

securitisation, so as not to incur the wrath of a few specific people, but nevertheless to securitise the colonial situation with sufficient vagueness. Regarding Togolese identity, Sebald postulates with reference to Olympio's petition that "It was not until 25 years after the German takeover that African sources prove that, for example, the spokesmen of the anti-colonial protest used the term Togo. People began to think and act in terms of the new entity 'Togo' and to transform the term originally imposed by force by the colonial power into 'our Togo,' to 'Africanise' or 'nationalise' it."<sup>60</sup> Confronted with this constant and everyday threat, this inevitably led to communalisation among the local population.

The brute methods of the German administrators led to many inhabitants emigrating westwards to the British Gold Coast, where economic opportunities, especially in cocoa and mining, were more promising. At the Gold Coast, such a poll tax existed only from 1852 to 1861, but due to misappropriation of funds, the tax was repealed, and the imposition of poll taxes was completely abandoned because the colonial government relied on import and export duties on cocoa, which were cheaper to collect and much more profitable. The notion that British administration meant leniency and better opportunities for African advancement took root in the period of German rule.<sup>61</sup> Besides, Pidgeon-English, also spoken by the German colonial officials, was already the lingua franca on the West African coast. Africans who spoke English could simply make more of their lives if they went to the Gold Coast, where they could acquire citizenship rights.<sup>62</sup>

To regulate this migration and the flow of goods, strict restrictions were imposed between the two colonies and trade across the Anglo-German border on the Volta River was virtually halted between 1904 and 1914, until the outbreak of World War I.<sup>63</sup> Since it was expected that the looming World War I will be fought on the battlefields of Europe, no military had been stationed in Togoland. There was only the *Polizei*- or *Schutztruppe* consisting of a dozen German officers and about 500 local policemen. Indeed, the French and British allies achieved one of their very first victories in the Great on Togolese soil, only after three weeks (6–26 August 1915) with the surrender of German troops to British and French forces. While the British occupied the western parts of the protectorate, including Lomé, the French occupied large parts of the north and east (see Map 5).

### 5.3 Togoland under Mandate

#### 5.3.1 Creation of the Mandates System

Bain notes that during the Paris Peace Conference, "[s]o long as the war remained primarily a European affair, colonial questions attracted little attention." Unsurprisingly for most of the press, the war took place primarily in Europe and the negotiations were thus seen as a European affair. Yet from the beginning, the mandate question was one of the most important and controversial items on the agenda of the Paris Peace Conference.

60 Sebald, *Die deutsche Kolonie Togo 1884–1914*, p. 165.

61 Welch, *Dream of Unity*, p. 53.

62 Sebald, *Die deutsche Kolonie Togo 1884–1914*, p. 158.

63 Brown, "Borderline Politics in Ghana," p. 578.

Ultimately the reasons for the establishment of the Mandates System are manifold, yet, it has been argued that political leadership, particularly in the USA, France, and Britain, was broadly committed to the development of international law in response to the crisis of World War I itself.<sup>64</sup> However, it is noteworthy that the victorious powers agreed on the outlines of the Mandates System within only three days (27–30 January 1919), indicating that, contrary to this historiography of international relations, the Mandates System was a rather spontaneous conclusion than an inevitable evolution of international law.

From the beginning, it was clear that France and Britain were averse to the idea to return the fourteen formerly German and Ottoman enemy territories conquered during the war, especially the former German colonies in Africa. France favoured the simple annexation of these territories. In fact, when in 1919, boundary commissioners were directed to avoid separating villages from their agricultural lands,<sup>65</sup> Hugh Clifford, Governor of the British Gold Coast, reported just a month prior to the Paris Peace Conference to the Secretary for the Colonies, Viscount Alfred Milner, that the French authorities pressured Togolese chiefs to sign testimonials in favour of French administration. The subsequent appeals made to the British led Clifford to the conclusion: “There can, I fear, be very little doubt that [...] French rule in West Africa is in even worse odour among the natives than was that of the Germans before August 1914.”<sup>66</sup> But in view of the approaching Paris Peace Conference the British Foreign Office warned Clifford not to fuel further discontent among the Togolese chiefs, as it might lead to a diplomatic incident with the French.

US President Woodrow Wilson, on the other hand, was aware that the League, as the new international peace organization, would become “a laughingstock if the annexation of enemy territory by the victorious powers were not invested with some ‘quality of trusteeship.’”<sup>67</sup> Therefore, he proposed to include in the Covenant specific references to self-determination and direct administration by the League.

### A-, B-, and C-Mandates

Thus, during the negotiations in Paris, the dividing line of what to do with these territories lay between the demand for simple annexation, on the one side, and some mode of international rule, on the other.<sup>68</sup> The British defused the idea of direct international rule by advocating for indirect administration. As Pedersen pointed out, the British found Wilson’s idea easy to accommodate because they fitted equally well with the British imperial practice of indirect rule.<sup>69</sup> Using the expression of a “sacred trust” once coined by Edmund Burke, the British delegation proposed an administration “on trust,” that is, by

64 Chowdhuri, *International Mandates and Trusteeship Systems*, p. 3.

65 Coleman, *Togoland*, pp. 7–8.

66 As cited in Pedersen, *The guardians*, p. 79.

67 Tom Parker, *The Ultimate Intervention: Revitalising the UN Trusteeship Council for the 21st Century* (Sandvika, 2003), accessed 29 July 2019, available from [www.bi.edu/globalassets/forskning/centre-for-european-and-asian-studies/pdf/03-03the\\_ultimate\\_intervention.pdf](http://www.bi.edu/globalassets/forskning/centre-for-european-and-asian-studies/pdf/03-03the_ultimate_intervention.pdf), p. 7.

68 Tom Parker, *The Ultimate Intervention: Revitalising the UN Trusteeship Council for the 21st Century* (Sandvika, 2003), accessed 29 July 2019, available from [www.bi.edu/globalassets/forskning/centre-for-european-and-asian-studies/pdf/03-03the\\_ultimate\\_intervention.pdf](http://www.bi.edu/globalassets/forskning/centre-for-european-and-asian-studies/pdf/03-03the_ultimate_intervention.pdf), p. 7.

69 Pedersen, *The guardians*, p. 25.

the victorious states under international supervision.<sup>70</sup> The other powers, , were at first completely averse to the British compromise. Especially the French felt they should be compensated for the high price paid on the battlefields in Europe.

The proposal that eventually swayed the opposing powers was to create not a one-tier but a multi-tier system of A-, B- and C-mandates: A-mandates applied mainly to the ex-Turkish territories, which were considered almost “able to stand by themselves.” B-mandates applied for African territories that were to be administered by a mandate power. C-mandates encompassed territories adjacent to territories of mandate powers and were created at the instigation of Australia and South Africa, which administered these as an extension of their own territory.

This classification ultimately reflected only the positions of the negotiators, but the Covenant's Article 22 legitimized the comprise by stating that “character of the mandate must differ according to the stage of the development of the people.” It was Jan Smuts, co-author of the League of Nations Covenant, who based the Mandates System on the paternalistic foundation, which Cecil Rhodes once described as “the right relationship between whites and blacks in this country was the relationship between guardian and ward. This is the basis of the trusteeship.”<sup>71</sup> Thus, in principle, the Mandates System reiterated the “sacred trust” spirit, which had been already established in the Berlin General Act.<sup>72</sup>

Yet, above all the proposed Mandate System yielded a decisively practical advantage for the French: the fact that the former German colonies, such as Togoland, were transformed into mandated territories under (limited) international supervision and did not *de jure* go to France and Britain as “spoils of war” meant that Germany could not count the loss of the territories as reparations already made.<sup>73</sup> Robert Lansing, a contemporary witness, noted:

“Thus, under the mandatory system Germany lost her territorial assets, which might have greatly reduced her financial debt to the Allies, while the latter [France and Britain] obtained the German colonial possessions without the loss of any of their claims for indemnity. In actual operation the apparent altruism of the mandatory system worked in favour of the selfish and material interests of the Powers which accepted the mandates.”<sup>74</sup>

The Mandates System functioned, thus, in part to retroactively legalize the redistribution of ex-German and ex-Turkish dependencies agreed upon in secret treaties during World War I.<sup>75</sup> Pedersen holds that “Out of this potent brew of liberal internationalism, imperial humanitarianism, and sheer territorial acquisitiveness the British proposals for the

<sup>70</sup> The British Labour Party was against annexation.

<sup>71</sup> Jan Christiaan Smuts, *The basis of trusteeship in African native policy*, New Africa pamphlet 2 (Johannesburg: R. L. Esson, 1942), p. 7. Pedersen's “The Guardians” is titled after this expression.

<sup>72</sup> Bain, *Between anarchy and society*, p. 79.

<sup>73</sup> Robert Lansing, *The Peace Negotiations: A Personal Narrative* (Boston, New York: The University Press Cambridge, 1921), pp. 156–57.

<sup>74</sup> Lansing, *The Peace Negotiations*, pp. 156–57.

<sup>75</sup> Thullen, *Problems of the Trusteeship System*, p. 11.

mandates system emerged.”<sup>76</sup> Lansing noted that “[t]he principal European Powers appeared to be willing and even eager to become mandatories over territories possessing natural resources which could be profitably developed and showed an unwillingness to accept mandates for territories which, barren of mineral or agricultural wealth, would be continuing liabilities rather than assets.”<sup>77</sup>

Given the fact that only Article 22, placed relatively at the end of the Covenant, dealt with the establishment of the Mandates System, colonial issues seemed to play a rather subordinate role in the overall composition of the Treaty of Versailles.<sup>78</sup> Nevertheless, Article 22 is one of the most extensive articles of the Covenant, which on the one hand indicates the importance given to the mandate question in the debates, but on the other hand also showcases the difficulties in circumscribing linguistically the sensitivity of the issue in the negotiations. The rhetoric of security legalized the principle of trusteeship and the *mission civilisatrice* in Article 22 of the Covenant of the League of Nations:

“To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are *inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world*, there should be applied the principle that the well-being and development of such peoples form *a sacred trust of civilisation* and that securities for the performance of this trust should be embodied in this Covenant.”<sup>79</sup>

Here, too, the humanity-hierarchizing *mission civilisatrice* was the underling heuristic to securitising and thus legitimizing the transfer of territories under the ‘guardianship’ of mandate powers. Representing a precedent in the young history of intergovernmental organisations, the acceptance of the mandates as “a sacred trust of civilization” (extraordinary measure) was circumscribed to protect “peoples not yet able to stand by themselves” (referent object) from the “strenuous conditions of the modern world” (existential threat).

Another key concept expressed in the Covenant’s section of the C-Mandates was the ‘open door’ policy. It was enshrined in the Berlin General Act, the League of Nations Treaty and later in the UN Charter articles on the Trusteeship and the Non-Self-Governing Territories. The markets of the mandated territories were to be open to traders from all European powers. This ‘open door’ policy was a key feature of the ‘dual mandates’ of the architect of British colonial policy and later member of the Permanent Mandates Commission, Sir Frederick Lugard,<sup>80</sup> who put it this way:

“Let it be admitted at the outset that European brains, capital, and energy have not been, and never will be, expended in developing the resources of Africa from motives

76 Pedersen, *The guardians*, p. 27.

77 Lansing, *The Peace Negotiations*, p. 158.

78 Bain, *Between anarchy and society*, p. 80.

79 *League of Nations*

80 Lugard (1858–1945) was Governor-General of Nigeria (1912–19) and the British member of Permanent Mandates Commission (1923–36).

of pure philanthropy; that Europe is in Africa for the mutual benefit of her own industrial classes, and of the native races in their progress to a higher plane; that the benefit can be made reciprocal, and that it is the aim and desire of civilised administration to fulfil this dual mandate.”<sup>81</sup>

On the other hand, imperial rivalries were to be defused by the open-door policy, which thus functioned as a security warrant. In other words, the joint exploitation of colonial possessions was codified in the Covenant to create mutual securities between the major European powers.

Similar security motives found their way into the section for the B-mandates. The League of Nations' strategy for preventing future wars lay in prohibiting the construction of fortifications or military and naval bases, as well as the military training of locals for purposes other than policing and defending mandated territories. After all, the Versailles Treaty and the mandate system were negotiated at the Paris *Peace Conference*. Brokering peace and *not* security was the top priority.

While South West and Central Africa are explicitly mentioned in the Covenant, Togoland and Cameroon were also put in the B-mandates because their peoples were regarded “as unable to express a rational choice as to the mandatory power to be selected.”<sup>82</sup> Though at first, France did not want to accept the mandate system at all, especially the so-called A-mandates,<sup>83</sup> ultimately Clemenceau realised that the acceptance of the Mandate System, which largely corresponded to the norms and principles of British imperial ideals, mitigated Anglo-French antagonisms.<sup>84</sup> Nevertheless, the price for France's approval of the Mandates System was an exception to the general formula of non-militarisation envisaged for the “B” mandates: the French secured the right to raise indigenous troops in Togoland and Cameroon to defend the homeland in the event of a general war.<sup>85</sup> Furthermore, the C-mandates contained a clause that allowed the mandated power to administer the territory “as an integral part of its territory.” France insisted on the introduction of a similar clause in the mandate agreements of Togoland and Cameroon. This clause was to reappear in the later trusteeship agreements and to cause some stir during the UN's founding conferences in San Francisco and London.

### Redrawing Borders of Togoland: The Simon-Milner Agreement

When the main negotiators left Paris, some the sub-negotiators, who were tasked with settling all the remaining issues, seemed to want to throw some concepts out the window.<sup>86</sup> On 7 May 1919, the British Secretary of State for the Colonies, Viscount Alfred Milner, met bilaterally with his counterpart, the French Colonial Minister Henri Simon, to negotiate the final boundary between French-occupied and British-occupied Togoland.

<sup>81</sup> Frederick Dealtry Lugard, *The Dual Mandate in British Tropical Africa*, 3rd ed. (Blackwood, 1926), p. 617.

<sup>82</sup> As cited in R. B. Bening, “The Ghana-Togo Boundary, 1914–1982,” *Africa-Spectrum* 18, no. 2 (1983): 193.

<sup>83</sup> Pedersen, *The guardians*, pp. 33–34.

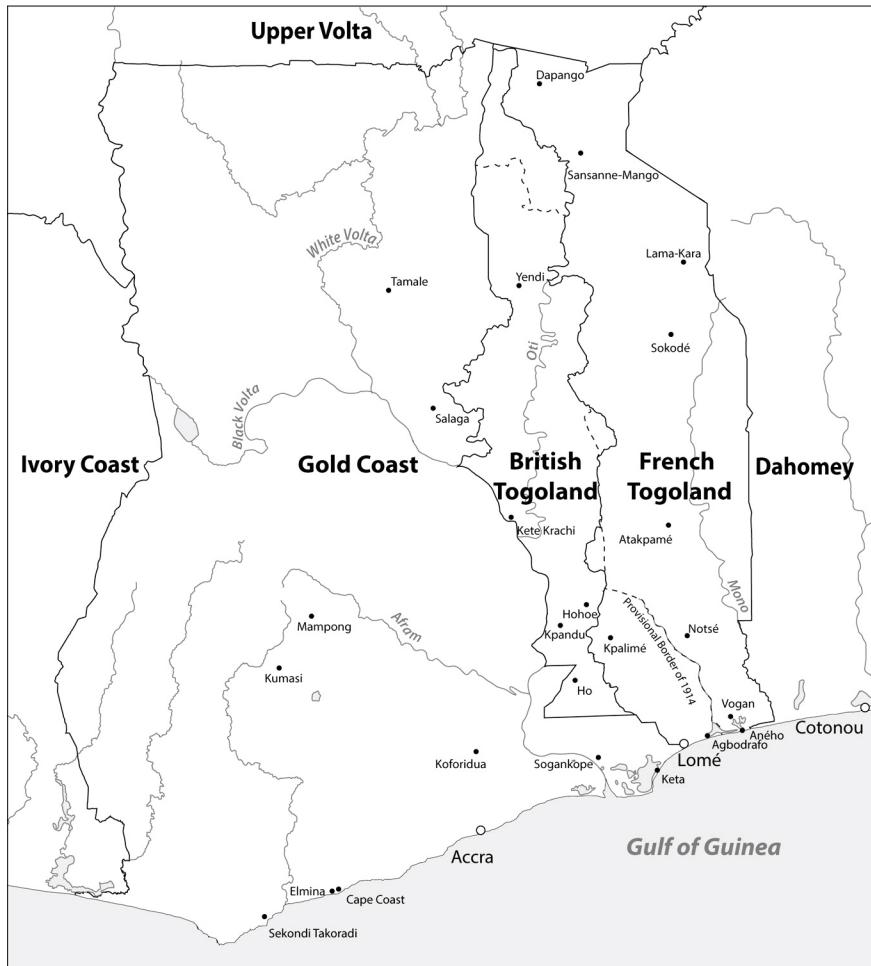
<sup>84</sup> Pedersen, *The guardians*, p. 12.

<sup>85</sup> Chowdhuri, *International Mandates and Trusteeship Systems*, p. 60.

<sup>86</sup> Pedersen, *The guardians*, p. 31.

After the two-week long Togoland campaign (the first victorious battle of the allied powers in World War I), the British still occupied Lomé, its port, and large parts of the German railway network, which France was keen on. Milner eventually consented to Simon's request that, due to the narrowness of Dahomey, its limited coastline and lack of ports, Lomé and the coastal area be exchanged for territorial gains in the north, which eventually united the Mamprusi and Dagomba under British rule.<sup>87</sup>

Map 6: Simon-Milner Boundary Accords (1920)



Source: Own creation.

Simon and Milner agreed that the "small strips" of Togoland should simply be incorporated into neighbouring French Dahomey and the British Gold Coast "without any

87 TCOR, "2<sup>nd</sup> Session" (1947), p. 321.

question of mandate.”<sup>88</sup> Especially Simon championed the “pure and simple” annexation of Togoland to ensure the effective protection and development of the natives “towards a higher plane of civilization,” maintaining that the “work of civilization, could only be carried out under the auspices of the sovereignty of a country,” that is, French sovereignty.<sup>89</sup> But pressured by large sections of the British public, especially the Labour Party and the American delegation, the British Prime Minister, Lloyd George, had to put a spoke in the wheel of Simon’s and Milner’s colonial ambitions and maintained that West Africa could not be excused from the new mandate regime. Pedersen maintains that “[h]ad Milner and Simon been left to their own devices, they might have made short work of the mandates system altogether.”<sup>90</sup> Thus, on 10 July 1919, with the signing of the Milner-Simon agreement, the eastern two-thirds of Togoland came under French control and the remaining western third came under British control.

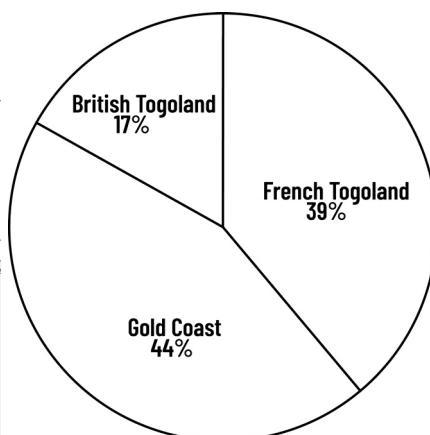
The new colonial demarcation cut across the homeland of the Ewes,<sup>91</sup> who were subsequently divided between the British Gold Coast, British-mandated Togoland, and French-mandated Togoland. A look at the population distribution of the Ewe at the time shows how Milner and Simon caused the future headaches of the two mandate powers:

Map 7: Border Demarcation across Eweland (1920–1956)



Source: Own creation.

Figure 1: Distribution of the Ewe-speaking population (1947)



Source: Own creation. Based on TCOR “7<sup>th</sup> Session: Reports of the United Nations Visiting Mission to Trust Territories in West Africa” Supplement No.2 (T/793) (1951), p. 72.

88 Milner as cited in Pedersen, *The guardians*, p. 31.

89 Chowdhuri, *International Mandates and Trusteeship Systems*, pp. 46–47.

90 Pedersen, *The guardians*, p. 31.

91 Bening, “The Ghana-Togo boundary, 1914–1982”

Since the coastal areas were more densely populated, more than half of the Ewe-speaking population was under British influence, reinforcing the already strong 'British pull factor' on the Ewe. At the same time, more than half of the Ewe lived in a mandated area, that is, under international supervision, which was to provide the Ewe representatives with the argument before the international organisations that they should have a decisive say in their future fate as a unified people. If most of the Ewe had ended up outside the mandated area, then the international organisations would have placed the Ewe issue outside their jurisdiction.<sup>92</sup>

### Proto-Nationalist Ewe-Petitions to the League

The division gave rise to several petitions by the *Committee on behalf of Togoland Natives*, which was made up by several English- and German-speaking Ewe chiefs and merchants and led by none other than Octaviano Olympio, Lomé's wealthiest merchant.

Olympio's plea first came to the attention of Alfred Milner on 10 September 1919, that is, only two months after the publication of the accord negotiated between Milner and Simon.<sup>93</sup> The letter, penned by Olympio, stated that the mere possibility of Togoland being transferred to another power "had filled them with great apprehension" and that they wished to be under British administration for "tribal, territorial, educational, and economic reasons." The dispatch further stated that "the absorption of Togoland in France's Colonial Possessions will sever members of the Ewe-speaking tribe in Togoland from those in the South-Eastern portion of the Gold Coast Colony and seriously interfere with their economic progress,"<sup>94</sup> and concluded: "The feelings of his Lordship's petitioners will be more clearly understood when they are considered side by side with those of the inhabitants of Alsace and Lorraine at the time of their annexation to Germany in 1871."<sup>95</sup> Olympio requested furthermore that the petition be placed before the League of Nations for due consideration.

It is difficult to say to what extent Olympio's petition was motivated by an authentic sentiment of Ewe-ness,<sup>96</sup> or whether he was using the division of the Ewe for a rather self-serving end. For sure, Olympio, as an already-Anglophile member of Lomé's commercial elite would have greatly benefited if his favoured protective power, Britain, would have remained in control over Lomé. Whatever the reason, it is not difficult to see that Olympio securitised the division of the Ewe by comparing it to Alsace and Lorraine – a fresh reminder of the recent horrors of World War I, as it was one of the very points of

92 There are only estimates of the size and proportion of the Ewe in the total population. The report of the first United Nations visiting mission to the trusteeship territories in West Africa puts the number of Ewe in 1947 at 800,000, of whom about 330,000 lived in the Volta Triangle of the Gold Coast, about 126,000 in British Togoland and about 290,000 in French Togoland. In British Togoland, the Ewe made up between one third and one half of the total population, in French Togoland more than one third.

93 United Nations (UN) (Geneva), R20/1/4900/3099, *Letter protesting against the present division of Togoland*, 1920, petition by Olympio to Milner, 16 September 1920 [p. 2]

94 As cited in Welch, *Dream of Unity*, p. 57.

95 As cited in TCOR, "2<sup>nd</sup> Session" (1947), p. 322.

96 Keese, *Ethnicity and the Colonial State*, p. 248.

contention that brought the archenemies, France and Germany, to the trenches of the Great War.

Although at the Paris Peace Conference, George Lloyd, Woodrow Wilson, and Jan Smuts had made proposals on the right of mandated peoples to petition,<sup>97</sup> it was Henri Simon who argued that if a right to petition would be granted to individual inhabitants of mandated territories “all administration would be impossible.”<sup>98</sup> Thus, Milner, who had personally negotiated the partition of German Togoland, simply rejected Olympio’s petition. Thus, Olympio sent his complains protesting the introduction of French rule in Togoland to promising anti-colonial advocates, the most prominent of which was US President Harding. Olympio stated:

“Togoland handed to a Government other than British is a ruin to Togoland because of its connection with the Gold Coast. [...] Please allow us to say that the French method of administration as we see it is worse than that of the Germans... During the German regime there were some methods of administration which we disliked and protested against; now they are being recalled into the colony, such a as the poll-tax, market-tax, forced labour, oppression, etc.”<sup>99</sup>

Furthermore, Olympio made use of his contacts from his time in Liverpool, sending cables to representatives in Liverpool’s Chamber of Commerce, the Liverpool-based *Association of West African Merchants*, and to correspondents of the *Daily Telegraph*, whereby his petitions made their way into English newspapers and thus, by January 1921, came to the attention of the League’s Council.<sup>100</sup>

### Togobund

Not a year had passed since the Simon-Milner-Accord when in 1920 African pupils, employees, and ex-clerks of the former German Togoland, who were now unemployed due to the changed language skills required on both sides of the new border, founded the *Bund der deutschen Togoländer* (Togobund). The Togobund was largely led by Ewe-exiles from French Togoland living in Accra. Notable members were Emmanuel Bruce and Gerald Otto Awuma. It is difficult to estimate how large the audience of the Togobund was, but it may have gone beyond a few nostalgic ex-clerks as Germanophilia was widespread among the common people and the advanced elite.

<sup>97</sup> Momirov, “The Individual Right to Petition in Internationalized Territories,” p. 217.

<sup>98</sup> As cited in Pedersen, *The guardians*, p. 78.

<sup>99</sup> Raymond Leslie Buell, *The Native Problem in Africa* 2 (New York: Macmillan, 1928), p. 362.

<sup>100</sup> United Nations (UN) (Geneva), R20/1/4900/3099, *Letter protesting against the present division of Togoland*; See also Pedersen’s analysis Pedersen, *The guardians*, p. 79.

Photo 2: Meeting of the Togobund, Accra (26 July 1931)<sup>101</sup>

Source: Bildarchiv der deutschen Kolonialgesellschaft, Universitätsbibliothek Frankfurt am Main, N° 041-0235-52.

The Togobund took a strong interest in ameliorating the impoverished lives of peasant communities, claimed support throughout partitioned Eweland. With the establishment of German colonial rule, almost all the Ewe chiefdoms had been united under one rule for the first time in their history, while now since World War I they saw themselves separated again. The German period had left behind the memory of a region that was less artificially fragmented than it had been after 1919, and the memory fed resentment. This promoted nationalist efforts for unity, especially among parts of the Ewe elite, as they also manifested themselves in the German Togobund. The Togobund's own designation "Bund deutscher Togoländer" was the first self-reference expressing a "Togolese" identity, although its membership and activities drew mainly from the Ewe population.

Lawrance holds that "the amorphous idea of Togolese unity was superimposed on a more tangible concept of Ewe unity, [...] Bundism was an evolving and changing Ewe expression of Togolese nationalism, [...] its failure provides an important explanation for the failure of the post-war Ewe Reunification Movement."<sup>102</sup>

### Petitions to the League

Octaviano Olympio also petitioned directly to the newly created League of Nations.<sup>103</sup> Since its Permanent Mandates Commission (PMC), responsible for the supervision of the mandate administrations, has not yet been convened, its designated director, William

101 Translation: "Our faithful Togo people in exile."

102 Lawrance, *Locality, Mobility, and "Nation"*, p. 122.

103 Amenumeey, *The Ewe Unification Movement*, pp. 22–26.

Rappard, saw no other alternative than to forward selected protests (among them Olympio's petition) to individuals of the Commission and state representatives of the League's Council. As Momirov posits: "Understandably, such practice of in fact un-institutionalized blaming and shaming of certain mandatory powers was not welcomed with fanfare."<sup>104</sup> Even before the first meeting of the PMC in October 1921, the Council had already received 71 petitions (most of them from the A-mandates, such as Palestine and Syria)<sup>105</sup> and a petition from Palestine, received in July 1921 represented the last straw for the British. The new minister of colonies, Winston Churchill, stated that it was "obviously unsuitable that petitions of this nature which are generally *ex parte* statements directed either against His Majesty's Government or against the local Government, should be circulated in this way."<sup>106</sup>

As such, the matter of petitions and their circulation was raised at the very first meeting of the PMC in October 1921, but the commission refused to formalize the growing petition practice. Fearful of the power and publicity, which the petitions might confer on colonial subjects, the British drafted procedural rules for the petition process,<sup>107</sup> that were modelled on the minority regime of the League of Nations and distinguished remedially between "receivable" and "non-receivable" petitions.<sup>108</sup>

Receivable petitions could not

- stem from an anonymous source,
- cover ground already gone over by another petition,
- be composed in a 'violent language',<sup>109</sup> and
- call the terms of the mandate itself into question.<sup>110</sup>

While the rule not to question the Mandates System quite literally ruled out its securitisation in the first place, the rule on 'violent language' represented *locutionary silencing* in a particular aspect. The requirement that petitions not be written in "violent language" did not refer to the use of swear words, but to descriptive terms such as 'terror, atrocities, or bloodshed'.<sup>111</sup>

While 'receivable' petitions had to be submitted through the mandate power, oral hearings were ruled out entirely. The issue of oral hearings was discussed at the 3<sup>rd</sup>, 8<sup>th</sup>, and 9<sup>th</sup> Sessions of the PMC, which rarely was able to make an informed decision on a

<sup>104</sup> Momirov, "The Individual Right to Petition in Internationalized Territories," p. 217.

<sup>105</sup> van Ginneken, "Volkenbondsvoogdij," 205, footnote 9.

<sup>106</sup> TNA (London), FO 371/7051, *League of Nations*, 1921, "Churchill to the Premiers of Australia, New Zealand and South Africa", 14 July 1921, p. 109–110.

<sup>107</sup> Submission to the League of Nations of Petitions from Inhabitants of Mandated Territories; Memorandum by the British Representative of Procedure to be Adopted.

<sup>108</sup> League of Nations, *The Mandate system: origin, principles, application*, Series of League of Nations Publications (Geneva), p. 41.

<sup>109</sup> For the origine within the League's minority regime see Cowan, "Who's Afraid of Violent Language?"

<sup>110</sup> The proposal presented through a report to the Council was adopted in January 1923; see League of Nations, *Official Journal* (1923) *League of Nations Official Journal* 4, no. 3, 298–300, 1427.

<sup>111</sup> Cowan, "Who's Afraid of Violent Language?", p. 283.

petition as it was not empowered to hear the petitioner in person. As was to be expected, all mandate powers rejected this proposal because it would render the petition procedure comparable to court proceedings, which were regarded “inconsistent with the very nature of the mandatory system.”<sup>112</sup> As Balakrishnan Rajagopal rightfully noted: “The net result of this policy was that the PMC adopted or was made to adopt by the council an *attitude of containment* towards the petitions, wherein the most serious allegations were either *put off by bureaucratic techniques*.”<sup>113</sup>

Petitions that were considered receivable were referred to a member of the PMC who functioned as a “rapporteur.” After discussing the petition in closed session with an accredited representative of the respective mandate power, the rapporteur formulated his/her own conclusions for submission to the Council.<sup>114</sup> After discussing petitions received, the PMC could decide which petition (if any) should be circulated to the Council. The minutes of the meeting at which the petitions were discussed had to be attached. The Council, dominated by the four permanent members, Britain, France, Italy, and Japan had the power decide if there are reasons for circulating any of these petitions to other members of the League, which they usually did not find.<sup>115</sup>

Most petitions that *reached* the League, about 87% (2,642), were considered ‘receivable’. However, this seemingly positive statistic was overshadowed by the fact that petitions had to be submitted via the mandate power itself. But many potential petitioners were discouraged from submitting their petitions directly to the mandate powers for fear of consequences. Furthermore, as Pedersen notes, it is impossible to estimate how many petitions were sorted out.<sup>116</sup> In the 25 years of the formal existence of the Mandates System, only one petition was received from British Togoland, 71 from French Togoland and 3 from both territories. Regardless, most of the petitions that were considered ‘receivable’ never got far because the PMC had little external information and was unable to conduct independent investigations with which to challenge the mostly negative response of the mandate powers.<sup>117</sup>

An instructive example of petitions against the abuses of rule in French Togoland is the case of the Adjigo family. Like most influential families on the Togo coast, the Adjigo family was an Anglophone merchant family that had rivaled with the Lawson family over the stoolship of the Togolese town of Aného, the early capital of German Togoland. Before the war, the German colonial administration had decided to use the Lawson family for its own purposes and deported the Adjigo family to Atakpamé up north. When, after the war, the French Mandate was established, the Adjigos hoped to be rehabilitated. However, France’s first governor, Auguste Bonnecarrère, did not rehabilitate the

<sup>112</sup> League of Nations, *The Mandate system*, p. 41.

<sup>113</sup> Emphasis added; Balakrishnan Rajagopal, *International law from below: Development, social movements, and Third World resistance* (Cambridge, U.K., New York: Cambridge University Press, 2003), <https://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=120466>, p. 69.

<sup>114</sup> Chowdhuri, *International Mandates and Trusteeship Systems*, p. 206.

<sup>115</sup> League of Nations, *Official Journal* (1923) *League of Nations Official Journal* 4, no. 3, p. 300.

<sup>116</sup> Pedersen, *The guardians*, pp. 86–87.

<sup>117</sup> Hall, *Mandates, Dependencies and Trusteeship*, p. 202.

Adjigo family, but sent their leaders to “obligatory residence” in northern Togoland. After the Adjigos’ own appeals to return from exile failed, the Gold Coast lawyer, Joseph Ephraim Casely Hayford, took on their case and sent three successive petitions to the PMC on their behalf. As a lawyer, Casely Hayford addressed the PMC as the “final Court of appeal.”<sup>118</sup> The largest petition he sent amounted to over one hundred pages, including at least thirty appendices. Yet, the PMC rejected Casely Hayford’s petitions. More to the point, the PMC’s French member, Pierre Orts, claimed that representation of a single family by a foreign lawyer was “an abuse of the right of petition,” adding that Casely Hayford had falsely claimed that the French administration had not forwarded one of his petitions to the PMC. The PMC’s refusal to accept Casely Hayford’s petition was particularly absurd because Paris itself later called French Togoland’s Governor Bonnecarrère to order and nearly removed him (albeit for reasons other than the petition). Finally, the Adjigo family returned from exile.

Anique van Ginneken compiled a comprehensive set of statistics on petitions that reached the PMC.<sup>119</sup> She establishes that until the League’s dissolution in 1945, the PMC received in total 3,044 petitions among which it considered 13% (402) as ‘not receivable’: 4 were anonym (rule a), 183 raised issues that were already dealt with by the PMC (rule b), 19 contained ‘violent language’ (rule c), and 49 were protesting the Mandates System (rule d). For the remainder, the PMC considered them either not within its competence (67), too general (41), vague (24), or trivial (12).<sup>120</sup> These petitions underwent classic *locutionary silencing* because they were either not forwarded to the League or classified as ‘not receivable’.

In quantitative terms 80% of petitions were either rejected (1,638) or no decision was found (841), whilst of all petitions only 14% (416) were partially and 5% (149) were fully ‘considered’. ‘Considered’, however, did not automatically mean that a petition was acted upon according to its demands, but merely that the PMC made a recommendation to the respective mandate power. In fact, the League pronounced 15 reprimands against France and one against Britain for not acting on the petitions that emanated from Togoland.

As Pedersen notes, most petitions ‘failed’ because they clashed with the mandate powers’ conception of the system, that is, not to challenge the basic premises of the system itself. After all, territories were placed under mandate because their inhabitants were “not yet able to stand by themselves.”<sup>121</sup> Though, almost three-quarters of all petitions were essentially political in nature,<sup>122</sup> remarks such as that petitioners from mandated territories ‘do not understand the terms of the mandate system’ usually disqualified criticism towards the mandate powers because the petitioners’ alleged backwardness rendered them incapable of recognising their need for foreign rule. In fact, the very proposal that established the rules of procedure of the PMC stated that “peoples of a less-advanced civilisation are always ready to address, to any authority, complaints

<sup>118</sup> Lawrence, *Locality, Mobility, and “Nation”*, p. 55.

<sup>119</sup> The research results regarding the numbers, origin, nature and effect of the mandate petitions are those of van Ginneken, “Volkenbondsvoogdij,” pp. 211–18.

<sup>120</sup> The reason for the three remaining petitions is not known.

<sup>121</sup> League of Nations

<sup>122</sup> van Ginneken, “Volkenbondsvoogdij,” p. 214.

about the most insignificant matters for reasons which have little, if any, foundation<sup>123</sup> Thus, the PMC's civilizational attitude, which was formalized in the Covenant's mandate article, indicated *illoctionary disablement*, while the overwhelming majority of petitions underwent *illoctionary frustration* because they were either rejected or no decision was found because the PMC was incapable to challenge the negative response of Mandate Powers.

### 5.3.2 French & British Togoland under Mandate

The period of French mandated Togoland can roughly be divided into two phases: The first phase (1922–1930) was characterised by the new role of the chiefs in conjunction with a relatively prosperous economic climate.

#### French Mandate Organisation

Akin to the other French possessions in West Africa, the mandate administration was highly centralized: at the top of the administration was the Governor, the *Commissaire de la République*, who reported directly to the Ministry of the Colonies in Paris at Rue Oudinot and not to the AOF Governor-General in Dakar. The highest colonial officials at the regional level were the 7 *Commandant de Cercle* (district commissioners) to whom the total of 11 *Chefs de Subdivision* were subordinate. The French established a rigid hierarchical system of Chiefs (*chefs du village*) and superordinate Paramount Chiefs (*chefs du canton*), each of whom had a set of responsibilities in a descending hierarchy of power. Chiefs had the task of transmitting and supervising the execution of directives and orders from the district commissioner, controlling the activities of their subordinate chiefs, whose most important functions were the census and the collection of the poll tax.<sup>124</sup>

African participation in government was limited to the so-called *Conseils de Notables*. Each composed of up to 30 elected rural or urban chiefs, the councils had only an advisory function in the areas of taxation, public works, and the local budget. This experiment with elected offices displaced the former role of urban tribal chiefs and village heads in administration.<sup>125</sup> Needless to say, the influential Octaviano Olympio was the president of the *Conseil des Notables* in Lomé. Nonetheless, these *Conseils de Notables* had little influence on the decisions of the district commissioners.

The French colonial doctrines, which were also applied to the mandate territories, were politically underpinned by a sense of cultural mission of the *civilisation française*. Based on the unquestioned superiority of French culture and its suitability for all populations, a basic tenet of French colonial policy in Africa was the slow cultural *assimilation* of the colonial population. Those colonial subjects who had acquired the characteristics of French civilization, that is, French language, dress, customs, education, religion, were accorded the status of *assimilé* or *évolué*. With this status came the right to vote, jurisdiction under French civil and criminal law (instead of customary law), and exemption from the *indigénat* code. Introduced in 1924, the *indigénat* code replaced constitutional rights

<sup>123</sup> League of Nations, *Official Journal* (1923) *League of Nations Official Journal* 4, no. 3.

<sup>124</sup> Lawrence, *Locality, Mobility, and "Nation"*, p. 47.

<sup>125</sup> Lawrence, *Locality, Mobility, and "Nation"*, p. 19.