

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<p>VEKUII RUKORO, Paramount Chief of the Ovaherero People and Representative of the Ovaherero Traditional Authority; JOHANNES ISAACK, Chief and Chairman of the Nama Traditional Authorities Association, THE ASSOCIATION OF THE OVAHERERO GENOCIDE IN THE USA INC.; and BARNABAS VERA KATUO, Individually and as an Officer of The Association of the Ovaherero Genocide in the USA, Inc., on behalf of themselves and all other Ovaherero and Nama indigenous peoples,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">-against-</p> <p>FEDERAL REPUBLIC OF GERMANY,</p> <p style="text-align: right;">Defendant.</p>	<p style="text-align: center;">Civ. No. 17-00062-LTS</p> <p style="text-align: center;"><b>SUPPLEMENTAL DECLARATION OF MICHAEL J. LOCKMAN</b></p>
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MICHAEL J. LOCKMAN declares as follows under penalties of perjury:

1. I submit this Supplemental Declaration in support of Plaintiffs' Opposition to Defendant's Motion to Dismiss. I am an attorney licensed to practice law in New York and I am fluent in German, with five years experience as a German-English translator. The translations of German materials herein are true and authentic.

2. In my Declaration of April 24, 2018, I declared that while working for McCallion & Associates LLP in 2017, I had learned about Germany's commercial activities related to bone collection.<sup>1</sup> Plaintiffs and their counsel first became aware of the presence of human remains at the American Museum of Natural History ("AMNH") relating to this case in or about September 2017; however, as of the filing of their opposition papers to Germany's Motion to Dismiss and the date of oral argument on July 31, 2018, Plaintiffs' investigation of the facts concerning the

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<sup>1</sup> Lockman Decl. at ¶ 10 (Dkt. No. 45-6).

Ovaherero and Nama human remains at the AMNH was still ongoing, especially as to the larger question of how these remains related to Germany's commercial activities in the purchase, sale and study of the human remains of indigenous peoples, including the Ovaherero and Nama. In that regard, Plaintiffs encountered difficulties and delays in gaining access to primary research documents relating to the relevant issues, including restrictions placed on our research by the AMNH administration. As a result, it took me and others working with me several months since July 2018 to complete the research required to write this supplemental factual declaration regarding the AMNH human remains in the general context of Germany's commercial activities.

3. Set forth below are the additional facts that have been gathered that, we believe, are relevant to Germany's argument that the Court lacks the power to exercise jurisdiction over these types of claims on this unique set of facts.

4. **The Teaching Collection.** The collection of Herero, Nama, and other human remains, books, and materials at the American Museum of Natural History ("AMNH") is the so-called "Teaching Collection" ("*Lehrmittelsammlung*"), assembled by Felix von Luschan over decades of employment at the Royal Museum of Ethnology (*Museum für Völkerkunde*) (the "Museum"), and the Friedrich Wilhelm University (now Humboldt University), both which were Imperial arms and institutions in Berlin. Luschan began working at the Museum in 1886, became Director of the Africa and Oceania collections in 1904,<sup>2</sup> and co-founded the Berlin Society for Race Hygiene in 1905.<sup>3</sup> In 1909, he rose to Director of Anthropology at the Museum

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<sup>2</sup> See Luschan, *Felix von*, in 5 AUSTRIAN BIOGRAPHICAL LEXICON 1815–1950 372 (1972); Beate Kunst & Ulrich Creutz, *Anthropologische Sammlungen in Berlin [Anthropological Collections in Berlin]*, in Stoecker, *et al.*, eds., SAMMELN, ERFORSCHEN, ZURÜCKGEBEN? MENSCHLICHE GEBEINE AUS DER KOLONIALZEIT IN AKADEMISCHEN UND MUSEALEN SAMMLUNGEN [COLLECT, RESEARCH, GIVE BACK? HUMAN REMAINS FROM THE COLONIAL ERA IN ACADEMIC AND MUSEUM COLLECTIONS] 84, 89–90 (2013).

<sup>3</sup> Maria Six-Hohenbalken, *Felix von Luschan's Beiträge zur Ethnologie [Felix von Luschan's Contributions to Ethnology]*, in Peter Ruggendorfer & Hubert D. Szemethy, eds., FELIX VON LUSCHAN: LEBEN UND WIRKEN EINES

and sole administrator of the Museum's human remains collections. He was named Privy Councillor to the Kaiser in 1911.<sup>4</sup>

5. The Teaching Collection was sent from the Museum of Ethnology to the AMNH in New York in 1924: as the AMNH accession records note, it is an “[a]natomical collection comprising 5,000 human crania, 200 complete skeletons, study collection, and private library.”<sup>5</sup> The Teaching Collection was one of many human remains collections under Luschan's administration at the Museum,<sup>6</sup> and was used for instruction in anthropology, craniology, and related sciences at the Museum and University.<sup>7</sup> Luschan described it as containing commercially acquired items:

In question are two, formally different collections, the official anthropological collection of the Royal Museum of Ethnology, and my special so-called Teaching Collection that serves instructional purposes at the University. Unfortunately, the former has no fixed budget, so that it generally depends on gifts. Thus, everything that is donated in terms of skulls, skeletons, soft tissue, *etc.*, naturally goes to this collection, while in contrast, such things that cost money, are normally acquired for the Teaching Collection. For the latter, there is always the necessary money available. In other words, . . . if one wants to donate, it goes to the one, and if one wants to sell, it goes to the other.<sup>8</sup>

6. The Teaching Collection was collected, stored, maintained, used, and studied at the Museum of Ethnology.<sup>9</sup> According to Luschan himself in 1913, the “12,000 skulls and many

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UNIVERSALGELEHRTEN [FELIX VON LUSCHAN: LIFE AND WORKS OF A UNIVERSAL SCHOLAR] 17, 19 (2009); *see also* Kunst & Creutz, *supra* note 2, at 89.

<sup>4</sup> *Curriculum Vitae*, in Ruggendorfer & Szemethy, *supra* note 3, 17, 19

<sup>5</sup> *See* Katuu Declaration, Pls' Opp. to Mot. to Dismiss, Exs. 1 & 2 (Dkt. No. 45-2).

<sup>6</sup> Kunst & Creutz, *supra* note 2, at 92.

<sup>7</sup> *See* Felix von Luschan, *Ziele und Wege eines modernen Museum für Völkerkunde* [Goals and Methods of a Modern Ethnological Museum], 88 GLOBUS: ILLUSTRIRTE ZEITS. FÜR LÄNDER- UND VÖLKERKUNDE [GLOBUS: ILLUSTRATED JOURNAL FOR GEOGRAPHY AND ETHNOLOGY] 238, 240 (1905) (describing teaching collections).

<sup>8</sup> Kunst & Creutz, *supra* note 2, at 92 (quoting Letter, Luschan to *Oberlehrer* Quantz (Oct. 13, 1906)).

<sup>9</sup> *See, e.g.*, Heinrich Friedländer, *Die Bissarten und einige andere anthropologische Eigenschaften bei 1500 Berlinern*, [The Bite Types and Some Other Anthropological Characteristics in 1,500 Berliners], 20 VIERTELJAHRSSCHRIFT FÜR ZAHNHEILKUNDE [DENTISTRY QUARTERLY] 425, 441 (1904) (reporting on material analysis of objects in the Teaching Collection at the Museum of Ethnology).

precious skeletons” at the Museum were the product of the Kaiser’s “most energetic lordly patronage” and “imperial subsidies” bestowed “in such rich amounts”:

In boxes and crates at the Museum of Ethnology, we have stored already approximately 12,000 skulls and many hundred precious skeletons, so that also this collection awaits only the Resurrection, to then immediately stand as the greatest and most valuable collection of its type in the entire world.<sup>10</sup>

7. As integral parts of the Teaching Collection, the Herero and Nama remains are here in connection with Germany’s role as market player in the international commercial trade in human remains through its acquisition, collection, transport, display, trade, and sale of human remains in support of anthropological, craniological, and ethnological research, having substantial contact with the United States. Ultimately, the Museum of Ethnology could not have obtained its vast collections without Imperial underwriting, logistics, and ownership. By Luschan’s own account, it was through the Kaiser and the Imperial treasury by which he undertook his collection activities, and by which the Museum held its holdings.<sup>11</sup>

8. Germany aggressively recruited and trained amateurs, soldiers, and sailors to commercially trade and traffic human remains, and published guides to stimulate collection. Starting in the 1870s, the Museum published guides for such collection, including Luschan’s specific instructions in 1896 for collection in Africa.<sup>12</sup> As Luschan noted in a 1902 speech (a

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<sup>10</sup> Felix von Luschan, *Der Kaiser und die Wissenschaft* [*The Kaiser and Science*], in UNSER KAISER, FÜNFUNDZWANZIG JAHRE DER REGIERUNG KAISER WILHELM II. 1888–1913 [OUR KAISER: TWENTY-FIVE YEARS OF THE REIGN OF KAISER WILHELM II 1888–1913] 259, 278 (1913). See also ANDREW ZIMMERMAN, ANTHROPOLOGY AND ANTIHUMANISM IN IMPERIAL GERMANY 7 (2001) (“[W]ithout imperialism, anthropologists never would have had access to . . . body parts.”).

<sup>11</sup> Luschan, *The Kaiser and Science*, *supra* note 10, at 278.

<sup>12</sup> Kristin Weber, *Objekte als Spiegel kolonialer Beziehungen: Das Sammeln von Ethnographica zur Zeit der deutschen kolonialen Expansion in Ostafrika* [*Objects as the Mirror of Colonial Relations: The Collecting of Ethnographica at the Time of German Colonial Expansion in East Africa*] \*11 (1884–1914) (Thesis 2013), available at [http://www.no-humboldt21.de/wp-content/uploads/2013/11/WK1\\_kant11.pdf](http://www.no-humboldt21.de/wp-content/uploads/2013/11/WK1_kant11.pdf) (citing Felix von Luschan, *Instruktion für ethnographische Beobachtungen und Sammlungen in Deutsch-Ostafrika* [*Instructions for Ethnological Observation and Collecting in German East Africa*] (1896)).

translation of which is attached hereto as Exhibit A), the Museum distributed “thousands” of “Ethnographic Observation and Collection” pamphlets to recruit agents to take, purchase, trade, and traffic in human remains.<sup>13</sup>

9. The German Navy long served Germany’s commercial collecting. In 1874, the Museum and the Navy agreed that the HMS *Gazelle* would acquire “everything collectible” from ports, with officers onboard serving as “intermediary” and agent.<sup>14</sup> By the 1890s, the Museum’s and Navy’s relationship had so strengthened that “[t]he Navy’s collecting duties developed from an occasional activity for officers during their leisure time to an *integral part of its operations*.”<sup>15</sup> For example, in 1897, the Museum placed 1,000 Reichsmark with the HMS *Seagull*, and Luschan gave ethnography lessons to officers functioning as the Museum’s purchasing agents.<sup>16</sup>

10. Germany also gave the Museum a right of first refusal on imported human remains. Under a *Bundesrat* Directive of 1889,<sup>17</sup> all anthropological items acquired overseas while on Imperial business were required to first be offered for sale to the Museum.<sup>18</sup> “The Berlin Museum of Ethnology thus sat, like a spider, at the center of a web of collectors spanning

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<sup>13</sup> See Felix von Luschan, Speech, *Ziele und Wege der Völkerkunde in den deutschen Schutzgebieten* [Goals and Methods of Ethnology in the German Protectorates] (Oct. 11, 1902), in SPECIAL PRINT FROM THE PROCEEDINGS OF THE 1902 GERMAN COLONIAL CONGRESS 163 (1902), Exhibit A hereto. Again in 1906, Luschan published instructions for “scientific observation” for amateurs while traveling. Felix von Luschan, *Anthropology, Ethnography, and Prehistory*, in 2 INTRODUCTION TO SCIENTIFIC OBSERVATIONS DURING TRAVELS 1 (G. von Neumayer, ed. 1906).

<sup>14</sup> ZIMMERMAN, *supra* note 10, at 155.

<sup>15</sup> ZIMMERMAN, *supra* note 10, at 156 (emphasis added).

<sup>16</sup> *Id.* at 155 (citing Luschan’s Letters to Admiral von Knorr (Aug. 7, 1897) and Lt. Kuthe (Jan. 9, 1899)).

<sup>17</sup> *Anweisung betreffend die Behandlung der aus den Deutschen Schutzgebieten eingehenden wissenschaftlichen Sendungen* [Directive Concerning the Treatment of Scientific Shipments Received from the German Protectorates] (Aug. 3, 1889) (Ger.). The Directive also provided for state funding for the Museum’s collections. Weber, *supra* note 12, at 11.

<sup>18</sup> ZIMMERMAN, *supra* note 10, at 153. See also Runderlass, *betr. die ethnographischen und naturwissenschaftlichen Sammlungen der in den Schutzgebieten befindlichen Beamten und Militärpersonen* [Circular Concerning Ethnographic and Natural Scientific Collecting by Officers and Military Persons in the Protectorates], KOLONIALBLATT [COLONIAL GAZETTE] 669 (1896).

the globe.”<sup>19</sup> The Directive was amended in 1896 to formally bridge collecting and military operations by including military personnel within its ambit.<sup>20</sup> Alongside the Directive, Luschan and other Museum agents built additional collection networks through colleagues on-site.<sup>21</sup>

11. Germany succeeded in dominating the human remains market, and by 1900, “the Berlin museum possessed the largest anthropology collection in the world.”<sup>22</sup> Museum Director Bastian identified the institutional benefits derived from German colonial military enterprises:

From military expeditions undertaken for colonial political purposes, the ethnological collections of the royal museums have been valuably enriched. . . . In punitive expeditions, the property of the guilty, instead of being destroyed, is preserved for the scientific study . . . of wild tribes.<sup>23</sup>

12. In this way, the Museum “explicitly supported” military assistance, and all that it implied with regard to the methods by which the German military collected human remains:

[T]hat ethnological collecting in the context of colonial expansion and power consolidation was taking place under everything other than “labor conditions,” was also known by the ethnologists in Berlin, who approvingly accepted and indeed explicitly supported collecting during military operations. This is made clear in the collection policies by the expansion of the *Bundesrat* decision in the year 1896 to members of the *Schutztruppe* and Officers and the resulting affiliated inclusion of military operations.<sup>24</sup>

13. By 1902, Luschan had begun warning of a radical urgency requiring immediate, large-scale collecting.<sup>25</sup> As conditions in the Protectorates were “now changing almost from one day to the next under the influence of the white man,” he instructed his colleagues: “[S]natch

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<sup>19</sup> ZIMMERMAN, *supra* note 10, at 153.

<sup>20</sup> Weber, *supra* note 12, at 11.

<sup>21</sup> *Id.*

<sup>22</sup> ZIMMERMAN, *supra* note 10, at 155.

<sup>23</sup> *Id.* at 156 (quoting Bastian to General Administrator of the Royal Museum (July 21, 1900)).

<sup>24</sup> Weber, *supra* note 12, at 12.

<sup>25</sup> See Marion Melk-Koch, *Felix von Luschan als Curator [Felix von Luschan as a Curator]*, in Ruggendorfer & Szemethy, *supra* note 3, 81, 89–91.

quickly, before it becomes forever too late.”<sup>26</sup> Luschan broadcast his message by distribution of thousands of “Ethnographic Observation and Collection” pamphlets for amateurs, as manuals and recruiting tools for the taking, purchase, trading, or selling of artifacts and human remains.<sup>27</sup>

14. In April 1905, Lieutenant Ralph Zürn donated a Herero skull to the Museum.

Luschan wanted more, and he inquired further by letter to Zürn:

The skull you gave us corresponds so little to the picture of the Herero skull type that we have thus far been able to make from our insufficient and inferior material, that it would be desirable to secure as soon as possible a larger collection of Herero skulls for scientific investigation. . . . If you are aware of any possible way in which we might acquire a larger number of Herero skulls . . . <sup>28</sup>

Zürn relayed this to a colleague in Swakopmund and responded optimistically to Luschan:

I hope that my requests will have success, since in the concentration camps, taking and preserving the skulls of Herero prisoners of war will be more readily possible than in the country, where there is always a danger of offending the ritual feelings of the natives.<sup>29</sup>

15. Responding to requests by Luschan and others, state resources were deployed to collect human remains. Exhibit B hereto shows two images of soldiers loading skulls for transit,<sup>30</sup> both of which are reproductions of a photograph said to have been taken by the customs

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<sup>26</sup> Luschan, Speech, *supra* note 13, at 163, Exhibit A. See also Melk-Koch, *supra* note 25, at 91 (“[F]or ethnology, if anything is to happen, it must happen in the coming decades and by our generation or never at all.”) (quoting Letter, Luschan to the General Administration of Royal Museums (Oct. 12, 1903)).

<sup>27</sup> See Luschan, *supra* note 13, at 165–66, Exhibit A.

<sup>28</sup> ZIMMERMAN, *supra* note 10, at 244–45 (quoting Luschan to Oberleutenant Ralf Zürn (Apr. 15, 1905)).

<sup>29</sup> *Id.* (quoting Zürn to Luschan (June 25, 1905)). Zürn’s grave-robbing in 1903 “as an easy source of additional income,” OLUSOGA & CASPER W. ERICHSEN, *THE KAISER’S HOLOCAUST* 128 (2010), was a key factor in sparking the Ovaherero-German conflict. See Amended Complaint ¶ 93; OLUSOGA & ERICHSEN, *supra*, at 128 (citing LUDWIG CONRADT, *MEMORIES FROM TWENTY YEARS TRADING AND FARMING IN GERMAN SOUTH WEST AFRICA* 250 (1905)). Considering a professor’s request for “Herero and Bushman skulls,” the S. African Mandate Admin. Office noted: “The desecration of their graves by the Germans was one of the main causes of the revolt of 1904.” Werner Hillebrecht, *Probleme der archivalischen Überlieferung [Problems in Archival Transmission]*, in Stoecker, *et al.*, *supra* note 2, 279, 285 ((quoting Letter, G.J. Waters to J.H. Hofmeyr-Koen (Apr. 19, 1921)).

<sup>30</sup> LEONOR FABER-JONKER, *MORE THAN JUST AN OBJECT: A MATERIAL ANALYSIS OF THE RETURN AND RETENTION OF NAMIBIAN SKULLS FROM GERMANY* 57 (2018); Joachim Zeller, “*Ombepera i koza – Die Kälte tötet mich*”: *Zur Geschichte des Konzentrationslager in Swakopmund (1904–1908)*, [“*Ombepera i koza – the Cold Kills Me*”: *History of the Concentration Camp in Swakopmund (1904–1908)*], in J. Zimmerer & J. Zeller, eds.,

shed at the Swakopmund concentration camp in 1905 or 1906.<sup>31</sup> The top image is the retouched photograph printed on a contemporary postcard, with back caption: “Loading the Herero skulls designated for German museums and universities.”<sup>32</sup> The bottom image is a traced illustration with minor differences,<sup>33</sup> printed in a book by *Schutztruppe* Officer Bernd Kroemer with caption:

A chest of Herero skulls was recently sent by troops from German South West Africa to the Pathological Institute in Berlin, where they will be subjected to scientific measurements. The skulls, from which Herero women have removed the flesh with the aid of glass shards to make suitable for shipment, come from Hereros who have been hanged or who have fallen.<sup>34</sup>

16. With the emergence of a concentration camp network, “an industry had developed around the supply of body parts.”<sup>35</sup> By 1906, thousands of Ovaherero and Nama people filled the concentration and work camp networks, including two-thousand Nama people brought on September 9, 1906 to the Shark Island concentration camp in Lüderitz Bay, joining thousands of Ovaherero prisoners starving there.<sup>36</sup> The prisoners at Shark Island were worked to death, beaten to death, starved, used as subjects for experiments, and exposed to the elements in an arbitrary and discriminatory fashion resulting in a death rate ranging up to 70 percent.<sup>37</sup>

17. Many Herero and Nama human remains were taken by *Schutztruppe* Medical Officer Dr. Hugo Bofinger at Lüderitz Bay (*Lüderitzbucht*), Head of the Natives Sick Station and

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VÖLKERMORD IN DEUTSCH-SÜDWESTAFRIKA: DER KOLONIALKRIEG IN NAMIBIA UND SEINE FOLGEN [GENOCIDE IN GERMAN SOUTH WEST AFRICA: THE COLONIAL WAR IN NAMIBIA AND ITS CONSEQUENCES] 64, 77 (2016).

<sup>31</sup> Zeller, *supra* note 30, at 77.

<sup>32</sup> FABER-JONKER, *supra* note 30, at 57, 55–62.

<sup>33</sup> *Id.* at 56–58.

<sup>34</sup> BERND KROEMER, MEINE KRIEGS-ERLEBNISSE IN DEUTSCH-SÜDWEST-AFRIKA, VON EINEM OFFIZIER DER SCHUTZTRUPPE [WAR EXPERIENCES IN GERMAN SOUTH WEST AFRICA, BY A *SCHUTZTRUPPE* OFFICER] 114 (1907); ZIMMERMAN, *supra* note 10, at 245 n.25; *see also* JAN-BART GEWALD, HERERO HEROES: A SOCIO-POLITICAL HISTORY OF NAMIBIA 189–90 n.256 (1999).

<sup>35</sup> OLUSOGA & ERICHSEN, *supra* note 29, at 224.

<sup>36</sup> *See id.* at 207–16.

<sup>37</sup> Just a few months after they were brought to Shark Island, by mid-February 1907, a reported 70 percent of the Nama had died as a result of Imperial policies resulting in starvation, thirst, overexposure to the cold, and death by exhaustion, beatings, and arbitrary abuse of power. *Id.* at 216.



Laboratory, Field Hospital XII, Shark Island.<sup>38</sup> He was a scurvy researcher,<sup>39</sup> and incorrectly diagnosed prisoners with the disease on the “false premise that scurvy was a contagious condition,” and experimented, injecting prisoners with arsenic and opium, and analyzing the effects by “opening up the dead bodies.”<sup>40</sup> But evidence shows the Ovaherero and Nama at Shark Island were dying of malnutrition, exposure, and hard labor, not scurvy.<sup>41</sup> Prisoners recalled that anyone who entered Bofinger’s hospital “will not come out alive.”<sup>42</sup> It is estimated that 778 Herero and Nama bodies were dissected at Shark Island in Lüderitz Bay in 1906 alone.<sup>43</sup>

18. Paul Bartels, a state scientist at the Anatomical Institute of the Charité in Berlin, part of the Imperial Friedrich Wilhelm University, had requested and received numerous human remains from Bofinger and others, and placed these in the Institute’s so-called Bartels Collection,<sup>44</sup> containing the twenty-five preserved heads and fifty-three preserved larynxes of Ovaherero and Nama people, and other human remains.<sup>45</sup> Bofinger often provided remains

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<sup>38</sup> See Katrin Koel, *et al.*, Charité Human Remains Project, Charité Berlin, *Documentation Recording the Results of Examinations Carried Out on the Twenty Skulls from Namibia (Nine Herero, Eleven Nama) to Determine Their Provenance: Provenance Analysis Specimen A 817 (Nama)* at \*4 (Sept. 30, 2011).

<sup>39</sup> See, e.g., Hugo Bofinger, *Einige Mitteilungen über Skorbut* [*Some News about Scurvy*], 39 DEUTSCHE MILITÄRÄRZTLICHE ZEITSCHRIFT [GERMAN MILITARY MEDICAL JOURNAL] 569 (1910).

<sup>40</sup> See OLUSOGA & ERICHSEN, *supra* note 29, at 224–26.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 226 (quoting Missionary Laaf, in ARCHIVES OF THE EVANGELICAL LUTHERAN CHURCH IN NAMIBIA RMS Vol. 16, *History of the Lüderitz Bay Congregation*, 28–29).

<sup>43</sup> See GEWALD, *supra* note 34, at 189 n.256 (1999).

<sup>44</sup> Koel, *et al.*, *Specimen A 817 (Nama)*, *supra* note 38, at \* 5.

<sup>45</sup> See *id.* at \* 11 n.6.

through middlemen, such as military engineer Felix Wagenführ.<sup>46</sup> Most heads were opened on site, brains removed for study or preservation,<sup>47</sup> and packed in tins with formaldehyde.<sup>48</sup>

19. Wilhelm Waldeyer, Director of the Charité’s Anatomical Institute, was a brain scholar with publications including *On Some Anthropologically Remarkable Findings in Negro Brains* (1894), and *Topography of the Brain* (1901), which he followed with *The Brains of South West African Peoples* (1906).<sup>49</sup> He obtained Herero and Nama brains through Imperial sources:

Upon my request, through the intercession of the Medical Department of the Royal Ministry of War, the Medical Officers and Senior Medical Officers Drs. Dansauer, Jungels, Mayer, and Zöllner, who are active at the field hospitals in our colony German South West Africa, sent the Anatomical Institute in Berlin a number of brains of natives, who died in the hospitals; the Institute also obtained some such brains from Dr. Leonhard Schultze, Assistant Professor at the University of Jena, who just happily ended a one-and-a-half-year research trip in that region. Dr. Schultze was supported hereby for natural research and travel by funds from the Humboldt Foundation. . . . All brains were removed from the respective skulls in workmanlike fashion and most were excellently preserved (in formaldehyde and alcohol); the majority arrived here in immaculate form. I do not forget the men, who subjected themselves to the efforts to procure these valuable specimens in the name of this Institute!<sup>50</sup>

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<sup>46</sup> FABER-JONKER, *supra* note 30, at 109; See Koel, *et al.*, Charité Human Remains Project, Charité Universitätsmedizin Berlin, *Documentation Recording the Results of Examinations Carried Out on the Twenty Skulls from Namibia (Nine Herero, Eleven Nama) to Determine Their Provenance: Provenance Analysis Specimen A 802 (Herero)* at \* 5 & n.15 (Sept. 30, 2011).

<sup>47</sup> Christian Fetzer, *Rassenanatomischen Untersuchungen an 17 Hottentottenköpfen* [*Racial-Anatomical Studies on 17 Nama Heads*], 16 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROLOGIE [J. FOR MORPHOLOGY AND ANTHRO.] 95, 95 (1913).

<sup>48</sup> FABER-JONKER, *supra* note 30, at 63 & nn. 208–11. Bofinger also sealed the head of a one-year-old Nama infant girl in a tin with preservatives and shipped it to Christian Fetzer, one of Bartels’s students. OLUSOGA & ERICHSEN, *supra* note 29, at 224–25.

<sup>49</sup> Wilhelm Waldeyer, *Gehirne Südwestafrikanischer Völker* [*The Brains of South West African Peoples*], 11 SESSION REPORTS OF THE ROYAL PRUSSIAN ACADEMY OF SCIENCE IN BERLIN] 3 (1906); WILHELM WALDEYER, TOPOGRAPHIE DES GEHIRNS [TOPOGRAPHY OF THE BRAIN] (1901); Wilhelm Waldeyer, *Über einige anthropologisch bemerkenswerthe Befunde an Negerhirnen* [*On Some Anthropologically Remarkable Findings in Negro Brains*], SESSION REPORTS OF THE ROYAL PRUSSIAN ACADEMY OF SCIENCE IN BERLIN 1213 (1894).

<sup>50</sup> *Id.* at 3. Per Waldeyer, nine brains belonged to these Hereros, identified by name and brain weight (“fresh”): Hucko, a Herero man, 1265 grams; Katjirito, a Herero man, 18-years-old, 1450 grams; Karirombo, a Herero boy from the Captainship of Samuel Maharero, 12-years-old, 1354 grams; August, a Herero man, 22-years-old, 1390 grams; Simon, a Herero man, 17-years-old, 1470 grams; Kanakanyara, a Herero man, 21-years-old, 1210

20. As Waldeyer described, he also acquired brains from Leonhard Schultze, who was on a research trip with colleagues in Hereroland and Great Namaqualand, with Imperial funding and support.<sup>51</sup> Schultze also later published his study of Nama and San people in *On the Bodies of the Hottentots and Bushmen* in 1928,<sup>52</sup> and in this connection wrote: “I could make use of the victims and take parts from fresh native corpses, which made a welcome addition to the study of the living body (imprisoned *Hottentots* were often available to me).”<sup>53</sup>

21. Study of the human remains taken by Bofinger and Schultze resulted in the publication of numerous articles found in the Columbia University library and other libraries and research centers in New York and elsewhere, illustrating the nature of the institutional and

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grams; a Herero man, name unknown, 24-years-old, 1250 grams; a Herero woman, name unknown, 26-years-old, 1164 grams; a Herero woman, name unknown, 30-years-old, 1162 grams. *Id.* at 3–4. As to other sources of these brains, on January 26, 1905, Heinrich Meyer described in his diary an “autopsy of the skull and brain of the Herero man shot yesterday for Anatomy in Berlin (Prof. Dr. Waldeyer),” and, in May 1905, “preparations” sent to Waldeyer of two Herero men who were hanged. Andreas Winkelmann, *Die Anatomische Sammlung der Berliner Universität und ihre anthropologischen Bestände* [*The Anatomical Collection of the University of Berlin and its Anthropological Inventory*], in Stoecker, *et al.*, *supra* note 2, 69, 79 n.43 (quoting FRIEDRICH ZÖLLNER, ALS ARZT IN DEUTSCH-SÜDWEST [AS A DOCTOR IN THE GERMAN SOUTH WEST] (1939), Heinrich Meyer, and Larissa Förster)).

<sup>51</sup> See CARSTEN GRÄBEL, *DIE ERFORSCHUNG DER KOLONIEN: EXPEDITIONEN UND KOLONIALE WISSENSKULTUR DEUTSCHER GEOGRAPHEN 1884–1919* [EXPLORING THE COLONIES: EXPEDITIONS AND COLONIAL KNOWLEDGE CULTURE OF GERMAN GEOGRAPHERS 1884–1919] 185–87 (2015). First, Schultze’s trip and takings were funded by the Humboldt Foundation (*Humboldt Stiftung*), managed by the Royal Prussian Academy of Sciences under Wilhelm II as King of Prussia, who supplemented the Foundation’s budget, whereby the Foundation Chairman responsible for disbursing funds to Schultze was Waldeyer himself, Director of the Anatomical Institute of the Charité, *i.e.*, the public institutional beneficiary of Schultze’s trip through acquisition of human brains. See Wilhelm Waldeyer, *Humboldt Stiftung: Bericht des Vorsitzendes des Curatoriums Hr. Waldeyer* [*Humboldt Foundation: Report of the Chairman of the Curatorium Mr. Waldeyer*], SESSION REPORTS OF THE ROYAL PRUSSIAN ACADEMY OF SCIENCES 102 (1906) (describing payments to Schultze); *Humboldt Stiftung: Bericht des Vorsitzendes des Curatoriums* [*Humboldt Foundation: Report of the Chairman of the Curatorium*] SESSION REPORTS OF THE ROYAL PRUSSIAN ACADEMY OF SCIENCES 64 (1896). Second, Schultze’s takings were financed directly by the German Foreign Office (*Auswärtiges Amt*) with Africa Funds (*Afrikafonds*). See LEONHARD SCHULTZE, *DIE FISCHEREI AN DER WESTKÜSTE SÜD-AFRIKAS* [THE FISHERIES ON THE WEST COAST OF SOUTH AFRICA] 1 (1909).

<sup>52</sup> Leonhard Schultze, *Zur Kenntnis des Körpers der Hottentotten und Buschmänner* [*On the Bodies of the Hottentots and Bushmen*], 5 *ZOOL. UND ANTHROPOL. ERGEBNISSE EINER FORSCHUNGSREISE IM WESTLICHEN UND ZENTRALEN SÜDAFRIKA AUSGEFÜHRT IN DEN JAHREN 1903–1905* [ZOOLOGICAL AND ANTHROPOLOGICAL RESULTS OF A RESEARCH TRIP IN WESTERN AND CENTRAL SOUTH AFRICA IN THE YEARS 1903–1905] 145 (1928).

<sup>53</sup> Leonhard Schultze, *Introduction*, 3 *ZOOLOGICAL AND ANTHROPOLOGICAL RESULTS OF A RESEARCH TRIP IN WESTERN AND CENTRAL SOUTH AFRICA IN THE YEARS 1903–1905* v, viii (1908). Schultze’s *On the Bodies*, *supra* note 52, presents his study of Nama and San people in mid- and late-1905, identifying them by name, age, place of birth, and tribe, with individual anthropometric measurements of seventy prisoners in and around Keetmanshoop. *Id.* at 145, 148–50. Schultze’s studies would have been impossible without Germany’s interning of prisoners, and from July to October 1905, Schultze was attached to Trotha’s unit in Namaqualand. Schultze, *Introduction*, *supra*, at vi.

scientific demand for and use of the remains, and contextualizing the commercial significance of the human remains taken in violation of international law, including these:

- A treatise by Sergio Sergi,<sup>54</sup> located at Columbia University (Call No. B302.968 Sch82; F) and at the AMNH (Call Nos. QL.336.S3 and DT732.S3), studies nine preserved brains of Herero men and women, six Herero skulls, and the preserved brain of a Nama woman;
- An article by Heinrich von Eggeling,<sup>55</sup> which is also located at Columbia University (Call No. B302.968 Sch82; F) and at the AMNH (Call Nos. QL336.S3 and DT732.S3), studies four preserved heads of Herero men and women, and the preserved bodies of a Herero baby girl and a Nama newborn girl;
- An article by Elie Groyssmann,<sup>56</sup> located at Columbia University (Call No. B302.968 Sch82;F) and the AMNH (Call Nos. QL336.S3 and DT732.S3), studies the body musculature of the Herero girl whose facial musculature was studied by Eggeling;
- An article by Paul Bartels,<sup>57</sup> located in Columbia University's Biodiversity Heritage Library, studies the plica semilunaris of the eyes of the preserved heads of eight Herero men, women, and children, and seventeen Nama men, women, and children;
- An article by Christian Fetzer,<sup>58</sup> located at Columbia University (Call No. 591.4 Y3) and at the State University of New York at Stony Brook (Call No. QM1.Z4), studies

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<sup>54</sup> Sergio Sergi, *Cerebra Hererica [The Herero Brain] (with Preface by W. Waldeyer), with appendices: Crani di Herero [Herero Skulls], and Due cervelli di Ovambo ed un cervello di Ottentotta [Two Ovambo Brains and a Hottentot Brain]*, in 3 (*Erste Lieferung*) ZOOLOGISCHE UND ANTHROPOLOGISCHE ERGEBNISSE EINER FORSCHUNGSREISE IM WESTLICHEN UND ZENTRALEN SÜDAFRIKA AUSGEFÜHRT IN DEN JAHREN 1903–05 MIT UNTERSTÜTZUNG DER KGL. PREUSSISCHEN AKADEMIE DER WISSENSCHAFTEN ZU BERLIN [ZOOLOGICAL AND ANTHROLOGICAL RESULTS OF A RESEARCH TRIP IN WESTERN AND CENTRAL SOUTH AFRICA CONDUCTED IN 1903–05 WITH THE SUPPORT OF THE ROYAL PRUSSIAN ACADEMY OF SCIENCES IN BERLIN] 1 (1909).

<sup>55</sup> Heinrich von Eggeling, *Anatomische Untersuchungen an den Köpfen von vier Hereros, einem Herero- und einem Hottentottenkind [Anatomic Examinations of the Heads of Four Hereros, one Herero Child, and one Hottentot Child]*, in 3 ZOOLOGICAL AND ANTHROLOGICAL RESULTS OF A RESEARCH TRIP IN WESTERN AND CENTRAL SOUTH AFRICA CONDUCTED IN 1903–05 WITH THE SUPPORT OF THE ROYAL PRUSSIAN ACADEMY OF SCIENCES IN BERLIN 323 (1909).

<sup>56</sup> Elie Groyssmann, *Das Muskelsystem eines Hererokindes mit Berücksichtigung der Innervation [The Muscle System of a Herero Child with Consideration of Innervation]*, in 3 ZOOLOGICAL AND ANTHROLOGICAL RESULTS OF A RESEARCH TRIP IN WESTERN AND CENTRAL SOUTH AFRICA CONDUCTED IN 1903–05 WITH THE SUPPORT OF THE ROYAL PRUSSIAN ACADEMY OF SCIENCES IN BERLIN 349 (1909).

<sup>57</sup> Paul Bartels, *Histologisch-anthropologische Untersuchungen der Plica semilunaris bei Herero und Hottentotten [Histological-Anthropological Examinations of the Plica Semilunaris in the Herero and Hottentots]*, 78 ARCHIV FÜR MIKROSKOPISCHE ANATOMIE [ARCHIVE FOR MICROSCOPIC ANATOMY] 529 (1911).

<sup>58</sup> Christian Fetzer, *Rassenanatomische Untersuchungen an 17 Hottentottenköpfen [Racial-Anatomical Examinations of 17 Hottentot Heads]*, 16 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 95 (1913).

the musculature of preserved heads of seventeen Nama men, women and children;

- An article by Heinrich F.B. Zeidler,<sup>59</sup> located at Columbia University (Call No. 591.4 Y3) and State University of New York at Stony Brook (Call No. QM1.Z4), studies the facial musculature of the preserved heads of four Herero men and one woman;
- Another article by Heinrich F.B. Zeidler,<sup>60</sup> located at Columbia University (Call No. 591.4 Y3) and Stony Brook (Call No. QM1.Z4), studies the facial musculature of the preserved heads of a Nama baby girl, a Herero child of unknown gender, and a Herero boy; *and*
- An article by Werner Grabert,<sup>61</sup> located at Columbia University (Call No. 591.4 Y3) and Stony Brook (Call No. QM1.Z4), studies the preserved larynxes of thirty-eight Nama men, women and children, of twelve Herero men, women and children, and of three newborn Herero babies, as part of the Bartels Collection.

22. Zeidler's illustrations of his subject material,<sup>62</sup> are attached as Exhibits C and D.

23. **Substantial Contact with the United States.** The Empire's collection activities "span[ned] the globe,"<sup>63</sup> and the Museum of Ethnology targeted indigenous peoples of the United States for commercial collection. In so doing, Germany's commercial acts in the global trade in human remains, conducted through agents, sailors, soldiers, officers, and museum and university staff, had and continues to have substantial contact with the United States in general, and Native Americans in particular. German scientists and institutions sought and obtained human remains of indigenous people from Alaska, Arizona, California, Idaho, Kentucky, Louisiana, Missouri, Nebraska, Nevada, New York, Oregon, and Hawaii, where Luschan

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<sup>59</sup> Heinrich F.B. Zeidler, *Beiträge zur Anthropologie der Herero* [Contributions to the Anthropology of the Herero], 17 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 185 (1914).

<sup>60</sup> Heinrich F.B. Zeidler, *Beiträge zur Anthropologie der Gesichtsweichteile der Neger* [Contributions to the Anthropology of the Soft Facial Tissue of the Neger], 21 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 153 (1920).

<sup>61</sup> Werner Grabert, *Anthropologische Untersuchungen an Herero- und Hottentotten-Kehlköpfen* [Anthropological Examinations on Herero and Hottentot Larynxes], 16 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 65 (1913).

<sup>62</sup> See Zeidler, *supra* notes 59–60.

<sup>63</sup> ZIMMERMAN, ANTHROPOLOGY AND ANTIHUMANISM, *supra* note 10, at 153.

personally exhumed eighty-three bodies. As was the case for Africa, the Museum's success in collecting American human remains was accomplished only by "energetic lordly patronage."<sup>64</sup>

24. The Museum of Ethnology harvested, purchased, and traded human remains in the United States. In an 1878 trade with the American National Museum (the Smithsonian), the Museum of Ethnology acquired 273 objects including preserved American muscle tissues and human bones and other remains, mostly from California.<sup>65</sup> And by 1881, the Museum had obtained archaeological items from Paiute people and from Arizona.<sup>66</sup> And in the same year, 1881, the Museum engaged Johann A. Jacobsen as agent to the Museum for commercial activity in the United States. The Museum sent Jacobsen to San Francisco; he arrived in August 1881, and then traveled to Arizona and Pacific Northwest, harvesting and buying remains and other objects. Jacobsen then went to Alaska in June 1882, harvesting and buying remains and objects, before returning to California in September 1883, and from there sent 1,000 objects including human remains to Berlin.<sup>67</sup> Luschan, for his part, obtained three skulls of Mohawk people from New York, which he placed in the Teaching Collection alongside Herero and Nama remains.<sup>68</sup> He also obtained for the Museum's "S" Collection the skulls of two Californians, "S 608" and "S 609."<sup>69</sup> Ultimately, American remains in Berlin were not just studied, but also displayed, such

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<sup>64</sup> Luschan, *The Kaiser and Science*, *supra* note 10, at 278.

<sup>65</sup> BEATRIX HOFFMANN, DAS MUSEUMSOBJEKT ALS TAUSCH- UND HANDELSGEGENSTAND: ZUM BEDEUTUNGSWANDEL MUSEALER OBJEKTE IM KONTEXT DER VERÄUSSERUNGEN AUS DEM SAMMLUNGSBESTAND DES MUSEUMS FÜR VÖLKERKUNDE BERLIN [MUSEUM OBJECTS AS EXCHANGE AND TRADE OBJECTS: ON TRANSFORMATIVE MEANING OF MUSEUM OBJECTS AS TO SALES FROM THE COLLECTION INVENTORY OF THE BERLIN MUSEUM OF ETHNOLOGY] 234 (2012).

<sup>66</sup> *Id.* at 235.

<sup>67</sup> *Id.* at 67–68.

<sup>68</sup> See Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the American Museum of Natural History, New York, NY, 66 FED. REG. 20330, 20330 (Mar. 30, 2001). ("[O]fficials of the American Museum of Natural History have determined . . . there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the St. Regis Band of Mohawk Indians of New York.")

<sup>69</sup> See Friedlaender, *supra* note 9, at 441. And in 1901 and 1912, the Museum obtained anthropological items from Hopi people from Arizona, and people from Kentucky. HOFFMANN, *supra* note 65, at 81.

as in the Museum's Hall VII in 1905, where the Museum showcased the remains of Inuit and Yu'pik people,<sup>70</sup> Tlingit people from Portland,<sup>71</sup> scalps of Sioux people, contents of California graves, and human remains from Tularosa, New Mexico.<sup>72</sup>

25. American craniology was also the area of expertise of German scientist Rudolf Virchow, who, in 1889 analyzed the remains of twenty-eight Californian men and women exhumed and sent to Berlin by Paul Schumacher, where they were held by Virchow and, later, the Museum.<sup>73</sup> Franz Boas at the AMNH had put together a “comprehensive” skeleton and skull collection, and the AMNH sold objects to Virchow,<sup>74</sup> whose collections later fell under the Luschan's administration. Boas had worked at the Berlin Museum of Ethnology in the 1880s as an Assistant, and maintained close contact, even after moving to the United States.<sup>75</sup> Because of Boas's and Bastian's “good contact with American museums and collectors,” numerous objects from the United States were compiled for Berlin by American scientists including Clark Wissler and Frank Cushing within the scope of trades.<sup>76</sup> Virchow's work culminated in *Crania Ethnica Americana: a Choice Collection of American Skulls*,<sup>77</sup> published in 1892, showcasing “crania of

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<sup>70</sup> ROYAL MUSEUMS OF BERLIN, FÜHRER DURCH DAS MUSEUM FÜR VÖLKERKUNDE [GUIDE THROUGH THE MUSEUM OF ETHNOLOGY] 113 (12th ed. 1905).

<sup>71</sup> GUIDE THROUGH THE MUSEUM OF ETHNOLOGY, *supra* note 70, at 117. These had been acquired for the Museum by Arthur Krause, Aurel Krause, and Paul Schulze in the U.S. *Id.*

<sup>72</sup> *Id.* at 122–24.

<sup>73</sup> Rudolf Virchow, *Beitrag zur Craniologie der Insulaner von der Westküste Nordamerikas* [Contribution to the Craniology of the Islanders on the West Coast of North America], 21 ZEITSCHRIFT FÜR ETHNOLOGIE [JOURNAL OF ETHNOLOGY] 382, 382 (1889); Paul Schumacher, *Die Gräber und Hinterlassenschaft der Urvölker an der californische Küste* [Graves and Burials of Prehistoric Peoples on the California Coast], 10 ZEITSCHRIFT FÜR ETHNOLOGIE [JOURNAL OF ETHNOLOGY] 183, 183–92 (1878). Schumacher had also taken bodies from California for the Smithsonian and the AMNH. Virchow, *supra*, at 383–92.

<sup>74</sup> Anja Laukötter, *Gefühle im Feld: Die “Sammelwut” der Anthropologen in Bezug auf Körperteile und das Konzept der “Rasse” um die Jahrhundertwende* [Feelings in the Field: the “Collection Rage” of Anthropologists for Body Parts and the Fin-De-Siecle Concept of “Race”], in Stoecker, *et al.*, *supra* note 6, 24, 31.

<sup>75</sup> HOFFMANN, *supra* note 65, at 65.

<sup>76</sup> See Ethnological Museum, *North American Ethnology* (visited Sept. 11, 2018), *online at* [www.smb.museum/en/museums-institutions/ethnologisches-museum/collection-research/about-the-collection.html](http://www.smb.museum/en/museums-institutions/ethnologisches-museum/collection-research/about-the-collection.html).

<sup>77</sup> RUDOLF VIRCHOW, *CRANIA ETHNICA AMERICANA: EINE AUERLESENE SAMMLUNG AMERIKANISCHER SCHÄDELN* [CRANIA ETHNICA AMERICANA: A CHOICE COLLECTION OF AMERICAN SKULLS] (1892).

American aborigines preserved in the Museums in Berlin,” prefaced by a “chapter on American craniography”<sup>78</sup> to position the skulls within “the ethnic law of hereditary development.”<sup>79</sup>

Virchow analyzed the skulls not only of Californians, but also skulls of a Paiute person from Nevada, a Coeur d’Alene person,<sup>80</sup> a person from Oregon, and a Ponca person from Nebraska.<sup>81</sup>

Virchow’s American skull collections later came under Luschan’s administration at the Museum.

26. The Museum of Ethnology actively traded, including with American museums and traders. The Museum’s trading relations with the AMNH were so firm, that by 1911, the AMNH President named the Berlin Museum of Ethnology as “[a]mong the chief institutions from which exchanges are in active progress.”<sup>82</sup> The Museum’s America Department also conducted many transatlantic trades, including, *e.g.*, with the National Museum (Smithsonian) in 1874 and 1878,<sup>83</sup> with George J. Engelmann in St. Louis in 1881, the Milwaukee Public Museum in 1898, the University of Pennsylvania Museum of Archaeology and Anthropology in 1898, the AMNH,<sup>84</sup> the Field Museum in Chicago in 1908, the Heye Museum in New York in 1912, and with the Stolper Galleries and Alan Lapiner in New York in 1965 and 1967.<sup>85</sup>

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<sup>78</sup> See *Notice of New Books: Crania Ethnica Americana*, 27 JOURNAL OF ANATOMY AND PHYSIOLOGY, NORMAL AND PATHOLOGICAL 565 (1893).

<sup>79</sup> Daniel G. Brinton, *Book Reviews: Crania Ethnica Americana*, 20 SCIENCE 278, 279 (1892). Virchow had already presented the skull tables at the 1888 American Studies Congress in Berlin; here he expanded his analysis to “treat the most convoluted questions of American ethnology using excellent material.” *Discussions: Crania Ethnica Americana*, 24 ZEITSCHRIFT FÜR ETHNOLOGIE [JOURNAL OF ETHNOLOGY] 241, 242 (1892).

<sup>80</sup> See *Crania Ethnica Americana*, 17 GEOGRAPHISCHES JAHRBUCH [GEOGRAPHIC YEARBOOK] 412 (1894).

<sup>81</sup> See VIRCHOW, *CRANIA ETHNICA AMERICANA*, *supra* note 77, Tables XVIII, XX. Virchow wove American skulls into previously developed theories, such as those expressed in *On Some Characteristics of the Skulls of the Lower Races of Man* (1874), where he advances the view that “frontal projections” of the temporal bone deform the development of brain functions: a “mark of lower, but not necessarily of the lowest races.” Arthur E.R. Boak, *Rudolf Virchow: Anthropologist and Archaeologist*, 13 SCI. MONTHLY 40, 42 (1921).

<sup>82</sup> *Report of the President*, 43rd Annual Report of the American Museum of Natural History 25 (1911).

<sup>83</sup> See HOFFMANN, *supra* note 65, at 225–26. The Smithsonian, for its part, had amassed over “11,000 racial crania and skeletons [and] 1,600 human and animal brains” by the early twentieth century. Aleš Hrdlička, *Physical Anthropology in America: an Historical Sketch*, 16 AMERICAN ANTHROPOLOGIST 508, 548 (1914)

<sup>84</sup> See GUIDE THROUGH THE MUSEUM OF ETHNOLOGY, *supra* note 70, at 118.

<sup>85</sup> See HOFFMANN, *supra* note 65, at 225–26.



27. The “substantial contact” that German commercial activity enjoyed with the United States included a visit from Luschan himself. Luschan and Mrs. Luschan arrived in Hawaii in mid-September 1914.<sup>86</sup> While there, Luschan exhumed the human remains of eighty-three Hawaiian people at Awalua, Lanai, and other human remains from Oahu,<sup>87</sup> on behalf of the Bernice Pauahi Bishop Museum, which kept the remains he unearthed.<sup>88</sup> The Luschans arrived in San Francisco in October, and traveled throughout the U.S.,<sup>89</sup> lecturing at universities on race and heredity, including a series at the University of Illinois at Champaign-Urbana, and in December 1914, the Luschans arrived in Morningside Heights, New York City, and moved into Columbia University’s posh “Kaiser Wilhelm Professor” apartment.<sup>90</sup>

28. In coordination with Boas, acting in his official capacities at the AMNH, the Luschans dedicated their time in the U.S. to a study of African-American men and women, and traveled the country, “substantial[ly] contact[ing]” the United States, in an attempt to write an “utmost careful and exhaustive monograph[.]”<sup>91</sup> concerning African-Americans.<sup>92</sup> This monograph was ultimately published in late-1915 as a Special Print by the *Colonial Review*, intended as an introduction to African-American ethnology, race, culture, and demography.<sup>93</sup>

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<sup>86</sup> John David Smith, *Felix von Luschan’s Trip to America 1914–1915*, in Ruggendorfer & Szemethy, *supra* note 3, 141, 141–43.

<sup>87</sup> See *Director’s Annual Report*, 6 OCCASIONAL PAPERS OF BERNICE PAUAHI BISHOP MUSEUM 26 (1918).

<sup>88</sup> *Id.* at 143; Nat’l Park Service, Notice: Inventory Completion of Native American Human Remains in Collections of the Bernice Pauahi Bishop Museum, Honolulu, HI, Fed. Reg. Doc. 95-15963 (June 28, 1995), 60 FED. REG. 33846 (June 29, 1995); *Visit of Noted Scientist*, HAWAIIAN ALMANAC AND ANNUAL 144 (1914).

<sup>89</sup> Smith, *supra* note 86, at 144.

<sup>90</sup> *Id.* at 144, 143–47.

<sup>91</sup> Luschan, Speech, *supra* note 13, at 165, Exhibit A.

<sup>92</sup> Smith, *supra* note 86, at 150.

<sup>93</sup> See generally FELIX VON LUSCHAN, DIE NEGER IN DEN VEREINIGTEN STAATEN [THE NEGROS IN THE UNITED STATES] (1915). Here, Luschan also discusses white supremacist policy and race theory, translating into German the writings of William B. Smith, Robert W. Shufeldt, Charles B. Davenport of the Eugenics Record Office, and Alfred H. Stone, who Luschan calls “an outstanding man.” *Id.* at 508–510, 514–23, 527–31. Luschan also presents the writings and work of men such as Booker T. Washington, W.E.B. DuBois, and Monroe N. Work. *Id.* at 510–13. Luschan reports on black education through surveys at Hampton and Tuskegee, *id.* at 512–14, compares the blacks of the South with Eastern-European Jews of urban Europe, *id.* at 539, and treats eugenics issues and racial

29. Upon arriving in New York, Luschan wrote to Booker T. Washington and W.E.B. DuBois, announcing “I would like to study some problems of heredity,” requesting their aid in conducting an “exact pedigree of some hundred coloured families” to obtain “anthropometric and other data,”<sup>94</sup> and proposing, “if possible, measuring and describing every single available member of such families.”<sup>95</sup> With help from Washington, the AMNH, and other benefactors, the Luschans traveled to Tennessee, Missouri, Mississippi, Louisiana, Alabama, and Virginia, where they undertook “pedigree” and anthropometric studies on some 100 African-American families and 350 individuals,<sup>96</sup> alongside other studies, such as measuring the fingers and nostrils of schoolchildren, and coding their skin color.<sup>97</sup> In March 1915, Luschan reported to Boas that he gathered “valuable research,” and in April, before returning to Germany, he deposited this valuable data, research, and analysis with Boas at the AMNH.<sup>98</sup>

30. Luschan also engaged in collection activity while here. In Louisiana, Luschan met anatomist Professor Robert B. Bean at Tulane.<sup>99</sup> By agreement reached between the two men, Bean shipped the remains of African-American people from Louisiana to the Museum of

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marriage laws with a state-by-state survey, *id.* at 520–27. Luschan also treats proposed solutions to the “black question,” including proposals of Smith, Graves, and Shufeldt that climax in mass deportation. *E.g.*, *id.* at 514. In line with Luschan’s view of the equal dignity of human races, he concludes that African-Americans should be preserved and uplifted by the state. *Id.* at 535–36, 539–40.

<sup>94</sup> Smith, *supra* note 86, at 149–50 (quoting Letter, Luschan to Booker T. Washington (Dec. 23, 1914)).

<sup>95</sup> See Letter, Felix von Luschan to W.E.B. DuBois (Jan. 7, 1915), *online at* <http://credo.library.umass.edu/view/full/mums312-b009-i090>.

<sup>96</sup> See Smith, *supra* note 86, at 149–58, 156.

<sup>97</sup> *Felix von Luschan*, GERMANY AND THE AMERICAS: CULTURE POLITICS AND HISTORY 705, 706 (2005); Smith, *supra* note 86, at 149–55 (describing Luschan’s research in the U.S.).

<sup>98</sup> Smith, *Felix von Luschan’s Trip to America*, *supra* note 90, at 158. Luschan’s data and research was posthumously published in several publications. See Melville J. Herskovits, *The Physical Form of the American Negro*, 4 ANTHROPOLOGISCHER ANZEIGER [ANTHROPOLOGICAL GAZETTE] 293 (1927); Melville J. Herskovits, *Felix von Luschan’s Messungen amerikanischer Neger* [*Felix von Luschan’s Measurements of American Negroes*], 61 ZEITSCHRIFT FÜR ETHNOLOGIE [JOURNAL FOR ETHNOLOGY] 337 (1930).

<sup>99</sup> Smith, *Felix von Luschan’s Trip to America*, *supra* note 90, at 151.

Ethnology via the German Consulate in New York City, which thereby commercially trafficked in preserved ears, heads, brains, and other soft tissue of African-American men and women.<sup>100</sup>

31. **Sale of the Teaching Collection to the AMNH.** Luschan died in February 1924. The Teaching Collection was then sold to the AMNH, and, based on the available evidence, the purchase price was paid on the AMNH's behalf by New York philanthropist Felix Warburg.<sup>101</sup> This transaction's commercial nature is confirmed by a notice from the National Park Service: "Felix Warburg purchased these remains from Professor von Luschan and, in 1924, donated them to the American Museum of Natural History."<sup>102</sup> According to experts Beate Kunst and Ulrich Creutz, upon Luschan's death in February 1924, "although Emma von Luschan wanted to keep her husband's Teaching Collection as heir, she did not receive a positive decision [and] the objects were eventually sold in the U.S."<sup>103</sup>

32. The evidence is clear that the sale and shipment of the Teaching Collection from the Museum of Ethnology to the AMNH in New York was a commercial transaction having substantial contact with the United States within the meaning of 28 U.S.C. § 1603(a)(3). Of course, the Teaching Collection is "connect[ed] with" more than just the transaction by which it arrived, but rather with all of the commercial activities discussed herein undertaken by Germany as the Teaching Collection's custodian, creator, sponsor, owner, innovator, and beneficiary for over two decades.

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<sup>100</sup> *Id.* at 152.

<sup>101</sup> See Accession Card and Accession Record, Katuu Declaration, Pls' Opp. to Mot. to Dismiss, Exs. 1 & 2 (Dkt. No. 45-2); RON CHERNOW, THE WARBURGS: THE TWENTIETH-CENTURY ODYSSEY OF A REMARKABLE JEWISH FAMILY 86, 95–109 (1993).

<sup>102</sup> Notice: Inventory Completion for Native American Human Remains and Associated Funerary Objects in Possession of the American Museum of Natural History, New York, 66 FED. REG. 20330, 20330 (Mar. 30, 2001).

<sup>103</sup> Kunst & Creutz, *supra* note 2, at 94.

33. After the Teaching Collection arrived at the AMNH in New York, it was used by students and scholars from around the world, as early as Harry L. Shapiro's 1926–29 study of a skull series from the Greifenberg region of Carinthia,<sup>104</sup> and as recently as Morongwa N. Mosothwane's 2013 study of South African human remains in the United States.<sup>105</sup>

34. Available photographs of the Teaching Collection establish that it contains Herero and Nama human remains acquired by Luschan with support of the German state, military, and colonial administration. For example, a photograph of a page in Luschan's notebook identifies "Cranium . . . 2793,"<sup>106</sup> and on the left-hand page next to the 2793 entry, a handwritten note states: "Von Herrn Drauschke um M. 20 gekauft. Quittung bei E. 1832/07" ("Bought from Mr. Drauschke for 20 Marks. Receipt with E. 1832/07"). Confirming this is a photograph showing a skull marked "2793" and "Hottentottin," referring to a Nama woman.<sup>107</sup> Other writing on the skull appears to state "durch Franz Drauschke für M. 20 erworben," which means "purchased from Franz Drauschke for 20 marks." The skull appears to be dated December 28, 1907, and signed "v.L.," *i.e.*, von Luschan. I do not know who Franz Drauschke is.

35. Another set of photographs shows a skull marked "1512,"<sup>108</sup> with other writings including one identifying the skull as having belonged to a 30-year-old Ovatjimba Herero man. The skull is signed and dated "K. Borchmann e.t. 1896," alongside another "K. Borchmann"

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<sup>104</sup> See Harry L. Shapiro, *Contributions to the Craniology of Central Europe*, 31 ANTHRO. PAPERS OF THE AMERICAN MUSEUM OF NAT'L HIST. 1 (1929).

<sup>105</sup> Morongwa N. Mosothwane, *An Account of South African Human Skeletal Remains at Three North American Museum Collections*, 11 S. AFR. ARCH. SOC'Y GOODWIN SERIES 27 (2013); see also Vincent Francigny, *et al.*, *At the Border Between Egypt and Nubia: Skeletal Material from El-Hesa Cemetery 2*, 6 J. ANC. EGYPTIAN INTERCONNECTIONS (2014) (studying human remains in the Teaching Collection). Several dissertations were also recently written using the Teaching Collection, *e.g.*, Steven F. Miller, *The Patterning and Determinants of Craniofacial Robusticity in Extant Homo Sapiens* (Diss. 2010), <http://ir.uiowa.edu/etd/857>; Martha K. Spradley, *Biological Anthropological Aspects of the African Diaspora: Geographic Origins, Secular Trends, and Plastic Versus Genetic Influences Utilizing Craniometric Data* (Diss. 2006), [http://trace.tennessee.edu/utk\\_graddiss/1864](http://trace.tennessee.edu/utk_graddiss/1864).

<sup>106</sup> See Katuu Declaration, Pls' Opp. to Mot. to Dismiss, Ex. 4 (Dkt. No. 45-2).

<sup>107</sup> See *id.* Ex. 5.

<sup>108</sup> See *id.* Ex. 6.

signature, which is likely Karl Borchmann, *Schutztruppe* Veterinary Officer, and known trader of human remains.<sup>109</sup> A marking also appears to state “T.m.d.M.f. Naturk.,” which probably means “Tausch mit dem Museum für Naturkunde” (“Exchange with the Museum of Natural History”).

It is signed and dated “1899 v.L.,” *i.e.*, von Luschan. Dr. Mosothwane also studied this skull:

One specimen (VL/1512) had dental modification in which maxillary first incisors were filed and their mandibular counterparts had been removed. The skull had an ink marker indicating the individual was an Ovanjimba-Herero [sic]. The Herero people (commonly found in Namibia and northwestern Botswana) are popularly known for dental modification similar to the one described herein (Van Reenen 1978a, 1978b).<sup>110</sup>

36. Another photograph I examined shows a skull in the Teaching Collection with the number “5263” on the left mandible, and signed “v.L.,” *i.e.*, von Luschan. It is also marked “Lüderitzbucht,” *i.e.*, Lüderitz Bay, suggesting that the skull belonged to a victim at the Lüderitz Bay concentration camp, where prisoners were held in conditions designed to kill them, where up to 70 percent of the Herero and Nama prisoners perished, and where skulls and body parts were taken en masse as an integral part of Germany’s takings in violation of international law.<sup>111</sup>

37. **Germany’s Ongoing “Commercial Activity” Related to Herero and Nama Human Remains.** Because of their inextricable link to the Teaching Collection and the Museum of Ethnology, the Herero and Nama human remains have a strong, sufficient connection to Germany’s ongoing commercial activities in areas of bone maintenance, repatriation, and scientific and cultural disentanglement, which continue today, still having substantial contact

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<sup>109</sup> Holger Stoecker, *Human Remains als historische Quellen zur namibischen-deutschen Geschichte: Ergebnisse und Erfahrungen aus einem interdisziplinären Forschungsprojekt* [*Human Remains as Historical Sources in Namibian-German History: Results and Experiences from an Interdisciplinary Research Project*], in SOURCES AND METHODS FOR AFRICAN HISTORY AND CULTURE 469, 479 (Geert Castryck, *et al.*, eds. 2016).

<sup>110</sup> Mosothwane, *supra* note 105, at 27.

<sup>111</sup> *See supra*, ¶ 14 & n.35–37.

with the United States, and although the ultimate sovereign *purposes* are different, Germany's acts and activities remain judged by their *nature*.

38. Germany has long played a role in the complex repatriation process, including with the Charité Human Remains Project itself, funded by the German Research Foundation (*Deutsche Forschungsgemeinschaft*),<sup>112</sup> which is financed by the German government. In 2008, the German Foreign Office (*Auswärtiges Amt*) accepted this logistical role, granting a request for repatriation of Herero, Nama, and other Namibian human remains, and approving 300,000 Euros to finance the identification and return of Ovaherero, Nama, and other human remains.<sup>113</sup>

39. Three repatriations have taken place thus far. In September 2011, the remains of nine Herero and eleven Nama men, women, and children were repatriated by the Charité, eighteen of whom had died at Lüderitz Bay.<sup>114</sup> In March 2014, the remains of a total of thirty-eight Herero, Nama, and other Namibian individuals, were repatriated by the Charité and the University of Freiburg.<sup>115</sup> And in August 2018, the human remains of twenty-seven Herero, Nama, and other Namibian individuals, were repatriated by the Charité.<sup>116</sup> Germany's continued

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<sup>112</sup> See Koel, *et al.*, *Specimen A 817 (Nama)*, *supra* note 38, at \*2.

<sup>113</sup> See *Leichen im Keller [Corpses in the Basement]*, Fränkische Nachrichten (Oct. 1, 2011), *online at* [http://www.namibia-botschaft.de/images/stories/Herero/newspaperclips/presseclipping\\_rckgabe\\_260911\\_bis\\_041011.pdf](http://www.namibia-botschaft.de/images/stories/Herero/newspaperclips/presseclipping_rckgabe_260911_bis_041011.pdf), at \*29.

<sup>114</sup> See *Restitution of Namibian Skulls in 2011*, Charité Universitätsmedizin Berlin, *online at* [https://anatomie.charite.de/ueber\\_den\\_faecherverbund/human\\_remains\\_projekt/restitution\\_of\\_namibian\\_skulls\\_2011/](https://anatomie.charite.de/ueber_den_faecherverbund/human_remains_projekt/restitution_of_namibian_skulls_2011/); Hadija Haruna, *Genocide in Africa: Murdered, Dissected, and Researched*, Tagesspiegel (Sept. 27, 2011), *online at* <https://www.tagesspiegel.de/wissen/genozid-in-afrika-ermordet-praepariert-und-erforscht/4665882.html>; *Namibian Human Remains Identified in S. Africa*, The Namibian (Apr. 4, 2018), *online at* <https://www.namibian.com.na/176068/archive-read/Namibian-human-remains-identified-in-South-Africa>.

<sup>115</sup> See *Restitution of Namibian Skulls in 2014*, Charité Universitätsmedizin Berlin, *online at* [anatomie.charite.de/ueber\\_den\\_faecherverbund/human\\_remains\\_projekt/restitution\\_of\\_namibian\\_remains\\_2014/](https://anatomie.charite.de/ueber_den_faecherverbund/human_remains_projekt/restitution_of_namibian_remains_2014/); Tendai Marima, *Bones of Contention: the Politics of Repatriating Namibia's Human Remains* (Mar. 19, 2014), *online at* [http://www.no-humboldt21.de/wp-content/uploads/2014/03/Bones-of-Contention\\_-The-Politics-of-Repatriating-Namibias-Human-Remains-\\_-Think-Africa-Press.pdf](http://www.no-humboldt21.de/wp-content/uploads/2014/03/Bones-of-Contention_-The-Politics-of-Repatriating-Namibias-Human-Remains-_-Think-Africa-Press.pdf); Press Release, University of Freiburg (Mar. 4, 2014), *online at* <https://www.pr.uni-freiburg.de/pm/2014/rektorat-zeremonie-ruckfuhrung-04-03-14-pm-english.pdf>.

<sup>116</sup> See *Germany to Return Human Remains from Namibian Genocide*, East African (Aug. 29, 2018), *online at* <http://www.theeastafrican.co.ke/news/afrika/Germany-to-return-Namibia-genocide-skulls/4552902-4734226-qgvjj/index.html>; Michelle Münterfering, Speech on the Occasion of the Third Repatriation of Human Remains from Germany to Namibia (Aug. 31, 2018), *online at* <https://windhuk.diplo.de/na-en/aktuelles/-/2131686>; Kirsten

commercial activities also includes funding for the travel and accommodation of those groups on the receiving end of the repatriation, including, *e.g.*, 50,000 Euros paid by the German Foreign Office to accommodate guests from Namibia for the most recent repatriation of human remains in August 2018.<sup>117</sup> Germany reaffirmed its role in the repatriation of human remains from public and private German collections, when on August 31, 2018, commemorating the most recent repatriation German Minister of State Michelle Müntefering said:

The German Government will [ ] make further efforts to determine the origin of as many of the human remains as possible that have been kept in Germany. We will expand our provenance research, so that we can acquire the necessary knowledge in this field and thereby return, with dignity and respect, the remains that are still in German institutions.<sup>118</sup>

40. Germany’s earlier commercial activities and its ongoing commercial winding-up, investigation, identification, and repatriation activities *still* have a global reach that “substantial[ly] contact[s]” the United States. In 2017, the CEO of the Office of Hawaiian Affairs, a public agency, along with other Native Hawaiians and representatives, traveled to Germany, where on October 23, 2017, the State of Saxony handed over the human remains of four Hawaiian people.<sup>119</sup> And in May 2018, a representative of the Chugach Alaska Corporation

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Grieshaber, *Germany Returns Twenty-Seven Sets of Colonial Era Remains to Namibians*, AP News (Aug. 29, 2018), online at <https://www.apnews.com/4d0d65b1f0f3427cad384180ded754d6>.

<sup>117</sup> See *Weitere Schädel und Witboois Bibel werden repatriert* [Additional Skulls and Witbooi’s Bible to be Repatriated], Allgemeine Zeitung (Windhoek) (Aug. 22, 2018), online at <https://www.az.com.na/nachrichten/weitere-schdel-und-witboois-bibel-werden-repatriert2018-08-21/>.

<sup>118</sup> See Speech by Minister of State for International Cultural Affairs of the Federal Republic of Germany Michelle Müntefering on the Occasion of the Third Repatriation of Human Remains from Germany to Namibia (Aug. 31, 2018), online at <https://windhuk.diplo.de/na-en/aktuelles/-/2131686>.

<sup>119</sup> See *Germany Returns Iwi Kupuna to Hawaii*, Big Island Video News (Oct. 27, 2017), online at <http://www.bigislandvideonews.com/2017/10/27/video-germany-returns-iwi-kupuna-to-hawaii/>; *German State Returns Human Bones Stolen from Hawaii Caves*, U.S. News (Oct. 23, 2017), <https://www.usnews.com/news/best-states/hawaii/articles/2017-10-23/german-state-returns-human-bones-stolen-from-hawaii-caves>.

traveled to Berlin to receive “funerary artifacts” from the Prussian Cultural Heritage Foundation, which Jacobsen had acquired while engaged for the Museum of Ethnology in 1881–83.<sup>120</sup>

### Conclusion

41. Notwithstanding the dehumanization caused by Germany’s trade in these remains, it must be kept in mind that each skull is “[m]ore than just an object;”<sup>121</sup> that they are “witnesses to, and evidence for what the Germans did between 1904 and 1908”;<sup>122</sup> that they are Plaintiffs’ family members, anonymized and transformed into private property; and that they were treated as mere objects to rigorous examination. Moreover, it is respectfully suggested that each skull be viewed in the context of its *in rem* embodiment of the unique racial injury inflicted by Germany, which was suffered by the Ovaherero and Nama individually and collectively, with a distinct, painful, and unprecedented interest in the victims’ races, skulls, soft tissues, and the scientific secrets they allegedly contained. That is, the Amended Complaint’s gravamen broadly extends from the taking of land and livestock to the taking of people, because Plaintiffs allege not only state-sanctioned wars of extermination, expropriation, and enslavement, but also mass takings of bodies and body parts in violation of international law. Also crucial, as it exacerbates the injury to Plaintiffs, is that the Ovaherero and Nama are ancestor-worshipping societies who treat the dead as among the living, which the German state knew or should have known,<sup>123</sup> but

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<sup>120</sup> Voice of America, *Berlin Museum Returns Native American Artifacts* (June 7, 2018), *online at* [learningenglish.voanews.com/a/berlin-museum-returns-native-american-artifacts-to-tribe-in-alaska/4419712.html](http://learningenglish.voanews.com/a/berlin-museum-returns-native-american-artifacts-to-tribe-in-alaska/4419712.html); *Ethnological Museum Returns Objects to Alaska Natives* (Dec. 17, 2017), [www.preussischer-kulturbesitz.de/fileadmin/user\\_upload/documents/presse/pressemitteilungen/2017/171218\\_Restitution-Chugach\\_EN.pdf](http://www.preussischer-kulturbesitz.de/fileadmin/user_upload/documents/presse/pressemitteilungen/2017/171218_Restitution-Chugach_EN.pdf).

<sup>121</sup> *See generally* FABER-JONKER, *supra* note 30, at 109.

<sup>122</sup> *See id.* at 114 (2018) (quoting Andreas Winkelmann, Charité Human Remains Project).

<sup>123</sup> *See generally* Carl Gotthilf Büttner DIE HERERO UND IHRE TOTEN [THE HERERO AND THEIR DEAD] (1884). C.G. Büttner later served as Imperial Agent in Hereroland and Great Namaqualand. *See also* OLUSOGA & ERICHSEN, *supra* note 29, at 21 (2010); JOHANNES IRLE, DIE HEREROS [THE HERERO] 72–86, 144–48 (1906). *See also* ALEXANDER RÖHREKE, DER KOSMOS DER HERERO [THE COSMOS OF THE HERERO] 49–50 (2001).



nonetheless exploited the Herero and Nama dead for commercial purposes. The gravity and breadth of the injury, embodied in the human remains, supports this Court’s jurisdiction over all of Plaintiffs’ takings claims.

42. The Herero and Nama human remains arrived here from places like Lüderitz Bay, where they were taken and treated as private property, bought, traded, and studied, and thus unquestionably constitute “property taken in violation of international law” as alleged. And, in fact, Luschan placed them right alongside the skulls of Mohawk people in his Teaching Collection in Berlin. Plaintiffs’ continuing investigation since July 2018 has, we believe, thus uncovered important facts showing that the Herero and Nama human remains at the AMNH are connected to many commercial activities carried on by Germany both within the United States and elsewhere “having substantial contact with” the United States. It is respectfully requested, therefore, that the Court consider these new facts in its analysis of whether the Amended Complaint meets the jurisdictional requirements.

43. **Exhibits.** The following exhibits are attached to this Supplemental Declaration:

- A. Felix von Luschan, Speech, *Ziele und Wege der Völkerkunde in den deutschen Schutzgebieten* [Goals and Methods of Ethnology in the German Protectorates] (Oct. 11, 1902), in SONDERAUSDRUCK AUS DEN VERHANDLUNGEN DES DEUTSCHEN KOLONIALKONGRESSES [SPECIAL PRINT FROM THE PROCEEDINGS OF THE GERMAN COLONIAL CONGRESS] (1902) (Translation and Original as A-1 and A-2);
- B. Retouched Photograph (Postcard) and Traced Drawing (Book) of German Soldiers Loading Chest of Skulls;<sup>124</sup>

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<sup>124</sup> FABER-JONKER, *supra* note 30, at 57.

C. Illustrations of five Herero men by Heinrich F.B. Zeidler;<sup>125</sup> *and*

D. Illustrations of Herero and Nama Children by Heinrich F.B. Zeidler.<sup>126</sup>

44. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 21, 2018 in Las Vegas, Nevada.



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<sup>125</sup> Heinrich F.B. Zeidler, *Beiträge zur Anthropologie der Herero* [Contributions to the Anthropology of the Herero], 17 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 185, 199, 207, 213, 218, 223 (1914).

<sup>126</sup> Heinrich F.B. Zeidler, *Beiträge zur Anthropologie der Gesichtswichteile der Neger* [Contributions to the Anthropology of the Soft Facial Tissue of the Neger], 21 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 153, 159, 163 (1920).

# **Exhibit A-1**

Felix von Luschan, Speech, *Ziele und Wege der Völkerkunde in den deutschen Schutzgebieten* [Goals and Methods of Ethnology in the German Protectorates] (Section Meeting, Oct. 11, 1902, in the a.m.) *printed in SONDERAUSDRUCK AUS DEN VERHANDLUNGEN DES DEUTSCHEN KOLONIALKONGRESSES* [SPECIAL PRINT FROM THE PROCEEDINGS OF THE 1902 GERMAN COLONIAL CONGRESS] 163 (1902).

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[163] Ethnology in the broadest sense comprises the entirety of humanity from the first appearance of human or human-like beings up until present day. In a narrower sense of the word, it is divided into three fields of research: ethnography, anthropology, and prehistory.

[164] Of these three disciplines, prehistory finds itself in our protectorates in the very earliest stages. Sharpened stone axes are known only in Togo, and indeed in thousands of examples, but even there we know them only in their secondary appearance as magic or lightning stones in the possession of the current residents. We find such sharpened stone axes as such and even secondary replicas of prehistoric axes in all of the Guinea Highlands, where they are also related to oath stones, especially in Benin, where they were part of the sixteenth century royal array, and, comparable to Zeus's bundle of lightning, were held by kings as a scepter. Just like many farmers in our parts, the *Neger* of the Guinea Highlands also believes that when he finds such an axe on his fields after a thunderstorm, that it fell from the heavens with lightning.

Schweinfurt already brought back similarly sharpened axes made of hematite from the land of the Monbuttu, where the natives also consider them "thunder wedges," and no longer recognize them as tools. In recent years from the Congo basin and from Egypt, other, seemingly even much older stone artifacts have become known, hammered out entirely crudely, which, according to their appearance, correspond completely with the "paleolithic" flintstones of prehistoric Europe. Larger global movements, as such may be called for by more intensive agricultural use and in particular by locomotive systems, may shed throughout all of Africa even more light on the prehistory of humanity.

Who were the oldest humans, what did they do, where did they arise, how and with what means did they maintain and develop themselves further in the fight for survival? These are the initial questions that are imposed upon the prehistorian. But it is still completely uncertain in which part of the earth and in which zone these questions will first be solved.

The task of anthropology and ethnography, in contrast, is to research how, where, and when the later and the present still living races and *Völker* arose, how they live and aspire, how they behave to their neighbors, and what conclusions from the history of the human species can be drawn for its future.

That is the large field of work for the many anthropological and ethnographical organizations and museums, which have arisen in recent decades. In order to promote these goals as swiftly and as comprehensively as possible, the Ethnological Museum of Berlin has drafted a broadly arranged schematic of questions, to serve as an “Guide to Ethnographic Observation and Collection,” [165] which was distributed for free in thousands of copies, and which have already born rich fruits.

The most important groundwork and the only firm foundation for any advance in ethnology lies in the utmost careful and exhaustive monographic treatment of each individual tribe. Much has already been done here in our protectorates (Stuhlmann, Fülleborn, Krämer, Pater Erdweg, and others), but there is still much more left to do, and there is danger in delay: modern transportation is a frightful and grim enemy of all primitive circumstances; whatever we cannot secure in the coming years and rescue for posterity, will face absolute demise, and can never again be obtained. Conditions and institutions, which have developed in their own unique way over thousands of years, are now changing almost from one day to the next under the influence of the white man; and so, snatch quickly, before it becomes forever too late. —

The further development of ethnology is thus initially a comparative one. Boas's work on the North American Indians, for example, has shown in an exemplary manner what can be achieved in the field of mythology. In our protectorates, and in particular in Polynesia, almost immeasurable mythological treasures have been piled up, the salvage of which has in many places only just now been attempted, while other comparative research exists in great number, of which Weule's examination of the African arrow and Ankermann's work on musical instruments can be highlighted as exemplary.

Other pathways lead in whole or in part to neighboring fields. Linguistic, technical, zoological, botanical, anatomical, and biological, as well as jurisprudential and sociological examinations belong so comprehensively to our daily work tools, that indeed there is no scientific discipline besides ethnology that has as many and as intimate relationships to other sciences. Even fields apparently completely remote are now brought into the field of ethnology. For example, the new examinations by Stumpf, Abraham, v. Hornbostel, and others, have opened us to completely new and previously unimagined perspectives on the ethnographical meaning of musical studies—similar to how the recent lucky discovery of ancient Greek music awoke in us the hope of learning something one day about ancient Babylonian music.

First and foremost, however, the examinations on the origin and spread of the languages are to be mentioned, and the enormous field of comparative linguistics. [166] From other disciplines, for example, questions to be mentioned include the origin of the wheat varieties, the banana, the coconut,<sup>1</sup> or the question of the origin of our domesticated animals. The history of

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<sup>1</sup> Professor Neger in Eisenach recently discussed the origin, history, and spread of the coconut palm (Globus, Vol. 82, p. 92). I cannot entirely agree with the models used by this author, and all the less so as he completely misses its broad appearance in Africa. Also with the strange confusing of coconut with kava, special weight need not be given to the author's other explications.

ceramic, weaving, cattle domestication,<sup>2</sup> cannot be studied without technical knowledge, and that is true all the more as to bronze technology, which, *e.g.*, in the Guinea Highlands has blossomed with such grand flowers, and only especially so with regard to iron technology, about which we now know that it was born in tropical Africa, and that we Europeans therefore have to thank the black “wild people” for it.

In contrast, purely social questions, at least temporarily, play a much smaller role than here. In the colonies there is still no pauperism, almost no crime, no unmarried women, and thus also no woman question.

The only social questions that are now of great importance in our protectorates, are the relationship of the magicians and rainmakers to the chiefs, thus precisely what by us one knows as the fight between church and state.

Now, however, under the European influence, other social questions have unfortunately arisen, all connected with the triple plague that we have inflicted upon our dark brothers, with alcoholism, with venereal disease (I remind you only of the equation “Civilization = Syphilization,” as shameful as appalling, which was the case for all of Africa and all of Oceania), [167] and with the slave hunts that, as “*labour trade*,” are not a bit less brutal, mean, and base as it was in Africa.

There is no doubt, that, under the long-lasting effect of these sinister influences, the same social-anthropological circumstances that we suffer at home will also arise sooner or later in our protectorates, initially pauperism and crime. But there it can be countered more easily than here.

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<sup>2</sup> As to cattle breeding techniques, it appears India must be seen as the place of origin. Remnants of the technique are still in existence there, both concretely present and verifiable in the literature. From India, the technique traveled west to Africa and east to Oceania—similar somewhat to the banana, which undoubtedly can be transplanted only by sapling, and thus certainly spread through human collaboration. The origins of North American cattle raising technique still clearly remain uncertain.

Nothing is in a more sorry state in Europe today than the criminal law. For some two-thousand years, we have studied crime, but not the criminal. We avoid any and all prophylaxis, and we shut the barn door only after the ox ran off. Our jurists will one day come to understand what our doctors have long known, that prevention is more important than healing; but it will take much time in Europe in light of the *vis inertia*, which appears characteristic of all legislatures.<sup>3</sup>

The task of our colonial administration will be formed all the more beautifully and thankfully, hurrying ahead on its own and by the slowly lagging reform of domestic criminal law, to isolate individuals who have become morally defect, and thereby make impossible not only their own reproduction, but also the social evils themselves that come with them.

[168] Examinations of the position of the human in nature fall again in a different field, that of the descriptive and comparative anatomy, zoology, and biology.

Last year at the International Zoological Congress in Berlin, Branco presented in an illuminating way the current status of this work, and there also made mention of the surprising results of Friedenthal's blood experiments. Research like this would belong together with the research plan of a biology laboratory to be erected in Cameroon.<sup>4</sup>

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<sup>3</sup> Our judiciary is only now starting to deal with these questions; now in Berlin, Professor von Liszt is to thank for the numerous proposals for reform of our completely antiquated criminal law. The "conditional judgment" and the possibility of placing alcoholics under guardianship are meaningful starts for a scientific social hygiene.

In most other countries, the administration is either completely mindless as to these ideas or directly inimical to them. Typical for these circumstances is the treatment of people with alcoholism in the vast majority of countries. These unfortunate invalids stay with their family or in their surroundings until they drink in excess in particular amounts, then they go for a few weeks to a hospital, from which they are released due to lack of space as soon as the acute symptoms have vanished; hardly back in the old circumstances, they again become a source of misfortune for family and friends, ultimately have to return to the hospital and be again released, and that is often repeated until they eventually kill their wife or kids one day, or otherwise commit murder and homicide.

<sup>4</sup> Friedenthal's examinations have shown that human blood has a more or less toxic function on the blood of all other animals, but not on the blood of the orangutan, the chimpanzee, and the gibbon. The new methods for examining small blood flecks by serum examination are as important for zoology as for forensics, and makes the "blood relationship" between humans and hominids appear far greater than anyone has yet dared to assume.

Fertile crossings between humans and apes are no longer possible today, but there must have been a time during which it was possible; W. Branco actually thinks it possible that DuBois's pithecanthropus was a *Mischling* between a human of the Late Tertiary and a hominid ape.



That the scant remains of the pithecanthropus, which are of such decisive importance as to all questions about the position of the human in nature, were found on Java, the justifiable hope appears that similarly meaningful fossils might also be found in neighboring New Guinea.

In close connection with the studies on the relationship between the human to the other mammals, there is the old question about the singularity or multiplicity of the human species. We now know that the process of human evolution occurred just once, and we count the theory of the absolute unity of the human species as among the most important accomplishments of modern anthropology. There are still some researchers, who want to connect the short-headed Malays to the orangutan and the long-skulled *Negers* to the chimpanzee, but one can skip over them on the agenda. It is particularly good for a Colonial Congress to remember the words of K. E. v. Baers directed at the American slave barons and their procurers: [169] only barbaric egoism could deny the obligation of cultured peoples vis-à-vis the *Negers* under the false scientific pretense that they are of a lower species.

With the greatest decisiveness, I must now note that it no longer proper to talk about “wild people” or even about “*Naturvölker*.” All efforts to find the criteria between *Kulturvölker* and “wild people” must be seen as complete failures. Every new author sets new boundaries and discovers intermediate levels. For example, one tried to differentiate between active and passive races, and then Carus inserted between the day people and night people the “twilight people,” and thus placed the *Mongols* between the Europeans and the *Negers*.

Just as naïve and untenable are the separations according to color,<sup>5</sup> “beauty,” cleanliness,<sup>6</sup> morals, shamefulness, the presence or absence of clothing,<sup>7</sup> the possession or absence of a written language,<sup>8</sup> the occurrence of human sacrifice,<sup>9</sup> and any other such type of criteria.

The better that we get to know these “wild people” or these “*Naturvölker*,” all the more we will be able to see that there is nowhere a boundary that sharply and certainly separates them from “*Kulturvölker*.” Even the relatively limited contact with the outside world, which for us generally appears to be the most certain criterion of a primitive *Volk*, is, [170] however, always a relative, never absolute characteristic.<sup>10</sup>

As to the real unity of the human species, it is due to the fact that so far every attempt to separate the human races according to an artificial schematic has failed most miserably. None of these attempts is able to distinguish the *Melanesians* from the *Negers*, and in Huxley’s scheme, even the ancient Egyptians are placed next to Australians!! In this connection, the dwarf peoples or pygmies also need to be mentioned, who were first truly discovered by our Schweinfurth in Monbuttu Land. Now we know many others from elsewhere in Africa, Indochina, and Indonesia, and also in New Guinea some of have been substantiated and have been photographed by Warburg on the Aru Islands; but one now wants to substantiate them also in Europe, Peru, Japan, and actually in the entire world, and one loves to view them as the actual early humans. But one

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<sup>5</sup> Dark skin color is to be considered fundamentally as a protective means against sun burn, and has not the least to do with ethnic dignity.

<sup>6</sup> Many Bantu carefully brush their teeth with a coarse brush after every meal. How many German and Russian farmers have never even heard of a toothbrush! The majority of “wild peoples” also bathe on a daily basis, while there are many Europeans who never wash themselves.

<sup>7</sup> The ancient Greeks (*cf.* Herodotus I. 10, Thucydides I. 6, 5, *etc.*) were proud of their naked bodies and knew that being seen naked was shameful among barbarians.

<sup>8</sup> One could compare the enormous majority of illiterate people, unable to read or write, for example, in Russia, and in contrast, the incredible memory of most Polynesian tribes.

<sup>9</sup> Before the battle of Salamis, the Greeks sacrificed to Dionysus three captured Persians, nephews of Xerxes!

<sup>10</sup> The previous sentences were repeated from my lecture on the childish conception of the so-called *Naturvölker*, held on June 15, 1900 at the Association of Child Psychology in Berlin.

overlooks the fact that there can be many different causes for small stature, and that under the so-called pygmies and pseudo-pygmies, one finds people with long and short skulls, narrow and wide faces, light and dark skin, straight and curly hair.

Actually with many of these real and apparent pygmies, it is a convergence. At the same time there can be no doubt that the superficial similarity between *Melanesians* and African *Negers* is not conditioned on any particularly close relation, but again rests in the same manner on convergence. To date, this word has been used with regard to human race characteristics only by Thilenius, but the term is commonly used among botanists and zoologists. I recall the known similarity between two alpine plants, with no relation between them, and especially the story of the large ostrich-like flightless bird, the ratite, which for a long time one held to be related to the ostrich, descended from a common antarctic home. We now know that some of these ratites are descended from doves, others from rails, and others from crane-like birds, and that there is not the slightest relation between, for example, the African ostrich, the South American rhea, and the New Zealand moa. This gigantism of flightless birds with a flat, keelless sternum is a typical appearance of convergence.

[171] The occurrence of dwarf-like races spread across the entire world is to be viewed in precisely the same manner, just like dark skin color, curly hair, and probably still another set of other characteristics, which one otherwise normally considers as evidence for particularly close racial relationship. The appearance of convergences of this type can naturally lead to incorrect conclusions about racial relationship, and they therefore must be investigated with utmost care.

On the other hand, their determination can contribute to clarifying many circumstances that still remain puzzling. For example, it is not yet ruled out that extreme brachycephaly or blondness in such different races presents as a pure convergence. In many cases one will be able to readily

identify the direct reason of such a convergence. For example, dark skin, which we find in races with such differences from one another, is doubtlessly due to protection against sunburn, provided by the skin pigment, like a dark veil.

In any case, it will be useful in the future in judging race relationships to take convergence into consideration, alongside the similarities conditioned by an original common ancestry, and alongside the appearance of divergence that have long been known.

Like every other science, ethnology also initially has an inner value that is completely independent of the material utilization that it can bring; but also that itself is absolutely to be estimated at no low value. Political successes, always and everywhere, can be expected and achieved only on the basis of ethnographic knowledge, and the ignorance of ethnographic circumstances has often enough led to great losses of money and human life. Furthermore, in our modern times with its grand contest between labor and capital, tapping into new market regions is the foundation of political wisdom. “The creation of market regions is simultaneously an art and a science.” (Sombart). But how can one want to find and create market regions in the African and other colonies without being instructed in the most precise way about the nature and character of the natives !

Knowledge is power.

In this manner, the reason for the loyal collaboration of most missionaries to the tasks of ethnology is also the goal of warm goodwill, which will also be brought to our colonial government and colonial companies through ethnographic efforts, and which will emerge in the first instance through the appreciation of the practical value of ethnography.

# **Exhibit A-2**

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Sonderabdruck  
aus den  
**Verhandlungen des Deutschen Kolonialkongresses**  
**1902.**

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**Ziele und Wege der Völkerkunde in den deutschen  
Schutzgebieten.**

Von Professor Dr. **von Luschan.**

(Sektionsitzung am 11. Oktober, Vormittag.)

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Völkerkunde im weitesten Sinne umfasst die ganze Menschheit von dem ersten Auftreten menschlicher oder menschenähnlicher Wesen bis auf den heutigen Tag. Im engeren Sinne des Wortes gliedert sie sich in drei Forschungsgebiete: Ethnographie, Anthropologie und Prähistorie.

Von diesen drei Disziplinen befindet sich die Prähistorie in unseren Schutzgebieten noch in den allerersten Anfängen. Nur aus Togo sind geschliffene Steinbeile bekannt, und zwar nach Tausenden von Exemplaren, aber wir kennen sie bisher auch da nur in sekundärem Vorkommen im Besitze der heutigen Bewohner, als Zauber- oder Blitzsteine. Als solche finden wir geschliffene Steinbeile und sogar sekundäre Nachbildungen von prähistorischen Beilen in ganz Ober-Guinea, wo sie auch als Schwursteine verwandt werden, vor allem in Benin, wo sie im sechzehnten Jahrhundert königliches Attribut sind und, dem Blitzbündel des Zeus vergleichbar, von den Königen wie ein Scepter gehalten werden. Genau wie manche Bauern bei uns, so glaubt auch der Neger von Ober-Guinea, wenn er nach einem Gewitter ein solches Beil auf seinem Acker findet, es sei mit dem Blitze vom Himmel gefallen.

Ähnliche geschliffene Beile aus Hämatit hat Schweinfurth aus dem Monbuttu-Lande gebracht, wo die Eingeborenen sie ebenfalls als „Donnerkeile“ betrachten und sie nicht mehr als Werkzeuge anerkennen. In den letzten Jahren sind aus dem Kongobecken und aus Ägypten auch andere, anscheinend noch sehr viel ältere Steinartefakte bekannt geworden, ganz roh zugeschlagene Stücke, die ihrem Aussehen nach völlig mit den „paläolithischen“ Kieselgeräten der europäischen Vorzeit übereinstimmen. Grössere Erdbewegungen, wie sie etwa durch intensivere Bodenkultur und besonders durch Eisenbahnanlagen bedingt sind, dürften in ganz Afrika noch viele wichtige Aufschlüsse zur Urgeschichte der Menschheit bringen.

Wer waren die ältesten Menschen, was haben sie getrieben, wo sind sie entstanden, wie und mit welchen Mitteln haben sie sich im Kampfe ums Dasein erhalten und weiter entwickelt? — das sind die Fragen, die sich dem Prähistoriker zunächst aufdrängen. Aber noch ist es völlig unsicher, in welchem Erdteile und in welcher Zone diese Fragen zuerst zur Lösung kommen werden.

Aufgabe der Anthropologie und der Ethnographie hingegen ist es, zu erforschen, wie, wo und wann die späteren und die heute noch lebenden Rassen und Völker entstanden sind, wie sie leben und streben, wie sie sich zu ihren Nachbarn verhalten, und welche Schlüsse aus der Vergangenheit des menschlichen Geschlechtes auf seine Zukunft gezogen werden können.

Das ist das grosse Arbeitsfeld für die vielen anthropologischen und ethnographischen Gesellschaften und Museen, die in den letzten Decennien entstanden sind. Zur möglichst raschen und umfassenden Förderung dieser Ziele hat das Berliner Museum für Völkerkunde ein breit angelegtes Frageschema entworfen, das als „Anleitung für ethnographische Beobachtungen und Sammlungen“ in Tausenden von

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v. Luschan: Ziele der Völkerkunde.

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Die wichtigste Vorarbeit und die einzige feste Grundlage für jeden Fortschritt in der Völkerkunde liegt eben in der möglichst eingehenden und sorgfältigen monographischen Behandlung jedes einzelnen Stammes. Hier ist in unseren Schutzgebieten schon viel geschehen (Stuhlmann, Fülleborn, Krämer, Pater Erdweg und andere), aber noch sehr viel zu tun übrig, und da ist Gefahr im Verzug: Der moderne Verkehr ist ein furchtbarer und unerbittlicher Feind aller primitiven Verhältnisse; was wir nicht in den nächsten Jahren sichern und für die Nachwelt retten können, das geht dem völligen Untergang entgegen und kann niemals wieder beschafft werden. Verhältnisse und Einrichtungen, die sich im Laufe von Jahrtausenden eigenartig entwickelt haben, ändern sich unter dem Einflusse des weissen Mannes fast von einem Tag zum anderen; da heisst es, rasch zugreifen, ehe es hierzu für immer zu spät sein wird. —

Der weitere Ausbau der Völkerkunde ist dann zunächst ein vergleichender. Was da zum Beispiel auf mythologischem Gebiet erreicht werden kann, haben Boas' Arbeiten über die nordamerikanischen Indianer in vorbildlicher Weise gezeigt. In unseren Schutzgebieten und ganz besonders in Polynesien sind fast unermessliche mythologische Schätze aufgehäuft, deren Bergung an vielen Orten kaum noch erst versucht ist, während andere vergleichende Arbeiten in grosser Zahl vorliegen, unter denen Weules Untersuchungen über den afrikanischen Pfeil und Ankermanns Arbeit über Musikinstrumente als mustergültig hervorgehoben werden können.

Andere Wege führen ganz oder teilweise auf Nachbargebiete. Sprachliche, technische, zoologische, botanische, anatomische und biologische sowie rechtswissenschaftliche und soziologische Untersuchungen gehören in so ausgedehntem Masse zu unserem täglichen Arbeitszeug, dass es wohl überhaupt keine andere wissenschaftliche Disziplin gibt, die so zahlreiche und so innige Beziehungen zu anderen Wissenschaften hat wie gerade die Völkerkunde. Selbst scheinbar ganz entlegene Fächer werden jetzt in das Bereich der Völkerkunde gezogen. So haben neue Untersuchungen von Stumpf, Abraham, v. Hornbostel u. a. uns ganz neue und bisher ungeahnte Ausblicke auf die ethnographische Bedeutung musikalischer Studien eröffnet — ähnlich wie die uns kürzlich durch einen glücklichen Fund erschlossene altgriechische Musik die Hoffnung in uns erweckt, einmal auch von der altbabylonischen Musik etwas zu erfahren.

In erster Reihe aber sind hier die Untersuchungen über Ursprung und Verbreitung der Sprachen zu erwähnen, und die ungeheueren

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Gebiete der vergleichenden Sprachforschung. Aus anderen Disziplinen seien hier nur beispielsweise die Fragen nach der Herkunft der Getreidearten, der Banane, der Kokosnuss<sup>1)</sup> erwähnt, oder die nach der Heimat unserer Haustiere. Die Geschichte der Keramik, der Weberei, des Rindenzeuges<sup>2)</sup> kann ohne technische Kenntnisse nicht studiert werden, und noch mehr gilt das von der Bronzetechnik, die z. B. in Ober-Guinea zu so hoher Blüte gediehen ist, und gar erst von der Eisentechnik, von der wir jetzt wissen, dass sie im tropischen Afrika zu Hause ist, und dass wir Europäer sie also den schwarzen „Wilden“ verdanken.

Hingegen spielen die rein sozialen Fragen in unseren Schutzgebieten wenigstens vorläufig eine sehr viel geringere Rolle als bei uns. Noch gibt es in den Kolonien keinen Pauperismus, so gut wie keine Verbrechen, keine unverheirateten Frauen und daher auch keine Frauenfrage.

Die einzigen sozialen Fragen, die in unseren Schutzgebieten schon jetzt grosse Bedeutung haben, betreffen das Verhältnis der Zauberer und Regenmacher zu den Häuptlingen, also genau das, was wir bei uns als Kampf zwischen Staat und Kirche kennen.

Unter europäischem Einfluss entstehen jetzt allerdings auch andere soziale Fragen, die leider alle mit der dreifachen Pest zusammenhängen, mit der wir unsere dunkleren Brüder heimgesucht, mit dem Alkoholismus, mit den venerischen Krankheiten (ich erinnere nur an die ebenso beschämende wie entsetzliche Gleichung „Civilisation = Syphilisation“, die für ganz Afrika und für ganz Ozeanien Geltung hat) und mit den Sklavenjagden, die in der Süd-

1) Über Ursprung, Geschichte und Verbreitung der Kokosnusspalme hat kürzlich Professor Neger in Eisenach gehandelt (Globus, Bd. 82, S. 92). Ich kann mich den Ausführungen dieses Autors durchaus nicht anschliessen, um so weniger, als er das ausgedehnte Vorkommen in Afrika völlig übergeht. Auch die merkwürdige Verwechslung von Kokosnuss und Kawa ist nicht danach angetan, den anderen Ausführungen des Autors besonderes Gewicht zu verleihen.

2) Für die Rindenzug-Technik scheint Indien als ursprüngliche Heimat betrachtet werden zu müssen. Reste der Technik haben sich da noch erhalten, sowohl greifbar vorhanden als literarisch nachweisbar. Von Indien aus ist sie dann westlich nach Afrika und östlich nach Ozeanien gewandert — ähnlich etwa wie die Banane, die zweifellos nur durch Schösslinge, also sicher nur unter Mitwirkung der Menschen verpflanzt werden kann. Unsicher bleibt freilich noch immer die Herkunft der amerikanischen Rindenzug-Technik.

see als „labour-trade“ nicht um ein Haar weniger brutal, gemein und niederträchtig waren, als in Afrika.

Es unterliegt keinem Zweifel, dass sich unter der dauernden Wirkung dieser unheilvollen Einflüsse früher oder später auch in unseren Schutzgebieten dieselben sozial-anthropologischen Verhältnisse entwickeln werden, an denen wir in der Heimat krankten, zunächst der Pauperismus und das Verbrechen. Aber dort kann ihnen leichter entgegengetreten werden als bei uns. Nichts vielleicht liegt in Europa heute noch so im Argen wie das Strafrecht. Seit zweitausend Jahren etwa studieren wir das Verbrechen, aber nicht den Verbrecher; wir verzichten auf jede Prophylaxe und schliessen den Stall immer erst zu, wenn der Ochse schon weggelaufen ist. Natürlich wird das auch in Europa einmal anders werden. Auch unsere Juristen werden einmal begreifen, was wir Ärzte schon lange erkannt haben, dass Vorbeugen wichtiger ist als Heilen; aber das wird in Europa noch lange dauern, bei der vis inertiae, welche eine Eigenschaft aller Gesetzgeber zu sein scheint<sup>1)</sup>.

Um so schöner und dankbarer wird sich dann die Aufgabe unserer Kolonialverwaltung gestalten, aus sich selbst heraus und der langsam nachhinkenden Reform der heimischen Strafpflege vorseilend, die moralisch defekt gewordenen Individuen zu isolieren und so nicht nur deren eigene Fortpflanzung, sondern mit ihr auch die der sozialen Übel selbst unmöglich zu machen.

1) Unsere Rechtspflege fängt eben erst an, sich mit diesen Fragen zu beschäftigen; gerade in Berlin ist es Professor von Liszt, dem zahlreiche Anregungen zu einer Reform unseres völlig rückständigen Strafrechtes zu danken sind. Die „bedingte Verurteilung“ und die Möglichkeit, einen Säufer zu entmündigen, sind bedeutsame Anfänge einer wissenschaftlichen Sozialhygiene.

Noch steht in den meisten anderen Ländern die Verwaltung diesen neuen Ideen völlig stumpfsinnig oder direkt feindselig gegenüber. Typisch für diese Zustände ist die Behandlung der Leute mit Säuferwahnsinn in den weitaus meisten Ländern. Diese unglücklichen Kranken bleiben in ihrer Familie oder unter ihrer Umgebung solange, bis sie einmal ganz besonders excedieren, dann kommen sie auf wenige Wochen in ein Krankenhaus, aus dem sie wegen Raummangel entlassen werden, sobald die akuten Erscheinungen geschwunden sind; kaum in die alten Verhältnisse zurückgekehrt, werden sie wieder eine Quelle des Unglücks für ihre Angehörigen, müssen schliesslich wieder ins Spital und werden wieder entlassen und das nur zu oft solange, bis sie einmal ihre Frau oder ihre Kinder töten oder sonst Mord und Totschlag begehen.

Sozialhygiene

Wieder in ein anderes Gebiet, in das der beschreibenden und der vergleichenden Anatomie, der Zoologie und der Biologie, fallen die Untersuchungen, die sich mit der Stellung des Menschen in der Natur beschäftigen.

Den gegenwärtigen Stand dieser Arbeiten hat Branco im vorigen Jahre dem internationalen Zoologenkongress zu Berlin in lichtvoller Weise dargelegt und dabei auch die überraschenden Ergebnisse von Friedenthals Blutuntersuchungen erwähnt. Forschungen wie diese würden mit in den Arbeitsplan eines etwa in Kamerun zu errichtenden biologischen Laboratoriums gehören.<sup>1)</sup>

Dass die spärlichen Reste des Pithecanthropus, die bei allen Fragen über die Stellung des Menschen in der Natur von so einschneidender Bedeutung sind, auf Java gefunden wurden, lässt die Hoffnung berechtigt erscheinen, dass auch in dem benachbarten Neu-Guinea einmal ähnlich bedeutsame Fossilien gefunden werden möchten.

Im engen Zusammenhange mit den Studien über das Verhältnis des Menschen zu den anderen Säugetieren steht die alte Frage nach Einheit oder Mehrheit des Menschengeschlechtes. Wir wissen jetzt, dass der Prozess der Menschwerdung sich nur einmal vollzogen hat, und zählen die Lehre von der absoluten Einheit des Menschengeschlechtes zu den wichtigsten Errungenschaften der modernen Anthropologie. Noch gibt es vielleicht einzelne Forscher, welche den kurzköpfigen Malaien an den Orang und den langschädlichen Neger an den Schimpanzen anschliessen wollen, aber man geht über sie zur Tagesordnung über. Gerade auf einem Kolonialkongresse ist es gut, sich der Worte K. E. v. Baers zu erinnern, die an die Adresse der amerikanischen Sklavenbarone und ihrer Zuhälter gerichtet waren,

1) Friedenthals Untersuchungen haben gezeigt, dass menschliches Blut mehr oder weniger giftig wirkt auf das Blut aller anderen Tiere, nur nicht auf das Blut des Orang, des Schimpanse und des Gibbon. Die neuen Methoden, kleine Blutflecken auf dem Wege der Serum-Untersuchung zu prüfen, haben eine ebenso grosse zoologische wie forensische Bedeutung und lassen die „Blutsverwandtschaft“ zwischen Menschen und Anthroponiden viel grösser erscheinen als irgend jemand bisher anzunehmen gewagt hätte.

Fruchtbare Kreuzungen zwischen Mensch und Menschenaffen sind heute nicht mehr möglich, aber es muss eine Zeit gegeben haben, in der sie möglich waren; tatsächlich denkt W. Branco an die Möglichkeit, dass Dubois' Pithecanthropus ein Mischling zwischen einem jungtertiären Menschen und einem Menschenaffen gewesen sei.

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Mit der grössten Entschiedenheit muss ich hier darauf hinweisen, dass es nicht angeht, so ohne weiteres von „Wilden“ oder auch von „Naturvölkern“ zu sprechen. Alle Bemühungen, irgend welche Kriterien zwischen Kulturvölkern und „Wilden“ zu finden, müssen als völlig gescheitert betrachtet werden. Jeder neue Autor stellt da neue Grenzen auf und entdeckt neue Zwischenstufen. So hat man versucht, aktive und passive Rassen zu unterscheiden, dann hat Carus zwischen seine Tag- und Nachtmenschen noch die „Dämmerungsmenschen“ eingeschoben und so die Mongolen zwischen die Europäer und die Neger gestellt.

Genau ebenso naiv und haltlos sind die Scheidungen nach der Farbe<sup>1)</sup>, nach der „Schönheit“, nach Reinlichkeit<sup>2)</sup>, nach der Moral, nach der Schamhaftigkeit, nach dem Mehr oder Minder an Bekleidung<sup>3)</sup>, nach dem Besitz oder dem Fehlen der Schrift<sup>4)</sup>, nach dem Vorkommen von Menschenopfern<sup>5)</sup> und nach allerhand anderen Kriterien solcher Art.

Je besser wir jetzt diese „Wilden“ oder diese „Naturvölker“ kennen lernen, umso mehr sehen wir ein, dass es nirgend eine Grenze gibt, die sie scharf und sicher von den „Kulturvölkern“ scheidet. Selbst der verhältnismässig geringere Verkehr mit der Aussenwelt, der uns im allgemeinen noch als das sicherste Kriterium eines

1) Die dunkle Hautfarbe ist im wesentlichen als Schutzmittel gegen Sonnenbrand zu betrachten und hat mit der ethnischen Dignität nicht das geringste zu schaffen.

2) Viele Bantu reinigen sich nach jeder Mahlzeit sorgfältig die Zähne mit einer scharfen Bürste. Wie viele deutsche und russische Bauern haben niemals von einer Zahnbürste auch nur gehört! Die Mehrzahl der „Wilden“ pflegt täglich zu baden, während es viele Europäer gibt, die sich niemals waschen.

3) Die alten Griechen (cfr. Herodot I. 10, Thukidides I. 6, 5 u. s. w.) waren stolz auf ihren nackten Körper und wussten, dass es bei den Barbaren eine Schande sei, nackt gesehen zu werden.

4) Man vergleiche die enorme Überzahl der Analphabeten über die Schreibkundigen zum Beispiel in Russland und im Gegensatz dazu das grossartige Gedächtnis der meisten polynesischen Stämme.

5) Vor der Schlacht bei Salamis haben die Griechen drei gefangene Perser, Neffen des Xerxes, dem Dionysos geopfert!

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primitiven Volkes erscheint, ist immer nur eine relative, niemals eine absolute Eigenschaft<sup>1)</sup>.

Tatsächlich liegt es an dieser wirklichen Einheit des Menschengeschlechtes, dass bisher noch jeder Versuch, die menschlichen Rassen nach einem künstlichen Schema in Gruppen zu teilen, auf das kläglichste misslungen ist. Keiner dieser Versuche vermag die Melanesier von den Negern zu trennen, und in Huxleys Schema sind sogar die alten Ägypter zu den Neuholländern gestellt!! In diesem Zusammenhange müssen auch die Zwergvölker oder Pygmäen erwähnt werden, die unser Schweinfurth zuerst im Monbuttu-Land wirklich entdeckt hat. Jetzt kennen wir solche vielfach auch sonst aus Afrika, aus Hinterindien und aus Indonesien, auch in Neuguinea sind sie schon nachgewiesen und auf den Aru-Inseln von Warburg photographiert worden; aber man will sie jetzt auch in Europa, Peru, Japan und eigentlich in der ganzen Welt nachweisen und liebt es, sie als die eigentlichen Urmenschen zu betrachten. Dabei übersieht man, dass es sehr verschiedene Ursachen für kleine Statur geben kann, und dass sich unter den sogenannten Pygmäen und Pseudopygmäen lang- und kurzköpfige, schmal- und breitgesichtige, helle und dunkle, schlicht- und kraushaarige Menschen befinden.

Tatsächlich handelt es sich bei sehr vielen dieser wirklichen und scheinbaren Pygmäen um Konvergenz. Ebenso kann es auch keinem Zweifel unterliegen, dass die oberflächliche Ähnlichkeit zwischen Melanesiern und afrikanischen Negern nicht durch besonders nahe Verwandtschaft bedingt ist, sondern gleichfalls auf Konvergenz beruht. Dieses Wort ist mit Bezug auf menschliche Rasseneigenschaften bisher nur von Thilenius gebraucht worden, aber der Begriff ist den Botanikern und Zoologen schon lange geläufig. Ich erinnere an die bekannte Ähnlichkeit zwischen untereinander nicht verwandten Alpenpflanzen und ganz besonders an die Geschichte der grossen straussartigen Laufvögel, der Ratiten, die man lange Zeit für untereinander verwandt hielt und aus einer gemeinsamen antarktischen Heimat abstammen liess. Wir wissen jetzt, dass einige dieser Ratiten von Tauben, andere von Rallen, andere von kränich-ähnlichen Vögeln stammen, und dass nicht die allergeringste Verwandtschaft etwa zwischen dem afrikanischen Strauss, dem südamerikanischen Rhea und dem neuseeländischen Moa besteht. Dieser Riesenwuchs flugunfähiger Vögel mit flachem, kiellosem Brustbein ist eine typische Konvergenzerscheinung.

1) Die letzten Sätze sind wiederholt aus meinem Vortrage über kindliche Vorstellungen bei den sogenannten Naturvölkern, gehalten am 15. Juni 1900 im Verein für Kinderpsychologie zu Berlin.

Genau ebenso ist das über die ganze Erde zerstreute Vorkommen zwerghafter Rassen zu betrachten und genau so die dunkle Hautfarbe, das krause Haar und wahrscheinlich noch eine Reihe anderer Eigenschaften, die man sonst als Beweis für besonders nahe Rassenverwandtschaft zu betrachten gewohnt ist. Derartige Konvergenzerscheinungen können natürlich überall zu unrichtigen Vorstellungen über Rassenverwandtschaft führen und sind deshalb mit grosser Sorgfalt zu ermitteln.

Andererseits kann ihre Feststellung dazu beitragen, viele bisher rätselhaft gebliebene Verhältnisse aufzuklären. So ist es nicht ausgeschlossen, dass auch die extreme Brachykephalie oder die Blondheit bei sonst verschiedenen Rassen als reine Konvergenz auftritt. In manchen Fällen wird es auch gelingen, den direkten Grund einer solchen Konvergenz ohne weiteres zu erkennen. So liegt er für die dunkle Haut, die wir bei sonst untereinander ganz verschiedenen Rassen finden, zweifellos in dem durch das Hautpigment wie durch einen dunklen Schleier gewährten Schutz gegen Sonnenbrand.

Jedenfalls wird es in Zukunft bei Beurteilung von Rassenverwandtschaft nützlich sein, neben den durch die ursprünglich gemeinsame Abstammung bedingten Ähnlichkeiten und neben den längst bekannten Divergenzerscheinungen auch die Konvergenz in Rechnung zu ziehen.

Wie jede andere Wissenschaft hat auch die Völkerkunde zunächst einen inneren Wert, der von dem materiellen Nutzen, den sie bringen kann, völlig unabhängig ist; aber auch dieser selbst ist durchaus nicht gering zu schätzen. Politische Erfolge können stets und überall nur auf Grundlage ethnographischer Kenntnisse erwartet und erreicht werden, und die Unkenntnis der ethnographischen Verhältnisse hat oft genug zu grossen Verlusten an Geld und Menschenleben geführt. Ausserdem aber ist in unserer modernen Zeit mit ihrem grossartigen Wettstreit zwischen Arbeit und Kapital die Erschliessung neuer Absatzgebiete das Um und Auf jeder staatspolitischen Weisheit. „Die Schaffung von Absatzgebieten ist eine Kunst und eine Wissenschaft zugleich“ (Sombart), wie kann man aber in den afrikanischen und anderen Kolonien Absatzgebiete suchen und schaffen wollen, ohne über Natur und Art der Eingeborenen auf das genaueste unterrichtet zu sein! Wissen ist Macht.

In dieser Einsicht ist auch der Grund für die treue Mitarbeit der meisten Missionare an den Aufgaben der Völkerkunde zu suchen, und ebenso ist das warme Wohlwollen, welches unsere Kolonialregierung und unsere kolonialen Gesellschaften den ethnographischen Bestrebungen entgegenbringen, sicher zunächst aus der Würdigung des praktischen Wertes der Völkerkunde hervorgegangen.

# **Exhibit B**



Figure 2

Postcard from German South-West Africa, ca. 1905. The caption on the back reads: 'Verladung der für deutsche Museen u. Universitäten bestimmten Herero-Schädel'.



Figure 3

Illustration from 'Meine Kriegs-Erlebnisse in Deutsch-Südwest-Afrika. Von einem Offizier der Schutztruppe' (1907), an anonymous account of the German-Herero war.



# **Exhibit C-1**

BEITRÄGE  
ZUR  
ANTHROPOLOGIE DER HERERO.

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INAUGURAL-DISSERTATION  
ZUR  
ERLANGUNG DER DOKTORWÜRDE  
GENEHMIGT VON DER  
PHILOSOPHISCHEN FAKULTÄT  
DER  
FRIEDRICH-WILHELMS-UNIVERSITÄT  
ZU  
BERLIN  
VORGELEGT VON  
HEINRICH F. B. ZEIDLER  
BERLIN.

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TAG DER PROMOTION: 20. MAI 1914.

STUTTGART 1914.

F. SCHWEIZERBARTSCHE VERLAGSBUCHHANDLUNG

kommen und einen Transversus menti bilden, dessen Breite ca. 10 mm beträgt. Die Ausdehnung der Triangulares auf dem Unterkieferrande ist beiderseits die gleiche (40 mm).

3. Zygomaticus maior (H. VIRCHOW). Auf beiden Seiten ist ein Teil des Ursprungs vom Orbicularis oculi bedeckt. Auf der linken

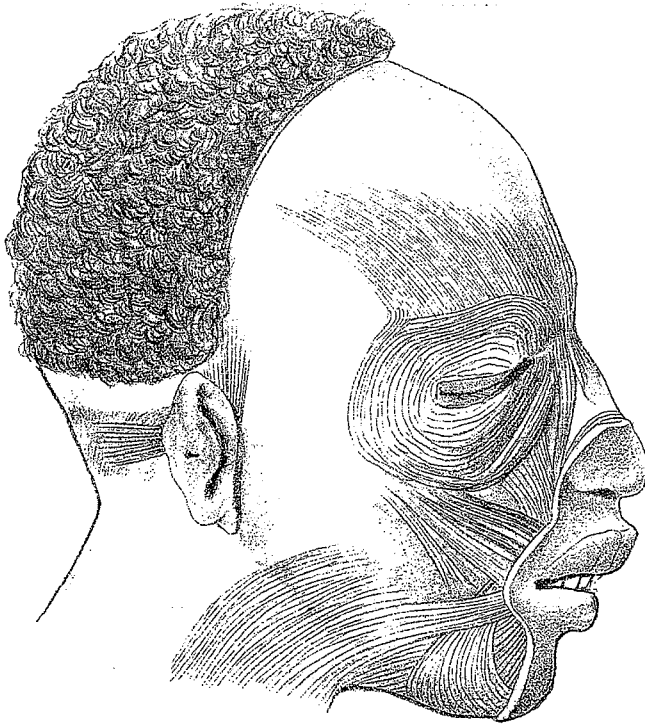


Fig. 1. Herero A ♂.

Geringe Ausdehnung des Wangenplatysma. Teilweise Überlagerung des Triangularis. Kein Risorius. Zusammensetzung des Zygomaticus maior aus einem unteren Haupt- und einem oberen Nebenbündel.

Sehr starker Orbicularis oculi, der tief in die Wange hinabreicht. Occipitalisfasern biegen lateralwärts um und erreichen die Ohrmuschel.

Seite ist die Ursprungsstelle 50 mm vom Tragus entfernt und 10 mm breit. Die Fasern sind stark und dick, laufen ca. 20 mm geschlossen, dann senden sie auf dem der Orbita zugekehrten Rande zwei Bündel ab, die denselben Verlauf haben wie der Hauptteil. Die Breite jedes einzelnen Bündels beträgt ca. 3 mm, die des Hauptbündels ca. 8 mm. Die Insertion am Mundwinkel bietet ein typisches Beispiel für BLUNTSCHLI'S

dessen Scheitel erst auf der Höhe der Protuberantia mentalis gelegen ist. Auch hier sah ich wieder einen Transversus menti, der aber nicht ganz so breit war wie am vorigen Präparat. Die Breite des Platysma auf dem Unterkieferrande gemessen beträgt links 98 mm, rechts 103 mm. Auffallend ist der Verlauf des Muskels in der Wangenregion. Man

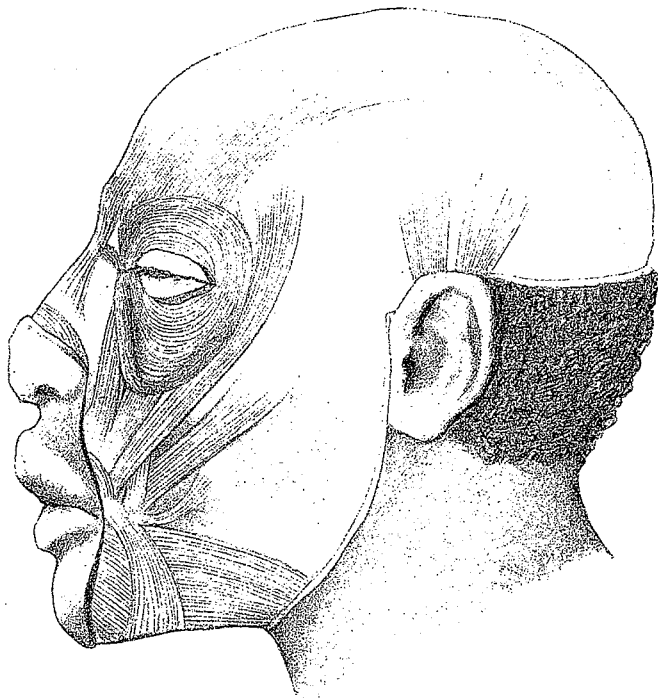


Fig. 2. Herero B ♀.

Geringe Ausdehnung des Wangenplatysma. Triangularis-Risorius (SANTORINI). Zusammenhang des Orbicularis oculi mit dem Zygomaticus minor. Laterale obere Randbündel des Orbicularis oculi. Depressor capitis supercilii. M. transversus glabellae (RUGE).

erwartet vielleicht bei allen Exemplaren dieser Rasse eine weite Ausdehnung des Platysma über die Wange. Hier besteht eine deutliche Reduktion des Platysma. Das Platysma überschreitet an diesem Präparat nicht mehr die Linie, die den Mundwinkel mit dem unteren Ohrmuschelansatz verbindet. Eine »Pars aberrans« des Platysma fehlt beiderseits; der Befund entspricht dem Typus III von BLUNTSCHLI, womit gleichzeitig gesagt ist, daß der Risorius fehlt.

feldes des *Zygomatiscus maior* ist beiderseits die gleiche (ca. 10 mm). In seiner Breite wird er vom *Zygomatiscus minor* um die Hälfte übertroffen.

4. *Quadratus labii superioris*. Die Ursprungsportionen des *Quadratus* schließen sich auf beiden Seiten bald zu einer ununterbrochenen Platte, die sich dann an der Mundwinkelgegend dicht dem

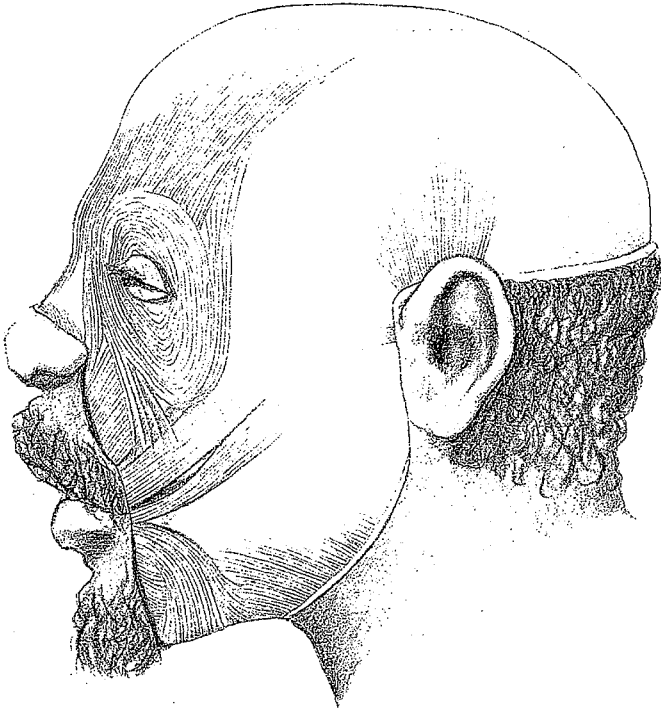


Fig. 3. Herero C ♂.

Kommunikation des *Platysma* mit den lateralen *Triangularis*fasern. *Zygomatiscus maior* mit kleinem oberem Nebenbündel, im ganzen schwächer entwickelt als der *Zygomatiscus minor*. *Orbicularis oculi* untere mediale und obere laterale Randbündel. Sehr breiter *Levator labii proprius*; *auricularis anterior*.

*Zygomatiscus maior* anlagert. Der *Levator alae nasi et labii superioris* ist mit dem *Orbicularis oculi* vollkommen verwachsen. Erst in der Höhe des Ursprungsfeldes des *Levator labii superioris* teilt sich der *Levator alae nasi* und der *Orbicularis oculi*. Die Breite des *Levator proprius* beträgt an dieser Teilungsstelle 11 mm. Der *Levator labii superioris proprius* ist an seinem oberen Teile nur mit der Nasenportion des *Quadratus* vereinigt, während der *Zygomatiscus*

gut ausgebildet, zeigen keine Verzweigungen oder Kommunikationen (abgesehen von der Mundwinkelgegend). Die Maße sind: Breite des Ursprungfeldes 9 mm links und 11 mm rechts. Die größte Breite ist beiderseits 14 mm.

4. *Quadratus labii superioris*. Der Muskel ist auf beiden Seiten zugunsten des *Levator labii superioris* auf Kosten des *Levator*

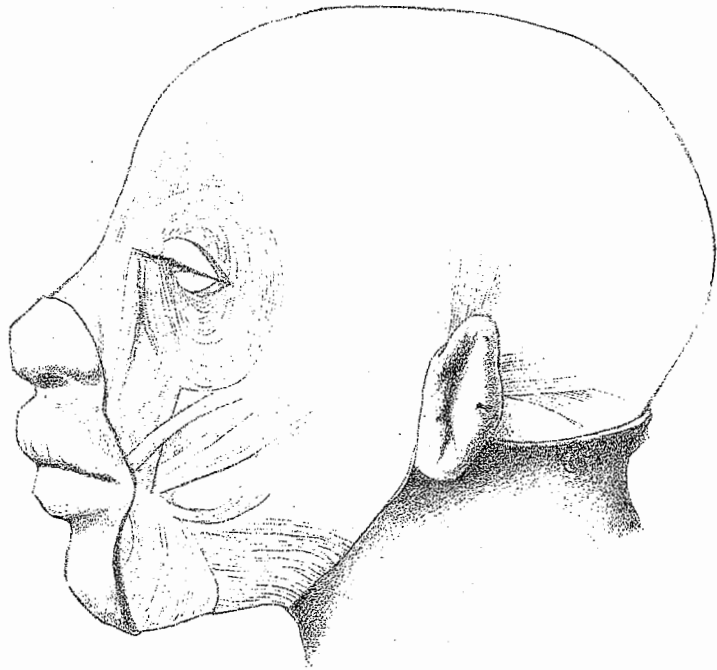


Fig. 4. Herero D ♂.

*Triangularis-Risorius* (SANTORINI). Schwaches oberes Nebenbündel des *Zygomatikus maior*. *Zygomatikus minor* klein, überdeckt den *Levator labii proprius*. *Orbicularis oculi* keine „ausbrechenden Bündel“. Kräftiger *Auricularis posterior*.

*alae nasi et labii superioris* und besonders des *Zygomatikus minor* stark ausgebildet. Auf beiden Seiten greift der *Orbicularis oculi* auf den *Levator alae nasi et labii superioris* und einen Teil des *Levator proprius* über. Nach Lösung dieser Partie des *Orbicularis* zeigt sich, daß eine genaue Trennung der beiden medialen Portionen des *Quadratus* nicht möglich ist, sondern daß die eine in die andere sich fortsetzt. Die Ursprungslinie stellt eine schwach S förmig gebogene Kurve dar, deren lateraler Bogen dem Ursprungsfeld des *Levator alae et labii*,

lateral gelegene ist, hat vom gleichseitigen Mundwinkel eine Entfernung von 56 mm. Die Maße sind nur auf der rechten Seite genommen, da die linke Seite etwas verdrückt ist; jedoch würden die linksseitigen Maße nur um Weniges mit den anderen differieren.

3. *Zygomaticeus maior* (H. VIRCHOW). Beide Muskeln sind sehr

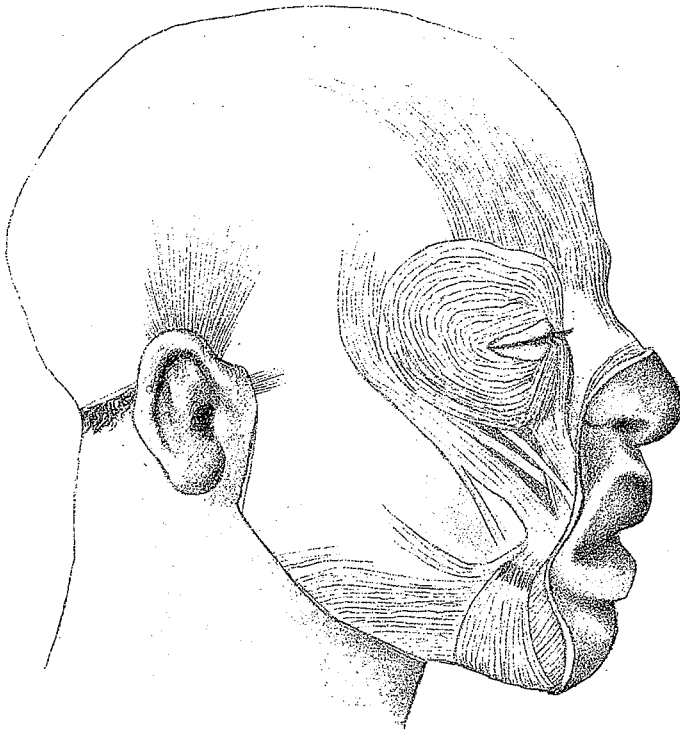


Fig. 5. Herero E ♂.

Spuren eines Nackenplatysma. *Triangularis-Risorius* (SANTORINI). Obere Schicht des *Triangularis* nach unten geschlagen. *Zygomaticeus maior*: unteres und oberes Nebenbündel. Ursprung dem *Orbicularis oculi* dicht angelagert. *Orbicularis oculi* sehr kräftig. Laterale obere und mediale untere Randbündel. *Auricularis anterior*.

kräftig entwickelt und sind denselben der vorigen Präparate in den Flächenmaßen als auch in den Dickenverhältnissen der Muskelbündel weit überlegen. Die Breite des Ursprungsfeldes beträgt ca. 11 mm, die größte Breite 15 mm. Auch hier finden sich Abzweigungen vom Hauptbündel und zwar nach oben sowohl, wie nach unten. Das Hauptbündel läuft am Mundwinkel mit dem *Caninus* zusammen, ohne sich jedoch mit seinen Fasern zu vereinigen; der obere Teil zieht hinter dem

# **Exhibit C-2**



Exhibit C-2. Heinrich F.B. Zeidler, *Beiträge zur Anthropologie der Herero* [*Contributions to the Anthropology of the Herero*], 17 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 185, 199, 207, 213, 218, 223 (1914).

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Page 185:

Contributions  
to the Anthropology of the Herero  
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Inaugural Dissertation  
in Achievement of the Doctoral Title  
Approved by the Philosophical Faculty  
of the Friedrich Wilhelm University  
in Berlin  
Presented by  
Heinrich F.B. Zeidler  
Berlin  
Day of Doctorate: May 20, 1914

Page 199:

Fig. 1 – Herero A - ♂

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Fig. 2 – Herero B ♀

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Fig. 3 – Herero C ♂

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Fig. 4 – Herero D ♂

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Fig. 5 – Herero E ♂

# **Exhibit D-1**

## Beiträge zur Anthropologie der Gesichtsteile der Neger.

Von Dr. med. et phil. **Heinrich F. B. Zeidler**, Berlin-Friedenau.

(Mit 5 Textabbildungen.)

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Die folgenden Untersuchungen an den Weichteilen von drei kindlichen »Neger«-Köpfen möchte ich als Fortsetzung meiner »Beiträge zur Anthropologie der Herero«<sup>1</sup> aufgefaßt wissen. Ich bin mir zuerst nicht klar darüber gewesen, ob eine Untersuchung von kindlichem Rassenmaterial eine Bereicherung unserer Kenntnisse darbieten würde, zumal sich die Befunde an einheimischen kindlichen Weichteilen, wobei doch sicherlich keine Materialschwierigkeiten in Betracht kommen, in sehr geringer Anzahl in der Literatur vorfinden. Vor allem durch **LOTH**<sup>2</sup> bin ich bestimmt worden, das noch vorhandene Material meines Lehrers **P. BARTELS** zu verarbeiten, denn in seinen »Beiträgen zur Anthropologie der Negerweichteile« finden sich zahlreiche Erwähnungen von kindlichem Rassenmaterial, das sich recht wohl zur Ableitung seiner Schlußfolgerungen verwenden ließ.

Mein Material war zusammen mit den Hereroköpfen während der Afrikawirren von den Herren Stabsarzt **Dr. BOFINGER** und Oberarzt **Dr. WOLFF** gesammelt und durch Vermittlung von Herrn Hauptmann **WAGENFÜHR** Herrn Prof. **Dr. BARTELS** überlassen worden. Im vorigen Jahre stellte mir Frau Professor **BARTELS** in liebenswürdigster Weise das noch im Nachlasse ihres verstorbenen Gatten befindliche Material zur Verfügung.

Die Köpfe waren bis zu ihrer Verarbeitung in einer Formollösung geblieben, die während der letzten zwei Jahre etwas schwächer gewählt wurde (5 0/0). Der Zustand des Materials ist durchweg recht gut, wie auch die beigegebenen<sup>3</sup> Photographien erkennen lassen; daß die Haut und das subkutane Fettgewebe stark gehärtet war, ist bei der langen Konservierungszeit nicht anders zu erwarten. Allerdings wurde die Präparation dadurch sehr erschwert, und die Köpfe zeigen nach Bearbeitung nicht das saubere Aussehen, wie ich es bei dem vorigen Material erreichen konnte. Diese Tatsache durfte mich natürlich nicht

<sup>1</sup> Zeitschrift für Morphologie und Anthropologie, 1914, Bd. XVII, Heft 2.

<sup>2</sup> Studien über Forschungen zur Menschen- und Völkerkunde, IX, 1912.

<sup>3</sup> Mußten leider im Druck fortgelassen werden.

## Hottentotte ♀.

### 1. Platysma.

Der Muskel tritt am Kieferwinkel in geschlossener Platte auf die Wange, er verläuft dicht unter dem Bichat'schen Fettklumpen fast horizontal zum Mundwinkel. Erst in dem Winkel zwischen Zygomatikus und Triangularis zerfasern sich die oberen Bündel des Platysma, die unteren bleiben geschlossen und gehen undifferenzierbar in den Muskelkomplex des Mundwinkels, besonders des Quadratus labii inferioris, über. Die medialen Fasern beider Platysma-Hälften bilden ein geschlossenes Ganzes,



Textfigur 1. Hottentotte, Mädchen.

das vom Transversus menti überquert wird. Die Breite des Muskels, mit dem Bandmaß am Kiefferrande gemessen, beträgt rechts 52 mm, links 48 mm. Risoriusfasern fehlen beiderseits.

### 2. Triangularis.

Der Muskel ist kräftig entwickelt, die Fasern sind derb. In breiter Ausdehnung läuft der Muskel in scharfem Bogen über dem Platysma zum Unterkiefferrande, von wo sich der größte Teil der medialen Fasern beider Muskeln vereinigt und unter dem Kinn einen 5 mm breiten Transversus menti bildet. Auf der rechten Seite zweigt sich ein Teil der lateralen Fasern schon vorher ab und strahlt in die Wange aus, wo er, vom Mundwinkel 26 mm entfernt, auf dem Bichat'schen Fettklumpen endet. Links ist diese Bildung nur wenig angedeutet. Die Ausdehnung des Triangularis auf dem Unterkiefferrande beträgt 13 mm rechts, 15 mm links. Ein Risorius fehlt beiderseits.

### 3. Zygomatikus maior. (H. VIRCHOW.)

Die Ursprungsstellen liegen auf beiden Seiten unbedeckt, aber anschließend

### Herero, Kind 1.

Nach der Entfernung der Haut zeigt sich ein dickes Fettpolster, das das ganze Gesicht bedeckt und am stärksten in der Wangenregion und am schwächsten im Gebiet der medialen Augenwinkel und der Nasolabialfurche ist.

#### 1. Platysma.

Der Muskel tritt nicht als geschlossene Platte, sondern gefiedert über den Unterkieferrand in die Wange, um dem Zygomaticus zuzustreben, und erreicht die



Textfigur 3. Herero, Kind 1.

Mundwinkel-Traguslinie. Nur die innersten medialen Fasern biegen nach dem Kinn und Mundwinkel um, jedoch sind auch diese nur schwach entwickelt und keineswegs ein geschlossenes Ganzes. Die Ausbreitung seines Bereichs ist groß, denn die äußersten Fasern laufen dicht unter dem Ohr. Eine „Pars aberrans“ sowie ein Risorius fehlt beiderseits. Die Breite, auf dem Unterkieferrande gemessen, beträgt 61 mm. Der Verlauf in der Halsmitte läßt sich nicht genau feststellen, da das Präparat durch Kehlkopf- und Zungenuntersuchungen sehr gelitten hat. Eine Vereinigung der beiden Hälften scheint bestanden zu haben.

#### 2. Triangularis.

Beide Muskeln sind recht kräftig entwickelt und bilden besonders an den Mundwinkeln eine dicke Muskelerhebung. In weit ausholendem Bogen laufen die Triangulares über Platysma und Quadratus labii inferioris fort, um unter dem Kinn einen 10 mm breiten Transversus menti zu bilden. Auf diesem Verlauf brechen

sollen sie nach den von RUGE aufgestellten Grundsätzen eingereiht werden, woraus sich dann Schlüsse über die Pro- oder Regressivität herleiten lassen. Ich glaube bei der Beurteilung über den phylogenetischen Stand nicht allzu zaghaft vorgehen zu müssen; wenn die jetzigen Untersucher in ihrem Material eine Bestätigung früherer Befunde erblicken, so dürfte man wohl diese, ohne oberflächlich zu erscheinen, so lange als Norm ansehen, bis an Hand von größerem Material eine Widerlegung möglich ist.

Auf das eine kann meines Erachtens nicht oft genug hingewiesen werden: Wer der Ansicht ist, daß sich bei Rassenmaterial Zustände



Textfigur 4. Herero, Knabe 2.

finden, die von dem der weißen Rasse grundverschieden sind, wird in seinen Erwartungen getäuscht werden. Wir finden im allgemeinen nur geringe Abweichungen, deren konstantes Vorkommen uns aber dennoch zu weittragenden Schlußfolgerungen berechtigt. Auf zwei, man kann wohl sagen, durchweg gefundene Tatsachen will ich gleich eingangs hinweisen, die sich auch bei meinem jetzigen Material wieder deutlich ausgeprägt zeigten. Schon der erste Anblick eines präparierten Negerkopfes läßt uns erkennen, daß die Gesamtmuskulatur massiver, die einzelnen Fasern derber sind, als wir es beim Europäer sehen. Das soll nicht heißen, daß wir dieses Bild beim Weißen nie beobachten, es wird aber immerhin eine Seltenheit sein. Das zweite Hauptsymptom bei der Betrachtung der Gesamtmuskulatur ist die geringe Differenzierung der mimischen Muskulatur bei Rassenmaterial. Auch hier habe ich dasselbe beobachtet wie bei den Köpfen erwachsener Hereros, nämlich daß sich die mangelhafte Differenzierung vor allem im Gebiet der Nasolabialgegend geltend macht. Diese beiden Hauptsymptome, die wir als Abweichungen der farbigen Rassen von der weißen Rasse finden, die

# **Exhibit D-2**

Exhibit D-2. Heinrich F.B. Zeidler, *Beiträge zur Anthropologie der Gesichtswichteile der Neger* [*Contributions to the Anthropology of the Soft Facial Tissue of the Neger*], 21 ZEITSCHRIFT FÜR MORPHOLOGIE UND ANTHROPOLOGIE [JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY] 153, 159, 163 (1920).

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Page 153:

Contributions to the Anthropology of the Soft Facial Tissue of the *Neger*

by Dr. Heinrich F.B. Zeidler, Berlin Friedenau

(with 5 text illustrations)

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I wish that the following examinations of the soft tissue of three child “*Neger*” heads be considered a sequel to my “Contributions to the Anthropology of the Herero.”<sup>1</sup> I was not sure at first whether an examination of child racial material would offer an enrichment of our knowledge, especially the findings in the soft tissue of indigenous children, whereby . . .

My material was collected together with the Herero heads during the Africa troubles by Medical Officers Dr. Bofinger and Head Medical Officer Dr. Wolff, and given to Prof. Dr. Bartels through procurement by Mr. *Hauptmann* Wagenführ. Last year, Mrs. Prof. Bartels most lovingly made available to me the material located in the estate of her deceased spouse . . .

Page 159:

Text Figure 1. Nama, Girl

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Text Figure 3. Herero, Child 1

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Text Figure 4. Herero, Boy 2

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<sup>1</sup> 17 JOURNAL FOR MORPHOLOGY AND ANTHROPOLOGY, Issue 2 (1914).