³⁹⁸ Justice Circular Minute No.45 of 1937, Archives. In: SWAA [2291] A506/6 Circulars Justice, Vol.12 (1939-1942)

contributed to the destructions of some estate records both at District Registries and at the Archives Depot in Windhoek.

Table 7. Disposal instructions in various Codes

Codes	Subject	Disposal	Contradictions/ Inconsistencies
Justice Consol. Standing Instructions: Filing Systems ³⁹⁹ (1921)	Native Estates (Section 14)	-	none
Justice Codified Instructions Records ⁴⁰⁰ (1951)	U.D.J. 108 Estate Register	D.15	Contradicts Handleiding oor Inboorlingreservate (1959)
	Deceased Estate Files	D.10	Contradicts Code: Correspondence (1951), Bantoesakekode (1972)
Justice Codified Instructions Correspondence ⁴⁰¹ (1951)	19/1/1 Estates: Circulars	D.15	
	19/1/2 Estates: Other Districts	D.5	
	N.1/4/1 Estates: Circulars	D.15	
	N.1/4/2 Estates (main file)	A.30	
	N.1/4/3 Estates	A.30	Contradicts Code: Records (1951)
	N.1/4/4 Estates (other districts)	D.3	In the same code, Estates (other districts) is D.3 for Natives and D.5 for Whites
Handleiding oor Inboorlingreservate (1959) ⁴⁰²	N.1/4/2 Boedels (Hoflêer)	A.30	
	N.1/4/3 Boedels (Sublêers)	A.30	
	U.D.J.608 Boedelregister	A.30	Contradicts Justice Codified Instructions Records (1951)
Bantoe-Administrasie en ontwikkeling. Gekonsolideerde vaste omsendbriewe (1964) ⁴⁰³	N.1/4/1 Estates circulars N.1/4/2 Estates main file N.1/4/3 Estates N.1/4/4 Estates other districts	D.15 A.30 A.30 D.3	

³⁹⁹ SWAA [3196] Justice Consolidated Standing Instructions Correspondence: Filing System, issued under Circular No.2 of 1921, [D.J.1/338/10]

⁴⁰⁰ Disposal is provided for under Paragraphs 21 to 32 of Code "Records" In: JUS [10], J.1/48, Code Instructions: Records Vol.3 (1963-1967)

⁴⁰¹ Disposal is provided for under Paragraphs 20 and 32 of Code "Correspondence" In: ARG, OA/13/1-167

⁴⁰² BAC [203B] UA.03

⁴⁰³ ARG [OA 13/1_23] OA 13/1-160

Codes	Subject	Disposal	Contradictions/ Inconsistencies
Bantoesakekode Korrespondensie (1972) ⁴⁰⁴	N.1/4/1 Circulars	D.15	
	N.1/4/2 Estates (Main file)	A.30	
	N.1/4/3 Estates	A.30	
	N.1/4/4 Estates (other districts)	D.5	Disposal Schedule for Native Estates (other districts) brought at par with Whites Estates

Table 7 above shows a number of codified instructions and filing systems, issued by the Department of Justice and the Department of Bantu Affairs and Development, in Pretoria. The provisions contained in the Justice Codes outlined on the tables above are inconsistent and contradictory. The only thing these Codes have in common is that estates circulars be destroyed after 15 years. The “deceased estate” and “estate main file” varies between destroy after 5 years⁴⁰⁵ or destroy after 10 years⁴⁰⁶ and transfer to Archives after 30 years.⁴⁰⁷

While several examples exist on files in the storage unit LGR [3/1/3] 2/7/1, the Department of Justice Circular No. 78 of 1965 stands out. It states the following: “The Director Archives has authorised the following amendments to the existing disposal instructions: - (I) Deceased Estate Files. D.3.”⁴⁰⁸ This circular which amended the Justice Code: Records and the Justice Code: Correspondence, became an additional source of confusion. Firstly, Annexure B, paragraph 19 of the Codes Records provides that “estate register D.15” (destroy after 15 years) and “deceased estate files D.10” (destroy after 10 years).⁴⁰⁹ This contradicts Codes Correspondence which provides that “estates (main file) A.30” (to Archives after 30 years) and “estates A.30”⁴¹⁰ (to Archives after 30 years), as well as Bantu Affairs Codes Correspondence (1972), which

⁴⁰⁴ In: LMA [3/5/1] UA.01

⁴⁰⁵ Department of Justice Codified Instructions Correspondence (undated, but receiving stamp of the Windhoek Magistrate is dated 8 April 1969). In: ARG OA.13/1

⁴⁰⁶ Department of Justice Codified Instructions: Records (1951). In: JUS [10], J.1/48, Code Instructions: Records Vol.3 (1963-1967)

⁴⁰⁷ Bantoesakekode Korrespondensie, Departement Bantoe- Administrasie en –Ontwikkeling (1972). In: LMA [3/5/1] UA.01; Department of Justice Codified Instructions Correspondence (1951). In: ARG, OA.13/1

⁴⁰⁸ Department of Justice Circular No.78 of 1965. In: JUS [10] J1/48, Vol.3 and SWAA [2291] A506/6

⁴⁰⁹ Department of Justice Codified Instructions: Records (1951). In: JUS [10], J.1/48 vol.3

⁴¹⁰ Department of Justice Codified Instructions Correspondence (1951). In: ARG OA.13/1

provides that “estates (main file) A.30” (to Archives after 30 years) and “estates A.30”⁴¹¹ (to Archives after 30 years). It also contradicts the “Handleiding oor Inboorlingreservate” (1959)⁴¹² (Guide for Native Reserves) which prescribes A.30 for estate registers.

In fact, it seems that the provision for destruction of estate files in the Justice Code: Records was only meant for “White” estate records in the offices of Magistrates. This is however not spelt out. The Justice Code: Correspondence specifies in a footnote that the estate case files in the offices of the Masters [of the High Court] have disposal A.40 (to Archives after 40 years). Those are the estates of the Whites which, according to the detailed instructions in the Estate Act, contain all relevant records, while the correspondence remaining at the Magistrates who originally registered the estate has become redundant and can be destroyed. As the Native estates are not sent to the Master of the High Court, they consequently do not become redundant and should be archived, as is correctly specified in the Justice Code: Correspondence, which also provides different filing codes for the White and the Native estates.

As the Justice Code: Records does not specify file numbers, its provision for disposal of estate records is ambiguous and could easily be understood to destroy Native estates as well. This is most likely to be one way in which Native estate records in Magistrate/ Offices were destroyed, 10 or 15 years after closure of the file, as instructed. And, while these instruments were meant to provide standardization in the management of records, their multiplicity and contradictions might just have confused Magistrates and their registry staff.

Although the Justice Codes: Correspondence (1951) and the Bantu Affairs Codes: Correspondence (1972) provide that Native estates records be transferred to Archives after they reach age 30 years⁴¹³ there is another complexity to be considered when these records are transferred to the Archives. As would become evident from the case of Hendrik Weinhardt Shidute,⁴¹⁴ who was a Northern Native, the finalisation process of his estate

⁴¹¹ Bantoesakekode Korrespondensie, Departement Bantoe- Administrasie en –Ontwikkeling (1972). In: LMA [3/5/1] UA.01

⁴¹² BAC [203B] UA.03

⁴¹³ See ARG, OA.13/1; and LMA [3/5/1] UA.01

⁴¹⁴ LGR [3/1/3] 2/7/5 case 13/39

case involved about seven or more government offices.⁴¹⁵ This means that deceased Native Shidute had potentially separate case files created by seven different government offices that dealt with his case. The lack of a clear centralization, as it was provided for the Whites and Coloureds at the Master of the High Court, led to a scattering of information and its likely destruction under file code N.1/4/4 for which all codes allows an early destruction after a few years. When the Native estate records were transferred to the Archives, they were most likely incomplete; this corresponds with the findings presented in Chapter 6.4.2. and Figure 4.

Although the case of Shidute appears to be one single exceptional case, and the study has not come across other cases that were dealt with in this systematic and exhaustive manner, there may still be and may have been similar cases where the documentation was scattered over a number of offices. This may have tempted the Archives staff to consider: Which of these files from which creating office would be the main file? As a result, the transfer from Magistrate offices may have been destroyed as their equivalent from Chief Native Commissioner, Windhoek may have been considered the master file, although this was actually not the case. In this way valuable and irreplaceable local Native estate files which were dealt with by district Magistrates at local level, may have been destroyed.

Officers responsible for the destruction of records in the Magistrate Offices were appointed in terms of paragraph 25 of the Justice Codified Instructions: Records of 1951. The duty of supervising disposal of records includes:

1. thorough inspection of the records of the office;
2. searching in all the lofts, cellars and outbuildings for records;
3. checking all records against authorities for destruction referred to in the Code;
4. setting aside records which qualify for destruction separately from those eligible for transfer to Archives; and,
5. ensuring that all records eligible for destructions are listed.⁴¹⁶

⁴¹⁵ (1) Magistrate, Grootfontein; (2) Chief Native Commissioner, Windhoek; (3) Magistrate Otjiwarongo; (4) Native Commissioner, Ondangwa; (5) South African Railways and Harbours; (6) Attorney General; and (7) Office of the Administrator for South West Africa.

⁴¹⁶ Paragraph 26 of the Consolidated Circular Instructions Justice Code: Records, in: JUS [10] J.1/48 vol.3

The files N.1/4/4 “Native Estates. Other districts” could be routinely destroyed. These files presumably contained correspondence with other Magistrates or the CNC about assisting them in the administration of an estate, such as the identification of a spouse or the validity of a marriage. This cannot be stated with certainty, because indeed all such files have been destroyed; not a single file N.1/4/4 could be identified in the NAN.⁴¹⁷ The lists of destroyed files from Magistrates occasionally contain evidence that N.1/4/4 files were destroyed; for example, by the Magistrate Okahandja for the years 1953-1958.⁴¹⁸ In principle there should be nothing wrong with such destruction, if the regulatory framework had clearly spelt out that all relevant correspondence should be filed with the Magistrate responsible for that estate, like the Master of the High Court was responsible for the White estates. However, there is no such provision, and in the light of the many discovered gaps (see the discussion under Ch.6.3.3) it is however regrettable that such action has been taken.

It is also noteworthy to consider the conflicting instructions for estate registers (Form U.D.J.608). Paragraph 19 of the Justice Codified Instructions: records recommends the “estate register” to be destroyed after 15 years. This contradicts the “Handleiding oor Inboorlingreservate” (1959)⁴¹⁹ (Guide for Native Reserves) which prescribes A.30 for estate registers. It should be noted here that only two transferred Native estate registers could be found at the NAN⁴²⁰ – quite likely an outcome of the confusion caused by the contradictory instructions.

Lists of group of records earmarked for destructions were prepared for each department on records by subject eligible for destruction. Paragraph 27(a) provides a pre-design form according to which lists were formulated.

⁴¹⁷ See file JUS [10] J.1/48 vol.2 for an example: Magistrate Okahandja to Chief Archivist Pretoria and Secretary for South West Africa, dated 13.10.1962: Destruction of correspondence files. - There are many other examples.

⁴¹⁸ Destruction certificate sent by Magistrate Okahandja to Chief Archivist Pretoria, dated 13.10.1962, in: JUS [10] 1/48 vol.2

⁴¹⁹ BAC [203B] UA.03

⁴²⁰ LOU UA.1; LKM [4/1] Reg.3

Figure 1. Destruction certificate form⁴²¹

27. Separate lists in the form shown under each should be prepared for the following types of records:—
 (a) Correspondence files. The files must be listed in strict sequence according to the correspondence registers Annexures A and B to the Code “Correspondence”.

FORM.

Office.....

Date.....

I hereby certify that the records listed below have (this day) been destroyed.

Designation

File No.	Subject.	Period covered.

Two copies of the list are required; one for transmission to Chief Archivist, Pretoria, and the other for filing of record,

Paragraph 30 provides that: “Lists of all records destroyed should be placed in file 17/6/3 and retained permanently in the office. It is of the utmost importance that these lists should be carefully preserved as they constitute the sole record of the disposal of the records.” Two copies of the list were required; one for transmission to Chief Archivist, Pretoria⁴²² and the other for filing of record. Therefore, if all instructions were carried through as directed, it would be possible to establish how each and every record ever created by the Magistrate or Native Commissioner in colonial Namibia was disposed, whether by destruction or by transfer to the Archives.

5.4.4.2 Transfer of records to the Archives

Part IV (paragraph 31-39) of the Consolidated Circular Instructions Justice Code: Records deals with transfer of records to the Archives. Paragraph 31,

⁴²¹ Department of Justice. Codified Instructions: Records (1951), p.6. In: JUS [10] J.1/48 vol.3

⁴²² This Codified Instructions: Records (1951) were made applicable to SWA/Namibia by Circular No. 13 of 1952 (In: JUS [10], J.1/48, Code Instructions: Records Vol.3 (1963-1967)); This applicability was extended to Bantu Administration and Development by Circular No. 78 of 1965 (ibid.)

provides that all the provinces were served by an archives depot, to which records authorised to be transferred were sent. Authorities for the transfer of estates records is provided for under paragraph 32 (b), while paragraph 33 instruct the transferring offices to first consult the Archivist “whether it is convenient for him to receive them (records) at that time.”

The challenge of lacking good records management practices was not only experienced with the creating or originating offices but equally with the Archives. Correspondence from Magistrate Bethanie to the Secretary for SWA, dated 24th October 1958, states the following:

“On the 16th September 1958, this office wrote to the Archivist, Windhoek, and requested him to advise when certain records (civil and criminal) could be transferred to the Archives, Windhoek, but to date no reply has been received from him. A reminder was sent on the 8th October 1958.”⁴²³

In spite of the follow up by the Secretary for South West Africa to the Archivist with a letter dated 29 October 1958, urging “I shall be glad if you will kindly inform me what has transpired in the matter” the Archivist in Windhoek, did not send any response. In another letter on the same date 29 October 1958, the Secretary for SWA advised Magistrate Bethanie to follow “procedure as prescribed in Justice Circular No.9 of 1955” with regard to the destruction of record, it appeared from the correspondence in file SWAA [2352] the Archivist, Windhoek was not interested in magisterial records. Magistrate Bethanie again wrote, on 17 February 1959 to the Secretary for South West Africa:

“I have to advise you that the suggestion contained in the final paragraph of your minute under review was complied with and that copies of previous correspondence were forwarded to the Archivist, Windhoek, on the 17th January 1959, but that I have no reply from him.”⁴²⁴

According to paragraph 34 of the Justice Code: Records (1951), records were transferred to the Archives depot by registered post or “in wooden or carton boxes by goods train” depending on the quantity of the materials to be sent. “The designation and address of the consigner and consignee should be clearly

⁴²³ Letter dated 24 October 1958, from Magistrate Bethanie to the Secretary for SWA. In: SWAA [2352] A514/15 Records and Correspondence

⁴²⁴ Letter dated 17 February 1959, to the Secretary for SWA. In: *ibid.*

shown on the parcels or boxes.” The Department of Education was responsible to carry the transport or mailing costs associated with all transfers to the Archives.

Paragraph 35 makes it the responsibility of the archivists to whom the record were being sent, to supply the packing cases whenever transfer inquiries are directed to him and or in terms of paragraph 33, be requested to supply the necessary packing cases.

5.4.4.3 Lists of records to be transferred

Paragraph 36 requires that separate lists of different types of records, as set out in paragraph 27 of the Justice Codified Instructions Records of 1951, should be prepared for all records types transferred to Archives.⁴²⁵ Paragraph 27 requires that the lists of transfer and the form on each records type as outlined in Annexure B be completed in triplicates. One copy should accompany the notification of despatch, another enclosed in the case in which the records are despatched to Archives and the third copy placed in the office file No.17/6/4 for permanent preservation as provided for in paragraph 30.⁴²⁶

Such as in the case of destructions, the evidence of transfer was documented on a pre-approved form and preserved.

The form or certificate of transfer at the head of the list was prescribed to read as follows:-

⁴²⁵ Paragraph 27 of the Department of Justice Codified Instructions: Records (1951). In: JUS [10], J.1/48 vol.3

⁴²⁶ Paragraph 30 provides that: “Lists of all records destroyed should be placed in file 17/6/3 and retained permanently in the office. It is of the utmost importance that these lists should be carefully preserved as they constitute the sole record of the disposal of the records.” (ibid.)

Figure 2. Transfer certificate form⁴²⁷

ψ 36. (a) Separate lists of different types of records, as set out in paragraph 27, should be prepared for records transferred to Archives. The certificate at the head of the list should read as follows:—

Office.....

Date.....

I certify that the records listed below have this day been transferred to Archives.

Designation

(b) Three copies of the list should be made; one copy should accompany the notification of despatch, another enclosed in the case in which the records are dispatched and the third placed in the office file No. 17/6/4.

As was already stated in paragraph 15 which provides that, the estates files in Magistrates' offices should not be bound, but tied up in open back portfolios with tie-on labels. Paragraph 36(b) specifies that arrangements of records should be neatly parcelled with tie-on labels attached, and arranged from left to right in the packing case as neatly as possible in the order in which they are listed. While it was not approved to bind the Native estate records, the White estates records were transferred to the Archives neatly bound into hardcover volumes. Loose papers easily get lost and can disappear from the folder without leaving a trace. Binding reduces this vulnerability because records are not easily removed. Therefore the management of White estate records had a competitive survival advantage over Native estate records both as current records and continual custodianship at the Archives.

5.4.4.4 Receipts to be obtained

It was a legal requirement that a certificate of receipt by the Archives for the records received must be obtained from the Archivist, and it must be filed and preserved in the office which created such records.

The correspondence between the Magistrate of Bethanie and the Secretary for South West Africa (see above under Ch.5.4.4.2) reveals that this requirement was not always followed. The professional attitude of the Magistrate in Bethanie contrasts sharply with the apparent neglect by the incumbent Archivist. It has been noted above that the records of the Archives

⁴²⁷ Department of Justice. Codified Instructions: Records (1951), p.8. In: JUS [10] J.1/48 vol.3

Depot after the departure of the Archivist, Esterhuyse, who was passionate, interested and focused in laying foundations for good records management practices in Windhoek, obviously deteriorated. It appears that the State Archives in Pretoria, which was responsible for the staffing, was not particularly concerned about selecting the right person for the post in Windhoek.

5.5 Management of Estate Records by the Archives Depot, Windhoek

The Archives was involved in the management of the estate records, like any other official records, through inspections, dealing with disposal requests by authorizing destruction or transfer, and eventually by ingesting the records into the Archives Depot, processing, appraisal, and metadata creation. Archival processes as provided for under the Archives Act and Instructions are provided below.

5.5.1 Inspections

The Archives Act mandated the Chief Archivist⁴²⁸ to carry out regular inspections⁴²⁹ of record keeping practices in all government offices, including Magistrates or Native Commissioner Offices, and give advice. Inspection reports are kept in the inspection files of the Archives. Inspections of Magistrates were, however, quite rare. After the initial inspection visits of archivist Esterhuyse, not a single inspection report of a Magistrate could be found until 1987,⁴³⁰ and apparently the offices of Native Commissioners were never inspected.

⁴²⁸ The Chief Archivist was, under Section 2 of the Archives Act (1953), as well as, Section 3(1) of the Archives Act (1962) appointed by the South African Minister of Education, Arts and Science. As usual in the public service, the actual execution of the task could be delegated to subordinates, such as in this case the Archivist in Windhoek.

⁴²⁹ Section 7 of the Archives Act, No.22 of 1953; Section 3 (2) (b) of the Archives Act, No.6 of 1962

⁴³⁰ Rekordbeheerbesoek Landdroeskantoor Windhoek, dated 27.3.1987, in: [ARG](#) [97] 15/7/1/11

5.5.2 Disposal Requests

Magistrates or Native Commissioners compiled lists of records that were no longer required for the day to day administrative purposes and sent them with a covering letter under subject Disposal Request to the Chief Archivist in Pretoria, and as from later, in Windhoek. The Archives Commission⁴³¹, the body which could authorise the destructions of records according to the Act, was in Pretoria and there never was a commission in Windhoek. Only after the Archives in Windhoek was dissociated from Pretoria in 1978, was this function taken over by the Archivist in Windhoek.⁴³²

The Chief Archivist appraised the submitted list and, with approval of the Archives Commission, sent it back to Magistrates with a decision regarding which records were to be destroyed and which ones to be transferred to the Archives. It appears that the Archives in Windhoek was only notified afterwards of the decision. The Magistrates were obliged to send a destruction certificate of the files they had destroyed to the Archives in Pretoria (and at a later stage to the Archives Depot in Windhoek). The destruction certificates are kept in the disposal files at the Archives, although Magistrates were also supposed to preserve copies of destruction certificates, in the Magistrate registries.

5.5.3 Transfer

Colonial Namibia did not have an Archives depot before 1939, and prior to this date, no transfer could have been possible. It might have been that earlier transfers from “the territory of South West Africa” were sent to Pretoria, South Africa, but there is no evidence of this in the transfer file of the National Archives of Namibia’s Archives of the Archives. Considering the usual transfer period A30 (30 years after file closure), this is also highly unlikely. The Archives depot in Windhoek was established in 1939 (see Introduction, Ch. 1.5.4.2).

⁴³¹ Appointed in terms of section 5 of the Public Archives Act, No.9 of 1922; Section 3 of the Archives Act, No.22 of 1953; Section 4 of the Archives Act, No. 6 of 1962;

⁴³² ARG [14] 3/3/1

The transfer process started with the Magistrates requesting the Archivist in Pretoria for permission to transfer,⁴³³ with a list of the files to be transferred. In all the cases reviewed, this permission was granted. Having been granted the transfer, the Magistrate sent the relevant records to the Archives Depot, accompanied by a covering letter and the list. The Archives depot was obliged to send back to the transferring Magistrate an acknowledgement of receipt. Records of all these transactions are accessible in the transfer files of Archives of the Archives. Transfer files provide evidence of what was transferred, by whom, when was the transfer made and what period did it cover. Evidence from the transfer files was compared with appraisal reports, destruction certificates, and finding aids for a comprehensive answer to the research questions. It must also be pointed out that, disposal and transfer are closely related and often referred to in the same letter, and in filing the Archivists tended rather to mix them up, therefore the study had to examine both these files concurrently.

5.5.4 Appraisal

Once the transfer is received, the Archives depot may cause further processing including another appraisal to such records, and further destructions may be recommended. It would have been informative if the Archives depot in Windhoek had kept records of processing and appraising the transferred records. This was, however, apparently not the case. Hardly any files about processing and appraising at the Archives depot during the colonial period could be identified, apart from the scanty evidence discussed below under Subchapter 6.6.3.

5.5.5 Processing

In addition, the result of an appraisal process should be the final processing of the sorted and appraised records into storage units, the compilation of a Finding Aid and an Index. It is important to establish whether a finding aid exists or not and whether further value has been added by indexing. Indexing

⁴³³ Section 5 (2) of the Archives Act, No.22 of 1953; Section 6 (a) (ii) of the Archives Act, 6 of 1962

of individual estate records case by case was made feasible with the introduction of electronic data processing in 1976. Before computerization, indexing was only possible through a cumbersome card catalogue (which was apparently never attempted at the NAN, or did not survive) or even more cumbersome thumb indexes in record books.⁴³⁴ Exploration of the database shows that, unlike the White estates that were fully indexed and searchable in an electronic database by deceased's name, the Native estates records were not indexed in this way and therefore had been difficult to retrieve and serve to users.

Indexing brings a substantial improvement to reference service. Often the users requesting an estate (or another person-related record, such as a divorce case) do not know the exact year, nor the responsible Magistrate, to narrow down the search. The key to the record is the person's name; without name indexing, extensive time-consuming searches through lists or even unlisted files from several Magistrates are required, while a name index would immediately refer to the required record or, in the worst case, several records with identical names.

If the legal framework and administrative procedures have been followed, the created managed and transferred deceased Native estate records should be retrieved from the Archives. However this would only be possible if continual custodianship of such records from the offices of their creators to the Archives depot had been maintained. The next section will clarify this process.

5.6 The practical implications of the legal and administrative framework

The colonial laws and subsidiary legislations resulted in separate administrative structures for Whites and Natives estates. The law required the White estates to be centrally administered by the Master of the High Court, while the Native estates were mandated to a chain of multiple structures under the Chief Native Commissioner, magisterial districts or Native Commissioners that were long

⁴³⁴ At the creating offices (the courts), the register books in which cases were numbered listed as they came in, contained sometimes a crude system of alphabetic indexing by writing names and case numbers in alphabetic book thumb index pages. This system was also used for criminal cases and White estates at the High Court. One of the two surviving native estate register books from a Magistrate (LOU UA.01) is arranged as such an index, while the other (LKM [4/1] Reg.3) is only arranged chronologically.

distances apart. This resulted in the Natives estate records constantly being moved from one office to another in creation stage, which put them at risk of being lost, damaged, and scattered among different files in different offices. There was no final focal point to keep all this correspondences together that could be compared to the Master of the High Court.

Inspection reports of Magistrate/Native Commissioner offices reveal that these offices were not adequately resourced to handle the multitude of their functions which includes the registration, management and disposal of Native estates and the records resulting from this registration process. Departmental Circular No.11 of 14th April 1960 discloses:

“In some offices wills by Bantu testators have during inspections been found in sealed covers amongst the Bantu Affairs Commissioner’s confidential documents or in his safe without any records of the names and addresses of the testators and the circumstances under which the wills were deposited with him. This could entail the administration of estate as intestate solely because interested parties would have no knowledge of the existence of a will and the Department could in this manner be placed in a difficult position.”⁴³⁵

In a different context, namely the registration of marriages, the following was observed by Reverend Edward Dymond:

“ [...] the whole matter of marriages by European law, [...] the Natives are told that if they do not wish to be married in Community of Property (and none of them so desire) they can either:

Make arrangements with a Notary Public in the Police Zone - a practical impossibility

Make a Will - equally impossible of achievement; how can Native Affairs Commissioners at Ondangwa and Oshikango deal with many thousands of would-be Will-Makers? Besides which, young girls cannot walk long distances to the Native Affairs Department Offices in the "hope" of finding a Native Commissioner at home. We have already, during the past five months, seen the repeated fruitless journeys of hundreds to those two Offices for the purpose of having Community of Property "explained" to them and of being civilly married.”⁴³⁶

⁴³⁵ BDA [7] N1/4/1, Estates: Circulars, Vol.1. (1943-1947)

⁴³⁶ Letter from Reverend George Wilfred Dymond to Bishop Vincent (1952), cited in: NAN, Unpublished manuscripts: ELFI-0604. Alexandra Luff and Nancy Robson (1999:176)

It appears from both the inspection reports and observer report that the Native Commissioners' offices were ill equipped, understaffed and not widely available to serve the whole districts. In addition, some of the Native Commissioners appeared to either lack understanding or were overwhelmed with multiple functions that their legal mandate in the administration of Natives estates was overlooked.

Likewise, the Magistrates were overwhelmed with additional duties which were not even mentioned in the main legal instrument outlining their work, the Magistrates' Court Proclamation.⁴³⁷ It is illustrative to cite from the memoirs of F.W. Ahrens, who in the course of a long career as a Magistrate in South Africa also served for three years in Windhoek during the 1930s. Ahrens wrote,

“The duties of a Magistrate are various and multifarious, and he is practically a forwarding agent in his district for every conceivable department. He is, indeed, ‘head cook’ and ‘bottlewasher’ in the true sense of the term. His responsibilities are greater than the ordinary man in the street appreciates. Where some departments specialise in their own special line, the Magistrate has to be *au fait* with all the laws, regulations, proclamations and so forth concerning every department. Apart from his ordinary duties, judicial and administrative, he is usually the Native Commissioner and has to act as a ‘foster’ father to the Natives, and any other subject race.”⁴³⁸

It is not surprising that under such circumstances the attention to one of the “multifarious” duties, such as for example the Native estates, suffered.

⁴³⁷ Magistrates' Court Proclamation, Proclamation P. 31 of 1935., in *The Laws of South West Africa*, vol.14, p.424-648

⁴³⁸ Ahrens, F.W. (1948:162)

6 The management of Native Estate records in the NAN

6.1 The discovery tools of the National Archives of Namibia

In order to understand the process of finding Native Estates (or any other record) in the NAN, it is necessary to present the various discovery tools offered by the institution.

6.1.1 List of Archivalia

The List of Archivalia is a finding aid that is available in the reading room of the National Archives of Namibia in paper format. It provides an overview list of all archival fonds that are accessible to the public at the National Archives of Namibia. In archival terminology, a fonds is an aggregation of documents that originates from the business operations of the same source (government department, Magistrate, etc.), following the archival principle of provenance (respect de fonds). Usually fonds are treated as the highest level of description in an archives, and are subdivided into different series, which are further subdivided into individual files, and each file consists of individual documents (such as a letter or a memorandum). This List of Archivalia leads users to identify the fonds (groups) of archives and their respective finding aids. In the NAN, each fond is given a mnemonic three or four letter code which makes it easier for the staff to navigate the system and also to physically locate, retrieve and re-shelve the records. For example, all codes for Magistrates start with the letter L (derived from the Afrikaans term for Magistrate, Landdros).

The List of Archivalia is the first reference users should consult when they want to find anything in the archives. This List of Archivalia leads users to other finding aids, listing all offices that transferred their records to the archives, and presented both in a grouped and an alphabetical arrangement.

The List of Archivalia present records in three major groups, namely, (1) Archives proper, that is government records as defined in Section 1 of the

Archives Act, Act No. 12 of 1992; (2) Private Accessions that consist of everything collected in terms of Section 1 and 7 of the Archives Act, Act No.12 of 1992; (3) Collections that could theoretically fall under private accessions, but they are organised by different media, such as, maps, microforms, photographs, plans, posters, publications, audio-visuals, audio, ephemera and digital material.

Deceased Natives estate records falls under group “archives proper” because they are created and maintained by Magistrates/Native Commissioners which are government offices. The List of Archivalia supplies the following information:

- Fonds (group) code
- Name of the fonds (office of origin)
- Dates indicating the period covered by the archival fonds
- Storage Units, providing a rough estimate of the size or physical space occupied by the group
- Finding aid, indicating the shelf-number allocated to the finding aid of that particular fonds, leading the researcher to find more detailed information.
- Database indicating whether electronic metadata for this group of archives exists and in which database

6.1.2 Finding aids

Finding aids have (ideally) an introduction giving a general background about the office of origin of the particular fonds, about its operations, and a general description of what is contained in these files and how they have been appraised. This information is available for most of the archives from the German colonial period but often lacking for fonds from later periods. The current NAN staff suspects that the chronically understaffed institution simply had no time to do the necessary background research for compiling the introductory information.⁴³⁹ This is corroborated by the fact that many finding aids still exist in the raw stage of handwritten listings.

⁴³⁹ Interview with W. Hillebrecht, Chief Archivist

The introduction is followed by a listing of files in the original arrangement prescribed by the original filing system. Depending on the amount of work invested into a finding aid, this listing might indeed list the detail of every single file, or might stop at a summary mentioning of case files. In the present study, it was found that several finding aids at the NAN mentioned “Native estates” as a summary heading without listing every case file or even the number of case files under that heading (see Subchapter 6.1.2.2). The South African colonial period fonds with the largest occurrence of Native estate records, NES with 7057 Native estate case files, does not have any finding aid. (See Subchapter 6.3) In some cases the finding aids actually lists all individual estate case files,⁴⁴⁰ in other cases only a summary heading “Native estates” was listed.⁴⁴¹

Finding aids of several fonds can be consolidated and re-arranged to create an easier discovery tool for certain kinds of records. This had been done in the NAN for the estates of Whites, which are contained in the fonds EST (estates administered by the Master of the High Court)⁴⁴² and NLA (German period estates collected and consolidated from German files by the Master of the High Court)⁴⁴³ which have been combined into a single alphabetical listing.⁴⁴⁴

6.1.3 Electronic discovery tools

Handwritten and typed lists were the only discovery tools at the NAN until 1976 when data entry onto the centralised South African database of archival files was started. Eventually the Namibian records from that database were downloaded into several locally maintained databases at the NAN, currently running on the CDS/ISIS (WINISIS) software. Of relevance for this study are the following:

ARCHIV

The database ARCHIV is the electronic equivalent of the List of Archivalia and a key tool of archival management because aside from providing the same

⁴⁴⁰ For example, Finding aid 1/2/4 (LGR Magistrate Grootfontein)

⁴⁴¹ For example, Finding aid 1/2/21 (LSW Magistrate Swakopmund)

⁴⁴² Finding aid 1/1/76 (EST Estates)

⁴⁴³ Finding aid 1/1/23 (NLA Nachlassakten)

⁴⁴⁴ Finding aid 1/1/217 (EST + NLA)

information as the List of Archivalia, it also holds the information about the physical location of the various fonds and other administrative data.

FILES

The database FILES is the electronic equivalent of a combination of the finding aids of government files (except court files), minus their introductions. While this across-the-board combination and the word-by-word indexing of file titles makes the database a powerful data mining tool, it lacks the contextual information and the systematic arrangement of a written (hardcopy) finding aid. Archives users are therefore advised to use both the database and the finding aids in conjunction with one another.

COURT

The same applies for the database COURT holding the discovery information of the Supreme and Magistrate courts. The distinction between the FILES and COURT databases is somewhat arbitrary, based on access considerations at the time of their creation, and there are plans to combine them into a single tool.⁴⁴⁵

In the context of this study, it is important to note that the records of the two types of offices creating Native Estate records are on different databases: files from the Native Commissioners can be found in FILES, files from the Magistrates can be found in COURT.

There is no complete congruence of the databases with the hardcopy finding aids. While there are some finding aids that have not yet been re-engineered into a database, on the other hand there are some “born-digital” records on the database that have not yet been re-engineered into hardcopy finding aids.

A serious obstacle in the use of the FILES and COURT databases is the fact that most records only list the original file titles, which may be rather non-descriptive of the actual content, and moreover, in the language used on the file cover. Thus, any search has to consider search terms in three languages (German, English, and Afrikaans).

All the abovementioned factors influence the searching success in any research.

The Chief Archivist explained that the long-term understaffing of the NAN and especially the lack of qualified staff hampered the Archives from carrying

⁴⁴⁵ Interview with W. Hillebrecht, Chief Archivist

out the highly specialised research, appraisal, and editorial work on the various discovery tools, as the few skeleton staff available were fully occupied in the daily running of the archives. The professional work of the archivists was compromised over decades. If an introduction is missing, the only way to understand the background of a specific group of archives is by reading the legislation governing those records, by reading the actual records, by interviewing the archives staff who might have gathered some insight, and by looking through the archives of the archives⁴⁴⁶ for disposal and transfer correspondence and appraisal reports.

The Finding Aid introductions providing a general background of the files contained in that particular fonds, the historical background of the originating office, the legislation that governed the activity of that office, the information how they were transferred to the archives, appraised and disposed or preserved were lacking in most of the fonds relevant for this study. Apart from researching the legal background, it was necessary not only to look in the various discovery tools for indications of Native estate files, but to read comprehensively through the disposal, transfers and destructions files of all the 26 Magistrates/Native Commissioners.

6.2 Identification of Native Estate records

The NAN has a dual system of tools to identify access points to its holdings of government records: paper-based “finding aids”, and electronic databases. Despite considerable overlap in the information content of both systems, “not everything that is registered in a database is also registered in a finding aid, and vice versa”.⁴⁴⁷ Furthermore, due to the understaffing of the NAN since the mid-1990s, there is a substantial backlog of unprocessed and semi-processed records for which no finding aids exist at all.⁴⁴⁸ Therefore, to establish which (if any) Native Estate records had been transferred to and were kept in the NAN; the following strategy was followed in four steps:

1. The electronic databases of governmental records were interrogated by searching for relevant keywords

⁴⁴⁶ Archival fonds ARG, comprising of the correspondence and administrative records of the National Archives, as well as various finding Aids of district offices

⁴⁴⁷ Hillebrecht, W (2014:8)

⁴⁴⁸ As described in Harper, S (2004:59)

2. The written finding aids of all archival fonds where estate records might be suspected were examined page by page for files labelled “estate” and/or carrying the standard filing system designation for estates
3. The records identified by steps 1 and 2 were then physically inspected to establish the type of estate records, and the amount of such material
4. The staffs of the NAN were interviewed about the possible existence of unrecorded estate records in unprocessed or semi-processed material, and those records inspected.

6.2.1 Electronic databases

Among the system of electronic catalogue databases of the NAN, there are two dealing with governmental records:

- The FILES database of the NAN consists of close to 230,000 catalogue records of individual government files, excluding the records of courts of law but including the estate records of the Master of the High Court.
- The COURT database of the NAN consists of ca. 115,000 catalogued records of individual files from courts of law, being the German colonial courts, the High Court/Supreme Court, and the Magistrates’ courts. The estate files of the Master of the High Court are not included in COURT but in FILES. The Magistrate records contain not only court cases but also records of the multiple administrative functions that Magistrates performed under South African rule. As established in Chapter 4, the administration of Native estates was one of these functions.

Other databases of the NAN, covering literature, photos, maps, audio-visual media etc. were not relevant for this search.

Only a small number of catalogue records in these two databases carry additional keyword indexing; usually files can only be found by searching for words occurring in the file title. Due to the fact that the South African colonial administration used two official languages which were supposed to be understood and used by every civil servant, the file-title can be in either Afrikaans or English, and the compilation of the databases (which started

already in 1975)⁴⁴⁹ followed the same language policy and rendered the file title in the same language that was used on the cover page of the paper file. Also the catalogue records for the files of the German colonial administration use the German file title. Therefore, it often requires much guess-work to find appropriate search terms in the use of these databases.

However, it could be expected that any estate records should have the word root estate, or *boedel* (Afrikaans), or *Nachlass* or *Erbschaft* (German) in the file title, and the search was carried out accordingly. The databases allow the use of truncation to include plural forms and composite words in the search.

6.2.1.1 German colonial records

The search for German records by the terms “Nachlass” and “Erbschaft” rendered 1087 files, the vast majority of them being case files of Whites in a fonds labelled Nachlassakten (code NLA), with the name mentioned in the file title. Those case files had been additionally indexed with the personal name in inverted format for easy retrieval. The fonds NLA is, in fact, not a fonds with a common provenance but had been put together from various sources in German court records by the South African administration, due to the fact that they were confronted with enquiries about German estates which they could not easily satisfy.⁴⁵⁰ All of these are estates of “Whites”; the checking of a few records whose names indicated they might be of African origin, such as “Coffey” (which might have been a variation of the common West African name Kofi, but turned out to be a White South African) revealed there was no exception to the rule.⁴⁵¹

However, there were several files from the German colonial period dealing with “Native” estates (Table 8):

⁴⁴⁹ South Africa. Director of Archives: Annual reports of the Director of Archive for 1975, p.21-22

⁴⁵⁰ LWI [3-2-1] UA.1 List of German [estate] records

⁴⁵¹ NLA [20] 3.VII.9/12 Coffey

Table 8. Government files from the German period to be investigated further

Code	Box	File	File title	Period
BLU	086	R.1.K	Rechtsangelegenheiten. Nachlasssachen	1907-1914
BLU	146	G.5.A	Nachlass und Erbschaft. Farbige	1908-1912
BLU	315	EK.39	Akten des Eingeborenen Kommissars. Verstorbene Eingeborene	1913-1913
BSW	76	E.5.c	Nachlasssachen Eingeborene Allgemeines	1911-1911
BSW	107	UA10/5	Eingeborenen-Angelegenheiten. Nachlässe Eingeborener	1911-1912

The files rarely dealt with locally resident Namibians but rather with migrant workers from South Africa (in the files, they are usually termed “*Kapjungen*”, “*Cape boys*” or from West Africa (“*Kru boys*”, “*Kruneger*”)⁴⁵², although occasionally estates of locals were filed, for example a “*Hottentottenbuschmann*” named Berndt Jakob.⁴⁵³ These records were kept by the district offices, and dealt with the auctioning of estate assets and payments of the resulting funds as well as outstanding salaries to the next of kin in their country of origin.⁴⁵⁴ With the single exception of a labourer by the name “Piet”, a “*Kruneger*” from Monrovia (Liberia) who died in Luderitz in 1909, no separate files for individual cases were opened.⁴⁵⁵ Of special interest among those records is a single case where a death was reported by South African authorities to the German authorities: A “*Bushman*” from Okahandja District named Kanak Nqukunya who had been working in a Transvaal mine was reported dead in 1912.⁴⁵⁶

⁴⁵² The Kru people are an ethnic group from Liberia. Men from this group were frequently hired by ships along the West African coast as sailors and for offloading cargo. (Meyer’s *Konversationslexikon*, 6.Aufl. 1904; *Encyclopaedia Britannica*)

⁴⁵³ BWI [37] E.1.k vol.1 Eingeborenen Nachlassregulierung

⁴⁵⁴ BLU [146] G.5.a Nachlass und Erbschaft Farbige; BWI [37] E.1.k Eingeborenenangelegenheiten Nachlassregulierung; DOK [31] Eingeborenen Zivilgerichtsbarkeit. Nachlass. Besonderes

⁴⁵⁵ This case is found under a separate file cover in BLU [146] G.5.a

⁴⁵⁶ DOK [31] E.5.g Eingeborenen Zivilgerichtsbarkeit. Nachlass

The German Governor also issued instructions how to deal with the estates of Owambo contract labourers who had died while on contract in Southern Namibia. On 2 July 1911, the acting Governor Hintrager issued a directive that the possessions and outstanding wages of such labourers should be collected by the police and either to be given to returning relatives who had also been on contract, or be sent to Outjo District Office from where they should be forwarded to the mission station nearest to the deceased's home.⁴⁵⁷ There is abundant but information-deficient correspondence about estate issues of Owambo labourers in the Lüderitzbucht district files.⁴⁵⁸ These records usually contain a rudimentary death notice giving the name and contract number, employer, date and cause of death, and sometimes an inventory, but no genealogical information.

The records of Outjo District would have been of interest in this regard, but the majority of the Outjo district files have been destroyed, leaving no trace of estate records.⁴⁵⁹ However, a letter dated 29.7.1914 from the district officer of Outjo to the government in Windhoek reported that according to Wulffhorst, the Rhenish missionary in Omupanda (in the Owambo Kingdom of Uukwanyama), the names given in the contract papers were almost always fictitious and therefore useless for finding heirs.⁴⁶⁰ This observation corresponds with similar claims from the South African period.⁴⁶¹ The military Resident Commissioner Ovamboland blamed this practice on the German colonial regime:

“The giving of wrong names and addresses is, I have been told by Chief Martin and other influential Ovambos, done to avoid arrest for breach of Law or Contract and was largely practised by Owambo Labourers during the late German Regime.”⁴⁶²

⁴⁵⁷ ZBU [2066] W.IV.h.13. Regelung des Nachlasses verstorbener Ovambo; see also BWI [37] E.1.k vol.2. Eingeborenenangelegenheiten. Eingeborenen Nachlassregulierung, and DOK E.5.g. Eingeborenen Zivilgerichtsbarkeit. Nachlass Allgemeines

⁴⁵⁸ BLU [168] O.7.a vol.1-3. Todesfälle von Eingeborenen im Diamantgebiet

⁴⁵⁹ See NAN: Finding aid 1/1/006: BOU Bezirksamt Outjo

⁴⁶⁰ ZBU [2066] W.IV.h.13. Regelung des Nachlasses verstorbener Ovambo, p.25

⁴⁶¹ RCO [2] 2/1916/1, passim (several references)

⁴⁶² Ibid., Resident Commissioner Ovamboland to Secretary for the Protectorate, dated 24.9.1917

However, as breach of labour contract continued to be a statutory offence under the South African regime, this motivation to supply fictitious names remained valid as long as the contract labour system was applied.

The German records are among the best-indexed records in the NAN, but only the White estate records (fonds NLA Nachlassakten) have been indexed by full name in inverted format. The (anyway only few) Native estate records are hidden in files with general titles, without the database mentioning any names, and require consultation of the actual paper file to be identified.

Correspondence within those files led to the discovery of another source or rudimentary Native estate documentation. The German authorities communicated about the estates of deceased South African migrant labourers with the British Consul at Lüderitzbucht, who in turn communicated with the South African authorities about the administration of the estate which was then further processed in South Africa. This procedure left only few original estate documents such as inventories and death notices in the files but still retained some information about those migrant workers in the files of the Consul, which are present in the fonds BCL at the NAN.⁴⁶³ The Consul's correspondence indicates that at least in some cases, estate files of such workers were opened at the Master of the High Court in Cape Town.

The search for German estate record by the term "Nachlass" also resulted in one hit for the period of South African military occupation, namely in the records of the Windhoek Municipality which continued to be kept in German language.⁴⁶⁴ This file is not dealing with the entire estate of deceased persons, but deals with the payment of outstanding wages of deceased "Native" municipal employees, mostly South African expatriates. Nevertheless, these employees are mentioned by name and some further detail.

6.2.1.2 South African colonial records

a) In the FILES database

The search for "estate" and "boedel" (always as truncated search terms to catch plural and composite forms as well) resulted in altogether 9395 hits in the FILES database. Of these, 8717 records were from the fonds EST (Estates)

⁴⁶³ BCL [11-15] Consular A: Correspondence re Native Labourers

⁴⁶⁴ SVW [10] E.1.k. Eingeborenenangelegenheiten, Nachlassregulierung (1918-1919)

originating from the Master of the High Court, who according to the Estate Act was tasked with the administration of White estates under certain conditions, and the fonds NLA (Nachlassakten = German period estates). These are almost exclusively the estates of Whites. That left 678 records. Another batch of records could be eliminated from the search for being insolvent estates, while others were about real estate – both concepts not being the subject of this thesis.

It turned out that from the remaining 607 records, 405 records were individual named Native estate files from the fonds NAT (Native Affairs Tsumeb), being the result of recent indexing efforts by the NAN since the staff had become aware of the problem of untraceable Native estates. The remaining 202 records had to be examined individually whether they contained Native estate files. In this way, 80 files from 13 fonds (mostly Native Affairs Commissioners' offices) potentially relevant to Native estates were eventually singled out. They are detailed in Table 15 (Appendix C).

As neither the filing system numbering nor the file titles were unambiguous about the content, their actual content could then only be established beyond doubt by consulting the files. The result of this investigation is detailed in Table 18 (Appendix C).

b) In the COURT database

The search for “Estate” and “Boedel” resulted in 2028 records. Of these, 602 were High Court cases involving estates (invariably dealing with “White” estates); 142 records were White estate case files from Magistrates' offices which, according to the Justice Code, could have been destroyed because the cases had to be dealt with by the Master of the High Court, but had nevertheless been transferred to the Archives. There were a substantial number of individually recorded Native estate cases:

- 140 from Magistrate Keetmanshoop (LKE)
- 240 from Magistrate Luderitz (LLU)
- 20 from Magistrate Gobabis (LGO)
- from Magistrate Mariental (LMG)
- 447 from Magistrate Ondangwa (LON)

- 226 from Magistrate Grootfontein (LGR)
- 141 from Magistrate Otjiwarongo (LOW)

These added up to 1,222 registered individual estate case files. As the Chief Archivist explained upon enquiry, these records were added to the database during the last five years by converting handwritten finding aid lists of Magistrates to database entries, after the NAN had become acutely aware of the urgency to make these records more accessible.

However, the records retrieved from the COURT database also indicated that there was a substantial amount of summary entries of “Estates” files, altogether 39 files in 10 different Magistrate fonds, which had to be accessed physically to establish whether they contained estate cases, as detailed in Table 16 (Appendix C).

Again, the consolidated result of this investigation is detailed in Table 18 (Appendix C).

6.2.2 Written finding aids

6.2.2.1 Identification of relevant fonds and finding aids

Unlike the databases which allow a global search across all archival fonds, the written finding aids cover one archival fond each. For most of the fonds of the NAN, a finding aid of some sort is in existence, although their quality and ease of use varies very much. Actually, only a small minority of them is a fully developed finding aid providing details such as an administrative history and general information about the originating office; most are mere listings without any contextual information, often still in handwritten format.

To identify estate records in the written finding aids, first a list of all possible archival fonds that might contain Native estate records was drawn up, based on the legal provisions (Chapter 4). This search was limited to the South African period, since all records from the German period are well covered in the databases. The NAN’s “List of Archivalia”, which mentions all governmental archival fonds, was used as a basis to compile a list of all Magistrates, Native administration offices and their successor institutions under

various names, including the Bantustans, and their finding aids.⁴⁶⁵ The resulting list (see Table 17 in Appendix C) comprises of altogether 48 fonds.

6.2.2.2 Results of searching the finding aids for Native estates

The finding aids in Table 17 (Appendix C) were scrutinized, page by page, for the occurrence of Native Estates. The results were as follows:

- 22 finding aids contained no reference whatsoever to Native estates
- 14 finding aids mentioned Native estate files but provided no listing of case files by name
- 16 finding aids contained lists of individual Native estate case files
- Altogether, 2,067 Native estates were individually listed.

The details of this investigation are compiled in Table 18 (Appendix C).

6.2.3 Archival fonds without written finding aid

6.2.3.1 Organised but without finding aid

The following fonds had no finding aid of any sort, although being already sorted and organized:

Table 9. Fonds without any finding aid

Code	Fonds	Findaid
<u>LEE</u>	Magistrate Eenhana	-
<u>LOB</u>	Magistrate Ombalantu	-
<u>LOH</u>	Magistrate Ohangwena	-
<u>LOT</u>	Magistrate Outapi	-
<u>LUS</u>	Magistrate Usakos ⁴⁶⁶	-
<u>LWB</u>	Magistrate Walvis Bay ⁴⁶⁷	-

⁴⁶⁵ National Archives of Namibia (2005)

⁴⁶⁶ According to the database ARCHIV and the List of Archivalia, the fonds LOB, LHO and LOU had finding aids, which however could not be found. The Chief Archivist assumes that those were preliminary listings that got lost while being worked on without being finalized by archivists who resigned during the staffing crisis described in Chapter 1.6.5.2.

<u>NES</u>	Native Estates	-
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Upon enquiry with the NAN staff, it was explained to the researcher that due to the acute staffing crisis at the NAN since about 1996, the processing of Magistrate records as well as other fonds came almost to a complete halt, and although in the case of the mentioned Magistrates it had proceeded to the point of sorting and proper packaging, there were not enough human resources anymore to carry on with listing and database entry.

However, the case of the fonds NES appears to be different, and is described in detail below in Chapter 6.4.

The unlisted fonds were checked on the shelf for the presence of estate records, with the following result:

Table 10. Estate records in fonds without any finding aid

Code	Fonds	Presence of estate records
<u>LEE</u>	Magistrate Eenhana	None
<u>LOB</u>	Magistrate Ombalantu	[3] 17/3 Boedels 1979-1980
<u>LOH</u>	Magistrate Ohangwena	[1] 17/3 Estates 1979-1980
<u>LOT</u>	Magistrate Outapi	None – the Magistrate was only established in 1993
<u>LUS</u>	Magistrate Usakos	None – only criminal and civil court case files
<u>LWB</u>	Magistrate Walvis Bay	None – only criminal and civil court case files
<u>NES</u>	Native Estates	Yes – entire fonds consists of estate case files

6.2.3.2 Not organized but with database

The fonds Administration for Hereros (AHR) and Administration for Kavangos (AKA) were unsorted but were to a considerable extent registered on temporary databases that had been compiled as a first step to organize the materia.

⁴⁶⁷ The records of the Magistrate of Walvis Bay are split into two distinct fonds due to historico/political reasons. The fonds LWA consists of older records that were repatriated from the National Archives of South Africa (Western Cape Provincial Division). The fonds LWB consists of records that were directly transferred from the Magistrate to the NAN.

Table 11. Disorganized records with databases

Code	Fonds	Findaid
<u>AHR</u>	Administration for Hereros	Database AHR
<u>AKA</u>	Administration for Kavangos (Kavango Government)	Database AKA

The database search for “boedel” and “estate” resulted in one file from AHR and six files from AKA. Due to the unsorted condition of the fonds, the estate files in AKA are scattered over five different physical locations, as detailed in Table 12.

Table 12. Unlisted Native estate records found in fonds with temporary databases

Fonds	Estate files with additional estate records
<u>AHR</u>	[49]11/7 Gemeenskapsake Boedels 1988
<u>AKA</u>	[540] 1/4/3 Native estates 1928-1933 [526] 1/4/3 Native estates 1934-1937 [504] 1/4/3 Native estates 1938-1939 [526] 1/4/3 Native estates 1939-1940 [535] 1/4/3 Native estates 1941 [561] 1/4/3 Native estates 1943

6.2.3.3 Unorganised records

The Archives staff kindly agreed to inspect unorganized records of later unprocessed additions to fonds whose finding aids had already been researched above.

They brought the following material to the researcher’s attention, which could not be fully referenced because the material is still loose or in unnumbered bundles (Table 13):

Table 13. Table 13. Unlisted and unorganised Native estate records

Fonds	File
<u>LBE</u>	N1/4/2 Estates main file 1942-1953 N1/4/2 Estates main file 1953-1975 N1/4/2 Estates main file 1976-1979 N1/4/3 Estates 1939-1979 N1/4/3 Estates 1950-1953 N1/4/3 Estates 1956-1971
<u>LGO</u>	N1/4/3 Estates 1947-1951
<u>LLU</u>	N1/4/3 Estates 1973
<u>LRE</u>	N1/4/3 Estates 1947-1951

The general awareness of Native estates records created by this research project also led the Archives staff to the discovery of misplaced files belonging to the fonds EST (see below, Chapter 6.3.2).

6.3 Investigating actual estate files as discovered through previous research

6.3.1 Research results

All references resulting from the finding aid search for estate files were then checked by the researcher against the actual files. All referenced files were inspected to find out:

- whether they indeed contained estate case material, and
- how many individual case files, or (in the case of collective files) how many individual persons with information in the files, were present.

Quite often collective files were found where the documents and correspondence relating to several deceased persons was filed together in chronological order, so that the correspondence relating to a specific case is scattered throughout the file. Frequently, this occurred for an earlier period before the responsible officials started creating individual case files. One can assume that the considerable search work involved in finding all documents relating to a specific person in a collective file (e.g. when an enquiry came) soon persuaded the officials to rather open individual case files. There are also

examples of the random occurrence of individual case files between collective files (e.g. in the funds LBE).

A substantial finding from this exercise was that the written finding aids listed only a fraction of the existing Native estate records by name, while many more individual files, or individuals named in collective files, could be identified.

The result of the investigation could add a further 9,033 Native estate cases in 24 different funds to the number of available Native estates at the NAN. The detailed can be found as Table 18 in Appendix C.

Some observations during this exercise were very interesting and, although relevant to the later discussion of the findings, but should already be noted at this point.

The single file in the AHR funds is indicative of the confusion over administrative responsibilities which the creation of Bantustans with far-reaching authorities but inadequate administrative capacity brought to Namibia. The death was reported to the Administration for Hereros by the Trust Officer of a local banking institution, accompanied by a standard death notice and inventory, for further action. Apart from an (unanswered) back inquiry with the bank, there is no indication that the Administration for Hereros took any further action on this matter.

The 278 cases in the AKA funds, a well-organised almost complete record over the years 1928-1943 (only records from 1942 are missing, but might still be found in remaining unregistered files of this funds), provide a clue what might have happened to missing Native estates. They were found in files transferred by the Administration for Kavangos, which was established only after 1968 on the basis of the “Self-government for Native Nations in South-West Africa Act”, Act 54 of 1968. As the correspondence in these estate files clearly shows, they had been created about 30-40 years earlier by the Assistant Native Commissioner’s Office at Nkurenkuru, later Rundu, and should actually have been transferred with the records of the Assistant Native Commissioner Rundu (code-labelled NAR in the NAN). As can be seen in Table 18 (Appendix C), the records directly transferred from that office contain no estate files at all. The only conclusion that can be drawn from these facts is that these Native estate records were taken over by the Administration for Kavangos from locally remaining records of the Assistant Native Commissioner Rundu. Whether this was a conscious take-over, or whether this

was an accidental outcome of taking over the offices of the Native Commissioner, remains unclear.

The most significant resource among all the researched funds was NES (Native Estates). Its central importance to the entire investigation warrants a separate chapter (see Chapter 6.4.)

All Native estate case records found in the NAN were assembled in a table to indicate graphically which periods and offices are covered by the known material (see Table 20 in Appendix C).

6.3.2 A special case: The funds NES (Native Estates)

The archival funds NES (Native Estates) comprises of Native estate case files that were created at the Office of the Chief Native Commissioner (CNC), Windhoek.⁴⁶⁸ No information could be found when and how the material was transferred to the Archives from that office. According to information from the Chief Archivist, this funds had initially not been registered in the “List of Archivalia” and the database of archival funds (ARCHIV), and was only registered after the boxes had been noticed in 2003 during a stocktaking exercise after the move of the National Archives from Lüderitz Street to its current premises in Eugene Marais Street in the year 2000. This could be verified from the subsequent editions of the “List of Archivalia” before and after 2000: from the first surviving issue of 1983⁴⁶⁹ to the last issue before the move (1998), this highest-level discovery tool of the NAN did not list this funds, while it is mentioned in the editions after the move (2005, 2014).⁴⁷⁰

At the time of its re-discovery, the funds consisted of 77 boxes (numbered 1-78, with box 15 omitted) with estate files numbered N.E.101 to N.E.7057, dating from 1917 to 1951. The files were neatly sorted, although often without file covers and only held together by pins, and packed in standard archival boxes stamped “NATIVE ESTATES” and the file numbers stencilled onto the

⁴⁶⁸ This is obvious from the address information on the incoming and outgoing correspondence.

⁴⁶⁹ State Archives Windhoek (1983). - This issue has been preserved in the collection of a foreign researcher and is now again available in the NAN as TLE/1058. Unfortunately, before 1990, outdated Lists of Archivalia were routinely discarded and replaced with the latest version, so that these important sources on the progress of archival description can now only be reconstructed from externally preserved copies.

⁴⁷⁰ National Archives of Namibia (1990-2014): List of archivalia in the National Archives of Namibia.

boxes (see Facs.3). Estates N.E.1-N.E.100 (probably one box) and Estates N.E.1801-N.E.2050 were missing in the sequence. In between the remainder of what should therefore be 7057 minus 100 minus 250 = 6707 files, there are random small gaps of single or several files. Altogether, the fonds were estimated to contain ca.6500 files.⁴⁷¹

During the research for this thesis, efforts in the NAN to register un-accessioned and unmarked material led to the discovery of further Native estate case files belonging into this NES series. In bundles of un-accessioned material shelved next to the SWAA fonds, a batch of 49 estate files was found which partly filled the gap between N.E.1801-N.E.2050.⁴⁷²

From the sheer size of this material, it is obvious that this is a key research resource about Native estates. However it had not only been not listed and not computerised, but it had even not been registered in any way that would have alerted researchers to its existence until over a decade after Namibian independence, while the access tools to its White counterpart had been developed to the extent of computer-indexing the full names in inverted form. This is a clear indication of the extent of colonial and apartheid discrimination.

It is also important to notice that these fonds finds an abrupt end with files dating from 1951, while according to Circular N.1.11/59 the responsibility of the CNC for administering Native estates ceased with September 1959. After that date, only the local Magistrates and Native Commissioners were responsible for Native Estate administration.⁴⁷³ The gap in the NES fonds for the years 1952-1959 remains unexplained by the available evidence. From correspondence on the Estates Main File of the CNC it is evident that case files in this period had been created; for example, an enquiry from the Magistrate of Walvis Bay to the CNC dated 15.10.1957 entitled “Outstanding Native Estates” lists 14 estates, citing both the reference numbers of the Walvis Bay Magistrate and of the CNC.⁴⁷⁴ That this record of Native Estates by a central government agency covering almost ten years could disappear without a trace, is yet another example of the obvious neglect with which these records were treated.

⁴⁷¹ No exact counting was attempted. The gaps were discovered during a random sampling of the contents of those files.

⁴⁷² These were the cases N.E.1843, 1877, 1906-1950, 2003 and 2017. There is still an unexplained gap of 201 estates.

⁴⁷³ The mentioned circular could not be found. The reference could only be inferred from a handwritten note in file LKW [3/5/1] UA.01, p.38, where a cut-out excerpt from this circular is glued in.

⁴⁷⁴ BAC [5] H.N.1/4/2 Native Estate Main File, vol.3, p.27

With this fonds being the largest occurrence of Native estates in the NAN, it was used for this study as the basis of a statistical evaluation about various aspects on the basis of a randomized sample. Several features of each twentieth case file were recorded in an Excel table which was subsequently converted into a WINISIS database for easier evaluation of its text-based information. The already observed prevalence of estates of contract workers from Northern Namibia (labelled “Northern Natives”) was clearly confirmed (**Figure 3**).

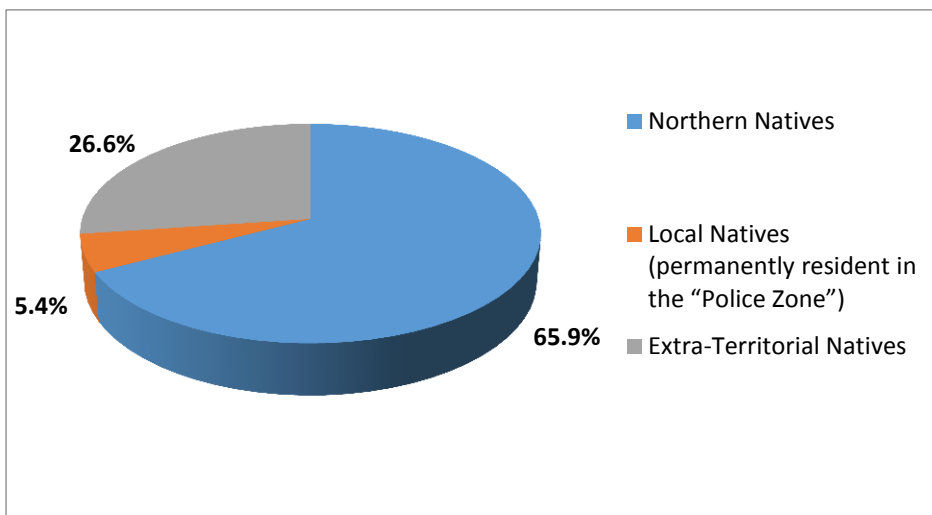


Figure 3. Local, Northern, and Extra-Territorial Natives. Distribution of Northern, Local, and Extraterritorial Natives in the NES fonds (according to a representative sample of every 20th case, n=349)

On the same sample, information was collected about the presence of certain information documents in the file. The results presented in Figure 4 show that even a key document such as a death notice is not always present (it is lacking in 12.6 % of the sample), while information such as the pass, which is important for tracing contract labourers back to their home area and their relatives, is missing in almost half of the sample. An inventory is rarely present (only in 16 % of the sample), while a pay-out to the heirs is only acknowledged in 40.1 % of the sample.

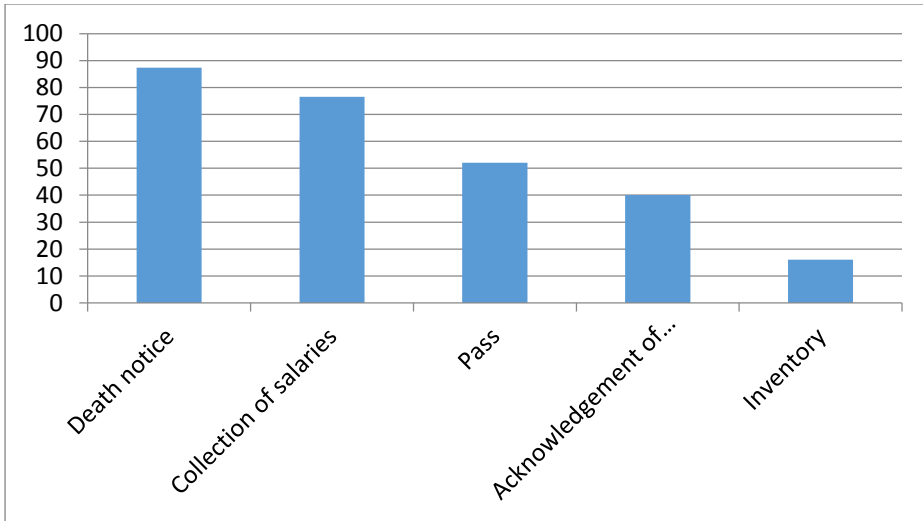


Figure 4. Documents present: Percentage of documents present in estate files in the NES fonds (according to a representative sample of every 20th case, n=349)

However, these findings cannot be taken at face value. It is hardly conceivable that an estate file would have been opened without some kind of death notice. The reason for these gaps is most likely be found in the administrative processes described in Chapter 5.3. In the Administration of a Native estate of a contract worker, correspondence was being sent back and forth between the local Magistrate or Assistant Native Commissioner, the Chief Native Commissioner (CNC), and the Native Commissioner for Ovamboland (NCO), with each of them opening their own files. If no inheritor was identified, it involved further correspondence with the Public Trustee to whom the estate had to be paid in such a case, and again documents could be transferred.⁴⁷⁵ This correspondence involved original documents, which in the era before ubiquitous photocopying facilities could not be easily duplicated. The documents missing in the files of the CNC, which are to be considered the main files and constitute the fonds NES, might just as well be found at the local Magistrate or the NCO or the Public Trustee. This underlines the importance to preserve also the other Native Estate files about the same person. However, in the course of the correspondence, some documents might

⁴⁷⁵ As for example in the estate of Anna Adams, NES [1] 121, whose file contains only a “summary sheet” with scanty information, and a pencil note on the file cover, “Papers forwarded to Public Trustee for action”.

also just have gotten lost in transit, or misfiled, or landed in the wastepaper basket of some officer. This kind of negligence seems not to have occurred with the White estates; according to the staffs of the NAN, who very often get genealogical requests for death notices, they have not yet observed a single file in the White estates (fonds EST) with a missing death notice.

6.3.3 Summary of the findings on identification of Native estates

The result of the entire process of discovery of Native estates is summarized in a single table to indicate how they can be accessed.

Table 14. Overview of accessibility of Native estate record cases per fonds

Col.1 Fonds	Col.2 Number of cases indexed with name in database	Col.3 Number of cases listed individually with name in finding aid (including Col.2)	Col.4 Number of additional cases found by inspection of files	Col.5 Total number of cases
<u>AHR</u>	-	-	1	1
<u>AKA</u>	-	-	278	278
<u>BON</u>	-	-	82	82
<u>CNAM</u>	-	79	-	79
<u>KCA</u>	-	25	51	76
<u>LBE</u>	-	13	53	66
<u>LGO</u>	20	20	37	57
<u>LGR</u>	226	275	64	339
<u>LKE</u>	140	181	262	443
<u>LKA</u>	-	-	-	-
<u>LKW</u>	-	-	29	29
<u>LLU</u>	240	250	10	260
<u>LMA</u>	-	-	4	4
<u>LMG</u>	8	8	-	8
<u>LOB</u>	-	-	30	30
<u>LOH</u>	-	-	34	34
<u>LOK</u>	-	51	-	51
<u>LOM</u>	-	59	123	182
<u>LON</u>	447	447	-	447
<u>LOU</u>	-	-	55	55
<u>LOW</u>	141	147	253	400
<u>LRE</u>	-	17	17	34
<u>LSW</u>	-	224	27	251
<u>LUS</u>	-	-	-	-
<u>LWA</u>	-	-	195	195

Col.1 Fonds	Col.2 Number of cases indexed with name in database	Col.3 Number of cases listed individually with name in finding aid (including Col.2)	Col.4 Number of additional cases found by inspection of files	Col.5 Total number of cases
<u>LWI</u>	-	-	1	1
<u>NAK</u>	-	-	-	-
<u>NAO</u>	-	-	529	529
<u>NAT</u>	-	405	-	405
<u>NAW</u>	-	-	327	327
<u>NES⁴⁷⁶</u>	-	-	6,550 (estimate)	6,550
<u>NOM</u>	-	-	18	18
<u>OVI</u>	-	2	-	2
<u>RCO</u>	-	12	-	12
<u>SWAA</u>	2	2	3	5
Total	1,224	2,217	9,033	11,250
Percent of total	10.9 %	19.7 %	80.3	100

It should be noted here that all records listed in Column 2 of Table 14, except the two cases in SWAA, were entered into the database after independence, mostly during the previous five years.

What can be concluded at this stage of the investigation are the following empirical observations:

1. That there are huge unexplained gaps in the time coverage of Native Estates in almost all Native Estate record-creating offices (Table 20)
2. That there are several other offices which should have been expected to have created Native Estate records, while none at all are held by the NAN
3. That only about one fifth (19.7 %) of the proven holdings of Native Estate records in the NAN are currently retrievable by name (Column 3 of Table 14)
4. That only about one tenth (10.9 %) of the Native Estates can be retrieved with relative ease through the databases, and that practically none of these were retrievable before the independence of Namibia (Column 2 of Table 14).

⁴⁷⁶ See separate Chapter 5.3

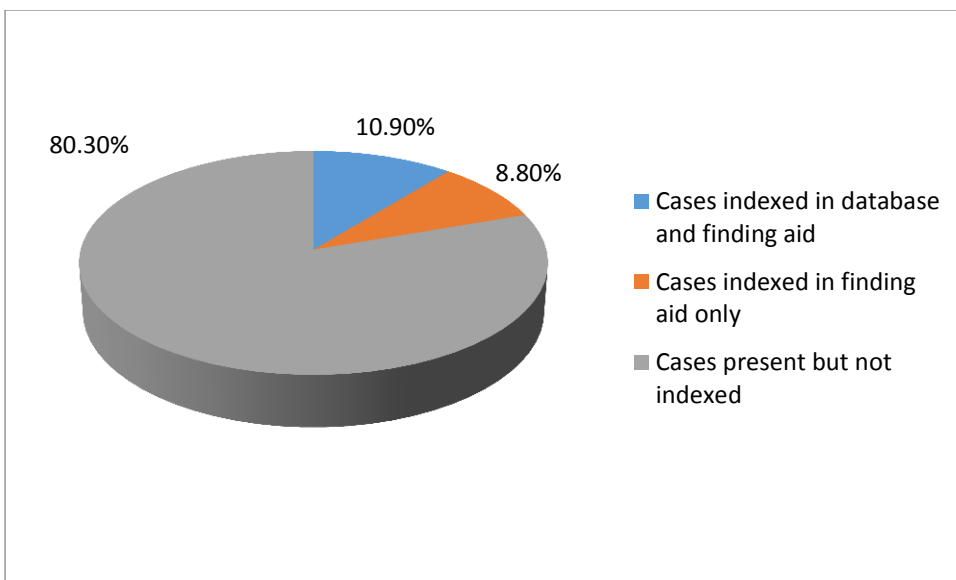


Figure 5. (based on Table 14): Accessibility of Native estate record cases (n=11,250)

6.3.4 The composition of the Native Estate records population

The result of this study shows that about 66% of all the found estate case files belong to the “Northern Natives”, contract workers who died in the Police Zone while in employment of mines and other major industries of the colonial economy. Very few estate case files, 5.4 % belong to local Natives, while about 27 % belong to “Extra-Territorial Natives” (migrants from other African countries) (See Figure 6). Contrary to expectations that one would find estate case files for local Natives amongst estate files from Magistrates/Native Commissioners in major cities and towns such as, Keetmanshoop, Walvisbay, Luderitz, Grootfontein or Windhoek with a large Native population, it is surprising that these found estate records belong predominantly to Northern Natives who died while serving on one or two year labour contract in the police zone (**Figure 6**).

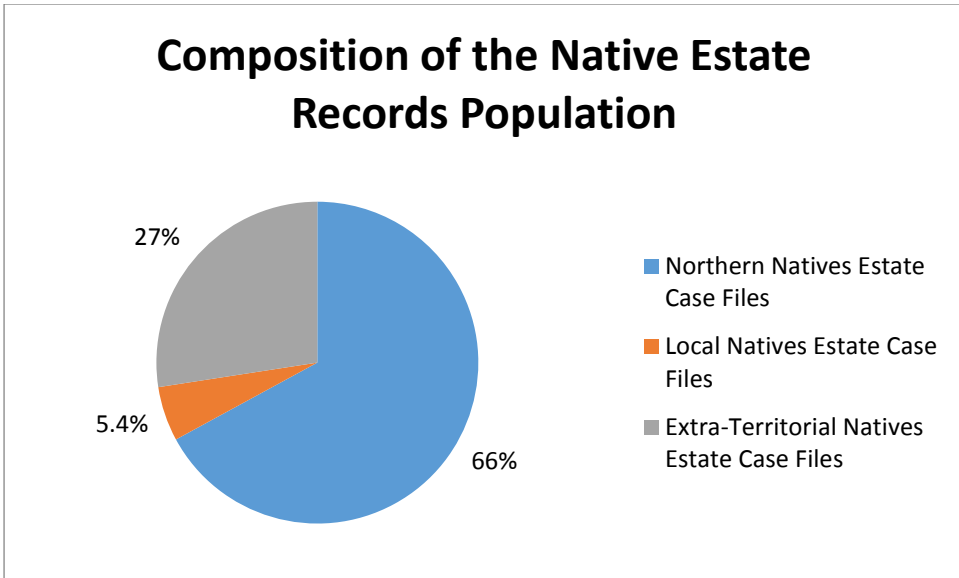


Figure 6. Composition of the Native Estates records population in the NES funds based on a representative sample of every 20th case (n=349)

In predominantly rural districts, a higher percentage of “local Natives” can be found. In 54 examined case files from the Magistrate of Bethanien (fonds LBE), 19 cases (35 %) dealt with locals, while 25 (46 %) dealt with “Northern Natives” and 10 (19 %) with “Extra-Territorial Natives” (Figure 7).

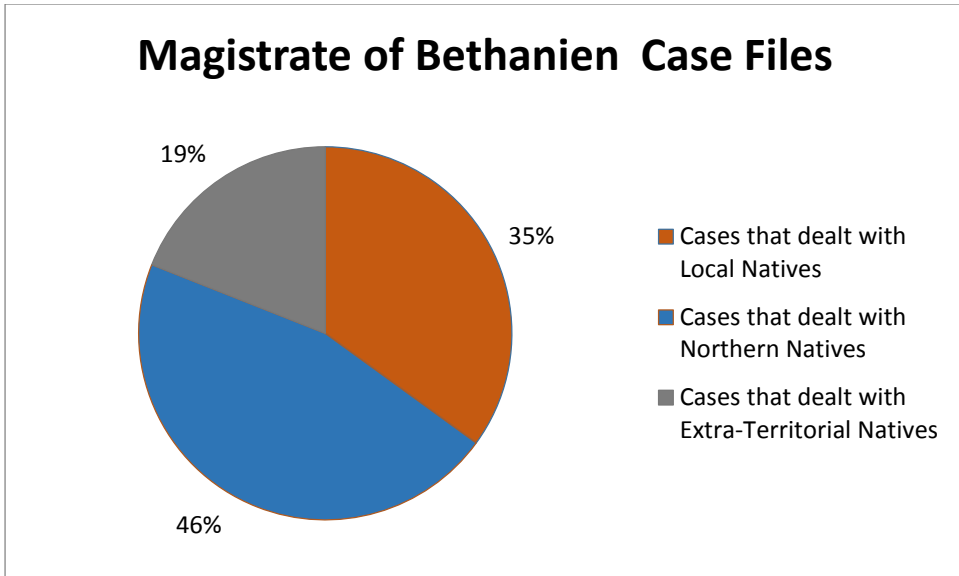


Figure 7. Composition of the Native Estates records in the Magistrate of Bethanien (LBE) fonds (all records, n=66)

What is even more surprising is that in the estate case files of the two Northern regions, (1) Native Commissioner Ovamboland (found in NAO) and, (2) Assistant Native Commissioner Kavango (found in AKA) – where one would expect estate case files of local Natives – the files are almost exclusively about estate enquiries from other districts, being correspondences tracing the next of kin for the Owambo and Kavango contract labourers who died in the Police Zone while in employment of mines and other industries. Estate case files for residents who died locally appear not to be present in these files. This is a major gap, because these Northern areas constitute about 60% of the total Namibian population.

6.3.5 Temporal gaps in coverage

It was also established that there are vast gaps in the presence of any Native estates records in the NAN holdings and these gaps are found in the records of most creating offices, namely the Magistrates and Native Commissioners (Table 20). Little evidence was found that could account for those gaps, but some can be explained.

In the case of the Magistrate of Tsumeb (fonds LTS), the total lack of estates is easily explained: Tsumeb was the seat of a Native Commissioner (fonds NAT), who would and did handle the Native estates (Tables 19 and 20). But even the presence of estates in NAT is limited to one decade, 1937-1947, while the correspondence of the Resident Commissioner Ovamboland proves that the office of the Native Commissioner Tsumeb existed as early as 1917, because this office was the main recruiting point for Owambo contract labourers.⁴⁷⁷

The same explanation probably applies to the Magistrate Windhoek (LWI), where also no single Native estate file has been found, while there are estate files from the Native Commissioner Windhoek (NAW). But similar to Tsumeb, again there is only an insular find of estate files from the Native Affairs Commissioner Windhoek (NAW) – in this case from 1920-1929 (Tables 19 and 20).⁴⁷⁸ There is no indication why no other estate files from NAT or NAW have been transferred, or alternatively, if ever they were transferred, they have not been preserved in the Archives.

No ready explanation is available for the total lack of Native estate files from the Magistrates Karibib (LKA) and Usakos (LUS). Both districts had substantial concentrations of contract and migrant labourers, mostly employed by the railways but also by mines and farms.

Apart from the fact that the highest concentration of Native Estates at the NAN can be found between 1940-1960, there is little consistency in the pattern of surviving estate records as shown in Table 20. Only very few of the existing gaps can be explained by documented destructions. This makes it difficult to seek generalised explanations.

One could be tempted to suspect that the reason for the generally poor presence of estates from the 1920s-1930s could be the fact that no Archives Act was applicable until 1953,⁴⁷⁹ and that no Archives as an institution was in existence before 1939 to remind the Magistrates and Native Commissioners of their duty to transfer records. However, criminal case records from this period have quite consistently been transferred to the Archives – although sometimes

⁴⁷⁷ RCO [2] 2/1916/1, Resident Commissioner Ovamboland to Secretary for the Protectorate, dated 24.9.1917

⁴⁷⁸ It should be clarified that the Native Commissioner Windhoek, and the Chief Native Commissioner Windhoek, were different persons responsible for different offices. The former was only responsible for the magisterial district of Windhoek, while the latter dealt with the entire territory and was the superior of all Native Commissioners (and created the fonds NES).

⁴⁷⁹ See Chapter 1.6.4.3

subject to heavy (undocumented) appraisal, as the many gaps in the numbering sequence of the preserved cases testify. This leaves one to suspect that – just like it is argued in the few documented cases of authorized destruction – the Native estates were seen as having no permanent value. “The only value of these files lies in the presence of form NA16SWA: Kennisgewing van sterfgeval en besonderhede omtrent die afgestorwene” (Notice of death and particulars concerning the deceased), as the Director of Archives in Pretoria thought.⁴⁸⁰

The Windhoek Archivist’s inspection at Keetmanshoop suggests another interpretation.⁴⁸¹ In this case, the archivist selected records for transfer to the Archives, but authorised the Magistrate to keep the estates because they were still needed for reference – in current records management terms, continued administrative value (it is not stated exactly for which purpose). This might have led the Magistrate to believe that after he saw no need any more for reference - possibly once the 30-year grace period for late payment of an estate had expired – the file could be destroyed. But this interpretation is entirely speculative.

It is actually more likely that the erratic gaps between the preserved estate records of one and the same Magistrate office can be explained by different opinions of individual Magistrates, and by different opinions of individual appraising archivists, about the value of Native estate records. In the absence of correspondence documenting such opinions, this is impossible to verify in detail. The presences and absences cannot be pinpointed to specific persons, because the decision about transfer, neglect or destruction was not taken at the time the estate was registered, but at least 30 years later if the disposal schedules in the Justice Code and the Native Affairs Code were observed. The estate files are not so voluminous and quickly accumulating – unlike the criminal case files, which very soon create space problems for the registry – and therefore exert little pressure on the Magistrates to apply for transfer. This might account for some of the gaps in Native estates after the 1950s.

Similarly, a letter from Chief Archivist, A. Kieser, Pretoria, dated 21 October 1957, to the Secretary for SWA exhibits some evidence of un-clarity of roles and responsibilities with respect to “controlling of lists of records for

⁴⁸⁰ Letter from J.H. Cilliers, Director of Archives, Pretoria, to Head: Archives depot, Windhoek, dated 2.8.1974, ref: 10/1/2B. In: ARG [17] 10/1/2B SWA Argief. Rekordbeheer. Keuring van boedelrekords (SWA Archives. Records management. Appraisal of estate records)

⁴⁸¹ SWAA [2561] A668/11/1/1, Argief. Inspeksie. Keetmanshoop, Magistraat

destruction submitted by South West African Magistrates and Native Commissioners.” In this letter the Chief Archivist writes: “Until now, this office has controlled the lists submitted by Magistrates and Native Commissioners according to paragraph 3 of the Justice Circular No.9 of 1955: destruction of Records; but, considering that the status of the Chief Archivist of the Union [of South Africa] in relation to South West Africa is not entirely clear, I have come to the conclusion that it would be advisable, in order to prevent possible irregularities, to suspend this control until clarity is achieved about this matter. Therefore, in the meantime this work shall not be continued. I would appreciate if you could clarify this position to the Magistrates of Okahandja and Omaruru, who submitted lists for scrutiny.”⁴⁸²

It is well possible that after this break away from the control by the South African National Archives, Magistrates/Native Commissioners took the law into their own hands and did as they wished. No evidence was found to establish whether this order was restored, but a handwritten note dated 1.11.1955, on this same letter suggested: “let us send the lists to the local archivist. He is knowledgeable of the task and can proceed with it for the time being.” As no further correspondence is found on the file regarding this matter, it is possible that these records are still kept in Magistrate offices 25 years after independence. This could not be explored in the course of the present study, as the researcher is not authorised to conduct inspections of Magistrate offices, but it is an issue to be followed up in future research.

6.4 The level of processing of estate records in the NAN

Chapter 5 had established the actual presence of Native Estate records at the NAN. This had been done by pursuing several different avenues, because the obvious method of first choice, an enquiry into the databases, gave only unsatisfactory results. It became obvious that the level of processing and indexing had to be researched into more detail.

The commonly used first routes of access to government records at the NAN, the electronic Archives databases of government and court records (FILES and COURT), currently comprise of 344,481 entries (records, metadata sets), of which 11,471 are deceased estate records. 1,224 (10,7 %) of those

⁴⁸² [SWAA](#) [5262] A668/25 Argief. Bewaring enVersorging van Documente

entries refer to Native estates scattered over eight archival fonds (see Table 13), while 10,247 records (89.3 %) refer to estates administered by the Master of the High Court, concentrated in two archival fonds (EST and NLA), over 99% of them being “White” estates.

Examining these metadata, one finds that all “White” estate datasets have been enhanced by indexing them with full names of the deceased in inverted form (Surname, first names) to streamline fast access to the records. For example (note the filed “Person as subject” in the screen prints, Figures 8 and 9):

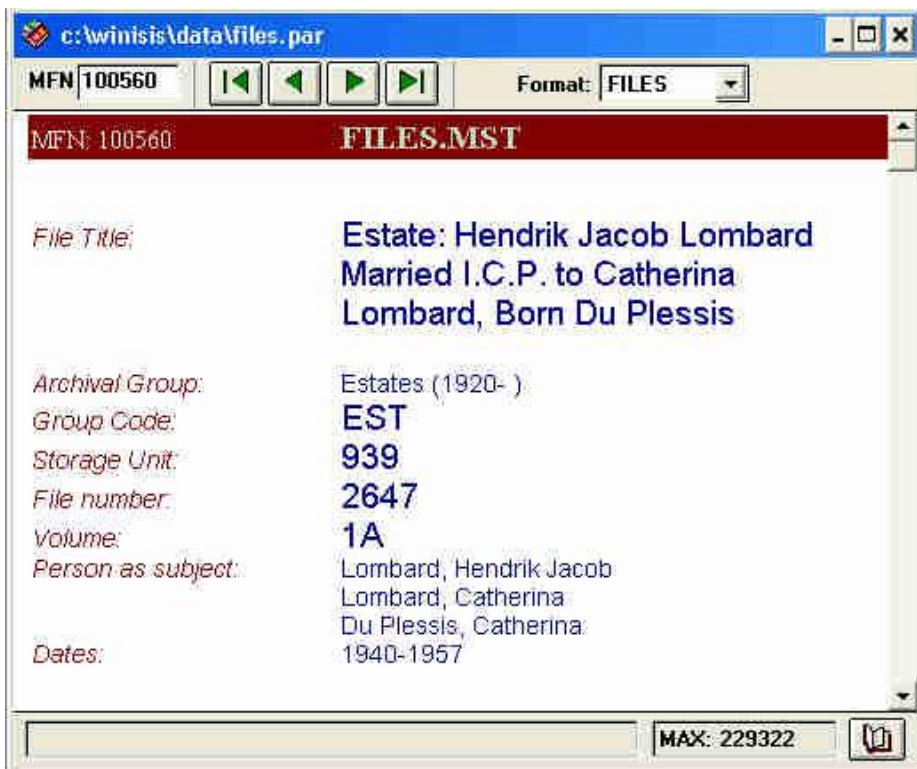


Figure 8. Search result for an estate from fonds “EST”



Figure 9. Search result for an estate from fonds "NLA"

None of the "Native" estate datasets had been enhanced in this way, as exemplified by Figure 10:



Figure 10. Search result for a Native estate

The other route of access, namely by browsing through written lists and finding aids such as shown in Figure 11, eventually yields access to another 2217 Native estates (see Table 14). This route is much more cumbersome and time-consuming, as it requires looking through 34 different lists of different Magistrates and Native Commissioners unless it is already known in which magisterial district the person died. In daily practice of the understaffed archives, this kind of intensive search effort is hardly feasible.

N - FILES

(db)

Vol no	File no	Description	Date
3/2/1	N 1/1/3 (or 2/1)	Chiefs and Headmen	1949 - 1951
	N 1/4/2	Estates (Main file)	1952 - 1955
	N 1/4/3	Native Estates 1952 - files	
	N 1/4/3/1/52	Hikavali Haukei	1952
	N 1/4/3/2/52	Mubenge Muzelo	1952
	N 1/4/3/3/52	Jestus Ilcha	1952
	N 1/4/3/4/52	Ntamba Ndala	1952 - 1954

Figure 11. Section from a page from Finding aid 1/2/3 (LGO Magistrate Gobabis)

In contrast, no White estates require this cumbersome search through many lists; on the contrary, the existing White estates metadata have been combined into one single finding aid that is sorted in alphabetical order, and therefore makes the manual search almost as comfortable as the electronic database search (See **Figure 12**).

Alphabetical Findaid 1/1/217 - EST Estates, NLA Nachlassakten

Name	File title.....	Years	Code	Box	File no.
Wienicker, Rudolf Bruno	Nachlass-sache Farmer Rudolf Bruno Wienicker	1914-1914	NLA	143	W.46
Wienso, Walter	Estates: Walter Wienso (Single)	1948-1948	EST	1102	108/1948
Wieprecht, Otto	Nachlasspflegschaft Otto Wieprecht	1904-1910	NLA	142	W.39
Wiertz, Heinrich Johann Jakob	Estate: Heinrich Johann Jakob Wiertz and S/S Maria Margareta Wiertz, Born Hortmanns	1955-1957	EST	1313	17/1956
Wiertz, Maria Margareta	Estate: Heinrich Johann Jakob Wiertz and S/S Maria Margareta Wiertz, Born Hortmanns	1955-1957	EST	1313	17/1956
Wiese	Familienrechtssache Wiese	1911-1912	NLA	141	W.27B
Wiese, Daniel Jacobus Wilhelmus	Estate: Daniel Jacobus Wilhelmus Wiese	1923-1925	EST	431	375
Wiese, Daniel Jacobus	Estates: Daniel Jacobus Wiese Married I.C.P. to Johanna Jacoba Wiese, Born Visser	1952-1957	EST	1241	133/1952
Wiese, Elise Anna Martha Justine	Estate: Elise Anna Martha Justine Wiese (Wiese)	1929-1929	EST	610	938
Wiese, Erich	Estate: Erich Wiese Married I.C.P. to Hedwig Maria Wiese, Born Friederich	1945-1945	EST	1034	3725
Wiese, Franz Gustav Gottfried	Estates: Franz Gustav Gottfried Wiese and S/S Johanna Ernestine Wiese, Born Zimmerman	1948-1960	EST	1112	260/1948
Wiese, Friedrich	Absentee Estate: Friedrich Wiese	1919-1919	EST	270	5892/65
Wiese, Gert	Testament des Farmbesitzers Gert Wiese	1900-1900	NLA	141	W.27A
Wiese, Hedwig Maria	Estate: Erich Wiese Married I.C.P. to Hedwig Maria Wiese, Born Friederich	1945-1945	EST	1034	3725
Wiese, Johanna Ernestine	Estates: Franz Gustav Gottfried Wiese and S/S Johanna Ernestine Wiese, Born Zimmerman	1948-1960	EST	1112	260/1948
Wiese, Johanna Jacoba	Estates: Daniel Jacobus Wiese Married I.C.P. to Johanna Jacoba Wiese, Born Visser	1952-1957	EST	1241	133/1952

Figure 12. Section from a page from Finding aid 1/1/217 (EST&NLA)

However, the vast majority of Native estate files are not accessible through any of these methods. As Table 14 and Figure 5 demonstrate, 9033 estate files are indicated in the finding aids not by name but either not at all or only by summary entries such as in the following Figure 13.

Registered Correspondence N-files

Vol. no.	Description	Date
3/2/1	N.1. Administration (Native Affairs)	
	N.1/4	<u>Estates</u>
	N.1/4/2 (vol. 1)	Estates 1945-1951
	N.1/4/2 (vol. 2)	Estates 1947-1948
	N.1/4/2 (vol. 3)	Estates 1949-1953
N.1/4/2 (vol. 4)	Estates 1950-1953	
N.1/4/2 (vol. 5)	Estates 1951-1954	

Figure 13. Section from a page from Finding aid 1/2/12 (LOU Magistrate Outjo)

Among the five files simply labelled “Estates” in the finding aid shown above, the estates of 55 individuals are effectively hidden from any search unless the storage unit is fetched from the stackroom and looked through page by page.

6.5 Summary of statistical findings

This study found at the National Archives of Namibia substantial but erratic occurrences of 11,256 deceased Native estate case files. While the majority of these records are contained in a single fonds – the “Native Estates” (NES) file group originating from the Office of the Chief Native Commissioner with 6,600 case files between 1917 and 1951 which constitutes about 60% of the total finds – the rest of about 40% is scattered between 28 Magistrate courts

and Native Commissioner's offices between 1916 and 1986 (Chapter 6, Tables 19 and 20 and Figure 14).

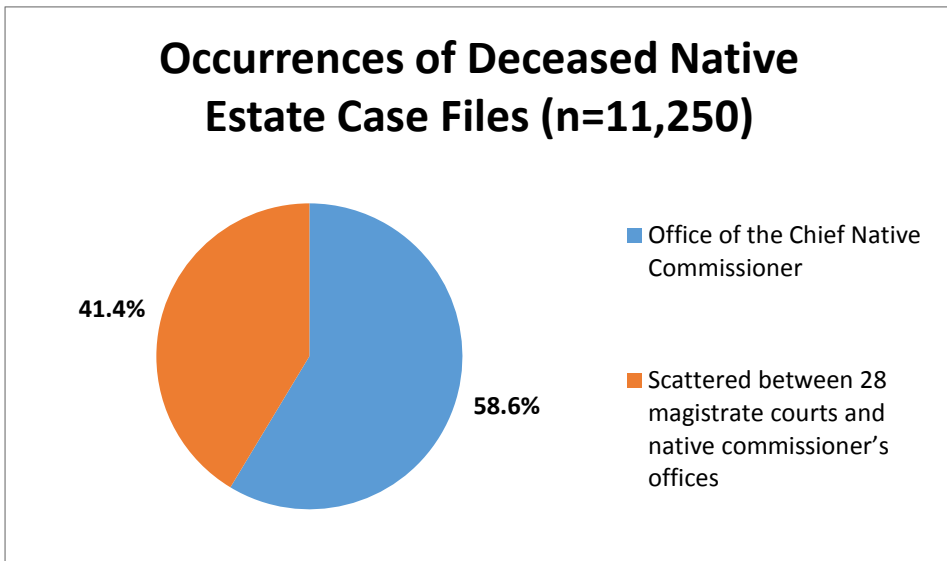


Figure 14. (based on Tables 19 and 20)

It was also established that only one fifth (20%) of all these cases are currently retrievable by name in the existing finding aids of the NAN; and that half of the retrievable cases can only be found by laborious reading through written (sometimes hand-written) manual finding aids, while the other half that is retrievable electronically was only added to the databases quite recently (**Figure 5 and Table 14**).

It was also established that there are vast gaps in the presence of Native estates in the archival holdings from most creating offices, namely Magistrates and Native Commissioners (**Table 20**).

Insofar, the initial empirical, but not quantified and only anecdotal, observation that “many requests by Black Namibians for [...] deceased’s estates cannot be served by the National Archives of Namibia despite intensive time-consuming search” (Chapter 1.2) has been substantiated by empirical quantitative research.

6.6 Preservation and destruction at the Archives repository

6.6.1 How the NES fonds was saved from destruction

The disposal, transfer, and appraisal files of the Archives of the Archives (fonds ARG) were systematically searched for evidence why estate files are lacking. On the whole, this exercise was not very rewarding, as little evidence could be found.

There is however a highly relevant correspondence between the Director of Archives in Pretoria and the Chief Archivist (S.J. Schoeman) in Windhoek from 1974.⁴⁸³ The Windhoek archivist enquired under the heading “Disposal of archives: Estates of Natives” (translated from Afrikaans):

“I attach for your information five examples of estate files from the Archives of the Secretary of the Administration of South West Africa.

On one hand, the files seem to me worthy of preservation, because they contain in a limited way biographical information about deceased Natives which could someday become useful for genealogical purposes. On the other hand, the rest is predominantly ephemeral.

I would appreciate if you could make a decision in this regard. The archives take about 8 m shelving space. In case this may be destroyed, please issue a limited authority for this.”⁴⁸⁴

The Director of Archives responded:

“The only value of these files lies in the presence of form NA16SWA: Death notice and particulars concerning the deceased. Please enquire about the registration of Bantu deaths by some authority in the territory before 1972 when, as far as we can ascertain, mandatory registration by the Bantoebewysburo⁴⁸⁵ came into law. It will be necessary to establish where the death certificates of such a body, in case it existed, are currently stored, how far they agree or disagree with form NA16SWA and whether death registers were kept, are still available, and how far they duplicate the information in the mentioned form.

⁴⁸³ ARG [17] 10/1/2B Keuring van boedelrekords

⁴⁸⁴ Ibid.: Chief Archivist to Director of Archives, 17.7.1974

⁴⁸⁵ No English translation for this term (literally: Bantu proof office) could be found

Form SWA119 and the rest of the correspondence in the file apparently do not warrant permanent preservation. The decision about the value of the files will therefore depend on the results requested above and any further information that may be obtained on the duplication of the scanty genealogical information in the abovementioned form.”⁴⁸⁶

The Chief Archivist in Windhoek responded:

“According to oral enquiry with the Chief Bantu Commissioner it seems that before 1972 no other record of Bantu deaths were kept than that in the relevant estate files. In the light of this it seems to me that this group of files should be preserved in spite of its otherwise limited research value.”⁴⁸⁷

Thereupon the Director of Archives issued a “limited authority” to preserve the records.⁴⁸⁸

The records discussed in this correspondence are clearly the Native estates which today form the fonds NES (see Chapter 6.3) Clearly, they were saved from destruction only because no compulsory registration of “Bantu” deaths existed, while the substantial research value of the other contained documents escaped the archivists’ attention. While they were familiar with genealogical research and could anticipate that even “Bantu” might become interested in their family history, their apartheid-conditioned minds simply could not imagine that the picture of social circumstances that shines through the cracks of these records could ever be of anybody’s interest.

6.6.2 Destruction certificates

There is ample correspondence with destruction certificates in the Archives of the Archives. Unfortunately, the descriptions in those certificates are usually so imprecise and formulaic that it is impossible to infer from them what actually was destroyed.

A typical example reads:

⁴⁸⁶ Ibid.: Director of Archives to Chief Archivist, 2.8.1974

⁴⁸⁷ Ibid., Chief Archivist to Director of Archives, 9.8.1974

⁴⁸⁸ Ibid., Director of Archives to Chief Archivist, 9.9.1974

“I hereby certify that records for which authority to destroy in contained in the Justice Code “Records” / Justice Code “Correspondence” / Bantu Affairs Code “Korrespondensie” / Inland Revenue Accounting and General Instructions Handbook / Revenue Circular no.20 of 1968 and which occupied 4 linear metre shelving space, have been destroyed.”⁴⁸⁹

There is no way to establish whether the Magistrate possibly misinterpreted the disposal instruction in the Justice Code “Records” as authorizing him to destroy Native Estate case files, and acted accordingly (see Chapter 5.3.4.5 about this issue).

6.6.3 Appraisal by the Archives

There is scanty, but very clear evidence of destruction of Native estate case files after they had already been transferred to the Archives.

In an appraisal report about the Magistrate of Bethanien by the Archivist in Windhoek (Mienie), sent to the Director of Archives of South Africa on 7 May 1979,⁴⁹⁰ he recommends i.a. the destruction of estate records from Bethanien. In a list of appraised records, he comments about a file N1/4/3 Native Estates (1920-1930):

“Die leernommer is dié wat Bantoesakekommissarisse [...] gebruik het. Volgens ‘n nota van die magistraat op die voorblad van die leer, is die beskikking daarop A30. Ek het geen middele om dit te kontroleer nie. Die leer be[vat] administratiewe korresponde[nsie] i.v.m. ‘n aantal nie-blanke boedels. Geen beleidsake [is] op die leer hanteer nie en die leer het weinig navorsingswaarde en geen funksion[ele] waarde nie. (V)” [*Text is mutilated at the right border; completion of missing text indicated by angular brackets*]⁴⁹¹

This translates as:

The file number is the one used by the Bantu Affairs Commissioner. According to a note by the Magistrate of Bethanie on the file cover, the disposal is A30. I have no means to verify this. The file contains

⁴⁸⁹ ARG [20] 10/2/11 T.1, Magistrate Tsumeb to Director of Archives [sic] Windhoek, 7.5.1975

⁴⁹⁰ ARG [18] 10/1/2/49. Beskikking oor argiewe. Argiefdiens (1971-1979), fol.9, Chief Archivist to Director of Archives

⁴⁹¹ Ibid., fol.27

administrative correspondence concerning a number of non-white estates. The file does not deal with policy matters and the file has little research value and no functional value (Destroy).

The Director of Archives in Pretoria duly approved the destruction.⁴⁹² Table 20 shows that, while later estate records of Bethanien are present in the NAN, these records for 1920-1930 were indeed destroyed.

Another instance of destruction after appraisal in the same file concerns Native estates in the fonds ADM (Secretary to the Protectorate).

The Director of Archives, in his letter to the Head of Archives in Windhoek, dated 3 August 1976, requested to be provided with detailed description of records lists requesting his consent to destroy.⁴⁹³ (The original letter from the Archives depots in Windhoek to the director of Archives in Pretoria is not filed.) A note dated 9 August 1976 from Head of Archives in Windhoek to the Director of Archives in Pretoria states: "Attached find a list of the files whose title appears to be important with a short description of the content of each file."⁴⁹⁴ Among the list of files for which authority to destroy was requested are the following:⁴⁹⁵

135/1 Natives Estates. Hoofsaaklik korrespondensie i.v.m. betaling van uitstaande salarisse in boedels van afgestorwe nie-blankes, maandelikse state van nie-blankesterftes (syfers).

(Native Estates. Mainly correspondence in connection with payment of outstanding salaries of deceased non-whites, monthly state of non-white deaths (figures))

135/50 Estate Chicoruru. Korrespondensie van uitstaande salarisse deur werkgewer, Khan Mine, van boedel van bogenoemde.

(Estate Chicoruru. Correspondence on outstanding salaries by employer, Khan Mine, of the estate of the abovementioned)

5/100 Estate Kapuyandi. Bevat opsomminge van bedrae van boedel van bogenoemde oorbetal; sy reispas en sterftekennis.

(Estate Kapuyandi. Contains a summary of the amounts and payments of the above mentioned, his travelling pass and death notice)

⁴⁹² Ibid., fol.3, Director of Archives to Chief Archivist, 31.7.1979

⁴⁹³ Ibid.

⁴⁹⁴ Ibid.

⁴⁹⁵ Ibid.

No letter from Pretoria approving the destruction is on file, but a comparison with the finding aid for the fonds ADM reveals that those estates have indeed been destroyed.⁴⁹⁶

In brief conclusion to this chapter, it can be stated that Native estates, if they were transferred at all to the Archives, suffered general neglect in processing and were occasionally subject to destruction.

⁴⁹⁶ Finding aid 1/1/45 ADM

7 Chapter 7: Discussion and Conclusions

7.1 Major Findings and Conclusions

The review of laws, codified instructions, filing systems, consolidated instructions and circular instructions established that lacking definitions, inconsistencies and contradictions in policy directives might have contributed to the destruction of deceased Native estate records.

Taking stock of deceased Native estate records found in custody of the National Archives of Namibia found a substantial amount of previously undetected Native estates, but also revealed substantial gaps.

Exploration of correspondences in the deceased Native estate case files shows that structural weaknesses and administrative procedures might have led to the loss of information. Comparison of disposal, destruction and transfer files and the actually found deceased Native estate records, provide some explanations of what might have contributed to the gaps and inconsistencies in the actual found estate records.

The researched correspondence further revealed an inherent ideological bias among archivists that appears to have influenced them to disregard Native estates as a historical source, leading to destructions and general neglect.

Discussions on the implications of the findings are hampered by lack of relevant results from previous research because this study explored an under-researched subject. The findings of the current study are discussed mainly within the confines of Namibian locality with very limited reference to international literature. This is a major limitation of the study.

7.1.1 The Legal Framework

Due to political and administrative changes, the legal framework underwent substantive changes during the researched period, although a discriminatory treatment of the colonized versus the colonizers remained a pervasive trait throughout the entire period of colonial rule.

Under German rule, one has to distinguish basically between the time before and after the great uprising and genocidal war of 1904-1908. Before 1904, jurisdiction between Natives including the administration of estates remained the prerogative of the various Native communities under their respective “protection treaties” with the German empire. While traditional legal rules existed among these communities, these rules did not entail the creation of written records.

After the war, the unilateral revocation of the “protection treaties” and the outlawing of the traditional political and judicial structures by the German Empire implied that these functions were usurped by the colonizer.⁴⁹⁷ This would have implied that the administration of estates of Natives would have to be regulated under the German legal system. This however did not happen in “German South West Africa”, although in some other German colonies legal provisions for Native estates were passed. It can be assumed that the practical need for such legislation did not arise, because the Natives had been reduced to landless, cattle-less and leaderless proletariat which had basically nothing substantial to inherit. The few cases of Native estates that arose nevertheless were dealt with on an ad-hoc basis.

Under South African colonial rule, the review of the legislative framework reveals that a separate legal framework regulating the creation, management and disposal of deceased Native/Bantu, Whites and Coloureds existed in colonial Namibia. The law was not only separate, it also provided for discriminatory treatment between races. Moreover, its application was confused by many exceptions and special provisions for certain groups or regions, contained in amendments as well as in frequently changing subsidiary legislation. It did, however, not change in its basic traits throughout the entire period of South African rule: the estates of Whites and Coloureds were to be administered by the Master of the High Court, while the estates of Natives were to be administered by Magistrates and Native Commissioners.

The subsidiary legislation in the form of circular instructions and “codes” generally prescribed the creation, management, preservation and disposal (transfer to the Archives or destruction) of the Native estates, although there were obviously conflicting provisions that appear to have led to misunderstandings and un-procedural destructions.

⁴⁹⁷ With exceptions, however: the situation remained unchanged for the Northern areas outside direct German control, and for the two small communities that had not joined the uprising, namely Rehoboth and Berseba.

Such conflicting provisions are an almost inevitable outcome of a divided society, which imposes an ideologically motivated segregation on the population, while at the same time attempting to minimize the additional cost that this segregation implies because of the creation of parallel segregated administrative structures and procedures. This factor was amplified by the introduction of apartheid as a state philosophy by the National Party government after 1948. Apartheid maintained an ideological construct with the fiction that the “Natives” would “develop” separately in separated “homelands” and “tribes” while at the same time they were in fact inseparably tied into the colonial economy. It appears that despite its ideological premises, the colonial state was not able to create an all-encompassing Native Administration throughout the entire territory; or maybe, the creation of such an administration would have been an admission that the entire construct of separate development was based on wrong premises. Thus the administration of Native estates became an oxymoron divided between two different structures (Magistrates and Native Commissioners) rules by the directives of two different governing bodies (Department of Justice and Department of Native/Bantu Affairs).

As a result, the efficiency of the Master of the High Court’s dealing with estates was denied to the Natives who were relegated either to “traditional” practices without legal interference, or – where those practices would obviously not work, such as in the case of contract labourers – to a chain of administrative offices that often proved ineffective or inept in maintaining records.

7.1.2 The implementation of the legal framework

The study found that in spite of the complicated and discriminatory legal framework, numerous Native estates cases were indeed registered and records produced, maintained and haphazardly transferred to the Archives depot in Windhoek, although in some cases evidence for unauthorized as well as authorized destructions were found.⁴⁹⁸ Contrary to the impression created by unsuccessful requests for deceased estate records of Natives (see Chapter 1.2) that such records do not exist at the NAN, this study found substantial but erratic occurrences of 11,256 deceased Native estate case files.

⁴⁹⁸ cf. Chapter 6.6.2

It should be noted that this does not necessarily mean 11,256 individuals. Due to the fact that usually several offices were involved in the administration of a Native estate, there could be theoretically up to four different files about one estate, namely (1) at the Magistrate or Native Affairs office who registered the estate; (2) at another Magistrate who got involved due to factors such as a surviving spouse; (3) at the Chief Native Commissioner; (4) at the Native Commissioner who had to identify inheritors in the “Reserve” and pay out the estate. Sometimes up to three files of the same estate case in different fonds were actually found (See also Chapter 5). While the majority of these records are contained in a single fonds – the “Native Estates” (NES) file group originating from the Office of the Chief Native Commissioner with an estimated 6,600 case files between 1917 and 1953 which constitutes about 60% of the total finds – the rest of about 40% is scattered between 28 Magistrate courts and Native Commissioners’ offices between 1916 and 1986. (Chapter 6, Tables 14 and 20).

7.1.3 Creation and maintenance of estate records

This dissertation has established that in Namibia (or rather, in the colonial South West Africa) deceased Native estate records were created and managed in accordance with legal provisions; that, however, only a certain segment of the deceased Natives was accorded the effort to have their estates formally managed and archived by the colonial administration.

It was further established that the maintenance of Native estate records was compromised by the involvement of a number of different instances without clear guidelines about which office was supposed to keep the entire record together. This led to a scattering of records between several offices. (Chapter 5.3.4.3)

7.1.4 Disposal of estate records

The disposal of Native estate records (like any other official records) was clearly regulated by the South African Archives Act of 1953. The previous Public Archives Act of 1922 was not made applicable in the mandated territory of South West Africa, but seems to have been followed at least by the

Magistrates who were under the supervision of the South African Department of Justice. Any form of disposal – whether destruction or transfer to the Archives – had to be approved by the Archives Commission via the Director of Archives in Pretoria.

This referral to a distant authority obviously had an impact on the documentation available for this study. In most cases, disposal requests were sent directly by Magistrates or Native Commissioners' offices to the Chief Archivist in Pretoria without even a copy to the Head of the Archives Depot in Windhoek. It was up to the authorities in Pretoria to inform the Archives Depot in Windhoek of any requests or decisions. The relative scarcity of such evidence in the NAN's files indicates that this step was often neglected (although for the notoriously under-documented era of Archivist Krynauw 1956-1970, this might as well be a case of bad record-keeping in Windhoek).

These transactions that by-passed the Archives Depot in Windhoek created a permanent gap in the Archives of the Archives' transfer and destruction files. Consequently, this study was not able to trace and establish how most of the created Native estates were disposed by their creators. Even when there were problems with the lists of destruction requests sent by Magistrates or Native Commissioners, such problems were addressed through circulars that were sent directly to the Magistrates/Native Commissioners and the Archives depot in Windhoek was not sent copies of such circulars unless they came with the transferred files. As one of such examples, Circular No.12 of 1944 dated 6th July 1944: Destruction of Records, provides:

“Many of the lists received by the Archives Commission are so confused as to be almost unintelligible and cause not only a great deal of extra work but make it very difficult, if not impossible, for the Commission to arrive at a just valuation of the documents for the destruction of which permission is sought.”⁴⁹⁹

Although, the Archives depot received an overwhelming number of destruction certificates from Magistrates/Native Commissioners, many of these are mere certificates indicating linear metres of records that were destroyed without any lists showing the actual types of records destroyed. The evidential value of these destruction certificates is close to nil.

In addition, lack of clarity of roles amongst the various officers also contributed to unauthorized and undocumented destructions. The Archives

⁴⁹⁹ SWAA [2292] A506/6 vol.13 Circulars Justice

Inspection Report (1948) of Maltahöhe Magistrate by Archivist Esterhuysen reports such an unauthorized destruction on the orders of a high-ranking official that was discovered only because the archivist visited the town shortly afterwards.⁵⁰⁰ Although this destruction did not concern estates but German-era police files, it is easy to draw parallels. The records were destroyed without respecting the principles of the disposal authorities which requires that, records earmarked for destructions must be listed and that the list constitute a permanent record both in the office of the creator and to the Archives. Undocumented and unauthorized destructions created permanent gaps in the available estate records which are difficult to explain because the answers are buried in the destroyed records.

While some records appeared to have been wilfully destroyed, others were lost or damaged due to neglect. An Archives inspection report of the Keetmanshoop Magistrate by the archivist, J.H. Esterhuysen in 1941 states:

“The record room served as a store room and a large variety of exhibits were displayed. The documents were covered with layers of dust and it was quite evident that the room had not been cleared for many years. Mice and ants had damaged a number of records, several beyond repair. Even wasps had taken their toll. The impression the room gave me was one of complete chaos and that the records had been indiscriminately dumped there during a number of years.”⁵⁰¹

The estates records were amongst the groups of records reported in this inspection report. The archivist did not recommend their transfer to the Archives depot because “these files are often referred to.” However, it is not known what Magistrate Keetmanshoop did with them after they reached their disposal schedule limit, because neither correspondence about their transfer or destruction, nor any Keetmanshoop estates between 1920 and 1941, can be traced in the NAN. They seemed to have disappeared without a trace. In most cases of these temporal gaps, this study is not able to establish how all the created Native estates records were disposed of.

7.1.5 Systemic gaps in the Native Estate records

⁵⁰⁰ SWAA [2561], A668/11/1/2, Vol.1 of 1948, Argief Inspeksie Maltahöhe, Magistraat

⁵⁰¹ SWAA [2561], A668/11/1/1, Vol.1 of 1941, Argief Inspeksie Keetmanshoop, Magistraat

The findings of Chapter 6.6 beg the question, why are the vast majority of Native estate records belonging to contract workers, both from Northern Namibia and from abroad, while there is comparatively little about other Natives who died and had an inheritance to be distributed? This general observation warrants a detailed discussion.

Although neither the legislation nor subsidiary legislation ever formulates it as a policy there appears to have been a silent consensus that estate matters of “Natives” should be dealt with by families or “traditional” institutions, and that the state should only step in if these institutions were not available on the spot. There is some scattered written evidence of such a policy, which is difficult to pinpoint due to the lack of complete sets of circulars. An undated single page from an unidentified set of instructions, with a heading “185. 8. Liquidation of estates of deceased Natives”, states:

“The estates of local natives should be left to be dealt with by the surviving relatives of the deceased according to the native customs of the particular tribe, but Magistrates will assist in recovering any wages or other monies that may be due.”⁵⁰²

That would explain at least in part the scarce existence of Native estates records. In the case of contract workers, with a distance of hundreds of kilometres between the estate assets and the inheriting families, as well as in cases with seriously conflicting contenders for the estate, it was reasonably obvious that the state apparatus had to get involved as the only instance capable of handling the matter, and it was also imperative for the colonial state to act in the collective interest of employers – not in their individual interest, because an individual employer might resent paying outstanding wages or compensation for accidents, but in the interest of maintaining the exploitative system of contract labour and avoiding the friction caused by dissatisfied families asking unpleasant questions.

Such motivations did not exist for the registration of estate cases for “local Natives” which appeared to have been ignored by the Magistrates/Native Commissioners unless in few cases where the money and property value of a local Native was worthy of taxation by the colonial state, or any other reason to involve the state. Otherwise there was no reason for the Magistrates or Native Commissioners to interfere in the estates distribution, as the traditional system

⁵⁰² LGR [3/3/3] 2/7/1 Estates precedents, instructions, circulars. The undated page is filed between two correspondences dated 1926 and 1936.

of the family dealing with estates was functioning, and state interference into this system would only have caused unnecessary problems and non-profit making work for colonial government officials.

Nevertheless there are estate files of “local Natives”, and it remains entirely unclear how the decision to open those files was taken. Manoff observed that “there is currently a widespread sense that even government records that appear to be mere collections of numbers are, in fact, already reconstructions and interpretations. Someone decided what was worth counting and how to count it.”⁵⁰³ Someone decided to administer an estate, and to disregard another. As the colonial system condoned such arbitrary decision-making at the discretion of the officials, it also devalued the records as a future source. The surviving estates of local Natives, while certainly helpful for the concerned families, cannot be seen as a representative sample of the local Black population.

On the other hand, the coverage of deceased contract labourers appears to be quite comprehensive (as far as the records survived). Dealing with the payments for relatives of the deceased contract labourers was vital to keep a certain measure of trust with the contract labour system in their area of origin. Relatives enquired from their traditional leaders, who in turn inquired from Native Commissioners about deceased workers. The relatives had their own means of information about the death and inheritance via returning other workers and this could not be taken lightly by the Commissioner.

He had to put this pressure on the other Magistrates/Native Commissioners in the police zone directly or through the Chief Native Commissioner so that they account at least for the remnants from the estates. A letter from Native Commissioner, Ovamboland dated 24th April 1937, addressed to Magistrate, Grootfontein, and states:

“I beg to inform you that Chief Martin of Ondonga made an application to send four natives to Otavi for the purpose of attending to the affairs of Johannes Gabriel who is reported to have died there recently. I should be glad to know whether you have had a notification of Johannes’ death and whether there is any estate.”

Several similar examples are available in the estate files of Magistrate Grootfontein, LGR [3/1/3; 3/1/4; 3/1/5].

⁵⁰³ Manoff, M. (2004:13)

When the Chief Native Commissioner received a complaint from a Native Commissioner on behalf of the relatives about unreported deceased workers, he addressed such problems directly to a specific Magistrate who failed to report the case and or through monthly circulars. A typical example is paragraph 8 of the monthly circular No. 421 dated 11 September of 1936, which states: “It has come to notice that in some cases, Extra Territorial and Northern Natives have died in the Police Zone and that the deaths were not reported to this office. In one or two cases it was not until relatives began making inquiries that the deaths were brought to light.”⁵⁰⁴

The registration of estates for these “Northern Natives” contract labourer from Owambo and Kavango who died while on contract employment in the police zone, was not motivated by the need to preserve the documentary heritage of the administration of Native estates in colonial Namibia, but rather by the need to maintain a constant flow of cheap labour because as one labourer died another was needed to replace the dead. The contract labourers were all-important for the growth of the colonial economy.

In the northern regions, the origin of the contract workers, several reasons can be identified why no estate files of locals were created.

The few Native Commissioners would have been completely overwhelmed with administrative work if they would start meddling with local estates.

The doctrine of “indirect rule”⁵⁰⁵ in the North meant that the State would interfere in legal matters only where it had an urgent own interest, be it economic, political, or ideological.

In the Northern regions, traditional marriages were out of community of property. That reduced the problems in distributing an estate – no in-laws were involved. The system seemed to work well – so the Native Commissioners acted according to the motto, “if it ain’t broke, don’t fix it”.

Although it was not sanctioned by legal provisions, the attitude that appears to have prevailed with state officials was: Let the Natives deal with their few possessions by themselves. Although the colonial laws, such as the pass laws, created much state interference with daily life, the distribution of estates was not among those interferences. As long as no disputes because of multiple marriages etc. arose, the state agencies saw no reason to meddle in “traditional” practices of estate succession.

⁵⁰⁴ LGR [3/1/3] 2/7/1/ Precedents, Instructions, Circulars (1926-1939)

⁵⁰⁵ See the Glossary for a brief explanation of the concept of “indirect rule”

On the other hand, also the people themselves apparently did not wish the state to interfere – after all, they had enough trouble with the state authorities in the form of pass laws, curfews, labour laws, general lack of freedom of movement. In addition, there were few forms of property that would require authorization by state authorities to change the owner, such as bank accounts. The ethnologist Günter Wagner wrote about the Ovitoto Reserve near Okahandja that “in 1950 there was only one resident in the Reserve, an ex-soldier, who had £50 in a Post Office savings account. The manager of a bank in Okahandja tried to persuade people of Ovitoto to deposit their money, but was told that they preferred to hide or bury it.”⁵⁰⁶ And Wagner writes about estates in Ovitoto: “All disputes are settled by the Headman or by the Reserve Board. They may be brought before the Native Commissioner’s Court, Okahandja, but not a single case has been tried by that court during the last few years. The division of the estates is arranged by the elders of the family concerned, and hitherto all disputes in this connection have been settled out of court excepting one case which went to court in 1955.”⁵⁰⁷

That is how the situation in a rural reserve was being described. The situation in urban areas seems not to have been much different; the same author writes in an unpublished manuscript about Windhoek District, which had a large urbanized population:

“499. Distribution of the estate: Bergdama and Nama: After a man’s death, five or six relatives come to inspect the estate left by the deceased, so that they may later act as witnesses. Among Christians, the whole estate is inherited by the widow who distributes it according to her own discretion among her husband’s and her own relatives, keeping about one-third for her children.

500. After a wife’s death, the husband puts all her belongings into a chest or suitcase where they remain untouched for a whole year. Then he calls his wife’s eldest sister and hands everything over to her, including any cattle and goats that his wife may have possessed. She then divides the whole legacy among her sisters according to her own discretion.

501. Herero: - When a man dies, his house is locked up and his estate left untouched until his brothers and sisters all meet to divide his property.

⁵⁰⁶ Wagner, G. (1957:57)

⁵⁰⁷ *Ibid.*, p.60

Often this meeting takes place only after months as some relatives may have to come from a distant reserve.”⁵⁰⁸

No court or state involvement is mentioned; however, the same author writes about the contract labourers (putting them in an ethnic category):

“505. Ambo: - If an Ambo man who has served as a contract labourer in the Police zone, dies and he has left no written will, his estate is registered with the Government (Native Commissioner), and an attempt is made to locate his heirs in Ovamboland. If no one claims the estate, it is sold at an auction or, if vermin-infested, destroyed.”⁵⁰⁹

No further contextual information such as the one provided by Wagner could be found. The South African Department of Native Affairs issued a whole series of “ethnic surveys” about six magisterial districts in the 1950s, and apart from the cited passages from Wagner, none of the others has any relevant information, although all surveys are constructed along the same lines.⁵¹⁰ The “tradition” described by Wagner might have been problematic in the course of inter-ethnic marriages with conflicting traditions, and cultural changes introduced by the Christian churches, but still the colonial “Native administration” rarely went to the extent of creating an estate file and appointing an estate administrator to distribute the inheritance.

Even when according to the letter of the legislation they would have to refer Native estates to the Master of the High Court, the colonial administration did not always follow the law but tended to ignore it or took a shortcut. This is evident from an advice from the Attorney General in a letter dated 12 February 1940 to the Chief Native Commissioner, Windhoek in which he stated:

“It is, of course, convenient to allow Native Affairs to deal with these estates and I know that the Master is not anxious to interfere with the present practice.”⁵¹¹

It was not always what the law said but what was convenient.

⁵⁰⁸ Wagner, G. (1951:165-166)

⁵⁰⁹ Ibid., p.167

⁵¹⁰ Köhler, O. (1958); Köhler, O. (1959a); Köhler, O. (1959b); Köhler, O. (1959c); Köhler, O. (1959d)

⁵¹¹ Letter dated 12 February 1940, from Attorney-General to Chief Native Commissioner, Windhoek. In: NES [45] N.E.5324

For the contract labourers and those “locals” who had no relatives in the immediate vicinity, there were two problems which called for state intervention and for the creation of estate records. Firstly, if relatives were not at hand to deal with the estate, the state had to intervene to secure the estate, and transfer the assets to the far-away family. Secondly, once the state intervened, its officials had to deal with money in their temporary custody. And the colonial state had very strict rules concerning the handling of money; every cent had to be accounted for. It was in the personal interest of the Native Commissioner or Magistrate not to be found at fault with an audit, and to create a record about the money. One might also suspect a financial interest of the state, as any unclaimed monies would eventually revert to the state coffers, but the involved sums were so negligible that they would never even cover the cost of the administrative effort invested on them.

Why are there such obvious huge gaps in the time-lines of presence of deceased Native estates in the Archives, as shown in Table 20? This question could not be answered in a satisfactory manner.

The instances where a destruction of Native estates could be proven by documentary evidence are few and far between. Where they occur, these instances betray an ideological predisposition that the Native estates are of no importance, that they do not matter, and it is tempting to conclude that this attitude was also responsible for tacit undocumented destruction of those files, either actively or by total neglect. This remains, however, an unproven assumption. It is possible that further relevant information could be found in the records of the Director of Archives (Pretoria) and the South African Archives Commission, to whom for a long time the relevant disposal correspondence was addressed.

It is also well possible that some of the missing records were never disposed of in an orderly manner, but simply fell victim to neglect and destruction by the forces of nature at their offices of creation. According to information from the NAN staff, many records transferred to the archives arrive with visible traces of beginning destruction by termites, mice, and mould – a clear indication of poor storage conditions at the offices of origin.

7.1.6 Processing and indexing at the NAN

7.1.6.1 Neglect of Native estates at the Archives

Chapter 7 describes how the level of processing of Native estates has left them mostly inaccessible, in stark contrast to the convenient accessibility of the estates of Whites.

The “White” estates, being kept in two separate archival fonds NLA and EST as far as they have already been transferred to the NAN, are easily accessible through database entries which are indexed with the full name in inverted format. This indexing had been done well before Namibian independence. Interestingly, the only other records that are computer-indexed with full inverted name are the “White” divorce cases, another important genealogical resource.

In contrast, the “Native” estates were left unprocessed to the extent that the entire fonds NES, holding 60% of all Native estates, was not only left without any kind of finding aid. Even its mere existence was undetectable to researchers and to the archives staff, because before the year 2005 it was not mentioned in the List of Archivalia, the master list of all available archival fonds. It had practically been erased from memory despite having been transferred to the Archives presumably already in 1955. The fact that the start of processing of this fonds was reported in 1977, and the further processing was obviously dropped in 1978, while at the same time the processing of the German (White) estates proceeded at full speed from “intermediate stage” to “finalized”, speaks volumes about the priorities of the colonial archivists (see Chapter 6.3.1).

Only one fifth of the estate cases found in the NAN are currently retrievable by name in the existing finding aids of the NAN; and half of these retrievable cases can only be found by laborious reading through written (sometimes hand-written) manual finding aids, while the other half that is actually retrievable by electronic means was only added to the databases quite recently (Table 14 and Chapter 7).

The rest of Native estate records, about 80 % of the total, are entirely inaccessible because they are not even listed by name. They can be called “dark archives” in analogy to the “dark internet” that is not accessible via search engines. For the White estates, there are no “dark archives”, except for some recently transferred records which have not yet been processed; for those,

however, finding aids exist at the Master of the High Court which only have to be converted to the National Archives' system.

The only conclusion to be drawn from these facts is that they were simply not considered relevant enough by the Archivists to spend any indexing labour on them.

The accumulation of either unprocessed or, to invent a new term for the poorly indexed material, “under-processed” records is of serious concern to archivists. While this phenomenon is usually linked to lack of trained staff, lack of storage and processing space, lack of filing, transfer and appraisal,⁵¹² the comparative evidence for “Native” and “White” estates in this case points at mainly ideological factors.

7.1.6.2 Apartheid coloured the professionalism of archivists

The reasons why Native estate records had been neglected to the extent that they could not be retrieved and served to clients could not be fully established. For example, no traces for any policy discussions or decisions that halted the further processing of the NES fonds (see Subchapter 6.3.2) could be found. But from the evidence that this fonds was at one stage put on the processing work plan, and then dropped from the agenda while other fonds tackled at the same time were finalised, one can safely infer that such a decision must have been taken, and that the NES fonds did not simply slip into the cracks between a large archives and a too small staff to deal with it.

An important clue comes from a footnote by Verne Harris: “From the 1980s the State Archive Service [of apartheid South Africa, E.N.] began shaping its user services around the needs of its largest clientele grouping – genealogical (almost exclusively white) researchers”.⁵¹³ In other words: This type of selective perception was demand-driven. The White settler population requested easy access to its ancestral records, and the archivists responded to their wishes. Being themselves exclusively “White”⁵¹⁴ and conditioned under apartheid, they did not anticipate genealogical enquiries from the Black majority population – and maybe even less any scholarly interest in these records.

⁵¹² See Mnjama, N. (2006)

⁵¹³ Harris, V. (2002:139 footnote 16)

⁵¹⁴ The first “non-white” (classified as “Coloured”) in a professional position at the NAN was employed in 1983, while the first Black person in a professional position was employed only after independence in 1992. (National Archives of Namibia: Annual reports)

The comparison of the painstaking indexing of the White EST estates fonds with the total neglect and even amnesia regarding the Native NES estates fonds is so striking that it is difficult to explain with anything but a preconceived attitude that the Natives were not important. It must be assumed that the Native estates were simply not on the “radar” of the (before independence exclusively White) archivists who prepared finding aids and databases because they could not imagine that researchers would ask for the Native estate records.

It fits well into the other evidence of neglect of historical sources of “Natives” (cf. the remarks about the private accessions in Chapter 1.6.4.3) to assume that the apartheid ideology, which had become all-pervasive under the rule of the National Party, clouded the professional perception to an extent that they simply disregarded “Native” records. Whether this was a conscious decision (which might have been expressed in some records) or a subconscious attitude (which is only detectable by its results) is immaterial.

Some correspondence in a “confidential” file of the Archives allows a glimpse into the prevailing atmosphere. In 1975, first steps were undertaken in Namibia to nominally abolish some “petty apartheid” measures such as the segregation of park benches and toilets, which were seen as an international embarrassment to the regime. On 27 June 1975, the South African Department of the Prime Minister submitted via the Secretary of National Education (under which the SWA Archives Depot resided at the time) a decision of the Executive Committee of South West Africa to promote locked coin-operated toilets in public buildings, obviously in an effort to perpetuate racial segregation in a different disguise, and asked for comments whether any problems were anticipated with implementing this decision.⁵¹⁵ The South African Director of Archives forwarded this letter to the Archivist in Windhoek.⁵¹⁶ The Chief Archivist responded that

“all non-white researchers who have been here have behaved demurely and civilised” and “this depot has a neat separate toilet for non-whites and until now there has been no refusal from non-white visitors and researchers to make use of it.”⁵¹⁷

⁵¹⁵ ARG [16] 8/2: Department of the Prime Minister to Sekretaris van Nasionale Opvoeding, 27.6.1975

⁵¹⁶ Ibid.: Direkteur van Argiewe to Hoof, Argiefbewaarplek van die Gebied, 16.7.1975

⁵¹⁷ Ibid.: S.J. Schoeman (Hoof: Argiefbewaarplek van die Gebied) to Direkteur van Argiewe, 23.7.1975: “*Al die nie-blanke navorsers wat hier was, het hulle stemmig gedra, beskaafid opgetree*”; “*Wat toiletgeriewe betref, beskik hierdie bewaarplek oor ‘n netjiese afsonderlike toilet vir nie-blankes en tot dusvêr was daar by nie-blanke besoekers en navorsers nog nooit enige weerstand om daarvan gebruik te maak nie.*”

It might be added that the first preserved visitor's book of the NAN (1971-1986) shows not a single Black researcher before June 1974, when a few Namibian students at South African Bantu universities started to use the archives.⁵¹⁸

It is unlikely that this attitude was challenged in a colonial environment where there were very few Black clients, and where there was little for Blacks to inherit. This, however, changed with independence, and as a self-conscious Black middle-class emerged which needed documents and started asking for them, they could no longer be ignored.

The indexing work of archivists is primarily demand-driven and rarely proactive. Frequent enquiries create the urge for better and easier finding aids to speed up the searches. After all, this is also how the present research came about. The fact that the demand for person-related records by Black users has been rising significantly but rather lately, is easily explained. Traditionally, archives are elite institutions, and the rather feeble efforts of the chronically under-funded and under-staffed institutions to popularize their services took some time to take effect. They still have a long way to go to broaden the client basis of the Archives. There is still widespread ignorance of the functions and the resources of the Archives in Namibia, and a considerable amount of what can be best described by the German term *Schwellenangst*, the fear of the doorstep, but there is also a rising awareness of this resource among the Black majority.

Apart from the rising awareness, there are also significant economic and cultural changes that are driving the demand for person-related records. Economically, despite the remaining immense income disparities in Namibia,⁵¹⁹ there are many more Black persons now who have property to inherit in Western style property relations and therefore have disputes arising which require access to records. Culturally, also the loss of oral traditions which in the past embedded people into a family and community network requires access to documentary sources. These are certainly not exclusively Namibian phenomena; they can be expected to be world-wide trends in developing countries.

⁵¹⁸ ARG OA 1/1, vol.1. Visitor's book 1971-1986

⁵¹⁹ The Gini coefficient for Namibia, measuring income inequality, was given as 59.7 for 2010, one of the highest in the world as far as such statistics are available at all (source: http://www.photius.com/rankings/economy/distribution_of_family_income_gini_index_2014_0.html)

7.1.6.3 Destrutions of Native estates

Concerning destrutions that were approved by the Archives, the scanty evidence points in the same direction of apartheid contempt. There were two conspicuous gaps in the NES fonds when it was found, firstly the estates no.1-100 and secondly no. 1801-2050. The second gap was partly filled recently when a number of files were found in unprocessed records. There is no indication how these records had been misplaced, and what happened to the still missing records of the second gap.

The same casual attitude to Native estates, clearly against the intentions of the Native Affairs Code which recommended archiving, was displayed by the archivists in the appraisal of the Magistrate Bethanien records (LBE) where a file covering 10 years of estates was destroyed and likewise in the appraisal of the records of the Secretary for the Protectorate (ADM) (Chapter 7.2.6).

In the light of such attitudes, it might have been a blessing in disguise that lack of human resources at the Archives Depot left many transferred Magistrate records without appraisal and final processing; this might have saved many Native estate files from destrution.

In the case of the destrution of the Bethanien estates, the Archivist might have argued (although he did not) that the main file was kept by Chief Native Commissioner in Windhoek (in what later became the fonds NES). This, however, would have been a wrong conclusion, because the involvement of several instances in the administration of Native estates meant that original documents were sent around among the involved offices and it is by no means certain where these documents were eventually filed. For example, when a letter from Station Commander Otavifontein to the Magistrate, Grootfontein clearly states that he enclosed the death notice, estate voucher, identification number, marriage certificate, yet these core estate records are absent from the file.⁵²⁰ It has to be questioned what happened to these core estate records which are mentioned in correspondences but absent from the case file. Most likely, they were forwarded further to another instance in the chain of offices, possibly the CNC in Windhoek. Therefore it is imperative not to destruy the parallel files about the same case, because they often contain complementary information about the same person that is lacking in another file. This study could only reconstruct the process of Native Estate administration by having

⁵²⁰ LGR [3/1/3] 2/7/1 case 13/39

access to such parallel files – which had to be discovered accidentally, because they are not yet covered by finding aids.

By indexing all Native estate files comprehensively in a database, links between such parallel files could easily be made, and the research on individual cases very much enhanced. Due to the scanty information that was often supplied, any additional document is useful. Taking a random example, in the estate N.E.3678 the Death Notice gives as “Native name” only “Franz”, which is obviously an arbitrary name given by the employer, while the Work Contract clearly states the name “Wyekuna” and a surname “Menugela”; likewise, the Death Notice states as the father’s name only the baptismal name “Gabriel”, while the Acquittance of Inheritance form states the father’s name as “Gabriel Mugangeru”.⁵²¹

At the current stage, where only a few Magistrates’ files are indexed and the key NES files not at all, it is impossible to discover such links.

The available evidence has demonstrated that the colonial ideology and apartheid racial policy was also practiced at the Archives depot, where the Whites estates were given automatic welcome while Native estates were first appraised to prove that they were worthy to be welcomed or else destroyed. Even if it was decided that they be kept, like in the case of the NES fonds, their processing was abandoned and they were stored as inaccessible “dark archives” for many years. In the case of the Bethanien Magistrate, it seems that the work of a very conscientious and dutiful Magistrate was partly destroyed by an archivist following the racist mainstream policy, while the surviving parts were perhaps only saved by the staffing shortage at the Archives preventing further appraisal and therefore possible further destructions.

It took 25 years and the relocation of the archives to a new building for the forgotten “dark archives” of NES to be rediscovered. Once they had been relegated to an undocumented existence in a forgotten corner, and once the frequent staff change had erased all tacit knowledge about their existence, only stocktaking could put them again on the map. Fortunately it is not too late to start a process of re-appropriating these preserved records, although it is too late to recover the destroyed ones.

⁵²¹ NES [26] N.E.3678

7.1.7 The context of international research

Two recent country case studies are closely related to the present study. Bastian (2003) analyzed the archival heritage of the United States Virgin Islands (which are still not an independent state), while Lihoma (2012) studied the history of the National Archives of Malawi.

Bastian (2003) relates how the United States Islands – formerly a Danish colony that lost its historical memory when

“the archives of the former Danish West Indies were transferred to national archives in both Denmark and the United States, making them virtually inaccessible to Virgin islanders, descendants of the enslaved Africans brought to this plantation colony in the seventeenth and eighteenth centuries.”⁵²²

Bastian expands the Virgin Island history to examine the efforts of this community in trying to write its history and to shape its identity and lack of access to its historical records. Although Bastian’s work does not focus on the content of what was migrated to Denmark and to the United States, it vividly illuminates the feeling of emptiness of Virgin Islanders in their effort to write their history and to define their identity without access to the records which might reveal who they were and how they got to those islands in the first place.

Lihoma (2012:4) examines the impact of government administrative change on record keeping in Malawi from pre-colonial, colonial, post-colonial one party state and post-colonial democracy period. With his focus on one country and a comprehensive time span, he has a very similar approach to mine, differing however in his focus on political records and not, as this study, on “unpolitical” person-related records (which are of course, as again this present study shows, very political in nature).

And, while all other studies on former colonized archives tended to see the relationship between the destruction of historical record of the colonized by the colonial administration Lihoma finds that further destructions of government records followed after independence by Malawian rulers destroying the history of their own country. He writes:

“The destruction of some records held by District Commissioners, the exportation of some records to London by the colonial government before power was handed over to Malawian rulers, and the destruction

⁵²² Bastian, J.A. (2003:x)

of some sensitive records by the one party regime during the multiparty transition period show in the first place, that most of the government decisions and actions were as a matter of course, captured by the record keeping systems during the colonial period and that this tradition continued after independence. While some government decisions and actions were sensitive, they were nonetheless documented without considering the implications of maintaining and preserving such documentation. However, when it became apparent that administration would be replaced, the need to tamper with the documentary record, to avert any negative repercussions from the new administrators, became so urgent that the only way out of the predicament was to purge the records of any evidence through destruction or physically exporting them. Such actions have created a permanent gap in Malawi's documentary heritage."⁵²³

Lihoma's study further shows similar observation of citizens turning to the Archives in the aftermath of regime change from a brutal autocratic rule to democracy. He writes

“After attainment of democracy, the research finds that public archives were made widely and easily accessible, and that the public archives assumed a new meaning for ordinary people who had suffered from the widespread atrocities during the one party regime.”

Although Lihoma observed the record seeking behavior by ordinary Malawians, he does not state in detail the type of records they were looking for and whether their request have been met by the National Archives of Malawi. It can however be assumed that the observed new public interest was focusing on the issue of the previous political repression, and on evidence of the mentioned atrocities, possibly in an effort to seek redress for their sufferings. It would be very interesting to find out how the “ordinary” person-related records, such as estates, fared under the regime of Hastings Kamuzu Banda who was known for perpetuating many colonial features from the previous British regime.

⁵²³ Lihoma, P. (2012:286/7)

7.2 Scholarly and Professional Contribution

The point of departure for this study was silences in the archival record. This dissertation interrogates specifically the “deceased Native estates” along the timeline of their existence, including the legal basis for their creation, management and disposal, as well as their continued custodianship at the Archives depot in Windhoek. The result, however, showed that these silences were not as pervasive as originally supposed, and that the silencing along the line of records management had been only partially “successful”.

The initial attempt to get an answer through informal interviews with purposively selected key informants was discontinued due to unanimous reply that such records do hardly exist at the National Archives of Namibia (NAN) due to colonial bias. This supports Bastian who examined the use of colonial archives and found that “colonial records offer the voices of the master narrative but do not reflect the voices of the oppressed and voiceless.”⁵²⁴

Terry Cook, making reference to the work of the French historian Jacques Le Goff, writes

“[...] since ancient times, those in power decided who was allowed to speak and who was forced into silence, both in public life and in archival record. Indeed, archives have their institutional origins in the ancient world as agents for legitimizing such powers and for marginalizing those without power.”

Colonial powers have exported this tradition to the colonies where the colonizers’ archives preserved the historical evidence that “celebrates the exploits and conquest of the colonizers”.⁵²⁵ Although this is a widely held opinion in archival and historical scholarship, and has been researched in many details of colonial history, there is so far no study to the knowledge of the researcher, that examines the primary sources of any formerly colonised country for this bias in the wide field of person-related records, as the literature review (Chapter 2) has shown. It appears that this is an under-researched sector of archival content that has escaped the attention of historians as well as archivists. As far as we know this is the first study to look into such gaps in the content of archival collections in a de-colonized country.

⁵²⁴ Bastian, Jeanette (2006:267)

⁵²⁵ Cook, Terry (1997:18)

This study makes a unique contribution to the discourse on colonial archives by taking an in-depth exploration of the colonizers' records at the National Archives of the recently decolonized Namibia, using deceased Native estate records as a case study. It employs a historical case study design, exploring the relationship between the historical legal environment, the creation, management, disposal, listing, appraisal, destruction, archiving, indexing and metadata enhancement of the Native estates records and their alleged absence from the NAN. An in-depth exploration of documents and records was done with an open mind, using multiple sources of primary data in order to gain a deeper understanding of the Native estates records creation, management and archiving history from various perspectives. This study covers a time span of 106 years of Namibia under colonial administration, 1884 to 1990, with some reference to post-colonial developments.

The study employed document analysis and explored the legal framework for the creation and management of the colonial estate records, the Magistrate and Native Affairs files in custody of the NAN, as well as the finding aids, archives databases and the administrative files of the NAN (the "Archives of the Archives"). It recorded the Native estate records that are currently discoverable by an archives user, as well as the estate records found by the study that do not exist in any discovery tools of the Archives, and constructed a tabular overview of both, arranged by archival fonds and chronologically, in order to show the gaps in years where Native estate records do not exist in the NAN.

The scholarly contribution of this thesis lies in describing the formation of the colonial collections of a post-colonial archives in-depth from legal provision, production, management and disposal processes and how the Archives depot under the colonial regime dealt with such Native records after transfer into its custody.

The study discovered a large but erratic corpus of 11,256 Native estate case files which were assumed destroyed or lost. This corpus of records which had always been available in the Archives but inaccessible because they were never fully processed, and did not exist in the archives' discovery tools, is essentially a major contribution of this study. These found estates will hopefully make future research possible in the ongoing debate searching for the voices of the colonized in the colonial archival collections – provided that practical steps will follow to make these records indeed accessible.

What is the possible contribution of this investigation to the National Archives of Namibia and to the archives profession? Definitely, an awareness of the importance of making the Native estates accessible to the users, by organising, listing and indexing them. In this regard, already the mere fact of the author doing this research has alerted the NAN's staff to finding and registering additional Native estates, as described in Chapter 6.2.3.3. The recommendations about processing and indexing listed below under 7.4.2.2. will hopefully be implemented to achieve this goal of creating access. This will go a long way in assisting family researchers from the Black majority population in finding their ancestors' records, instead of serving only a minority White settler community, and is the most significant outcome of this research exercise.

It is anticipated that this study will raise awareness about similar gaps, stir debate and lead to further research about archival deficiencies with other types of person-related records. It is further hoped that the present study will stimulate research in other decolonized countries regarding the contents of archival holdings in order to establish how far their national archival records are responsive to the needs of all citizens. A desired outcome would be that this contributes to a review of legislation, policies, guidelines, standards, principles and procedures governing the NAN and to the development of a programme of archival "affirmative action" with practical steps to remedy the wrongs of the past.

As Bastian has rightly observed, "Post-colonial scholarship while exposing so many of the weaknesses and problems posed by recordkeeping, also offers an opportunity to conceptualize and apply a wider, more generous and more inclusive archival lens to the relationships between communities and records."⁵²⁶ She further writes,

"At the same time, colonialism also offers a way to examine extreme power structures in ruthlessly human terms and to analyse multi-class, multi-ethnic layered societies that were simultaneously co-dependent communities and rigid hierarchies. With their heavy reliance on records to preserve the tenuous fabric of imperialism, the relationships between colonial societies and records reveal many of the worst and best manifestations of records themselves; their tyranny as well as their power, their textual bias as well as their textual evidence, their appropriation as well as their authenticity, all of which speaks as much to

⁵²⁶ Bastian, J.A. (2006:268)

the authority as to the malleability of written information [...] From the imperial archives to Subaltern Studies, to post-colonial discourse, the records of colonialism have been deconstructed, reconstructed, parsed and diced in an effort to correct injustice, identify and vindicate the oppressed, demystify the ‘winners’, and confront colonialism in all its ugliness. This theoretical path from the narrow interpretation of colonial society through its traditional records towards a wider and more expansive reading both of the records and of the complexities of community should resonate with archivists who, in many ways, are carving out their own theoretical path as they move from narrow and specific views of archives and provenance towards a post-custodial continuum of records and a more generous vision of social constructs.”⁵²⁷

I have cited so extensively because it resonates so much with my own subjective feelings when, starting out from the research question “what happened to the missing estate records”, I began to read in those that I found. I feel the disappointment that the original question is only partly answered and probably can never be fully answered because it is buried in destroyed records and memories that died with their owners, but I also still feel how moved I was when reading the exasperated margin note of a medical officer on a death notice, “this is the third native who died, out of six who walked in from the mine while suffering from pneumonia”,⁵²⁸ suddenly revealing the human feelings of a colonial White man in the face of inhuman treatment and suffering of fellow black men at the hands of the diamond mine management, no matter how much he might have thought himself superior to them. And likewise, the impression of reading the cause of death “pneumonia” in ten consecutive death notices of mine workers from the richest diamond mines on earth, in conjunction with their names and their few shillings of outstanding wages, gives a much stronger and indelible impression of their working conditions than a statistical table with the same information. This is how I understand the “undecidable reserve” of an archival legacy that Foucault was talking about.⁵²⁹

These resources will enrich future studies into colonial archives and could give new perspectives The work of a number of scholars, among them Robert

⁵²⁷ Bastian, J.A. (2006:269)

⁵²⁸ Captain J.B. Knobel from the Native Military Hospital on Shark Island, Lüderitzbucht. NES [1] 135/105, Estate Tjikunda No.166/371

⁵²⁹ Cited in Harris, Verne (2011:117)

Gordon,⁵³⁰ Richard Moorsom⁵³¹; Pekka Peltola,⁵³² Gretchen Bauer,⁵³³ and Patricia Hayes⁵³⁴ who wrote extensively on the Contract Labour System in Namibia or its impact on the societies in Northern Namibia, could have benefitted substantially from these found Native estates records.

Despite Duncan's, Bastian's and Spivak's questioning⁵³⁵ how far an archives that is "part and parcel of the machinery used to crush resistance to colonialism" (Duncan 1999:121) "could be successful in seeking the voices of the oppressed" (Bastian 2006: 275) the Native Estate records allow unexpected glimpses into the daily lives of the colonized, for example in areas that are particularly poorly documented, such as how they spent their leisure time.

One inventory that I came across listed "several music instruments" in the possession of a contract worker. Such observations can tie in with other neglected sources, such as historical photographs; while reading this inventory I immediately remembered a photograph of a group of newly arrived early contract workers during the German colonial period, and among the few necessities they had carried along all the way from Owambo was a traditional musical bow.⁵³⁶ Reading "against the grain" requires identifying, collecting and connecting such glimpses into social reality from a variety of sources, and the Native estates are opening up details that otherwise are lacking in the official record.

It is up to the researcher to try and catch such glimpses through the cracks of the not at all so monolithic block of the official representation in the archives. The correspondence cited below took place between the Officer in Charge of Native Affairs (OCNA) at Tsumeb, the Magistrate Grootfontein (LGR) and the Chief Native Commissioner (CNC), Windhoek on the fate of a deceased Native estate case vs. the employer, another colonial government department:

⁵³⁰ Gordon, Robert (1977)

⁵³¹ Moorsom, Richard (1977); Moorsom, Richard (1980); Moorsom, Richard (1989)

⁵³² Peltola, Pekka (1995)

⁵³³ Bauer, Gretchen (1998)

⁵³⁴ Hayes, Patricia (1992)

⁵³⁵ Bastian. A.J. (2006), citing Spivak, G.C. (1985) and Duncan, J. S. (1999)

⁵³⁶ NAN photo collection no.27000, photograph by Eugen Stuhlmann, 1904/05, original caption "Ovambos nach der Küste gewandert um Geld zu verdienen" (Ovambos migrated to the coast to earn money)

OCNA: “It will be observed from the report of the accident that the Railways allege that the accident was due to serious and wilful misconduct on the part of the deceased. I have not seen the Inquest Proceedings so cannot offer any comments.”⁵³⁷

LGR: “I enclose my file containing statements taken from numerous witnesses. From these, it seems clear there was no serious or wilful misconduct as alleged by the Railway Administration.”⁵³⁸

CNC: “In view of the fact that accident occurred while the deceased was on duty his dependents are in the circumstances, entitled to compensation under the provisions of Proclamation No.3 of 1917 and this has been assessed at £50, the maximum payable under the Proclamation.”⁵³⁹

What we see here is a rare example of three different colonial officers cooperating to assist the dependants of a deceased Native labourer to receive compensation against the resistance of an employer, using the existing laws. However, it is more common to find examples where one or all officials neglected their duties in such cases, and were not taken to book, because nobody cared. These findings show that there may have been laws, but putting them in practice required committed civil servants in the colonizer’s bureaucracy in a general atmosphere of despising and degrading “the Native”. A neglect of duties towards them was permissible. I agree with Ballantyne who suggests:

“We desperately need to appreciate how our colonial archives were constructed, we must catalogue what is absent in these collections as well as what is present, and we need to reconstruct the ideological work that they have done.”⁵⁴⁰

⁵³⁷ Officer in charge Native Affairs, Tsumeb, Sgd. F.W. Eedes’s Report dated 31 October 1939, on the native estate case file 13/39, addressed to Magistrate Grootfontein, in file LGR [3/1/3] 2/7/5-13/39

⁵³⁸ Letter dated 8th November 1939 from the Magistrate Grootfontein to Chief Native Commissioner Windhoek in file LGR [3/1/3] 2/7/5-13/39

⁵³⁹ Letter (3 pages long) dated 15 December 1939 from Chief Native Commissioner Windhoek to Native Commissioner Grootfontein in file LGR [3/1/3] 2/7/5-13/39

⁵⁴⁰ Ballantyne, Tony (2004) as cited in: Bastian (2006:276)

7.3 Limitations of the Study

7.3.1 Administrative history of Namibia

Namibia has an extremely complicated administrative history, as the South African colonial power arbitrarily and frequently changed administrative structures to suit its colonial and racial agenda. Some of these changes are briefly outlined in Chapter 1. However, a detailed administrative history that would have enabled the researcher to go into more detail in explaining the gaps in estate files and the lack of evidence about apparent destructions is completely absent. The historical development of the Native Administration Department and its successor institutions remains in the dark. It could not be established clearly where and when Native Commissioners were employed as separate officers, and where they were Magistrates who additionally fulfilled the role of Native Commissioner. Even a detailed history of the National Archives of Namibia and its predecessor, the “Archives Depot of the Territory” with basic information such as the names of all Chief Archivists and their term of office, or the start of electronic database entry, is lacking. Although some of the relevant information could be gathered in a piece-meal fashion where it was sorely needed for this study, it remained very incomplete. This study recommends the compilation of an administrative history of Namibia as a matter of urgency for all historical research in Namibia.

7.3.2 Research at the South African Archives

The correspondence on disposal pointed to the central role of the South African State Archivist and Archives Commission in approving disposal decisions. There is clear evidence that the Archives Depot in Windhoek was in a subordinate position and not involved in decision-making about disposal but was only informed about the outcome – and it remains even doubtful if it was always informed.

Research at the National Archives of South Africa (Pretoria) might have been beneficial to bring more light in the issue how the vast gaps in Native estate coverage from the various Magistrates and Commissioners came about. In particular, it should have been possible to find further evidence of estate

destructions carried out with approval by the Archives – or, if no such evidence were found, to conclude that destructions at the record-creating offices took place without authorisation.

Furthermore, it can be expected that the Archives in Pretoria has complete and consecutively filed series of circulars from the Justice and Native Affairs Department which would allow to gain a comprehensive picture of the policy development on Native Estates. In this study, these circulars had to be pieced together from incomplete and heterogeneous sets preserved in different fonds rather by accident than by design. In relation to the above, the study has detected an element of poor records management within the NAN over a certain period, and lack of interest in Magistrate records.

Unfortunately, within the limits granted for this research it was not possible to include the National Archives of South Africa in the study. Answering these open questions remains on the list of desiderata for follow-up research.

7.4 Recommendations

A number of recommendations can be derived from this study. They can be divided onto recommendations on further research, and recommendations on archival practice.

7.4.1 Further research

Although it is not possible to recover lost records, a clear knowledge of the gaps in the collection, how they came about and how they are related not only to written laws and policies but also to conscious and sub-conscious attitudes and practices may help immensely to improve the present situation. It may help to explore surrogate records such as (for example) church records and oral genealogies, and lead to improved collection strategies targeting the whole society. It may help to develop a focused programme of discovering and indexing poorly developed resources that are present but currently undetectable.

This study has explored the situation with regard to a specific type of archival resource. There is definitely a need to widen the scope of such

exploration to other types of records, as well as to widen the scope of search beyond the realm of the National Archives.

In his keynote paper at the 6th ECARBICA Conference in Nairobi, 1980, Ali Mazrui lamented the elite coverage, elite utilization, and elite control of archives. He reminded archivists to cater for the “common man”.⁵⁴¹ Mazrui’s contribution focused on oral tradition, but person-related records are a key issue for the “common man” (or “common woman”) and his/her rights, a key issue for public trust in the archives. This holds especially true for the poor majority, whose circumstances of living do not favour maintaining a personal collection of vital documents. From birth certificates over examination results to pension papers, people living in shacks without fire security, with leaking roofs and termites burrowing through mud-brick walls have a constant need for lost personal documents to be replaced from the record of relevant national institutions. Where this cannot be done, sheer desperation opens the door for corruption and falsification.

7.4.1.1 A research agenda on “Native” person-related records

As has been explained in Chapter 1.2, the original motivation for this study comes from the more general observation that it is difficult to find any person-related records of “Natives” at the NAN.

This relates particularly to the frequently requested and mostly irretrievable “Native divorce” records, which theoretically should be found at the NAN in the Magistrate court records. In analogy to the Estates, “White divorces” were administered by the Master of High Court, while “Native divorces” were administered by Magistrates and Native Commissioners. This area requires an investigation along similar lines as the present one to get a grip on the problem.

Another frequently requested group of records which is only available for “Whites” are the adoption files. These also require a detail study on their own. According to preliminary research done during the inception period of this study, the relevant legislation was not racially separated,⁵⁴² and also the adoption case files were originally not racially separated but handled by a central Registrar of Adoptions. Nevertheless, this is no longer the case. From

⁵⁴¹ Mazrui, A. (1982:4-9)

⁵⁴² Adoption of Children Act, Act no.25 of 1923, as well as Chapter VII of the Children Act, Act no. 31 of 1937, and subsequent amendments

the available data it seems that the “Native” adoption files fell victim to apartheid only as late as 1973, when apparently the central adoptions registry was split up to be distributed to the Social Services divisions of the various Bantustans. While the “White” adoptions were eventually deposited at the NAN, none of the other adoptions cases has so far surfaced again despite of extensive searches related to inheritance court cases.⁵⁴³

Birth, marriage, and death records are under the domain of the Ministry of Home Affairs (currently: Ministry of Home Affairs and Immigration). As briefly mentioned in Chapter 1.2, these records pose particular problems: the main records had been migrated to South Africa, and are apparently still not entirely repatriated, thus impeding sometimes even the search for documents of “Whites”. In addition, birth, deaths, and marriages of “Natives” have often not been recorded at all. Even today, by far not all births are being recorded by the state.⁵⁴⁴ In addition, a substantial percentage of the Namibian population was born, married, or died in exile during the struggle for independence. While it can be assumed that the liberation movement SWAPO did at least partially document this, the archives of SWAPO are still only partially organised and remain largely inaccessible. The fundamental importance of these records in a modern state makes it imperative to conduct a thorough investigation in this matter which should include surrogate records (see also below, Chapter 7.4.2.3).

7.4.1.2 Research on person-related records in other post-colonial archives

It is also recommended that similar studies be conducted at National Archives of other decolonized countries. This might lead to comparable discoveries. It can reasonably be expected that the discriminatory treatment given to Native estate records is not a Namibia-specific phenomenon, although Namibia’s history of colonialism combined with apartheid, a particularly vicious manifestation of racism, may have made discriminatory practices more severe and noticeable.

Institutionalized racism is a common feature of colonial domination, although it might take different forms under different colonial masters.

⁵⁴³ Information from W. Hillebrecht, Chief Archivist

⁵⁴⁴ Namibia. Ministry of Home Affairs and Immigration (2012:10) reports that in some rural regions only 40% of all births were registered (latest available figure for 2006)

Portuguese colonies, for example, did not know the rigid colour bar that was legally entrenched in South Africa even before the development of “apartheid”; but on the other hand, although the Portuguese system embraced “assimilados”⁵⁴⁵ to a certain extent, it clearly oppressed and discriminated against “indígenas” (Natives). Even after 1961, when by the repeal of the “Estatuto dos Indígenas” (Natives Act) all inhabitants of the Portuguese colonies were theoretically declared Portuguese citizens, Eduardo Mondlane could prove that “It is clear from the whole body of recent legislation that the African in Mozambique is in economic and political subjection to the white man. Even the law provides for inequality, while actual practice goes far beyond this ...”⁵⁴⁶

It can justifiably be expected that this discrimination is reflected in the administrative and archival processes.

As one of the empirical results, this study identified a clear over-representation of migrant workers as a consistent trend in those Native estates that are present in the NAN – a trend whose motivation can be traced to the colonial economy’s need to maintain a steady supply of labour. The same motivation is clearly formulated in the estate legislation of the colony German New Guinea.⁵⁴⁷ It is tempting to establish parallels with other colonies that relied heavily on migrant labour in mining and large-scale plantations.

Therefore it appears promising to investigate the historical legislation and archival practice in other post-colonial countries and their national archives about their respective handling of person-related records of the so-called “Natives”.

7.4.1.3 South African archives research

One of the limitations of the current study is that it could not investigate how far appraisal, destruction, and transfer as well as general policy issues were handled only by the supervising authorities, namely the Director of Archives in Pretoria and the South African Archives Commission, without leaving a local

⁵⁴⁵ “Assimilado” is the Portuguese term for Africans who were “civilized” and emulated the lifestyle of the colonizers

⁵⁴⁶ Mondlane, Eduardo (1983:47)

⁵⁴⁷ Runderlass und Dienstanweisung des Gouverneurs von Deutsch-Neu-Guinea, betreffend die Behandlung der Nachlässe Farbiger, vom 22.Juli 1904. In: Die deutsche Kolonialgesetzgebung, vol.8 (1904), p.161-162.

documentary trail in the Windhoek archives depot. Likewise, a follow-up study in the South African archives should be able to work with consistent and complete sets of circulars from the Justice Department and the Native Affairs (Bantu Administration) Departments. Such a study remains highly desirable to bring more clarity and provide further explanations that would allow generalization. As mentioned earlier, the current study could not locate results from previous studies for comparison because the literature does not address the issues tackled by this dissertation. This makes it difficult to arrive at generalized conclusions relating to colonial archives.

7.4.1.4 Administrative history of Namibia

As discussed in Chapter 7.3.1, the absence of an administrative history of Namibia is a serious obstacle in historical research as well as in archival practice. It is impossible to describe archival fonds properly without knowing its administrative background. An administrative history should be seen as one of the most urgent desiderata on the agenda of the National Archives of Namibia.

7.4.2 Archival practice

7.4.2.1 Register of Unsuccessful Queries

Despite archives staff being “somehow” aware that queries for person-related records could often not be satisfied, it took a long time for them to realize the significance, magnitude, and implications of the problem. When I started considering research into this issue, my questions to the staff about unanswered queries were answered only in vague terms, there was no hard evidence and no contact information for follow-up. Statistics of user queries that have not been successfully answered by the National Archives of Namibia’s archival collections have not been registered by the NAN’s information capturing system. This information is lost to the researcher and to the NAN staff. This study recommends that the National Archives of Namibia establish some mechanism to capture and retain user queries that have not been successfully dealt with by the contents of its archival collections. This would help the NAN

to establish in a more systematic manner whether there are consistent patterns of user queries that have not been dealt with successfully. Such knowledge about the gaps may be used by the NAN in planning future collection development policy or strategies and in its users services support. It would also help researchers to be aware that there are gaps in the colonial archival collections and how such gaps were established. I have observed during many months of studying the Archives that, there seemed to be a natural symbiotic relationship between the records, the archivist and the researchers. An ongoing dialogue about the findings and what need to be searched further and in this manner if the researcher is aware of some gaps they would alert the archives staff if they discovered relevant records that may in some way help fill some of the gaps.

7.4.2.2 Closing the Gaps in Discovery Tools

The discovery tools of the Archives (finding aids and archives databases) know only what has been recorded or indexed in it. To these tools of the Archives, what is not indexed or recorded in them does not exist; they cannot “think outside the box”. The current study has shown that only 20% of the found Native estate records were retrieved through the conventional information retrieval systems of the NAN, that is, through the manual finding aids or the Archives’ database systems, and the remaining 80% were found through various exploratory methods. A study on NAN systems perspectives is therefore recommended. The study may focus on major archival collections – by going through the finding aids to pick up indications of records that may need closer attention with regard to important hidden information which has not been captured by the archives’ information systems.

The present study has established that the Native Estates are an important research resource which needs to be made accessible. This requires several steps:

1. It is quite obvious that a precondition of making the Native Estates accessible is to identify them first. This study has identified, through systematic search in finding aids as well as by looking at unregistered records, a substantial amount of Native Estates within the National Archives of Namibia, but it is likely that this search has to continue. According to the Chief Archivist, there were still entirely unprocessed records from Magistrates as well as Native Affairs officials which might very well contain further Native estates.

2. Once additional estate files have been identified, they need to be processed and listed. In the past, the next step would have been to create a handwritten list, which would then be typed and eventually entered into a database. Due to the advance of digital technology, the NAN has meanwhile reversed the workflow: first an electronic database entry is being created, while the written finding aid can then be extracted from the database.
3. As there are many Native estates that are only listed in manual finding aids and therefore difficult to find, there should be a focused programme for them to be processed electronically in order to make them readily accessible without having prior information about place and date of death to narrow down the search.
4. All relevant names should be additionally indexed to appear in inverted format, in the way it has been done with the White estates, so that searches for names can select immediately from full names, instead of only using Boolean operators.
5. Already at creation of the database, some special characteristics of the Native estates have to be taken into account: the multiple aliases and spellings of the deceased's names must be registered to create additional access points for a search. It could even be considered to register the contract or pass number as well, because there is much correspondence referring only to numbers. Evidently, the contract labourers were known mainly by numbers and arbitrarily apportioned names, and only after death, some efforts were made to establish their real names and the heir in their estates.⁵⁴⁸ (See also the extensive correspondence about this issue between the Resident Commissioner Ovamboland and the Chief Native Commissioner in RCO [2] 2/1916/1, in particular the letter reproduced as Figure 29).
6. As a final step, the creation of a joint finding aid to all estate files, listing them in an alphabetic order, can be considered, along the model of the joint "White" estate finding aid 1/1/217 which combines access to NES and EST. Although this step is not absolutely necessary, considering that the database already makes retrieval easy, such a paper-based list is more convenient to consult for users who are not computer-literate.

All the aforementioned steps pose no particular difficulties; they are mainly relying on human resources for data input.

⁵⁴⁸ Of course there are limitations in the archival data that are impossible to overcome, such as the tendency among migrant labourers to supply fictitious names (as discussed in Chapter 6.1.1.1).

7. As a future enhancement, the use of special software or “fuzzy search”⁵⁴⁹ to automatically search for homonyms could be considered. The colonial history of Namibia resulted in different spelling conventions, and depending on the European mother-tongue or the writing and teaching tradition of the person who took down the name for a document, even a simple and common name such as Shikongo could also appear as Shicongo, Šikongo, Sikongo, Schikongo, Sjikongo, Chicongo, or Chikongo. Such softwares have been developed for European names, such as the endless varieties of the name Meyer, but they might not be universally applicable.
8. Specifically for genealogy and family history purposes, the NAN has much further untapped potential if one thinks of an “affirmative action” discovery programme. White persons are often traceable through many printed lists with historical depth that are easy to use and to find in the archives, such as directories and telephone directories. But the colonial archive sources contain hundreds of lists of indigenous Namibians hidden away in administrative files which only need to be converted into a searchable format to be immediately accessible; it is mentioned above that this has been done for a Windhoek “Old Location” Black house-owners list.⁵⁵⁰ But there are also (just to mention a few examples) extensive lists of Herero prisoners and forced labourers and pass mark holders from the German period, lists of Black recruits in the Second World War, etc. Raising them from their hidden anonymous existence as mere statistics, to become discoverable individuals whom families can connect to, would also enhance the sense of identity and the sense of owning a history among the descendants of those whom the colonial masters tried to convert into nothing but a disposable numbered labour resource.

7.4.2.3 Closing the Gaps in Records

The substantial gaps in coverage of Native estate records have been pointed out repeatedly. One of the questions that could not be answered in the course of this study related to the possibility of surviving Native estate records still stored at Magistrate offices, or rather their storage facilities. While the researcher had no mandate to inspect Magistrates, this option lies within the powers given to the Head of Archives by the Archives Act, Act of 1992,

⁵⁴⁹ In computer science, *approximate string matching* (often colloquially referred to as *fuzzy string searching*) is the technique of finding strings that match a pattern approximately (rather than exactly) (Wikipedia)

⁵⁵⁰ NAN: AACRLS.292

Section 3(2) (b). It can be assumed that such records, if they exist, might be buried almost inaccessibly under geological layers of other court records, and require a major physical effort of decongesting the storeroom. It is not surprising that such records are not discovered at routine inspections which are mainly concerned with the current filing.

At such an exercise, even other records that have been reported as lacking, such as “Native divorces”, might be found. It is an urgent recommendation emanating from this study to intensify archival inspections.

On a more general note, the issue of surrogate records needs to be explored to diversify the available body of genealogical resources. One can hardly think of surrogate records for estates in the narrower sense, but many facets of the information that genealogical and academic researchers are looking for is contained in a variety of other records.

In particular, the churches are an important source of surrogate records. For the rural areas and former “homelands”, church registers cover presumably much more ground than the birth, death and marriage registers of the state. For example, the church registers of the Evangelical Lutheran Owambo-Kavango Church (ELOC, now ELCIN) have already partially been microfilmed and have been scientifically evaluated as demographic sources.⁵⁵¹ Given the presence of four major church denominations among the Black population⁵⁵² and a number of smaller ones which sometimes also have significant historical depth and sometimes regional dominance,⁵⁵³ collecting these records is by no means an easy task, especially as even those churches which have developed a central archives have only partially managed to centralise their church registers,⁵⁵⁴ while many registers are kept at local parishes under very precarious conditions. A comprehensive digitisation programme for such registers is in the national interest – an initiative that could be spearheaded by the National Archives, but needs considerable investment in technology and human resources.⁵⁵⁵

⁵⁵¹ see Notkola, V. (2000); Notkola, V. (2000a); Notkola, V. (2004)

⁵⁵² Evangelical Lutheran Church in Namibia (ELCIN), Evangelical Lutheran Church in the Republic of Namibia (ELCRN), Roman Catholic Church, and Anglican Church

⁵⁵³ e.g. the African Methodist Episcopal Church, the Oruano Church, and the Seventh Day Adventists

⁵⁵⁴ ELCIN maintains a central archives at Oniipa, while ELCRN maintains a central archives at Windhoek

⁵⁵⁵ Currently the digitization of registers of the Dutch Reformed Church in Namibia (NGK) by the international church-based organization FamilySearch is under way. The NGK, historically a

Apart from the churches, municipalities are an important resource, with registers of graveyards, and the possibility of archived burial orders. Again, these are scattered resources that can only be secured by a systematic search-and-rescue mission.

7.4.2.4 The role of language

Language is a serious issue in access to the colonial person-related records. Basically all colonial records from the German administration are in German language. German is a language of a small minority in today's Namibia. While everybody who wants to use these German records extensively in academic research must be prepared to learn German (and the difficult old German handwriting), it is necessary to provide guides in English language so that users with no or poor German language skills are in a position to judge whether they might find relevant sources for their study in those records.

The same applies for the Afrikaans sources, which account for approximately three quarters or more of the South African colonial administration records. While Afrikaans is still widely used in Namibia, it has entirely lost its role as a language of administration, and a fast-growing segment of the younger population no longer has a working knowledge of Afrikaans.

7.5 Decolonising the archives

Josias (2011)⁵⁵⁶ refers to a number of emerging projects in South Africa to recover and record memory. She cites Lalu (2008) about the District Six Museum in Cape Town: "Unlike the archives of the state, which produces prepackaged communities with labels and postal addresses, the Museum inaugurates the concept of the archive that envisages the meaning of a post-apartheid community through the remnants of one that apartheid destroyed."⁵⁵⁷ Lalu might have drawn a false dichotomy: the archive of the state, in all its "prepackaged" apartheid conception, is not the monolithic

Whites-only church (with a separate Black sister branch), is so far the only church that has deposited its archives at the NAN, while an agreement for the deposit of the ELCRN archives is under negotiation.

⁵⁵⁶ Josias, A. (2011

⁵⁵⁷ Ibid.

unchangeable block that its apartheid creators may have wished to shape. It is up to the receivers of that legacy to look through the cracks and earn the legacy by discovering and using the hidden information to reconstruct what has been destroyed.⁵⁵⁸

This, however, is a work that archives of the state are rarely undertaking. Efforts to unearth the history of colonial and repressive regimes “from below” are often coming from institutions that were newly established, and characteristically also from institutions blurring the distinctions between archives, museums, and libraries. The South African District Six Museum, the Mayibuye Centre, the South African History Archive (SAHA), and the Nelson Mandela Foundation are cases in point. Adding to their physical repositories are online initiatives providing much wider access, such as South African History Online (SAHO) and, again, the Nelson Mandela Foundation.

The issue of identifying estates and other person-related records of the colonised cannot be seen as an isolated issue but has to be put into the wider context of decolonising the archives.

Decolonising the archives is a slogan that could easily be misunderstood as getting rid of the archives of the colonisers, as creating a clean slate upon which a new archive could be written. During interaction with the NAN staff the researcher was informed about some fears expressed among the conservative German-speaking settler community in Namibia, that the inherited colonial archives would be destroyed or depleted or made inaccessible; fears that are fuelled by the removal or relocation of highly visible tokens of colonialism such as street names or monuments. Of course nothing could be further from the truth, decolonising the colonial archives rather means getting rid of the barriers that inhibit their use, and unlocking their potential for “reading against the grain”, re-interpreting and re-appropriating the colonial history. One-sided and faulty as they may be, the colonial archives remain an indispensable source and treasure trove of information. What needs to be done is to make their content more accessible.

⁵⁵⁸ A Namibian example, from a context similar to the District Six Museum, is the extraction of house ownership information in Windhoek’s destroyed “Old Location” from the records of the City of Windhoek. To destroy the Old Location and resettle its inhabitants to Katutura, the apartheid municipality recorded and assessed houses for monetary compensation purposes to those who were forced to move. This tool of destruction, duly preserved, has recently been turned into a database assisting the memory of former inhabitants to reconstruct and to record oral information about the face and social life of the Old Location. The database is digitally accessible at the NAN (Accession AACRLS.292)

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8.2 Legislation

8.2.1 International treaties

Treaty of Versailles of 28 June 1919.
http://avalon.law.yale.edu/subject_menus/versailles_menu.asp, accessed 2015-03-03

8.2.2 German Laws

8.2.2.1 Gazettes and consolidated editions

Amtsblatt für das Schutzgebiet Deutsch-Südwestafrika (1910-1916). Windhoek
Deutsches Kolonialblatt: Amtsblatt für die Schutzgebiete des Deutschen Reiches (1890-1921). Berlin

Die deutsche Kolonial-Gesetzgebung (1893-1910): Sammlung der auf die deutschen Schutzgebiete bezüglichen Gesetze, Verordnungen, Erlasse und internationalen Vereinbarungen, mit Anmerkungen und Sachregister. Berlin: Mittler
Reichs-Gesetzblatt (1871-1945). Berlin

8.2.2.2 Individual laws

- (1890): Verordnung, betreffend die Rechtsverhältnisse in dem südwest-afrikanischen Schutzgebiet, vom 10. August 1890. Reichs-Gesetzblatt, 1890, p.171
- (1893): Verordnung, betreffend die Erhebung einer Erbschaftssteuer und die Regelung von Nachlässen Farbiger in Deutsch-Ostafrika, vom 4. November 1893. In Deutsches Kolonialblatt, 1894, p.41.
- (1900): Gesetz betreffend die Rechtsverhältniss der deutschen Schutzgebiete. Reichs-Gesetzblatt 1900, p.813
- (1904): Runderlass und Dienstanweisung des Gouverneurs von Deutsch-Neu-Guinea, betreffend die Behandlung der Nachlässe Farbiger, vom 22.Juli 1904. In: Die deutsche Kolonialgesetzgebung, vol.8 (1904), p.161-162.
- (1905): Kaiserliche Verordnung, betreffend die Einziehung von Vermögen Eingeborener im südwestafrikanischen Schutzgebiet. Deutsches Kolonialblatt, vol.1906, p.1
- (1906): Bekanntmachung des Gouverneurs von Deutsch-Südwestafrika, betreffend Einziehung des Stammesvermögens der Herero, Zwartbooi- und Topnaar-Hottentotten, vom 23. März 1906. In: Die deutsche Kolonialgesetzgebung, vol.10 (1906), p.142-143
- (1907): Bekanntmachung des Gouverneurs von Deutsch-Südwestafrika, betreffend Einziehung des Stammesvermögens der Witbooi- usw. Hottentotten sowie der Roten Nations und der Bondelzwards- einschl. der Swartmodder-Hottentotten, vom 8. Mai 1907. In: Die deutsche Kolonialgesetzgebung, vol.11 (1907), p.233-234

(1907): Verordnung des Gouverneurs von Deutsch-Südwestafrika, betreffend Massregeln zur Kontrolle der Eingeborenen. Deutsches Kolonialblatt, vol.1907, p.1181

8.2.3 South African Laws

8.2.3.1 Gazettes and consolidated editions

Statutes of the Union of South Africa (from 1961 onwards: Statutes of the Republic of South Africa)

N.A.77. Proclamations and regulations under the Native Administration Act 1927. [Loose-leaf compilation, undated, NAN: AA/1433-1434]

8.2.3.2 Individual laws

(1909): Native Administration Act, Act 1 of 1909

(1913): Administration of Estates Act, Act No. 24 of 1913

(1919): Treaty of Peace and South West Africa Mandate Act, Act 49 of 1919. In: The Laws of South West Africa, vol.1 (1920-1922), p.10-12

(1922): Act to make provision for the custody and control of the public archives of the Union (Public Archives Act), Act No. 9 of 1922, Statutes of the Union of South Africa, 1922, p.30-35

(1925): South West Africa Constitution Act, No. 42 of 1925

(1927): Act to provide for the better control and management of native affairs (Native Administration Act), Act No.38 of 1927. In: Statutes of the Union of South Africa, 1927, p.314-350

(1950): Population Registration Act, Act No. 30 of 1950

(1953): Act to consolidate and amend the law relating to the custody and control of the public archives of the Union, to provide for the custody and control of the public archives of South-West Africa, [etc.]. Official Gazette extraordinary of South West Africa, No.1785 of 7 October 1953

(1956): Land Settlement Act, Act 21 of 1956

(1962): Archives Act, Act 6 of 1962. Statutes of the Republic of South Africa, 1962, p.29-43

(1962): Native Affairs Amendment Act, No.46 of 1962

(1963): Coloured Persons Education Act, Act 47 of 1963

(1963): Births, Marriages and Deaths Registration Act, Act 81 of 1963

(1968): Development of Self-Government for Native Nations in South West Africa Act, Act 54 of 1968

(1970): Administration of Estates Amendment Act, Act 54 of 1970

(1977): Proclamation R202(1977). Walvis Bay Administration Proclamation. Pretoria

8.2.4 South West African Laws

8.2.4.1 Gazettes and consolidated editions

Official Gazette of South West Africa (1915-1990). Windhoek

The Laws of South West Africa (1915-1990). Windhoek

Rosenow, R.E.G. (1957-1962): Laws of South West Africa : Annotated reprint [1915-1956], ed. by R. E. G. Rosenow. Parow: Cape Times

8.2.4.2 Individual laws

(1915): Proclamation of Martial Law, No. 15 of 1915

(1920): Inquest Proclamation no.9 of 1920. In: Official Gazette of South West Africa, 1920, no.28, p.20-22

(1921): Better Administration of Justice Proclamation. P.52 of 1921. In: The laws of South West Africa, vol.1 (1915-1922), p.627-628

(1922): Native Administration Proclamation, P.11 of 1922. In: The laws of South West Africa, vol.1 (1915-1922), p.749-754

(1924): Government Notice G.N.154. Workmen's Compensation Regulations. In: The Laws of South West Africa, 1924, p.139-170)

(1927): Prohibition of Credit to Natives Proclamation 18 of 1927. In: The Laws of South West Africa, 1927, p.134-137)

(1928): Natives Administration Proclamation, No. 15 of 1928

(1935): Extra Territorial and Northern Natives Control Proclamation No. 29 of 1935. In: The Laws of South West Africa, vol.14, p.148-158

(1935): Magistrates' Court Proclamation, Proclamation P. 31 of 1935., in The Laws of South West Africa, vol.14, p.424-648

(1941): Administration of Estates (Rehoboth Gebiet) Proclamation No.36 of 1941. In: Official Gazette of South West Africa no.920.

(1980): Proclamation of the Administrator-General No.8 of 1980

(1985): Natives Administration Proclamation Amendment Act, Act 27 of 1985

(1987): Act to provide for the custody and care of and control over archives in South West Africa, and for matters incidental thereto ; Act 4 of 1987. (Official Gazette extraordinary of South West Africa, no.5351 of 22 April 1987)

8.2.5 Namibian Laws

8.2.5.1 Gazettes, consolidated editions and indexes

Government Gazette of the Republic of Namibia (1990-). Windhoek

The Laws of Namibia (1990-). Windhoek

Burman's (1997): Burman's guide to the laws of SWA/Namibia. Fourth edition. Windhoek: Burman's

NAMLEX (2010): Index to the Laws of Namibia. Legal Assistance Centre, 2010 update. <http://www.lac.org.na/namlex/> (Accessed 2015-03-03)

8.2.5.2 Individual laws

Namibia. Laws (1990): Constitution of the Republic of Namibia. (Government Gazette of the Republic of Namibia ; No.2)

Namibia. Laws (1992): Act to provide for the custody and care of and control over archives in Namibia, and for matters incidental thereto (Archives Act, Act No.12 of 1992). (Government Gazette of the Republic of Namibia, no.421, 18 June 1992)

Namibia. Laws (1994): Walvis Bay and Off-Shore Islands Act (Act No.1 of 1994) (Government Gazette of the Republic of Namibia, no.805, 28 February 1994)

Namibia. Laws (2005): Estates and Succession Amendment Act (Act No.15 of 2005) (Government Gazette of the Republic of Namibia, no.3566, 29 December 2005)

8.3 Archival sources

8.3.1 Archives of the Evangelical Lutheran Church in the Republic of Namibia

Archivübersicht der Rheinischen Mission und der Evangelisch-Lutherischen Kirche in Südwestafrika / zusammengestellt von Walter Moritz

8.3.2 Archiv- und Museumsstiftung Wuppertal, Archives of the Rhenish Mission

RMG 2.635a Vorträge u. Aufsätze zu Südwestafrika.

8.3.3 Bundesarchiv, Berlin

Finding aid R 1002 Schutzgebiete. Deutsch-Südwestafrika. Adjudantur des Gouverneurs

8.3.4 National Archives of Namibia, Windhoek

8.3.4.1 Finding aids

1/1/001: ZBU. Inventar der Akten des Zentralbureaus des Kaiserlichen Gouvernements 1884-1915.

1/1/006: BOU. Bezirksamt Outjo 1897-1915

1/1/015: NAW Native Affairs Windhoek

1/1/045: ADM. Secretary to the Protectorate 1915-1919

1/1/046: SWAA South West Africa Administration

1/1/052: RCO Resident Commissioner Ovamboland
 1/1/053: NAO Native Affairs Ovamboland
 1/1/054: NAT Native Affairs Tsumeb
 1/1/055: NAR Assistant Native Affairs Commissioner Rundu
 1/1/056: NOM Native Affairs Omaruru
 1/1/057: ARG Archives of the Archives
 1/1/090: BAC Chief Bantu Affairs Commissioner Windhoek
 1/1/092: BDA Bantu Affairs Commissioner/Damara Commissioner
 1/1/099: BON Bantu Affairs Commissioner (Commissioner General) Ondangwa
 1/1/100: BOS Bantu Affairs Commissioner Oshikango
 1/1/102: OVJ Owambo Government: Justice
 1/1/142: BAT Bantu Affairs Commissioner Tsumkwe
 1/1/153: ATS Administration for Tswanas
 1/1/154: ADA Administration for Damaras
 1/1/165: ANA Administration for Namas
 1/1/167: CRN RSA Department of Coloured, Rehoboth and Nama Affairs, SWA
 Regional Office
 1/1/173: CJU Caprivi Government. Justice
 1/1/177: CNAM Caprivi Native Affairs and Magistrate
 1/1/180: AGSR Administrator-General Secretariat for Representative Authorities and
 the Rehoboth Government
 1/1/189: BOP Bantu Affairs Commissioner Opuwo
 1/1/209: BAD Bantu Administration and Development
 1/1/212: KCA Commissioner Eastern Caprivi
 1/1/214: KGO Commissioner-General Oshakati
 1/1/224: AKA Administration for Kavangos
 1/1/225: AHE Bantu Administration and Development
 1/2/1: LAR Magistrate Aroab
 1/2/2: LMG Magistrate Mariental / Gibeon
 1/2/3: LGO Magistrate Gobabis
 1/2/4: LGR Magistrate Grootfontein
 1/2/5: LWI Magistrate Windhoek
 1/2/6: LKA Magistrate Karibib
 1/1/7: LOB Magistrate Ombalantu
 1/2/8: LON Magistrate Ondangwa
 1/2/9: LOH Magistrate Ohangwena
 1/2/10: LKE Magistrate Keetmanshoop
 1/2/11: LLU Magistrate Luderitz
 1/2/13: LMA Magistrate Maltahöhe
 1/2/14: LOM Magistrate Omaruru
 1/2/15: LKM Magistrate Katima Mulilo
 1/2/16: LOW Magistrate Otjiwarongo
 1/2/17: LOK Magistrate Okahandja
 1/2/18: LOR Magistrate Oranjemund
 1/2/19: LOV Magistrate Otavi
 1/2/20: LRE Magistrate Rehoboth
 1/2/21: LSW Magistrate Swakopmund

1/2/22: LKW Magistrate Karasburg / Warmbad
1/2/23: LTS Magistrate Tsumeb
1/2/24: LBE Magistrate Bethanien
1/2/25: LKH Magistrate Khorixas
1/2/26: LUS Magistrate Usakos
1/2/27: LWA Magistrate Walvis Bay (Section A)
1/3/3: MWI Municipality Windhoek

8.3.4.2 Government records

Please note: The references refer first to the storage unit [in square brackets], and then to the file number. This method of representation was selected because otherwise the referencing might become ambiguous because of identical file numbers. It should also be understood that the historical practice of the NAN to use hierarchical numbering separated by the slash character “/” not only for file numbers but also for finding aids and sometimes for storage units, easily leads to confusion in citations.

AHE Bantu Administration and Development

[unboxed] N1/4/2 Native estates

AKA Administration for Kavangos

[unboxed] 1/4/3. Native estates

ARG - Archives of the Archives

[1] 1. Establishment of Archives Depot. (1919-1956)

Transfer records

- [2] 4/2/8. Oorplasing van Dokumente en Publikasies van Regeringskantore na Argief: Militêre Afdeling. (1954-1954)
- [2] 4/2/9. Oorplasing. Departement van Naturelle-sake (1954-1961)
- [2] 4/3/1. Oorplasing. Magistrate Windhoek (1939-1968)
- [2] 4/3/2. Oorplasing. Magistrate Swakopmund (1922-1968)
- [2] 4/3/3. Oorplasing. Magistrate Karibib (1939-1967)
- [2] 4/3/4. Oorplasing. Magistrate Otjiwarongo (1939-1967)
- [2] 4/3/5. Oorplasing. Magistrate Luderitz (1939-1967)
- [3] 4/3/6. Oorplasing. Magistrate Omaruru (1925-1968)
- [3] 4/3/7. Oorplasing. Magistrate Karasburg vroer Warmbad (1939-1968)
- [3] 4/3/8. Oorplasing. Magistrate Keetmanshoop (1921-1966)
- [3] 4/3/9. Oorplasing. Magistrate Grootfontein (1939-1968)
- [3] 4/3/10. Oorplasing. Magistrate Rehoboth (1939-1966)
- [3] 4/3/11. Oorplasing. Magistrate Okahandja (1939-1966)
- [3] 4/3/12. Oorplasing. Magistrate Mariental (1939-1968)

- [3] 4/3/13. Oorpasing. Magistrate Maltahöhe (1939-1968)
- [3] 4/3/14. Oorpasing. Magistrate Gobabis (1939-1967)
- [3] 4/3/15. Oorpasing. Magistrate Aroab (1939-1951)
- [3] 4/3/16. Oorpasing. Magistrate Outjo (1939-1957)
- [3] 4/3/17. Oorpasing. Magistrate Bethanien (1948-1967)
- [3] 4/3/18. Oorpasing. Magistrate Tsumeb (1952-1967)
- [3] 4/3/19. Oorpasing. Magistrate Usakos (1962-1966)
- [3] 4/3/20. Oorpasing. Magistrate Walvis Bay (1964-1969)
- [3] 4/3/21. Oorpasing. Magistrate Otavi (1965-1967)
- [4] 4/4/10. Oorpasing. Naturelle Kommissaris Rundu (1939-1957)
- [4] 4/4/11. Oorpasing. Naturelle Kommissaris Ovamboland (1947-1964)
- [4] 4/4/12. Oorpasing. Naturelle Kommissaris Tsumeb (1948-1949)
- [4] 4/4/13. Oorpasing. Naturelle Kommissaris Windhoek (1950)

Destruction records

- [6] 11/2/3. Vernietiging van dokumente. Naturellesake (1955-1963)
- [6] 11/3/1. Vernietiging van dokumente. Magistrate Omaruru (1927-1962)
- [6] 11/3/2. Vernietiging van dokumente. Magistrate Windhoek (1932-1968)
- [6] 11/3/3. Vernietiging van dokumente. Magistrate Okahandja (1934-1965)
- [6] 11/3/4. Vernietiging van dokumente. Magistrate Swakopmund (1928-1967)
- [6] 11/3/5. Vernietiging van dokumente. Magistrate Gibeon (1925-1959)
- [6] 11/3/6. Vernietiging van dokumente. Magistrate Bethanien (1950-1965)
- [6] 11/3/7. Vernietiging van dokumente. Magistrate Outjo (1952-1965)
- [6] 11/3/8. Vernietiging van dokumente. Magistrate Grootfontein (1953-1967)
- [6] 11/3/9. Vernietiging van dokumente. Magistrate Gobabis (1953-1965)
- [6] 11/3/10. Vernietiging van dokumente. Magistrate Otjiwarongo (1954-1967)
- [6] 11/3/11. Vernietiging van dokumente. Magistrate Maltahöhe (1949-1967)
- [6] 11/3/12. Vernietiging van dokumente. Magistrate Tsumeb (1953-1967)
- [6] 11/3/13. Vernietiging van dokumente. Magistrate Luderitz (1954-1967)
- [6] 11/3/14. Vernietiging van dokumente. Magistrate Keetmanshoop (1954-1966)
- [6] 11/3/15. Vernietiging van dokumente. Magistrate Rehoboth (1955-1964)
- [6] 11/3/16. Vernietiging van dokumente. Magistrate Karibib (1955-1967)
- [6] 11/3/17. Vernietiging van dokumente. Magistrate Mariental (1955-1967)
- [6] 11/3/18. Vernietiging van dokumente. Magistrate Karasburg (19560-1967)
- [6] 11/3/19. Vernietiging van dokumente. Magistrate Walvis Bay (1959-1967)
- [6] 11/3/20. Vernietiging van dokumente. Magistrate Usakos (1959-1967)
- [6] 11/3/21. Vernietiging van dokumente. Magistrate Oranjemund (1964)
- [6] 11/3/22. Vernietiging van dokumente. Magistrate Otavi (1963-1966)

Circulars and diverse correspondence

- [10] 15/4/13. Historiese Inligting. Onderwerpe: Boedels (1945-1963)
- [12] 18/1. Sirkulêres. Hoofargivaris (1955-1961)
- [12] 18/2/3. Sirkulêres. SWA spesiale omsendbriewe (1957-1958)
- [12] 18/2/5. Sirkulêres. Justisie (1960)
- [14] 3/3/1. Funksies oorgeneem (1978-1979)
- [16] 7/2/2/1. Opgawes i.s. uitdunning van argiewe (1971-1979)

[16] 8/2. Registratuur. Vertroulike korrespondensie (1975-1979)

Disposal

- [17] 10/1/1/1. Beskikking oor argiewe. Beleid, beslissings, opdragte en omsendbriewe (1978-1979)
- [17] 10/1/1/3. Opname van argiewe (vol.1-2) (1978-1979)
- [17] 10/1/1/4. Beskikkingsmagtigings van algemene strekking (1979)
- [17] 10/1/1/5. Inligting en advise i.v.m. beskikking van argiewe
- [17] 10/1/2/A. Keuring van hofrekords (1970-1979)
- [17] 10/1/2/B. Keuring van boedelrekords (1974)
- [18] 10/1/2/11. Beskikking oor argiewe. Justisie (1977-1979)
- [18] 10/1/2/11/K3. Beskikking oor argiewe. Magistrate Keetmanshoop (1978-1979)
- [18] 10/1/2/11/W1. Beskikking oor argiewe. Magistrate Windhoek (1979-1979)
- [18] 10/1/2/15. Beskikking oor argiewe. Department of Bantu Administrasie en Ontwikkeling (1973-1979)
- [18] 10/1/2/49. Beskikking oor argiewe. Argiefdiens (1971-1979)

Destruction certificates

- [20] 10/2/2/11. Kontrolering van vernietigingsertifikaat. Justisie (1970-1979)
- [20] 10/2/2/11/B1. Kontrolering van vernietigingsertifikaat. Magistrate Bethanien (1970)
- [20] 10/2/2/11/G1. Kontrolering van vernietigingsertifikaat. Magistrate Grootfontein (1969-1979)
- [20] 10/2/2/11/K1. Kontrolering van vernietigingsertifikaat. Magistrate Karasburg (1970-1979)
- [20] 10/2/2/11/K2. Kontrolering van vernietigingsertifikaat. Magistrate Karibib (1979-1979)
- [20] 10/2/2/11/L1. Kontrolering van vernietigingsertifikaat. Magistrate Lüderitz (1971-1979)
- [20] 10/2/2/11/M1. Kontrolering van vernietigingsertifikaat. Magistrate Mariental (1969-1979)
- [20] 10/2/2/11/M2. Kontrolering van vernietigingsertifikaat. Magistrate Maltahöhe (1970-1979)
- [20] 10/2/2/11/O3. Kontrolering van vernietigingsertifikaat. Magistrate Okahandja (1974-1979)
- [20] 10/2/2/11/O4. Kontrolering van vernietigingsertifikaat. Magistrate Outjo (1969-1979)
- [20] 10/2/2/11/O5. Kontrolering van vernietigingsertifikaat. Magistrate Omaruru (1978-1979)
- [20] 10/2/2/11/O6. Kontrolering van vernietigingsertifikaat. Magistrate Otavi (1969-1972)
- [20] 10/2/2/11/S1. Kontrolering van vernietigingsertifikaat. Magistrate Swakopmund (1968-1979)
- [20] 10/2/2/11/T1. Kontrolering van vernietigingsertifikaat. Magistrate Tsumeb (1975)

- [20] 10/2/2/11/U1. Kontrolering van vernietigingsertifikate. Magistrate Usakos (1969-1979)
- [20] 10/2/2/11/W1. Kontrolering van vernietigingsertifikate. Magistrate Windhoek (1969-1979)
- [21] 10/2/2/11/W2. Kontrolering van vernietigingsertifikate. Magistrate Walvis Bay (1970-1979)
- [21] 10/2/2/15/O2. Kontrolering van vernietigingsertifikate. Bantoesakekommissaris Ohopoho (1971-1971)
- [21] 10/2/2/15/W1. Kontrolering van vernietigingsertifikate. Bantoesakekommissaris Windhoek (1979-1979)
- [21] 10/2/5/2/10/12. Kontrolering van vernietigingsertifikate. Kavango Government. Dept. of Justice (1978-1979)

Transfer

- [30] 12/2/11. Oorplasing van argiewe. Justisie (1970-1979)
- [31] 12/2/11/B1. Oorplasing van argiewe. Magistrate Bethanien (1971-1979)
- [31] 12/2/11/G1. Oorplasing van argiewe. Magistrate Grootfontein (1969-1979)
- [31] 12/2/11/G2. Oorplasing van argiewe. Magistrate Gobabis (1969-1978)
- [31] 12/2/11/K1. Oorplasing van argiewe. Magistrate Karasburg (1969-1979)
- [31] 12/2/11/K2. Oorplasing van argiewe. Magistrate Karibib (1969-1979)
- [31] 12/2/11/K3. Oorplasing van argiewe. Magistrate Keetmanshoop (1969-1979)
- [31] 12/2/11/L1. Oorplasing van argiewe. Magistrate Luderitz (1970-1979)
- [31] 12/2/11/M1. Oorplasing van argiewe. Magistrate Mariental (1969-1979)
- [31] 12/2/11/M2. Oorplasing van argiewe. Magistrate Maltahöhe (1970-1979)
- [32] 12/2/11/O1. Oorplasing van argiewe. Magistrate Otjiwarongo (1969-1979)
- [32] 12/2/11/O2. Oorplasing van argiewe. Magistrate Omaruru (1969-1979)
- [32] 12/2/11/O3. Oorplasing van argiewe. Magistrate Okahandja (1969-1979)
- [32] 12/2/11/O4. Oorplasing van argiewe. Magistrate Outjo (1969-1979)
- [32] 12/2/11/O5. Oorplasing van argiewe. Magistrate Oranjemund (1971-1979)
- [32] 12/2/11/O6. Oorplasing van argiewe. Magistrate Otavi (1971-1979)
- [32] 12/2/11/R1. Oorplasing van argiewe. Magistrate Rehoboth (1969-1979)
- [32] 12/2/11/S1. Oorplasing van argiewe. Magistrate Swakopmund (1969-1979)
- [33] 12/2/11/T1. Oorplasing van argiewe. Magistrate Tsumeb (1969-1979)
- [33] 12/2/11/U1. Oorplasing van argiewe. Magistrate Usakos (1971-1979)
- [33] 12/2/11/W1. Oorplasing van argiewe. Magistrate Windhoek (1970-1979)
- [33] 12/2/11/W1. Oorplasing van argiewe. Magistrate Walvis Bay (1970-1979)
- [33] 12/2/15/W1. Oorplasing van argiewe. Bantoesakekommissaris Windhoek (1972)

Inspections

- [97] 15/7/1/11. Kantoor-inspeksies. Departement Justisie (1982-1992)

ARG “Other archives”

- [OA 13/1_23] OA 13/1-160. Departement van Bantoe-Administrasie en – Ontwikkeling. Gekonsolideerde vaste omsendbriefvoorskrifte Korrespondensie (1964).

- [OA 13/1_25] OA 13/1-169. Departement van Bantoe-Administrasie en – Ontwikkeling. Bantoesakekode Korrespondensie (1972)
- [OA 13/1_25] OA 13/1-166. Department of Justice. Codified Instructions. Correspondence (1969)
- [OA 13/1_25] OA 13/1-167. Department of Justice. Codified Instructions. Correspondence (1951)
- [OA 13/1_25] OA 13/1-168. Department of Justice. Codified instructions. Archives (1969)

ATT Attorney-General

[2/3/1] UA.10 Estates

BAC Chief Bantu Affairs Commissioner Windhoek

[5] HN 1/4/2. Boedels Hooflias
[203B] UA.03 Handleiding oor Inboorlingreservate

BCL British Consul Lüderitzbucht

[11-15] Consular A: Correspondence re Native Labourers (1911-1914)

BDA Bantu Affairs Commissioner/Damara Commissioner

[7] N1/4/1. Estates: Circulars, Vol.1 (1943-1947)

BLU Bezirksamt Lüderitzbucht

[86] R.1.k. Rechtsangelegenheiten. Nachlasssachen
[146] G.5.a. Nachlass und Erbschaft. Farbige
[168] O.7.a. vol.1. Todesfälle von Eingeborenen im Diamantgebiet

BMD - Birth, Marriage and Death records

[1] GR BET 2. Birth and Death Certificates, Military Magistrate Bethanien (1915-1921)

BOP Bantu Affairs Commissioner Opuwo

[47] 7/1/1. Boedels. Omsendbriewe

BSW Bezirksamt Swakopmund

[107] UA.10/5. Eingeborenen-Angelegenheiten. Nachlässe Eingeborener

BWI Bezirksamt Windhuk

[37] E.1.k. Eingeborenenangelegenheiten. Eingeborenen Nachlassregulierung. Bd.1 (1903-1909)
[37] E.1.k. Eingeborenenangelegenheiten. Eingeborenen Nachlassregulierung. Bd.2 (1911-1911)

CNAM Caprivi Native Affairs and Magistrate

- [17] 5/4/1. Estates routine enquiries (1979)
- [50] 5/4/2. Individual estates (1971-1982)
- [51] 17/3. Estates main file (1972-1979)

DEE Deeds Office

- [1/7] D6/3. German administration of estates (1924-1925)

DOK Distriktsamt Okahandja

- [31] E.5.g. Eingeborenen Zivilgerichtsbarkeit. Nachlass Allgemeines (1911-1911)
- [31] E.5.g. Eingeborenen Zivilgerichtsbarkeit. Nachlass Besonderes (1912-1912)

EST Estates

- [595] 674. Dirk (Colonie) van Wyk (1926-1929)
- [566] 747. John Amos (1927-1929)
- [964] 3023. Maria Stella (Stille), widow (1942-193)

JUS SWA Administration, Justice Branch

- [10] J1/48. Records [circulars]. Vol.3 (1963-1967)

KCA Commissioner Eastern Caprivi

- [1] N.1/4/2. Estates Main File (1959-1970)
- [1] N.1/4/3. Estates (1972)
- [2] N.1/4/3. Estates 1954-1958

KGO Commissioner-General Oshakati

- N.1/4/2. Boedels Hoflëer 1974-1977

LBE Magistrate Bethanien

- [1] N.1/4/1. Native Estates. Circulars (1952-1977)
- [1] N.1/4/2. Bantu estates (1971-1974)
- [unnumbered] N1/4/2. Estates Main File 1942-1953
- [unnumbered] N1/4/2. Estates Main File 1953-1975
- [unnumbered] N1/4/2. Estates Main File 1976-1979
- [unnumbered] N1/4/3. Estates 1942-1953
- [unnumbered] N1/4/3. Estates 1950-1953
- [unnumbered] N1/4/3. Estates 1956-1971

LGO Magistrate Gobabis

- [3/1/3] 2/3/2. Estates 1941-1947
- [3/1/3] 2/7/5. -13/39
- [3/2/1] N.1/4/2. Estates (Main file) (1952-19655)
- N.1/4/2. Native estates 1952-1955

N.1/4/3. Native estates 1952-195
N.1/4/2. Native estates
[unnumbered] N.1/4/3. Estates (1947-1951)

LGR Magistrate Grootfontein

[3/1/3] 2/7/1. Estates. Precedents, instructions, circulars (1926-1939)
[3/1/3] 2/7/2. Estates. Native (1936-1946)
[3/1/3] 2/7/4. Native estates 1938
[3/1/3] 2/7/5. Native estates 1939
[3/1/3] 2/7/6. Native estates 1940
[3/1/4] 2/7/7. Native estates 1941
[3/1/4] 2/7/8. Native estates 1942
[3/1/5] 2/7/9. Native estates 1943
[3/1/5] 2/7/10. Native estates 1944
[3/1/6] 2/7/11. Native estates 1945
[3/1/6] 2/7/12. Native estates 1946
[3/1/6] 2/7/13. Native estates 1947
[3/1/11] 9/7/12. N.M.C. Compensation and estates (1942-1947)
[3/1/26] 2/4/2. Native estates 1948-1949
[3/1/26] 2/4/3. Native estates general 1948-1949
[3/3/1] N.1/4/2. Estates Main File 1952-1961
[3/3/1] N.1/4/3. Native estates 1961-1963

LKE Magistrate Keetmanshoop

[3/2/1] N.1/4/2. Native estates (1950-1961)
[4/2/1-4/2/5] [unnumbered] Native estates (1918-1959)
[unnumbered] N.1/4/2. Native estates (1961-1986)
[unnumbered] N.1/4/3. Native estates (1969-1978)

LKM Magistrate Katima Mulilo

[3/2/1] 7/1/2. Deceased estates (1982)
[4/1] Reg.3. Estate register (1954-1979)

LKW Magistrate Karasburg / Warmbad

[3/2/1] N.1/4/2. Estates main file (1975)
[3/2/1] N.1/4/3. Estates (1942-1980)
[3/5/1] UA.01. Consolidated Instructions Related to the Administration of Native Affairs in South West Africa (1956)

LLU Magistrate Luderitz

[43] 2/4/2. Native estates (1949-1951)
[50-52] N.1/4/3. Native estates 1952-1955
[67-70] Native estates 1939-1946
[unnumbered] N.1/4/3. Estates (1942-1980)
LMA Magistrate Maltahöhe

[3/1/15] 88/1919. Correspondence: Estates (1918)
[3/1/19] 51/1919. Estates of deceased persons – Natives (1919)
[3/1/24] 19/43/20. Correspondence: Estates of deceased persons (1920)
[3/1/28] 2/10/23. Native Affairs: Native estates (1923)
[3/1/40] 2/11/2. Reports: Deceased native estates (1931-1938)
[3/1/56] N.1/4/3. Administration (Native Affairs). Estates (1949-1953)
[3/3/1] N.1/4/2. Native estates {1975-1981)
[3/3/1] N.1/4/3. Native estates (1979-1980)
[3/5/1] UA.01. Bantoesakekode Korrespondensie, Departement Bantoe-Administrasie en Ontwikkeling (1972)

LMG Magistrate Mariental/Gibeon

[3/1/23] 2/9/25. Native estates (1925)
[3/1/23] 2/6. Native estates (1926-1928)
[3/1/28] 2/4/2. Native estates (1930-32)
[3/1/28] 2/4/2. Native estates (1934-1942)

LOB Magistrate Ombalantu

[3] 17/1. Boedels. Beleid, beslissings en opdragte
[3] 17/3. Boedels (1979-1980)

LOH Magistrate Ohangwena

[1] 17/3 Estates (1979-1980)

LOM Magistrate Omaruru

[3/2/2] N.1/4/2. Estate main files (1945-1987)
[3/2/2-3/2/7] N.1/4/3. Native estates (1944-1960)

LON Magistrate Ondangwa

[43] 17/2 Boedels: Routine navrae (1979-1980)
[43] 17/3 Boedels: Algemeen (1969-1978)

LOU Magistrate Outjo

[3/2/1] N.1/4/2. Native estates
[3/2/1-3/2/3] N.1/4/3. Native estates (1945-1954)
[unregistered] Native estates register (1952-1968)

LOW Magistrate Otjivarongo

[3/2/1-5] N.1/4/3. Estates E.T.N.+N. Natives (1937-1954)
[3/2/11] N.1/4/3. Estates E.T.N.+N. Natives (1946-1960)
[3/2/15] N.1/4/2. Boedels Hoflêer 1953-1975
[3/2/15-16] N.1/4/3. Estates Subfiles (1955-1986)
[3/2/29] N.1/4/1. Estates Circulars (1946-1978)

LRE Magistrate Rehoboth

[3/2/1] N.1/4/2 Native estates (Main file) 1933-1953
[3/2/1] N.1/4/3 Native estates (cases)
[unnumbered] N.1/4/3 Estates (1953-1976)

LSW Magistrate Swakopmund

[3/1/6] 2/1/21. Native estates 1921-1923
[3/1/9] 19/1/21/1. Estates: Instructions
[3/2/1] N.1/4/2. Native estates 1949-1952
[unnumbered] N.E. Native estates 1941-1954

LWA Magistrate Walvis Bay [returned records]

[260-266] C7/1/1-C78/1/7 Native estates

LWI Magistrate Windhoek

[3/1/25] 35/28 Native estates circulars
[3/1/34] 3/7/21. Estates
[3/2/1] UA.1. List of German [estate] records

MWI Municipality Windhoek

[3/1/113] 36/9/37 Location Department: Deceased estates (1921-1951)
[2/1/259] 39/2 Estates: Non-Europeans (1954)

NAO Native Affairs Ovamboland

[29] 24/10 Kaokoveld estates (1935-1938)
[53] 5/2 Estates (1949-1950)
[52] 5/2 Native Estates Ondangwa (1952-1953)
[54] 5/3 Estates disposed of, notified by Chief Native Commissioner
[55] 5/4 Estates Natives who died locally (1946-1954)
[56] 5/5 Estates Natives who died in Union (1947-1953)
[56-57] 5/6 Estates Natives who Died in Police Zone, but Whose Estates are not
Reported by the CNC (1943-1954)
[57] 5/8 Estates Natives who died in the Kaokoveld (1949-1945)
[57] 5/9 Estates Natives who died in the Okavango (1950-1950)

NAT Native Affairs Tsumeb

[9-13] 6/1-6/414 Native estates (1937-1948)

NAW Native Affairs Windhoek

[21] 15/1920/4. Native estates. Death certificates (1920)
[21] 15/1/21. Native estates (1921-1922)
[21] 15/1/23. Native estates (1923)
[21] 15/1/24-29. Native estates (1924-1929)

- [37] 2/4/2. Native estates (1950-1952)
- [45-47] Unnumbered. Deceased estates (1920-1929)
- [47] Unnumbered. Death notices of natives 1924-1928
- [47] Unnumbered. Death notices of children 1920-1922

NES Native Estates

- [1-77] (All files)

NLA Nachlassakten

- [2] 3.VII.9/12 Coffey

NOM Native Affairs Omaruru

- [1] NAO.3. Fatal accidents, deceased estates, Zambesi natives and contracted natives on mines

OVJ Owambo Government: Justice

- [2] J.1/3/1/7. Wet op boedels (1978)
- [16] J.17/1. Boedels: beleid (1978-1980)
- [16-17] J.17/3. Beredding van boedels (1978-1980)

RCO Resident Commissioner Ovamboland

- [2] 2/1916/1 Miscellaneous correspondence re Native Labour (1915-1918)

SVW Stadtverwaltung Windhuk [Windhoek Municipality]

- [10] E.1.k Eingeborenenangelegenheiten. Nachlassregulierung (1918-1919)

SWAA South West Africa Administration

- [423] A50/40. Ovambo native estates (1920-1955)
- [424] A50/41. Native estates. General (1918-1955)
- [430] A50/48. Estate of D Duncan (1927)
- [432] A50/58. Native estates Cape Coloureds (1927-1944)
- [456] A50/82. Estates of Angola natives (1929-1930)
- [1400] A206/25 Rehoboth Baster Gebiet. Estates (1926-1952)
- [1986] A430/44 Estate. EF Mbaoundjorora (1939-1940)
- [2287-2294] A506/6. Circulars Justice (16 vols., 1924-1953)
- [2352] A514/15. Records and Correspondence System in Magistrate Offices. Vol.2 (1958-1959)
- [2562] A668/11/1/1. Argief. Inspeksie. Keetmanshoop Magistraat (1947)
- [2562] A668/11/1/2. Argief. Inspeksie. Maltahöhe Magistraat (1947-1948)
- [3151] unnumbered: Memoranda and reports: Deceased Ovambo estates
- [3196] Justice Consolidated Instructions (1921)

ZBU - Zentralbureau des Kaiserlichen Gouvernements

- [53] A.II.g.6. Registratur der Bezirks- und Distriktsämter (1905-1919)
- [69] A.II.n.1. Gouvernementsbüro, Registratur, Kanzlei, Bibliothek. Generalia. Band 1 (1889-1914)
- [69] A.II.n.3. Archiv und archivmässige Bearbeitung der Akten. (1912-1913)
- [666] F.IV.R.1. Mischehen und die daraus entstammenden Nachkommen. Generalia.
- [2066] W.IV.h.13. Regelung des Nachlasses verstorbener Ovambo (1911-1915)

8.3.4.3 Private Accessions

- A.0002. The Hendrik Witbooi Papers
- A.0003. The Maharero Papers
- A.0008. Ryksboek of Bethanien
- A.0178. Treaty of Hoachanas
- A.0219. Rehoboth Basterraad
- A.0650. Hendrik Witbooi Journals II + III
- A.0685. Liljeblad Collection
- A.1003. Dagmar Wagner-Robertz
- AACRLS.117. Hendrik Witbooi Journal IV fragment
- AACRLS.292. Old Location Houseowners Database

Unpublished manuscripts

- ELFI-0604. Luff, Alexandra and Nancy Robson (1999), History of the Anglican Church in Northern Namibia

9 Appendices

9.1 Appendix A. Glossary

The frequent use of racist terminology in this thesis is necessitated by the fact that arbitrary racial classifications were legally codified in colonial Namibia and South Africa and are therefore inextricably linked to social reality and daily life. It does not signify approval of this terminology.

Apartheid. Apartheid, an Afrikaans word meaning being apart, or being separated, is a specific form of racist ideology and governance developed by the National Party and ideologically affiliated organizations such as the Afrikaner Broederbond and the Dutch Reformed Church in South Africa. It became official state policy with the election victory of the National Party in 1948, was entrenched in a multitude of oppressive legislation, and pervaded all spheres of life in South Africa until its final demise with the first free non-racial elections in 1994.

Appraisal. In an archival context, appraisal is the process of determining whether records and other materials have permanent (archival) value and should therefore be maintained, or can be destroyed as useless or redundant.

Bantu (Afrikaans: Bantoe). This term originally was coined by linguists as a common term for a group of related African languages characterized by certain grammatical features. In South Africa, however, the term was politically usurped to denote any Black African persons, regardless of whether they spoke a Bantu language or not. Subsequently this led to the terms Bantu education for the inferior education of Black children under apartheid, Bantu homeland (also loosely termed Bantustan) for the pseudo-independent territories allocated to Blacks, and many other composite terms used to denote discrimination and separate development.

Bantustan. Created from “Bantu” and the Persian suffix –stan meaning country (as in Pakistan). Originally a joking or derogatory reference to the pseudo-independent “Bantu homelands” in apartheid South Africa, also applied to the “homelands” created by the “Odendaal Plan” in Namibia. The term eventually entered general and scholarly usage.

Bastard. (Afrikaans: Baster) Originally a pejorative term denoting illegitimate birth. In South Africa, and subsequently in Namibia, the term developed to specifically denote the descendants of Boer settlers and indigenous or imported slave women in the frontier zone of the Cape Colony, who under the pressure of discriminating laws gradually organized themselves as a distinct social group and developed structured polities, some of which migrated northwards into Namibia. See also Rehobother Baster.

Baster see Bastard and Rehobother Baster.

- Bushman. (Afrikaans: Bosman) The term Bushman (or San) was and is loosely applied to the members of a range of rather diverse language groups whose common denominator is thought to be a click language and a (past) hunter-gatherer lifestyle.
- Caprivi. The North-Eastern territorial appendix of Namibia, named after the German Chancellor Graf Leo von Caprivi, had throughout its colonial history been given a special status, at first due to its remoteness and difficult accessibility from the rest of the country, and later due to strategic considerations of the South African colonial power. This special status affected its legal regime and its administrative history. The current official name of the area has been changed to Zambesi Region.
- Code. In the context of records management in South Africa and Namibia, a Code means a detailed instruction for records management, which may also include a filing system and disposal schedule,
- Coloured. (Afrikaans: Kleurling) In contrast to the American usage, where Colored means a black person, Coloured in Southern Africa means a person of mixed descent. South African and Namibian Coloureds were subject to apartheid but were accorded a slightly more privileged position than Natives (Bantu). Specifically in colonial Namibia, the term Coloured was used for persons of mixed descent excluding the Rehobother Bastards, who formed a category of their own.
- Contract workers (Contract labourers). In the Namibian context, this term was commonly used for unskilled migrant labourers recruited under a very restrictive limited contract through a private agency (SWANLA - South West Africa Native Labour Association) from the area North of the Red Line. They had no freedom to choose their employer, were subjected to restrictive pass laws, and were not allowed to bring their family along.
- Disposal. The action taken when a record has outlived its administrative usefulness. Disposal can either be done as destruction (if no future use whatever is foreseen), or as transfer to an archives (if it is deemed that there will be future research or evidential use for the record).
- Disposal schedule. A filing system which includes standard proposals how long certain records should be maintained, and whether after that period has lapsed they should be destroyed or transferred to the Archives. The proposal is not binding, and each destruction or transfer is still subject to approval by the Archives.
- Eingeborener (German) see Native
- Extra-Territorial Native. This term, also abbreviated as E.T.N., was usually applied to migrant labourers contracted from outside the Namibian territory. The "Extra-Territorial and Northern Natives Control Proclamation", P.29 of 1935, defines that the term "means any male one of whose parents is a member of some aboriginal race or tribe of Africa whose domicile is outside the territory" [of South West Africa].⁵⁵⁹
- Filing system. (Afrikaans: Liasseerstelsel) A filing system or file plan is a logically arranged list of topics under which the documents created or received by an

⁵⁵⁹ The Laws of South West Africa, vol.14(1934), p.148

office can be filed, usually working with a code combination of numbers and/or letters to facilitate filing and retrieval.

Finding aid. A finding aid is a document containing detailed information about a specific fonds or collection of papers or records within an archives. Ideally, it should contain not only a listing of contents but also contextual information about the origin of the collection.

Fonds. In archival terminology, a fonds is an aggregation of documents that originates from the business operations of the same source. Usually fonds are treated as the highest level of description in an archives, and are subdivided into different series, which are further subdivided into individual files, and each file consists of individual documents (such as a letter or a memorandum).

Indirect rule. “A system of government of one nation by another in which the governed people retain certain administrative, legal, and other powers”.⁵⁶⁰ The theoretical foundations of this concept to rule large populations with a few colonial administrators is credited to Frederick Lugard who developed it in Nigeria.⁵⁶¹ In Northern Namibia (Ovamboland), it was employed most successfully by Native Commissioner C.H.L. “Cocky” Hahn in the 1920s-1940s.

Kleurling (Afrikaans) see Coloured

Nama. Nama or Khoi-khoi are an indigenous people of central and southern Namibia and the western and northern Cape region in South Africa who speak a non-Bantu click language, which is also called Nama, Nama/Damara or Khoekhoegowab. In the later stages of apartheid policies, they were sometimes grouped together with Coloureds and Rehobothers, as opposed to Bantu.

Native. (Afrikaans: Naturelle) Although etymologically a “native” of a country is a person born in that country, in a colonial context a “Native” (or the equivalent term in German, “Eingeborener”) is a term which was commonly applied to and legally defined as a person of non-European origin, excluding persons of European ancestry born in the colony. However, especially in southern Africa, the definition varied over time and geographically in terms of the inclusion or exclusion of so-called “mixed-race” persons (Coloureds, Rehobother Baster). Furthermore, racial legislation in South Africa (and thereby also Namibia) was complicated by separate treatment of Indians and the introduction of the term “Asian” (mostly for immigrated Indians and Chinese) and the introduction of the term “Bantu” to replace “Native” and the subsequent exclusion of Khoikhoi (Nama) from “Bantu” and their equalization with “Coloureds” and “Rehobothers”.

Northern Native. This term, also abbreviated as N.N.,⁵⁶² was usually applied to contract labourers from the northern “native reserves” called Kaokoveld, Ovamboland, and Okavango. The “Extra-Territorial and Northern Natives Control Proclamation”, P.29 of 1935, defines that the term as meaning “any

⁵⁶⁰ <http://www.oxforddictionaries.com/definition/english/indirect-rule> , accessed 2015-03-05

⁵⁶¹ http://en.wikipedia.org/wiki/Indirect_rule , accessed 2015-03-05

⁵⁶² Ironically, the abbreviation N.N. (from Latin *nomen nescio*) is internationally used for an unknown or anonymous person – making the local abbreviation an unintended pun on the colonizers’ dealing with migrant labourer’s names (see the discussion of names in Subchapter 7.4.2.2.)

male one of whose parents is a member of some aboriginal race or tribe of Africa, whose domicile of origin is in that part of the Territory which is bounded on the south by the line known as the Police Zone (hereinafter called the "Police Zone"), and defined in the First Schedule to the Prohibited Areas Proclamation, 1928 (Proclamation No.26 of 1928)"⁵⁶³

Plural Relations. This euphemistic term emerged as the result of apartheid South Africa's efforts to hide apartheid behind changed terminologies. The Department of Native Affairs thus morphed to the Department of Bantu Administration and Development and eventually the Department of Plural Relations.

Police Zone. See Red Line

Red Line. The boundary generally known as the "Red Line" was originally a veterinary control boundary to prevent the spread of animal diseases, but under South African rule later coincided with the boundary between the "Police Zone" of Central and Southern Namibia and the Northern areas whose "Natives" were only allowed to cross the Red Line into the Police Zone with a Pass that was usually only issued to contract workers.

Rehobother or Rehobother Baster. This community of mixed Boer and Nama ancestry immigrated from the Northern Cape area of South Africa in the 19th century and settled at Rehoboth in 1870. Baster was accepted as an autonym by the community and is generally not considered pejorative by them. Although considered as "native" by the Germans, the community occupied a somewhat privileged position under German rule. This continued under South African rule, and South African laws were not made applicable to Basters in Rehoboth unless they were specifically declared so.

Retention period. The period that an administrative file should be retained intact by an office for administrative purposes.

Separate development. A euphemistic term for apartheid.

Subsidiary legislation. Delegated legislation (also referred to as secondary legislation or subordinate legislation or subsidiary legislation) is law made by an executive authority under powers delegated from a legislature by enactment of primary legislation; the primary legislation grants the executive agency power to implement and administer the requirements of that primary legislation. It is law made by a person or body other than the legislature but with the legislature's authority. The power to create delegated legislation is limited to making regulation that is incidental to administering the primary legislation. Otherwise it will be considered as invalid or ultra vires. (Definition by Wikipedia)

Walvis Bay. The Namibian port and adjacent territory of Walvis Bay was annexed by the British Crown in 1876 and administered by the Cape Colony, before the rest of Namibia was annexed by Germany. After the South African conquest in 1915, Walvis Bay was administered as an integral part of South West Africa, until 1976 when it was again separated and declared part of the Cape Province. In 1994, Walvis Bay was reintegrated into Namibia.

⁵⁶³ The Laws of South West Africa, vol.14(1934), p.148

9.2 Appendix B. Acronyms

ANC	Assistant Native Commissioner
ANCR	Assistant Native Commissioner Rundu
cf.	compare
Ch.	Chapter
CNC	Chief Native Commissioner
DPRD	Department of Plural Relations and Development
e.g.	for example
E.T.N.	Extra-Territorial Native (see Glossary)
ff.	following (pages)
ibid.	In the same source as previously cited
NAN	National Archives of Namibia
N.N.	Northern Native (see Glossary)
S.A.R.&H.	South African Railways and Harbours

For the acronyms used as codes for archival fonds in the National Archives of Namibia, see above in the list of archival sources.

9.3 Appendix C. Tables

Table 15. Government files from the South African period to be investigated further

Code	Box	File	File title	Period
ARG	10	15/4/13	Historiese Inligting Onderwerpe: Boedels	1945-1963
ARG	17	10/1/2B	Rekordbeheer, Beskikking oor Argiewe. Departemente: Keuring van Boedelrekords	1974-1974
ATT	2/3/1	UA10	Estates	0000-0000
BAC	005	HN1/4/2	Boedels: Hooflias	1959-1962
BON	4	-	Estates 1952	1952-1952
DEE	1/7	D6/3	Estates, German Administration of	1924-1925
KCA	01	N.1/4/2	Estates. Main file	1959-1970
LWA	260	C 7/1/1	Native Estates	1948-1950
LWA	261	C 7/1/2	Native Estates	1950-1952
LWA	262	C 7/1/3	Native Estates	
LWA	263	C 7/1/4	Native Estates	
LWA	264	C 7/1/5	Native Estates	
LWA	265	C 7/1/6	Native Estates	1956-1957
LWA	266	C 7/1/7	Native Estates	
MWI	2/1/2 59	39/2	Estates: Non-Europeans	1954-1954
MWI	2/1/1 13	36/9/37	Location Department, Deceased Estates	1921-1945
MWI	2/1/1 13	36/9/37	Location Department: Deceased Estates	1939-1951
NAO	029	24/10	Kaokoveld Estates	1935-1938
NAO	052	5/1	Estates General	1947-1951
NAO	053	5/2	Estates	1949-1950
NAO	054	5/2	Native Estates Ondangua	1952-1953
NAO	054	5/3	Estates Disposed of 6/8/47 - 9/1/48	1947-1949
NAO	055	5/3	Estates Disposed of 1947	1946-1948
NAO	055	5/3	Estates Disposed of 1948	1947-1950
NAO	055	5/4	Estates Natives who Died Locally	1946-1951
NAO	055	5/4	Estates Natives who Died Locally	1951-1954
NAO	056	5/5	Estates Natives who Died in Union	1947-1951
NAO	056	5/5	Estates Natives who Died in Union	1951-1953
NAO	056	5/6	Estates Natives who Died in Police Zone, but Whose Estates are not Reported by the CNC	1943-1949
NAO	057	5/6	Estates Natives who Died in Police Zone, but whose Estates are not Reported by the CNC	1949-1950
NAO	057	5/6	Estates Natives who died in Police Zone,	1951-1954

Code	Box	File	File title	Period
			but whose Estates are not Reported by the CNC	
NAO	057	5/8	Estates Natives who Died in the Kaokoveld	1949-1954
NAO	057	5/9	Estates Natives who Died in the Okavango	1950-1950
NAW	21	15/1920/4	Native Estates. Death Certificates	1920-1920
NAW	21	15/1/21	Native Estates	1921-1922
NAW	21	15/1/23	Native Estates	1923-1923
NAW	21	15/1/24-29	Native Estates	1924-1929
NAW	21	15/3/21	Native Estates	1920-1921
NAW	37	2/4/2	Native Estates	1950-1952
NAW	45	0000	Deceased Estates 1920	1919-1921
NAW	45	0000	Deceased Estates. 1921	1921-1922
NAW	46	0000	Deceased Estates. 1922	1922-1930
NAW	46	0000	Deceased Estates. 1923	1923-1924
NAW	46	0000	Deceased Estates. 1924	1924-1925
NAW	46	0000	Deceased Estates. 1925	1925-1927
NAW	46	0000	Deceased Estates. 1926	1926-1927
NAW	46	0000	Deceased Estates. 1927	1927-1928
NAW	46	0000	Deceased Estates. 1928	1928-1929
NAW	47	0000	Deceased Estates. 1929	1929-1930
NAW	47	0000	Estates and Death Notices of Children	1920-1922
NOM	01	NAO.3	Fatal accidents, deceased estates. Zambesi natives and contracted Natives on mines	1928-1932
RCO	3	2/1917/13	Deceased Ovambo. Estates	1917-1918
RCO	3	2/1917/15	Deceased Ovambo Estates	1917-1918
RCO	3	2/1917/16	Deceased Ovambo Estates	1917-1918
RCO	3	2/1917/17	Deceased Ovambo Estates	1917-1918
RCO	3	2/1917/20	Deceased Ovambo. Estates	1917-1918
RCO	3	2/1917/21	Deceased Ovambo. Estates	1917-1918
RCO	3	2/1917/22	Deceased Ovambo. Estates	1917-1919
RCO	3	2/1917/23	Deceased Ovambo. Estates	1917-1918
RCO	3	2/1917/24	Deceased Ovambo. Estates	1917-1918
RCO	3	2/1917/35	Deceased Ovambo. Estates Miscellaneous	1916-1918
RCO	3	2/1918/E25	Deceased Ovambo. Estates	1917-1918
RCO	3	2/1918/E26	Deceased Ovambo. Estates	1917-1918
RCO	3	2/1918/E27	Deceased Ovambo. Estates	1917-1919
RCO	3	2/1918/29	Deceased Ovambo. Estates	1918-1918
RCO	3	2/1918/30	Deceased Ovambo. Estates	1918-1918
RCO	3	2/1918/32	Deceased Ovambo. Estates	1918-1918
RCO	3	2/1918/33	Deceased Ovambo. Estates Untraceable	1918-1918
RCO	3	2/1918/34	Deceased Ovambo. Estates Untraceable	1918-1918

Code	Box	File	File title	Period
RCO	3	2/1918/36	Deceased Ovambo. Estates	1917-1924
SWAA	0423	A50/40	Native Affairs. Native Estates. Ovambo.	1920-1940
SWAA	0423	A50/40	Native Affairs. Ovambo Native Estates.	1941-1955
SWAA	0424	A50/40/1	Native Affairs. Ovambo and other Native Estates. Suspense account.	1928-1944
SWAA	0424	A50/41	Native Affairs. Native Estates.	1918-1943
SWAA	0424	A50/41	Native Affairs. Native Estates. General.	1946-1955
SWAA	0432	A50/58	Native Estates Cape Coloureds.	1927-1944
SWAA	0456	A50/82	Native Affairs. Estates of Angola Natives.	1929-1930
SWAA	1400	A206/25	Rehoboth Baster Gebiet. Estates.	1926-1952
SWAA	1986	A430/44	Estate. EF Mbaoundjorora	1939-1940
SWAA	3151	-	Native Affairs: Memoranda and reports: Deceased Ovambo estates	1917-1917

Table 16. Court files from the South African period to be investigated further

Code	Box	File	File title	Period
LMA	3/1/24	19/43/20	Correspondence: Estates of Deceased Persons	1920-1920
LMA	3/1/28	2/10/23	Correspondence: Native Affairs: Native Estates	1923-1923
LMA	3/1/40	2/11/2	Correspondence: Reports: Deceased Native Estates	1931-1938
LMA	3/1/52	2/4/2	Correspondence: Native Affairs: Estates	1939-1944
LMA	3/1/19	51/1919	Correspondence: Estates of Deceased Persons - Natives	1919-1919
LMA	3/1/15	88/1918	Correspondence: Estates	1918-1918
LMA	3/1/56	N1/4/3	Correspondence: Administration (Native Affairs) Estates: Estates	1949-1953
LLU	4/1/13	2/4/2	Native Affairs: Native Estates 1949	1948-1950
LGO	3/1/3	2/3/2	Estates	1941-1947
LGO	3/2/1	N1/4/2	Estates (Main File)	1952-1955
LMG	3/1/23	2/9/25	Native Affairs: Deceased Estates	1925-1925
LMG	3/1/23	2/6	Native Affairs: Native Estates	1926-1928
LMG	3/1/28	2/4/2	Native Estates: Cases	1934-1942
LWI	3/1/34	3/7/21	Estates	1919-1921
LKW	3/2/1	N1/4/2	Correspondence: Estates: Main File	1975-1975
LKW	3/2/1	N1/4/3 v.1	Correspondence: Estates	1942-1952
LKW	3/2/1	N1/4/3 v.2	Correspondence: Estates	1975-1980
LON	043	17/2	Boedels: Roetine navrae	1979-1980
LON	043	17/3 v.1	Boedels: Algemeen	1969-1971
LON	043	17/3 v.2	Boedels: Algemeen	1976-1978

Code	Box	File	File title	Period
LGR	3/1/3	2/7/2	Estates. Native	1936-1943
LGR	3/1/11	9/7/12	N.M.C. Compensation and Estates	1942-1947
LKM	3/2/1	7/1/2	Estates.Deceased	1982-
LOW	3/2/2	N.1/4/3	Estates E.T.N + N.Native 1939	
LOW	3/2/11	N.1/4/3/1/ 46	Estates E.T.N+N.Natives	1946-1947
LOW	3/2/11	N.1/4/3/1/ 55	Estates E.T.N+N.Natives	1955
LOW	3/2/11	N.1/4/3/1/ 56	Estates E.T.N+N.Natives	1956-
LOW	3/2/12	N.1/4/3/1/ 57	Estates E.T.N+N.Natives	1957
LOW	3/2/12	N.1/4/3/1/ 58	Estates E.T.N+N.Natives	1958
LOW	3/2/12	N.1/4/3/1/ 59	Estates E.T.N+N.Natives	1959
LOW	3/2/12	N.1/4/3/1/ 60	Estates E.T.N+N.Natives	1960
LOW	3/2/15	N.1/4/3 (Vol.1)	Estates-Sub Files	1955-1961
LOW	3/2/15	N.1/4/3 (Vol.1)	Estates-Sub Files	1961-1970
LOW	3/2/15	N.1/4/3 (Vol.2)	Estates-Sub Files	1971-1975
LOW	3/2/15	N.1/4/3 (Vol.3)	Estates-Sub Files	1976-1980
LOW	3/2/15	N.1/4/3 (Vol.ix)	Estates-Sub Files	1981-1983
LOW	3/2/16	N.1/4/3 (Vol.vx)	Estates-Sub Files	1983-1985
LOW	3/2/16	N.1/4/3 (Vol.vxi)	Estates-Sub Files	1985-1986

Table 17. List of archival fonds with suspected Native estates, and their finding aids

Code	Fonds	Findaid
ADA	Administration for Damaras	1/1/154
AHE	Bantu Affairs and Development	1/1/225
ANA	Administration for Namas	1/1/165

Code	Fonds	Findaid
ATS	Administration for Tswanas	1/1/153
BAC	Chief Bantu Affairs Commissioner Windhoek	1/1/090
BAD	Bantu Affairs Department / Bantu Administration and Development	1/1/209
BAT	Bantu Affairs Commissioner Tsumkwe	1/1/142
BDA	Bantu Affairs Commissioner/Damara Commissioner	1/1/092
BON	Bantu Affairs Commissioner (Commissioner General) Ondangwa	1/1/099
BOP	Bantu Affairs Commissioner Opuwo	1/1/189
BOS	Bantu Affairs Commissioner Oshikango	1/1/100
CNAM	Caprivi Native Affairs and Magistrate	1/1/177
CRN	RSA Department of Coloured, Rehoboth and Nama Affairs, SWA Regional office	1/1/127
KCA	Commissioner Eastern Caprivi	1/1/212
LAR	Magistrate Aroab	1/2/01
LBE	Magistrate Bethanien	1/2/24
LGO	Magistrate Gobabis	1/2/03
LGR	Magistrate Grootfontein	1/2/04
LKA	Magistrate Karibib	1/2/06
LKE	Magistrate Keetmanshoop	1/2/10
LKH	Magistrate Khorixas	1/2/25
LKM	Magistrate Katima Mulilo	1/2/15
LKW	Magistrate Karasburg/Warmbad	1/2/22
LLU	Magistrate Lüderitz	1/2/11
LMA	Magistrate Maltahöhe	1/2/13
LOB	Magistrate Ombalantu	-
LOH	Magistrate Ohangwena	-
LOK	Magistrate Okahandja	1/2/17
LOM	Magistrate Omaruru	1/2/14
LON	Magistrate Ondangwa	1/2/08
LOR	Magistrate Oranjemund	1/2/18
LOU	Magistrate Outjo	1/2/12
LOV	Magistrate Otavi	1/2/19
LOW	Magistrate Otjiwarongo	1/2/16
LRE	Magistrate Rehoboth	1/2/20
LSW	Magistrate Swakopmund	1/2/21
LTS	Magistrate Tsumeb	1/2/23

Code	Fonds	Findaid
LUS	Magistrate Usakos	1/2/26 ⁵⁶⁴
LWA	Magistrate and Bantu Affairs Commissioner Walvis Bay	1/2/27
LWI	Magistrate Windhoek	1/2/05
NAK	Native Affairs Keetmanshoop	1/1/120
NAO	Native Commissioner Ovamboland	1/1/053
NAR	Assistant Native Commissioner Rundu	1/1/055
NAT	Native Affairs Tsumeb	1/1/054
NAW	Native Affairs Windhoek	1/1/051
NOM	Native Affairs Omaruru	1/1/056
OVJ	Owambo Government: Justice	1/1/102
RBG	Administration for Basters	1/1/160

Table 18. Estate records found in written finding aids

Fonds	Finding aid	Number of Native estate case files listed individually with name	Estate files without individual listing (File number + file title)
ADA	1/1/154	-	-
AHE	1/1/225	-	-
ANA	1/1/165	-	-
ATS	1/1/153	-	-
BAC	1/1/090	-	[5] HN1/4/2: Boedels Hooflias 1955-1962
BAD	1/1/209	-	-
BAT	1/1/142	-	-
BDA	1/1/092	-	[6]N1/4/1: Estates circulars 1955-1967
BON	1/1/099	-	[4] unnumbered: Estates 1952
BOP	1/1/189	-	[47] 7/1/1: Estates circulars 1970-1976
BOS	1/1/100	-	-
CNAM	1/1/177	79	[17]5/4/1: Estates routine enquiries 1979 [50]17/2: Boedels routine navrae 1972-1975 [51]17/3: Estates main file 1972-1979
CRN	1/1/127	-	[339]30/7: Boedel 1970
KCA	1/1/212	25	[1]N1/4/2: Estates 1970

⁵⁶⁴ The findaid for LUS could not be found and has apparently been misplaced

Fonds	Finding aid	Number of Native estate case files listed individually with name	Estate files without individual listing (File number + file title)
			[1]N1/4/3: Estates 1972 [2]N1/4/3-2/54+55+56: Estates 1954-1958
LAR	1/2/01	-	-
LBE	1/2/24	13	[1]N1/4/1 Native Estates: Circulars 1952-1977
LGO	1/2/03	20	[3/2/1]N1/4/2 Native estates 1952-1955
LGR	1/2/04	275	[3/1/3]2/7/1 Estates. Precedents, instructions, circulars 1926-1939 [3/1/3]2/7/2 Native estates 1936-1943 [3/3/1]N1/4/2: Estates Main File 1952-1961
LKA	1/2/06	-	-
LKE	1/2/10	41	[3/2/1]N1/4/2: Native estates 1950-1961 [4/2/1-4/2/5]no file number: Native estates 1918-1959 [-]N1/4/3: (Native) estates 1969-1978
LKH	1/2/25	-	-
LKM	1/2/15	-	[3/2/1]7/1/2: Deceased estates 1982 [4/1]-: Estate register 1954-1979
LKW	1/2/22	-	[3/2/1]N1/4/2: Estates: Main file 1975 [3/2/1]N1/4/3: Estates 1942-1980
LLU	1/2/11	250	-
LMA	1/2/13	-	[3/1/19]51/1919: Estates of deceased natives [3/3/1]N1/4/2: Native estates 1975-1981 [3/3/1]N1/4/3: Native estates 1972-1980
LOK	1/2/17	51	-
LOM	1/2/14	59 (obviously incomplete)	[3/2/2]N1/4/2: Estate main file 1945-1987 [3/2/2-3/2/7]N1/4/3: Native estates 1944-1960
LON	1/2/08	447	-
LOR	1/2/18	-	-
LOU	1/2/12	-	[3/2/1]N1/4/2 Native estates [3/2/1]N1/4/3 Native estates 1945-1954
LOV	1/2/19	-	-
LOW	1/2/16	147	[3/2/11]N1/4/3: Native estates 1946-1960 [3/2/12]N1/4/3: Native estates [3/2/15]N1/4/2: Boedels 1953-1986 [3/2/15-16]N1/4/3: Estates 1955-1986

Fonds	Finding aid	Number of Native estate case files listed individually with name	Estate files without individual listing (File number + file title)
			[3/2/29]N1/4/1: Native estates circulars
LRE	1/2/20	17	[3/2/1]N1/4/2: Native estates 1945-1957
LSW	1/2/21	224	[3/1/6]2/1/21: Native estates 1921-1923 [3/1/9]19/1/21/1: Estates Instructions [3/2/1]N1/4/2: Native estates 1941-1952
LTS	1/2/23	-	-
LUS	1/2/26	-	-
LWA	1/2/27	-	[260-266]C7/1: Native estates 1948-1959
LWI	1/2/05	-	[3/1/25]73/5/28 Estates of Deceased Ovambo [3/1/34]3/7/21: Estates
NAK	1/1/120	-	-
NAO	1/1/053	-	[29]24/10: Kaokoveld estates [53]5/2: Estates [54]5/2: Native estates Ondangua [54]5/3: Estates disposed of, notified by Chief Native Commissioner [55]5/4: Estates natives who died locally [56]5/5: Estates natives who died in Union [56-57]5/6: Estates Natives who Died in Police Zone, but Whose Estates are not Reported by the CNC [57]5/8: Estates natives who died in the Kaokoveld [57]5/9: Estates natives who died in the Okavango
NAR	1/1/055	-	-
NAT	1/1/054	405	-
NAW	1/1/051	-	[21]15/1920/4: Native estates. Death certificates 1920 [21]15/1/21: Native estates 1921-1922 [21]15/1/23: Native estates 1923 [21]15/24-39: Native estates 1924-1929 [37]2/4/2: Native estates 1950-1952 [45-47]: Deceased estates 1920-1929 [47]: Death notices of natives 1924-1928
NOM	1/1/056	-	[1]NAO.3: Fatal accidents, deceased estates. Zambesi natives and contracted Natives on mines
OVJ	1/1/102	2	-

Fonds	Finding aid	Number of Native estate case files listed individually with name	Estate files without individual listing (File number + file title)
RBG ⁵⁶⁵	1/1/160	-	-
RCO	1/1/52	12	[2-3]: [32 files indicative of estates without names]

Table 19. Additional Native estate records found by consulting actual estate files

Fonds	Number listed individually with name in finding aid	Estate files present	Number of additional individuals with estate information
ADA	-	-	-
AHE	-	-	-
AHR	-	[49]11/7 Gemeenskapsake Boedels 1988	1
AKA	-	[-] 1/4/3 Native estates 1928-1943	278
ANA	-	-	-
ATS	-	-	-
BAC	-	[5] HN1/4/2: Boedels Hooflias 1955-1962	-
BAD	-	-	-
BAT	-	-	-
BDA	-	[6]N1/4/1: Estates circulars 1955-1967	-
BON	-	[4] unnumbered file: Estates 1952	82
BOP	-	[47] 7/1/1: Estates circulars 1970-1976	-
BOS	-	-	-
CNAM	79	[17]5/4/1: Estates routine enquiries 1979 [50]17/2: Boedels routine navrae 1972-1975 [51]17/3: Estates main file 1972-1979	- - -
CRN	-	[339]30/7: Boedel 1970	566
KCA	25	[1]N1/4/2: Estates 1970 [1]N1/4/3: Estates 1972 [2]N1/4/3-2/54+55+56: Estates 1954-1958	51
LAR	-	-	-

⁵⁶⁵ This fonds has only a very incomplete listing. The bulk of the records is still entirely inaccessible due to lack of finding aid and no sorting.

⁵⁶⁶ The file was not found. According to the Archives staff, the fonds, which is still stored in bundles with attached cardboard labels instead of boxes, was brought into disorder during the Archives' move in 2000, and is not yet sorted again.

Fonds	Number listed individually with name in finding aid	Estate files present	Number of additional individuals with estate information
LBE	13	[1]N1/4/1 Native Estates: Circulars 1952-1977 [1] N.1/4/2 Bantu estates (1971-1974) [-] N1/4/2 Estates Main File 1942-1953 [-] N1/4/2 Estates Main File 1953-1975 [-] N1/4/2 Estates Main File 1976-1979 [-] N1/4/3 Estates 1942-1953 [-] N1/4/3 Estates 1950-1953 [-] N1/4/3 Estates 1956-1971	- - - 11 5 18 8 11
LGO	20	[3/2/1]N1/4/2 Native estates 1952-1955 [-] N1/4/3 Estates 1947-1951	- 37
LGR	275	[3/1/3]2/7/1 Estates. Precedents, instructions, circulars 1926-1939 [3/1/3]2/7/2 Native estates 1936-1943 [3/3/1]N1/4/2: Estates Main File 1952-1961	- - 64
LKA	-	-	-
LKE	41	[3/2/1]N1/4/2: Native estates 1950-1961 [4/2/1-4/2/5]no number: Native estates 1918-1959 [-]N1/4/3: (Native) estates 1969-1978	30 159 73
LKH	-	-	-
LKM	-	[3/2/1]7/1/2: Deceased estates 1982	-
LKW	-	[3/2/1]N1/4/2: Estates: Main file 1975 [3/2/1]N1/4/3: Estates 1942-1980	- 29
LLU	250	- [-] N1/4/3 Estates 1973	- 10
LMA	-	[3/1/19] 51/1919: Estates of deceased natives [3/3/1] N1/4/2: Native estates 1975-1981 [3/3/1] N1/4/3: Native estates 1972-1980	1 - 3
LOB		[3] 17/1 Boedels. Beleid, beslissingen en opdrage [3] 17/3 Boedels 1979-1980	- 30
LOH		[1] 17/3 Estates 1979-1980	34
LOK	51	-	-
LOM	59	[3/2/2]N1/4/2: Estate main file 1945-1987 [3/2/2-3/2/7]N1/4/3: Native estates 1944-1960	42 81
LON	447	-	-
LOR	-	-	-
LOU	-	[3/2/1]N1/4/2 Native estates [3/2/1]N1/4/3 Native estates 1945-1954	35 20
LOV	-	-	-
LOW	147	[3/2/11]N1/4/3: Native estates 1946-1960 [3/2/12]N1/4/3: Native estates [3/2/15]N1/4/2: Boedels 1953-1986	38 35 136

Fonds	Number listed individually with name in finding aid	Estate files present	Number of additional individuals with estate information
		[3/2/15-16]N1/4/3: Estates 1955—1986	44
LRE	17	[3/2/1]N1/4/2: Native estates 1945-1957 [-] N1/4/3: Estates 1953-1976	- 17
LSW	224	[3/1/6]2/1/21: Native estates 1921-1923 [3/1/9]19/1/21/1: Estates Instructions [3/2/1]N1/4/2: Native estates 1949-1952	27 - -
LTS	-	-	-
LUS	-	-	-
LWA	-	[260-266]C7/1: Native estates 1948-1959	195
LWI	-	[3/1/25]73/5/28: Estates of deceased Ovambo [3/1/34]3/7/21: Estates	- 1
NAK	-	-	-
NAO	-	[29]24/10: Kaokoveld estates [53]5/2: Estates [54]5/2: Native estates Ondangua [54]5/3: Estates disposed of, notified by Chief Native Commissioner [55]5/4: Estates natives who died locally [56]5/5: Estates natives who died in Union [56-57]5/6: Estates Natives who Died in Police Zone, but Whose Estates are not Reported by the CNC ⁵⁶⁷ [57]5/8: Estates natives who died in the Kaokoveld [57]5/9: Estates natives who died in the Okavango	1 79 28 95 80 87 156 2 1
NAR	-	-	-
NAT	405	-	-
NAW	-	[21]15/1920/4: Native estates. Death certificates 1920 [21]15/1/21: Native estates 1921-1922 [21]15/1/23: Native estates 1923 [21]15/24-39: Native estates 1924-1929 [37]2/4/2: Native estates 1950-1952 [45-47]: Deceased estates 1920-1929 [47]: Death notices of natives 1924-1928	- 2 11 13 20 256 25
NES ⁵⁶⁸	-	N.E.	Ca.6550
NOM	-	[1]NAO.3: Fatal accidents, deceased estates. Zambesi natives and contracted Natives on	18

⁵⁶⁷ CNC = Chief Native Commissioner

⁵⁶⁸ See separate Chapter 5.3

Fonds	Number listed individually with name in finding aid	Estate files present	Number of additional individuals with estate information
		mines	
OVJ	2	-	-
RBG ⁵⁶⁹	-	-	-
RCO	12	[2-3]: [32 files indicative of estates without names]	- ⁵⁷⁰
SWAA	2	[423]A50/40: Ovambo native estates [424]A50/41: Native estates General [432]A50/58: Native estates Cape Coloureds	- - 3

⁵⁶⁹ This funds has only a very incomplete listing. The bulk of the records is completely inaccessible due to lack of finding aid and no sorting.

⁵⁷⁰ These files contain correspondence with the Chief Native Commissioner about estates where relatives could not be traced. They only duplicate part of the information in the NES funds and are therefore of marginal interest.

Table 20. Timeline of the presence of Native Estates present in archival fonds. The black rectangles indicate where estates have been identified in Magistrates' and Native Commissioners' records

Code	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	
LBE																
LGO																
LGR																
LKE				■												
CNA M																
LKW																
LLU																
LMA					■											
LMG											■					
LOB																
LOH																
LOK																
LOM																
LON																
LOR																
LOU																
LOW																
LRE																
LSW							■									
LTS																
LWA																
NES		■														
AKA																
NAW						■										
BON						■										
NAO																
NOM																
RCO		■														
NAT																

(Table 20 continued)

Code	19 30	19 31	19 32	19 33	19 34	19 35	19 36	19 37	19 38	19 39	19 40	19 41	19 42	19 43	19 44
LBE															
LGO															
LGR															
LKE															
CNAM															
LKW															
LLU															
LMA															
LMG															
LOB															
LOH															
LOK															
LOM															
LON															
LOR															
LOU															
LOW															
LRE															
LSW															
LTS															
LWA															
NES															
AKA															
NAW															
BON															
NAO															
NOM															
RCO															
NAT															

(Table 20 continued)

Code	19 45	19 46	19 47	19 48	19 49	19 50	19 51	19 52	19 53	19 54	19 55	19 56	19 47	19 58	19 59
LBE															
LGO															
LGR															
LKE															
CNA M															
LKW															
LLU															
LMA															
LMG															
LOB															
LOH															
LOK															
LOM															
LON															
LOR															
LOU															
LOW															
LRE															
LSW															
LTS															
LWA															
NES															
AKA															
NAW															
BON															
NAO															
NOM															
RCO															
NAT															

(Table 20 continued)

Code	19 60	19 61	19 62	19 63	19 64	19 65	19 66	19 67	19 68	19 69	19 70	19 71	19 72	19 73	19 74
LBE															
LGO															
LGR															
LKE															
CNA M															
LKW															
LLU															
LMA															
LMG															
LOB															
LOH															
LOK															
LOM															
LON															
LOR															
LOU															
LOW															
LRE															
LSW															
LTS															
LWA															
NES															
AKA															
NAW															
BON															
NAO															
NOM															
RCO															
NAT															

(Table 20 continued)

Code	19 75	19 76	19 77	19 78	19 79	19 80	19 81	19 82	19 83	19 84	19 85	19 86	19 87	19 88	19 89
LBE															
LGO															
LGR															
LKE															
CNA M															
LKW															
LLU															
LMA															
LMG															
LOB															
LOH															
LOK															
LOM															
LON															
LOR															
LOU															
LOW															
LRE															
LSW															
LTS															
LWA															
NES															
AKA															
NAW															
BON															
NAO															
NOM															
RCO															
NAT															

9.4 Appendix D. Illustrations

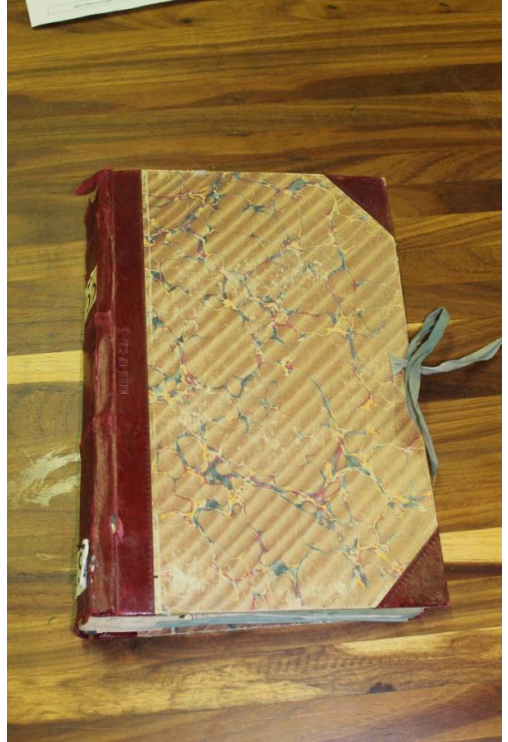
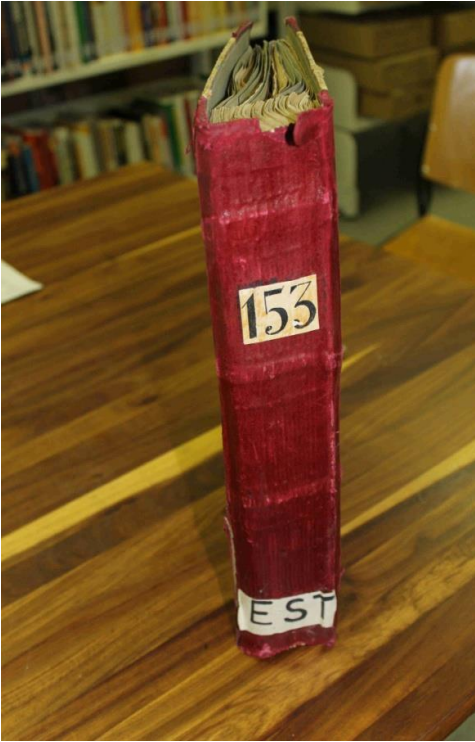


Figure 15. Bound White estate volume (Fonds EST)



Figure 16. Box from Native Estates fonds (NES)



The same, opened

AFDELING VAN NATURELLESAKE. NATIVE AFFAIRS BRANCH.

Kennisgewing van sterfgeval. Death Notice.

17th February, 1941

Klas van Arbeider
Class of Labourer
Die Naturellekommissaris
The Native Commissioner

Grootfontein

Die ondergenoemde naturel, wie se dienskontrak hier aangeheg is, in diens van
The undermentioned Native, whose Service Contract is attached hereto in the employ of

her gesterwe op die **27th** dag van **November, 1940**
died on the _____ day of _____ 193__

Oorsaak van Dood **Heart Failure; General Collapse ; Malaria ?**
Cause of Death _____

(Handtekening)
(Signature) **Dr. R.W. J. Scheel**
Geneeskundige Ampenaar
Medical Officer

NOTA—As die dood deur 'n ongeval veroorsaak is, noem korteliks die oorsake op, wat dit veroorsaak het:
NOTE—If death was caused by accident, state shortly circumstances causing same:

BESONDERHEDE OMTRENT DIE AFGESTORWENE PARTICULARS OF DECEASED.

Dienskontrak No. _____ Identifikasiepas No. **58140** Myn No. _____
Service Contract No. _____ Identification Pass No. **1 day** Mine No. _____

Aantal dae, wat hy in die hospitaal siek was **1 day**
Number of days he was ill in hospital _____

1. Naturellesnaam **Freta**
Native Name _____
2. Bekend onder die naam **Shihaka**
Name known by _____
3. Naam van Vader **Shimbundu**
Father's Name _____
4. Of getroud _____
Whether married _____
5. Stam **Kizuka**
Tribe _____
6. Voorman **Kaparur**
Headman _____
7. Naam van streek (of Omkunda) **Kaparur**
Name of area (or Omkunda) _____

8. Plek waar die naturelle-belasting betaal word **Runtu**
Place where Native Tax is Paid _____
9. Distrik van Domicilium **Bie P.W.A.**
District of Domicile _____

10. Naam en nommer van paspoort van naaste Bloedverwant op die plek woonagtig **(Brother of deceased) Kavira I.P. 5813**
Name and passport number of nearest Blood Relation resident locally _____

Farm Auros, P.O. Otavi

	£	s.	d.
11. Gasie betaalbaar Wages due		8	
12. Kontantgeld in besit van afgestorwene Cash in possession of Deceased	1	5	-
13. Uligestelde betaling (indien enige) betaalbaar Deferred pay due (if any)			
14. _____			
Totale Bate Total Assets	1	13	-
Totale kortings Total Deductions			
16. Totale saldo betaalbaar Total balance due	1	13	-

17. Enige persoonlike besittings of ander bates (heg lys aan.)
Any personal effects or other assets (attach list)
1 old shirt; 1 pr. old shorts; 1 belt, 1 reel cotton; 1 tin tobacco
2 boxes matches; 300 worth of sugar

NOTA—Meld of die ouers lewe of dood is. **17-2-1941**
NOTE—State whether parents are alive or dead.
Meld aan die begin van staatslys van arbeid of die afgestorwene op die oppervlakte of onder die grond gewerk het.
State at head of return (Class of Labourer) whether deceased worked on surface or underground.



Figure 17. Death Notice for Native Hospitals. Form N.A.16 S.W.A. (in: LGR [3/1/3] 2/7/6 case 18/40)

DEPARTMENT OF NATIVE AFFAIRS.

Death Notice for Native Hospitals.

No.
 Territorial Initial
 Class of Labourer *Garana fields 25.4.1929*
 The Officer in Charge
 Native Affairs Department,

The undermentioned Native, whose Passport is attached hereto, in the employ of
Garana Diamonds South West Africa, died on the *23* day of *April* 1929.
 Cause of Death *apoplexy*
 (Signature) *Erwin Keller*
 Medical Officer

NOTE.—If death was caused by accident, state shortly circumstances causing same :

PARTICULARS OF DECEASED.

Passport No. *T.16.94/10* Original authority for issue Mine No. *129*
 Number of days he was ill in Hospital. *4 days Garana fields, 1 day Dr. Prinsloo's Hospital*
 1. Native Name. *Duanu M. M. M. M.*
 2. Name known by. *Duanu M. M. M.*
 3. Family Name.
 4. Father's Name. *Mengwang*
 5. Mother's Name.
 6. Name of Wife (if any).
 7. Tribe. *Osanyo*
 8. Chief. *M. M. M.*
 9. Headman or Overseer at Kraal, Location, or Village. *M. M. M.*
 10. Name of Kraal, Location, or Village. *M. M. M.*
 11. Name of nearest River or Stream.
 12. Name of nearest Mountain or Hill.
 13. Place where Native Tax is paid.
 14. Name of District.
 15. Name and Passport number of nearest Blood Relation resident locally.

	£	s.	d.
16. Wages due	2	4	0
17. Cash in possession of Deceased	-	-	-
18.	2	4	0
19. (a) Burial Charges			
(b) Authorized Advances			
(c)			
Total Deductions			
20. Total Balance due	2	4	0

Erwin Keller
 Compound Manager.

NOTE.—State whether parents are alive or dead.
 State at head of Return (Class of Labourer) whether deceased worked on surface or underground.
 Application for these Forms to be made to the Chief Pass Officer, P.O. Box 1206, Johannesburg.

Figure 18. Death Notice for Native Hospitals. Form D.N.L.10 (in: NES [26] N.E.3671)

South African Railways and Harbours.—Suid-Afrikaanse Spoorweë en Hawens.

DEATH NOTICE FOR NATIVE EMPLOYEES
DOODSBERIG VIR NATURELLEWERKSMANNE.

Reference

Verw.

103

THE SYSTEM MANAGER,
DIE AFDELINGSBESTURDER,

The undermentioned Native in the employ of SOUTH AFRICAN RAILWAYS AND HARBOURS
Die ondergenoemde naturel in diens van _____

died on the 13th day of AUGUST 1937 193_____
is oorlede op die _____ dag van _____

Cause of death Pneumonia
Oorsaak van dood _____

PARTICULARS OF DECEASED.
BESONDERHEDE OMTRENT OORLEDENE.

Deptl. No. C.L. 181/H/568
Dep't. No. _____

Number of days he was ill or in Hospital FOUR DAYS
Aantal dae wat hy siek of in hospitaal was _____

1. Native name MATHEUS SIKATU
Naam van naturel _____

2. Name known by MATHEUS SIKATU
Naam waaronder bekend _____

3. Family Name SIKATU
Familienaam _____

4. Father's Name MATHEUS SIKATU
Naam van vader _____

5. Mother's Name KASONGO
Naam van moeder _____

6. Name of Wife (if any) _____
Naam van vrou (indien enige) _____

7. Tribe ONDONGU
Stam _____

8. Chief BOY
Kaptain _____

9. Headman or Overseer at Kraal, Location or Village ANDREAS
Hoofman of opsigter by kraal, lokasie of dorp _____

10. Where residing on a farm:—
Waar woonagtig op 'n plaas:—
(1) Name of Farmer _____
Naam van boer _____
(2) Name of Farm ONDONGUA
Naam van plaas _____
(3) Address: i.e. Town, District and Province, etc.
Adres: d.i. dorp, distrik en provinsie, ens. _____

11. Name of District OVAMBOLAND
Naam van distrik _____

12. Tax identity No. _____ Tax Receipt No. _____
Belastingidentiteitsnommer _____ Boelingskwitansie No. _____

13. Name and Passport No. of nearest Blood Relation resident locally KASINDA No. 565.
Naam en paspoortno. van naaste bloedverwant plaaslik woonagtig _____
(Brother)

	£	s.	d.
14. Wages due Loon verskuldig 6 DAYS @ 10d. p.d.		5	0
15. Cash in possession of deceased Kontant in besit van oorledene			
16. Possessions on hand belonging to deceased as per inventory attached Eiendom op hande behorende aan oorledene volgens bygevoegde lys			

Date 23. 8. 1937 _____
Datum _____

J. J. J. J.
Compound Manager.—Kompoendbestuurder.

FOR HEAD OFFICE USE ONLY.
ALLEEN VIR HOOFKANTOOR SE GEBRUIK.

17. Amount retained in respect of Burial Charges
Bedrag agtergelaat ten opsigte van begrafniskoste £ - 5/-
Total deductions
Totale aftrekkings £ - 5/-

18. Total Balance due
Totale balans verskuldig £ NIL

19*. (a) If accident was contributory cause of death, state circumstances briefly
As ongeluk bydraende oorsaak van dood was, meld omstandighede kortliks _____

(b) Is serious and wilful misconduct alleged?
Word ernstige en moedswillige wangedrag beweer? _____

Date _____
Datum _____

Head of Department.—Departementshoof.

Reference _____
Verwysing _____

* Delete if not required.—Skrap indien nie nodig nie.

Figure 19. South African Railways and Harbours Death Notice. Form G.188 (in: NES [38] N.E.4942)

Est. No. 4094
Will No. 121/46
Regd. 12. X. 16.

U.D.J. 294.
Late M.S.C. 1.

UNION OF SOUTH AFRICA.

DEATH NOTICE.

Pursuant to the Provisions contained in "The Administration of Estates Act, 1913."

1. Name of deceased..... MARGARETHE BAYER, born SCHEIBE

2. Birthplace and Nationality of the deceased..... Laucha, Germany, German

3. Names and Addresses of the Parents of the deceased

	Father..... <u>Karl Scheibe, deceased.</u>
	Mother..... <u>Ida Scheibe, deceased.</u>

4. Age of the deceased..... 64 years..... 3 months.

5. Occupation in life of the deceased, or, if a woman, of her husband..... Farmer

6. Ordinary place of residence of the deceased, or, if a woman, of her husband

	Farm <u>Lauwater-Ost, District</u>
	<u>Windhoek</u>

7. Married, or unmarried, widower or widow..... Married

(a) Name of surviving spouse (if any) and whether married in community of property or not.

	Walter <u>HUGO BAYER, married 10/9/68</u>
	<u>out of community of property according to German Law</u>

(b) Name or names and approximate date of death of predeceased spouse or spouses.

(c) Place of last marriage..... Laucha, Germany

8. The day of the decease: on..... 8th October..... 19 46

9. Where the person died

House..... <u>Catholic Mission Hospital</u>
Town or Place..... <u>Windhoek</u>
District..... <u>Windhoek</u>

10. Names of children of deceased, and whether majors or minors

	Walter <u>KARL BAYER, major</u>
	<u>GERTRUD GRAEFIN von FINKENSTEIN, born BAYER, major</u>
	<u>CHARLOTTE FRANZIUS, born BAYER, major</u>
	<u>MARGARETE KEIL, born BAYER, major</u>
	<u>HUGO BAYER, major</u>

States, separately, the sibilings, heirs of different marriages, and give the date of birth of each minor. Names must be written out in full. If there are no children, state the names and addresses of the brothers and sisters of the deceased.

11. Has the deceased left any movable property?..... Yes

12. Has the deceased left any immovable property?..... No

13. Is it estimated that the estate exceeds £300 in value?..... No

14. Has the deceased left a will?..... Yes

Dated at..... Windhoek

the..... 8th day of..... October..... 46 1946 (Signature) W. Bayer

Surviving Spouse, present
at death.....

(State in what capacity and whether at the time at or near the place of death.)

This notice must be filled up and signed by the nearest relative or connexion of the deceased who shall at the time be at or near the place of death, or, in the absence of such near relative or connexion, by the person who at or immediately after the death shall have the chief charge of the house in, or the place on, which the death occurred, and must be sent either to the Master, or, if the death occurred in a district wherein a seat of Provincial Government is not situate, the magistrate of the district, in duplicate, within fourteen days of the death.

Figure 20. "White" Death Notice. Form U.D.J.294 (from EST [1064] 4088)

**Extra-Territorial of Noordelike Naturel
Identifikasiepas**

**Extra-Territorial or Northern Native
Identification Pass**

Nº 24619

1. Erkende persoon of organisasie deur wie naturel aangewerf is
Recognised person or organisation by whom native has been recruited
Northern Labour Organization Ltd., Grootfontein
2. Plek vanwaar naturel aangewerf is of gekom het
Place from where native has been recruited or has come
OKAVANGO
3. Naturellenaaam en van
Native Name and Surname
Kalandula
4. Naam waaronder bekend
Name known by
5. Naam van vader
Father's name
Kawende
6. Omkunda (Wyk)
Omkunda (Area)
Katapo
7. Distrik
District
Angola
8. Stam
Tribe
Shimbundu
9. Kaptein of Hoofman
Chief or Headman
Kangwe
10. Waarskynlike ouderdom
Apparent age
22 ys
11. Onderskeidingstekens
Distinguishing marks
ET376
12. Regterhandse duimafdruk
Right Thumb-print

Datumstempel.
Date Stamp. *19. AUG. 1937*

E. B. Schoenfeldt
Managing Secretary / Sekretaris

P. J. van der Merwe

VERSLAG VAN DIENSKONTRAKTE:-
RECORD OF CONTRACTS OF SERVICE:-
VERZEICHNIS DER DIENSTVERTRÄGE:-

Gemagtigde Amptenaar.
Authorised Officer.

Datum van Indiensneming Date of Engagement Anstellungs- datum	Plek waar Kontrak uitgevoer moet word Place where contract is to be performed Arbeitsplatz	Handtekening van Baas Signature of Master Unterschrift des Arbeitsgebers	Datum van Ontslag Date of Discharge Entlassungs- datum	Handtekening van Baas Signature of Master Unterschrift des Arbeitsgebers
<i>18.8.37</i>	<i>D. Fries</i> <i>Enos Aroab</i>	<i>Gibeon</i>		<i>D. Fries</i>
			<i>31-8-37</i>	

Urban S. C. No.

O T. F. No.

P. T. O.
S. O. S.

Figure 21. Native Pass. Form S.W.A.199 (in: NES [38] 4944)

(Over time, there were many different forms in use. This is but one example)

J. M. Ltd. — 100 & 100. 6.28. N. A. 3.

Registered No. *M 9581* **Proclaimed Area of TSUMEB** *To be held by Employer.*
 Geregistreerde No. **Geproklameerde Streek van** *Deur Werkgewer in sy besit te hou.*

Name **SERVICE CONTRACT — DIENSKONTRAK.**
 Naam **TSUMEB** Territory *S.W.A.*
 Name known by *Ngombereni* District *Distrik*
 Naam waaronder bekend *Ngombereni* District *Distrik*
 Surname *Ngombereni* District *Distrik*
 Familienaam *Ngombereni* District *Distrik*
 Father's Native Name *Ngombereni* Authority for Issue *Exp. 29/11/27* Date of Issue *21 JAN 1929*
 Vader se Naturellenaam *Ngombereni* Mag vir Uitreiking *Exp. 29/11/27* Datum van Uitreiking *21 JAN 1929*
 Tribe *Ngombereni* Hut No.
 Stam *Ngombereni* Pontok No.

Headman of Kraal *Ngombereni* Advances: Cash Rail Goods
 Hoofman van Kraal *Ngombereni* Voorskotte: Kontant Per Spoor Goedere
 Place of Residence *Ngombereni* District
 Woonplaas *Ngombereni* District
 District *Ngombereni* District

N. B.—The four columns below are for the use of the Registering Office only.
 N. B.—Die vier kolomme hieronder is net vir die gebruik van die Registrerende Kantoor.

Name and Address of Employer Naam en Adres van Werkgewer	Date of Engagement Datum van Indiensneming	Period of Service Tydperk van Diens	Rate of Pay Skaal van Betaling	Date of Discharge Datum van Ontslag	Signature of Employer Naamtekening van Werkgewer
<i>Glavl. Minen- und Eisenbahn-Gesellschaft</i>	<i>21/11/27</i>	<i>6 months</i>	<i>10/-</i>	<i>20/28</i>	<i>Died</i>
2.					
3.					
4.					
5.					

Figure 22. Work contract for migrant labourer. Form N.A.3 (from NES [26] N.E.3677)

(Over time, there were many different forms in use. This is but one example)

DECEASED ESTATE VOUCHER (NATIVE).
BEWYS VIR UITGESTORWE BOEDEL (NATURELLE).

Estate of late Freta Shihaka
 Boedel van wyle
 S. C. No. _____ I. P. No. 58140
 D. K. No. _____ I. P. No. _____

I hereby certify that the undermentioned amounts have been received by me in the above estate and have been accounted for in the accounts of this office on the dates shown:
 Ek sertifiseer hiermee dat die hierna genoemde bedrae in bogemelde boedel deur my ontvang is en ter boek gestel is in die rekeninge van hierdie kantoor op die vermelde datums:

DETAILS	AMOUNT	RECEIPT	DATE
BESONDERHEDE	BEDRAG	KWITANSIE	DATUM
Cash in estate Kontant in boedel	25/-	424867	27/11/40
Wages Lone	8/-	425400	9/1/41
Compensation Vergoeding			
Sale of effects (specify) Verkoop van besittings (Vermeld noukeurig)			
1 old Shirt; 1 pr. Shorts (old) ; 1 belt;			
1 reel cotton; 1 tin tobacco; 2 boxes matches			
3d worth of sugar			
Other (specify) Ander (vermeld noukeurig)			

TOTAL
 Totaal £1.13. 0

Deductions (specify)
 Aftrekkings (vermeld noukeurig)

FINAL AMOUNT DUE
 Endbedrag betaalbaar £ 1. 13. 0

To the best of my knowledge the total of the amounts specified represents the whole estate of the deceased.
 Tot my beste wete verteenwoordig die totaal van die gespesifiseerde bedrae die hele boedel van die oorledene.



MAGISTRATE / NATIVE COMMISSIONER / O / C NATIVE AFFAIRS.
 MAGISTRAAT / NATURELLEKOMMISSARIS / T / A NATURELLESAKE.

Date stamp.
 Datumstempel.

Figure 23. Deceased estate voucher. Form N.A.12 (from NES [26] N.E.3671)

Reference No. 135/

SOUTH WEST AFRICA.

3671

ADMINISTRATOR'S OFFICE,
WINDHOK.

31/7/29.

THE OFFICER IN CHARGE : NATIVE AFFAIRS,
OVAMBOLAND.

Estate No. Amathira

I have to report the death of the abovementioned
Ovambo labourer on the.....23/4/29.....and append
particulars for your information.

Passport No..... A 7056..... Dated..... 26/4/28.....
Father's Name..... See attached pass......
Tribe.....
Area.....
Headman.....
Kraal.....
Chief.....
Contracted to..... Corona Lds Ltd..... under
Contract No..... Dated.....
£2. 4. 0.
Amount of Estate.....
Cause of Death..... Appendicitis......

Kindly endeavour to trace the next of kin and
make payment of the amount of the estate against signature of
..... the attached receipt, which should be returned to this office.

If the next of kin cannot be traced, please re-
turn this advice, suitably endorsed, to this office.

Kindly inform the relatives.

[Signature]
for NATIVE COMMISSIONER.

Figure 24. Request to trace next of kin (from NES [26] N.E.3671)

Vc 4

SOUTH WEST AFRICA.

Estate No. 5678.....

Acquittance of Inheritance Received.

I Gabriel Mungangwen do hereby acknowledge by these presents to have received from the Secretary for South West Africa, Windhoek, the sum of pounds and shillings and pence sterling in full, of the inheritance due in the Estate of the late Native as shewn in the subjoined account; and further, I hereby grant a full and perfect acquittance and discharge to the Secretary for South West Africa, Windhoek, for the said inheritance according to law.

Amount of Estate £ 7/6 seven shillings and six pence

Gabriel Mungangwen
His X Mark

WITNESSES →

- 1. Boye
- 2. Sabeur
- 29/8 10.33.

Necessary Stamps 10/- and over.

Witnesses to signature.

I, the undersigned, do hereby certify that I have satisfied myself that Gabriel signed the above receipt, and that he is entitled to said inheritance.

Disignation Sgt. Abethan
for Native Commissioner

✓

Figure 25. Acquittance of inheritance (duplicated, no form number) (from NES [26] N.E.3678)

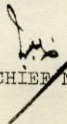
3678
N.E.

9/10/33
.....

The Magistrate,
Grootfontein.

DECEASED NATIVE ESTATE Franz.

I beg to inform you that the amount
of 7/6d deposited with you on
26/4/29 vide Expenditure Receipt
No. 276113 was paid to the next-of-kin
by the Native Commissioner, Ovamboland,
28/8/33.
on the


for CHIEF NATIVE COMMISSIONER.

References

WFE/DT.



Received
for

Figure 26. Payment notice (duplicated, no form number) (from NES [26] N.E.3678)

LIST OF PROPERTY IN THE ESTATE OF THE DECEASED ARON SHINUTE I/P.21870.

SOUTH AFRICAN POLICE.

OTAVI.

28/4/1940.

<u>Kind of article.</u>	<u>Quality.</u>	<u>Value:- £ : S : d ;</u>
2 blankets	old	- : 1 : 6 .
2 pr.shorts	old	- : 1 : - .
1 jacket	old	- : 1 : - .
1 pr.boots	old	- : 1 : - .
1 cap	old no value	- : - : - .
2-hats-shirt 2 hats.	old	- : - : 6 .
ltern shirt	old no value	- : - : - .
1 cushion	old	- : 1 : - .
2 pieces cloth	no value	- : - : - .
1 tobacco half with tobacco	fair	- : - : 3 .
		<hr/>
		£ : 6 : 3 .

otavi,

25/4/1940.

C. B. du P. ...

'M'Const.19458.

Figure 27. Inventory (formless) (from LGR [3/1/3] 2/7/6 case 5/40)

PROPERTY IN THE ESTATE OF THE DECEASED HAKUSEMME I/PASS NO.53326

1. Two envelopes and two sheets of paper : No value.
2. One book(bible) : no value.
3. One Churchmembership Card. : no value.
4. Tribal Trustfund Card and Container : no value.
4. One Identification Pass and Container : no value.

Otavi,

23/6/40.

C. B. du Preez.

M'Const. NO. 19458.

Inventory (formless) (from LGR [3/1/3] 2/7/6 case 8/40)

No. _____ B.M.D. 8.

(To be filled in to correspond with Counterfoil.)

BIRTHS AND DEATHS REGISTRATION ACT, No. 17 of 1923.
(Sections 23 and 32.)

MEDICAL CERTIFICATE OF THE CAUSE OF DEATH.

All persons are warned against accepting or using this Certificate for any purpose whatever except that of delivering it to the District Registrar or Assistant District Registrar.

I hereby certify that I attended Freda
during his/her illness since 27. XI 1940; that his/her age was 29(?)
that I last attended him/her alive on 27. XI 1940; that to my personal knowledge (1)
death took place on 27. XI 1940; at Grandpoken; that I saw and identified the
body on (2) 27. XI 1940; and that to the best of my knowledge and belief the death was
due solely and exclusively to natural causes* as stated hereunder:—

Cause of Death.	Duration of Illness (not of attendance) in Years, Months, and Days.
<u>Heart failure, general collapse.</u>	?
Contributing Causes or Illnesses. <u>Malaria ?</u>	?
Special Investigations, Pathological Examination, Post-Mortem, etc.	Should the Medical Practitioner be in a position to give additional information at a later date for more precise statistical classification, he should signify below.

Witness my hand, this 27th day of Nov. 1940

Name and address of informant to whom this certificate is handed. (To be filled in by medical man.)

Signature of Medical Practitioner.
M. J. Bleek
Registered Qualifications M.B. & Ch.B.
Residence Grandpoken

Date on which so handed _____ 19____

* If the Medical Practitioner is unable to certify that the death was due solely and exclusively to natural causes, the following report should be made:—

To the Magistrate of the District of _____

I have to report, in terms of Section 23 (2) of Act No. 17 of 1923, that I am unable to give a certificate in the form shown above in the case of _____ of _____ who died on the _____ 19____

Signature.
Registered Qualifications.
Residence.

Date _____ 19____

(1) If this information is not within the personal knowledge of the certifier, substitute " as I am informed".
(2) If body not seen and identified, draw pen through this item.

§ G.P.-S.5773—1939—1,500-10. S. [S.O.S.]

Figure 28. Medical certificate of the Cause of Death. Form B.M.D.8 (from LGR [3/1/3] 2/7/6 case 18/40)

R.C.O. No 2/1918/18. OFFICE OF THE RESIDENT COMMISSIONER.
ONDONGA. OVAMBOLAND.

8th January 1918.

Copies sent to
Capt Bowker
Mr. W. Karibil
Mr. W. Flemer
Major Fairlie
Lt. Halton

THE SECRETARY FOR THE PROTECTORATE.
SOUTH WEST AFRICA.
W I N D H U K .

OVAMBOLAND: OVAMBO LABOUR: PASS REGULATION:
DECEASED ESTATES ETC.

Reference previous correspondence I submit report on position of above subject at present.

During six months period ended 31st December last, 1908 passes were issued at this Office to natives proceeding South for labour. In a few cases notification was subsequently received to effect that natives named had not reported at Tsuseb. There are no doubt numbers of natives who do not come here for passes before going South although correct procedure is circulated as widely as possible.

For different reasons - (one of which is aversion on part of Ovakuanyama to going to an Office where Portuguese and British are both stationed) no labour passes are issued at Namakunde and all natives obtain such at Ondonga Head Office where a rest camp has been established and a small grain ration is issued. A reliable native has been specially detailed to look after natives as they arrive. Printed passes are issued to separate parties going to Tsuseb and in front of each man's name is the Ovamboland consecutive number, then native name and European or work name, fathers name, Kraal, headman, Chief (if any) and tribe or tribal District. Each consecutive number serves as an index for native

Figure 29. Letter from Major Manning (Resident Commissioner Ovamboland) to Secretary for the Protectorate, dated 8.1.1918 (from RCO [2] 2/1916/1)

native in somewhat similar manner to that shown on Poll Tax receipts in Transvaal, which is the principal and quickest means of identification there, This Index number being always adhered to. Individual passes have not been issued so far as many of the natives have no clothing and have little idea of looking after passes but this could be arranged later.

Ovamboland Office particulars may be a little faulty in some instances owing to extreme ignorance of raw natives or others purposely giving fictitious names to hide fact that they have come from Portuguese Territory etc. but it would certainly tend to uniformity and general accuracy if the particulars as supplied by this Office could be simply transcribed at all registering Offices in S.W.A. instead of the tedious and uncertain process of re-examining natives being followed by officials who in many instances appear to be frequently changing about.

It is noticed that a variety of numbers are shown on identification documents sent here but these convey nothing at all to this Office, - the work of which would be usefully simplified if Ovamboland numbers were inserted. I respectfully reiterate this point as hitherto the suggestion has been ruled impracticable. The result to-day is that I have on hand 103 Deceased Estates (apart from several sent back) the heirs in which have not so far been traced - with any certainty owing to meagre or quite impossible particulars, e.g.

- (1) No 135/95 gives Chief, MANDUME (killed in Ovakuan-yana area 11 months ago) residence, ONDANGUA, (name of waterhole near this Residency in Ondonga area under Chief MARTIN)
- (2) No 135/- Daniel Kambuga of IPUMBU (Ipumbu being Chief of a large area viz. Ukuambi.) No headman No kraal, etc, is given.

Another deceased name is shown merely as Cognac, others PETRUS, FRITZ, etc. Tribe is usually shown as OVAMBO which signifies nothing more than that the man comes from the Territory generally known as Ovamboland in which there are several entirely distinct tribes, areas, and dialects. (Secretary's Circular 138/303/4/1916. para I. has not been observed apparently in many instances.

It is submitted the absence of „HOME” Index numbers to accompany the defective variety of particulars as frequently received, would inevitably lead to confusion in any large labour or taxing centre. The late German system as also that of Missionaries, breaking down tribal custom and substituting Biblical or European names for native ones has made identification more difficult than is the case under the ordinary Native system. Missionaries here often admit they cannot trace members of their own congregations.

Letter from Major Manning (continued)

sgd: C.N.MANNING.

MAJOR.

RESIDENT COMMISSIONER.

[.....] (p.5)

N. E. 5406
OFFICE OF THE ADMINISTRATOR,
WINDHOEK.

-4-8-1942

30/7/42.

The Magistrate,
GROOTFONTEIN.

DECEASED NATIVE ESTATE
SHIMUPI SAMUZANI

I have the honour to inform you that the undermentioned amounts deposited with you have been paid into Revenue - vide Journal Entry No 71/42 as the heirs in the estate cannot be traced.

<u>Expenditure Rec. :</u>	<u>Date :</u>	<u>Amount</u>
<u>424004</u>	<u>: 19/4/40</u>	<u>: 16- 0</u>
<u>424005</u>	<u>: 20/4/40</u>	<u>: 4- 0</u>
<u>424016</u>	<u>: 13/5/40</u>	<u>: 5- 6</u>
	<u>: :</u>	<u>: 21- 5- 6</u>

L. J. Leves
Chief Native Commissioner.

Reference 2/7/6

*paid over to Enfant
of C. No. 11486
28/8/42 day*

Figure 30. Payment into Revenue notice (duplicated, no form number) (from LGR [3/1/3] 2/7/6 case 6/40)

57

N. A. 17.

SUIDWES-AFRIKA. - SOUTH WEST AFRICA

SUID-AFRIKAANSE POLISIE
Dist. 53
22-10-1939
OTAVIFONTEIN
SOUTH AFRICAN POLICE

N. B. _____
N. E. _____

KANTOOR VAN DIE NATURELLEKOMMISSARIS.
OFFICE OF THE NATIVE COMMISSIONER.

WINDHOEK, S. W. A. 193

KOMPENSASIE-EIS op grond van Proklamasie No. 27/1924
CLAIM FOR COMPENSATION under Proclamation No. _____

deur afhanklike (afhanklikes) van oorlede naturellearbeider Weinhardt Shidute
of dependent (dependents) of deceased Native Labourer _____

VOOR MY David Henry Francis
BEFORE ME _____

van Otavi, S.W.A.
of _____

het op die 22nd dag van October 1939
on the _____ day of _____

persoonlik verskyn Sara Weinhardt
personally appeared _____

van Otavi, S.W.A.
of _____

_____ wat verklaar dat hy (hulle) 'n afhanklike (afhanklikes)
who claims (claim) to be a dependent (dependents) of _____

is van die oorlede naturellearbeider Weinhardt Shidute
deceased native labourer _____

Paspoort No. I.P.No.286 voorheen in die diens van die
Passport No. _____ formerly in the employ of the S.A.R. & Harbours, at
Hohental Siding, District Grootfontein

sy dood gevind het ten gevolge van 'n ongeluk (myntering).
who met his death as the result of accident (~~Miners' Pitfalls~~).

Die volgende besonderhede is deur die voormelde eiser (eisers) aan my gegee, op
The following particulars were given me by the said claimant (claimants) by
grond waarvan tans kompensasië geëis word :-
virtue whereof compensation is now claimed :-

- 1) Verwantskap van eiser (eisers) met die oorlede wife (as per Marriage
Relationship of claimant (claimants) to deceased
Certificate submitted)
- 2) Graad van afhanklikheid (betsy geheel of gedeeltelik) met opgawe van kort
Degree of dependency (whether whole or partial), giving short particulars of
besonderhede omtrent die beweerde afhanklikheid Wholly. No other source
dependency claimed
of maintenance save the wages earned by the deceased at the
time of his death.

A. Rack 1900, 9 30

Figure 31. Workman's compensation claim (Form N.A.17) (from NES [45] 5324)