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Studien zur Geschichte des Völkerrechts 35

Jakob Zollmann

Naulila 1914. World War I in Angola and International Law

A Study in (Post-)Colonial Border Regimes and Interstate Arbitration

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In writing this book, I attempted to take the advice that historians should have some "personal contact…with the places about which [they] write". This book is about many places, but most of all it is a history of Ovambo and adjacent areas before and during World War I. I owe the opportunity to gain some "feel"[1] for this entirely to one person: Phil ya Nangoloh, who invited me "to come to the north". The other places prominent in this history are far away from here, but I was equally fortunate to visit many of them. My research in Windhoek, Lisbon, Paris, Washington, London, and Berlin was made possible by grants from the *Fritz Thyssen Foundation*, the *German Historical Institutes* in Paris, Washington and London, the *German Academic Exchange Service (DAAD)*, and the *Berlin Social Science Center (WZB)*.

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1 *Hobsbawm* 1959: v.

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Paris, December 2014

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Abbreviations

AA	Auswärtiges Amt (*German Foreign Office, Berlin*)
AJIL	American Journal of International Law
Ax	Annex
BA	Bezirksamt (*District Office in GSWA*)
BIS	Bank for International Settlements, Basle
BML	British Minister Lisbon
BNP	Biblioteca Nacional de Portugal (*National Library, Lisbon*)
BSGL	Boletim da Sociedade de Geografia de Lisboa (*Journal of the Geographic Society*)
cf.	compare
CG	Consul General
CO	Colonial Office, London
cx.	caixa ([*archival*] *box of unbound documents*)
GK	Generalkonsulat (*German Consulate General*)
GM	Goldmark
DGL	Deutsche Gesandtschaft Lissabon (*German Legation Lisbon*)
DKGSWA	Deutsche Kolonialgesellschaft für Südwestafrika
DKL	Deutsches Koloniallexikon, Leipzig 1920, Vol. I-III
DKZ	Deutsche Kolonialzeitung
DOAZ	Deutsch-Ostafrikanische Zeitung
DoS	US Department of State, Washington D.C.
FML	French Minister Lisbon
FRUS	Papers relating to the Foreign Relations of the United States
GG	Governador General (*Governor General of Angola, Luanda*)
GEPB	Grande Enciclopédia Portuguesa e Brasileira
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ILC	International Law Commission (United Nations)
JAH	Journal of African History
JNS	Journal of Namibian Studies
JSAS	Journal of Southern African Studies
KA	Kolonialabteilung des AA (*Colonial Department of the German Foreign Office, Berlin*)
KGW	Kaiserlicher Gouverneur Windhoek (*Imperial Govenor of GSWA, Windhoek*)
MAE	Ministère des Affaires Étrangères (*French Foreign Ministry, Paris*)
MAT	Mixed Arbitral Tribunal

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MNE	Ministério dos Negócios Estrangeiros (*Portuguese Foreign Ministry, Lisbon*)
MPLA	Movimento Popular de Libertação de Angola
MU	Ministério do Ultramar (*Portuguese Overseas Ministry, Lisbon*)
PLB	Portuguese Legation Berlin
RGBl.	Reichsgesetzblatt (*German Government Gazette*)
RGS	Royal Geographic Society
RMW	Reichsministerium für Wiederaufbau, Kolonialzentralverwaltung (*German Ministry of Reconstruction, Colonial Department, Berlin*)
REA	Reichsentschädigungsamt (*German Office for Compensation of War Damages, Berlin*)
RFM	Reichsfinanzministerium (*German Ministry of Finance, Berlin*)
RIAA	Report of International Arbitration Awards
RJM	Reichsjustizministerium (*German Ministry of Justice, Berlin*)
RKA	Reichskolonialamt (*German Colonial Office, Berlin*)
RWM	Reichswirtschaftsministerium (*German Ministry of Economy, Berlin*)
SBRT	Stenographische Berichte des Reichstags (*Reports of the German Parliament*)
SGL	Sociedade de Geographia de Lisboa
SoS	Secretary of State, Washington D.C.
SWAPO	South West Africa People Organisation
TRP	Très Révérend Père
TV	Treaty of Versailles, 1919
UNITA	União Nacional para a Independência Total de Angola
USC	United States Consulate
USCA	United States Commercial Agent, Luanda
USML	United States Minister, Lisbon
v.	volume
VK	Vize-Konsulat (*German Vice-Consulate*)
VO	Verordnung (*decree*)
ZaöRV	Zeitschrift für ausländisches öffentliches Recht und Völkerrecht

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Introduction

This book is not about a comparison, but rather a clash of two colonial empires – first politically, then militarily and finally legally. The book analyzes the Great War in Angola that saw a victory of German over Portuguese troops. Encouraged by this defeat of his enemy, an African King, Mandume, fought against Portugal and South Africa to save his independence. In 1920, Portugal's government started legal proceedings against Germany and laid claims for damages inflicted upon Portuguese nationals and the state during these wars. Both, the Luso-German arbitration case in international law and the (politically charged) memorial practices with regard to King Mandume have had ramifications up to the present day.

Colonial history is mostly analyzed within the framework of the colonial state, be it British, French, Portuguese, German or Italian. However, neither the history of international law nor the history of war can be told within such a framework. Most of the interactions that are analyzed herein span borders in one way or another. The analysis of the Great War in Angola (and to a lesser extent in German Southwest Africa [GSWA][1]) and its legal aftermath also makes it necessary to shift back and forth between the colonies and Europe. By linking Angolan, Namibian, Portuguese and German history with the history of international law, this book demonstrates how colonial, African, military and legal histories can be intertwined in one narration that no longer needs to ask for a "national" qualification.[2] Advocates of transnational or comparative (post-) colonial history have repeatedly stated that "[i]mperialisms existed in relation to one another."[3] It is therefore one of the goals of this book to identify in the Luso-German legal dispute the historical themes underlying the argumentation brought forward by the representatives of either party, as they underline how both Portuguese and German colonialisms referred to one another and were understood as competing practices and "ideologies". Calls for a "transboundary perspective" in African history are numerous and so are the lamenta-

1 'GSWA' is used for pre-1918 events, 'SWA' for pre-1968 events, and 'Namibia' thereafter.
2 Cf. *Sheehan* 1981: 4; 22.
3 *Cooper* 2002: 66; cf. *Lindner* 2011; *Gissibl* 2011: 162 on the 'vital part played by the empires of others. They provided role models'; *Stuchtey* 2010: 238; *Matsuzaki* 2009: 107f.

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tions about "historians still tend[ing] to treat [boundaries] as if they divide separate historical spaces." They do not. And the history of the region that, in 1914, became the scene of fighting between German, Portuguese and African troops and the subsequent arbitration procedure attests to the viability of a multifaceted "transboundary dimension" of southern African colonial history.[4]

State of the Art and Objects of Investigation

Over the last two decades, the "imperial turn" in historiography has caused researchers to analyze the role of colonies in national (meaning metropolitan) life thereby bringing colonialism back into a national historical narrative and bridging the argumentative dichotomy of "metropolis" and "colony". As a result, in the (post-) colonial and "new imperial" histories that have recently thrived, historians more often speak of "entangled histories" that better attest to the complexities of colonial encounters.[5]

Research on the "close interpenetration of European and non-European societies, especially during the colonial era" is a long established field among historians of Portugal, after all, "Portugal [was] not a small country" given the colonies and the "500 years" of Portuguese presence in extra-European territories. State propaganda under the *Estado Novo* depicted the empire as forming the nation and tried to build a myth around Portugal's colonial "vocation".[6] The 1974-Revolution did not result in an immediate attempt by historians to deconstruct these "series of exploited and abused myths, traditions, and rhetoric constructions aimed at praising Portuguese overseas expansion." Rather, Portuguese academic historiography turned away from the colonies towards "European" topics, leaving much space for popularized (military) colonial histories. However, while for a long period, critical discussions of Portugal's imperial past was left mostly to non-Portuguese historians, the last years have seen an upsurge in Portuguese studies on the colonial experience and the related myths. Indeed, these "metaphysics of colonialism", the myth of Portugal's pacific colonization, the Portuguese "civilizing mission", the non-racialism and the "presumed widespread creoleness" all played a role during the arbitration

4 *Dedering* 2006: 275; 294.
5 *Duve* 2014: 5f. points out that this is – to some extent – also true for legal historians.
6 On the map *Portugal não é um país pequeno* cf. *Cairo* 2006; on historiography *Mattoso* 2010.

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procedure.[7] Thus, for historical reasons the history of the colonies is an integral part of Portuguese historiography.

In Germany, this was not the case. It has been asserted recently that "few West German historians took German imperialism seriously". Until the 1990s, the output on academic research on the German colonies remained small.[8] A marked change set in around the year 2000; the surge in the number of accounts of Germany's colonial period has often been described since.[9] The short period of the colonial empire's duration, its rather late formation in 1884/98 and the early demise during the First World War might be reasons for the heretofore-reluctant treatment of the colonies by German historians. The dominance of "domestic issues" on the research agenda might be another. However, despite the belatedness and the German colonial empire's short duration, there was, as historians now emphasize, nothing "particular or special" about it; it was an "integral part of Europe's colonial history."[10] Research has therefore underscored the fact that the "society of the German *Kaiserreich*, too, was more strongly influenced by colonial transfers than had long been supposed."[11] As a result, the entanglements between "metropolis" and colonies, and the repercussions of empire "have been a core concern of German colonial studies over the past decade."[12]

A book about the Luso-German conflict and its political, military, and legal facets must thus take into consideration several research strands from different national settings in order to make these entanglements discernible. Firstly, there are questions of "high politics" before the war: The Anglo-German agreements of 1898 and 1913 on a future purchase of Portuguese colonies have been analyzed, first, within the context of a possible Anglo-German rapprochement, and second, as an example of the rather

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7 *Corrado* 2008: xvii; *Lourenço/Keese* 2011: 239; cf. *Figueiredo* 1976; *Marques* 2006; *Torgal* 2009: 493; *Arenas* 2003: 14; *Dianoux* 1989: 22.

8 *Güttel* 2012: 232; cf. on German historiography: 6-9.

9 *Lindner* 2008; *Arich-Gerz* 2013: 111 'academic research has actually been following the lead of novelists here, as it is these authors who have been shaping the literary rediscovery of German colonial history since the mid-1990s.' '[R]oughly fifty historical novels' prove 'contemporary German literature's intense engagement with German colonialism' (*Göttsche* 2013: 15).

10 *Conrad* 2003: 198 'Das deutsche Kolonialreich erweist sich … als keineswegs partikular oder besonders, wie es in zahlreichen Untersuchungen immer noch suggeriert wird, sondern als integraler Bestandteil der europäischen Kolonialgeschichte.'

11 *Habermas* 2014: 47.

12 *Gissibl* 2011: 160; cf. *Conrad* 2012: 8 on 'Konjukturen des kolonialen Interesses'.

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aggressive German policy of (colonial) expansion. The implications these agreements had on policies "on the ground", however, were barely taken into account.

For decades, the history and cultural study of Europe's Great War focused on the Western Front. Trench warfare, "total war", forced labor, prisoners of war, and many more aspects of the experiences of combatants and civilians were mostly studied in the British, French, Belgian, and German contexts. However, in recent years, scholars seem to have (re-) discovered the other fronts of the First World War. The Eastern Front from the Baltic Sea to the Caucasus is the most prominent example of the endeavor to more adequately capture the global dimensions of this war.[13] A global view on the war includes extra-European battlefronts on the high seas and in the colonies. It was even claimed that the "Great War itself can hardly be understood without recourse to colonial history".[14]

The analysis of the First World War in Africa is mostly the history of the "guerilla genius" Lettow-Vorbeck in East Africa, who escaped the British for four years,[15] whereas the war was of considerably shorter duration in the other German colonies: two years in Cameroon, ten months in GSWA, and one month in Togo. Irrespective of the centenary and any question regarding the war's continuing relevance for current affairs, the "volume of writing about Africa and 1914–18 remains comparatively modest".[16] Historians tend to characterize the war in GSWA as "a relative sideshow" as compared to the campaign in East Africa.[17] However, the "South West Africa campaign still requires the same … investigation that the East Africa campaign is now receiving". Furthermore, it is all too often disregarded that this war was more than a conflict between European colonial powers; it was inextricably linked to the attempt of an African King to resist the onslaughts of colonialism. The few accounts of the "Angola campaign" were overwhelmingly written by eyewitnesses (most of them Portuguese), who barely had access to any archival documents from 1914. Up to the present, secondary literature mentioning the campaign has depended on these memoirs or other books and has quoted them uncriti-

13 Cf. *Moyar* 2007: 233; *Bachinger/Dornik* 2013 (Balkans; Black Sea); *Mark* 2013 (Turkestan).
14 *Segesser* 2010: 7; *Klotz* 2005: 136; cf. *Janz* 2013: 9-13; 133-140; *Pawliczek* 2014: 686; 704.
15 *Michel* 2004: 923; but cf. *Nasson* 2014a: 160f; *Schulte-Varendorf* 2011 on WWI in Cameroon.
16 *Nasson* 2014: 674 Bibl. essay; cf. *Jeanneney* 2013; *Reynolds* 2013 on memorial cultures.
17 *Nasson* 2014: 437; cf. *Teixeira* 2003: 24 Angola, a 'secondary and periphery theater of war'.

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cally. In line with this, a recent account of the campaign was written from a purely German perspective. In its celebration of the German victory in Angola, it remains within the bounds of traditional colonial hagiography and leaves out any African agency.[18]

The theme of war has been described as an "obsession in African history".[19] "Few aspects of African history have generated as much interest … as the study of resistance to colonial rule".[20] After all, in GSWA as well as in Angola "African resistance remained the crucial factor in the sad history of these years".[21] While the wars of resistance in the years 1904–07 in Hereroland and Namaland (located in the center and south of GSWA) have received considerable attention by researchers, the campaigns in the south of Angola and the north of GSWA (1914–17) are mostly mentioned only in passing. René Pélissier, *le nouveau Cadornega de Angola*[22] is, as he put it, "the only historian to have published works on the military history of the Northern Ovambos".[23] Since the 1960s, Pélissier has again and again pointed out that Portugal's colonial campaigns barely receive attention by historians. The dominance of Anglophone literature and research on the African continent must however not lead to a situation where decisive events such as the battle of Mongua (1915) sink into oblivion due to the inaccessibility of the sources' languages.[24] Pélissier's "ruthless analysis" of Portuguese warfare in Angola is based on a *quantité astronomique de documents*[25] and H.J. de Dianoux assumed that Pélissier labored in his field of research (the conquest of Angola) so profoundly that following him there would be barely anything left to research except *etudes parcellaires*. Indeed, Pélissier's multi-volume analysis was also indispensable for this book on the First World War in Angola. However, it turned out that the inclusion of sources of African (oral history) and German (state and missionary) origin further broadened the analysis of the events from 1914 to 1915. Moreover, much in line with modern "war studies" that take

18 *Samson* 2013: 231; *Historicus* 2012; cf. on colonial wars *Kuss* 2010: 19-31; *Nuhn* 2006.
19 *Bois* 2006: 13 'une obsession'; cf. *Adam* 2002: 168f.; *Wesseling* 1992.
20 *Isaacman/Isaacman* 1977: 31; cf. *Cooper* 2000: 298f.; *Michel* 2003.
21 *Bley* 1996: v referring to GSWA 1884–1914; cf. *Walter* 2006; 2011 on 'Imperial wars'.
22 *Mesquitela* 1980: 514 '(un Cadornega plus précis car il n'omet pas les dates) et que ces deux volumes pourraient parfaitement intituler *Nova história geral das guerras angolanas*.'
23 *Pélissier* 2000: 578.
24 *Pélissier* 2004: 269; 271 conceived of a 'quasi total ignorance' among Anglophone authors resulting in a *guerre enterrée*.
25 *Corrado* 2008: 4; *Mesquitela* 1980: 512; cf. *Dianoux* 1989: 10.

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the discipline beyond the confines of operational military history, aspects of social, economic, and cultural history of warfare and societies at war have been included here.[26]

Therefore, the literature on the theater of war, Angola and GSWA, shall be taken into account as well. In 1914, the colonial imprint on both colonies was substantial in some areas. Angola has been described as "the most Portuguese of all the 'overseas provinces'"[27], and likewise GSWA, as the "most Europeanized of all the territories acquired by the Germans".[28] GSWA was considerably smaller than Angola. Research has shown that in both cases, only a fraction of the actual colonial territory as defined by international treaties was under the control of the colonial authorities. Angola and GSWA were still very much colonies in the making, meaning that the so-called "pacification campaigns" to subdue Africans were still raging. Contemporary pretensions of formal sovereignty and the appearance of cartographical cohesion as presented in the latest maps of colonial Africa should not conceal the fact that both colonial powers were not yet in a position to exert their rule at will always and everywhere in their respective colonies. In 1912, Angola's population was forty times the size of GSWA's population (~4,000,000[29] versus ~100,000[30]), while the number of European settlers stood similarly at 12,000 to 15,000. Both colonies were intended by their respective governments to develop into settler colonies – and both administrations had to deal with separatist tendencies. The decades between 1870 and 1920 have been characterized as "still present[ing] wide-open spaces" in Angolan history. While this period is, no doubt, an "important … phase of Angolan history" it seems exaggerated to describe it as historiographicly "neglected".[31] Rather, it is no easy task to collect most of what has been written about that period. The

26 *Dianoux* 1989: 14f. 'tous auront envers lui une dette'; cf. *Kühne/Z.* 2000; *Ziemann* 2013.
27 *Mesquitela* 1980: 512; *Chabal* 2007: 4; *Corrado* 2008: 22; cf. *Borchardt* 1912 bibliography.
28 *Kienetz* 1977: 553 referring to processes of 'acculturation' starting in the pre-colonial period.
29 *Rooney* 1912: 284; on the demographic development since 1846 cf. *Mora* 1940: 579.
30 *Bley* 1996: 6 characterizes population estimates before the war as 'extremely unreliable'.
31 *Corrado* 2008: xiii f.; 78; *Pélissier* 1996: 663 spoke of 'the rare historians of Angola who are still active'. The situation has changed in the meantime as can be seen from the discussions on the H-Luso-Africa list; even though the accessibility of Angolan archives remains a challenge. *Heintze* 2008: 197 'the times when Angola (and other Lusophone African countries) was only a footnote in African historiography are probably soon gone for good.'

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same holds true for the German period in the history of Namibia, "one of Africa's least understood and studied countries".[32]

The history of Ovambo and adjacent peoples and 'border' regions where Portuguese and German troops fought in 1914 has been researched more thoroughly on the Namibian side of the border than on the Angolan side. Lorena Rizzo has stated "that to date there is almost no published scholarly work on south-western Angola". Also, there seems to be a language division (with a few exceptions) that characterizes historiography: when analyzing the history of Ovambo, Anglophone or Germanophone authors have barely taken Portuguese literature and sources into account.[33] However, what has become evident from the latest research is the weakness of colonial administrators in Ovambo. "The possibilities of how to organize colonial societies could shift sharply in particular conjunctures" and the colonial administration had to come to terms with its lack of authority. As this book will also contemplate on the "malleable underbelly of colonial rule" with its African soldiers and clerks, the fact that "the colonial state functioned quite differently day to day than [higher ranking colonial] officials often knew or wished to acknowledge" will prove quite evident.[34] The outright dominance of African rulers, the colonialists' dependency on them or on their African clerks to hear, see, and understand the societies they intended to rule is a marked feature on both sides of the (imaginary) colonial borderline. In considering the many aspects of this complex history, comparisons between both systems of colonial rule are inevitably necessary.[35] As this book spells out military conquest and retreat in Ovamboland, it will also enable the reader to "see the dirty work of Empire at close quarters".[36]

Out of the political and military engagements in Angola between Portugal and Germany did an arbitration case grow in public international law that, once decided in 1928/30 in Lausanne, has influenced the doctrine of international law to the present day. The colonial setting from which this dispute originated again underscores the above-mentioned entanglement

32 *Wallace* 2012: 13.

33 *Rizzo* 2012: 7 'meaning in English or German'; cf. *Clarence-Smith* 1979; *Heintze* 2008: 183.

34 *Cooper* 2002: 66; *Osborn* 2003: 31; 50; Cf. *Cooper* 2002: 64 'the study of colonial states… produces curiously wooden results' if the states' interaction with their subjects is left out of the picture (referring to *Young* 1994; *Mamdani* 1996).

35 *Shipway* 2008: 32, taking into account the risk of overstating 'contrast[s] …, substantial differences are sometimes indiscernable in the local impact of the two styles of colonial rule.'

36 George Orwell: Shooting an Elephant (1936).

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between "metropolis" and "colony". A consideration of the case in its historical context thus helps to bridge the argumentative dichotomy of the two.

Given that (prior to the year 2000) "little has happened in international legal history in the past half-century", it was no wonder that also "[v]ery little has been written on imperialism and international law".[37] For the last fifteen-odd years, however, "interest in the history of international law has greatly increased". The discipline of public international law has witnessed a veritable "historical turn". The recent flood of publications has broadened our understanding of this history by examining not only the development of legal doctrines but also their political, biographical and intellectual context. The histories of treaties, concepts, conferences and international organizations, jurisprudence, and courts of international law have been analyzed. However, the "vast majority of recent scholarship still tends to concentrate…on doctrine and not on legal practice".[38] George Galindo's critique that such an approach (based on the "genre of intellectual history") "gives only a partial picture of the history of international law" seems justified, and thus "a history of state practice in international law must ... be written" that *includes* "legal doctrine as a 'form of conceptual practice'."[39]

This book, when dealing with the Luso-German arbitration, concentrates on legal practice, and on international law in the making. This involves an engagement with questions regarding German reparation payments according to the Treaty of Versailles (1919). Years ago, Sally Marks pointed to the necessity to focus research on German reparations and the implementation of the Treaty of Versailles on "the more relevant question of German … determination not to pay." However, the enormous number of international arbitration cases in the interwar-period has found surprisingly little attention being paid to the subject among (legal) historians, and the entire Luso-German arbitration is an example of this stubborn "determination not to pay", which was based, ultimately, in the German conviction to reverse the Treaty of Versailles.[40]

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37 *Koskenniemi* 2004: 61f.; 2001: 99 FN 6; cf. *Ziegler* 1994; *Grewe* 1988.

38 *Lesaffer* 2004: 1; *Koskenniemi* 2014: 119; *Galindo* 2005; cf. *Nuzzo/Vec* 2013; *Fassbender/Peters* 2012: 19f.; *Lesaffer* 2007; *Bowden* 2005; *Anghie* 2003; *Kennedy* 1997; *Preiser* 1995.

39 *Galindo* 2012: 95 criticizing a 'doctrine/theory versus practice dichotomy'.

40 *Marks* 1978: 255; cf. *Keene* 2012: 476.

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The case history of the Luso-German arbitration (1920–33), with its three awards (1928; 1930, 1933) has barely been mentioned in legal or historical literature to date. The arbitration was recently described as a "Portuguese nit-picking, after the fact".[41] This is certainly one way of belittling the legal history of the interwar-period and its ramifications for current affairs. Others were exceedingly at ease with the 'facts' underlying the case.[42] However, the examination of specific public international law cases can foster a rich analysis of different legal histories, political and cultural contexts, and particular legal agendas of both parties. Given the grounded intricacies of the case in the Treaty of Versailles, this book provides a case study in the relationship between diplomacy and international law: The party that did not succeed militarily or diplomatically sought a legal remedy to secure a victory for "right over might". Without such an analysis, we know very little about the arguments and the ways evidence was presented to the arbitrators, which in turn formed the basis for their awards. This is all the more astounding considering the 1928 award, which made (legal) history. Under the keyword "(military) reprisal" most current textbooks of public international law refer to the "Naulilaa case", as the arbitration is known today, as it refers to one of the Portuguese fortresses destroyed by German troops in late 1914. Not only a great number of authors, but judicial decisions as well, refer to the 1928 award requirement citing the fact that, for reprisals to be legitimate under international law, they must be "in proportion to the alleged previous wrong". Considering its relevance for the laws of war, but also for other fields, *Naulilaa* has become a landmark case, the key terms of which most students of public international law are supposed to learn.[43]

Hitherto, a number of monographs have been published on other "landmark cases" in international law. These have shown that "small-scale analyses are able to complement whole theories. They can show the uncountable specificities of types such as imperialism … they can take theories

41 Lohse in: *Historicus* 2012: 17 'Portugiesisches Nachgeplänkel'; his summary of the case is in part faulty; cf. *Santos* 1978: 240f.

42 *Colombos* 1963: 380f. 'Ermordung von Dr. Schultze-Jena … im Hafen von Naulila'.

43 'Naulilaa' is a misspelling of Fort Naulila. Misspelled in the 1928-award, the name 'Naulilaa' was accepted henceforth in all international law treatises and awards. Military history continued to use the correct form Naulila. *Naulilaa*, when used herein, refers to the 1928-award.

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more easily to the domain of contingency".[44] A focus on the Luso-German arbitration procedure poses its own challenges when it links questions of international law with those of colonialism. While many researchers have treated colonialism and imperialism as "marginal" for public international law, others have demonstrated an "increasing interest" in international law and colonialism, including a marked "awareness of critical and post-colonial approaches" that highlighted the significance of the colonial encounter for the discipline of international law. Such a "historico-legal" approach, as Lynn Berat has aptly taken to Namibia's Walvis Bay dispute, demands "a nuanced understanding of the relevant historical events that most lawyers do not have and an appreciation of the evolution of applicable concepts of law that most historians and an appalling number of lawyers do not possess".[45]

Sources

This book is based on primary sources originating mostly from the Portuguese and German colonial administrations and the foreign offices in Lisbon and Berlin. The reports, letters, telegrams, and diaries detail the events in 1914 from an eyewitness perspective of those involved. Additionally, the accounts compiled during the arbitration procedure in the 1920s have been analyzed to help shed light on the war in Angola and its antecedents. Even though the German and Portuguese narratives about the same occurrences might tell conflicting stories, they are particularly welcome since the military archives from GSWA were most likely destroyed in 1915; many of the files kept in Fort Naulila about what had happened there in October were burnt during the German attack in December 1914.

While the book is (in part) about a European war in Africa, it is not exclusively concerned with the history of Europeans in two African colonies. Instead of clinging to a perspective of an imperial primacy, attention is also devoted to African aspects of the war. The problems related to the one-sidedness and ethnocentrism of the "colonial archive", its language and terminology have been described many times over, and this critique hardly needs to be repeated here: Almost everything that is known about

44 *Galindo* 2012: 99; *Combs* 1970 (Jay Treaty); *Stevens* 1989 (Caroline); *Cook* 1975 (Alabama); *Bannelier* et. al. 2012 (Corfu); *Berat* 1990 (Walvis Bay).

45 *Kosken.* 2004: 65; *Berat* 1990: ix; cf. *Galindo* 2012: 86; *Mutua* 2000: 31; *Anghie* 1999: 74.

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Africans acting during the war was "translated" through missionary or military reports, each of which had their own motives and standpoints. Almost no African self-testimonials exist. It is thus extremely fortunate that contemporaries of the war participated in oral history projects in the 1980s. Even though the interviewers rarely posed specific questions about the warfare in 1914/15, the printed interviews nevertheless offer additional insights.[46]

In order to further broaden perspectives, non-governmental sources have been consulted as well. French, German, and Finnish missionaries, some working in the Luso-German border area since the 1890s, stood more closely in contact with the African population (and their authorities) than colonial officials. Their letters and reports therefore offer a different view not only on the war, but also on Africans, Europeans, and their relations to each other. It is through their documents that a few direct comments made by African leaders have survived in the archives. Evidently, also the missionaries had their own motives and interests; their views on Africans were not less impregnated by racist stereotypes than those of government officials.

In addition to missionary documents, another category of records by less involved witnesses has been included in the analysis, namely reports from U.S., British and French consuls and their foreign offices. These documents offer, first, important additional information on the Luso-German relations before the war. Second, during and after the war, the Americans, the British, and the French became participant observers in Africa and Europe rather sooner than later, which was especially the case for the British consul in Luanda. Considering the relevance of the Treaty of Versailles and the subsequent conferences for the Luso-German arbitration, the Allied documents with regard to reparations or legal conflicts with the Germans are indispensable for a fuller understanding of the European dimension of the arbitration.

The arbitration left German archives with thousands of pages of documentation. In the Portuguese archives, the documentation seems less complete, especially for the first years of the arbitration. There is no traceable archive left from the arbitrator in Lausanne. Given that the history of the arbitration is obscured by missing archival evidence and threaded with bi-

46 *Heywood/Lau/Ohly* 1992; cf. *Harding* 2013: 146f.; *Shiweda* 2011: 12-15; *Warnke* 2009; *Arndt/Ofuatey-Alazard* 2011; *Arndt/Hornscheidt* 2004; *Henige* 2005; *Diawara* 1997: 25-30; *Penvenne* 1996: 422; cf. also the interview with *Vansina* 2001.

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ased accounts, this book cannot attempt to reconstruct in great detail the formation of the legal memoranda in Lisbon and Berlin that laid out Portuguese claims and German responses. We are left with the resulting four memoranda that provide ample material to be examined. Apart from challenges posed by the bias of sources it is – for reasons of space available – unavoidable to only allude to a number of phenomena relevant for the analysis rather than to fully explore the subject. No doubt, each of the book's three parts would have deserved an entire volume of its own.

Historians as Lawyers – Lawyers as Historians? Questions and Outline

The three parts of this book are not about answering the question of who is "guilty" of the war in Angola (1914/15) in a legal or moral sense. Nor is this book to be read as an attempt to retrospectively render a (second) "judgment" about German and Portuguese conduct in Angola. A historian ought to be neither a backward looking state attorney incriminating a particular party, nor is she or he a judge of second appeal. On the other hand, criticizing the arbitration award or the preceding procedure has nothing to do with an apology for the German or Portuguese warfare in Angola.[47] Evidently, historians aim at finding a verifiable "truth", similar to the arbitrators (as quasi-judges under international law). However, in contrast to a judge, a historian does not decide anything; without being a know-it-all he or she ought to narrate a story based on a broad foundation of literature and sources. Their methods differ. Judges have to assess the matters of "fact" in light of the legal norms to which they are bound; historians, on the other hand, are more or less free to appraise and select their sources according to their own criteria, according to their perspectives to look at the past.[48] Furthermore, the historian knows the result, the end of the story he or she analyzes and narrates. The historian knows this end right from the beginning of the work; he or she organizes and structures the materials accordingly – and is free to choose the ending.[49]

These differences between the historian's and the lawyer's task (in whatever occupation, be it judge, state's attorney or defense counsel)

47 *Nipperdey* 1986: 175 'Die Aufgabe des Historikers ist nicht mit der trivialen Forderung nach Kritik versus Apologie zu begreifen, nicht mit der Funktion des Staatsanwalts oder des Verteidigers, ja nicht einmal mit der der Jury.'; cf. *Dietz* 2014: 680f.; 693f.; *Koselleck* 1987.

48 *Stolleis* 2000: 178; 180f. recommends his readers to renounce the 'fetish of historical truth'.

49 Cf. *Nipperdey* 1986: 221; *Ginzburg* 1999; *Strebel* 1976: 302; *Oexle* 2004 on sources.

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come into play not only when the "facts" of a given case in international law are reconstructed and analyzed, but also in particular when the arbitration procedure in itself is to be included in the analysis. Thereby, the protagonists and the disputes during the case become objects of historiographic scrutiny. Instead of retrospectively rendering a (second) "judgment", this book's epistemological interest lies elsewhere: seeking to discover the history behind the charges made in relation to the *Naulilaa* case and (where applicable) putting them into their legal-dogmatic context.[50]

In the Luso-German arbitration, the national representatives (the Portuguese and German lawyers) themselves, in more than one instance, attempted to be historians when they tried to expose the causes of the dispute (or tried to refute the causes presented by their adversary). They had clear aims when they accused the other party of wrong-doing by using "events" in the past to further their argument and called this authoritatively "history". Part I of this book ("The First World War in Angola in its Historical Context"), however, is not concerned with the confirmation or refutation of these accusations made in the 1920s. Rather, it is necessary to go further back in time and to lay out the Luso-German relations in southern Africa. Based on primary sources and secondary literature, Part I deals with the concrete political and economic development of Portugal and Germany, Angola and GSWA in relation to each other since the 1880s, when both nations became colonial neighbors. In light of German hopes to take over (part of) Angola, the question of Portugal's alleged "weakness" and Germany's "strength" play an important role in the first chapters. How did German foreign and colonial policy proceed in order to reach the intended goal of enlarging "German Africa"? How did the Portuguese administration react to these political "machinations"? While it seems perceived wisdom that the means available to the administration in GSWA were superior to those in Angola and thus posed a threat, a closer look at the history of southern Angola makes evident that over one decade the Portuguese administration invested far more heavily in the Luso-German border region than their German counterparts. On the other hand, in mid-1914, the situation was not characterized by open enmity, as the chapter on the Luso-German Study Commission to explore the economic potential of southern Angola will show.

50 On the 'difficulties' of 'contextualism' in the history of international law, see *Koskenniemi* 2014: 224; cf. *Craven* 2007: 15f.; *van Laak* 2000.

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The following chapters on the First World War in Angola offer an analysis of the events that led to the outbreak of open hostilities near the northern border of GSWA – despite Portugal's formal neutrality. The detailed account of German attempts to procure foodstuffs from Angola, the death of three German officers in the Portuguese fort Naulila, and the build-up of the army in southern Angola might be justified by the relevance the questions with regard to these occurrences had during the arbitration: Who did what, when, and why? Most of the answers were given only when the legal dispute was under way. However, whenever possible, original sources from 1914 are added to complement (and verify) the 'picture' as the national representatives presented it several years later.

The account of the battle of Naulila is – without any pretensions to completeness – embedded into the larger setting of the military history of Angola and GSWA, including the conquest of GSWA by South African troops since September 1914. After all, the battles that formed the basis of the legal dispute are to be analyzed in their historical context that condition military skills. The question whether the German victory in December 1914 over a stronger enemy was "a piece of luck", rather than a matter of superior tactics was already posed by contemporaries. The sources available indeed attest to a number of (from the German perspective) fortunate "coincidences" that make this unlikely victory more plausible.

Accounts of the World War in GSWA and Angola usually end with the German retreat from Angola and the surrender to South Africa's General Botha in July 1915. However, for the Portuguese and the Africans of the region the war had not yet ended. It is thus proof of the entangled histories of the European conflict in Africa with the ongoing conquest of Angola by the Portuguese that the soldiers meant to defend Angola against the Germans finally subdued one of Portugal's African arch enemies. King Mandume ya Ndemufayo was defeated in one of the largest battles ever fought in southern Africa. The chapter on Mandume's reign puts his attempt at reforms of his Kwanyama kingdom in relation to colonialism encroaching the Luso-German border regions in Ovamboland. While the term "small wars" or other expressions to describe colonial campaigns are at times still used to set them apart from 'ordinary' wars, the battle of Mongua in August 1915 leaves historians with the question, how "different", how "small" colonial campaigns should be to still remain within the preconceived bounds of conflicts between African and colonial troops.[51]

Part I closes with chapters on the abolition of the Kwanyama kingdom (also massively affected by a famine devastating the region since 1911) in

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1917 and the questions surrounding Portugal's neutrality until Germany declared war (following the seizure of German ships) in March 1916.

Part II on the "Arbitration Procedure and Awards" undertakes to analyze the Luso-German legal dispute most of all within the context of the Treaty of Versailles and the question of Germany's reparation payments for damages caused during the war. Since Part II is also concerned with what some have called the "sociology of international law", its chapters focus not only on questions of Portugal's legal basis for claims against Germany under international law, but also detail the personnel involved, arbitrators and national representatives. The chapters on Portuguese claims and German responses during the arbitration offer a systematic approach to the legal questions under dispute. Which arguments did the claimants or the defendants emphasize? What role did legal, doctrinal arguments play in the arbitration, and how important were recourses to extra-legal reasoning like, for example, the "past"? To what extent did contemporary (political) events play a role during and for the Luso-German arbitration?

The arbitrators' awards of 1928, 1930, and 1933 are examined in individual chapters; the first award, however, is to be considered the most substantive for the (colonial) questions dealt with herein. In particular the award of 1933 and the question underlying the reasoning behind it – is Germany able to pay? – underscore the connection of the Luso-German arbitration with the great international political struggles of the era.

Parts I and II cover at least two political "periods" of Portuguese (the First Republic, 1910–1926 and the military dictatorship, 1926–1933) and German history (the *Kaiserreich*, 1871–1918 and the Weimar Republic, 1919–1933), often separated by historiography. The custom among historians of adhering to a more or less fixed frame of conventional chronologies has been repeatedly called into question. "A majority of historians treat periodization as a necessary evil", but it has become evident that in particular with the rise of transnational history and the widening of re-

51 It might be surprising to find references to Clausewitz in a book about war in Africa. It has been the assumption of generations of colonial officers and historians that war in the colonies was fought differently than in Europe – from where Clausewitz drew his 'historical examples'. However, this book describes, firstly, an engagement between European troops; and, secondly, it appears that also the engagement of Portuguese and Kwanyama troops were not that much different, 'exotic', or chaotic as the colonial notion of 'native' fighting might incline one to think. Clausewitz' insights in the art of war therefore also prove an aid in analyzing the conduct of war in Angola. Cf. B. Brodie: The Continuing Relevance of *On War*, in: *Clausewitz* 1976 [1832]: 45-58.

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search perspectives "periods" cannot be taken any longer as self-explanatory.[52] In the case of the Luso-German arbitration, the question is relevant to what extent the "revolutions" have affected the way this case in international law was dealt with by the national administrations. The overall historical framework of the arbitration was marked in both countries by uncertainty in the course of action and constitutional ruptures. However, as José Mattoso has put it wisely, "periodization does not depend only on historians but also on their readers".[53] In the end, they have to decide whether the frame based on political/constitutional events is necessary to establish a narrative sequence and to analyze the events unfolding within it.

Finally, Part III, "Legal and Historiographic Perspectives on the World War in Angola", determines to provide a broad, yet selective, overview of the effects that followed from the war itself and the legal dispute. From the perspective of international law it is to be asked how subsequent generations of lawyers made use of the arbitration awards. After all, why did the 1928 award join the ranks of the chosen few "landmark cases" of international law? Did it bring anything new into international law? Did the colonial context play a role in the history of the reception of the award?

The concluding chapters provide an outline on "'Naulila' and King Mandume in the memorial cultures of Portugal, Germany, Angola, and Namibia". The roles the war between Portuguese and German forces, on the one hand, and between Portuguese and African forces, on the other, has played in all four countries are distinctly different. Apart from the evident fact that in the age of nationalism a clear path towards glorification of "heroes" is discernible from texts and memorials, participants and contemporaries in Europe and Africa soon had reasons to fear that the combats in Africa would sink into oblivion. Today, those who once were barely given a name have been elevated to the rank of "heroes" in the memorials of Angola and Namibia. In both countries, the "presence of the colonial past … is a very marked feature of the post-colonial period".[54] King Mandume in particular has become the object of official and societal veneration.

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52 *Osterhammel* 2003a: 12; cf. *Doering-Manteuffel* 2014: 321f.; *Le Goff* 2014: 187-91.
53 *Mattoso* 2010: 5; on 'Weimar' *Stibbe* 2010 (1914-33); *McElligott* 2014 (1916-36).
54 *Wallace* 2012: 315 on Namibia.

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PART ONE. The First World War in Angola in its Historical Context

1. Luso-German Colonial Relations before the First World War

Central Africa was supposed to be part of the Portuguese empire. This notion among Lisbon's officialdom went back to the fifteenth century, when Portugal's seafarers explored the west and the east coast of Africa. Fortresses and stone crosses (*padrões*) along both coasts marked Portugal's claims that were still being upheld well into the nineteenth century. When, in 1881, the Holy See tried to establish ecclesiastical circumscriptions that reached into Angola without involving the government in Lisbon, the latter reminded the world of the extension of its claims along Africa's western coast (from 5° 12' to 18° south latitude). Self-assuredly, the Portuguese spoke of "our rights of *patronage* over central Africa, from one coast to the other".[1]

At the latest with the onset of the "scramble for Africa" this "right" was no longer accepted by other European nations. Portugal saw the fringes of its West-African possessions disputed on three sides. To the north, King Leopold's *International Congo Association*, founded in 1876 without inviting the Portuguese, had stamped out its plan for 'Central Africa'. This "prelude for a European colonial project in Africa" seemed "a studied effort to exclude" Portugal.[2] To the east dispute loomed with Great Britain over the Zambezi region. And to the south, a "new and dangerous neighbor", the German Empire, entered the scene in 1884.[3] In order to avoid confrontations between European powers, the Berlin Conference of 1884/85 detailed principles to parcel out Africa into spheres of interest between European nations. In addition, bilateral accords were concluded subsequently on the delimitation of these spheres.[4]

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1 AGCSSp 3L1.1.1, *M. de la Marine et des Colonies*: Droits de Patronage du Portugal en Afrique, 1883: 18; Schwindenhammer to C. Barnabo, 11/1864, in: *Vieira* 2012, No. 163: 621.

2 *Bley* 2005: 15 'Auftakt für ein gesamteuropäisches Kolonialprojekt'; *Nowell* 1947: 8f.

3 *Drechsler* 1962: 57; cf. *Koskenniemi* 2001: 122 FN 106; *Gaurier* 2014: 966-9.

4 *Bois* 2006: 19, accords: France/GB 1890, 1899; France/Italy 1900; France/Ger. 1911.

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1.1 Slicing the "African Cake" – the Borders of Angola and GSWA

1.1.1 Devising International Law – the Congo-Conference 1884/5

Right from the beginning of Germany's colonial engagement in Africa, its policy was directed against Portuguese claims. On February 26, 1884 Portugal and Great Britain concluded a treaty on their rights in the Congo region, including the right to collecting duties and to "police" the trade along the Congo and other rivers. The limits of the region were defined by the parties and Britain recognized the "sovereignty" of the King of Portugal over a costal stretch between 5°12' and 8° south latitude. However, the British press and most of all the continental powers were united in their opposition to this recognition of "the hitherto shadowy title of Portugal to that part" of Africa. When the German ambassador in London learned of this treaty, he warned of the negative repercussions it may have for merchants belonging to neither nation. The German consul in Luanda – lamenting Portuguese "custom systems, administration, tardiness and negligence" – spoke of serious damage to the trade in the region should the treaty be ratified. Merchants from all over Germany sent petitions to Berlin protesting against the treaty and pointing to notes of protest from French and Dutch merchants doing business in the Congo region. In April 1884, the German minister in Lisbon declared that Germany would not recognize the Anglo-Portuguese treaty for its citizens, since the treaty was bilateral and no other powers had been invited to the negotiations. Already in March the French government served a like notice. Portuguese insistence on the treaty remained futile.[5] Chancellor Otto von Bismarck (1815–1898) left no doubt that Germany would not recognize Portuguese "pretentions" on the Congo region.[6]

Considering these tensions and the insufficient rules of international law "towards the effective management of the colonial scramble" Bismarck in October 1884 invited delegates of the European powers to Berlin to "create a legal and political framework" for trade and effective possession in the Congo region (and slow down British occupation of African territories). Next to the Turkish, the Portuguese delegation under Luciano Cordeiro was considered the weakest of all participants. Contemporaries repeatedly pointed out that Portugal's "domination" in the claimed territo-

5 SBRT 6. Leg.Per. 1884/85, v. 7, Anl. No. 290 betr. Kongo-Frage: 1641f.; *Reeves* 1909: 109.
6 Cf. Weisung (W. v. Bismarck), 1.7.84, in *Bismarck* 2011: 249, No. 178; cf. *Stern* 1979: 405f.

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ries was, "in reality, more nominal than effective."[7] Some even began to "openly denounce Portuguese colonial policies as inept".[8] The Berlin Conference ended in bitter disappointment for Portugal. A mere 150 kilometers of the southern bank of the Congo River and the Cabinda enclave, north of the Congo River mouth, were conceded to Portugal. Most of the Congo region – which was considered by the Portuguese as their sphere of influence since Diogo Cão had anchored in the mouth of the river in 1482[9] – was ceded to King Leopold's Congo Free State and France. Next to its humanitarian rhetoric on the "amelioration" of the Africans and the suppression of the slave trade (Article 6), the Congo Act of February 26, 1885 stipulated "essential conditions to be observed in order that new occupations on the coast of the African continent may be held to be effective" (cpt. VI.). In Article 35, the signatories "recognize[d] the obligation to insure the establishment of authority in the regions occupied by them on the coasts of the African continent sufficient to protect existing rights, and, as the case may be, freedom of trade and of transit under the conditions agreed upon." However, the results of the conference "made little practical difference" as the applicability of these "general formulations … was limited to an almost meaningless minimum." Having neither laid out a procedure for acquiring valid title to territory, nor defined the meaning of "effective occupation", the Berlin Conference created a "hypothetical geography" as it did not deal with individual borderlines and did *not* apply to the African interior. Rather, partition "preceded both the occupation of the territories concerned and the precise determination of boundaries." "Instead of agreeing on a rule [on the conditions of colonial sovereignty], it was [considered] better to leave conflicts to be settled by ad hoc agreements by the powers". Nevertheless, for the Portuguese, the doctrine of "effective possession" meant that they could no longer claim territories (and exclude other powers) in the name of "historical rights", "discoveries", symbolic "annexations" and Papal grants. In the future, they could only deplore the fact that the "great powers … applied [the doctrine] more rigidly to Portugal than to themselves".[10]

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7 AGCSSp 3L1.12a8, Barileu? (Congr. du S. Esprit, Paris) to Propagatio Fide, 12.6.83.

8 *Hamilton* 1975: 3; cf. *Anghie* 1999: 57; *Rodrigues* 2009: 28; *Reeves* 1909: 111; *Axelson* 1967.

9 Cf. *Bley* 2005; *Balandier* 1992: 13; *Wheeler* 1968: 45; 53; 41 Portugal kept the Kingdom of Congo, a 'colonial puppet … of Angola' since the early 19th century; *Herlin* 1979.

10 *Koskenniemi* 2001: 106; 123-6; 148; *Nowell* 1947: 12; cf. *Courcel* 1935; *Stengers* 1962: 476; 485f.; Art. 'Berlim', in: *Serrão* I 1971: 337; *Schwarzenberger* 1957: 310 doctrine had its ori-

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Also, the boundaries of Angola or GSWA were not defined in Berlin. Within the next years European powers concluded bilateral treaties attempting to define their different spheres of influence more exactly. Changing authorities have since tried to detail with ever-growing precision the course of these boundaries. However, as Sakeus Akweenda has shown, "[e]ach section of the boundaries of Namibia [and Angola, respectively] is fascinating and contains literally dozens of points of major legal interest",[11] only a few of which will be analyzed in the following sections.

1.1.2 German Colonialism in Southern Africa and the Luso-German Border

Angola's southern border had never been demarcated by the Portuguese administration.[12] The notion that Angola stretches "indefinitely southward from the mouth of the … Congo" brought Portugal into conflict with British interests in the Cape Colony. On several occasions Great Britain had "denied that by first sailing along the coast Portugal had a claim to the territory." The Anglo-Portuguese Treaty of January 22, 1815 and a Convention of 1817 stipulated 18° south latitude as the southern limit of Portugal's territory.[13] Subsequently, Cape Frio, named by Diogo Cão in 1484, was considered for most of the nineteenth century to be Angola's southernmost point. When in 1861 a captain Jones took possession of Ichaboe Island near Angra Pequeña for Great Britain, the Portuguese protested, pointing to their discoveries of the fifteenth century. Such claims, however, remained illusory and "weak"; even more so, since Portugal had not concluded any treaties with African authorities in the area.[14] The map attached to the Congo Act in the German parliamentary documents of 1885 had a marker on the coast at 18° south latitude indicating the limit of Portugal's sphere.[15]

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gins in the 'primordial stage' of int'l law when 'effective control of a territory and power to defend it was the title deed'; *Hespanha* 2010: 172; *Korman* 1996: 43f.; *Wehler* 1969.

11 *Akweenda* 1997: 2; cf. *Carrington* 1960: 436; *Shipway* 2008: 20; *Anghie* 1999: 60.

12 The Commission for Colonial Cartography, responsible for mapping the borders, had only been established in Lisbon in 1883, cf. *Tavares de Almeida/Silveira e Sousa.* 2006: 121.

13 *Nowell* 1947: 1; *Bixler* 1934: 429 referring to Delagoa Bay; *Akweenda* 1997: 10; 212f.

14 *Berat* 1990: 16; 31; cf. *Alexandre* 1999: 62 'Carte de la Côte d'Angola' (1846); *Clarence-Smith* 1976: 215; *Akweenda* 1997: 18; *Touval* 1966: 288.

15 SBRT 6. Leg.Per. 1884/85, v. 7: 1671, Friederichsen, Karte von Central Africa.

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During most of the nineteenth century the areas between the Orange and Kunene Rivers were of little relevance for European powers. Hunters, traders, and missionaries were the first to enter the territories of Nama, Damara, Herero, and Ovambo. German missionaries in the service of the *London Missionary Society* had arrived in the territories north of the Orange River around 1805 when Heinrich Schmelen (1776–1848) followed his congregation. In 1814 they erected a station he called Bethanien on the fringes of the Namib Desert.[16] Later, German traders joined English and Swedish itinerant traders who, based in Walvisbay, effected a lucrative trade in cattle, guns, and ostrich feathers with Nama and Herero. The *Rhenish Missionary Society* began to set up several mission stations in the area that was, according to the rules of international law, *terra nullius*. Economically, however, Namaland and Damaraland lost their "independence" in the 1860s to the Cape Colony with the "intense participation by Herero in the Cape trade network". Politically, the period was characterized by the "relatively fragile position of Europeans".[17] Despite demands by merchants and Cape officials, the British government refused to place territories north of the Orange River under its "protection". In 1878 the British Cape Colony only extended its jurisdiction over Walvis Bay and its hinterland and the islands off the coast of Damaraland (again, the Portuguese protested). This enclave was used as a victualing point for the Navy base on Saint Helena Island. It was considered the only suitable harbor between Tiger Bay and Angra Pequeña.[18] The limits of the Portuguese claims south of the Kunene River remained vague.

In 1883 the German merchant Adolf Lüderitz and his assistants signed "treaties" with several African chiefs according to which the latter "sold" their land to him. Much to the indignation of the governments in London and in Cape Town, Lüderitz managed, in April 1884, to receive the "protection" of the German Empire for his "acquisitions north of Orange River" (Angra Pequeña).[19] In the following, consuls along Africa's west coast were surprised to find out that Consul Dr. Gustav Nachtigal was "making treaties [with African leaders] on behalf of the German Government" and that German gunboats called at ports in the region. Arriving from Angra Pequeña, Nachtigal admitted to the American consul in Luanda, Robert S.

16 Cf. *Kienetz* 1977: 570; *Dedering* 1997; *Trüper* 2000.
17 *Lau* 1986: 29; *Botha* 2007: 11; *Henrichsen* 2013: 215; cf. *Berat* 1990: 25; *Oerm.* 1999: 47.
18 *Berat* 1990: 37; *Kienetz* 1977: 571; *Akweenda* 1997: 18; *Wesseling* 1999: 101-8.
19 AA to Consul Lippert, 24.4.84, in: *Bismarck* 2011: 131 no. 97; *Lindner* 2011: 67.

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Newton, that "it [Angra Pegueña] seems but a poor place to establish a Colony and more resembles a desert than anything else."[20]

Colonial enthusiasts in Germany had tirelessly worked for years to convince the Imperial chancellor Bismarck of the "necessity" of colonial possessions. Colonies, it was said, would accommodate the masses of German emigrants, keep them under German authority and would solve the "social question". For a long time Bismarck declined any overseas project. His aphorism of 1870 is most famous: "A colonial policy for us would be just like the silken sables of Polish noble families who have no shirts." He considered colonies as a means of "providing sinecures for officials". And when he finally agreed to grant German "protection" to overseas possessions, he called his change of policy a "fraud" [*Schwindel*] that he needed to win the elections in 1884.[21] The domestic and foreign motives for "Bismarck's sudden leap across principles and oceans troubled contemporaries and has puzzled historians ever since."[22] Despite decades of research, as one reviewer put it recently, "decrypting the primary reasons for the acquisition of German colonies seems not yet over." Bismarck considered the German overseas possessions as a "means to an end" in order to please the colonial enthusiasts in Germany for whose votes he was vying. At the same time, he aimed at an *entente* with France by provoking the British government under Gladstone. Given the ill health of Emperor Wilhelm I, an Anglo-German crisis, which only he could solve, would have proven to the German "liberal" circles around Crown Prince Frederick that Bismarck was indispensable as Chancellor.[23]

Bismarck wanted to evade the question of German "sovereignty" in Africa. He intended that the German possessions in Africa and the South Sea should not have been "colonies" proper, but instead territories under the German Emperor's "protection" *(Schutzgebiete)* and administered privately by "British style" chartered companies. The *Reich*'s financial and legal involvement was to be kept to a minimum; a "complicated colonial administration with German civil servants … [and] garrisons with German troops were to be avoided".[24] Bismarck's arrangement soon proved inade-

20 NARA RG 84, Loanda, v. 3, USC to SoS, 9.9.; 13.12.84; *Berat* 1990: 44; *Clark* 2013: 195f.
21 Quot. in: *Snyder* 1950: 436; *Herwig* 1980: 95; 'Schwindel' quoted in *Stengers* 1962: 487.
22 *Stern* 1979: 409; cf. *Steinberg* 2011: 418; *Jureit* 2012: 91 Debatte 'letztlich ergebnislos'.
23 *Lappenküper* 2011 on the state of the art; cf. *Gissibl* 2011: 166 on contempor. discourse; overview in *Conrad* 2012: 22-29.
24 RK Bismarck to Emperor Wilhelm I., 19.5.84, in: *Bismarck* 2011: 166, Doc. no. 124.

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quate however, and so did hopes for Africans willingly accepting German "protection". He soon lost any interest in colonial affairs. An increase in rebellions led to the deployment of more troops. The Imperial government had to take over the administration of the *Schutzgebiete* and a colonial administration was set up, overseen since 1890 by a new section of the Foreign Office, the Colonial Department. However, it is important to bear in mind that "military conquest was neither the intention of Berlin nor of [GSWA]'s first Governor, Major Leutwein."[25]

The extension of Lüderitz' possession in southwestern Africa was at first barely defined. Bismarck expected the German navy to hoist flags along the coast from "north of the Orange River, except in Walvis Bay, to the Portuguese border" that *he* located on 26° south latitude (just north of Walvisbay). As mentioned, Portugal had territorial claims up to 18° south latitude at or near Cape Frio, leaving the northern 'shore' of Lake Etosha and all of Ovamboland and Kaokoland within the Portuguese sphere.[26] However, the longer the bilateral negotiations between Lisbon and Berlin lasted in 1885/86 the more the Germans pushed the Portuguese northward. While shortly before the beginning of the Berlin Conference, the German ambassador in London still spoke of "the tract of coastland between Cape Frio and the Orange River" as being "placed under [German] protection", other German officials showed no concern for either Portuguese rights or sensibilities. Irrespective of the custom to consider Cape Frio Angola's southernmost point, they demanded "peremptorily" the recognition of the Kunene River as Angola's southern border – arguing with the "objectivity" of the riverbed.[27] In Lisbon, this demand raised "concerns about the sovereignty of Angola's southern border".[28] Portugal had attempted to populate the areas near the Kunene River since the 1860s.[29] Portuguese authors left no doubt that the German claim had been made over areas which Portugal had "discovered" and claimed centuries before, dating back to the 1494 Treaty of Tordesillas. The "indisputable old rights" over Africa's coast had been manifested in several stone crosses (*padrões*)

25 *Bley* 1996: xviii; cf. *Canis* 2004: 211; 222-5; *Wagner* 2002; *Simo* 2005: 101f.

26 RK Bismarck to Caprivi, in: *Bismarck* 2011: 152, Doc. no. 113; RK Bismarck to Emperor Wilhelm I., 19.5.84, in: *ibd.*: 166, Doc. no. 124; cf. Map 13 (1885) in: *Comissão* 1997: 52.

27 *Akweenda* 1997: 17; *Drechsler* 1962: 57; cf. *Schrader/Gal.* 1896: 475; *Regalado* 2004: 14.

28 *Southern* 2007: 4; cf. *Fernandes de Oliveira* 1971: 32.

29 *Medeiros* 1977: 74, founding of Porto Alexandre in 1861; Baía dos Tigres in 1864.

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erected along the coast by Bartolomeu Dias, Diogo Cão and others. [30] The future Governor General of Angola, José Norton de Matos (1867–1955), then a student at Coïmbra, claimed that his enmity to Germany originated from these affronts.[31]

Cape Frio seemed a location insufficiently clear on the map because it did not square with 18° south latitude, nor could a perennial river be found nearby to mark the border. The German minister in Lisbon, Richard von Schmidthals (1830–1888), therefore, pointed to the mouth of the Kunene River, more than 100 kilometers north of Cape Frio, as the starting point of the border. Further inland, Portugal's southernmost military post in Angola, Fort Humbe, at the bank of that river was then the second marker. At Humbe the course of the border would depart from that of the river and would follow the degree of latitude up to the Kavango River. The mouth of the Kunene and Fort Humbe were the only two points about whose location the parties seemed to have a "more or less realistic idea" according to their maps. In 1886, very few Europeans had ever visited the area; the maps they compiled were scarce and imprecise. Data on exact coordinates could not be expected from them. Officials in Berlin and Lisbon were well aware of their limited knowledge about the areas under negotiation. Knowing nothing about river courses or mountain ranges they felt that there was no alternative to drawing mathematical straight lines across territories that were shown on maps as "white spots" (*weiße Flecken*).[32]

The Portuguese were reluctant to accept the Kunene River as the starting point for a borderline. They made several counterproposals, one of them being that instead of Humbe certain cataracts would define the point from where the border departs from the course of the river. A compromise was found once the Germans signaled their concession in terms of Portugal's plans to include Barotseland in its sphere of influence, linking Angola and Mozambique as finally stipulated in Article III of the Luso-German treaty of December 30, 1886.[33] Article I defined the borderline between Angola and GSWA as follows:

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30 The *padrão* errected in 1485 by Diego Cão at Cape Cross (the remains of which were removed in 1893 to Kiel) was replaced in 1894 by a replica adorned with the original Latin and Portuguese inscriptions; at its bottom, a plate with the German coat of arms and a German inscription was added. BAB R 1001/6917: 19, Port. Envoy (Pindella) to AA (Bieberstein), 12.10.94.

31 *Casimiro* 1922: VIII; *Santos* 1978: 119; *Schneider* 2003: 39f.; *Baericke* 1981: 14 on Norton.

32 *Jureit* 2012: 98f.; cf. *Schinz* 1891.

33 *Drechsler* 1962: 57; cf. *Akweenda* 1997: 213f.; *Demhardt* 1997: 195-205.

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> From west to east, the Kunene River firstly forms the border, 310 kilometers "from its mouth to the cataracts that are formed by that river to the south of Humbe when crossing the range of the Serra [Hills] Canna. From this point the line shall run along the parallel of latitude to the Cubango [or Okavango] River [for 426 kilometers], and thence it shall continue along the course of the same river [for 348 kilometers] as far as Andara, which place is to remain in the German sphere of interest. From this place the boundary line will continue in a straight line, in a due easterly direction to the rapids of Catima on the Zambezi."[34]

Whereas it had been the custom since the seventeenth century to attach a map to international treaties concerning territories, there was none attached to the Luso-German treaty of 1886. Attesting once more to its rather provisional character, this text could barely be used for demarcations on the ground. The future would show that the weak points of the treaty were the definition of the starting points of the two straight lines. Instead of using geometrical positioning (not available in 1886), the treaty referred to two toponyms: 1. "cataracts [*Wasserfälle/cataratas*] which are formed by that [Kunene] river to the south of Humbe when crossing the range of the Serra Canna"; 2. "Andara". The questions to be posed became soon evident: Which of the cataracts south of Humbe and where are the Canna Hills? Where (who or what) is Andara? As will be seen, answers could not easily be found; the history of this border would become very complex.[35]

Next to the ambiguity of the definitions used in the treaty, a second characteristic of it is the resulting cut through numerous African dominions. Considering that the negotiators were not familiar with the settlement patterns of the Ovambo and other peoples, German assistant secretary of state Count Berchem conceded that "it is not our intention that territories which are ruled by one chief will in part be under Portuguese and in part under German protection". However, contrary to Berchem's intention, this is exactly what happened.[36] When this bilateral treaty established the border, "there were only partial protection treaties [with Africans 'agreeing' to be part of the protectorate] in the area which had been marked out." While in some cases – when more information on the areas in question was available – European officials tried to respect existing settlement patterns or pre-colonial limits of "chieftaincies", the Luso-German border

34 Art. 1, Treaty of 30.12.1886, in: *Reichsanzeiger* 21.7.87; cf. *Dobler* 2008: 16; *Baud* 1997.
35 *Windler* 2002: 126; *Jureit* 2012: 98f.; Wallace 2012: 8; cf. *Akweenda* 1997: 216.
36 Cit. in: *Jureit* 2012: 99; cf. *Mutua* 1995: 6; *Wright* 1999 on pre-colonial African 'borders'.

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was agreed upon using only physical features and lines of latitude. The new border thus cut the settlement areas of Ovamboland in two. By doing so, Europeans "largely de-humanized the boundaries of Africa". Altogether 177 such "partitioned culture areas" have been listed by researchers.[37]

Africans living in the newly established border zone had, as the geographer Georg Hartmann put it, "no idea" about the border. Contrary to what had been stated the "frontier … [was *not*] well marked". European visitors to Ovamboland between the Kunene and Kavango Rivers would thus find it difficult to know in which colony they were at a given location. When the Rhenish missionary August Wulfhorst founded the mission station N'giva in 1891/92 he did "not ask to whom the land belonged" according to European treaties. He dealt with the African authorities (King Weyulu) and asked their permission; the same was true when the stations Omupanda, Namakunde, and Omatemba were founded.[38]

However, colonial disputes over the course of the border were not avoided. Illegal trade in guns, alcohol, ivory, and slaves caused numerous complaints from either side about border intrusions. Most critical, however, were border incidents involving officials. The few German transgressions, to be described later, have been characterized as "reconnaissance" marches showing "a definite pattern" of "abuses"; but also German Governors in Windhoek repeatedly contacted their counterpart in Luanda due to border infringements by Portuguese troops. In both cases it seems unlikely that bad faith based on expansionist motives had triggered the border infringements. They were rather caused by the difficulty to establish an imaginary straight line "in the bush" whose starting point was unclear.[39] In late 1911, in the Okavango region, a Portuguese officer ordered the erection of a fort (Mucusso) south of the borderline Andara-Catima; the Germans protested accordingly. Foreign Minister Augusto de Vasconcelos (1867–1951), when asked about this incident in the Senate, declared that the error of the Portuguese officer was due to the lack of clarity over the borderline. Not completely correct with the geographic description of the disputed area, he emphasized that the incident was solved "amicably"

37 *Griffiths* 1986: 205; 209; *Bley* 1996: 6 such treaties were 'the basis on which claims were made'; *Anghie* 1999: 59; cf. *Touval* 1966: 287; 1972: 4-11; *Hertslet* 1909 II: 703.

38 *Hartmann* 1902: 218; BAB R 1001/6640: 125, file: 51, Hochstrate, 26.4.26; NAN A.505: 1, A. Wulfhorst. Chronik der Station Omupanda, 20.11.15; cf. *Esser* 1897.

39 *Cann* 2001: 149; NAN ZBU 10, A I d 3: 9, Telgr. GG to KGW, 25.7.11, ordering his troops to respect the border; 'je vous prie aussi de faire maintenir même respect de la frontière portugaise.'

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between "good neighbors". The fort was removed and re-erected north of the border. A similar incident occurred in Ovamboland, when the Portuguese erected Fort Henrique Couceiro south of the disputed 'borderline' and withdrew from it. The set-up of a border commission was subsequently proposed,[40] similar to a Luso-Belgian "mixed commission" that traced the border between Belgian Congo and Angola.[41]

Germans and Portuguese, however, had not been able to agree on a similar commission, despite rumors to that effect since 1909. Colonial border negotiations were often exceedingly lengthy, but the Luso-German border proved of particular convolution. Already in 1894/95 negotiations about the course of the border resumed but failed. Governor (*Landeshauptmann*) Leutwein advised in 1895 that the question of settling the border with Portugal should be put off "until we have a better footing in Ovamboland".[42] However, the Germans made no progress on the ground. In 1901, geographer Hartmann described the area between Angra Fria and the Kunene River (Kaokoland) as "unexplored". The Germans and Portuguese did not reach a decision on how to identify the "cataracts" of the Kunene River south of Humbe, at the point where the river breaks through Serra Canna. There were at least three cataracts south of Humbe (Kambele, Chimbombe, and Kavale). To add to the misunderstanding, the Germans confused the "cataracts" with "drifts" and they took the Hills of Calueque for the Serra Canna. Therefore, German maps either depicted the most northern (the small Kavale) Falls or Erickson Drift opposite of the Hills five miles upstream of the Kavale (or Kazembue) Falls (or rapids) as the point from where the border was to follow the parallel of latitude to the Kavango River. The Portuguese claimed that the border starts further south downstream, 30 miles below Erickson Drift where the Kunene River breaks through the Serra Canna (which was not a hill) to form the enormous Kambele (or Ruacana) falls.[43]

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40 MAELC CPC/CP/NS/42, Portugal, FML to MAE, 7.2.12, transl. Senate 18.1.12.

41 NARA RG 59, box 6812; 753m.55a152, US Legation Brussels to SoS, 18.10.13.

42 MAELC CPC/CP/NS/35, Portugal: 89, FML, 5.1.09; *Lindner* 2011: 101; *Vigne* 1998: 292.

43 *Hartmann* 1902: 215; *Bollig* 1998: 508; 2004: 265; cf. *Rizzo* 2012: part I; BAB R 1001/6634: 132, Report Baericke, Kimmel (16.11.1919), Ax 9 Memo All., 23.5.22. Hintrager admitted: 'the greater probability points to the acceptance of the 70-80 meter deep Kambele Falls and not to the unimportant northern falls', BAB R 1001/1784: 160-2, KGW to RKA, 22.3.10, quot. in: *Jureit* 2012: 105; Map 'Kunene von der Chikende-Drift bis zum Kambele-Wasserfall' Max Schmidt 1909, BAB R 1001 Kart 1784b;c; Militärkarte DSW 1914; cf. *Sprigade/Moisel* 1914a.

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In 1910, German colonial officials internally conceded that for "economic and political reasons" they no longer aimed at a definite settlement of the Luso-German border. GSWA needed more migrant workers from the *entire* Ovamboland; but most Ovambo lived on the Portuguese side – a definite border may have entitled the Portuguese to prevent the population to migrate to GSWA. Already in 1895 Leutwein found it "obvious that an intersection of any Ovambo tribe by the boundary is unadvantageous and has to be done away with." Considering Portugal's catastrophic finances, some German officials speculated about "inheriting", purchasing and annexing at least Angola's south. Until that time, the Germans deemed the declaration of a "neutral zone" sufficient, "so as not to pre-empt realization of their territorial ambitions to the north".[44] In 1910, a semi-official map described the course of the border as "approximate".[45] However, in 1912 bilateral negotiations resumed. Portugal's Foreign Minister Vasconcelos suggested dividing the zone between the colonies. Both parties agreed finally to declare the area within the two disputed parallel lines (~15 kilometers wide, 420 long) to be a "neutral zone". Given that the Portuguese had just set up Fort Henrique Couceiro south of the disputed line, they also agreed that no military facilities were to be erected in this zone. Both sides were aware that the land, except for the areas near the two rivers, was not worth much. By 1914 negotiations had not been completed.[46]

1.1.3 Competing Neighbors – Luso-British Border Disputes 1886–1905

Long gone was the glorious past of the Portuguese seafarers, when "Portugal reigned as the undisputed economic mistress of West Africa's coastal

44 Hintrager: 'a common settlement of the border between Angola and GSWA is not needed for the foreseeable future, neither for economic nor political reasons' BAB R 1001/1785: 9f., KGW to RKA, 14.5.10, in: *Jureit* 2012: 105; Leutwein quot in: *Vigne* 1998: 292; 294; *Santos* 1978: 156; *Hangula* 1991: 133f.; 1993; *Demhard* 1997: 258-262; *Wallace* 2012: 95.

45 TNA CO 1047/187, Sprigade/Moisel: Karte DSWA, Berlin 1910. The 2nd ed. (1912) did not mention the 'approximate' any more, it showed the abandoned Port. fort south of the border; Namakunde was located on 'German' territory; cf. *Sprigade/Moisel* 1914: map No. 6.

46 BAB R 1001/6638: 58, *Diário de Notíçias*, 16.11.24; cf. Map 1:50,000 in: BAB R 1001/6641: 12, extra-file: 60, Rio Cunene desde Cazambue ao Forte Naulila, 1925; *Akweenda* 1997: 204f.

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trade".[47] However, the Portuguese definition of Angola still included all territories between the Atlantic and Mozambique (as shown to the *Cortes* in 1886 on the "rose-colored map"). The Berlin Conference had not established any provision to the contrary. For decades, the transcontinental connection between Angola and Mozambique had been a political and economic goal of the governments in Lisbon.[48] Already in 1811, Portuguese traders had crossed the continent from Luanda to the mouth of the Zambezi River. When the (slave) trader Silva Porto and the soldier João da Silva traversed from Benguela to Mozambique, the claims were considered to be official.[49] The numerous trans-African journeys by Portuguese officials or *pombeiros* seemed to give credence to Portugal's territorial claims.[50] Pater Charles Duparquet, one of the first Catholic missionaries traveling across southern Africa,[51] reported in 1880 to the Portuguese Minister of the Colonies in a manner as if the area between Kunene, Zambesi, and Lake Ngami were under Portuguese jurisdiction.[52] In 1883 the American Consul in Luanda, R. du Verge, on the other hand, assumed that the "Cuanza river forms the south-eastern boundary of the Portuguese province of Angola, although it is claimed by them to possess the whole country from latt. south 5 to latt. south 19."[53] In 1886 Germany and France "approved the Portuguese claim for a trans-African Empire".[54] The Portuguese justifiably disputed the 'explorations' of David Livingstone of Lake Nyassa, an area they had mapped in the eighteenth century.[55] In 1887, the British, however, "protested vigorously" against the Luso-German treaty of 1886, which reserved the territories between Angola and Mozambique for future acquisition by Portugal. They argued with the Berlin Act (1885) "that sovereignty could only be effective by effective occupation of the territory." Lord Salisbury did not take into consideration the mere journeys of 'explorers' such as Silva Porto, Serpa Pinto or Brito

47 *Vogt* 1975: 623; cf. *Arenas* 2003: 3 on Portugal's 'short lived' hegemony; *Fisch* 1984: 46.
48 *Nowell* 1982/3; *Wheeler* 1974: 581; cf. *Corrado* 2008: 11.
49 *Cornevin* 1971: 439; cf. *Birmingham* 1998: 353; *Castro Henriques* 2003: 90f.
50 AGCSSp 3L1.1.3, Durand: Voyage des Portugais d'un côte a l'autre, Meaux 1879.
51 AGCSSp 2L1.1.1, Durand: Voyage du P. Duparquet dans l'Afrique Australe, Bulletin de la Societe de Geogr., 8-9/1879: 1-36; Estabelecimento de estações civilisadores, Lisbon 1881.
52 AGCSSp 3L1.1.3, Documents concernant les missions, App. IX: 14, Duparquet to Minister, 15.12.1880.
53 NARA RG 84, Loanda, v. 4: 190, USC to SoS, 10.1.83; cf. *Corrado* 2008: xv.
54 *Cana* 1915: 363; cf. *Corrado* 2008: 18 FN 20; *Homem* 1992: 283; *Schrader/G.* 1896: 462; 475, 'l'intérieur, qu'on se habitua à regarder comme partie intégrante de l'empire' portugais.
55 *Cooley* 1854: 267; cf. *Cuninghame* 1904: 168; *Nowell* 1947: 2f.; 5f.

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Capelo or ancient ruined forts. In 1887 he asked for "sufficient strength to enable [the colonial power] to maintain order … and control the natives" in Matabeleland and around Lake Nyassa if Britain were to recognize Portuguese sovereignty in the area.[56] For years already, Lisbon had been concerned about Britain's appetite for its possessions, in particular along the Zambezi River and around "Lourenco Marques' magnificent harbor". In 1875 Delagoa Bay had been the subject of arbitration between Portugal and Great Britain where the outcome was in Lisbon's favor. The situation was made more complex by Cecil Rhodes (1853–1902) who, through his *British South Africa Company*, had his own ideas for a British empire stretching from "Cape to Cairo".[57]

In 1885 Portugal's territorial claims had been reduced and now the country seemed in danger of losing more of its "piece of the African cake".[58] In Guinea, France claimed the Casamance and succeeded. For central Africa, Britain argued that Portuguese colonies at the coast could not be extended indefinitely into the African hinterland without effective occupation. Colonial tensions with London (having erupted in 1846 with regard to Angola's northern border *south* of the mouth of the Congo River[59]) culminated in the quarrel about the territories that became British Rhodesia. When London, pushed by Rhodes and missionaries, declared its "ultimatum" to Portugal in January 1890 demanding a complete withdrawal from the Shire and Mashonaland along the upper Zambezi (between Angola and Mozambique), an "incredible wave of anglophobia" swept across Portugal.[60] Despite all nationalistic excitement the government in Lisbon gave in to Salisbury's pressure; it resigned afterwards. In comparison to Britain, Portugal was to remain an "imperial dwarf". Having revealed "Portugal's position as secondary imperialist power", the humiliation of *o ultimatum* resulted in revolts that seemed to bring the Bragança monarchy to an end. The "great crisis" was aggravated by an economic downturn. In their relentless attacks on the monarchy republicans, by celebrating the "great forefathers" and their discoveries, used the opportunity to present themselves as the true heirs of a golden past that only they

56 *Akweenda* 1997: 218f.; *Nowell* 1947: 13f; *Cann* 2001: 145.
57 *Penvenne* 1996: 444; GB-Pt (1875) RIAA XXVIII: 157; *Samson* 2006:162; *Dás.* 2008: 32.
58 Léopold II to Solvyns, 17.11.77, in *Stengers* 1962: 490 'ce magnifique gâteau africain'.
59 *Wheeler* 1968: 46; *Bontinck* 1969: 107; 109; 117; cf. *Anstey* 1962; *Corrado* 2008: 10; 25.
60 *Labourdette* 2000: 530; 534f.; *Correira/Verhoef* 2009: 50f.; *Homem* 1992: 281; *Smith* 1975.

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could reestablish.[61] The "colonial mania" had reached the Portuguese streets, whereas it had been hitherto the domain of the "armchair geographers" of the *Lisbon Geographic Society*. Similar to other nations "colonial chauvinism" increased and Portugal "became dominated by colonial questions"[62]; even though Angola was considered by outsiders to be "still a colony of little importance".[63]

After Britain and Portugal had signed conventions in 1890 and 1891 that declared the western limits of the Barotse kingdom their vaguely defined border in the Zambezi region, the dispute continued. The press in Lisbon anxiously reported on alleged British or German incursions into Angola.[64] The British equally complained about "raids … from Portuguese territories". In 1903, the dispute about Angola's eastern border was referred to King Emmanuel III of Italy for arbitration.[65] The award of 1905 tried at length to define the (historical) extension of the Barotse kingdom but in the end a border was established that ran for 390 miles along astronomical lines. The King's award left Britain with the longest part of the Zambezi River. However, officials were critical of the "arbitrary meridians" and were concerned about the trouble that would likely arise "when a native … dominion is divided between two [European] spheres of influence."[66] Evidently, these new borders and 'colonies' should not prompt one to overlook "the profound unity of the region" in historical and social terms.[67]

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61 *Jureit* 2012: 82 'imperiale Zwerge'; *Arenas* 2003: 6; *Wheeler* 1978: 39; *Ramos* 2001: 40; *Birmingham* 2011: 139f.; *Teixeira* 1990. The republican national anthem was written shortly after: 'Heróis do mar, nobre povo /Nação valente, imortal /Levantai hoje de novo /O esplendor de Portugal! Entre as brumas da memória /Ó Pátria, sente-se a voz /Dos teus egrégios avós /... Seja o eco de uma afronta /O sinal do ressurgir…'; 'Heroes of the sea, noble people / Brave and immortal nation /Raise once again today /The splendor of Portugal! /Among the haze of memory /Oh Fatherland, one feels the voice /Of your distinguished forefathers /… Let the echo of an offense /Be the sign for a comeback.…'

62 *Smith* 1991: 499; *Birmi.* 2011: 146; *Stengers* 1962: 486; 483; cf. *Corrado* 2008: 39; 118.

63 *Schrader/Gallouédec* 1896: 476; cf. *Rodrigues* 2009: 48f.; *Livermore* 1967: 30f.

64 PA Luanda 4 (Polit.) Consul to RK Bülow, 1.7.03; *Canis* 1999: 85; *Touval* 1966: 289.

65 TNA FO 179/390: 9f., Peel: Report on Portugal and her colonial possessions, 11.1.04.

66 *RGS* 1905: 201f; *Reynolds* 1972; 242; *Fisch* 1984: 423; *Griffiths* 1986: 207; *Roque* 2003: 118.

67 *Vellut* 1980: 104.

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1.2 "Medical Adviser" or "Heir"? – the Agreements of 1898 and 1913

Throughout the nineteenth century Portugal earned a reputation for its "financial disorganization". Following the financial and political crisis of 1890[68] the country experienced "virtual financial bankruptcy …, and continuous budget deficits".[69] In comparison with other western European nations, Portugal's GNP *per capita* fell back. This "backwardness" "was perhaps as typical of the Africa she was purporting to civilize as of Europe."[70] Among others, Portugal was highly indebted with German creditors. While Britain exerted an overall dominant economic role, in certain branches German merchants, it was claimed, gained a "preponderant" position in Portugal and its colonies.[71] The country, with its protectionist policy, lacking meaningful economic growth, increasing state spending and an ever rising public debt was financially overburdened with the administration and economic *mise-en-valeur* of its colonies spread across the globe and twenty-three times the size of the metropolitan territory. In 1900, five percent of the state budget had to be spent on the overseas administration; together with defense expenses this rose to around 25 percent.[72] Production in the colonies, on the other hand, was often still based on slave labor and foraging sectors.[73]

In Angola complaints by foreign observers were rampant about "officials having sadly neglected their duty" and a general Portuguese "want of national enterprise".[74] In Mozambique, the French Consul warned of the *conséquences de la déplorable administration des colonies portugaises* that could cost one day the kingdom its best overseas possessions.[75] Since 1890 rumors did not abate about the cession of Portuguese colonies to foreign powers "in exchange for financial support".[76] Following the British *ultimatum* the Angolan journalist José de Fontes Pereira (1823–91) did

68 *Esteves* 2005: 311; 319f. on lack of remittances from Brazil since 1889; *Wheeler* 1978: 28.
69 *Wheeler* 1972: 175; on surpluses in the 1860s *Clarence-S.* 1979a: 172; *Ramos* 2001: 129.
70 *Roberts* 1986: 494; cf. Bonifácio: 1 in *Mattoso* 2010: 'At the beginning of the 20th century, the Portuguese GNP per capita only amounted to 40% of the GNP per capita of the richest countries, whereas in 1850 the proportion had been 55%.'; *Birmingham* 2011: 141-4.
71 *Penha Garcia* 1918: 129; German exports were second only to GB; *Esteves* 2005: 319.
72 *Esteves* 2005: 331; *Câmara* 2005: 355; *Roberts* 1986: 495; but cf. *Clarence-Smith* 1985.
73 *Clarence-Smith* 1979a: 174; *Pitcher* 1991: 52; 48 on wild grown cotton; *Roberts* 1986: 523.
74 NARA RG 84, Loanda, v. 2, USCA to SoS, No. 89, 2.5.1874.
75 MAELC CPCOM/CP/NS/7, Portugal: 23, French Consul Lourenço M. to MAE, 6.4.97.
76 NARA RG 84, Loanda, v. 4, USC to SoS, 13.2.92: 447 pointing to US 'overtures'.

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"not wonder that foreigners … would try to take over Portuguese lands which are still preserved in a state of nature … We have nothing to expect from Portugal except … slavery … [W]e trust neither in the good faith nor in the sincerity of the Portuguese Colonial Party, whose members are only crocodiles … Out with them!!!"[77]

After his vitriolic attack, the author, having criticized the Portuguese administration already for years, lost his employment in the civil service and was prosecuted. However, the "Portuguese have often been the severest critics of their own colonial misrule". The account of former Overseas Minister João de Andrade Corvo (1824–90) of the colonies and their "retrograde and inefficient" administration (published between 1883 and 1887) left the impression that Portugal should abdicate its colonial heritage rather sooner than later. "Yet this is not at all what Andrade Corvo intended".[78] Aware of the bitter reality and growing debts, his successor as Overseas Minister, Ferreira de Almeida, came up with a different solution. In 1895, he "twice introduced parliamentary motions in favour of selling some of the colonies and using the proceeds to develop the remainder."[79]

Considering these debates and the financial weakness of Portugal and given the German aspirations for *Weltpolitik*, in 1898 Britain and Germany commenced negotiations about the "hypothetical partition" of Portuguese colonies. This was part of a more encompassing dialogue on a "defensive alliance" between both powers. It was discussed whether to buy Portugal's colonies or to take them in debt payment. Rumors about German aspirations for the Portuguese Empire were decades old.[80] For this reason Portuguese colonial administrators were not particularly Germanophile.[81]

For the new German Foreign Secretary Bernhard von Bülow (1849–1929) and Naval Secretary Admiral Alfred von Tirpitz (1849–1930) the negotiations with Britain opened a window of opportunity to prove the effectiveness of their self-assured foreign policy. They "firmly anticipated 'a new division of the globe'". Germany was finally to find its "place in the sun" and would inherit parts of the Portuguese empire. In London, the

77 *O Arauto Africano* (Luanda), 20.1.1890, transl. *Wheeler* 1969a: 16; *Fernandes* 2010: 92.
78 *Boxer* 1963: 128; 130; cf. *Marques* 2006: 199; *Cardoso* 2007: 5; *Newitt* 2007: 52.
79 *Hammond* 1969: 353; 1966; *Corrado* 2008: 37 on 'selling' debates 1860s/70s; 115-8; 172-6.
80 *Rose* 2011: 150f.; cf. *Canis* 1999: 291; *Bixler* 1934: 438 on rumors that Germany would want to buy Delagoa Bay (1872).
81 MAELC CPCOM/CP/NS/7, Portugal: 8, Consul L. M. to MAE, 16.1.97; *Lindner* 2011: 72.

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British Vice-Foreign Secretary Arthur J. Balfour (1848–1930) and the German Ambassador Paul von Hatzfeld (1831–1901) signed on August 30, 1898 two secret agreements "in connection with a possible loan to Portugal" according to which Angola and Mozambique would be administratively divided into spheres of interest between the two powers "in case of default in the payment [by Portugal] of the interest [as in 1891] or sinking fund of either loan". Despite the underlying assumption that the disintegration of the Portuguese empire was merely a matter of time, this was never the case. Portugal came to terms with its foreign creditors in 1902. Public finances stabilized for a while and the "treaty therefore remained inoperative".[82]

Furthermore, just as the government in Berlin remained unable to mobilize the German economy to invest in the German colonies, German financiers could not be induced to risk capital in the Portuguese colonies. In this way, the absurd situation came into being that around 1895 British-South African capital dominated GSWA[83] and began also to invest in southern Angola, intended to be a German sphere of interest. Finally, the *Disconto Gesellschaft* showed interest in Angola. Led by Adolph von Hansemann (1826–1903)[84] the *Disconto Gesellschaft* was expected to counter the British dominance and to give economic meaning to Emperor William's new *Weltpolitik*. Since the days of Georg Tams (1841 in Luanda) and "even more so since" the 1870s German "explorers" had been active in Angola. Foreign Secretary Bülow ordered the thorough exploration of the region he hoped to become German soon.[85] The Kunene-Zambezi-Expedition (1899–1900) was organized by the *Kolonialwirtschaftliches Komitee* (Berlin) in cooperation with the *Companhia de Moçâmedes* (Paris) and the *South West Africa Company* (London). This expedition tried to explore a possible railway connection from the Atlantic to the copper mines of Otavi in GSWA and possibly to the Transvaal.[86] A long dis-

82 *Kennedy* 1984: 158; *Gooch/Temp.* 1927: 71f., No. 90 IV; No. 91; No. 93; *Esteves* 2005: 311; *Clarence-S.* 1976: 218; *Langhorne* 1973: 364; *Ramos* 2001: 124; *Winzen* 2013: 197.

83 *Paish* 1911; *Cana* 1915: 357 SWA 'mainly exploited by British capital'; cf. *Drechsler* 1996.

84 *Stern* 1979: 398 Hansemann was involved in colonial affairs since the Bismarck era and brother-in-law of the first head of the Colonial Dpt., H. von Kusserow (1836–1900); on Bismarck's laments about the timidity of German capitalists (*ibd*. 412; 434); *Santos* 1978: 140f.

85 *Pélissier* 1996: 660; *Winzen* 2013: 236; *Strandmann* 2009: 290-93; cf. *Heintze* 2007: 378.

86 It was led by Pieter van der Kellen, who led Père Lecomte (†1908) in 1886 to the Kavango River and had family connections with the *C. de Moçâmedes* (AGCSSp 3L1.7b5, Schaller to Grizard?, 28.10.86; 3L1.16a6); *Heintze* 2007: 121 on botanist Hugo *Baum* 1903.

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cussion commenced in Germany's Foreign Office, in the German legation in Lisbon and in business circles about the viability of the construction of the railway, beginning either in Baia dos Tigres or Porto Alexandre. Pointing to the lack of local trade, the geographer Siegfried Passarge (1866–1958) considered such railway premature. Hansemann, on the other hand, argued in favour of the railway and emphasized that Tiger Bay was of no relevance for Portuguese trade interests. He considered the Angolan administration financially and technically incompetent to realize the railway construction.[87]

The intrigues between Hansemann and Cecil Rhodes in 1899 about the railway to Otavi ended in a diplomatic disaster. Alfred von Tattenbach (1846–1910), the German minister in Lisbon, "a typical Prussian diplomat" with a tendency to act like "a bull in a China shop" did not convince the Portuguese government to grant exclusive concessions to the Germans to run the harbor on Angolan territory and build and maintain the railway lines. The railway line would never cross the border. Instead, the Portuguese decided to finance the line themselves, but starting in Moçâmedes and routed according to their own needs. The Otavi mine was, for "national reasons" linked southwards to the less than favorable German harbor of Swakopmund. Incapable of realizing a policy of slow *pénétration pacifique* in southern Angola, Berlin had insisted on an exclusive German sphere of influence, thereby offended the Portuguese and gained nothing.[88]

Portugal's government had been aware of the "uncomfortable" situation due to the Anglo-German machinations. King Dom Carlos I. (1863–1908) spoke openly with the French Minister in Lisbon about the necessity to avoid the "execution of the Anglo-German accord of 1898".[89] He was determined to hold what was agreed on during the Congo Conference in 1885. Since the "1880s the presence of colonial affairs in public debate was wider." Colonial enthusiasts presented colonial issues as questions of national honor.[90] Any slight to Portugal's rank was considered inacceptable. The end of Spanish rule in Cuba, Puerto Rico, and the Philippines at the hands of the United States in 1898 made obvious the risks of losing an ancient empire to rising powers without considerations for legal grounds.

87 PA Lissabon 268 (Tigerbai), *DKZ* No. 17, 24.4.00; Memo, 18.6.00; *Strandmann* 2009: 293.
88 *Drechsler* 1962: 58f.; 67; *Tschapek* 2000: 251-269; cf. *Schwarze* 1931; *Ribeiro Lopes* 1933.
89 MAELC CPCOM/CP/NS/7, Portugal: 194a, FML to MAE, 14.6.02; *Hespanha* 2010: 172.
90 *Tavares de Almeida/Silveira e Sousa* 2006: 113; cf. *Stengers* 1962: 484; *Santos* 1978: 132f.

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The press in Lisbon carefully watched German movements in Angola. Questioning the *Companhia de Moçâmedes*, *Novidades* did not hesitate to warn of an "invasion" of foreigners buying out Portuguese sovereignty with railway bonds; others deplored border infringements.[91] The French Ambassador in Berlin summarized the situation: "It is an open secret that the Portuguese possessions are the object of German greed."[92] Also, in subsequent years, the potential cession of all of Ovamboland to GSWA was a recurring issue even among the missionaries.[93]

Lisbon was thus eager to revive the six-hundred-year-old Luso-British alliance, the "bedrock of Portuguese diplomacy". The Portuguese profited from the growing imperial rivalry between the British and the Germans in southern Africa.[94] Given the "general impression in England that the demands of Germany in Africa were exorbitant" and considering the ensuing war with the South African Republic, London responded favorably to the diplomacy of the "very subtle and clairvoyant Marquês de Soveral" (1851–1922), Portugal's Ambassador in London.[95] The alliance with Portugal was confirmed by the secret Windsor Declaration (October 14, 1899), neutralizing the Anglo-German agreement (as intended by London) and guaranteeing the integrity of Portugal and its empire, while Lisbon undertook not to permit the "passage of arms" destined to the Afrikaaner Republics and declared itself neutral in the conflict. Foreign Secretary Bülow's secret plan to occupy Tiger Bay in case the British would take Delagoa Bay came to naught.[96] In 1903 King Edward VII officially visited Portugal and affirmed its politicians of the integrity of the Portuguese colonies.[97]

The British, more diplomatically inclined than the Germans with their "aggressive plans" and having more capital at their disposal, continued to have a stronger foothold in southern Angola than the Germans. In 1902, Robert Williams secured a concession from Lisbon for the construction of

91 PA Lissabon 268, DGL to AA, *Novidades*, 6.7.00; *Diário de Notíçias; Popular*, 26.10.01.
92 MAELC CPCOM/CP/NS/7, Portugal: 183p, French Ambassador Berlin to MAE, 9.11.01.
93 AGCSSp 3L1.11b3, Lecomte (Caconda) to TRP, 24.2.; 26.3.; 10.5.05.
94 *Birmingham* 2011: 24; 64; *Labourdette* 2000: 360-4; *Strandmann* 2009: 291; *Butler* 1989: 4: 'The oldest treaty in force for the United Kingdom is a Treaty of Perpetual Alliance between King Richard II of England and John I, King of Portugal, dated 9th May 13[73].'
95 *Pélissier* 2000: 575 ref. Costa, F.: Portugal e a Guerra Anglo-Boer, Lisbon 1998: 91f.
96 *Gooch /Temperley* 1927: 75, No. 93, Note; 77, No. 96; 93, No. 118; *Winzen* 2013: 233-8.
97 TNA FO 179/390, Report by A. Peel on Portug. Africa, 11.1.04; *Penha Garcia* 1918: 134.

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the Lobito railway to the Katanga mines.[98] Manifestly, this ran counter the German government's plans for the economic development in Angola. The *Companhia de Moçâmedes*, a Luso-French consortium sub-conceded its mining and railway building rights to British companies "linked to Cecil Rhodes".[99] After his trip to Angola in 1903, the British prospector Boyd Cuninghame announced that Angola's "natural advantages will soon be more fully exploited by British enterprise".[100] Economic expectations were high, if not illusory. The "Angola-Boer" Pieter van der Kellen (having family connections with the *Companhia de Moçâmedes*) was quoted by a French journal as having "found traces of gold in each handful of gravel". He spoke of a "new Witwatersrand" in the Cassinga region.[101] The German Consul Dobritz even traveled to the Kunene area just to learn that Cuninghame had crossed into Kaokoveld in GSWA.[102] As several other newspapers asked what had come out of the Anglo-German accord of 1898,[103] *Der Tag* warned about the railway track to the Katanga mines, proposed by Cuninghame: "If we do not keep a close eye on things, our GSWA will be surrounded by the British in the North as well, and thus on all sides."[104]

Due to the dominant position Britain exerted over southern Africa, also Portugal's relations with the British had repeatedly experienced frictions in the past as could be seen from the "ultimatum" in 1890. Portugal had "become a subsidiary colonial power to England" and had to "navigate between Scylla and Charybdis";[105] whereas the ancient alliance was of relevance to Britain due to Portugal's Atlantic possessions, the Azores, Cape Verde and Madeira. They formed a triangle through which trade routes passed that were "a major lifeline of Britain and her Empire."[106] It was an "old [British] doctrine" that these islands "must never be allowed to fall into potentially hostile hands"; a doctrine to which also the Americans adhered.[107] The Portuguese found it difficult to trust any power on the

98 *Dáskalos* 2008: 82; MAELC CPC/CP/NS/42, Portugal, FML to MAE Delcassé, 8.12.02.
99 *Clarence-S.* 1979a: 173 'it proved an almost total economic failure'; *Alexandre* 2005: 371.
100 *Cuninghame* 1904: 167 'with the concurrence of our old-time allies the Portuguese.'
101 AGCSSp 3L1.1.2, *Gaulois*, 8.6.1903 'Au Sud-Ouest Africain'.
102 PA Luanda 5 (Lobito-Eisenbahn) German Consul Luanda to RK Bülow, 19.11.04.
103 MAELC CPCOM/CP/NS/7, Portugal: 222a, French Ambassador Berlin to MAE, 7.4.04.
104 PA Luanda 4 (Luanda-Politisches) *Der Tag*: 'Vorstoß der Engländer in Angola', 10.3.04.
105 *Arenas* 2003: 4; *Drechsler* 1962: 58; 68; cf. *Alexandre* 2005: 375; *Willequet* 1967.
106 *Stone* 1975: 743; cf. *Collins* 2013: 746; *Livermore* 1967: 309-313.
107 *Vincent-S.* 1974: 623; NARA RG 59, box 6811; 753b.00, Navy Dpt (FDR), 16.6.16.

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African continent. Everywhere "vultures hovered nearby, waiting for the collapse of Portugal's finances before swooping in on the country's colonies."[108] In as much as the French opposed any territorial gains for the Germans, in as much they were inclined to raise the *question de l'annexion de la Guinée portugaise.*[109] And the Belgians were eager to enlarge their access to the sea and to incorporate the enclave of Cabinda into their Congo colony.[110]

Once they had subdued the Herero and Nama in GSWA in a long and excruciating war (1904–1907), the Germans seemed again to be a threat to Portugal's sovereignty over Angola. Between 1907 and 1914 Portuguese royal and republican governments were anxious to secure reaffirmations of the Anglo-Portuguese alliance to receive protection against Germany, Spain, and, increasingly, the Union of South Africa, eager to incorporate the harbor of Lourenco Marques. In these years the concept of the indivisibility of Portugal's territory, in Europe or overseas, developed among the elite. However, following the revolution of 1910 the validity of the alliance based on treaties between monarchs seemed in question and the partition of the Portuguese empire seemed more imminent than ever. The government in Lisbon thus sent the former minister Count Penha-Garcia to Paris, Brussels, and Berlin to affirm the "will" (*volonté*) of the Portuguese nation to hold fast to the colonies and to convince the foreign public of the "progress" realized there over the last decades.[111] The Luso-Dutch skirmishes in 1911 over the border of East Timor left nobody in doubt that the Portuguese were willing to defend what they considered their "rights".[112]

When he learnt about the Franco-German convention on Morocco and the Congo region (1911), most of all the swap of territories, Foreign Minister Vasconcelos was alarmed. Congratulating the French on their "triumph", he was concerned about the German ambitions for further enlargement that would barely be limited to Belgian Congo. Vasconcelos feared that article XVI of the convention, providing for the eventuality of territorial modification, could be the prelude for a re-portioning of Africa which

108 *Meneses* 2010: 10.
109 MAELC CPC/CP/NS/9, Portugal: 30, MAE. Note sur les colonies portugaises, 30.12.12.
110 MAELC CPC/CP/NS/42, Portugal, French Minister Brussels to MAE, 14.6.12.
111 MAELC CPC/CP/NS/9, Portugal: 31, MAE. Note sur les colonies portugaises, 30.12.12.
112 NARA RG 59, box 6811; 753.56, US Minister The Hague to SoS, 25.8.11; the dispute was settled (25.6.1914) by the Permanent Court of Arbitration (C.E.Lardy).

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would be, as in 1885, to the detriment of Portugal. During a meeting with the French Minister, Vasconcelos left the impression that the Anglo-Portuguese alliance seemed to reassure him less than the German ambitions disquieted him and his nation.[113]

British politicians, on the other hand, had no intention to put into question the existing alliance and were satisfied with the *status quo*. The final definition of the borders between British possessions and GSWA was being arranged by several international arbitration procedures. The Walvis Bay arbitration by the Spanish lawyer Joaquin F. Prida went in favor of the British (1911). Following an agreement of 1890, new procedures about the borders along the Orange and the Tchobe River had started in 1911.[114] In 1911, after the Agadir crisis had brought Anglo-German relations to a new low, the Colonial Secretary Lewis Harcourt (1863–1922) was, however, willing to help Germany to find "a place in the sun" and recommenced (in private) the discussions about Portugal's colonies.[115] Reasons for this may be found not only in the desire to improve relations with Berlin. Given the slave-like labor conditions on the plantations of São Tomé Foreign Secretary Edward Grey (1862–1933) had often expressed his "disgust at the 'scandalous' state of affairs in Portuguese Africa". Further, he had doubts about the applicability of "treaties of such ancient date". Also the First Lord of the Admiralty, Winston Churchill (1874–1965) was known for his "intense hostility to the republican regime in Portugal".[116] The Germans "believed themselves to have been cheated by England" since despite the agreement of 1898 they did not gain anything in return for their neutrality during the South African war.[117] They therefore wanted to renegotiate in Germany's favor the agreement about the future of Portugal's colonies. At the same time, British and German politicians showed "interest in reducing the intensity of their naval competition". Grey, Europe's "most influential foreign minister", stated: "For a real bargain about naval expenditure in which Germany gives up the attempt to challenge our naval superiority we might give something substantial,

113 MAELC CPC/CP/NS/8, Portugal: 198, FML to MAE, 2.12.11.

114 TNA CO 879/114/5: 3, n.5, CO (H. Lambert) to FO, 21.5.14; cf. *Carrington* 1960: 438.

115 *Langhorne* 1973: 368; cf. *Gooch/Temperley* 1930: 651, No.480; 664, No.490; 684, No.506.

116 *Vincent-Smith* 1974: 620; 623; Grey to Goschen, 29.11.1911: 'Metternich has already said that the Germans would like a division of the Portuguese Colonies to take place as soon as possible. So should I. These colonies are worse than derelict so long as Portugal has them; they are sins of iniquity', in *Langhorne* 1973: 369; cf. 1973b: 863f.; *Miers* 2003: 51.

117 Jagow to Lichnowsky: 'we were duped by England', in *Langhorne* 1973: 380;363; 1971.

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but the difficulty is that cession of [Portuguese] territory can hardly from the German point of view be *in pari materia* with a naval arrangement."[118]

This time, the officials in the German Foreign Office had learnt their lesson that shortsighted policy focusing only on domestic prestige and annexations would lead to no result. They now considered German economic penetration of Angola and Mozambique through investment and the purchase of Portuguese national loans as the corner stone of a policy that should lead *in the future* to the takeover of (parts of) the Portuguese colonies. A similar policy was pursued towards the Congo. After the Germans in 1911 through a German-French swap of colonial territories had "secured a footing on the Congo River", Germany was "more than ever determined to connect her west and east coast possessions by means of a piece of the Congo". Since the colony was "on the verge of bankruptcy" and since Belgians appeared rather resigned, a partition seemed not improbable, as the American Consul in Boma noticed. He recognized Britain as Germany's main competitor. The old plans for a "Cape to Cairo railroad" through all British Territory ran "directly counter to German ambitions." Considering the money Britain was investing in the Congo, he assumed that she had "the better chance to carry out her plan".[119] In Germany, on the other hand, *Mittelafrika* reaching from the Atlantic to the Indian Ocean was the envisioned goal. Especially the Pan-Germans (*Alldeutsche*) and other ultranationalist groups with their "half-baked" projects put pressure on the German government to follow a path to worldwide territorial expansion.[120]

From the official German point of view, the Anglo-German negotiations were not a (colonial) end in and of itself, as the French ambassador in Berlin, Jules Cambon (1845–1935) assumed when he recognized a "Prussion tradition" in "sharing the spoils of a weak state".[121] Chancellor Theodor von Bethmann-Hollweg, Colonial Secretary Wilhelm Solf, Councilor Richard von Kühlmann and the Minister in Lisbon, Friedrich Rosen, hoped to use the detour of negotiations about Africa with Lewis Harcourt to find (at Portugal's expense) common ground with Britain also in Europe. Solf was willing to see Germany as the junior partner of the British in Africa and hoped to break through the isolation of Germany within Euro-

118 *Maurer* 1992: 284; Grey, 29.11.1911, in *Langhorne* 1973: 369; *Clark* 2013: 266.
119 NARA RG 84, Boma, v. 13, US CG Boma to SoS, 28.2.12; 10.6.12.
120 *Canis* 2011: 523; *Ritter* 1970: 109; cf. *Rosen* 1932: 266f. 'alldeutsche Krafthuber' (Solf).
121 MAELC 192 CPC/CP/NS/19, Portugal: 9, French Embassy Berlin to MAE, 3.2.13.

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pe. In October 1913, a new agreement was initialed that provided for a German takeover of the larger part of southern Angola and northern Mozambique not only in case Portugal would want to sell its colonies, but also in case of misrule and revolts that could harm neighboring German or British colonies. In this event the parties would seek a joint solution.[122]

These negotiations were openly discussed in the press across Europe. In France concerns were raised about the German aspirations for "mythic" *Mittelafrika*.[123] The journal *Géographie* warned: "With England's consent and owing also to our weakness, [Germany] has cast her eye on the Belgian Congo, Angola, and Spanish … Guinea"[124] However, the Germans "seriously underestimated the sensitivity and tenacity of the Portuguese where their colonies were concerned".[125] In 1912, the Portuguese Foreign Minister declared that Portugal would never cede territory to the Germans.[126] *O Mundo*, the mouthpiece of the republic's strong man Afonso Costa, took comfort in "our old alliance with England", whose Foreign Secretary Grey had expressed England's colonial "satisfaction". This, it was hoped, could in the future also be Germany's guiding "principle" instead of its constant "desire" for Angola.[127] Indeed, Grey "played a double game" and "misled" the Germans on his intentions. Being strongly influenced by the "Germanophobe fraction" in the Foreign Office under Francis Bertie, Eyre Crowe, and Arthur Nicolson, Grey assured the Portuguese Foreign Minister during the ongoing negotiations that neither Britain nor Germany would want to unilaterally terminate Portugal's colonial sovereignty. He pressed Lisbon to develop its colonies in order to consolidate its sovereignty and to accept for that end British as well as German investors.[128]

The new Portuguese republican ambassador in London, Teixeira Gomes (1860–1941), questioned Britain's "loyalty to an old ally". His

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122 *Canis* 2011: 531; cf. *Otte* 2013: 184; *Silva* 2006: 328; *Schöllgen* 1980; *Hatton* 1971.

123 *Michel* 2004: 918; cf. *Stone* 1975: 731; *Afflerbach* 2002; *Forsbach* 2003: 122.

124 'The backbone of her future network of railways is to be a great trans-Africa line from Dar-es-Salaam to Lobito Bay', transl. in: *Journal of the Royal African Society* 14/53 (1914): 41. In case of a 'necessity' of liquidating the Portuguese Empire, France may have demanded Cape Verde, Guinea-Bissau, São Tomé e Principe, Cabinda, and part of Mozambique, cf. MAELC CPCOM/CP/NS/9, Portugal: 29-39, MAE. Note sur les colonies portug., 30.12.12; 192 CPCOM/19, Portugal: 18-21, Paul Cambon (London) to MAE, 12.2.13.

125 *Vincent-Smith* 1974: 627f.; cf. AGCSSp 3L1.1.2, French paper clippings, July 1912;

126 MAELC CPCOM/CP/NS/9, Portugal: 31, MAE. Note sur les colonies portug., 30.12.12.

127 NARA RG 59, box 6811; 753.00/1, *O Mundo*, 4.12.11, transl in: USML to SoS, 5.12.11.

128 *Canis* 2011: 531-6 AA 'ließ sich blenden'; cf. *Clark* 2013: 219f.; *Livermore* 1967: 323.

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German counterpart, Prince Lichnowsky (1860–1928), not concealing "that Germany hoped for more than a mere development of Portuguese colonies", told Grey in disappointment "that the position I seemed to assume was that of medical adviser to the Portuguese colonies, while what Germany contemplated was that of being the heir." However, irrespective of the fact that the membership of the German Colonial Association (*DKG*) "read like a 'Who's Who' of prominent figures in the German business world",[129] the great German credit institutions were, again, hardly convinced of the economic prospects of this financial imperialism. The Luso-German Treaty of Navigation and Commerce that came into effect in June 1910[130] did not assure them. Were Angola or Mozambique promising investment objectives? The government in Berlin had to urge investors to take risks. Only with the support of the Foreign Office German banks bought in May 1914 the majority of stocks of the *Nyassa Consolidated Ltd*. (Mozambique). The purchase of Portuguese national loans secured by the customs revenues of Angola was scheduled for July. British officials, on the other hand, were hesitant to sign the proposed agreement with Germany not only because they were aware of the sensitivities of Portugal, France, and Belgium. Bearing in mind that the Germans had commenced to invest in (and stabilized) the Portuguese colonies and being aware that Britain's German counterparts did not value non-European territory enough to make concessions with regard to Germany's ambitious naval policy, the desirability of an Anglo-German cooperation that would expose the British as "desert[ing] their friends" seemed questionable. Thus, they demanded the publication of the new treaty together with the Windsor Treaty of 1899; a move that was intended to put pressure on the Portuguese to develop their colonies, but inacceptable to the Germans, as Portugal would have impeded German commercial expansion in the areas allocated to Germany. Furthermore, the German public would have learnt that Germany was "duped" in 1899. *No* formal agreement followed the negotiations of 1913.[131]

One historian went so far to consider "the whole negotiation … a deliberate piece of theatre" that served but one purpose: to show the fact *that* negotiations between the two were possible.[132] In early 1914 diplomats at-

129 Grey 13.6.13, in: *Langhorn* 1974: 366/79; *Blackbourn* 1998: 333; *Stern* 1979: 412.
130 NARA RG 84, Lisbon, v. 168: 720, USML to SoS, 3.10.19 treaty was suspended in 1916.
131 *Girão* 2010: 42; *Vincent-Smith* 1974: 625; cf. *Lindner* 2011: 77; *Santos* 1978: 167f.
132 *Stone* 1975: 731; *Langhorne* 1973: 387; cf. *Tschapek* 2000: 354; *Vincent-Smith* 1974:624f.

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tested "to a growing sense of détente" in Anglo-German relations even without formal agreements on colonial territories or arms control.[133] The outbreak of the war prevented further steps in the direction of a German *Mittelafrika*. This did not prevent German contemporaries from dreaming of 'German' Angola as the "world's most attractive colony".[134]

1.3 The Portuguese in Southern Angola

1.3.1 Contact, Commerce, and Colonialism in Angola, ca. 1840–1900

The notion of Portuguese inaction and idleness as expressed in many (foreign) contemporary accounts gives an incomplete impression of Angola's administration. Governor General Calheiros e Meneses stated in 1861 "the normal condition of the administration of the colony is to make war and to prepare itself for war." It was not one or two major battles to be fought in order to "pacify" the colony. The Portuguese, similar to other colonial powers "never … [took] more than a single bit at a time." "[R]arely did a year pass during the four centuries since 1575 when there was not a colonial campaign somewhere in Angola".[135] From 1845 to 1926 alone around 180 military campaigns ravaged the colony; altogether historian René Pélissier counts 420 campaigns in the Portuguese empire during this period. No other colonial power met with such harsh resistance in Africa.[136] Portugal's constant war efforts prove to be the exception to the rule that – due to the expenses – "only the major powers are capable of engaging regularly in [colonial] wars." However, short-term "victories" did not necessarily result in colonization and pacification. As in any other colony, "war and peace could not be clearly distinguished" from each other.[137]

Despite all their fighting, the presence of the Portuguese from the fifteenth to the nineteenth century remained mostly limited to the coastal belt. At the beginning of the twentieth century, Angola was still far from

133 *Otte* 2013: 177; cf. *Rose* 2011: 567.
134 *Reiner* 1924: 334: 'What would Germany have made of this country if it would have been in German hands for such a long time?; cf. *Marquardsen* 1920.
135 Quoted and translated in *Wheeler* 1969: 425; 428; *Oliver/Mathews* 1963: 454.
136 Cf. *Pélissier* 1977: 18; 20; 609; *Dias* 1981: 359; *Dianoux* 1989: 12; *Wheeler* 1967.
137 *Ravlo/Gleditsch/Do.* 2003: 528; *Kuss* 2010: 15f. on the characteristics of colonial wars.

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being occupied in its entirety by the Portuguese; it was conquered and colonized only in the subsequent decades. The Portuguese thus were prevented from "reaching an effective detribalization of the hinterland". As it has been described for the British advances into Xhosa territories in the first half of the nineteenth century, the "process of interaction" between Europeans and Africans remained central to the creation of imperial rule.[138] "Colonial encounters" were never one-sided affairs but left both parties with options, while both were seeking for advantages. The processes of accommodation between Africans and Europeans were manifold and the Portuguese were not capable of imposing their will upon their African subjects unaltered. The "creation of Angola" entailed more than a simplistic reiteration of the dichotomy of "pacification campaigns" and "wars of resistance" can present. Rather than force, trade, diplomacy, and negotiations had to be applied as the administration lacked the manpower for outright conquest and rule. The colonial states that were implemented with great pains following the "partition of Africa" were "mere skeletons fleshed out and vitalized by African political forces."[139]

In Angola's interior for centuries the relation between Portuguese and Africans "was not so much a confrontation of cultures as an intimate, balanced commercial collaboration."[140] Europeans did not necessarily act from a position of strength; rather, historians do not shy away from terms such as "African hegemony". The question of African allies and their importance for the colonial project comes into play here too. The Portuguese colonial state, "despite its seeming antiquity, remained a series of patrimonial satrapies improvisionally run by an amalgam of settlers, renegades, and officials." "[S]urvival and endurance" were the characteristics of the "traditional [Portuguese colonial] policy" that has also been defined as "Luso-African feudalism".[141] Indigenous structures of production and of authority often remained unaltered in areas Portugal penetrated. The administration upheld "a system of Portuguese commercial 'consuls' attached to Ovimbundu courts".[142] For decades these isolated *sertanejos* remained the only representatives of the Empire. In 1877 Governor General Albuquerque compared "colonial settlements [to] islands, lost in a limit-

138 *Corrado* 2008: 3; *Price* 2008: 1; cf. *Brunschwig* 1974: 48.
139 *Henriques* 2004: 9 'a criação de Angola'; *Iliffe* 2007: 193; 203 similar to *Ranger* 1969: 297.
140 *Miller*, J.C.: Review, Madeira Santos, M.E.: Serventia e posse, in JAH 41 (2000): 503.
141 *Corrado* 2008: 20; *Henri.* 2004: 17; *Young* 1994: 152; *Wheeler* 1969: 426; *Boxer* 1963: 29.
142 *Birmingham* 1974: 194; *Ferreira*, 2011: 6; cf. *Péclard* 1999: 123; *Medeiros* 1977: 75.

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less indigenous sea." Therefore, historians have remarked that we cannot speak of a "veritable colonial situation" in those days.[143] In nineteenth century Angola, as elsewhere in Africa,"trade could not have been perceived by locals as the precursor of a new regime."[144]

Pre-colonial trade routes between Benguela, the slave port of southern Angola since the seventeenth century,[145] and Bailundo, Bié, or the Zambesi regions (Barotseland) continued to be used by Ovimbundu and others. Beginning in the eighteenth century they had pioneered a commercial system of their own with a caravan network of long-distance trade. The caravans could consist of more than a thousand porters and conducted a considerable trade in ivory, cautchouc, firearms, alcohol and slaves, often involving Luso-African itinerant traders (*funantes*, *pombeiros*) or officials.[146] In the kingdom of Kazembe transcontinental trade connections had been formed since the eighteenth century that reached the east and the west coast via Bié traders. Slaving raids and the introduction of guns proved disastrous for the affected communities at the end of the nineteenth century,[147] but Portuguese officials did next to nothing to protect the trading caravans.[148]

The American Consul summarized the situation in 1885 in the "interior" (Bailundo and Bié): "although considered vasals of the Portuguese Govt., the Govt. has … not the power to compel [the chiefs] to do as they would like".[149] Irrespective of the abolition of slavery in the Portuguese Empire in 1875, the "substitution of the overseas slave trade by commerce in raw materials and cash crops" was still ongoing around 1900.[150] The "governors simply forgot to implement the anti-slave laws". And Brazilian coffee growers did "their utmost to delay the abolition of slavery."[151] Rum (*aguardente*) and guns were the main commodities used in the slave trade and continued to be so well after the official ban on alcohol production in

143 Albuqu. transl. in *Corrado* 2008: 35; 28; 31; *Mesquitela* 1980: 512 refer. to *Pélissier* 1977.
144 *Dobler* 2014: 2 emphasizes that the 'perspective linking trade and colonialism is certainly valid, but it offers an analysis after the fact.'; cf. *Cunha* 1900; *Heintze* 2002; 1999.
145 Cf. *Candido* 2013; *Curto* 2005: 98-100; *Alencastro* 2007: 188; 202.
146 *Bontinck* 1974; *Flint*, 1970: 76; *Reynolds* 1972: 241; *Alenc.* 2007: 200; *Corrado* 2008: 29.
147 *Wilson* 1972: 579; 582; 586f.; cf. *Ranger* 1969: 305; *Coquery-V./Moniot* 2005: 159f.; 192f.
148 MAELC CPCOM/CP/NS/7, Portugal: 183g, FML to MAE, 24.9.01; cf. *Vellut* 1972.
149 NARA RG 84, Loanda, v. 3, USC to Board of Commis. for Foreign Missions, 12.1.85.
150 *Dias* 1981: 349; cf. *Clarence-Smith* 1976: 218; 1979a: 170; *Rodrigues* 2009: 29f.
151 *Nowell* 1947: 4; *Tavares/Silveira* 2006: 111f; *dos Santos* 2002: 61; cf. *Marques* 2006.

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Angola in 1910.[152] High-ranking officials were often helpless against local authorities and merchants involved in these illicit trades. The former were thus more interested in covering-up any potentially discrediting information about slavery or other illicit activities than acting against them.[153]

While "for much of the nineteenth century, the relationship of the Portuguese with black potentates in the interior of Angola was conditioned chiefly by the penury and consequent … weakness of the government",[154] politicians in Lisbon had attempted at implementing changes since the late 1870s. Foreign Minister Andrade Corvo initiated public works and investments in the colonies. Not least the tercentenary of the poet Luís de Camões (1524–1580) in 1880 marked a rise in a more aggressive foreign policy that included "utopian" colonial claims (culminating in the defeating *ultimatum*).[155] The doctrine of "effective occupation" set by the Congo-Act (1885) required at least "a skeletal grid of regional administration."[156] In its entire empire, Portugal started to make "desperate attempts" to satisfy this condition and to prove to the "civilized word" its colonial "qualities". Next to its "rights" to the colonies, based on century-old presence, the myth of Portugal's "historical mission" and "unique colonial vocation" was to be reinvigorated in order to raise national sentiment against foreign encroachments.[157]

1.3.2 Moçâmedes, the *Planalto*, and Portuguese Settlement Policies

A more vigorous approach towards the expansion of colonial power into the *sertão*, the hinterland of Angola, was thus felt by the African population. "Contact" was to be replaced by "colonization". In the south of the colony it was not the implementation of colonial *rule* that was still in the process. Instead, military *conquest* was not yet accomplished before the First World War.[158] From a colonial perspective, southern Angola seemed

152 *Dias* 1981: 375f.; cf. *Alexandre* 2005: 373; *Dáskalos* 2008: 74.
153 Cf. *Roque* 2003: 116; *Corrado* 2008: 82 FN 7; *Birmingham* 1998: 353; 351, in 1903 Heli Chatelain observed in Caconda that officials 'personally benefitted from it [the slave trade].'
154 *Dias* 1976: 253.
155 *Freeland* 1996: 61; *Birmingham* 2011: 150; cf. *Rodrigues* 2009: 28f.; *Dáskalos* 2008: 36.
156 *Young* 1994: 100; cf. *Alexandre* 2005: 370f.; *Herbst* 2000, cpt.2-4.
157 *Mendy* 2003: 41; cf. *Henriques* 1995: 80; *Costa* 1903 on 'achievements'.
158 *Pélissier* 1993: 2 '*contact* n'est pas le synonyme de *colonisation*'; *Regalado* 2004: 13.

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peripheral, but it gained in prominence in light of the ongoing Anglo-German negotiations. The Portuguese not only tried in general to prove their colonial effectiveness, but also attempted concretely to keep the Germans at bay in a region they had tried to include into their realm already for decades.

As it was the case with other colonial empires too, the Portuguese expanded from naval bases or trading posts along the seashore. The remote southern port town of Moçâmedes (trapped between the ocean and the desert, a fort since 1840 and a place to bring unruly functionaries "out of harm's way"[159]) had been the point of entry for improvised attempts of colonization with hundreds of persecuted settlers fleeing from Brazil's major cotton-growing region, Pernambuco.[160] Their cotton produced in Angola was of "the first quality", but the quantities remained small.[161] In 1845 a second fort was erected in Huíla, located on the *planalto* beyond the desert and the escarpment. Here, "temperate climate" seemed to favor European settlement; but for decades there was "neither capital nor men" for colonial development. Before the Portuguese reached beyond the desert, contacts with Africans had been "marginal". Few "migrant laborers from the Ovambo-Nkhumbi area" came to the coast. These contacts regularly resulted in humiliating defeats for the Portuguese. During the 1840s, two governors of the Benguela province were ambushed and captured by Africans.[162] Not until 1860 the Kunene River was reached near Humbe where a fort was erected. It became a stronghold along a frontier that was characterized by trade in guns, alcohol, slaves, and ivory. In 1909 Humbe consisted "of a fort, a magistrate's office, a store and a few huts".[163]

159 *Wheeler* 1968: 50 on Prince Nicolas of Kongo's transfer to 'the new village' in 1860.
160 *Clarence-S.* 1976: 214; *Pitcher* 1991: 45 'cotton regime ill-planned'; *Marques* 2006: 228.
161 NARA RG 84, Loanda, v. 2, USCA to SoS: 89, 2.5.74; TNA FO 179/390: 4, A. Peel: Report on Portugal and her colonial possessions in Africa, 11.1.04.
162 *Clarence-S-* 1976: 220; *Marques* 2006: 225; *Pélissier* 1977: 139-45; cf. *Dias* 1981: 366.
163 *Pearson* 1910: 510; cf. *Reclus* 1887: 393f.; *MPLA* 1975: 139; *Corrado* 2008: 22.

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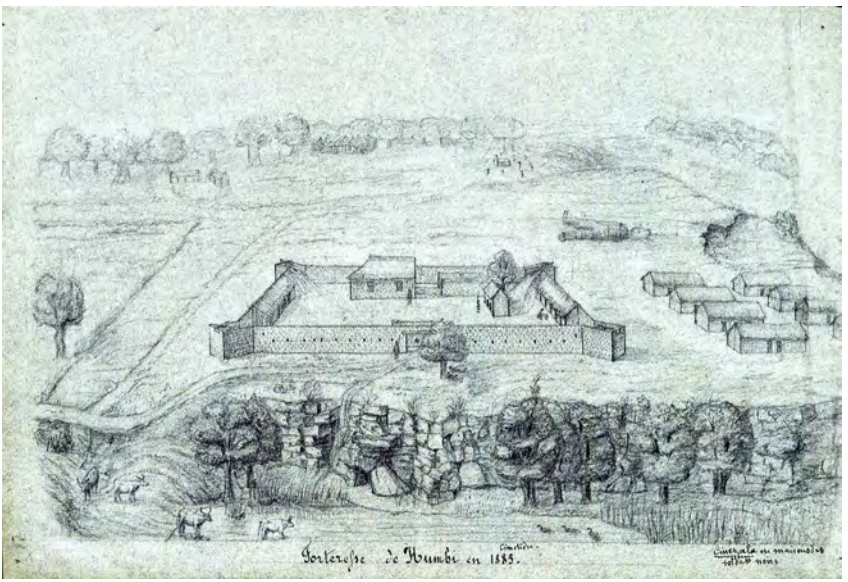

Ill. 1 "Forteresse de Humbi en 1885", Pieter van der Kellen

Further south, the Portuguese came in contact with the Walvis Bay traders who attempted at dominating the ivory trade. One of these traders described the situation lyrically: "As dawn precedes sunrise, a kind of twilight-zone of European civilization was spreading over the interior, far in advance of real colonial power."[164] As the Congo River had been the object of Stanley's journey, in 1878 the Portuguese under Major Serpa Pinto (1846–1900) turned their attention to the regions southeastwards, to the Okavango (Cubango) and Zambezi Rivers.[165] Two fortresses were erected in 1886, but talk of abandonment followed suit.[166] With the Portuguese beginning to conquer the southern fringes of Angola to prove their "effective rule", a new chapter of the Luso-African relations in this area was opened. By sending in soldiers where previously only traders and missionaries had entered, the Portuguese had unilaterally changed the rules of the

164 Gerald McKiernan 1879, in *Kienetz* 1977: 553; cf. *Rizzo* 2012: 40; *Wallace* 2012: 86f.
165 NARA RG 84, Loanda, v. 2, USCA to SoS, No. 89, 24.8.77; *Oliveira Marques* 1998: 409.
166 AGCSSp 3L1.1.1, *O Reporter*, 26.4.89; *Serpa* 1881; *Rodrigues* 2009; *Fernandes* 2010: 75.

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game.[167] Resistance to European conquest became a major political characteristic of the area.

The local population had not only to endure soldiers but also an inflow of settlers. While for centuries, the area north of the Cuanza River had almost exclusively remained Angolas's only settlement district, the late nineteenth century saw the Portuguese attempting to open up the southern plateau as "a white man's country" and European settlement became part of the rationale for imperial expansion.[168] However, given the colony's skeletal stage of development, Portuguese immigration to Angola was limited, whereas millions settled in Brazil. In 1910, Angola had merely 12,000 European inhabitants, most of them living in Luanda or other coastal towns, amid them many *degredados*.[169] Until 1930, Angola "retained its image as a convict colony."[170] Among politicians in Lisbon the advisability as well as the possibility of settling farmers in Angola remained disputed. The search for the "ideal settler" continued in Angola just as it did in GSWA, since it "was feared that the arrival of those who could not sustain themselves would place strains on the colony's limited resources."[171] Many of those who settled in Angola were assessed with disdain by foreign observers: Returning after thirty years, an American missionary considered them unsuited "to build up a strong colonial population. Their one effort seemed to be to bleed the native and to get as much money out of the country in a short time as possible."[172] A French missionary was equally appalled: "The Portuguese do absolutely nothing for the country except exploiting it."[173]

Liberal politicians in Lisbon like Sá de Bandeira (1795–1876) initially hoped settlers would produce wheat on the *planalto* for the metropolis to avoid expensive foreign imports. Due to crop failure this dream "never realized". "[E]cological crisis had aided Nyaneka resistance" to Portuguese expansion in the region. During this period Europeans were heavily dependent upon the capacity of African peasants to feed them. In 1881, 420

167 *Brunschwig* 1974: 51 'l'Européen de 1880 n'était pas le même homme que celui de 1850.'

168 *Cuninghame* 1904: 154; cf. *Birmingham* 1965; *Dáskalos* 2008: 58-65 on settlements.

169 *Labourdette* 2000: 533; *Curto* 2002: 46 on the 'white' male population: 'Luso-Brazilian convicts and army deserters sent to serve their sentence in Angola, fortune-seekers, administrative personnel, and their locally born sons'; cf *Nogueira* 1880 on Africans.

170 *Birm.* 1982: 345; 2011: 171; *Corrado* 2008: 32; *Kienetz* 1977: 569 'deserters' in SWA.

171 *Smith* 1974: 655, *Smith* 1991: 502; cf. *Pimenta* 2008: 71; on GSWA *Kundrus*, 2003: 44.

172 NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 18.10.19: 6 (Thomas Woodside).

173 AGCSSp 3L1.7b4, Goepp (Bailundo) to Pascal?, 9.12.02 (excerpts).

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Map 1 Southern Angola, excerpt “Die Portugiesische Expedition quer durch Südafrika, 1884&1885“,1887

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Afrikaaners were granted permission to settle in Humpata, near Huíla. Arriving with their ox wagons from the South African Republic the *thirstland trekkers* played an important role in the establishment of Portuguese rule on the *planalto*. The "white dogs, as [the Africans] call them"[174], "quell[ed] the native opposition" and managed to drive the Nyaneka off "much of the best land by the mid-1880s"[175] However, the Portuguese, similar to the colonial officials of GSWA, began to worry about their "sense of independence". Rumors about "Boer conspiracies" to "proclaim a small republic" found their way into the press, alleging joint efforts of Afrikaaners and Kwanyama against Portuguese rule.[176] One officer demanded to oblige the Afrikaaners to speak Portuguese and to do military service in the Portuguese army.[177] (An "exodus" of Afrikaaners commenced around 1910 and after 1928, most of the 2,500 "Angola-Boers" were resettled in SWA[178]).

Following the Congo Conference and attempts by the central government to set up a more effective colonial administration, this new policy was felt even in Angola's remoter parts. A few kilometers north of Huíla and Humpata, Lubango (renamed Sá da Bandeira) was founded by emigrants from Madeira. The intention was to populate Angola with Portuguese in order to "nationalize" the colony. In 1901 Sá da Bandeira became the administrative center of the *planalto* (Huíla Province), where around 3,000 Europeans, soldiers and settlers, lived. A British observer considered the "absence of railways and … cheap transport" to be the "great obstacles" to further development.[179] In 1905 the construction of a railway across the desert from Moçâmedes to Sá da Bandeira began. Much to the disappointment of foreign investors, eager for concessions, the government decided to finance the railway itself.[180] In June 1909 seventy miles were constructed.[181]

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174 NARA RG 84, Loanda, v. 3, USC to SoS, 18.11.81, 250 were women/children.

175 *Clarence-S.* 1979a: 171; *Dias* 1981: 366f; cf. *Pélissier* 1969, 76; *Cuninghame* 1904: 156.

176 TNA FO 367/18: 644, BML to FO, 12.5.06, exc. *O Seculo* 6.5.06 on J. Pienaar; *Birmingham* 1998: 352; *Botha* 2007: 12 'ambivalent attitude' of Ger. officials towards Afrikaaners.

177 AHM/Div/2/2/37/55, Pimento to Chefe do Estado Mj, 24.9.15; *Pélissier* 1977: 502.

178 *Pearson* 1910: 507f.; NARA RG 59, MF 705, roll 28, 853m00/19 USC Luanda to SoS, 12.7.28; *Stassen* 2011: 124-33; *Silvester/Wallace/Hayes* 1998:11f.

179 TNA FO 179/390: 4, Peel: Report on Portugal and her colonial possessions, 11.1.04.

180 MAELC CPC/CP/NS/42, Portugal, FML to MAE, 1.6.06, credit of 1,500 Contos granted.

181 *Stone* 1956: 323; *Alexandre* 2005: 372; *Pearson* 1910: 505, railway completed in 1923.

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All of this was not more than a "colonial nucleus". Attempts to occupy territories beyond the Kunene River were ill starred. Intentions of policymakers stood often in sharp contrast with the performance of their agents. As in the future, "military colonization" remained a "persistent but often frustrated plan" in Angola.[182] The garrison of Humbe was decimated during uprisings by the Nkhumbi, who had previously "forb[idden] the entry of Portuguese traders into their lands." Further Portuguese attempts to push forward in southern Angola were met with harsh resistance in 1891 and 1897. The Portuguese gained nothing more than "a partial and very insecure victory". The "garrison in Humbe was practically impotent." For years officials did not exercise jurisdiction outside the walls of their fortresses.[183]

1.3.3 *Além-Cunene* – Military and Missionary Perspectives, 1900–1914

The political aim of imperial consolidation by effective colonial rule in all territories claimed by Portugal was incommensurate with any form of native sovereignty. Effective rule was tantamount to control over Africans. This would enable the colonial state to demand African obedience, labor, and tax payments. However, it turned out that before these aims could be achieved, the territories to be ruled had to be conquered first.

Portuguese military campaigns beyond the Kunene River have comprehensively been analyzed by historian René Pélissier. Two characteristics of these campaigns are particularly striking: the ferocity with which one campaign after another was waged against the local population; and the enormous human and financial resources the Portuguese monarchy and the republic were willing to sacrifice for an area that would furnish no immediate economic return. Since the 1860s, colonial forces had tried to gain influence in the Kunene region, but only after 1907 their status – acquired by conquest, not by treaties – seemed (to themselves) more or less secured.[184]

Within the same period, a second force emanating from Europe attempted to implant itself in the region: Missionaries. From 1870, arriving from the south (Walvis Bay and the Cape Colony), Finnish Lutheran mis-

182 *Wheeler* 1969: 435 referring to plans of colonial reformers of the 1960s.
183 *Clarence-Smith/Moorsom* 1975: 371; 375; cf. *Roque* 2003: 122.
184 Cf. *Pélissier* 1969: 114f.; 2004: 213f.; *Korman* 1996: 41; 65; *Vandervort* 1998.

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sionaries began to evangelize in Ovamboland (Ondonga). In line with a global trend, Roman Catholic missionaries (Spiritans) followed suit. The Apostolic Prefecture Cimbebasia (reaching from the Atlantic Ocean to the Orange and Zambesi Rivers) was established in 1879, headed by Charles Duparquet (1830–1888), who had visited Kwanyama King Shipandeka the same year.[185] His missionaries from France and Portugal set up the Prefecture of Cubango (Gallangue, 1879) and the mission district of Cunene (Huíla, 1881). As one missionary journal put it, Spiritans followed the Portuguese flag.[186] When they attempted to outpace military occupation, their success was limited. After all: "Missionaries were guests who invited themselves" and they stayed longer than rules of hospitality would have allowed; worse, they challenged traditions, authority, and social hierarchies. Conflicts were predictable. A mission station (St. Michel) founded among Kwanyama by Father Duparquet in 1884, had to be abandoned in early 1885 when political turmoil after the death of King Namhadi led to the destruction of the station and the killing of two missionaries.[187] This was considered a tragedy also because "80,000 souls were abandoned to Lutherans".[188] Even though "[r]elations between Catholics and Protestants were not hostile" in Angola, the more or less open competition between the Spiritans and the Lutherans remained a political factum well beyond 1915.[189] In 1891 also *German* Lutherans (Rhenish Mission) began to set up stations on both sides of the colonial border among the eight Ovambo groups.[190]

The missionaries facilitated the contact with the colonial state greatly. After years of work they gained trust and exercised considerable influence over Ovambo societies. The missionaries' descriptions of the struggles taking place in the region are an important complement to the administrative sources. At the same time, missionaries acted and reacted in their own

185 *Peltola* 2002: 46; AGCSSp 3L1.1.3, Doc. conc. les missions, App. IX: 14, Duparquet to Min of Colonies, 15.12.80; App. XII: 23, Decreto Apostolico, 3.7.79; *Duparquet* 1953.

186 AGCSSp 3L1.1.2, *Congregação Esp. Santo* 1901; *Boucher* 1933: 160; *Osterhammel* 2011: 1262; cf. *Gray* 2012: 153f. on colonialism-mission relation; *Prudhomme* 2004: 67f.

187 *Osterhammel* 2011: 1266; AGCSSp 3L1.11a1, Keiling: Compte-Rendu, 29.6.10; cf. *Hayes* 1993: 96; *Wallace* 2012: 93; *Oermann* 1999: 220f.; *Santos* 1993; *Koren* 1982.

188 AGCSSp 3L1.7b5, Lecomte (Humbe) to Grizard, 1.4.85; Gibson in *Estermann* 1976: X.

189 AGCSSp 3L1.11a2, Keiling to Propag. Fide, 9.9.14; 9.9.16; *Birmingham* 1998: 348.

190 Cf. *Wulfhorst* 1904; Ovambo territory was politically divided into eigth Kingdoms: Ondonga (South), Uukwanyama (north), Uukwambi (center), Ongandjera, Ombalantu, Uukwaluudhi, Uukolongadhi/Eunda, Ondombondola (west); each forming distinct language groups.

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right, just as the Africans and their authorities whom they wanted to convert to Christianity. The missionary correspondence also illustrates how their work was interwoven with the violent establishment of the colonial state penetrating the region from the west. But most of all the military and missionary history of *além-Cunene* attests to the dominance of African actors.

When the Kwanyama expelled the Spiritans after the death of King Namhadi in 1885, Portugal's colonial administration was not in a position to intervene. For the next thirty years, the Kwanyama, the most populous of the Ovambo kingdoms would be considered among the most persistent challengers of Portuguese domination. Already in 1893 – after Artur de Paiva had attempted to occupy the area between the Kunene and Okavango Rivers – it was known in Lisbon that the people of Ovamboland were not only pastoralists but also well-armed. The Kwanyama were singled-out as "bellicose people", possessing a regular cavalry. The guns they used, no doubt was allowed, originated from "foreign merchants" from *south* of the Kunene River. German administrators, on the other hand, "pressure[d]" the Portuguese "to intensify their supervision of the arms trade".[191] This was achieved only to a limited extend. When in 1896 the Portuguese asked King Weyulu for permission to erect a fort in Kwanyama to tighten control and prevent "a German invasion," he refused. Given the raids of the Kwanyama against their neighbors, "lack of security" remained most of all a threat to missionaries. The Spiritan station among Kwanyama, (re-)established by Père Lecomte in 1900,[192] had to be evacuated in early 1904 after missionary D. Duarte was killed. The Spiritans counted on a Portuguese expedition before the station could be reopened, but to no avail. Lecomte warned Nande (the future King) that his raids against neighbors must end or the government would turn against him.[193] However, the Kwanyama incursions northwards into the Caconda district did not abate. Over the following years, killed soldiers, sacked villages, stolen cattle (and at times kidnapped missionaries) proved the impotence of the Portuguese army.[194] The latter barely found the time to recover

191 AGCSSp 3L1.1.1, *SGL* 1893: 36; *Rizzo* 2012: 41; cf. *Reclus* 1887: 416; *Siiskonen* 1990: 156f.

192 AGCSSp 3L1.11a2, Keiling to Cardinal, 9.9.16; *Piolet* 1902 506; *MPLA* 1975: 146.

193 AGCSSp 3L1.16a6, Lecomte: A travers la Haute-Cimbébasie, Missions Cath. (1899): 583.

194 AGCSSp 3L1.7b4, Blanc (Caconda) to Faugere, 6.2.; 8.4.; 24.12.04.; 10.6.05; 29.5.06.

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from "the great colonial war" crushing the kingdom of Bailundo (1902–03), which had ravaged the central district of Benguela.[195]

Despite the ongoing raids in Ovamboland, the Governor General "insisted" on the founding of a new station, hoping for the 'civilizing power' of Christianity. It was established by Lecomte in July 1904 while a military expedition to end Kwanyama raids was being prepared. Lecomte found himself "perfectly received" by the Kwanyama and everything seemed "calm". The Kwanyama "counted on the missionaries to solve the matter amiably" and prevent the Portuguese from unleashing their war machine.[196] Germany's minister in Lisbon, Tattenbach, assumed that the Alsacian missionaries were "used" by the Portuguese "against our penetration towards the Kunene River." Given the raids, for the Portuguese administration it seemed clear that the Kwanyama needed to be "pacified".[197]

The Kwanyama kingdom was located 100 kilometers to the east of the Kunene River. A number of other "tribal areas" had to be traversed before it could be reached. Finally, in September 1904, a Portuguese army of over 1,000 men led by Captain João de Aguiar took off to occupy the region. The attempt was ill-fated. While trying to cross the Kunene River at Pembe Drift south of Humbe, the Cuamato (Ombandja) attacked Aguiar. The ensuing battle of September 25 resulted in the Cuamato's "great victory". More than 300 Portuguese were killed. This "catastrophe" created a "state of overexcitement" and spared the Kwanyama a military confrontation with Aguiar.[198] It not only became the starting point for a Portuguese "Ovambo complex" and a long campaign in southern Angola that contributed to the further deterioration of Portugal's public finances.[199] The "disaster of Pembe" also aligns with a "series of financial, colonial, and

195 *Birmingham* 1988: 100; PA Luanda 4 (Politisches) Otto Peters to Consul Luanda, 20.6.02.

196 AGCSSp 3L1.7b4; 11b3, Lecomte (Kwanyama) to TRP, 12.7.04; 20.8.04; 6.9.04; 24.10.04.

197 BAB R 1001/6912: 90, German Minister Lisbon to RK v. Bülow, 9.9.04.

198 AGCSSp 3L1.12a9, Superieur J.M. Antunes (Huíla) to Cardinal Prefet Gotti, 6.1.05. 'Cuamato' is a corrupted Portuguese version of 'Kwamatwi' (meaning 'those who have ears', 'those who have accurate information about the enemy movements' or 'those who are alertful'). The reference to the people of Mbadja as 'ova-Kwamatwi' was made first by Kwanyama during their cattle raids against them prior to the arrival of the Portuguese. I am grateful to Phil ya Nangoloh for this explanation; cf. *Lecomte* 1902.

199 *Pélissier* 1969: 73f.; 2004: 210f.; *Southern* 2007: 4f.; *Siis.* 1994: 78; *Medeiros,* 1977: 69.

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political disasters" since the 1890s, culminating in the assassination of King Carlos I. in 1908.[200]

Still in fairly recent literature it is claimed that the African victory at Pembe Drift, a "second Adua", was possible only because "Kwanyama" (meaning Cuamato) had "received support [in "wip(ing) out a large Portuguese force"] from Germans in South West Africa who hoped to seize southern Angola from the Portuguese."[201] Whereas these "hopes" – as we have seen – were a historic reality, no such "support" can be discerned from the sources. On the contrary, there had been talks of joint efforts of Portuguese and German troops against the African "robbers".[202] The Portuguese hoped for German support that would result at the same time in Berlin's recognition of Portuguese sovereignty over southern Angola, thus "paralyzing" the execution of the Anglo-German accord of 1898.[203] While Portugal had lost an important part of its colonial army at Pembe, a German colonial army of 6,000 men was being built up against the Herero. The Portuguese government had originally aimed at having an equally strong force available in case of any eventuality. If Herero had escaped to Angola and the German troops pursued them, the lacking Portuguese "effective occupation" should not be an excuse for any potential German occupation of southern Angola. Instead, Portugal wished once more to show permanent presence in the entire area to prove its sovereignty.[204]

However, both plans came to nothing: the campaign against the "revolting" Cuamato and Kwanyama failed before the negotiations with the Germans on joint military operations could be concluded. The French minister in Lisbon de Cernay compared the colonial military efforts of the Portuguese and the Germans in the area directly. He concluded from the German "victory" at Waterberg (August 1904) against the Ovaherero and the Portuguese defeat at Pembe Drift that the "roles are [now] inverted". The Portuguese had pointed to the German colonial "inexperience" and their own *grande habitude des affaires colonials*, but then saw themselves humiliated by Africans. The defeat made it evident that they could not withstand any German attempt to occupy southern Angola; a fear – "irrational" as it may have been – that reigned in the Ministries of War and Colonies

200 *Vincent-S.* 1974: 621; cf. *Wheeler* 1972: 173f.; 188; *Regalado* 2004: 15; *Wallace* 2012: 98.
201 *Roberts* 1986: 521; *Pélissier* 1977: 451f.; 2004: 207f. on Pembe Drift, 'un second Adowa'
202 AGCSSp 3L1.7b4, Blanc (Caconda) to Faugère, 24.10.; 9.8.04; Lecomte to Pascal, 5.5.04.
203 MAELC CPCOM/CP/NS/7, Portugal: 222d, FML to MAE, 18.5; 11.6.04.
204 MAELC CPCOM/CP/NS/7, Portugal: 225b, FML to MAE, 6.9.04; cf. *Pool* 1979.

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in Lisbon in late 1904.[205] Within the Portuguese administration the French military attaché observed a general *méfiance* (distrust) vis-à-vis the Germans.[206]

Despite the setback in 1904, the Portuguese pushed eastwards. But only in late 1906 did expeditions along the Kunene become more successful. The British, well informed as ever, had even discussed the question with the Portuguese government as to whether or not to send a military attaché to accompany the Portuguese troops against the Kwanyama. However, the Portuguese did not plan for one particular "punitive expedition", but, as the Foreign Minister explained, "[t]he plan of action will be a gradual occupation of the Cuanhama country".[207] Seeing an existential threat coming closer, the Kwanyama under King Nande (reigned 1904–1911) tried to come to terms with the Portuguese; the raids abated.[208] Finally, in October 1907 Major José A. Alves Roçadas (1865–1926) succeeded in defeating the Cuamato, "immortalizing himself" in the annals of official Portuguese historiography.[209] After this "magnificent revanche" Father Lecomte hoped fervently that Roçadas would continue his expedition to the Kwanyama (where Lecomte was waiting in the mission station for two months); since "without European occupation" nothing "solid" could be achieved in "this turbulent country". He assumed that King Nande would declare his submission to the Portuguese. But no submission took place; "native treaties" no longer played a role. Much to the disappointment of the missionary, the Portuguese army (being bound in a campaign in Guinea-Bissau throughout 1908) did not reach out to the Kwanyama. However, he hoped that once the Germans would advance from the south, the Portuguese would be forced to occupy the region "beforehand" (*avant*).[210]

The Germans, on the other hand, observing closely the situation near their colonial border, came to a different conclusion. When the Portuguese already spoke of the "urgent necessity to garrison the [southern most end of the] Kavango" River,[211] German officials had not even been to Ovamboland. There was no overall structure of colonial control. German offi-

205 MAELC CPCOM/CP/NS/7, Portugal: 225c, FML to MAE, 11.10.04; *Pélissier* 2004: 211.
206 MAELC CPCOM/CP/NS/7, Portug: 227a, Lt.Col. Cornulier to Min. de la Guerre, 20.11.04.
207 TNA FO 367/17: 224, War O. to FO, 16.2.06; 258, BML to FO, 19.9.06; cf. *Costa* 1906.
208 AGCSSp 3L1.7b4, Blanc (Caconda) to Faugere, 4.11.; 14.11.06 (excerpts).
209 *GEPB* 1936, vol 2, Art. 'Angola': 663; cf. *Roçadas* 1910; 1908a,b,c; *Regalado* 2004: 66f.
210 AGCSSp 3L1.11b4, Lecomte to TRP, 15.9.07; 17.10.07; 24.11.07; *Koskenniemi* 2001: 141.
211 AGCSSp 3L1.1.1, *SGL* Missões de Angola, 1893: 37 M. de Albuquerque was present.

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cials never exercised formal jurisdiction over Ovambo polities. The region was considered unfit for white settlement, too distant from any German harbor or railway head, and the Ovambo neither posed a threat to German rule in Hereroland nor did they raid GSWA. Not until 1899 the district chief of Outjo, Lieutenant Victor Franke (1866–1936) visited as the first German officer the kingdom of Ondonga. He was received by King Kambonde and discussed the illicit trade in weapons from Angola to Hereroland, the securing of the border to Angola, and the sending of migrant workers to work on German farms and railway sites. But Franke did not obtain any "treaty of friendship" or the permission to set up a German fort.

When in June 1901 German soldiers approached the Portuguese border and crossed into Angola to visit the Lutheran mission station N'giva in the Kwanayama area, this caused uproar in the colony and metropolis. Father Lecomte, who was visiting a nearby Catholic station, faced the Germans and asked them what they were looking for in Portuguese territory. The German Captain Kliefoth (1862–1905) responded that part of Kwanyama belonged to GSWA, but Lecomte emphasized that N'giva was north of the border. Despite their intention to travel up to the Portuguese Fort Humbe, Kliefoth withdrew southwards. Lecomte credited himself with having won a victory over the Germans for Portugal and the Catholic mission – "much to the satisfaction of the natives".[212] Following this German border violation, the Portuguese press made the affair internationally known, accusing the Germans of having "dark intentions". The French consul in Lisbon saw the German attempt to penetrate into the Humbe area in connection with the exploration of the railway track from Porto Alexandre. Also France's ambassador in Berlin diagnosed German attempts to extend their *sphère d'action* northwards into an area that they hoped would one day become German. Germany's semi-official *Norddeutsche Allgemeine Zeitung*, however, denied any hidden agenda and refused to see any border violation.[213] In 1903 attacks on "German colonists" in the Okavango border area did not result in a major campaign. And also later on German pol-

212 AGCSSp 3L1.7b4, Lecomte (Huíla) to Rooney, 17.7.01; cf. *Zollmann* 2010a: 98; *Alexandrowicz* 1973 on 'treaties' with Africans

213 *Peltola* 2002: 162; MAELC CPCOM/CP/NS/7, Portugal: 183m, FML to MAE, 29.9.01; 183p, Emb. Berlin to MAE, 9.11.01; *Stals* 1972: 19f.; *Siisk.* 1990: 174; *Rizzo* 2012: 63.

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icy towards the region was characterized by hesitation. From 1899 to 1908 merely seven "peaceful expeditions" were sent to Ovamboland.[214]

The colonial state in the making often consisted of not more than a loose network of forts. Following the victories of Major Roçadas in 1906/7 and his successor as Huíla district governor, Major João de Almeida, a string of forts was set up in the new military district east of the Kunene River, commencing with Fort Roçadas (October 1906),[215] the "base for any future operation on the left bank". The appalling conditions in these make-shift strongholds can be sensed from the following report about this fort that

> "has a commanding position on a high chalk cliff overhanging the [Kunene] river. Until recently it has been the frontier fort; as such it has witnessed many hard-fought engagements between the Portuguese and the warlike Ovambo tribes … The vicinity of the fort is extremely unhealthy – a condition largely due to the utter neglect of the most elementary sanitary precautions. That no improvement in these matters had yet been effected was proven by the presence of the decomposing body of an ox and other organic refuse within a short distance of the walls of the fort. The mortality among white troops stationed there has been so great that it will in future be occupied only by native soldiers."

Hardship was worse for the African population during the "campaigns" even in those regions already 'pacified' as was witnessed by the botanist Pearson, who visited Fort Roçadas in May 1909, when "operations" were "in progress". On his way from Humpata he noticed "few natives"

> "… along the transport roads. Their absence from the vicinity of the road is no doubt due, in some part, to the demand made upon them for food and other commodities by an impoverished and disorderly soldiery on their way to the front, and to the dislike for compulsory service as labourers or carriers, which is still enforced very much as it was in 1854, when it was described in the Golungo Alto District by Livingstone."[216]

214 TNA FO 179/390, Report by Mr. A. Peel on Portug. Africa, 11.1.04; *Shiremo* 2011; BAB R 1001/2183: 69 (77), KGW to RKA, 21.11.08 'friedliche Expeditionen in das Ovamboland'.

215 *Regalado* 2004: 21 Ft. Roçadas, Ft. Aucongo, Ft. Damaquero, Ft. Dom Luís de Braganca, Ft. Nalu[sh]eque [Eduardo Marques], Ft. Henrique Couceiro; cf. *Singelmann* 1911; *Hennig* 1920: 114.

216 *Pearson* 1910: 509; TNA FO 367/17: 252;268, BML, 3.9.; 12.12.06; *Pélissier* 1977: 473.

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Ill. 2 "Forts im Ovambolande", photo: Carl Singelmann, 1911

Ill. 3 Construction of a Portuguese fort, photo: Carl Singelmann, 1911

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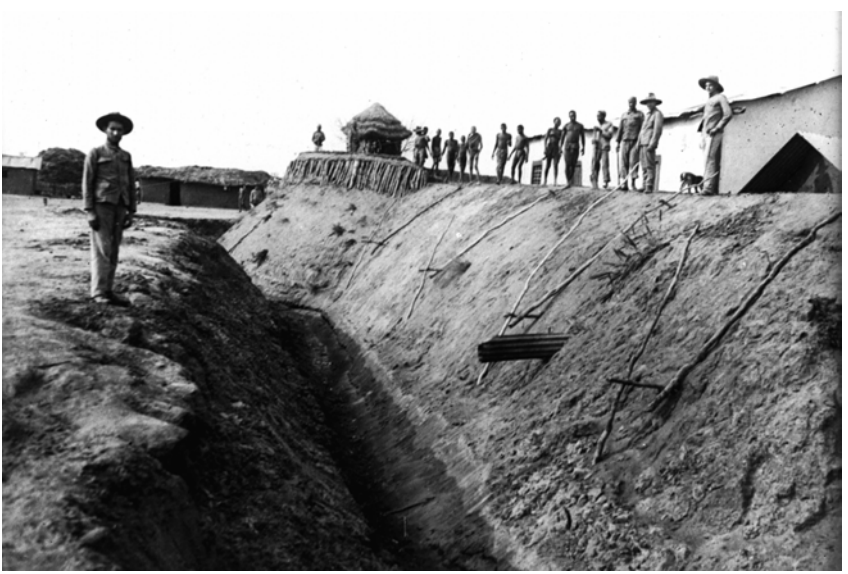
Ill. 4 "Forts im Ovambolande", photo: Carl Singelmann, 1911



Ill. 5 "Forts im Ovambolande", photo: Carl Singelmann, 1911

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Beginning in mid-1909 a 500 men-strong expedition led by João de Almeida resulted in the military occupation of the northern bank of the Okavango River. "Within a mere two months a series of [five] military posts was being established in the territory of each of the five Kavango tribes, each in the immediate vicinity of the respective *Hompa*'s [Chief] residence", the most important of which was Fort Cuangar near the villages of the Kwangali ruler Himarua. Almeida knew that the most formidable enemy was still to surmount: the "independent" Kwanyama kingdom. He thus not only augmented the forts in the south from 13 to over 20, but he also encircled Oukwanyama territory from three sides. The Portuguese invested heavily in materials and manpower. Still, it has been estimated that by 1910 no more than a tenth of Angola as it is defined today was under Portuguese control.[217] Southern Angola's border region stood out, however. While the "myth of the 'thin white line'" in colonial Africa was cultivated by contemporaries arguing the "sparseness of an official European presence across colonial territories" demonstrated "the consent of colonial subjects", after 1910 there were no "lone District Officers" in southern Angola.[218]

A territory of around 30.000 square miles was guarded by over 20 forts being staffed with several hundred men. In 1911, this made it one of the most densely developed networks of military facilities in colonial Africa (irrespective of the question what earth walls could protect in the age of modern artillery). Interestingly, the German traveler Carl Singelmann was not only given access to these forts in 1911, but he was also permitted to take pictures of the military installations and the extension works. In the absence of a "natural frontier" between the Kunene and the Okavango Rivers a double if not triple line of fortresses protected the Huila Plateau in order to come closer to the vision of a bounded and unified colony. The ancient dilemma of (colonial) rule – that it became weaker the more distant it was from the ruler – was to be brought to an 'end': colonial rule should be omnipresent in the territory. Evidently, the immense expenses incurred to this end were not exclusively explained by Portugal's respect for the unconquered Kwanyama. It was most of all a military form of what historian Fritz Stern called "preemptive imperialism: expand in order to

217 *Eckl* 2004: 189; 2004a: 77; *Clarence-S./M.* 1975: 375; *Almeida* 1912; *Sousa* [~1935]: 8.
218 *Shipway* 2008: 26 'at the heart of the myth is the lone district officer' in his remote station.

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forestall others."[219] Spiritan missionary Louis Keiling assumed that the Portuguese would stay in the south "in order to stop the German advance – otherwise we would lose the current Kwanyama mission"[220]

However, the Portuguese still overestimated their colonial neighbor. The Germans remained cautious when it came to including Ovamboland and its neighboring regions into GSWA. The experience of the Portuguese troops at Pembe Drift in 1904 taught the Germans the lesson not to provoke any of the Kings and to refrain from military conflict. Nevertheless, rumors about German intentions abounded. In May 1904, after Ondonga King Nehale Mpingana (1884–1908) had unsuccessfully attempted to raid the German Fort Namutoni, it was falsely claimed "that the Germans have occupied Ondonga", south of Kwanyama.[221] The threat of the "loss" of Ovamboland by approaching Germans was yet again invoked by Catholic missionaries, Portuguese officials and newspapers.[222] However, the opposite seemed to be the intention of the authorities in GSWA. Some researchers go so far as to claim that Ovamboland "was left untouched by German Imperialism".[223] German administrators attempted to distance affairs in their colony from those in Ovamboland: Given the ongoing war in the south of GSWA, in a decree of January 25, 1906 Governor Friedrich von Lindequist (1862–1945) banned all trade in alcohol, weapons and other war materials with "Ovamboland" (as defined by the German administration) *and* the entry into the region for any "non-resident" (meaning European). The administration wanted to avoid conflicts between Africans and Germans over trading goods or land possession, as it had happened in Hereroland. In 1907, police protection had been confined to the central and southern parts of GSWA within the reach of railway lines and main roads. Within the "police zone", where most Africans were dispossessed and farmland was allotted to settlers after 1907, "whites were left 'mas-

219 *Stern* 1979: 400; *Baericke* 1981: 23 Portuguese forts 'did not have the least military value'; cf. *Freiburger Zeitung*, No. 59, 29.2.1912: 1 (Abendausgabe) report on a talk in Freiburg given by 'Consul Carl Singelmann, Braunschweig' about German interests in the Portuguese empire, where he presented his pictures. 'Besonders interessant waren auch die Vorführungen der Forts, die die Portugiesen in Angola gegen die wilden Stämme der Ovambo errichtet haben.'; cf. *Singelmann* 1911; Singelmann in: *DKZ* 28 (1911): 709; Singelmann in *Borchardt* 1912: 5f.

220 AGCSSp 3L1.7b4, Keiling (Caconda) to TRP, 10.10.08. (excerpts); cf. *Hennig* 1920: 114.

221 *Großer Generalstab* 1908; *Wallace* 2012: 99-102; AGCSSp 3L1.11b3, Lecomte (Catoco-Cubango) to TRP, 25.5.04; cf. BAB R 1001/6912: 89, DGL to v. Bülow, 9.9.04.

222 AGCSSp 3L1.11b4, Keiling (Caconda) to TRP, 10.11.08; cf. *Diário de Notíçias* 20.1.10.

223 *Gewald* 2003a: 300; however, migrant labor 'touched' Owamboland cf. *McKittrick* 2002.

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ters'".[224] The officers of the police stations along this internal borderline (Okaukwejo, Namutoni, and Tsumeb) had to control the prohibition of access to Ovamboland. In March 1914, the parliament in Berlin passed a resolution demanding to exclude future "white settlement in Ovamboland".[225] The "ambivalence of colonial policies", marked by the "racist fantasies of omnipotence" but also by the demands of "modern bureaucratic rule" including calls for restraint and criticism of colonialism, manifests itself in the policies of creating a new spatial order by this geographic division.[226]

Being well aware of the military planning in Angola, GSWA's Deputy Governor Oskar Hintrager warned against any military action in Ovamboland. In 1910, he knew the Portuguese were organizing an expedition against the Kwanyama and was concerned that "Chief Nande, who is well aware of his affiliation to two states, [will] use this state of affairs to his advantage in that he moves his *Werft* to our area and from here sends his own people against the Portuguese." This would have led to unpleasant complications and could have forced Germany to take action, resulting in possibly warlike action. "However, this must be avoided at all costs up on the border."[227] In Portugal, in the meantime, political factions were arguing about the "necessity" to militarily occupy Kwanyama territory. *Diario de Notiçias* considered this a task "not to be delayed", while others pointed to the exorbitant costs incurred hitherto in Angola. As Africans elsewhere in contested colonial borderlands, Ovambo and Nkhumbi retained the possibility of playing the colonial powers off against each other to secure better terms. The Kwanyama were visited by rival groups of Portuguese and German officials, who used "all kinds of blandishments to entice labor into their economies."[228]

While for Germans the conquest and taxation of Ovamboland were out of the question, they attempted to win influence 'diplomatically' by using missionary channels. The Portuguese victories over the Cuamato in 1907 and the Evale in 1912 made other kings more responsive to German offers. Much to the chagrin of the Portuguese, in June 1908 Captain Franke

224 *Miescher* 2012: 44-51; *Bley* 1996: xix; cf. *Dobler* 2014: 19; *Werner* 1993: 140.
225 *Der Südwestbote*, 11. Jg. No. 36, 25.3.14: 1 (Telegramme).
226 *Bley* 1996 Introduction: 6; cf. *Miescher* 2012: 54f.
227 BAB R 1001/1785: 9f, KGW to RKA, 14.5.10, in: *Jureit* 2012: 107f.; cf. *Rizzo* 2012: 98.
228 *Clarence-S./M.* 1975: 379; *Dedering* 2006: 276 on the ability to 'negotiate hegemony'; BAB R 1001/2183: 270, DGL to Bethmann-H., 28.1.10 quot. *Diário de Notíçias* 20.1.10.

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traveled for the second time to Ondonga. He convinced, in cooperation with Finnish and German missionaries, King Kambonde (~1865–1909, reigned 1884–1909) and Uukuambi King Iipumbu ya Tshilongo, (~1873–1959, 1907–1932) to "sign" "treaties of protection". They had indeed requested protection – from the Portuguese. (At the occasion, a picture was taken of Franke that would later lead to much discussion.) In a proto-colonial tradition Kambonde and Iipumbu understood Franke's treaties to be concluded among equals that would not imply renunciation of their sovereignty in Ovamboland. Franke, however, interpreted the documents as a declaration of submission to the German Emperor and thus to the German colonial administration. When Franke moved on to Kwanyama territory, the Spiritan Father Génie informed a Portuguese officer, so he could counter the German influence by meeting the *soba* (King Nande) and Franke.[229] In 1909 Captain Kurt Streitwolf (1871–1954), the future "native commissioner" of GSWA, entered Ovamboland to convince the chiefs to send more workers south, but a German station was never erected in Ovamboland. Merely, in 1909 surveyor Görgens was allowed to work in Ondonga to clarify on which colonial territory the Ovambo kingdoms were located. Attempts to create a Luso-German border commission failed for reasons described above. Finally, given the number of Portuguese forts, the Germans decided to have at least one police station on the border. A small post was erected in Kuring Kuru, east of Ovamboland at the Okavango River opposite Fort Cuangar. However, "[c]ontrary to the Portuguese forts, the establishment of [this] police station … in 1910 was a mere symbolic gesture which entailed no practical political consequences." Much to the regret of traders, the German administration also attempted in the Okavango region to ensure "that no ammunition and alcohol" would be delivered to Africans.[230]

The Portuguese were inclined to make 1914 the decisive year and to finally subdue the Kwanyama. The end of fighting in the area after the occupation of Cuamato (1907) and Evale (1912) was ceasefire at best. The Portuguese profited from this greatly.

229 AGCSSp 3L1.11b6, Blanc (Caconda) to TRP, 8.8.08; cf. *Baericke* 1981: 22.

230 *Eirola* 1992: 237f.; *Peltola* 2002: 183f.; *Keene* 2012: 490; *Eckl* 2004: 209; 2004a: 202-212; BAB R 1001/2193: 176 BA G'fontein to KGW, 23.10.12 on control of route to Okavango.

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Ill. 6 Railway construction in southern Angola, photo: Carl Singelmann, 1911

Not only could the military resources be refilled; but most of all, the railway tracks from Moçâmedes were extended beyond the desert and the escarpement. The new King of Kwanyama, Mandume, on the other hand, did not have these means available. Not only did he see the geographical barrier shrinking between him and Portugal's harbor; in addition, since 1911 his people had had to endure drought and famine.

1.3.4 Famine, Labor, and Taxation in Southern Angola

For the people of southern Angola the military onslaughts of the Portuguese were matched by ecological disaster. The *rinderpest*, having devastated the herds of southern Africa since 1896, reached Ovamboland in 1897 and

> "possibly destroy[ed] over ninety per cent of the herds in southern, central and eastern parts of [Angola] by 1899. The effects of rinderpest were aggra-

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> vated in 1898 by locust invasions", followed by a "major epidemic of smallpox. It apparently began in Bié in 1901, and was spread to all parts of Angola by Ovimbundu porters. … the 1900s and 1910s were marked by an almost uninterrupted sequence of drought, flood and locust plague. The worst effects were experienced in the south …".[231]

By 1905 all Ovambo polities were considerably weakened by these disasters. The Portuguese offensive 1905-07 to avenge the defeat of 1904 could hardly be resisted. With their "chain of forts" close to the Kunene River the colonial administration hoped to "put an end to raiding" activities of the Ovambo and Nkhumbi who had repeatedly attacked the Ngangela and Ovimbundu further north "to recoup their losses." In 1908, famine broke out. It led to the shipment of tons of grain by the German and Portuguese governments to convince more Ovambo to work in their economies. Following the visit of Major Franke, the Germans were particular successful in this. The tendency of young men to seek work elsewhere was increased by the continuing drought. In 1909 missionaries reported yet another famine among the Kwanyama up to Caconda.[232] As the deadly cycle of floods, droughts, and locusts continued, Germans sent more supplies. Hunting was no longer an option, "large game [had] almost disappeared".[233] In "1911 people were again dying of hunger". Levels of violence increased; families broke up, the resulting tragedies are still being remembered in recent Namibian memoirs; "women were abandoning their children". In late 1914 the rains failed for the third year in succession. People left their homesteads for good in search of food and work elsewhere.[234]

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231 *Dias* 1981: 374; cf. *Echenberg* 2001: 41; *Mack* 1970: 210f.

232 *Clarence-Smith/Moorsom* 1975: 375; AGCSSp 3L1.7b4, Blanc (Caconda) to TRP, 10.3.09.

233 *Pearson* 1910: 509; cf. AGCSSp 3L1.11b5, Keiling (Cuanhama) to TRP, 29.10.11; 22.11.11.

234 *Gewald* 2003: 217; *Ndeikwila* 2014: 1f. 'My father was born in 1911 at Oshihenye village near Outapi [Ombalantu district] during the year known in my village as the *Year of the Aangandjera Famine*. … some Aambalantu and Aangandjera warriors went to raid cattle from Ehinga [Naulila] village in Ombandja … and came back with a large herd of cattle. … [However], the Aambalantu warriors conspired among themselves and savagely turned against the unsuspecting Aangandjera warriors. Scores of Aangandjera were killed … [t]he Aambalantu took the whole herd of cattle for themselves. .. As a result of that famine there were only a few people of my father's age who survived.'; cf. *McKittrick* 2002: 160f; *Iliffe* 2007: 215 on African rain patterns 1850–1920.

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Lack of a viable labor force was considered "a grave problem … for Angola as a whole."[235] In areas where they had been introduced, the forced labor system as well as the tax system of Angola was considered not only by German visitors as extremely tough. British humanitarians severely criticized Portuguese labor policies. In light of H. Nevinson's book "A Modern Slavery", Foreign Secretary Edward Grey personally inserted into a letter to the Legation in Lisbon that "with regard to the methods of recruiting in Angola, the effect on public opinion would be very prejudicial". A few days before he had received information from Luanda that the "condition may be described as worse than stated by H.W. Nevinson."[236] Some historians have called this critique a concerted "Anglo-German campaign … to prepare public opinion for the imminent partition of the Portuguese Empire." However, American missionaries were equally appalled by the heavy taxation and forced labor.[237] Modern research has summarized "the principles of the old days" on São Tomé Island as having "consisted in working to death as many Africans as possible, whilst paying them the strict minimum, or nothing at all."[238] Whereas these "accusations tended to rally Portuguese political groups around ideas of national honor", even opposition members "denounced the government [in parliament] … for being too harsh in charging the 'hut tax' in Angola, which had led to a recent wave of revolt".[239] The *dizimo* (tithe tax) had been levied since the eighteenth century in the northern *presidios* of Angola; its oppressive effects were well known. Forced labor for public works was decreed in 1899 for the entire Empire as a substitute for slavery. The law was based on the "deeply ingrained feeling that Africans were lazy and would not work without compulsion".[240]

While the "direct taxation of Africans was completely abolished between 1896 and 1907"[241], the enormous costs of "effective" occupation, military campaigns, and the building of railways had to be incurred. Therefore, the hut tax (*imposto da palhota*) was introduced in remoter parts of Angola in 1907. In colonial Africa taxes were seen as "a 'sacra-

235 *Whittlesey* 1924: 119; cf. *Cadbury* 1910.
236 TNA FO 367/18: 292, Cadbury to Grey, 10.12.06; 296, FO to BML, 29.12.06; cf. *Birmi*. 2011: 147; *Miers* 2003: 49 on São Tomé; *Bontinck* 1969: 116; *Duffy* 1967; *Higgs* 2012.
237 *Dáskalos* 2008: 182; NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 18.10.19: 6.
238 *Pélissier* 2000: 581.
239 *Wheeler* 1978: 97; *Meneses* 1998: 88 (Tamagnini Barb., 6.6.17); cf. *Dáskalos* 2008: 69.
240 *Smith* 1991: 505; cf. *Pitcher* 1991: 56f.; *Almeida-Topor* 2010: 44; *Corrado* 2008: 10.
241 *Clarence-Smith* 1979a: 174 referring to GG Paiva Couceiro; cf. *Dáskalos* 2008: 34; 37; 46.

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ment of submission'" that served at the same time as "an 'educational' measure" to drive Africans into the cash economy.[242] In Angola, thousands were forced to seek work in the plantations, fisheries or infrastructural works.[243] However, "it was not till the republican revolution of 1910 that these measures were enforced systematically." And the republic's "greatest proconsul, Norton de Matos," faced with a dramatic decline in revenues after the collapse of rubber prices in 1913, continued to justify neo-slavery as a means of modernizing the infrastructure even though he aimed at a "completely free, market-driven labor regime".[244] In 1913, the "encouraging" picture the "Keynesian *avant la lettre*" drew of Portugal's ongoing *oeuvre civilisatrice* was backed up by the tightening of the tax system. Speaking against German plans for a repartition of Africa (to the detriment of Portugal) that would only disturb his modernizing efforts, Norton de Matos assessed the colony's occupation to be "effective". To a French naval officer he predicted that the ongoing military campaigns would from now on be replaced by mere "police operations".[245] Soon facts would prove him wrong. "In colonial matters the republic was far from liberal". In São Salvador near the Congo River, the tax collection caused an "uprising". In December, Norton personally had to lead 300 men to quell the "revolt".[246] The British missionary Boskell was detained for "giving assistance to the natives".[247] Eager for more (financial) autonomy for his colony, Norton de Matos "became increasingly dictatorial".[248] Contemporaries accused him of having acted ruthlessly.[249] Furthermore, the labor and tax systems invited for corruption and "minor officials were often accused of abuses".[250]

Under the catchword "development" Norton de Matos further tightened the tax system in 1914: Africans were now pressed to pay their taxes in cattle to diminish their herds. Considering the high esteem of cattle among

242 *Iliffe* 2007: 203; cf. *Almeida-Topor* 2010: 38f.
243 *Clarence-Smith/Moorsom* 1975: 377; cf. *Roberts* 1986: 498; *Heywood* 1987: 357f.
244 In the late 19th century rubber had substituted revenues incurred through slave trade. Wild rubber accounted for 77% of Angola's exports in 1910, *Clarence-S.* 1979a: 176; *Heywood* 1987: 357, 86% of exp. in 1903; *Newitt* 2007: 54; *Alexandre* 2005: 374; *Dáskalos* 2008: 67.
245 MAELC CPC/CP/NS/9, Portugal: 130, Lecoq to M. Marine, 2.9.13; *Dáskalos* 2008: 21; 55.
246 *Birm.* 2011: 157; MAELC CPC/NS/9, Portugal: 188, FML, 20.2.14; *Norton* 2001: 202.
247 NARA RG 59, MF 705, roll 28, 853m00 USC Boma to SoS, 11.3.14
248 *Roberts* 1986: 499; 521; cf. *Newitt* 2007: 53-5; *Oliveira* 1998: 561; *Wheeler* 1978a.
249 *Clarence-Smith* 1976: 221f; cf. 1979a: 168; *Guimarães* 1923: 21f.; *Mendy* 2003: 43.
250 *Smith* 1974: 659; cf. *Capella* 1977; *Schaper* 2012: 368 on the hut tax in Cameroon.

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many people of Angola, this policy likely caused uproar.[251] Vying for a balanced budget and additional labor force, he hoped to force Africans into the colonial economy. With the end of the caravan trade, people of the central districts were expected to make a living of either commercial agriculture (corn) or to seek work in the plantations. Those living in the south were to be employed on plantations, at fisheries, or public works.[252] However, the development of Angola's colonial economy remained rudimentary. The social changes it caused were, on the other hand, tragic for many of the people affected.

1.4 New Friends? – Luso-German Trade and the Study Commission

When King Dom Carlos I was assassinated in February 1908, the German Parliament expressed its condolences to a "befriended nation". The revolution of October 5, 1910 led to the downfall of the Bragança-Coburgs, a "caricature of a parliamentary monarchy *à l'anglaise*".[253] However, the new republican regime, short of "any foundational consensus" and bringing together an "explosive combination of factors: weak governments, commitment to economic and social reform, planning misconceptions", was unable to alleviate Portugal's political and social challenges (illiteracy stood at ~80 per cent). Assumptions fed by positivism and/or partly socialist thought "that progress would feed itself" and related hopes for an "era of peace, of prosperity and of justice" that would halt the "decline" of the "first world power" were soon disappointed. Among the Portuguese elites the old sense of "national failure" became widespread once more.[254]

In German political circles and the press the Portuguese republic made no favorable impression. Republican leaders complained about the German "chill" towards the republic and the *complaisances pour les émigrés portugais*; even German support for royalist plots was assumed. The German government was hesitant to receive a new Portuguese minister after the revolution, as it had not yet recognized the republican government.

251 BAB R 1001/6640: 97, Dr. Vageler, excerpt: 'Die Bahnfrage auf dem Planalto', 15.7.19; *Norton* 2001: 184; *Medeiros* 1977: 74; *Dias* 1976: 263.

252 *Péclard* 1999: 123f.; *Birmingham* 1978: 536; *Pössinger* 1973: 31f.; *Dias* 1981: 370.

253 SBRT 12. L.P. 93.Sess., 3.2.08: 2835; *Labourdette* 2000: 529; *Wheeler* 1978: 44: *Livermore* 1967: 319.

254 *Madur.* 2010: 648; 657; *Vincent-S.* 1974: 621; *Wheeler* 1972: 173; 194; *Arenas* 2003: 4;12.

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This policy cost the government in Berlin the last sympathies of Prime Minister Bernhardino Machado (1851–1944).[255] Furthermore, it was known in Lisbon that the Deputy, Pan-German, and former Governor of German East Africa, General Eduard von Liebert, had called the Portuguese the "savages of Europe" incapable of colonizing and bound to cede their corrupted colonies to the Germans. Implicitly, he thereby alluded to the Portuguese's somewhat awkward standing, described by later generations as being "simultaneously semi colonizers and semi colonized (this can be said in relation to Brazil but also to England)."[256]

The Luso-German relations regarding the colonies were characterized on the Portuguese side by mistrust of German territorial pretensions, and on the German side by disdain for the Portuguese (colonial) administration, considered to be inefficient and corrupt.[257] German colonial officials carefully considered almost every policy change or legal reform in the British or French colonies. They were willing to "learn" from the more experienced colonizers, but for them Portugal was not among those – stereotyping was rampant. German visitors to Angola complained that Angola still "belongs to the dark continent thanks to the 300-year-*Unkultur* of the Portuguese." The first republican minister in Berlin, Sidónio País (1872–1918) worked hard not only to counter the Anglo-German rapprochement about Angola, but also to create a more favorable impression of the Portuguese colonial enterprise. In early 1913, Foreign Secretary Gottlieb von Jagow (1863–1935), when discussing the future of the Portuguese colonies with Pais, flatly denied the existence of any agreement with Great Britain.[258]

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255 MAELC CPC/CP/NS/42, Portugal, FML to MAE, 27.3.11; cf. *Wheeler* 1978: 64; 71.

256 MAELC CPC/CP/NS/42, Portugal, FML to MAE, 7.2.12; *Arenas* 2003: xxi; 17; Portuguese ministers emphazised that Liebert did not speak as an official. He 'represented an officer type hitherto unknown in traditional Prussian army circles – the general as popular orator and political functionary, who was wooed by political groups because of his high social prestige, and who impressed mass meetings with frowning remarks about civilian failure in the foreign office even more than by hollow patriotic pathos. At bottom he knew nothing about politics.' *Ritter* 1970: 109; cf. *Blackbourn* 1998: 431; *Martin-M.* 2008: 8 on Spain.

257 Cf. *Silva* 2006: 310; allegations of corruption were 'common enough'; *Curto* 2005: 113; *Rodrigues* 2009: 37; *Marques* 2006: 198; *Smith* 1991: 510; 1974: 658f.; *Dias* 1976: 253; 258; *Clarence-S.* 1976: 216; 222; *Osterhammel* 2003: 70 'the Belgians had the best reputation in Africa, and the often inept and corrupt Portuguese administrators had the worst'.

258 *Lindner* 2011: 55 on the 'Topos des Lernens'; NAN A.529 n.1: 3, O. Busch: Studienreise… nach Angola [~12/14]; *Samara* 2004: 52f.; 152; *Silva* 2006: 318; *Reiner* 1924: 333.

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While the Monarchy's approach to Portugal's colonies was "strictly mercantilist" and Brazil had for centuries remained "Angola's traditional economic partner, customer, banker, shipper, and food-supplier", the republican government "preached a closer relationship" between the colony and Lisbon.[259] Now it was up to the republicans to prove their more efficient colonial policy. Considering that Angola "lurched from one crisis to the next in a constant state near bankruptcy"[260] and thus caused a drain on the public finances, the metropolitan government was eager to find means of investment to make the colony profitable. Prime Minister Afonso Costa, the "greatest of the republican leaders", considered a balanced budget to be the "cornerstone" on the republic's "path [to] international respectability".[261] His generation of politicians was characterized by "a new spirit of realism". They believed in "a more rational exploitation of the colonies in the interest of Portugal".[262] In light of the Anglo-German negotiations Lisbon aimed at "emphasizing the genuine unanimity of Portuguese feelings against the alienation under any guise whatever of any colonial territory".[263]

However, since the days of Sá de Bandeira's attempts at reforming the Empire, the implementation of new policies had been hampered by the "poor State finances, the backwardness of the country's economic infrastructure, and the constant political struggles".[264] In 1879, Historian Joaquim de Oliveira Martins deplored: "The conquests [the colonies] are now tainted by the infamous brand of slavery and are a symbol of idleness, corruption and syphilis."[265] The American consul, Robert S. Newton, when reporting about Angola's first railway construction site, spoke with disdain of "[t]he useless and extravagant manner in which money has been squandered".[266] Given the "persistence of the plundering mentality" among Angola's colonial elite and considering that "Portuguese capital

259 *Pitcher* 1991: 56; 62; cf. *Alexandre* 2005: 364; *Birmingham* 2011: 146; 1982: 343.

260 *Birmingham* 1974: 196: 'profits…came less from colonial enterprise, than from commercial links with the markets of the surrounding kingdoms of the Bakongo, the Imbangala, the Lunda, the Chokwe, the Ovambo'; *Corrado* 2008: 27; cf. *Dáskalos* 2008: 131f.

261 *Birmingham* 2011: 153; *Meneses* 2010: 36, in 1913 Costa claimed a 'budget surplus of £117.000'.

262 *Smith* 1991: 499; *Clarence-Smith* 1979a: 167; 176; cf. *Alexandre* 2005: 366; 371f.

263 *Vincent-Smith* 1974: 624; cf. *Corrado* 2008: 120; *Guevara* 2006.

264 *Tavares de Almeida/Silveira e Sousa* 2006: 111; cf. *Alexandre* 2005: 366.

265 J. Oliveira Martins 1879, transl. in *Corrado* 2008: 116.

266 NARA RG 84, Loanda, v. 3, USC to SoS, 9.4.79; v. 4, USC to SoS,15.11.88 45 km of the Luanda-Ambaca line were inaugurated on 31.10.88; *Marques* 2006: 220; *Norton* 2001: 176.

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was notoriously reluctant to involve itself in [colonial] grassroots projects",[267] as already contemporaries remarked,[268] foreign investment was now considered by many an instrument to improve the situation. This in turn would strengthen Portuguese sovereignty over its colonies. Portugal's colonial trade increased considerably during the decade prior to the war. The base for the success was laid already in 1892 with a new protective tariff law privileging Portuguese exports to Africa and requiring all African exports to third countries to be re-exported via Portugal. From 1904 to 1913 Portugal imported goods valued at around 600,000,000 dollars from its colonies and exported merchandise valued at around 300,000,000 dollars to the colonies. This "enormous difference … created a balance of trade in favor of Portugal" that surpassed all profits of previous decades.[269]

Despite disdain and mistrust between Germany and Portugal, commercial and political cooperation was possible. German exports to Portugal had more than doubled from 1898 to 1908, when a new treaty of commerce was signed. Germany was among the most important trading partners of Portugal, accounting for more than 35 per cent of its total exports (Germany's exports to Portugal accounted for less than ½ per cent of its exports).[270] When the Anglo-German negotiations on the Portuguese Empire recommenced, the Germans, with certain suddenness, also began to court the Portuguese. In January 1912 the German gunboat *Panther* visited Lisbon. It was the first foreign man-o-war to visit the republic and it was warmly greeted by several ministers. Foreign Minister Vasconcelos spoke of a Luso-German "flirt". And when asked in the Senate about Portugal's relations with Germany in light of the "colonial question", he responded that they were "excellent". A short while later, the gunboat *Eber* visited Luanda.[271] German officials were eager to secure railway and other concessions in southern Angola and thus sought closer connections with the Portuguese once they realized that this policy seemed the only way to enter the Angolan market. In August 1912, the American minister in Lisbon

267 *Corrado* 2008: 4; *Smith* 1991: 502; cf. *Marques* 2006: 195; *Alexandre* 2005: 372f.; *Smith* 1974: 656; *Roberts* 1986: 495 Portugal's colonial trade was only 7-10 per cent of her foreign trade (1905-26).

268 TNA FO 179/390: 10, Peel: Report on Portugal and her colonial possessions, 11.1.04.

269 NARA RG 84, Lisbon, v. 179: 631, USCG to SoS, 25.4.21: 5566; *Corrado* 2008: 40; *Wheeler* 1978: 29.

270 MAELC CPC/CP/NS/35, Portugal: 106; 80, French Embassy Berlin to MAE, 8.12.08.

271 MAELC CPC/CP/NS/42, Portugal, FML to MAE, 7.2.12; *Manz* 2012: 199; 213.

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assumed that the present government had no more friends (among foreign powers), with the "possible exception of Germany, which, under a show of friendship, is improving every opportunity of fishing in the troubled waters."[272]

The results of the Luso-German "flirt" were soon to be felt in Africa. Germany had been represented in Angola already since the 1880s by (local) commercial agents. For years, the Portuguese businessman Eduardo Prazeres catered for German sailors or business interests in Luanda. In August 1907 the Vice-Governor of GSWA (1902–07), Hans Tecklenburg took over the German consulate in Luanda. Tecklenburg did not stay long and was relocated to Boma in Belgian Congo.[273] Prazeres was reappointed. However, since not only the political but also Germany's commercial interests in Angola grew, the post in Luanda was again elevated into a consulate in December 1913. For the first time it was headed by a career-diplomat. This was later interpreted as proof of Germany's less-than-subtle *pénetration pacifique* to execute its annexation designs. Consul Dr. Ernst Eisenlohr (1882–1958) arrived from the German embassy in London. He reported to the legation in Lisbon under Friedrich Rosen (1856–1935), and oversaw Vice Consul Heym in Benguela and Vice Consul Georg Schöss in Moçâmedes, the agent of the *Deutsche Ostafrika Linie*.[274]

In January 1914, the *Deutsche Ost-Afrika Linie* inaugurated a direct connection from Europe to Lobito and Moçâmedes, but also from the ports in GSWA, Lüderitzbucht and Swakopmund to Angola.[275] In Lisbon, Friedrich Rosen worked hard to convince Afonso Costa to admit German investments in Angola. In a sort of "last-minute panic" the German government pressed German investors to get active in Angola to prove that Germany was willing to take responsibility for its "sphere of influence". It is said this "diplomatic and financial offensive" was intended "to weaken Portugal's hand in Africa"; but in a long-term perspective the investments made under the premises of an expansionist foreign policy favored Portu-

272 NARA RG 59, box 6811; 753.00/2, USML to SoS, 26.8.12.

273 NARA RG 84, Boma, v. 5, German Consul Luanda to USCG Boma, 27.8.08. It can be assumed that the post (in charge of Angola, Belgian, French Kongo) was not a promotion for the hard-line administrator who oversaw the Governorate during the Herero-/Nama-War.

274 PA Luanda 1, betr. Einrichtung, AA to Eisenlohr, London, 10.11.13; AA to Consul Luanda, 13.12.13; Consul to AA, 23.12.13; 24.1.14; DGL to Consul, 3.7.14; *Cann* 2001: 147.

275 MAELC CPCOM/CP/NS/9, Portugal: 146, transl. *Tägliche Rundschau*, 12.11.13.

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gal and Great Britain more than Germany.[276] Until mid-1914, however, the German efforts to commercially penetrate Angola paid off:

> "[A] German line of freight and passenger steamers made regular calls at Luanda, Lobito and other ports, and, owing largely to its assistance, German export firms at Hamburg and Bremen had built up an important trade in Angola. All the merchandise that would benefit by the 20 per cent reduction in customs duties if arriving in Portuguese vessels was transshipped, and other goods such as machinery, were sent direct in the German steamers. Another factor highly favorable to the German trade was the excellent system of local representation in the principal towns of Angola. At Luanda, for instance, … there were no less than five representatives of German export houses … Excessively liberal credits were allowed on all orders, but this system was proven to be a failure in 1912 when the rubber crisis caused financial difficulties throughout the Colony and some of the German firms, suffering severe losses, were forced to exercise more caution in granting credit. The German trade, however, still increased, and, during the year 1913, it is estimated that more than one-half of the nationalized imports [imports originating in foreign countries, then imported to metropolitan Portugal, duty paid thereon, and finally re-exported to Angola] were of German manufacture and probably at least 50 per cent of the foreign trade imports arriving in foreign vessels." Germany was also "the greatest ultimate market for Angolan products."[277]

Similar to Angola the Germans were involved in the commerce of Mozambique, which they "penetrated slowly, *sans éclat* but surely".[278] The success of German business in the Portuguese dominions was also said to be due to Portuguese language education offered by a number of German business schools.[279] The opening up of the Angolan market was also supported by Germans in GSWA. In 1912 the businessman Heinrich Ziegler of Lüderitzbucht, who had traveled widely in Angola and was convinced of its potential for farmers and miners, set up the *Angola Bund* with public support. The British Consul to GSWA, Muller, wrote to his Foreign Secretary Grey that the "purpose" of the *Angola Bund* "is to awaken interest in GSWA for the annexation of Portuguese Angola."[280] Also the French noted with interest that Ziegler declared Angola to be a necessary "territorial complement" to GSWA most of all because of the future harbor in Baía dos Tigres. The *Bund* thus promoted the purchase of "unoccupied government land and making it available as farming areas to German,

276 MAELC 192 CPCOM/19, Portugal: 338, FML, 16.3.14; *Canis* 2011: 535; *Cann* 2001: 146.
277 NARA RG 84, Lisbon, v. 152: 610, USC Boma, Report on Trade of Angola, 9.9.15.
278 MAELC CPC/CP/NS/9, Portugal: 115, French Consul Lourenço Mar. to MAE, 16.5.13.
279 NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 6.12.19; cf. *Tschapek* 2000: 355f.
280 Muller to FO, 11.12.12, in *Vincent-S.* 1974: 628; cf. *Samson* 2013: 41; *Cann* 2001: 149.

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Boer and Portuguese settlers on easy financial terms."[281] In the following two years, the number of German immigrants to Angola increased indeed. They partly arrived from GSWA, but most were destitute and looked for work. The German consuls were not pleased by these new arrivals.[282]

At first, Portuguese comments about the foundation of the *Bund* were rather sober: For the *Jornal de Comercio* Germany's expansionist intentions seemed evident and it was equally evident that Portugal had to stay in charge of its colony. Thus, on Portuguese territory the railway connecting the German copper mines of Otavi with the harbor of Porto Alexandre had to be built and operated by the Portuguese.[283] However, watching Germany's growing success in peacefully penetrating Angola many Portuguese politicians soon expressed their concern. In mid-1914 Portuguese foreign policy "gravitated around the colonial question". The new Foreign Minister, Alfredo Freire de Andrade, a former Governor of Mozambique (1906–10) and previously Colonial Minister, was an ardent adherent to Portugal's alliance with Great Britain.[284] He was alarmed that Portugal "would wake up one day and find that to all intent and purposes Angola had become a German possession." Also the new Governor General of Angola, Major José Norton de Matos was convinced that the "Germans had aims in Angola which went well beyond economic penetration". He prohibited Portuguese from joining the *Angola Bund*. In early 1913, after reading Friedrich von Bernhardi's book *Germany and the next War* (1911) he – so he remembered later – predicted in a letter to the Minister of Colonies that in a future war Angola and Mozambique would be among the first victims of German aggression. Firm in his anti-German sentiments, he urged for preparations.[285] To counter the growing German presence, Norton de Matos asked for a French diplomat in Luanda (in 1913, only Great Britain maintained a consul of career in Luanda, Mr. Herbert Hall Hall) since France's incumbent consular agent, Léon Appert, represented a German trading house.[286] The French Minister in Lisbon respond-

281 MAELC 192 CPCOM/19, Portugal: 32-6 MAE to Senateur Gervais, 21.4.13; *Southern* 2007: 5.

282 PA Luanda 3 (Krieg, v.I) VK Benguela to German Consulate Luanda, 2.9.14: 'That which came from GSWA to Lobito can neither contribute to giving prominence to German names nor to serving our interests'; cf. *Manz* 2012: 199; *Stassen* 2011: 81.

283 MAELC 192 CPC/CP/NS/19, Portugal: 13, FML to MAE, 5.2.13.

284 MAELC CPC/NS, v. 6, Portugal: 86, Daeschner to MAE, 29.5.14.

285 *Vincent-Smith* 1974: 628; *Baericke* 1981: 19; *Dáskalos* 208: 182; *Norton* 2001: 183f.; 207.

286 MAELC CPC/CP/NS/9, Portugal: 131, Lieutn. Lecoq to Minstre de la Marine, 2.9.13.

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ed it was "too late" to counter the German dominance, since Angola was considered by the Germans as one of the "most precious elements of their future colonial empire."[287] Given the German success, Norton de Matos was also against opening Angola for (more) international trade. Instead, "an ultra protective custom tariff favoring both the goods imported from Portugal and the Portuguese merchant marine" was upheld; irrespective of the fact that this was "a burden upon the merchants of Angola" since they had to import almost all goods from foreign countries.[288] The difficulties were aggravated by the fact that "the steamship line [*Empreza Nacional de Navegação*] and the state railways are notoriously mismanaged and have presented an opportunity all too generally used of disposing of those having political claims on the government."[289]

On the other hand, there were politicians in Lisbon who acknowledged that foreign, including German, capital could well be used as a means to develop Angola without "denationalizing" the colony. Whereas the competitive element of colonialism is indisputable, also a sense of "cooperation" among colonial powers had developed in Europe that focused on the exchange of expertise and transfer of knowledge. The task of "civilizing" Africa began to be understood as a common European project as formulated by the *Institut Colonial International* founded in Brussels in 1894.[290]

Hitherto, the Anglo-German treaty of 1898 had deterred "the Portuguese from seeking loans [abroad] or granting concessions". As a result, credit for commercial purposes had almost been non-existent in Angola. While it was a common feat of African colonies that "public investment during that period was small, and private capital influx even smaller"[291], the financial situation of Angola was at the brink of collapse. The press in Angola did not hesitate to criticize the "military bureaucracy" of the new republic that had caused an annual deficit of 4,000 Contos.[292] Some politicians "privately admitted that the best solution would be for Portugal to sell her colonies." The "currency was unstable"; inflation remained a constant threat.[293]

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287 MAELC CPC/CP/NS/42, Portugal, FML to MAE, 30.11.13.
288 NARA RG 84, Lisbon, v. 152: 610, USC Boma, Report on Trade of Angola, 9.9.15.
289 NARA RG 84, Lisbon, v. 169: 877, USML to SoS, 17.10.19.
290 *Lindner* 2011: 86f.; 97; cf. *Trotha* 2004; on 'civilization' *Bowden* 2005; 2009; *Pauka* 2013.
291 *Vincent-Smith* 1974: 620; *Young* 1994: 136.
292 MAELC CPC/CP/NS/8, Portugal: 174, FML to MAE, 14.11.11.
293 *Smith* 1974: 657; cf. *Roberts* 1986: 494; *Reiner* 1924: 334.

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While excluding any cession of territorial sovereignty, the government confirmed its acceptance of foreign-financed railways in its colonies in 1912.[294] In Angola the two railway lines from Luanda and Benguela were to be extended up to the copper mines of Katanga in Belgian Congo. Furthermore, the southern-most Moçâmedes railway was planned to be built via Lubango up to the Kunene River. Financed with public funds, 176 kilometers had been completed in late 1914.[295] However, for strategic reasons the old plan to reach GSWA and to connect it to the Otavi Railway scheduled to be built through Ovamboland by German engineers was put on hold. The German authorities, on the other hand, continued to push for the construction of this line.[296] Altogether, more than 2,000 km of railway were planned. Prime Minister Machado, recognizing "no immediate danger" emanating from the Anglo-German negotiations, confirmed in March 1914 that his government was "ready to open up Angola" for foreign investors. In July 1914, a decree was published "authorizing the Portuguese government to contract a loan of 8,000,000 escudos for developing" Angola by investing in infrastructure and agriculture.[297] With a law on the financial autonomy of the colonies, such amounts could be borrowed from (foreign) lenders. The accompanying report to Parliament drew a grim picture of the colony's financial situation, the works of Norton de Matos and his policy to oppose opening the colony to more international trade.[298] The French Colonial Minister, Albert Lebrun (1871–1950), warned his colleague in the Foreign Ministry, Gaston Doumergue (1863–1937), Portugal's new loan policy would help the Germans in their policy of peaceful penetration, commencing with commercial exploitation and ending with

294 MAELC CPC/CP/NS/9, Portugal: 31, MAE. Note sur les Colonies Portug., 30.12.12.

295 *Dáskalos* 2008: 78-84; NARA RG 84, Lisbon, v. 165: 850, Communication, 29.5.18. In 1914 there were '540 kilometers of state railroads [Malanje; Moçâmedes] and 901 kilometers of private railroads [Ambaca; Benguela] in Angola'; cf. *Lemos* 1929: 73; *Tschapek* 2000: 361-84.

296 MAELC CPC/CP/NS/9, Portugal: 148, transl. *Post*, 12.11.13; cf. *Tschapek* 2000: 396.

297 MAELC 192 CPC/CP/NS/19, Portugal: 308, FML to MAE, 7.3.14; NARA RG 84, Lisbon, v. 151: 851, USML to SoS, 22.7.14. The government estimated the costs for the railway to exceed 20,000 Contos (90 Million Marks). Altogether, a credit of 40,000 Contos (180 Million Marks) was considered necessary to upgrade the habors, roads, railways and to improve the administration (*Südwestbote*, Jg. 11, No. 75, 24.6.1914: 2, ref. to *Kölnische Zeitung*); *Dáskalos* 2008: 133; 10 *reis* were equivalent to 1 *centavo*: 1,000 *reis* or 1 *milreis* equal to 1 *escudo*. 1,000 *escudo* equal to 1 *conto*. *Reis* and *milreis* were eliminated when the republic was proclaimed.

298 *Vincent-Smith* 1974: 628.

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annexation. In the interest of France, Lebrun deemed it wise for the "Paris market" to play a role too.[299]

In order to attract German investors, the *German* government ordered the thorough exploration of southern Angola. After heavy pressure from the Foreign and Colonial Offices in Berlin "to create German interests in Angola" the *Warburg Bank* convinced in early 1914 other reluctant German banks, *Krupp* as well as investors from Portugal and Belgium to found a company (*Überseestudiensyndicat*) with the aim to study the technical and economic potential of the southern railway that had been under discussion by then for 15 years. As it was the case in Germany's own colonial empire that proved to be an almost complete economic failure since the government paid more in subsidies to the colonial budgets than it received from colonial revenues, also the penetration of Angola was neither caused by nor based on private financial interests; it was a purely state-run policy. The Foreign Office remained heavily involved in the setting up of the *Überseestudiensyndicat* and sent a representative to its first meeting in February 1914. He urged to act quickly in Angola. It was agreed that an expedition should be sent to investigate the future railway track. Internally, it was admitted that the expedition was sent for "purely political reasons".[300]

The expedition was set up immediately. It was called *Comissão luso-allemão des estudos de Caminho de Ferro do Sul de Angola*. Formally a private enterprise[301] without "official German character", it could count on the support of a few Portuguese politicians, especially the Minister of Colonies, Alfredo Lisboa de Lima (1867–1935), and Sidonio Pais in Berlin.[302] The expedition was assigned to investigate the course of the rail track and other investment opportunities like mining and farming, both depending on the railway. Until that time Moçâmedes had "never really prospered as a trading center. It was too close to Benguela, and communications with the interior were hampered by the twin obstacles of the desert and the abrupt face of the escarpment."[303] Also in Angola[304] hopes ran high that "wild lands [could be] tamed into productive estates" by running

299 MAELC CPCOM/CP/NS/9, Portugal: 189, Fr. Minister of Colonies to MAE, 20.2.14.
300 *Canis* 2011: 534; *Gissibl* 2011: 159f; cf. *Tschapek* 2000: 384-411; *Rosen* 1932: 253-9.
301 On English-Portuguese joint commissions *(commissões mixtas*) cf. *Wheeler* 1974: 582.
302 PA Luanda 3 (Südwest Krieg) Remark Consulate Luanda, ~19.10.14; cf. *Silva* 2006: 340.
303 *Clarence-Smith* 1976: 215; cf. *Santos* 1978: 187-90.
304 NARA RG 84, Loanda, v. 2, USCA to SoS, No. 89, 2.5.74 'what a wonderful reformation'.

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rail lines across Africa. Colonial imagination assumed that the "mere whistle of the locomotive would beckon the traffic necessary for amortization of the capital costs." However, excruciating natural obstacles, difficult labor conscription and doubtful commercial prospects stood at odds with these "visions".[305]

The German part of the group was led by the engineer Dr. A. Schubert; further German members were the engineer Thurner, the geologist and agronomist Dr. Paul Vageler (1882–1963) and the three surveyors, Curt Hempel, Claren and Rudolph Klemoscheg.[306]. The Portuguese party was headed by the former Governor General of Angola, Colonel Manuel M. Coelho (1857–1943) (the immediate predecessor of Norton de Matos)[307] and Lieutenant-Colonel Carlos R.M. de Faria e Maia (c. 1870–1942), an engineer who had already been involved in colonial settlement schemes for years. It does not appear that the Portuguese had to be "intimidated by Germany" to agree to the commission, as was later claimed. Before their departure to Angola, the German members were warmly welcomed in April 1914 in Lisbon by Prime Minister Machado and Minister Lisboa de Lima. Both politicians expressed their hopes for a close cooperation between the neighboring colonies and underlined common colonial interests.[308] Those more critical of the German undertakings considered the colonial minister naive. In Lisbon speculations about German intentions were "heightened" at the time. Diplomatic circles spoke of Germany's "*de facto* preponderance" in Angola.[309]. The German government knew about these fears. When the commission was on its way to Luanda, Consul Eisenlohr was ordered not to join their expedition. Confidentially, the Foreign Office explained that the *Studienyndicat* had caused "concern" in Portugal. Allegedly, Norton de Matos, who arrived in Lisbon too in April 1914, "was taken by complete surprise" when he learnt of the group. An

305 *Young* 1994: 134f; positive *Iliffe* 2007: 211 railways cut transport costs by 90–95 percent.

306 BAB R 1001/6634: 157, Vageler to KGW,~11/1914, Ax 11 Memo Allem., 23.5.22.

307 The American Minister reported about M. Coelho, after he became Prime Minister in 1921 following a military coup: Coelho is 'little known. He … held the position of Governor General of Angola where he is reported to have shown himself absolutely inefficient. He was leader in the first revolutionary revolt against the Monarchy in 1891, was discharged from the army and exiled for five years'. NARA RG 84, Lisbon, v. 175: 800, USML to SoS, 22.10.21.

308 BAB R 1001/6634: 80f., Report of Schubert, Ax 1 tMemo All., 23.5.22; *Cann* 2001: 147.

309 *Vincent-S.* 1974: 629; *Rosen* 1932: 147 'Mistrust with respect to German ambitions in A.'

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"attentive reader of the international press", he was perfectly aware of the Anglo-German accord of 1913 about the division of Portugal's Empire.[310]

In the following months the Germans "began hacking their way through the Angolan bush … while innocently assisted by compliant Portuguese district commissioners following Lisboa de Lima's instruction."[311] The Portuguese colonists in Angola considered the expedition with suspicion and the two Portuguese officers deplored that they were deemed by their compatriots to be "traitors".[312] Rumors spread in Angola about the Germans closing in on the colony also technically. In May 1914, it was claimed that the railhead of the German Ovamboland railway (being still in its *planning* phase and never going beyond Outjo) had reached Kwanyama territory were "the Germans" maintained nine Protestant mission stations.[313]

On the other hand, not only the German government had plans for the future. Also the Portuguese had high hopes for Angola. As the German Colonial Office's expert on agriculture, Vageler was asked by the Portuguese to investigate the possibility of populating the *planalto* with up to 100,000 colonists.[314] Since the 1850s it had been considered attractive "because of its plentiful supplies of ivory and because its temperate climate was well-suited for white settlement."[315] In 1902 the geographer Georg Hartmann assumed the fact "unquestionable" that the area of Humbe and Ovamboland would – one day – be of "great economic value." However, after months of travel across the area the head of the Study Commission Schubert expressed his conviction that the establishment of the commission was based on wrong assumptions of the value of *southern* Angola. He was "very disappointed about the country" and could see no potential for settlements.[316] When later geographers spoke of the area to the east of the Chela Range as "the finest corn-producing area in Angola", they all agreed that further south, near the Kunene River the territory,

310 PA Luanda 1, AA to Consul, 25.2.; Telgr. AA, 1.5.14; *Norton* 2001: 203; *Cann* 2001: 147; *Dáskalos* 2008: 183.

311 *Southern* 2007: 6, referring to *Leal* 1966: 308.

312 BAB R 1001/6634: 83, Report of A.Schubert, Annex 1 to Memo Allem., 23.5.22; BAB R 1001/6640: 111, extra-file: 12, testimony of General Norton de Matos, 5.5.26.

313 AGCSSp 3L1.11b5, Keiling to TRP, 19.5.14 'Allons vois ce que fera la républic.'

314 BAB R 1001/6640: 73 extra-file: 3f., protocol stenographique Dr. Vageler, 12.10.25.

315 *Clarence-Smith* 1976: 215; *Mora* 1940: 585 before WWI ~12,000 Europeans lived in Angola; cf. *Oliveira Marques* 1998: 558.

316 *Hartmann* 1902: 229; PA Luanda 3 (Südwest Krieg) Schubert, 3.9.14; *Medeiros* 1977: 69.

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"rolling and barren, would seem to be of little use, agriculturally or pastorally."[317] Soon, this would be a theater of war.

2. The First World War in Angola and GSWA

2.1 The Outbreak of the War and its Impact on GSWA and Angola

The military defensibility of the German colonies was not only debated early on; it was doubted by many decision makers. For this reason, Chief of Staff Count Waldersee hoped in 1889 that Germany would soon rid itself of the overseas possession just acquired. Most famous is the question Chancellor Leo von Caprivi put to Governor Eduard von Liebert, who had recently returned from GEA: "But how will you defend East Africa against England?" The course of the First World War would prove Caprivi's skepticism right. After all, already in 1891 it was decided by Emperor William II. "that GSWA could be sacrificed to maintain GEA" in case of war.[318]

On August 2 and 3, 1914 Germany's Colonial Secretary, Wilhelm Solf sent wireless messages to the colonies: "Calm the settlers. There is no danger of war in the colonies." The anglophile Solf soon recognized that this was an illusion. After the war, he was heavily criticized for his "naivete". In private, however, Solf allegedly considered the war already lost for Germany by August 4.[319] Ironically, some German politicians and French pacifists alike assumed that (southern) Africa would remain neutral territory due to provisions of the Berlin Act of 1885 that, in fact, mentioned merely that colonial "territories … may be" considered neutral. However, such "precautions proved useless"[320] since the Allies decided to attack German colonies for several reasons: the occupation would close their ports to the German navy and allow better control of the oceans; the German wireless stations could be disrupted; Germany's breach of Belgian neutrality made the claim of Africa's neutrality according to the Berlin Act less convincing and had repercussions on Belgian Congo; also, the ex-

317 *Wells* 1940: 558f.; *Miller* 1982: 17 'zone of sandy soils and unstable climate'.
318 Quoted in *Ritter* 1970: 110; *Samson* 2013: 30; cf. *Herwig* 1980: 97f.; *Michels* 2006: 165.
319 *Vietsch* 1961: 135; 137; *Brunschwig* 1957: 178f.; *Hintrager* 1955: 190; *Wolff* 1984: 69 (# 5: 10.8.14); Klöckner in: *Kolonialkriegerb.* 1924: 58; *Doß* 1977: 191; *Förster* 2012: 190.
320 *Cooper* 1991: 371 referring to Fr. Passy; *Förster* 2012: 191.

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clusion of Germany from Africa and colonial expansion developed into an Allied war aim; the occupied German colonies would be useful as a bargaining tool during peace negotiations; finally, South Africa was "keen" to incorporate GSWA into the Union.[321] As a first step, Britain used its maritime supremacy to prevent ships from reaching German colonial harbors. The Royal Navy sealed off the entrances to the North Sea. The German colonies were left to economic starvation. The blockade proved the German assumption right that the "colonies must be defended in the North Sea", allegedly "England's weak point".[322] This defense failed, however.

GSWA's agriculture was incapable of producing sufficient food to sustain 14,000 Europeans. In the mostly arid or semi-arid country cereals or fruit and vegetables were grown in insufficient quantities.[323] Storage capacities were limited. And barely any provisions were made to feed the Europeans for an extended period of time without constant supply from Germany and neighboring British South Africa.

GSWA's Governor Theodor Seitz (1863–1949) – not as much an anglophile as Solf – assumed that his colony would be involved in the war rather sooner than later. On August 2 he asked the police to compile lists of Russians and Britons. Those trying to agitate Africans against German rule were to be apprehended immediately. When on August 5 Britain's entry into the war became known in GSWA,[324] rumors spread that also Portugal had declared war on Germany. Haunted by the possibility of an attack from all sides, Seitz asked via wireless message the Colonial Office in Berlin about the relations with Portugal. On August 8, he received the answer that there was no war with Portugal. This was correct, yet it told him only half of the truth.

When Great Britain entered the war on August 4, 1914 after the German invasion of Belgium and France, the Portuguese parliament decided in a stormy session by a close margin *not* to join the war on Britain's side. Anti-German sentiments seemed widespread.[325] For fear of Spain entering

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321 *Michel* 2004: 920; cf. *Samson* 2006: 29; 2013: 40; *Bührer* 2011: 359.

322 Tirpitz to Büchsel, 29.7.99, in: *Kennedy* 1984: 6; cf. *Herwig* 1980: 148f.; *Seitz* 1920: 1.

323 This was a difference to GEA where farmers were able to produce foodstuff, *DOAZ*, Jg.17, no.28, 3.4.15 'DOA und der Weltkrieg': 'Covering the food requirements for both European and the indigenous populations is permenantly assured, for everything that one needs for daily life is being delivered from the [colony] and in more than adequate amounts.' This was overstated, famine hit GEA. On the Allied blockade *Stevenson* 2004: 199f.

324 NAN BOM 34, GA 5, KGW to BA Omaruru, 2.8. 14; *Hennig* 1920: 3.

325 MAELC CPC/NS, v. 6, Portugal: 121, FML Daeschner to MAE Delcassé, 8.12.14.

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the war on the German side if its Iberian rival joined the Allies and concerned with Portugal's "demands for more [colonial] territory" after the war, Britain "applied diplomatic pressure upon Bernardino Machado's government not to become belligerent". However, Portugal was asked to *not* explicitly declare its neutrality. In 1912 the Admiralty War Staff in London had defined what Britain should expect from Portugal in time of war: Portugal should be "a neutral sufficiently strong to make her neutrality respected, whose ports were free to the British mercantile marine but denied to the warships of the enemy." It was doubted whether the Portuguese could open their own front in Africa and sustain it against the Germans.[326]

On August 5, Britain's minister to Portugal, Lancelot Carnegie (1861–1933), reaffirmed the Luso-British alliance and a few weeks later, Portugal was given the assurance of British defense support in case of a German attack on Portuguese possessions.[327] Portugal's government "declared [on August 7] that she was quite prepared as the ally of Great Britain to give every assistance".[328] Portugal kept its ports open to allied war ships; artillery pieces were sent to Britain and France. On August 12 a Luso-British treaty of Commerce was concluded. The next day Britain requested authorization for the passage of British troops across Mozambique to Southern Rhodesia. There, the Portuguese were asked for "assistance" by the British against troops from GEA. On August 18 Foreign Minister Freire de Andrade spoke of Portugal's *neutralidade condicional*. In September, Portugal's minister in London, Teixeira Gomes, informed Eyre Crowe about the authorization of British troops to traverse Mozambique. In early October, following the German atrocities in Belgium and France, a committee headed by the republic's first President, Teófilo Braga (1843–1924), and composed of "the academies of science, the schools of higher learning, the scientific, literary and artistic communities, the Masons, the Press, the Anti-German League, the agricultural, industrial, commercial and labour associations and other groups dedicated to Portugal's success and advancement", presented the French and Belgian ministers in Lisbon

> "with their most vehement, indignant and solemn protest at the heinous crimes that have been committed in Belgium and in France, particularly at the

326 *Stone* 1975: 730; 732; cf. *Samson* 2006: 40; *Hespanha* 2010: 172; *Livermore* 1967: 324.
327 *Diário do Governo*, Decreto n.729, n.133, 4.8.14: 636; 27.8.14; *Castro Brandão* 2002: 278.
328 NARA RG 84, Lisbon, v. 151: 820, USML to SoS, 24.11.14; *Silva* 2006: 347.

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> destruction of the library of the Catholic University of Louvain and of the cathedral at Rheims, crimes that will forever defile the Prussians before the incorruptible court of history."

Given these anti-German resentments among the elites, on November 23 Congress authorized President Manuel José de Arriaga (1840–1917) to intervene militarily in the war on Britain's side if deemed necessary.[329] All these steps did not remain unnoticed by Germany's Minister Rosen. In October, he filed a formal protest against Lisbon's hostile attitude. Nevertheless, in November yet another Luso-British Convention declared operative the Treaties of Alliance.[330]

Considering the German pretensions on Portugal's colonies, the government was anxious to protect these territories. It decided on August 12 to reinforce the colonial troops with men from Portugal. A decree was issued to send forces to Angola and Mozambique and a special appropriation (*crédito extraordinário*) of 1,000,000 escudos ($950,000) for war material was granted to the Ministry of War under General Pereira de Eça.[331] Two weeks later, a first border skirmish between German and Portuguese border posts occurred in Maziua, Mozambique. On August 24 a German official shot a Portuguese guard in the wrong assumption that there was war between both countries. The German government later apologized for this incident.

In GSWA the mobilization of the Schutztruppe was ordered on August 8, and simultaneously Governor Seitz prohibited the export of weapons, livestock, and foodstuffs from GSWA.[332] The decisive question for him was from where food could be imported. Its harbors sealed by the British Navy and GSWA being surrounded by three British colonies, only neutral Portuguese Angola seemed to offer any possibility. From the German steamer *Adelaide* (having "escaped" to Luanda) Consul Eisenlohr (being informed about the German mobilization) immediately sent an encrypted telegram to Swakopmund asking Seitz whether he should procure food-

329 *Girão* 2010: 44f.; *Silva* 2006: 348; *Penha Garcia* 1918: 130f.; O protesto de Portugal contra os vandalismos alemães, entregue aos senhores ministros da Bélgica e da França em 4 de Outubro de 1914, Lisboa 1914, transl. www.cphrc.org/index.php/documents/firstrepublic/463-1914-10-04- german-vandals [14.10.2014]; cf. *Wheeler* 1978: 106.

330 AHD 3p ar.7 m 48, SGL to MNE, 16.10.14; cf. *Samson* 2013: 59; *Castro Br.* 2002: 279.

331 *Girão* 2010: 44; NARA RG 84, Lisbon, v. 134: 800, USC General to SoS, 18.8.14.

332 *Morlang* 1998: 43; *Stals* 1968: 186; *Eckenbrecher* 1940: 170. Seitz scheduled in June 1914 a military exercise for September, *Südwestbote*, Jg. 11, no. 75, 24.6.1914: 2.

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stuff and coal for GSWA in Angola.[333] Seitz requested Eisenlohr the next day "to buy as much foodstuff as possible" and to send it over land if ships would not accept load to GSWA. He hoped that Eisenlohr would come to an agreement with the Governor General Norton in Luanda.[334] Eisenlohr tried to convince the agent of a Portuguese steamer to stop in Swakopmund. However, the Portuguese telegram asking for permission in Lisbon to do so was not allowed to pass the British telegraph station in Lagos, Nigeria.[335] Also telegrams from Luanda to Germany could not be sent any longer. Soon, also Eisenlohr and Seitz could no longer communicate directly; since *Adelaide*'s wireless apparatus was rendered inoperative by order of the Governor-General.[336]

Ill. 7 Governor Theodor Seitz

Ill. 8 Governor General José Norton de Matos

Nevertheless, more and more troubling rumors about Angola reached the Governor in Windhoek. In late August, Dr. Hans Schultze-Jena (1874–1914), the head of the Outjo district bordering Angola, sent a telegram about suspected British troop movements or at least growing British influ-

333 PA Luanda 3 (Südwest Krieg) Telgr Consulate Luanda to KGW, 8.8.14. Telgr. DGL to German Consulate Luanda, 1./8.8.14; cf. *Suchier* 1918: 26.

334 PA Luanda 3 (Südwest Krieg) Telgr KGW to German Consulate Luanda, 9.8.14.

335 PA Luanda 3 (Südwest Krieg) Tel. Consul to KGW, 14.8.14; cf. *Wenzlhuemer* 2012: 107.

336 PA Luanda 3 (Südwest Krieg) Note Cpt B. Tadsen to German Consulate Luanda, 9.8.14.

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ence in Angola. Most wearisome were allegations that "the Portuguese are attempting to get the Ovambo at our throats", as Seitz expressed it. He did not hesitate to counter these "attempts" by an immediate order to "send a messenger to [Kwanyama King] Mandume [to tell him] that the governor will forward weapons and powder. German troops will come to support him against the Portuguese." While Schultze-Jena himself conveyed the surprising message to the King that he "will be given 100 guns plus ammunition", Missionary Welsch was asked to come from Oukwanyama to Windhoek to report about his latest impressions from the area.[337] In early September, the governor asked Welsch to forward and translate a letter to Mandume in which Seitz, after letting the King know about Germany's "great victories" in Europe, repeated the offer of "100 guns for your warriors and wine for you". Assuming Portuguese attempts to "alienate" the Kwanyama, he assured Mandume: "if you stay faithful to the Germans you need not fear the Portuguese. If they attack you, I will send German troops to expel them."[338] However, soon the Germans would find themselves under attack and it was to be seen whether they would ever be in a position to defend King Mandume against the Portuguese.

2.2 Beyond German Reach – Smuggling Food across Angola

Food had become scarce in many African colonies since steamship lines had withdrawn their services following the outbreak of the war. Already in August, the Governor General of Belgian Congo asked for additional supply of provisions for his colony.[339] Reports about "shortage of food supplies" reached Europe also from Monrovia and Dakar.[340] GSWA imported more food than it produced. The British, well aware of the statistics, assumed that the colony would surrender after five months due to lack of food. Governor Seitz understood that ships would no longer reach GSWA even from Angola and Consul Eisenlohr suggested putting the procurement in private hands in order to avoid raising suspicion. Seitz therefore requested the merchant Otto Busch from Keetmanshoop to organize the

337 BAB R 1001/6645: 4-7, Tlgr BA Outjo to KGW, 22.8.; remark Seitz 24.8.; telgr 28.8.; 123, Welsch (Omupanda) to KGW, 8.10.14.

338 BAB R 1001/6645: 8-10, KGW to Mandume; KGW to Welsch; KGW to BA Outjo, 6.9.14.

339 NARA RG 84, Boma, v. 18, 840, USC Boma to SoS, 30.8.14; cf. *Suchier* 1918: 77f.

340 TNA FO 371/1884:250, Brit. Consul Dakar, 15.8.;254, Br. Consul Monrovia, 14.8.14.

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transport. He had just returned from a trip to Luanda to investigate the possibility of labor recruitment for the diamond fields of GSWA. Busch was a jack-of-all-trades who had already in 1905, during the Nama War, assisted the German consulate in Cape Town to reconnoiter the Anglo-German border along the Oranje River for smugglers of weapons and food.[341]

Ill. 9 Luanda, DKG Bildarchiv

341 *Seitz* 1920: 15f.; *Morlang* 1998: 43; PA Luanda 3 (Südwest Krieg) Consul Cape Town to German military stations, 5.9.05; NAN A.529 n.8, Busch: Berichte Grenzschmuggel, 1905.

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Ill. 10 Ernst Heinrich Eisenlohr

In mid-August 1914, Busch traveled to Luanda. This was still possible by ship, and Busch would act within the next months as Germany's '(secret) agent' in Angola. More self-confident than talented for this undertaking, Consul Eisenlohr ordered him to go from Luanda to southern Angola and procure and carry "in an inconspicuous manner" as much foodstuff as possible to GSWA. Busch was promised a commission of 7.5% of all costs. The German vice consuls in Benguela and Moçâmedes had to support the undertaking. Eisenlohr transferred to them $12,000 and $6,000 respectively. In case the amount would not suffice, Busch should take on credits on account of the consulate.[342]

However, in 1914 the Germans in Angola were unable to install a "complex system of bribery and clandestine interference" similar to the Germans in the Cape Colony under Consul von Humboldt during the Nama War (1905/6).[343] In a long letter to Governor Seitz (reaching the addressee five weeks later) Eisenlohr detailed the difficulties of transporting foodstuffs to GSWA: 1) food was scarce in Angola and Portugal. The Portuguese central government had ordered the Governor General to deliver food to the Cape Verde Islands and to Portugal. Eisenlohr considered it likely that the Governor General therefore would soon prohibit the export of food to foreign states. Therefore, the purchase and transport of food to

342 PA Luanda 3 (Südwest Krieg) Consulate Luanda to VC Moçâmedes/Benguela, 14.8.14; NAN A.529 n.2: 3, O. Busch: Erlebnisse... in Angola, Anfang August–24.12.14.

343 *Dedering* 2006: 283 on German policies to smuggle weapons and equipment to GSWA.

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GSWA should be executed swiftly before the authorities learned about it; 2) money was scarce in Angola and it was barely possible for the consul to draw large sums at the public bank without raising suspicion (Busch assumed one million marks would be needed); 3) there was no established connection between Angola and GSWA. Portuguese ships did not call at ports in GSWA. Telegrams that did not pass the censor at the British telegraph station were not transmitted. Eisenlohr thus assumed that sending Busch to southern Angola under the pretext of erecting a pig farm near Catumbela at the plantation of the trader Antonio da Costa would be the best way to commence the "smuggling", as he called the transport. It was intended to convince da Costa to use his own credit for the inconspicuous procuring of foodstuff. Eisenlohr believed the transport would be best organized by using "fisher boats or smuggler boats from Moçâmedes" and to land the food in GSWA near the border. At the same time he planned a transport by ox wagons to Outjo, but warned of the difficulties due to the "Kwanyama rebellion". Eisenlohr intended to send under pretext 25,000 to 50,000 Marks to Moçâmedes to enable Busch to pay a first rate "especially to the smugglers". He urged Governor Seitz to send money also from GSWA to Angola.[344] A similar request was sent to the German consul in Cape Town.[345]

The European war washed ashore unexpected assistance for an undertaking that was not yet formally illegal, but which certainly stretched to the edge the role a diplomatic representative could take up. The engineer Georg Kéry of Budapest arrived in Luanda from São Tomé and met Eisenlohr since no Austrian consulate was available. As Kéry spoke Portuguese, he was recruited by Consul Eisenlohr to support Busch's mission and was sent to southern Angola.[346] At the same time, Eisenlohr was eager to enlist the services of the Luso-Portuguese Study Commission still surveying southern Angola. He re-called Dr. Vageler to Lubango.[347] Code words were exchanged between Eisenlohr and Kéry, who was to inform Busch and Vageler on their meaning.[348] Assessing the situation in the south, Kéry suggested a small-scale transfer of foodstuffs on land, calling at the "German farmers [Strauwald, Schneider and Schwarzer having their farms

344 BAB R 1001/6645, 21, Consul Eisenlohr to KGW, 14.8.14 (arrived 21.9.).
345 PA Luanda 3 (Südwest Krieg) Consulate Luanda to Consulate Cape Town, 17.8.14.
346 PA Luanda 3 (Südwest Krieg) German Consulate Luanda to Georg Kery, 18.8.14.
347 PA Luanda 3 (Südwest Krieg) Telegr Consulate Luanda to Schoess, Lubango, 18.8.14.
348 PA Luanda 3 (Südwest Krieg) German Consulate Luanda remark on code words, ~8/14.

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in southern Angola], the German missionaries, [Consul] Schöss and the Study Commission". To send the supply by boat was deemed unfeasible by Kéry and Busch since they had no means available to ship 60 to 100 tons. Without contact to the government in GSWA, they did not know where to land; should it be in Swakopmund, Cape Frio, or Cape Cross? Furthermore, Angolan fishermen in Moçâmedes and Porto Alexandre were allegedly ordered to report any foreign ship and it was feared that the British navy was nearby.[349]

In the meantime, Busch met the head of the Study Commission Schubert in Moçâmedes and initiated him into the secret mission to procure and transport food to GSWA. Schubert, who had been to Windhoek and understood the necessity of the food supply, was willing to support him. He explained that due to lack of water only the land transport from Capelongo downstream the Kunene River up to the border at Erickson Drift would be feasible. Schubert was positive about the success of the undertaking since the Study Commission could "initiate" the procurement and transport "under the guise of its semi-official Portuguese mission". Schubert was also convinced of the support by German and Afrikaaner farmers in the region. Farmer Strauwald would know the way across Ovamboland to GSWA. Busch told Schubert that he had already commenced the purchase of food with the brokerage of a Portuguese farmer in Catumbela. It was agreed that Strauwald should take a letter to the Rhenish mission station at Ondonga notifying Governor Seitz that transports were underway to Erickson Drift. From Ondonga messengers should bring it to the German police station at Okaukwejo, which was to forward it to the district office in Outjo. Busch wrote to missionary Tönjes at Ondonga that deliveries from Huambo (terminus of the Benguela railway) via Capelongo (Schwarzer's farm) to Erickson Drift were being prepared. Since three Study Commission ox wagons would arrive there "within a few days", Busch requested Tönjes to go to Erickson Drift with all his transport capacities and to bring the "urgently needed foodstuff" to Outjo. He advised him to distribute "extra-gifts" to any "assisting Ovambos".[350] Busch also addressed a letter to the head of the Outjo district, Dr. Schultze-Jena, requesting him to forward the letter from the consulate in Luanda about the transport to Governor

349 PA Luanda 3 (Südwest Krieg) Georg Kéry to German Consulate Luanda, 24.08.14.
350 PA Luanda 3 (Südwest Krieg) Otto Busch to Missionary Tönjes, Ondonga, 22.8.14.

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Seitz. The supply could be taken over at the border – "probably Erickson Drift".[351]

Over the following weeks numerous letters were exchanged between Germans in southern Angola and the German consul in Luanda detailing enigmatically the routes, waterholes, and transport capacities in the region, "so people do not suffer from hunger".[352] It was repeatedly stated that Germans serving the food supply of GSWA would thereby fulfill their military duty. Those Germans living in Angola, however, who wanted to avoid the return to Germany and their military duty were threatened by the consul with being court-marshaled after the war. Only those should stay in Angola who were either under no military duty or who could help to bring food across the border.[353] Minister Rosen informed the consul, however, that it was almost impossible for the returnees to reach Germany from Portugal. Therefore, they were to be discouraged to travel via Lisbon.[354]

Consul Eisenlohr could count on the German members of the Study Commission, which had to maintain its official character at all times while the Portuguese Colonel Coelho had to be "held at bay". It was agreed that Schubert should lead the first three ox wagons to Erickson Drift, "if possible accompanied by Mr. Coelho" under the pretext he would start survey works at the drift. Vageler should guide Kéry and the farmers Schneider and Schwarzer along the river with their food transport. Once the connection to GSWA has been established the Study Commission would retreat and leave the execution to Schwarzer, Schneider, and Kéry, who was to remain stationed at Erickson Drift.[355]

However, despite careful planning, difficulties soon became apparent. The unusual traffic in Angola's south was to the detriment of the smuggling activities of the Germans. They were concerned about the anti-German sentiments among the Portuguese population. The Afrikaaner Zacharias Roberts was asked to assist in convincing at least "the natives [south of Humbe] to support us if possible (promise rich rewards to the chiefs)". Furthermore, Schubert learnt that 1,000 troops would soon arrive from Lisbon to subdue the Kwanyama under Mandume. Rumors abound-

351 PA Luanda 3 (Südwest Krieg) Otto Busch to Bezirksamt Outjo, [o.D.] ~ August 1914; NAN A.529 n.2: 6, O. Busch: Erlebnisse... in Angola, Anfang August–24.12.14.

352 PA Luanda 3 (Südwest Krieg) Schubert (Luanda) to Vageler, 2.9.14.

353 PA Luanda 3 (Krieg, v.I) German Consulate Luanda to VK Benguela, 9.9.14.

354 PA Luanda 3 (Krieg, v.I) DGL to German Consulate Luanda, 25.9.14.

355 PA Luanda 3 (Südwest Krieg) note of Schubert, 30.8.14; Confirmation Schubert, 2.9.14; BAB R 1001/6645, 26-30, Telgr Busch (Outjo) to KGW, 14.9.14

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ed that theses men were also sent to protect the border against any German attack.[356]

Eisenlohr still hoped not to raise suspicion with the Portuguese authorities. But they happened upon a chance to assume what the Germans were planning when the German vice consulate Benguela ordered 500 sacks of corn from the merchant and former German honorary consul Eduardo Prazeres. Eisenlohr was outraged about the "foolish und perfidious" telegram informing him about the order. It was contrary to his instructions to Busch not to procure any foodstuff in the region of Luanda.[357] A few days later Busch sent the encrypted message from Benguela that "transports departed on land, many wagons". Eisenlohr was again irate, since a German trader would usually not send a telegram from Benguela to the consul in Luanda, considering that a vice consulate was located in the town.[358] Secrecy was not Busch's thing. Complaints about his overconfidence and his boasting during the purchase of goods in Moçâmedes were still recalled years later.[359] The British Vice-Consul Beak in Lobito soon got hold of the German attempts to purchase foodstuffs for GSWA and assumed the financial support of Consul Eisenlohr. He "called the attention of the local authorities to this fact, with the result that the buyers … were held up."[360]

Further problems arose, delaying the "smuggling". Traditionally, the authorities kept a close eye on the movement of any European. Traveling within Angola had required a passport since 1761.[361] Worse, at the end of August Vice Consul Schöss informed Busch that farmer Strauwald, the most important messenger across Ovamboland, did not arrive in Lubango to pick up the letters and his load. Schöss now deemed him untrustworthy. He therefore sent the "pro-German" Afrikaaner Piet du Plessis with the letters to Governor Seitz and missionary Tönjes in Ondonga. Du Plessis had lived in GSWA and knew the area on both sides of the Kunene. He would leave Lubango the next day. Schöss mentioned that the Portuguese administration followed all his steps closely. He had already sent two ox wagons with flour to Fort Dongoena, addressed to the Study Commission. He hoped to procure enough foodstuffs to equip 16 additional ox wagons

356 PA Luanda 3 (Südwest Krieg) Schubert, Luanda to Thurner, 2.9.14.
357 PA Luanda 3 (Südwest Krieg) Telegr. VK Benguela to Consulate Luanda, 1.9.14.
358 PA Luanda 3 (Südwest Krieg) Telgr. Busch, Benguela to Consulate Luanda, 9.9.14.
359 BAB R 1001/6634: 136f., Report of Baericke (16.11.19), Annex 9 Memo Allm., 23.5.22.
360 TNA FO 371/1884: 424, Brit. VC Lobito to Army Headquarters Cape Town, 10.10.14.
361 *Curto/Gervais* 2001: 6 FN 14.

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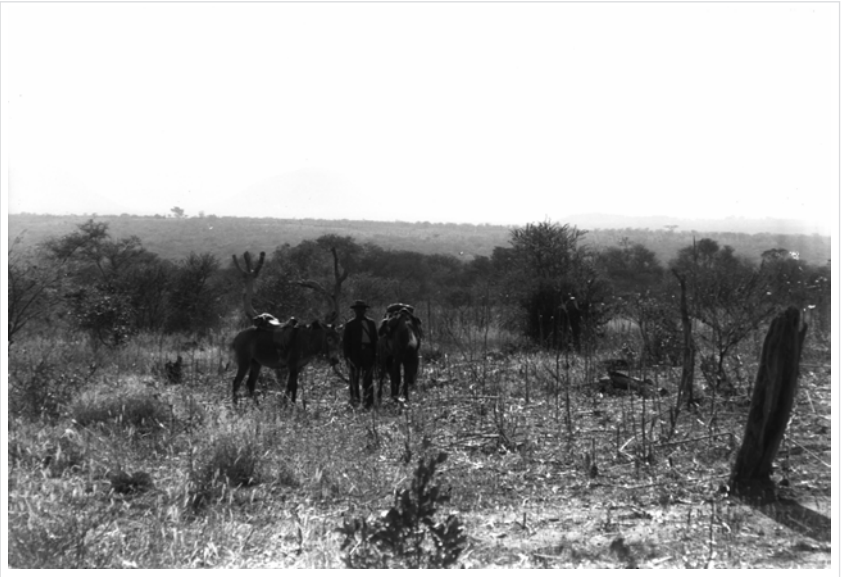

Ill. 11 "Huila – Schubert"

with corn and flour; altogether around "150 tons". The Portuguese allowed food exports only via custom stations, and Schöss warned Busch of the controls and the penalties for defraudation of the customs. It was still to be seen how the Portuguese officials would react to the food transports when they learned about their purpose. Would it be possible to ask the Governor General to permit the transports? Consul Eisenlohr deemed it too early for such a step.[362] Under pretext, he withdrew another 200,000 Goldmark in Luanda and had the money sent via courier to Benguela for the purchase of new foodstuff.[363] However, the imminent campaign against the Kwanyama provided the Portuguese authorities with ample arguments to exclude German action in the war zone. In September, a state of emergency was declared for the Huíla district. Only the support of Colonel Coelho enabled Schubert to continue his journey from Porto Alexandre to Huíla and Lubango.[364]

362 PA Luanda 3 (Südwest Krieg) VK Schöss, Lubango to Busch, Benguela, 30.8.14.

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Since Governor Seitz did not receive the information about the ongoing procurement in Angola, he asked the representative of the *Woermann-Line* in Swakopmund, Brauer, to go with his ship to Moçâmedes and transport food to GSWA.[365] In a letter to the Vice Consul Schöss, forwarded by Brauer, Governor Seitz requested him to provide the mariner with "as much sugar and gasoline as could be possibly loaded onto his ship." The remainder should be transported to the border along the Kunene River. Seitz also asked Schöss for news regarding the Portuguese position in the war and "whether strict neutrality or a pro-English attitude" was shown by the Governor General in Luanda.[366] Following Brauer's arrival in Moçâmedes on September 9, it was "unthinkable" to provide him with the goods. An employee of Schöss' company could only explain the situation in a letter: Pointing to the new state of emergency in the Huíla district, he responded to Seitz that it was now even more difficult to transport goods to GSWA. Any traffic from the coast to the interior was prohibited. He had already sent several ox wagons to the Kunene border, but it seemed doubtful whether these loads would reach Erickson Drift, the intended point of transfer. He furthermore mentioned that on September 2 400 "native troops" had arrived from Mozambique and were sent inland to the Huíla District. Additional 1,200 troops from Lisbon were expected to arrive in Moçâmedes on September 20. The population believed these men were sent at the request of Britain.[367] Indeed, it was no secret that Lisbon sent "fifteen hundred additional troops for garrison service" in Angola. The American minister believed this "an additional precautionary measure against occupation by any of the European powers".[368]

Brauer's appearance had caused excitement among the population. When Schubert arrived in Moçâmedes on September 10, 1914 he saw Brauer's boat and noticed anti-German sentiments. Immediately after the war had broken out, contradictory rumors began to circulate in southern Angola.[369] Brauer was considered a German spy. His vehicle was carefully checked before he was ordered by the district governor to leave.[370] He

363 PA Luanda 3 (Südwest Krieg) note Eisenlohr, 10.9.14.
364 PA Luanda 3 (Südwest Krieg) Schubert to Eisenlohr, 10.9.14; 11.9.14; *Santos* 1978: 198f.
365 BAB R 1001/6645, 14, KGW to Woermann-Linie, 21.8.14.
366 BAB R 1001/6645, 12, 15; PA Luanda 3 (Südwest Krieg) KGW to V-Cnsl Schöss, 29.8.14.
367 PA Luanda 3 (Südwest Krieg) VK Moçâmedes to KGW, 11.9.14.
368 NARA RG 84, Lisbon, v. 151: 820, USML to SoS, 8.9.14.
369 AGCSSp 3L1.13.7, Tappaz (Huíla) to Faugère, 11.8.14.
370 BAB R 1001/6634: 83f., Report of A. Schubert, Annex 1 to Memo Allem., 23.5.22.

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could not take in any provisions, but at least, Brauer could take with him the latest journals reporting that the Prime Minister had declared Portugal to be benevolently neutral in favor of the allies. He also forwarded letters from the consulate and from Consul Alfred Haug (1873–1929), Johannesburg, who, upon his return to Europe, had passed Moçâmedes and left a note about the likely South African attack routes and war objectives (wireless station Windhoek). Finally, he confirmed the rumors about the troop movements in Moçâmedes. Thus, Brauer's journey to Moçâmedes was indeed a reconnaissance tour. After his return, he reported that Angola was completely under British influence and deemed it unrealistic to procure provisions for GSWA there.[371]

The day Brauer arrived in Moçâmedes, Eisenlohr wrote to Governor Seitz that, upon his return from Lisbon on September 2, Governor General Norton de Matos had emphasized to him that the friendly relations between Portugal and Germany should remain as they were. Until the Governor's declaration, Eisenlohr was never sure whether or not Portugal was neutral. Eisenlohr also mentioned the transport of troops, which were "probably" not just meant to subdue the Kwanyama, but also to protect the border against German incursions or to disarm German troops in case they retreated from GSWA due to the British invasion. Eisenlohr feared that the British could cause the Portuguese to attack GSWA from the north in order to split the German troops. He urged Seitz to have the situation at the border closely monitored and to ensure that there were no German actions at the border that could be interpreted by the Portuguese as an intended attack on Angola.[372]

Within the next days it became apparent that Angola's authorities knew everything and were "not well disposed towards Seitz' plan" to transport foodstuff from Angola to GSWA. On September 12 Norton de Matos, who allegedly harbored an *idée fix* about the coming German invasion of Angola,[373] published a decree according to which the export of foodstuff from Angola was only possible with the permission of the district governor and only if these products were dispensable in Angola. This decree was in line with similar provisions in the metropolis. Already on August 3, 1914 the government had forbidden "the exportation to foreign countries

371 BAB R 1001/6645, 46f, Report Brauer, 25.9.14; 37, Haug to KGW, 2.9.14; BAB R 1001/6634: 136, Rpt Baericke, Kimmel (16.11.19), Ax 9 MA, 23.5.22; *Seitz* 1920: 32.

372 PA Luanda 3 (Südwest Krieg) Consul Luanda to KGW, 10.9.14; *Norton* 2001: 208.

373 *Stals* 1968: 186 'nie goedgesind … nie'; *Baericke* 1981: 20 'Invasionsidee'.

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from continental Portugal … of foodstuff (except wine), livestock and combustibles".[374] This was a reaction to food scarcity in Portugal due to the failure of crops in 1913. The government authorized "the purchase of thousands of tons of wheat to supply the deficiency".[375] Also modern research confirms that Angola produced barely enough food to sustain its population. "[M]alnutrition continued to be the most widespread and serious problem [in Angola] by the twentieth century".[376]

Norton de Matos' decree changed the situation. It was not possible to transport the supplies clandestinely across the border if the authorities had expressed the desire to keep the food in Angola. Eisenlohr therefore went directly to Norton de Matos. He openly told him about efforts in southern Angola to transport food to GSWA and that he did not want his compatriots to infringe Portuguese law. The governor gentlemanlike evaded the issue by claiming he signed the decree due to attempts from Belgian Congo to purchase all food available in Angola. He understood, on the other hand, that Angola's richness consisted in food and that the poor merchants of southern Angola depended on the new business opportunity with GSWA. He therefore had nothing against the export to GSWA – as long as the Governor of the Huíla district agreed. Eisenlohr, in turn, pointed to the difficulty of informing the Germans about the decree and hoped the authorities would be lenient in case of contravention.[377]

As a next step, Eisenlohr planned to go to Benguela and Moçâmedes to inform his compatriots about the new situation. Before that, he again met Norton de Matos who now told him that on the same date as he regulated the food export (September 12) he had formally declared the state of emergency in the Huíla district. Nobody was allowed to enter the district except Portuguese officials. The only exceptions he allowed were for the Study Commission and Eisenlohr to inform the Germans. Norton de Matos now explicitly refused the export of food to GSWA. Eisenlohr was thus left with two (illegal) options for transports to GSWA: either via ship or across the "completely waterless" southern part of the Huíla district. Both possibilities were dangerous. Conceding that the chances of success

374 NARA RG 84, Lisbon, v. 134: 690, USC General to SoS, 31.8.14 (Annual Report).

375 NARA RG 84, Lisbon, v. 133: 600, USC General to SoS, 20.5.14 (Annual Report).

376 *Dias* 1981: 375f. '[T]he question of improving domestic food supplies continued to be largely ignored by the government [still] in the 1920s.'

377 PA Luanda 3 (Südwest Krieg) Consulate Luanda to DGL, 14.9.14. Eisenlohr also mentioned that a British citizen purchased in Luanda food for the Congo. The Governor General gave him the same answer as he gave to Eisenlohr; cf. *Baericke* 1981: 35.

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were limited, Eisenlohr claimed he would attempt "without regard to hardship and danger" to send transports on both routes.[378] However, he failed to take into consideration the Governor General's legalistic ingenuity to prevent the Germans from taking any useful step towards the completion of their mission. In Lisbon, Britain's Minister Carnegie received a more candid explanation for the proclamation of the state of emergency in southern Angola: "to refuse the entry into that part of the colony of Germans, who, under the guise of missionaries, might endeavor to foment disturbances among natives. Both German civilians and missionaries had already been making trouble."[379]

Just before the steamer left for Moçâmedes on September 19, the Governor General sent Eisenlohr a message that his permit to enter the Huíla district was withdrawn since soon also the Moçâmedes district would be under a state of emergency. Eisenlohr insisted on going to the south in order to mitigate potential conflicts with district officials due to the ongoing attempts to deliver food to GSWA despite the ban (which was not known to all involved Germans). He wrote to Minister Rosen in Lisbon to request the government to lift the ban – but such step would have taken months.[380]

Despite the setbacks, in those days the Germans in Angola seemed to have been in high spirits. German Consul Dr. Asmis, who had to leave the Belgian Congo for Angola wrote to the American Consul McBride about his pleasure to read four-week old German newspapers in Luanda detailing German successes in France. "The excitement in Germany is great … our mood [in Luanda] is excellent."[381] However, it was not granted to Consul Eisenlohr to repeat these "successes" diplomatically in Angola. The Portuguese authorities continued to hold him back. When he arrived in the harbor of Moçâmedes he was not allowed to land and had to return to Benguela. Similar situations arose in the hinterland. Vice Consul Schöss was provoked repeatedly in Lubango. All his attempts to send foodstuffs across the border proved futile. Busch, already on his way to Erickson Drift, was arrested south of Huambo. The Portuguese officials and the population considered the deliveries to be German war preparations. The density of fortresses in southern Angola proved now an advan-

378 PA Luanda 3 (Südwest Krieg) Consulate Luanda to DGL, 18.9.14; Estado de sitio, no distrito da Huíla, *Boletim Official de Angola* no.37, 12.9.14, no.985: 806f.; cf. *Ramos* 1970.

379 TNA FO 371/1884: 354, Brit. Minister Lisbon to FO, 23.9.14.

380 PA Luanda 3 (Südwest Krieg) Consulate Luanda to DGL, 19.9.14.

381 NARA RG 84, Boma, v. 18,703, Asmis to McBride, 27.9.14 'we are in the best of spirits'.

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Ill. 12 "Huilla – Chibia"

tage to be used against German activities. Sub-Lieutenant Manuel A. Sereno (1877–1914?), Commander of Fort Otoquero, near the German border, received the order from the new District Governor Alves Roçadas to intercept the ox wagons sent from Lubango, Humbe, and Chibia heading towards GSWA. Subsequently Sereno and his men confiscated eleven wagons near the Kunene River[382] and discovered three German storages. Also Africans reported about the great number of soldiers in the area south of Humbe setting up military edifices along both banks of the Kunene River. All fords were blocked and anyone attempting to cross the river was apprehended.[383] In this particular case, the Portuguese colonial state showed that it was capable to organize institutional cohesion: The orders given at the center were truthfully carried out on the periphery. Also ox wagons for the Study Commission were withheld. Portuguese mistrust that

382 AHM/Div/2/2/23/3: 68, Relatório pedido pelo Capitão-Mor de Cuamato, 22.10.14.

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there was no difference between the provisions sent to the Study Commission and those sent by Schöss proved well founded.[384]

When Consul Eisenlohr involuntarily landed in Benguela he met Busch who had procured food and sent it to the border. Busch told the consul how Kéry was stopped with 13 ox wagons and ordered by officials to return to Huambo. Here the group was interrogated. The official was concerned that the Germans would deliver guns to the Kwanyama. Since no weapons were found, he released the group. Kéry and Schwarzer returned to their load, which was guarded, on the road to Caconda where they had arrived on October 1. Kéry wanted to reach Luceque, where two traders were expecting him with another 19 ox wagons. The administrator in Caconda however ordered all the goods to be secured in Caconda. Kery's group thus had to return to Benguela at the end of October.[385]

In Benguela the district governor told Eisenlohr that in the meantime the Governor General had prohibited all export of food except to Portugal or the Portuguese colonies. Eisenlohr therefore wrote to Rosen in Lisbon that under these circumstances the endeavor had to be "provisionally abandoned". Busch was told to discontinue the transports of food and to sell all perishable goods. Eisenlohr hoped to clarify the situation with Norton de Matos who had come to Moçâmedes to welcome the troops from Portugal. He hoped to convince him to "alleviate" the prohibition of exports. The *Jornal de Benguela* commented that Portugal would no longer stay neutral and that the arriving troops had to "conquer Damaraland" and to "castigate alongside" the Kwanyama. It was now widely known in southern Angola that an "expedition of 5,000 soldiers" would subdue the Kwanyama.[386] Eisenlohr was concerned since the troops sent to Mozambique had stopped over in Luanda on a British steamer under British Flagg. This could lead to confusion in case a German war ship encountered these transports.[387]

383 BAB R 1001/6645: 63, Rautanen to BA Outjo, 29.9.14 [quot. Josua ja Namuhuja]; R 1001/6641: 12, extra-file: 31, statement Antonio F. Varão, 11.11.21; *Santos* 1978: 200.

384 BAB R 1001/6640: 111, extra-file:13f., testimony Ambass. Norton de Matos, 5.5.26.

385 PA Luanda 3 (Südwest Krieg) Report of Georg Kéry to Consulate Luanda, 16.11.14.

386 AGCSSp 3L1.11b5, Keiling (Gallangue) to TRP, 2.10.14.

387 PA Luanda 3 (Südwest Krieg) Consulate Luanda to DGL, 2.10.14; *Portaria* no. 1:028, in: *Boletim Oficial de Angola* no. 39, 26.9.1914: 866.

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Ill. 13 "Angola" Ox wagon

Ill. 14 "Bei Junda?", Angola, Ox wagon

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Before he arrived in the south, the Governor General had declared the state of emergency also for the districts of Moçâmedes and Luanda. Vice-Consul Schöss tried in vain to convince Norton de Matos to permit food transports and the transfer of mail to GSWA. The former was not allowed due to the "lack of customs stations" along the southern border. The latter was not permitted due to the state of emergency. Eisenlohr was annoyed by this constant "reference to the wording of whatever laws". He admitted defeat and considered the "undertaking to have failed."[388]

On September 14, Seitz received a telegram from Outjo, notifying him about a letter forwarded by a man from Angola, du Plessis, indicating that ox wagons loaded with food, including those of the study commission, were under way from Angola. It was suggested to proceed from the border at Erickson Drift to Okaukweyo, preferably also with the ox wagons of German mission stations where the goods should be stored temporarily. Similar to the news received from Brauer, the governor was informed that 1,600 soldiers from Portugal were under way to Moçamedes. Also trader Busch had arrived in Outjo and reported that the provisions delivered by Kéry and Schwarzer would arrive at Erickson Drift, but would *not* cross the border.

The organization of the food transports to GSWA was immensely hampered by the absence of Governor Seitz, who was then in the south of GSWA, and Schultze-Jena, Outjo's district officer, who had still not returned from his journey to King Mandume. After more than a week had passed, Seitz ordered Schultze-Jena to immediately leave for Erickson Drift after his arrival from Ovamboland. He was directed to pay and take over the food transports from Kéry or Thurner and direct them to Okaukweyo.[389] Contrary to Eisenlohr's intention, the "undertaking" he had initiated continued – the smuggling drama would soon turn into a tragedy.

388 PA Luanda 3 (Südwest Krieg) Consulate Luanda to Otto Busch, Benguela, 12.10.14; *Portaria* no. 1:050; 1:051, in: *Boletim Oficial de Angola* no. 39, 26.9.1914: 869.

389 BAB R 1001/6645: 16 Telgr BA Outjo to KGW; 26 Busch to KGW, 14.9.; 32, KGW to BA Outjo, 23.9.14; R 1001/6634: 158, Report Seitz (10.5.1921), Ax 13 Memo Allm., 23.5.22.

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2.3 Misunderstandings – the Naulila Incident, October 1914

After requesting Eisenlohr, sending Busch and then Brauer, Schultze-Jena's trek was Governor Seitz' fourth attempt to create a supply line from Angola. Schultze-Jena had indeed informed King Mandume about Seitz' intention to deliver 100 guns and ammunition and asked about possible Portuguese advances. He also visited two mission stations (Olukonda [Sept. 7] and Omupanda [Sept. 19]). There, he told missionary Wulfhorst that the delivery of guns to Mandume was conditioned upon the case that the Portuguese joined the British and advanced across Ovamboland. [390]

One week after Seitz' order, Schultze-Jena set out from Outjo with a small expedition to go to Erickson Drift, also with the intention to contact Portuguese officials in order to discuss the possibility of delivering mail and supplies via Angola to GSWA. His troop consisted of the two lieutenants Alexander Lösch (1885–1914), survey corps, and Curt Roeder (1887–1914), a farmer near Outjo (Chauas-Okawa) and reserve officer, Constable Joseph Schaaps, Police Sergeant Braunsdorf, the soldiers Kimmel and Pahlke, four African "police servants", and five Africans to handle three ox wagons. A Danish farmer, Carl Jensen, accompanied them as "interpreter". The "old Africa-hand" had worked in the gold mines of Cassinga and knew southern Angola from his wagoner service during the expedition of Alves Roçadas in 1907. Contrary to what has been written about him, he was *not* "an able linguist fluent in Portuguese, German and the Ovambo language". He spoke fairly German, but his knowledge of Oshiwambo and Portuguese was limited.[391]

The men left Outjo on October 3, 1914 for the 300-kilometer trek north; this very day Schultze-Jena received a letter from missionary Rautanen about Portuguese soldiers occupying all Kunene fords. According to Jensen, except for Schultze-Jena, nobody knew of the object of the mission. Rumors spread that British troops had landed in southern Angola, preparing to invade GSWA from the north.[392] It was thus an additional objective of the mission to clarify Portugal's neutrality.[393]

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390 NAN A.505: 34, A. Wulfhorst. Chronik Station Omupanda, 20.11.15; BAB R 1001/6645: 11, Telgr. BA Outjo to KGW, 28.9.14; cf. *Peltola* 1958: 177; 2002: 191.

391 *Southern* 2007: 8; 10, ref. to *Baericke* 1981: 45; *Santos* 1978: 202; *Kurz* 1995: 20.

392 BAB R 1001/6645: 63, Rautanen to BA Outjo, 29.9.14; Bethe to KGW, 11.10.14.

393 BAB R 1001/6634: 98, Report of C. Jensen, Ax 4 to Memo Allem.; 131, Jensen to DGL, 30.4.15, Ax 8 Memo Allem, 23.5.22.

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After a few days, the group entered Ovamboland, the most densely populated area of GSWA. Around 100,000 inhabitants had been – as one of the first South African officials to travel there in 1915 put it – "left [by the Germans] entirely to their own devices." During the next weeks, the 16 men had to follow the traditions of the area. According to missionary August Hochstrate (1861–1936) "[i]t was the custom that when European visitors came to the country they would visit the native chief".[394] Ovambo kings exerted a "thorough control of the whole trading process, and a system of compulsory 'gifts' meant that in effect the surplus generated in trade tended to accumulate in royal hands." The kings had their messengers and "officials [to] watch over every move made" by the Europeans. Since German officials had requested the support of German and Finnish missionaries (as Russian citizens, they were formally enemy subjects) in the transport of foodstuffs from Angola (for lack of transport capacity, the latter had refused) and since at least one missionary had informed Ondonga King Martin of this request, the purpose of the German visit was well known in Ovamboland. Rumors reached the German group that Portuguese soldiers had set up traps for them. Then, a mysterious German, who had defected from the *Schutztruppe*, appeared. The man, Haunschild, warned the group of the Portuguese and offered help. Schultze-Jena asked him to find out about the whereabouts of Portuguese troops.

Schultze-Jena, although a high-ranking official, was not exempted from the gift system and the "pervasive royal control".[395] He first met Uukwambi King Iipumbo and Finnish missionaries. Iipumbo, in control of the route to the Kunene, was – according to Jensen, who translated – unfriendly to Germans. Due to their rich gifts he spoke highly of the Portuguese. Schultze-Jena presented him with a rifle and sold him a horse in exchange for Iipumbo's permission to cross his area. He told the King to stay calm in spite of the war between Europeans.[396]

The group intended to go to Erickson Drift. Referring to his map of the Kunene region Lösch, the surveyor, stated that the ford's southern bank would still be on German territory.[397] There, they arrived on October 16,

394 *Pritchard* 1916: 3; BAB R 1001/6640: 125, extra-file: 35, testimony Hochstrate, 26.4.26.

395 *Clarence-Sm./Moorsom* 1975: 370f.; cf. *Peltola* 2002: 191; NAN A.505: 34, A. Wulfhorst, Chronik der Station Omupanda, 20.11.15.

396 BAB R 1001/6634: 137f., Report Baericke, Kimmel (16.11.19), Ax 9 Memo Allem.; *Hartmann* 1998: 270; *Stals* 1968: 187; *Peltola* 1958: 177; *Schaaps* 1930: 382; *Henning* 1925: 110; *Baericke* 1981: 48.

397 BAB R 1001/6645: 67, BA Outjo to KGW, 3.10.14; 1001/6634: 99, report Jensen, 2.8.21.

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Ill. 15 "Viehtränke am Kunene"

Ill. 16 Hans Schultze-Jena

Ill. 17 Erickson Drift, 1921

1914 in the early morning and erected their camp some 500 meters south of the river. The place was located 14 kilometers south of the Portuguese Fort Naulila (also called Ehinga, Esinka, Ouinga or Kinga). At Erickson Drift the river changes its course to the west; at the time it was around 130 meters wide and shallow; arms of the river (*mulola*) crossed the vicinity. In the past the riverbed had changed. The margins were covered with belts of high reeds, swamps, "creeks and pools infested with crocodiles". On its northern ('Portuguese') bank the two hills of Calueque (or Kampili) domi-

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nated the landscape.[398] It was known that the right of possession over Erickson Drift was disputed. The Germans considered it the northern edge of the "neutral zone" between the two disputed parallel lines agreed on with the Portuguese in 1912. Lösch was intrigued by the hills of Calueque, a "small cluster of kopjes [and] a striking landmark for miles around".

At Erickson Drift Schultze-Jena did not find the ox wagons with food from Angola. The group had arrived three days late. Since late September, Vageler had tried to arrange the handover of food deliveries organized by Vice Consul Schöss. He had waited in vain at the Zwartbooi and Erickson Drifts to meet German officials and to inform them about the delays and difficulties with the deliveries from Angola. Not expecting anymore that Germans would arrive, Vageler decided to return to Humbe on October 13, 1914. He also learned that several ox wagons were confiscated by Portuguese officials. However, on his way to Humbe Vageler met another German who informed him about an alleged Portuguese telegram he had heard of that a certain Dr. Schultze was expected, probably at Erickson Drift. Vageler decided to meet this man. He expected him to be a German official, whom he considered in danger in case he entered Portuguese territory. Vageler wanted to cross into GSWA to warn him. However, his approach of the border near Fort Naulila in the evening of October 14 did not go unnoticed in the "densely populated area". He was arrested and brought to Fort Naulila, where he was interrogated by Commander Sergeant Gentil. He claimed that he had lost his way,[399] but he raised suspicion since he carried large sums of money. The next day Vageler was transported to Fort Cuamato. From there he sent a telegram to Schöss before being taken to Humbe.[400]

398 *Kanthack* 1921: 322; 327, cf. photograph of Erickson Drift; cf. *Pearson* 1910: 509.
399 BAB R 1001/6634: 151, Vageler to KGW (~11/1914), Ax 11, 23.5.22; *Baericke* 1981: 32.
400 BAB R 1001/6641: 12, extra-file: 31, statement A.Varão, 11.11.21; *Hennig* 1920: 109.

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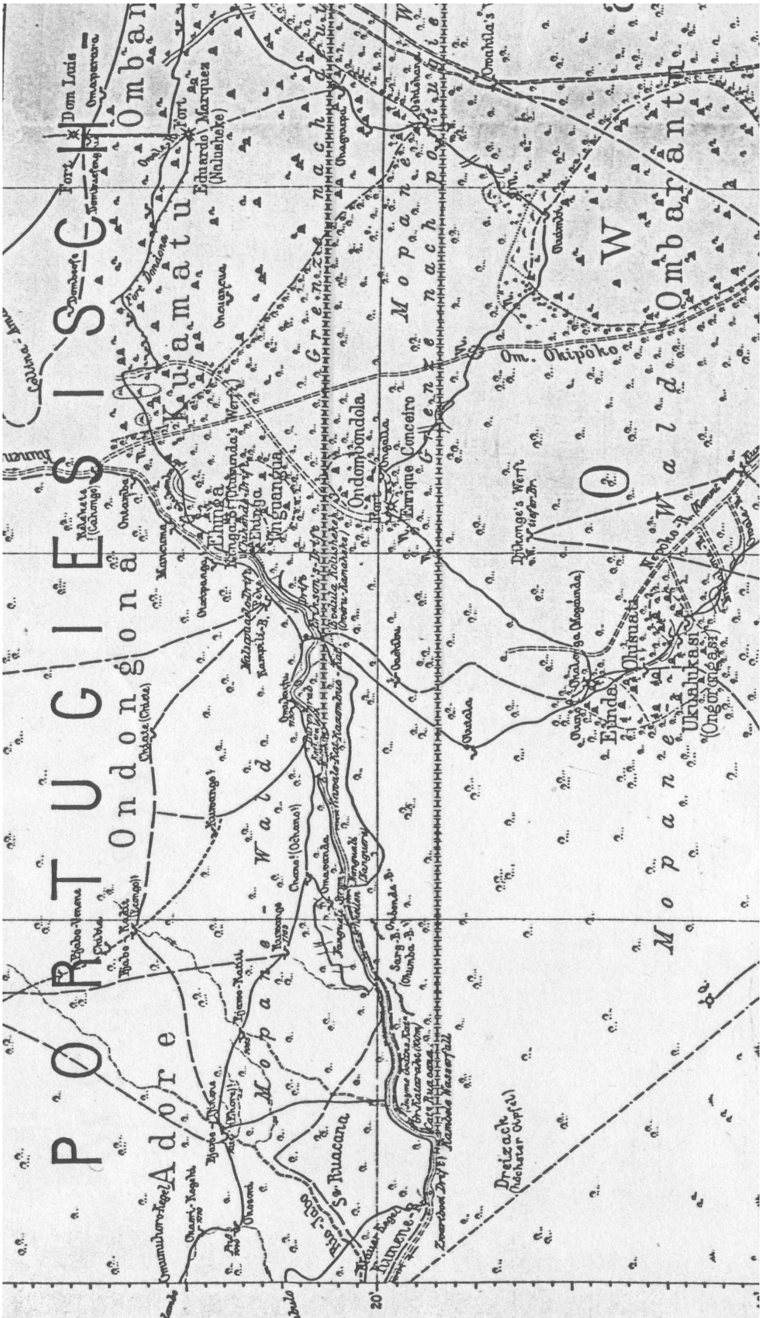

Map 2 Erickson Drift, excerpt "Deutsch-Südwestafrika, Blatt 3 Rehoboth (Amboland)", 1912

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Being unable to take over any foodstuffs or see anyone upon the opposite riverbank, Schultze-Jena decided to send Roeder and Jensen with a letter (in "slightly Luso-cized" German) to the Portuguese Fort Dongoena to inform its commander about his arrival. The "Iberian administrative system [in the colonies] was characterized by a dense network of petty white officials" and for foreigners it was not easy to understand each one's responsibility.[401] His mission to try to establish a supply line from Angola did not allow Schultze-Jena to hide from the Portuguese. However, he did not contact the nearest Portuguese post, Fort Naulila (that had replaced the vacated Fort Henrique Couceiro in the neutral zone), because it was not yet mentioned on his maps. It was Haunschild – he had been in contact with the Portuguese on October 15 – who reported the following day, October 17, the arrival of the Germans to Sergeant Gentil in Fort Naulila. Gentil sent a patrol to verify the information. Shortly before two Portuguese soldiers entered the German camp, Haunschild rejoined the Germans. He then disappeared, however, before he could be questioned about the suspicion that he might have spied for the Portuguese. The two soldiers asked the Germans what they were looking for. Schultze-Jena answered that they were coming from Outjo and were pausing. He requested them to forward a (second) letter to the administrator in Humbe informing him about his arrival and asking for a meeting.[402] After the return of his men, Gentil sent a messenger to his district officer (*Capitão mor*), Captain Antonio F. Varão, in Fort Cuamato notifying him about the arrival of the Germans and their letter.[403]

In the meantime, Roeder and Jensen, after having waved white flags as signs of their peaceful intentions, asked at Fort Dongoena, around 30 kilometers north of Erickson Drift, whether there was war between the two countries. The question was most pressing since at the same time in Lis-

401 AHM/Div/2/2/23/3: 55, report C. Palermo, 5.11.14 'em almão levemente aportuguezado'; *Machado* 1956: 15; *Clarence-Smith* 1985: 321.

402 AHM/Div/2/2/23/3: 63, Relatório pedido pelo Capitão-Mor de Cuamato, 22.10.14: '12. [17.]10.1914 – Monsieur! Excusez le papier et cette lettre, mais je ne parle pas bien le français. Je suis venu de Outjo et j'ai envoyé deux de mes compagnons à Dongoena pour notifier au commandant de mon arrivé, parce que j'ai crois que Dongoena serai la station la plus prochaine. Je vous propos une entrevue. Veuillez destiner la place et le temps. With kind regards, Dr. Schultze-Jena, Administrateur de Outjo.'; *Santos* 1978: 204; *Stals* 1968: 187 (German letter); the latest German map (*Sprigade/Moisel* 1914: No. 6), however, mentioned 'Ouinga'; on the difficulties of making maps in GSWA *Demhardt* 2000: 206f.

403 BAB R 1001/6641: 12, extra-file: 32; 35 testim. A. Varão, 11.11.21; *Baericke* 1981: 49.

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bon negotiations about sending troops to the western front were ongoing, and "it was generally felt that within weeks, if not days, Portugal would become a belligerent." However, it turned out that the Portuguese army was completely unprepared for this task.[404] Fort Dongoena's Commander, Sergeant Batouchas, may not have been aware of these discussions about an intervention, but he knew that Portugal was (for the time being) neutral. This he stated to the Germans and he also explained that the Portuguese troops who had landed in Moçâmedes were to be employed against the Kwanyama. Roeder and Jensen handed over their letter to be forwarded to the administrator in Humbe, Armando de Campos Palermo. Batouchas provided them with a *laisser-passer* and they procured an old copy of the Lisbon daily *O Seculo*, accidentally detailing the reasons for the dispatch to Angola of an expeditionary force. In the afternoon they left Dongoena and arrived at the German camp the next morning. Roeder and Jensen informed their group that there was no war with Portugal. They learned about the two Portuguese soldiers who had visited the camp and the letter given to them for their superior. Jensen assumed that King Iipumbo had already informed the Portuguese about the German mission, so they could plan ahead.[405]

In the early morning of October 18, immediately upon receiving the message from Fort Naulila, the *Capitão mor* in Fort Cuamato, Varão, sent a telegram to Sub-Lieutenant (*alferes*) Manuel Sereno in Fort Otoquero, who had confiscated the ox wagons Schultze-Jena was looking for. Varão ordered Sereno to go "with all forces available" to Naulila. In line with the decree on the state of emergency, Sereno, "at 37 years of age, a very mature junior subaltern",[406] was tasked with intercepting and disarming the Germans, who had allegedly entered Portuguese territory. Varão was aware of the difficulty understanding the Germans and directed Sereno to use "native interpreters".[407] Varão left it to the initiative of the *alferes* "to act in accordance with the circumstances" and "with patriotism". He also informed the Governor of the Huíla district, Roçadas, and asked for orders.[408]

404 *Meneses* 2010: 42.
405 BAB R 1001/6634: 120, Report Jensen, Ax 6 Memo Allem., 23.5.22; *Machado* 1956: 10f.
406 *Southern*, 2007: 8; cf. *Fraga* 2010: 127; *Santos* 1978: 206f.; *Machado* 1956: 22f.
407 AHM/Div/2/2/23/3:4, Varão, auto de averiguações, 30.10.14 'com toda força disponivel'.
408 BAB R 1001/6641: 12, extra-file: 32f., testim. Antonio Varão, 11.11.21; *L'Ange* 1991: 172.

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Sereno rode with his men 30 kilometers from Otoquero to Fort Naulila where he was told by Sergeant Gentil that the Germans camped south of Erickson Drift (also called "Caloéque" or "Kalusheke"). Sereno reached Schultze-Jena's camp on October 18, 1914, around 4 p.m., with 15 dragoons and 20 African soldiers. At that moment, the Germans "were naked" (*im Adamskostüm*), since they were taking a bath. Sereno asked the Germans what they were looking for on Portuguese territory. Schultze-Jena responded that he had announced his presence in Fort Dongoena and was waiting for the administrator of Humbe to come to Erickson Drift for negotiations. (He had also sent word to missionary Wulfhorst in Omupanda about his arrival at the Kunene and asked for more information about all events in Ovamboland; Wulfhorst responded.) He then referred to German maps (Sprigrade & Moisel) indicating that his camp south of the southern bank of Erickson Drift was on German territory. Sereno disputed this. Lieutenant Lösch is said to have responded: "It is well known that Erickson Drift forms the border and the two small [Kampili] hills beyond the Kunene assure me that we are at Erickson Drift. The hills are part of the cataracts."[409] In fact, Erickson Drift was six miles upstream of the Kavale cataracts. However, Lösch was not completely misguided by his map. The Kunene River formed a northwards stream bend between Erickson Drift and the Kavale rapids, the northern "starting point" for the parallel limiting the "neutral zone". According to the German map, at Erickson Drift this parallel "re-touched" the river before it turned again northwards, thus leaving Erickson Drift's southern bank in the "neutral" (or German) zone and not on indisputably Portuguese territory. The situation was most confusing and the British engineer F.E. Kanthack remarked in 1921: "[N]early all information concerning this section of the river, both official and otherwise was … misleading."[410]

Schultze-Jena also told Sereno that he was searching for the deserter Haunschild, whom he had seen in Ovamboland; indirectly referring to the ancient legal doctrine of "hot pursuit" that may have justified the crossing into foreign territory (had there been a treaty).[411] Schultze-Jena openly stated that he wanted to talk to the administrator of Humbe to receive per-

409 BAB R 1001/6634: 99, Report Jensen (2.8.21), Ax 4 Memo A., 23.5.22; R 1001/ 6640: 38, hearing Gonçalves, 13.10.25; NAN A.505: 34, Chronik, 20.11.15; *Baericke* 1981: 51.

410 *Kanthack* 1921: 322;336; *Machado* 1956: 58 'não existia uma carta regular da região'; cf. *Demhardt* 2000: 208; *Nasson* 2014a: 170 on the 'loose character of colonial borders'

411 Cf. *Poulantzas* 2002 [1969]: 4-11 dating back to Byzantine law.

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mission to continue his journey to Lubango. Sereno told him that the area was in the jurisdiction of the *Capitão mor* in Fort Cuamato who was in charge of such permits, and not the administrator Campos Palermo.[412] As Sereno later wrote, he invited Schultze-Jena to meet the *Capitão mor*, to be "provided with the requested permit *or* to decide what should happen with the Germans." A. Schubert of the Study Commission, who was told the story by Jensen, raised doubts whether Jensen did understand the proviso allegedly made by Sereno. Sereno did not speak French or German, Jensen's Portuguese was insufficient and he had to re-translate what he understood into another foreign language, German.

Language challenges of European travelers in a colonial context have been repeatedly analyzed by historians. Traditionally, those problems of miscomprehensions and misinterpretations occurred between European visitors and African hosts. However, similar difficulties could arise between Europeans especially when Portuguese nationals were involved since other Europeans usually had not learnt Portuguese "back home", but French or English. However, the "European *lingua franca* [of west-central Africa] was Portuguese", and Schultze-Jena was not the first German visitor to have underestimated the challenge of finding his way across Angola without understanding Portuguese. Traditionally, such travelers – those visiting an African court – were eager to find able intermediaries who would act as "master of ceremonies" and advise their "employers … in matters of protocol". Schultze-Jena, who had merely planned to visit Angolan officials to ask them for a permit, miscalculated the need to carefully select his interpreter who should also have been a "trans-cultural 'translator'". But Jensen was not an *ambaquista*, he was a miserable interpreter whose Portuguese, as Sergeant Batouchas reported, was "hard to understand."[413]

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412 Naulila was one of eight forts in the *Capitania mor* Cuamato under Captain A. F. Varão: Forts Roçadas, Otoquero, Nalusheque, Naulila, Aucongo, Inhoca, Damaquero, and Cuamato – head quarters of the *Capitania mor* and of the 17th Native Company. The latter consisted of 120 African soldiers being commanded by two officers and twelve non-commissioned officers. They were distributed among the forts. In addition, Varão commanded 25 dragoons and a battery of artillery in Damaquero. However, twelve artillerists had only one cannon and no ammunition (BAB R 1001/6641: 12, extra-file: 29, statement Antonio F. Varão, 11.11.21). *Capitão mor*: 'an official choosen by the Portuguese government to represent the interests of Portugal to the local rulers, to protect the local Portuguese community from oppression and to ensure they remained at least partly under government control.' *Heywood/Thornton* 1988: 223.

413 AHM/Div/2/2/23/3: 54, report C. Palermo, 5.11.14; *Heintze* 2011: 20; cf. *Stolz et.al.* 2011.

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After he believed to have understood what was said, Schultze-Jena accepted Sereno's invitation to meet the *Capitão mor* of Fort Cuamato. However, according to Jensen's translation of Sereno, the *Capitão mor* was currently in Naulila, while Sereno, according to Portuguese sources, had explained that Captain Varão was currently at Cuamato, where the Germans were supposed to meet him. Since it was almost sundown, Schultze-Jena invited Sereno and his men to stay as his guests overnight in the German camp. Jensen had to translate the conversations. The atmosphere during dinner was relaxed; although Sereno did not believe Schultze-Jena's explanation that he was on the trail of a deserter. He was convinced that the Germans wanted to pick up the load of the ox wagons he had already confiscated. The Germans on their part were not convinced that the troops recently arrived from Lisbon (as shown in the newspaper brought from Fort Dongoena) were only supposed to subdue the "rebellious" Kwanyama and occupy their territory since in October the rainy season was imminent. Both sides put guards near the camp all night long.[414]

The next morning, October 19, Lieutenant Lösch was hesitant to follow the Portuguese invitation. He wanted to stay in the camp. According to Vageler, who quoted Constable Schaaps, Lösch said: "Nobody will leave the fort alive". It was not clear what gave him reason for his mistrust. But Vageler reported that he later learned that Schultze-Jena had received warning letters from missionaries in Ovamboland. Sereno noticed Lösch's reluctance and explicitly requested him to join them in Naulila, allowing him to carry his gun and inviting him and the other Germans to bring their bedding gear, thus implying that their sojourn would be longer. The Germans, however, convinced that they would only ride to Fort Naulila and return the same day, took only their arms. Around 8 a.m. Sereno, Schultze-Jena, Lösch and Roeder together with Jensen and the African "police servants Hugo, Andreas, and August" departed for Fort Naulila, 14 kilometers north.[415]

Shortly before they reached the fort, the horses were watered at the river. In the meantime, Sereno sent one of his men, Sergeant Gonçalves, to

414 PA R 52529: 53-61: Memo port., 1921; BAB R 1001/6635: 51, Memo Allm, 23.5.22; R 1001/6639: 43, *Diário de Notíçias*,~15.2.15; *Machado* 1956: 65; *Southern*, 2007: 9.

415 BAB R 1001/6634: 150f., Dr. Vageler to KGW (~November 1914), Annex 11 to Memo Allemand; p. 120., Report of C. Jensen, Annex 6 to Memo Allemand, 23.5.22

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Naulila to announce their arrival and to order breakfast.[416] Gonçalves returned 15 minutes later. Jensen understood from him that the *Capitão mor* Varão had returned to Fort Cuamato, but had left a letter. Schultze-Jena, listening to Jensen's translation was surprised, but did not want to reject Sereno's offer to have breakfast in Naulila. When they arrived around 9:30 a.m., the Portuguese officer ordered to unsaddle the horses and to serve breakfast. Gonçalves and one corporal stayed with the horsegear, the other soldiers went for fodder. Sereno was at pains to explain to the Germans that Captain Varão was at Cuamato. He read the order written by the *Capitão mor* and also showed it to Jensen so he could explain to Schultze-Jena that they all had the order to proceed to Cuamato. Jensen assumed that this letter had just been written by Varão informing the Germans that he had to leave and that they were now in Portuguese custody, but free to follow him (Varão) to Cuamato under the supervision of Sereno. Jensen was not sure to have correctly understood the letter and told Schultze-Jena about this order by the *Capitão mor*. Schultze-Jena, not informed about the decree of the Govenor General from September 12 about the state of emergency that gave plenty of prerogatives to the military, protested. He reminded Sereno of his invitation and argued that he trusted a Portuguese officer to honor his own words. The latter tried to play down the tension and invited the Germans to have breakfast before they all would continue their journey to Fort Cuamato. Schultze-Jena refused and ordered his men to bit the horses. No one understood the other. Jensen, now completely overstrained in his language capacity, noticed that the Portuguese soldiers had been given order by Sereno to take position with their guns. When he alerted Schultze-Jena to this conduct, the latter ordered his men to mount their horses. He protested against being tricked and the impertinence that he should ride to Fort Cuamato, since he was only following the invitation to the fort in the belief that he could meet the *Capitão mor* here in Fort Naulila. Schultze-Jena insisted on returning to his camp to wait there for the response of the administrator in Humbe, Campos Palermo, or the *Capitão mor* Varão. Sereno, "known for his brusque manner and direct approach"[417] responded that he had express or-

416 For food the fort depended to a large degree on Africans living in settlements nearby; photographs published in *Ilustração Portugueza* (no. 470, 22.2.1915; no. 471, 1.3.1915) show *Indigenas de Naulila*. Women were 'charged' with preparing corn (*milho*) for the troops. The fort had also several animals, among them a domesticated ostrich and two camels.

417 *Southern* 2007: 9; *Norton* 2001: 209; *Machado* 1956: 35; *Baericke* 1981: 55.

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ders not to permit the Germans to return to Erickson Drift, but to keep them here or bring them to Fort Cuamato. He seized the bridle of Schultze-Jena's horse to stop him from riding. According to Sereno, Schultze-Jena was at that point about to take his gun. Sergeant Gonçalves warned the unarmed Sereno. Feeling threatened (*ameaça*), he gave the order to fire. Schultze-Jena was shot dead by the surrounding soldiers. Roeder and Lösch wanted to escape through the gate but were shot by the guards too, without having fired a single shot.[418] Lösch died within minutes, while Curt Roeder was still alive. Jensen managed to escape, but was hit by a bullet and caught near the river, whereupon he was taken to the prison cell of Naulila. Jensen accused the Portuguese soldiers of having looted the body of Schultze-Jena and robbed Roeder, heavily wounded, of their valuables. The "police servant Hugo" escaping with the Germans was shot dead and allegedly thrown into the Kunene River "for the crocodiles". "Police servants August and Andreas" were rounded up, beaten and put into prison. August managed to escape the following night to Eunda on German territory. Andreas, too, later escaped from Portuguese custody.[419]

The administrator in Humbe, Campos Palermo, had in the meantime received a telegram from Fort Dongoena and soon afterwards received the letter from Schultze-Jena.[420] He was confused and glad to be able to show it to his prisoner Vageler, who had just been transferred from Fort Naulila, for translation.[421] That night, Campos Palermo sent telegrams to the District Governor in Lubango, informing him about the arrival of the Germans at Erickson Drift and asking for permission to meet them. When the permission was received from Governor Roçadas, Campos Palermo sent a telegram to Fort Cuamato that he would meet the group from Outjo.[422]

Vageler could offer his services for the negotiations and Campos Palermo released the German. On October 18, they and the trader and interpreter Pieter Jacob van der Kellen and two other men (one soldier guard-

418 AHM/Div/2/2/23/3: 66, Relatório pedido pelo Capitão-Mor, 22.10.14; cf. *Santos* 1978:211.

419 BAB R 1001/6634: 101f., Report of Jensen, Ax 4 Memo Allem., 23.5.22; p. 154, Vageler to KGW (~11/19), Ax 11 Mémoire All., 23.5.22; R 1001/6639: 43, *Diário de Notíçias*, ~15.2.15 (German transl., 20.2.25); R 1001/6640: 39, testimony Gonçalves, 13.10.25; *Suchier* 1918: 30; a different version: *Southern* 2007: 9f. ref. to *Cidade* 1928: 497.

420 AHM/Div/2/2/23/3: 61, Telgr. (copy) Batouchas to Administrator Humbe, 17.10.1914; AHU MU DGC Angola, Pt 5, 5ª Rep, Cx.996, auto de averiguações 'Naulila' (1914).

421 BAB R 1001/6634: 148, Vageler to RMW (10.11.1921), Ax 10, 23.5.22; *Stals* 1968: 187.

422 BAB R 1001/6641: 12, extra-file: 33, statement A.Varão, 11.11.21; *Hennig* 1920: 110.

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ing Vageler) rode to Erickson Drift as stated in Schultze-Jena's letter, 70 kilometers south of Humbe. The group arrived on October 19, around 9 a.m. at the German camp, when Schultze-Jena and his men were about to enter Fort Naulila. Vageler, convinced that there was war between Germany and Portugal, persuaded soldier Georg Kimmel to ride after the seven men who had left an hour ago, to warn the Germans not to enter the fort and to inform them about the arrival of the administrator from Humbe. However, Kimmel reached the fort when the Portuguese had caught already the escaped, but wounded, Jensen. Kimmel was caught too and brought in together with Jensen. *Alferes* Sereno ordered Kimmel to write a letter to the remaining Germans to also come to Naulila. He did not know about the telegrams from Roçadas in Lubango permitting negotiations with the Germans. Nor did he believe Kimmel's assertion that the administrator of Humbe was currently in the German camp. Rather, Sereno told Kimmel not to mention in his letter that two Germans were dead. Kimmel and Jensen, however, wrote in German: "Schultze-Jena, Lösch shot dead" which Sereno could not read. Around noon Vageler sent, behind Campos Palermo's back, sergeant Braunsdorf and "Bushman Jan" to cautiously monitor the situation in the fort. Around 5 p.m. they both returned to the German camp with the message from Kimmel and Jensen, received from an African accompanying Kimmel to Naulila.[423]

Upon reading the message, Vageler was once more convinced that there must be war between Germany and Portugal. He wanted to inform the Governor in Windhoek as soon as possible. With the help of the German constable and the police sergeant Campos Palermo and his men were rounded up, but later released when the Germans departed south towards Eunda. During the night following the incident, Sereno sent patrols out to reconnoiter the area. In the meantime, he had learnt via telegraph from Fort Cuamato that the administrator of Humbe had indeed been waiting at Erickson Drift. Gonçalves later confirmed that he had been again at the place of the German camp to search for the remaining Germans. As the escaped "police servant August" witnessed on his way south, a Portuguese patrol of 20 men reached almost the main location of the "'free tribe', thus at least 15 km into German territory", blocking the path on which they may have expected the remainder of the German expedition on their way

423 BAB R 1001/6634: 152, Vageler to KGW~11/1914, Ax 11, 23.5.22; *Schaaps* 1930: 384.

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back from Erickson Drift.[424] Since the Germans had taken another route "across the bush" to Eunda, they reached the place unhindered the next morning. Here they joined two men who were waiting in vain with additional ox wagons for Schultze-Jena. Before the group left for Outjo, they were also joined by "police servant August". From the German group, he was the only witness of the incident in Naulila not in Portuguese custody. He told Vageler that Sereno ordered to his men to take up their guns when Schultze-Jena gave instructions to prepare the horses to escape from Naulila. August also claimed that Sereno personally shot at the Germans.[425] When the German party arrived in Outjo on October 24, Vageler sent a six-pages telegram to Governor Seitz that "by order of the commander [of Fort Naulila] Dr. Schultze, Lösch, Röder and police servants Andreas and Hugo were shot from behind, without a clue".[426]

With the desertion of Dr. Vageler to GSWA, Governor General Norton de Matos and others saw their suspicion confirmed that the Study Commission was in fact nothing more than a tool of German expansionism. Despite requesting the engineers to continue the survey works, he had ordered their close observation in early October.[427] Finally, Colonel Coelho and District Governor Roçadas agreed to dissolve the Commission. The German members had to return to Moçâmedes and were supposed to embark on the next steamer to Europe.[428] Engineer Thurner was arrested in Lubango together with the other German members of the Commission, the surveyors Klemoscheg and Hempel, and with Vice Consul Schöss and his family. The arrest was not only "for their protection", but also because they were considered "German spies". The group was transported to Moçâmedes and put on a ship to Luanda.[429] Also Dr. Alfred Schachzabel, ethnologist and "erudite traveler representative" of German aspirations,[430]

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424 BAB R 1001/6634: 148f., Vageler to RMW 10.11.1921, Ax 10 Memo Allem.; p. 154, Vageler to KGW~11/1914, Ax 11 Memo Allem.; R 1001/6640: 39, testimony Gonçalves, 13.10.25; *Schaaps* 1930: 384; The 'free tribe' was probably the 'native tribe in Okolonskasi [Uukolongadhi, near Eunda, Olusuati], a Free State (Negrostate) without chief' where Schultze-Jena passed on 15.10.14, R 1001/6634: 98f., Report Jensen, Ax 4 Memo Allem., 23.5.22.

425 BAB R 1001/6634: 153, Vageler to KGW, Ax 11 Memo All., 23.5.22; *Schaaps* 1930: 385.

426 BAB R 1001/6645: 82, Telgr Vageler to KGW, 24.10.14; R 1001/6634: 88, Report Schubert, Ax 1 Memo All.; p. 158, Report Seitz 10.5.1921, Ax 13 Memo All., 23.5.22.

427 BAB R 1001/6640: 111, extra-file: 11, testimony Ambassador Norton de Matos, 5.5.26.

428 PA Luanda 3 (Südwest Krieg) Chefe do Gabinete to Ger. Consul Luanda, 26.10.; 9.11.14.

429 PA Luanda 3 (Südwest Krieg) Schöss to German Consulate Luanda, 28.11.14.

430 *Pélissier* 1996: 661; cf. *Heintze* 1995.

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was arrested in Benguela and sent to Luanda, as he was in contact with persons who had established food storage facilities in several places.[431] As Germans, Busch and Schachzabel experienced numerous difficulties in Benguela: "People see new phantoms [*Gespenster*] everyday. In Bihe, Caconda … in Moçâmedes they see *Zeppeline* and *Aeroplane*". There were rumors in Benguela that Busch had "instigated" the "mulatos" to poison all Portuguese.[432]

In Naulila, Lieutenant Roeder died of his wounds the night following the incident. In the morning, Sereno told Jensen to accompany him to the German camp to lure the remaining Germans into the fort. However, when they arrived at Erickson Drift, Vageler's group had already left for Eunda. According to Jensen, Sereno then felt that he had committed an error. He started an "inquiry". His soldiers had to confirm that Schultze-Jena had pointed his rifle at him. Jensen was ordered to confirm Sereno's self-defense. He finally understood that *Capitão mor* Varão had not been in Naulila that morning. Varão's letter, Jensen claimed, was hastily written by one of Sereno's men before the Germans arrived.[433]

On October 21, Roçadas informed Governor General Norton de Matos about the incident, who in turn notified the government in Lisbon. Roçadas ordered the *Capitão mor* to undertake a thorough investigation. Sereno, Gentil, and other witnesses were heard; the German "war materials" were neatly listed. As Varão remembered, the prisoners Kimmel and Jensen had to be "pressed" hard to answer their interrogators. It was later claimed that the resulting report and all testimonies were destroyed during the battle in December.[434] However, copies of the 52-page report have survived in the *Arquivo Histórico Militar* in Lisbon. Sketches were drawn of the German camp, the way along the Kunene River and the scene of shooting. It can be assumed from the numerous side-remarks that this re-

431 PA Luanda 3 (Südwest Krieg) Chefe do Gabinete to German Consul Luanda, 28.11.14.

432 PA Luanda 3 (Südwest Krieg) Otto Busch to German Consulate Luanda, 26.10.14. It was known in Luanda that in Elisabethville, Belgian Kongo, German merchant Scheffler was shot by a policeman because he happened to be the first German the sergeant met after he had learnt about the sacking of Lieuwen in Belgium by German troops. NARA RG 84, Boma, v. 18, 703, German Consulate Luanda to USC in Boma, 5.10.14.

433 BAB R 1001/6634: 103, Report of C.Jensen, Annex 4 to Memo Allem., 23.5.22.

434 BAB R 1001/6641: 12, extra-file: 35f., testimony Commander Antonio F. Varão, 11.11.21.

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port and the accompanying documents were the starting point for the preparation of the Portuguese legal memoranda after the war.[435]

For diplomatic usage, Portugal's government developed its own version of the occurrences at Naulila: A German force crossed into Angola "in search for provisions. They were stopped by Portuguese troops and a short engagement took place after which they recrossed the frontier." The British Foreign Office was informed about Eisenlohr's endeavor to procure provisions for GSWA and the Governor General's prohibition to do so. The government in Berlin depended completely upon the Portuguese version.[436]

2.4 Revenge? – Devastating the Kavango Forts, Oct.–Nov. 1914

When Governor Seitz learned from Vageler about the incident at Fort Naulila early in the morning of October 24, the same telegram also informed him that 1,800 Portuguese soldiers were currently marching towards the German border, that fortresses were set up along the border, that Germans in Angola, including consul Schöss, were "in dire straights" and that all food transports had been confiscated. Convinced that a state of war now existed between Portugal and Germany, Vageler urged the governor – "in the interest of the defense of the colony" – to take the matter serious. The facts of the Naulila incident seemed confusing. However, considering all what he had learned about Angola over the last two months, one thing seemed undisputable for Governor Seitz: the state of war with Portugal.[437]

Would the Portuguese attack GSWA from the north? Was an Allied encirclement of GSWA to be feared? A few hours after he learnt of the incident, Seitz sent a telegram to the Commander of the *Schutztruppe*, Lt.-Colonel Joachim von Heydebreck (1861–1914), in Kalkfontein (in the far south of GSWA, today Karasburg) to inform him accordingly. The only German post at the border with Angola, the police station Kuring-Kuru

435 AHM/Div/2/2/23/3, auto de averiguações, 30.10.-9.11.14; Sereno, Material de guerra, 31.10.14; AHU MU DGC Angola, Pt 5, 5ª Rep, Cx.996, auto de averiguações 'Naulila'.

436 TNA FO 371/1884: 424, Telegram BML to FO, 23.10.14; *RKA* 1915: 17 (15.11.14).

437 BAB R 1001/6645: 83, Telgr Vageler to KGW, 24.10.14; R 1001/6634: 145, Rpt Baericke 16.11.19, Ax 9 Memo All, 23.5.22; R 1001/6634: 88-91, Report Schubert, Ax 1 Memo All.; p. 158-160, Report Seitz 10.5.1921, Ax 13 Memo All., 23.5.22; *Samson* 2013: 78.

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(opposite the Portuguese Fort Cuangar on the Okavango River) seemed to be in danger.[438]

At the same time Seitz ordered to send "open!" radio-telegrams (three times during three nights) to "all board stations and coastal stations" "in all directions" to let friend and foe know that the "lieutenant of Fort Ishinga [Naulila] had invited Schultze-Jena, Lösch, and Röder to Ishinga and had killed them there." He expected – so he argued after the war – that Angola's Governor General would thereby also be informed about what had happened and would respond with an explanation. Norton de Matos did not respond. German cables had been cut and British cables were no longer open for Germans. Attempts by Eickhoff, the engineer in charge of the wireless station at Windhoek, to reach the wireless station in Nauen near Berlin in order to receive an answer from the Colonial Office as to whether or not Portugal was at war with Germany, failed. The "five terrific steel lattice pillars, nearly four hundred feet high, tied by cables with bolts as big as a man"[439] remained silent. Since the destruction of the station of Kamina in Togo on August 27, 1914 upon the approach of French troops, only "under favourable conditions" had "direct communication with Berlin" been possible. Until then, Seitz had been in "daily connection" with Berlin.[440] In Paris, the radio station on the Eifel Tower had detected in early October that Berlin could still send messages to Windhoek via an unknown post in Cameroon or East Africa, but since mid-October messages from Berlin could no longer be received in Windhoek.[441] The Windhoek station was built to cover a radius of 4,000 kilometers to reach Kamina. Millions had been spent and now Germany's global wireless network proved futile. The British were still concerned about it; especially as there were "rumors of wireless stations being erected on the south coast of Brazil by German sympathizers".[442]

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438 BAB R 1001/6645: 89, Telgr KGW to Cdr, 24.10.14; *Oelhafen* 1923: 51; *Cann* 2001: 151; *Baericke* 1981: 60; *Seitz* 1920: 33; *Suchier* 1918: 25; 63.

439 *Ritchie* 1915: 54; BAB R 1001/6645: 88, radio KGW to all stations, 24.10.14.

440 *Park* 1916: 116; 130 claims that until 'end of March wireless messages were being received at Windhuk direct from Berlin', which is an exaggeration; BAB R 1001/6645, 12 KGW to Vice-Consul Schöss, 29.08.14; R 1001/6634: 161, Eickhoff to RMW 15.11.21, Ax 14 Memo All., 23.5.22; cf. *Crabtree* 1915: 390; *Roscher* 1925; *Marguerat* 2006: 109-113; *Klein-Arendt* 1995; *Mantei* 2004.

441 TNA FO 371/1884: 366, French Embassy to FO, 9.10.14; NAN A.566 v. 2: 6, Schmitt to parents, 5.2.15.

442 *Friedewald* 2001: 56; *Baum* 1919: 597; cf. *Thurn* 1912; *Doß* 1977: 46f.; *Suchier* 1918: 77.

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Commander Heydebreck was less than pleased with Seitz' intention to inform the world about the Naulila incident. He was, however, equally concerned about Kuring-Kuru and advised to either "substantially reinforce or withdraw" the station. Still on October 24, in the afternoon, Seitz justified his radio telegrams by pointing out that the "murder… proved the start of Portuguese hostilities", thus German ships must be warned of Portuguese war ships. However, Heydebreck – apparently aware that radio-telegrams could for technical reasons only be sent after midnight – insisted that a general notification was "questionable". Seitz then ordered via telegram his engineers at the wireless stations in Windhoek and Aus to abstain from sending the messages about Naulila "for the time being". Whether or not the telegram from Windhoek reached Aus (in the far south of GSWA) before midnight or not would later become an important question. After the war, the Germans claimed that they had indeed sent the wireless messages so that also stations in Angola would have received them.[443]

Still on October 24, Seitz and the Police Commander, Lt. Colonel Heinrich Bethe, decided to order their forces at the police station Kuring Kuru to attack Fort Cuangar. A telegram was sent to Grootfontein, the nearest district office, ordering to "burn down" Cuangar and to "give no quarter". The press in GSWA was immediately informed about the Naulila-incident; the call for revenge became widespread. More than 200 kilometers north of Grootfontein, the head of Kuring Kuru, Constable Oswald Ostermann, received Bethe's order on October 29 – a time lag known to Seitz and Bethe. The next day, *Rittmeister* (cavalry captain) Lehmann, military commander of Grootfontein, arrived with seven men.[444]

It must be noted that historians have argued the Germans had the "strategy" to compel Portugal to "abandon its position of neutrality through a contrived border dispute and associated incident. This action would serve as a pretext to provoke a break with Portugal", i.e. to wage war against it and annex Angola to fulfill the German dream of *Mittelafrika*. Even though the war aim of *Mittelafrika* was indisputably formulated in August 1914, it goes by itself that a close reading of the archival material does not allow for such an interpretation. The incident in Naulila was caused by too many variables in order to be planned by German "strategists". Also, the later course of action taken by the Germans, most of all the cumbersomely

443 BAB R 1001/6645, Telgr KGW to Cdr; KGW to wireless stations; Cdr. to KGW, 24.10.14.

444 BAB R 1001/6645, 126, Telgr Bethe to Lehmann; 90, KGW to Press, 24.10.14; cf. *Historicus* 2012: 34; *Oelhafen* 1923: 91f.; *Suchier* 1918: 32; *Hennig* 1920: 112.

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long preparation of the campaign against Naulila, does not give the impression of a well-prepared "strategy" to send troops against the Portuguese.[445]

Fort Cuangar had been erected in 1909, when the lower Kavango area was first occupied under the command of District Governor João de Almeida. The Kavango valley became an important corridor for Portuguese colonial activity in southeastern Angola. Cuangar was chosen to be the administrative center (*capitania mor*) of the military district Lower Kavango (*Baixo Cubango*). It was headed by the *Capitão mor* Silva Nuňes later by Lieutenant Joaquim F. Durão. Under his command fortresses along the lower Kavango were erected: Bunja, Sambio, Dirico, and Mucusso. Fort Cuangar, located around 300 meters off the river on a hill, could be described as a military "village", manned in 1914 by two officers, five non-commissioned officers, five European and around eighty African soldiers of the "native company 10/V".[446] In the immediate vicinity the families of the African soldiers lived in a "particular village" (*sansala*) an enclosure with a diameter of around 50 meters. From time to time, also Portuguese itinerant traders inhabited the surroundings.[447] Around the fort, agricultural works (vegetables) were executed. Governor Almeida intended to improve the meals of his men and hoped to make his forts less dependent on canned meat that had to be transported at high costs from the coast.[448] More than twenty mules warranted the transport of goods and personnel. Even a longboat (called *Cunene*) anchored in Cuangar. It was used to patrol the river and to supply the smaller forts Bunja, Sambio, Dirico, and Mucusso.

445 *Cann* 2001: 147 ref. *Stoecker* 1986: 284; 1991: 251 cit. Jagow to Zimmermann, 21.8.14.

446 BAB R 1001/6639: 190, testimony of Lt. Santos, 1.7.25 Officers: Commander Lt. J.F. Durão, supported by Lt. José Souza Machado; NCOs: Sergeant Major Americo Cabral, Sergeants Julio Santos, Americo da Rocha, Alberto Perreira, José Freire d'Abreu.

447 BAB R 1001/6639: 108, testimony of da Rocha, 30.4.25.

448 PA R 52534, Réplique du Gouv. Portug.: 53,~15.4.29. Allegedly the fields were 'champs d'expériences pour les cultures indiquées par les services agronomiques officiels'.

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Ill. 18, 19 "Fort Cuangar, Juin 1914"

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Ill. 20 "Fort Cuangar", photo: Carl Singelmann, 1911

In the beginning, relations between Fort Cuangar and the German police station Kuring Kuru were not free of frictions due to the disputed borderline from the Kunene to the Kavango River. Kuring-Kuru was founded (first as a small straw hut) in 1910 in reaction to the Portuguese expansion. The policemen's task "was not to implement German law and order in the region, but rather to observe and control the Portuguese activities". The latter understood this move as an infringement of their "suzerainty" over the Kavango people; also, the Germans prevented their colonial neighbors from using the river's southern ("German") bank. In 1914 two brick houses had been erected, military aspects were neglected. After all, Kuring Kuru was administered by the colonial police and manned not with soldiers, but with three police officers, five "native police servants" (*Polizeidiener*), and three workers. The neighboring villages (~1,000 inhabitants) were headed by the old Chief (*hompa*) Himarua and his nephew, the "pro-German" Kandjimi Hauwanga. In August 1909, the latter had signed a "treaty of friendship" with the German Lieutenant Zawada, who prepared the founding of the police station. Zawada immediately informed Governor de Almeida of this move. Personal relations of the garrisons became cordial. The Commanders Lieutenant Durão and Constable Oswald Ostermann

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regularly visited each other. Since 1910 the Germans reported to have been "showered with amenities" by the soldiers from Cuangar. In mid-August 1914 Ostermann learnt about the war in Europe. He understood that Portugal had joined the war against Germany and informed Durão.[449]

At the end of October, the news about the Naulila incident had probably not yet arrived in Fort Cuangar. The connection over 430 kilometers via other forts by cable and messengers was tedious, especially since parts of the area along the German-Portuguese border were known to be "Bushman land" not to be crossed by "other natives", as the German soldier Mattenklodt described it.[450] The Portuguese later claimed that both commanders had concluded a gentlemen's agreement to inform each other when they received the order "to fulfill their military duty". Durão therefore did not carry out precautionary measures.

In 1914, Fort Cuangar consisted of four long houses arranged in rectangular form, built of either adobe or *pão pique* (wattle-and-daub). These buildings were surrounded by an embrasure earthen wall of around 1.70 meters height with two elevated bastions and encircled by trenches, built in 1909, when the "peaceful character of the natives" had not yet been established. However, the trenches were dilapidated and the two rows of barbed wire fences supposed to cover the earthen wall around the fort were broken. Cuangar was equipped with two old 7 cm cannons "in very bad condition", as the former Sergeant Alberto Perreira remembered. There was no artillerist to operate them, and there were no maxim guns. Henry-Martini rifles were available in sufficient numbers, though there was not enough ammunition. Portuguese witnesses later justified this neglect with reference to the good relations they had with the "per se peaceable natives" and the Germans. It had thus never been considered to "use the fort for military purposes".[451] It was claimed that there was even no surveillance of the immediate vicinity of the fort.[452] These testimonies may also be read as a retrospective rationalization of the unlikely German

449 *Eckl* 2007: 12; 2004: 187; *Zollmann* 2010: 327; *Santos* 1978: 153; BAB R 1001/6639: 201f., testimony M, 5.7.25; R 1001/2185: 132f, Hpt Witte, report on border [~11/1911]; NAN ZBU 1010 J XIII b 4: 211, Report Okavango Expedit., Dias to Zawada, 19.11.; resp. 26.11.09.

450 BAB R 1001/6639: 201, testimony M, 5.7.25; p. 187, Consul Robern to AA, 6.7.25.

451 BAB R 1001/6639: 193f, testimony of Lt. Santos, 1.7.25; p. 201, testimony of 'M', 5.7.25; BAB R 1001/6640: 108, extra-file p.11, testimony of Lt. Perreira, 4./6.7.25;

452 BAB R 1001/6639: 4, extra-file: 22, Questionnaire, 4/24.

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success in conquering the fort. In general, the Portuguese manpower and equipment was superior to their adversaries.

There were rumors that Fort Cuangar would soon be attacked by the Germans. At the end of October the Germans had dug trenches on their side of the river and had piled up sandbags. They tried to hide the arrival of reinforcements. Lehmann's ox wagon was left in the bush, but his arrival was reported to Durão. Nevertheless, he was taken by surprise when the twelve Germans attacked at 4 in the morning on October 31. It has been assumed that Ostermann "very reluctantly obeyed the order to attack the Portuguese post at Cuangar", but he faithfully followed his orders to "give no pardon".[453] "Their action was prompt, decisive, and brutal." Durão slept in his house 200 m away from the fort. Also, the other European and African soldiers did not sleep inside the fort but in their huts erected 50–100 meters away. During the night of the attack, Fort Cuangar was guarded by one Sergeant and three to six African soldiers while Lieutenant Machado and four other soldiers slept inside the fort. The German police squad, equipped with rifles and two maxim guns, had crossed the Kavango River a few kilometers downstream. They first blindsided the guards of the fort and killed Lieutenant Machado and four men. Waking up from the noise, Durão and his sergeants did not know yet that the Germans had already taken the fort. They ran into the direction of the fort in order to gain access to their guns but were shot, since the Germans had mounted a maxim gun on a bastion and fired into the direction of the surrounding huts. They not only killed Durão and other soldiers but also the trader Nogueira Machado and his family sleeping in their ox wagon.[454]

The attack lasted for around 1½ hours. Nine Portuguese and 14 African soldiers were killed during the raid. The unlikely 'victory' of twelve against almost 100 men was soon called a "massacre". The Portuguese claimed that the Germans had used dum-dum bullets, had shot wounded soldiers and killed their wives and children. It was said that the Germans had been supported by "many natives of chief Assonga" or (Kandjimi) "Auanga" of Cuangar and others coming from GSWA. Since 1911, the latter was considered a "German spy tasked with creating border inci-

453 *Southern* 2007: 10; cf.*Morlang* 1998: 43; *Baericke* 1981: 63 Durão Ostermann's friend.

454 AHU MU DGC Angola, Pt 5, 5ª Rep, Cx.996, telgr. Capitão Mor Alto Cubango to Gov. Lubango, 15.11.14; BAB R 1001/6639: 109, testimony da Rocha, 30.4.25; *Cann* 2001: 151.

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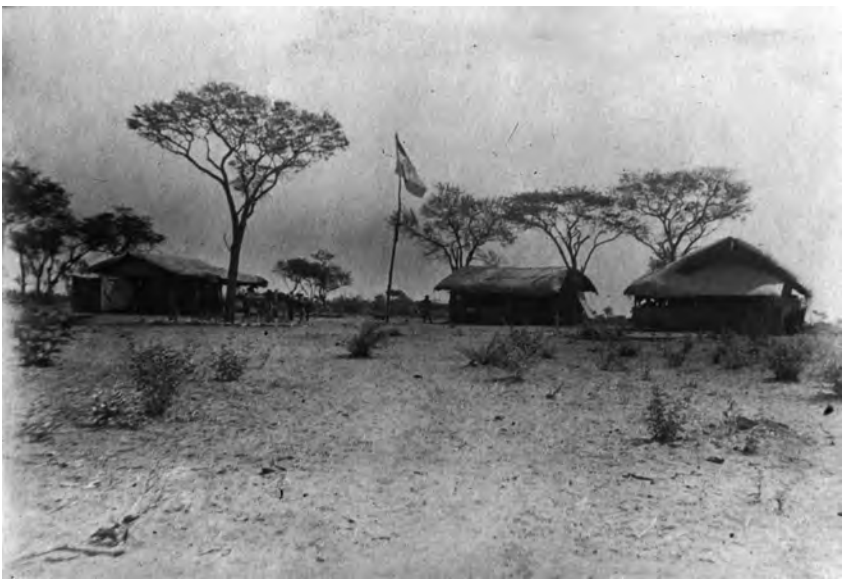

Ill. 21 "Station allemande de Kuring Kuru, 1911"

Ill. 22 "Station allemande de Kuring Kuru, 1914"

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dents."[455] In 1915, a British source reported that "Kanjemi … offered his assistance … [but] was refused". He was "however permitted to loot and to pull down the earthworks". The fort was dismantled to prevent the Portuguese from using it as base for expeditions against GSWA. The fort's livestock was distributed among the "German natives"; the rest of the booty was taken to Grootfontein.[456] The large amounts of food and ammunition found were taken as proof that Portugal was preparing to invade GSWA.[457]

After the destruction of Cuangar, Ostermann continued to raid Portuguese forts along the Kavango. On November 4 and 8, he burned down Bunja and Sambio. The Portuguese soldiers already knew about the destruction of Cuangar and had left their forts before the arrival of Ostermann. On November 12, the troops in Fort Dirico were defeated and the fort was destroyed too. Four days later, Fort Mucusso was taken and destroyed by the "marauding Germans" without fighting. Portuguese soldiers escaped into the 'bush'. Some arrived in December in Fort Cuito Cuanavale; a few prisoners were taken to Grootfontein.[458] Even the British in the occupied "Caprivi Strip" learnt that the "fort at Libebe … was captured and burnt by a German force composed of considerable number of natives with about fifteen Europeans [on November 26]."[459] The Portuguese "post A" (Porto Luso/Caiundo) at the Kavango River was destroyed by Africans after the soldiers had escaped, expecting the Germans to turn towards them. No doubt, chief Kandjimi Hauwanga sided with the Germans. Having lived with his people on both sides of the river, he decided to settle on the German bank.[460]

455 AHM/Div/2/2/60/11, Reocupação do Cuangar, in: *Dáskalos* 2008: 186; BAB R 1001/6639: 193-6, testimony Lt. Santos, 1.7.25; 203, the spelling of the chief's name was inconsistent; *Baericke* 1981: 21; 63 Seitz prohibited the 'use of native troops'; *Stals* 1984: 114.

456 TNA FO 371/2231, Gen Smuts to GG Buxton, 15.10.15; BAB R 1001/6634: 162, Ostermann to RMW (27.06.21), Annex 15 Mémoire All., 23.5.22.

457 BAB R 1001/6634: 155, Vageler to KGW (~11/1914), Annex 11 Mémoire All., 23.5.22.

458 AHU MU DGC Angola, Pt 5, 5ª Rep, Cx.996, Report d'Oliveira on Cuangar, 31.12.14; Report Vasconcelos e Sá on Cuangar, 26.1.16; *Southern* 2007: 11; *Oelhafen* 1923: 92.

459 TNA FO 371/1882: 80A, Telgr. High Com. South Africa to SoS Colonies, 15.12.14.

460 Damian Nakares account of Kwangali history: 101-121, in: *Fleisch/Möhlig* 2002.

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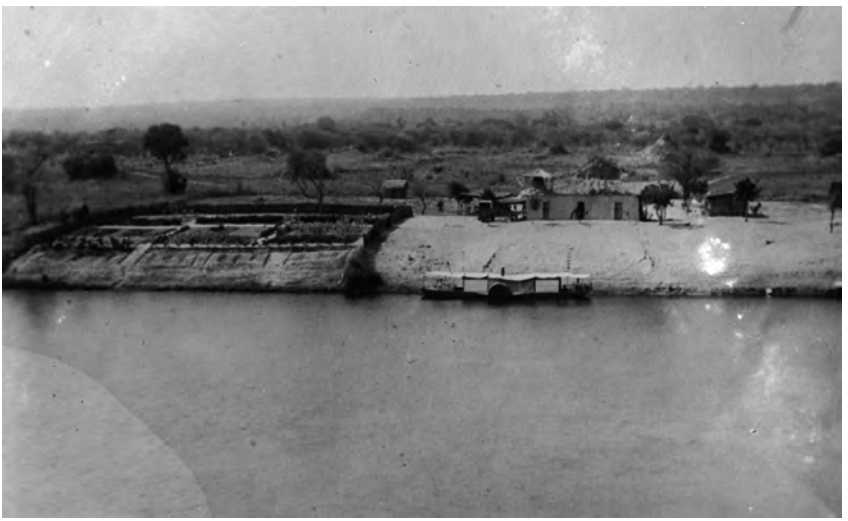

Ill. 23 "Fort Luzo am Okavango"

After this second border incident, confusion was rampant in Europe as well as in Africa. The German Foreign Office wondered about a "German incursion" into Angola.[461] The Foreign Office in London was directly informed by Consul Hall Hall from Luanda who had spoken with the Governor General about the "massacre" in Cuangar. Hall Hall also pointed out that troops were on the way, but due to the distance could not arrive "for some considerable time." It seemed "difficult to see how war between Germany and Portugal can be much longer postponed."[462] "In south[ern Angola] panic reigned" after the six forts along the Okavango River had been destroyed. "Merchants and officers tried to hide their valuables in the Spiritan mission station of Catoco, assuming, it would not be pillaged by the Germans. At the same time, it was well known in the region that a grand army expedition was on its way to fight the Kwanyama and, first of all, the Germans.[463] However, as Spiritan Prefect Keiling deplored, discipline was at a new low. The head of the military Upper Okavango district, commanded the "misery" "without instructions and is drunk most of the

461 BAB R 1001/9025, Bl.4, Tlgr AA, 31.10.14; *Journal of Afric. Soc.* 15 no.59 (1916): 284.
462 TNA FO 371/1884: 438, Brit. Consul Luanda to FO, 17.11.14; 437, internal remark, FO.
463 AGCSSp 3L1.11b6, Keiling (Cubango) to TRP, 1.12.14.

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time".[464] In Luanda, where pro-British demonstrations had been staged by the Municipality and the *Associação Comercial*,[465] the Governor General saw his convictions about German aggressiveness once more confirmed. He assumed that Cuangar was a German reaction to Naulila. The information given to the provincial press at the end of November listed the number of deaths in both incidents.[466] Norton de Matos related the events to the German Consul and expressed his belief that the Governor in Windhoek did not know about the incidents in Naulila and Cuangar. He also informed Eisenlohr that he had told Commander Roçadas via telegram not to cross the German border under any circumstances. The official report of the Governor General on the incidents was available in November. A few days later Consul Eisenlohr learnt about the incident from a German perspective since the expelled Vice Consul Schöss had arrived in Luanda in the meantime. Schöss knew about the events from Pieter van der Kellen who had been with Vageler to Erickson Drift where they met the remainder of the German patrol.[467]

Consul Eisenlohr – left without any information from Windhoek and depending on hearsay – believed in an unfortunate sequel of misapprehensions, but was unable to convince Norton de Matos of it. As a show of goodwill, he informed the Governor General about Otto Busch's food storages.[468] On November 20, Eisenlohr even suggested that they might go together to the border to clarify the situation and to avoid further confrontation that may lead to "international imbroglio". Norton de Matos did not believe the consul, as he had already received an intercepted German telegram stating "Franke is marching against the Portuguese". Pointing to the general prohibition of the usage of telegraphs, he even refused Eisenlohr's proposal to contact his counterpart in Windhoek via the wireless apparatus of the German steamer *Adelaide*. It was claimed that Norton intentionally prevented the sending of a peace negotiator, as ordered by the Minister of Colonies. Instead, the Angolan authorities were eager to procure evidence of a German complot. Already before the incidents at the border became known, the press in Angola constantly conveyed the message of

464 AGCSSp 3L1.11b5, Keiling (Gallangue) to TRP, 10.11.14.
465 PA Luanda 3 (Krieg, v.II), Câmara Municipal de Loanda: 'Ao Povo', 25.10.14.
466 PA Luanda 3 (Südwest Krieg) *A Provincia* no. 140, 23.11.14. 'Noticia...a conhecer a morte de tres oficiais alemães, um official portugues, um sargento e diversas praças'.
467 PA Luanda 3 (Südwest Krieg) German Consul Luanda to DGL, 25.11.14: 5/9.
468 PA Luanda 3 (Krieg, v.II) German Consulate Luanda to DGL, 18.12.14.

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the German threat to Angola.[469] Consul Eisenlohr deplored widespread anti-German rumors: The ethnologist Dr. Schachzabel was allegedly the head of a "negro plot [*Negerverschwörung*]".[470] Also the consul "had allied [him]self with the *Africanos*, in order to topple Portuguese rule in Angola". Eisenlohr complained to the Governor General about a "hysteria" concerning reputed German zeppelins and airplanes in the Benguela hinterland. Norton de Matos played down these rumors; but to avoid further friction or even violence, he asked Eisenlohr to help him with the removal of all Germans from the interior of Angola to Luanda or Europe.[471]

2.5 The Build-up of the Army in Angola, August–December 1914

Having neither declared war on Germany nor its neutrality, but placing emphasis on its alliance with Great Britain, the position of Portugal was ambiguous in the early months of World War I. Unquestionable, however, was the republic's stand towards its colonies: defending the overseas territories at all costs. In Angola this included a double task since the occupation of Kwanyama territory had been already planned, and suddenly in the same region a second threat had seemed to materialize – a possible German invasion.

In his memoirs, Norton de Matos related how he explained to President Machado on August 4 that once war was declared, "numerous German troops … would invade southern Angola" and occupy the harbors of Lobito and Mossamedes". He therefore urged preparations and sending a strong expeditionary force. Shortly before he returned to Luanda, Colonial Minister Lisboa de Lima informed Norton that a declaration of war should be postponed as long as the troops had not arrived in the colonies and that negotiations with the British were ongoing about the "collaboration" between their troops in Africa.[472] Thus, Angolan troops were to be reinforced with troops from Portugal as soon as possible. On August 18, 1914, the Minister of War, General Antonio J. Pereira de Eça (1852–1917) ordered Lieutenant-Colonel José A. Alves Roçadas (1865–1926) to take over the task of leading the troops to Angola in order to subdue the

469 PA Luanda 3 (SW Krieg) Germ. Consul Luanda to DGL, 25.11.14; *Baericke* 1981: 38; 64.
470 PA Luanda 3 (Südwest Krieg) Schachzabel to German Consulate Luanda, 13.11.14.
471 PA Luanda 3 (Südwest Krieg) Remark German Consulate Luanda, 12.11.14.
472 *Norton de Matos* 1946 vol. IV: 84, transl. in *Baericke* 1981: 28; cf. *Afonso* 1989: 282f.

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Kwanyama, who continued to "raid unpunished the Kunene margins" *and* to safeguard the border with GSWA. Rumors about an "understanding between the Germans and these natives" had reached Lisbon in the meantime.[473] Roçadas, a former *aid-de-camp* of King Dom Carlos I., who in 1910 as Governor General in Luanda had organized the colony's smooth transition from monarchy to republic, was considered an "experienced Africa-hand" and "hero" of the war in southern Angola in 1907. Given his experience, Roçadas was "seen as the natural choice". He informed Governor General Norton de Matos, at the time 'only' a major, of his tasks. He requested the mobilization of Africans and Europeans in Angola, as agreed with the Minister of Colonies. The cooperation between Roçadas and Norton, however, remained strained.[474]

It has been stated that the "colonial policy of the republican regime was absolutely chaotic."[475] Nevertheless, during the war the government in Lisbon managed to send thousands of troops back and forth between the metropolis and the colonies. Roçadas' expeditionary force of 1,569 men (infantry, artillery, cavalry, engineering, and ambulance corps) left Lisbon on two steamers on September 10 and 12. They arrived in Moçâmedes on September 27 and October 1 (with Roçadas). While it has been argued that the number of soldiers "showed some naiveté, given the resources and the tasks assigned", the climatic, hygienic, and infrastructural aspects of the bush warfare should also be considered. The decree of the Ministry of War of August 12, 1914, appropriating 1,000,000 Escudos for war materials explicitly mentioned that the current state of materials was "insufficient".[476] However, the money provided did not solve all issues. Portuguese troops in southern Angola had serious problems of adapting to the African theater of war: According to Portuguese sources the men raised in Portugal were "less than well kitted out for campaigning in Africa. It was noted that the soldiers' poor quality uniforms and boots very quickly came apart at the seams."[477] It was wise not to send too many soldiers from Portugal. Especially once the rainy season was imminent with its "torrential downpours … that brought the *calenturas*, or fevers … Contingent after

473 PA Luanda 3 (Südwest Krieg) *Jornal de Benguela*, no. 34, 26.8.14; *Samson* 2013: 77.
474 *Pélissier* 1969: 87; 100; *Southern* 2007: 7; *Regalado* 2004: 83; *Norton* 2001: 209.
475 *Pitcher* 1991: 65 referring to *Clarence-Smith* 1985.
476 NARA RG 84, Lisbon, v. 134: 800, USC General to SoS, 18.8.14 (Decreto Nº. 753).
477 *Southern* 2007: 6f., referring to *Ferreira* 1934: 134f.; *Fraga* 2010: 125f.

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contingent of European conscripts sent to support the military manoeuvres of Portuguese conquest sickened and died away in disabling numbers."[478]

Since September, Portuguese authorities in southern Angola were ordered to closely watch and report any suspicious German or African action in or near Portuguese territories or along the coast of the Atlantic.[479] On September 16, when the engineer Schubert of the Study Commission arrived in Lubango he noticed "feverish, warlike activity" to accommodate more troops. Artillery exercises were held for several days. The Governor General himself went to Moçâmedes to welcome the troops from Portugal. He urged Roçadas to wait with an attack on the Kwanyama since the worst was to be expected from the Germans. But Roçadas neither accepted him as superior nor did he believe in an imminent German invasion. Two days later, in Lubango, Norton de Matos lambasted internal and external enemies of Angola in a public address. When Schöss requested an explanation for the war preparations, Norton de Matos referred to the Kwanyama expedition and refused to inform GSWA's Governor about these plans.[480] In addition to the expeditionary forces, around "2,000 black troops [were now stationed] in south Angola". Given these war efforts, the Portuguese Foreign Minister considered it advisable that the Cape Government should consult directly with Britain's Consul in Luanda about defense matters; a suggestion that "seem[ed] scarcely desirable" to Colonial Secretary Harcourt.[481]

It took more than a month to transport all men and load across the desert from Moçâmedes inland. The incomplete Moçâmedes railway reached only 180 kilometers to Vila Arriaga and could not be fully used. From the railhead to Humbe it was more than 200 kilometers over bad roads. For want of trucks 1,200 tons of load, including nine guns and six heavy machine guns, had to be transported with a limited number of porters and slow ox-wagons. The lack of water and pasture for grazing took a heavy toll on animals and soldiers. The forces from Portugal, Mozambique, and those locally recruited, numbering now around 3,000 (Prefect Keiling even mentioned 5,000[482]) men, were ordered to march to Lubango. There, the first column arrived on October 18. "Roçadas then

478 *Miller* 1982: 23; BAB R 1001/6634: 39f., expt Dossier 2, 1-2 Mémoire justif., ~3/22.
479 BAB R 1001/6641: 12, extra-file: 30, statement Commander Antonio F. Varão, 11.11.21.
480 BAB R 1001/6634: 85f., Report Schubert, Ax 1 Memo A., 23.5.22; *Baericke* 1981: 36.
481 TNA FO 371/1884: 424, BML to FO, 23.10.14; CO to GG South Africa, 26.10.14.
482 AGCSSp 3L1.11b5, Keiling (Galangue) to TRP, 2.10.14 '5000…en route'.

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took over stewardship of the [Huíla] district and, with his staff officers, began to prepare his force for possible hostilities." At the same time several Afrikaaners were requested by the authorities to take part in the expedition against the Kwanyama.[483]

The new District Governor was immediately informed about the ongoing German attempts to transport food across the border to GSWA. The district's state of emergency declared on September 12 put Roçadas in a comfortable position to impede any moves of the Germans. In addition, it was prohibited to build up victuals for more than eight days; otherwise the authorities were entitled to confiscate the excess. The addressees of these provisions were evidently the Germans. King Mandume or other African leaders, against whom the Portuguese allegedly built up their forces, were hardly affected.[484] In the following weeks the moves of the German traders were closely watched by Roçadas' men. It was assumed by the German Consul that one reason for the Portuguese being so well informed was that in the interior of Angola officials did not hesitate to open German letters; after all, the Governor of Huila had requested an interpreter of German to "verify" all the information that was coming from the neighboring colony.[485] Roçadas was eager to expose the entire German network in southern Angola. In Lisbon the daily *A Capital* even assumed that the declaration of the state of emergency was related to the "espionage" of the German Consul.[486] Vice Consul Schöss was arrested on charge of high treason. It was claimed that he had spied on Portuguese documents by bribing a subaltern official to copy for him a military report about the "neutral zone" between Angola and GSWA. However, Schöss stated to his superior Eisenlohr that this "unfounded" claim was not related to the border incidents but was already under discussion since January 1914.[487] The Governor General sent a letter of complaint to the German Consul in Luanda about the conduct of Schöss. Given the embezzlement of documents, he considered him a German spy who had to leave the colony. Also Piet du Plessis (who had taken Busch's letter to Outjo) was exposed for working for the government in GSWA.[488]

483 *Southern* 2007: 7; BAB R 1001/6634: 82, Report Schubert, Ax 1 Memo All., 23.5.22.
484 BAB R 1001/6634: 156, Vageler to KGW (~11/14), Annex 11 Memo Allem., 23.5.22.
485 PA Luanda 3 (Südwest Krieg) Csl Luanda to VK Benguela, 15.11.14; *Dáskalos* 2008: 184.
486 PA Luanda 3 (Südwest Krieg) *A Capital* No. 159, 24.10.14 sent by DGL.
487 PA Luanda 3 (Südwest Krieg) German Consulate Luanda to DGL, 25.11.14.
488 PA Luanda 3 (Südwest Krieg) Chefe de Gabinete to German Consulate Luanda, 28.11.14.

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Following the Naulila incident and his own enquiry, Roçadas expulsed all Germans from his southern district which he considered to become soon a theater of war in case of German retaliation. However, he had difficulties to assess how and where to distribute his troops, assuming the Germans could attack anywhere along the border, be it across the Kunene or across the Okavango River. Lack of intelligence on the military situation in GSWA prevented him from recognizing that a German campaign to "take Porto Alexandre or Moçâmedes should have appeared remote." First squadrons under Major Salgado and Lieutenant Aragão reached the Kunene River (Vau dos Elephantes, Zwartsbooi Drift, Erickson Drift) on November 12 to reconnoiter possible German movements and advanced to Fort Rocadas where they arrived on the 17th.[489]

In October, the Portuguese government authorized "a special credit of 500,000 escudos to defray the expenses" of the expedition to Angola. Portugal was now "*de facto* at war", but no declaration of war followed from either side.[490] The British informed the Portuguese that "cooperation between Union forces and Portuguese forces in Angola would be impossible owing to the distance which separates them." The Portuguese were thus left alone with the defense of Angola. Luanda requested further reinforcements. Their possible employment in the south was to be "kept secret". After all, "the main question" whether Portugal would send troops to France to fight against Germany, had to be seen now in a different light.[491] Minister of War Pereira de Eça, an ardent interventionist, "had ignored the reality of the army under his command." There were neither enough men nor modern equipment available to defend simultaneously Portugal, the colonies, and a sector of the Western front. The republican reforms aiming at the modernization of the forces were still being implemented and the military's finances were in dire straits.[492] Even the mobilization of fresh troops for the colonies proved difficult. Infantry battalions embarked in Lisbon only on December 10. For fear of German attacks on the convoys, the British Admiralty was repeatedly requested to warn H.M. Cruisers "to keep a look-out for" the Portuguese transports.[493] They landed in

489 BAB R 1001/6640: 111, extra-file: 14; 35, testim. Norton de M., 5.5.26; *Cann* 2001: 152.
490 NARA RG 84, Lisbon, v. 151: 851, USML to SoS, 31.10.14; *Teixeira* 2003: 24; 1998.
491 TNA FO 371/1884: 428, FO to BML, 28.10.14; 430 internal remark FO, 28.10.14.
492 *Meneses* 2010: 42; *Teixeira* 2003: 24
493 TNA FO 371/1884: 45, Port. Minister London to FO, 8.11.;52, Admiralty to FO, 11.11.14.

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Moçâmedes on December 24 where they stayed until March 1915.[494] The troops were lucky to have missed one of the worst defeats the Portuguese ever suffered in Angola.

2.6 Colonial Armies on the Southern African Battlefield, 1914–1915

It has been argued that one of the characteristics of World War I in Africa is that it was a European conflict fought by Africans on behalf of their 'masters'.[495] The war in GSWA and the Luso-German border war were the exception to this rule. The majority of the combatants came from Europe. The participation of Africans was nonetheless distinct and relevant.

For a better understanding of the political and social context of the colonial armies that turned into inadvertent foes it will be helpful to analyze first their institutional background. A brief description of the South African invasion of GSWA will then be followed by an account of the battle of Naulila, the resulting Portuguese retreat and the German surrender.

2.6.1 An Ancient Institution – the Portuguese Colonial Army in Angola

Portugal's armed forces were the guarantor of the Empire, the "stronghold of sovereignty"; tasked with safeguarding the "integrity of the kingdom" (that included all colonies, Articles 2; 119 of the Constitution of 1838) against internal and external enemies. Their norms and values were focused on these two aims and internalized through centuries of colonial service.[496] Since the 1870s the importance of "colonial service in military careers" grew considerably.[497] The humiliation of the "ultimatum" in 1890 led to a process of reorganization of Portugal's armed forces. The need to create a modern army modelled after European competitors seemed evident to politicians and administrators. The objective was to render the troops more operational and to equip them in a way so that they could accomplish their duties. "There was no close identification between the monarch and his army", but the latter gained in reputation since the con-

494 *Sousa* [n.d.~1935]: 13f.
495 *Michel* 2004: 925.
496 General José A. L. dos Santos, in: *Cristóvão* 2007: 320; cf. *Hespanha* 2004.
497 *Tavares de Almeida/Silveira e Sousa* 2006: 113.

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quests in Mozambique which raised patriotic sentiment towards the colonies. Public opinion in Portugal celebrated the "heroes" of the "generation of 1895". In the following years army and navy assumed a more important national role than hitherto. It was said that officers should be liberated from "ministerial tutelage".[498] For a long time, Portugal's colonial affairs were jointly administered with the navy by the Ministry of Navy and Overseas (1835–1910). Only in 1911, after the revolution, was an independent Ministry of Colonies established. However, also later the colonies could count on the 6,000 navy men, "many of its officers carrying out official jobs in the colony." The army consisted of about 13,000 men "scattered all over the Empire; from these less than 4,000 were Europeans". Attempts since 1911 at army-reform laws according to the republic's needs had "required funds which were not at hand".[499]

Traditionally, the majority of Angola's troops were stationed in Luanda. In 1815, for example, 1,153 soldiers accounted for 25 % of the city's total population and for 90% of the administrative personnel.[500] In 1874, six battalions of infantry and one of artillery were stationed in Angola. America's commercial agent reported:

> "The soldiers are composed chiefly of convicts from Portugal. The officers are in part from the mother country and in part provincial. These unfortunate convicts, badly fed and poorly paid … very soon fall victims to the climate. Their places are immediately supplied out of the fresh arrivals that come by every mail steamer. A large number of these poor fellows come out here for trifling offences along with others who have committed hideous crimes. I have often thought the justice of Portugal too severe in passing a sentence of three years service as a soldier in Angola."[501]

The recruiting of the colonial forces in Angola remained rather particular. Angola's "first-line army" staffed by European soldiers barely numbered 2,000 men. The government assumed that "the fewer European recruits and formal civilian militia the better – since these were a possible threat in times of discontent". According to historian Douglas Wheeler, "[o]fficers for the European part of the army were hard to obtain" and "in short sup-

498 *Meneses* 2010: 9; *Fernandes* 2010: 100f.; US Minister Birch assessed acidly that the army played a 'vicious role' in Portuguese politics. He considered the army 'useless' and without 'real benefit to the country' (NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 1.9.19: 15).

499 *Tavares de A./Silveira e S.* 2006: 117; *Almeida-Topor* 2010: 51f; *Wheeler* 1978: 115.

500 *Curto/Gervais* 2001: 4; 31 FN 70; 54 Table V.

501 NARA RG 84, Loanda, v. 2, USCA to SoS, No. 89, 2.5.1874.

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ply for Angolan service".[502] Traditionally, victories in Africa were less celebrated "than their Brazilian counterparts, and rewarded much less richly than military service in Asia."[503] The upper echelons of the army could view the colonies "as a means of expanding career prospects".[504] Indeed, "military training was the prevailing educational background of the political and administrative heads of the Colonial Office."[505] However, for ordinary "Europeans, Angolan service acquired a just reputation of deadliness: poor pay, unhealthy climate, African hostility, isolation, living expenses usually twice those in Portugal, long term of service (four to six years), and few opportunities for advancement at the lower levels."[506] Given the "expenses and European high mortality" Lisbon avoided sending expeditionary forces and used them only in times of extraordinary crisis.[507]

Considering costs, equipment, and adaptability, "[e]mploying African troops was considered a wise expedient". Therefore, the "second-line force", the *guerra preta* (black war), appears to be the most decisive factor of Portuguese conquest and survival in Angola. An officer once bluntly stated "that to the African, more adapted to the climate and much cheaper, the role of *chair à canon* will be reserved". Furthermore, "it was expected that military service would act as a powerful 'civilizing' mechanism, or, in the words of Govenor General Norton de Matos, as 'one of the most effective mechanisms for opening a breach in the tenebrous primitive civilizations'."[508] The most legendary of these "native forces", the French *tirailleurs sénégalais*, founded in 1857, appears young in comparison with similar Portuguese institutions. African auxiliaries were employed since the sixteenth century. *Guerra preta* battalions could be (forcibly) raised by loyal chiefs (*sobas*), or "ordered on a more regular footing with salaries, and sometimes uniforms." The "chief advantage [of this system] …was its rapid mobilization in a crisis".[509] As in any other African colony, "African

502 *Wheeler* 1969: 427; 429 on 'several nineteenth century, European led revolts in Luanda'.
503 *Alencastro* 2011: 45.
504 *Clarence-Smith* 1979a: 172; cf. *Corrado* 2008: 29f.
505 *Tavares de Almeida/Silveira e Sousa* 2006: 125; cf. *Samson* 2013: 32.
506 *Wheeler* 1969: 427.
507 *Wheeler* 1968: 54,~50% mortality from malaria/yellow fever during expeditions in 1860.
508 M. de Albuquerque, Revista Militar 41 (1889); NdM in: *Borges Coelho* 2002: 129; 134.
509 *Wheeler* 1969: 426f.; cf. *Corrado* 2008: 43.

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collaborators were indispensable".[510] "Most colonial armies were warbands of African mercenaries" and Portugal's colonial army was one of them.[511] The force was according to estimates from 5,000 to 20,000 men strong. It "was considered the backbone of the armed forces."[512] In the 1850s, Angola's cavalry, artillery, infantry, and police forces "cost the colony about 160 million *reis*, half of the colony's entire revenue."[513] Also, later on, "Portugal spent abnormally high amounts on [colonial] defense".[514]

Despite a tendency in historiography to assume 'Lusitanian disorder' when it comes to the institutionalization of structures, it would be wrong to assume that Portugal's colonial army was an institution lacking rules. In 1913 a decree laid out the organization of the colonial army. The integration of Africans was minutely described in this document of 147 pages (Art. 164–193), stipulating the classification, purpose, recruitment, terms of service, age (18 to 35 years of age, Art. 175 no.15), and promotion.[515] As elsewhere, Africans were excluded from ranks in the high command.[516] Furthermore, the Portuguese recruited "Boer soldiers" since the 1880s to organize "military mission[s] of primitive character".[517]

Wars in Angola have been described as *les guerres grises* (the gray wars). This wordplay can be understood not only as describing the *mélange* of colonial and native adversaries in Africa, but as pointing to the mixing of "black" and "white" that took place *within* the Portuguese army.[518] Historians have repeatedly analyzed the "Africanization" of European institutions in Africa, and colonial armies were no exception to this tendency. Overall, Portugal's army in Angola was "a *mélange* of slave soldiers, some local militia [often led by officers originating from Luanda's "creole elite"], and the contingents still commanded by African rulers."[519] Cadornega's praise in 1681 for the *Mestiço* soldiers "in the

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510 *Young* 1994: 107; cf. *Viotti* 1985: 43; *Isaacman/Isaacman* 1977: 55: 'Collaboration is a subject which is politically sensitive and often ignored'; *Lawrance/Osborn/R.* 2006.
511 *Iliffe* 2007: 199; 205; *Pélissier* 1977: glossaire 'guerra preta: *horde de razzieurs*'.
512 *Wheeler* 1969: 428.
513 *Birmingham* 2011: 92 refers to *Caldeira*, Apontamentos d'uma viagem, Lisbon 1852: 208.
514 *Clarence-S.* 1985a: 320; cf. on military spending *Robinson* 1979: 88; *Wheeler* 1978: 187.
515 AHU MU M. de Amorim, Pt 26 Angola 1917-24, Organização do Exercito Colonial.
516 *Michel* 2004: 925.
517 NARA RG 84, Lisbon v. 168: 800, USML to SoS, 18.10.19: 3 Woods.; *Pélissier* 1977: 417.
518 *Pélissier* 1977: 18; 20; *Mesquitela* 1980: 512.
519 *Isaacman* 1972; *Young* 1994: 106; cf. *Bührer* 2011 on 'trans-cultural waging of war'

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wars in the backlands against heathen inhabitants" has been often quoted. Given this historical background, it would be a mistake to speak of the East African *German* colonial army under Lettow-Vorbeck as "the first integrated army".[520]

The "ordinary manner of responding to rebellions and threats was to draw upon manpower within the territory"[521]; or, if not available or considered disloyal, to import Africans from other Portuguese colonies. African professional soldiers, or *empacasseiros*, were preferably used against enemies foreign to them. Portugal followed a policy applied also in other empires. Just as Nigeria's Haussa soldiers were sent to the Gold Coast, and the *tirailleurs sénégalais* conquered Dahomey, and men from Dahomey served in Cameroon,[522] Mozambicans were employed in Angola and vice versa. Portuguese politicians called this a sign of Imperial "solidarity" which included the "obligation to contribute [to] the integrity and defense of the Nation".[523]

However, a "considerable portion of the African soldiers in the Angolan army under Governor Paiva Couceiro (1907–1909) had been forcibly enlisted or shanghaied."[524] Often these men were brought from Mozambique to the Angolan theater of war. In 1909, with the conquest of Angola's south in full swing, the "leading Mozambican intellectual of the early twentieth century", João dos Santos Albasini (1876–1922), a journalist and political activist, witnessed in his capacity as head of native labor services in the port of Lourenço Marques the arrival of new recruits. His description in his journal *O Africano* is so poignant that it merits to be cited in full length:

> "One afternoon I happened to be on the wharves when the steamship *Freire de Andrade* … tied up. At the same moment a military force, headed by a sergeant, stopped in front of the steamer. Afterwards twenty some men, very black and very sad, began to disembark, tied together at the neck two by two. Who were these poor devils? What could be the reason for such a thing? … On the wharf a sergeant and a captain, weary and sickly, forced that rabble to get into military formation and assume a martial stance. One of the pitiful prisoners looked up at the inclement sky and out to the vastness of the sea, perhaps remembering the liberty he enjoyed as a savage, the loving company

520 *Boxer* 1963: 30 trnsl. Cadorn., História Geral das Guerras Angolanas; *Michel* 2004: 925.
521 *Wheeler* 1969: 428; *Walter* 2014: 207.
522 Cf. *Brunschwig* 1974: 58.
523 *Ferreira Mendes* 1940: 227.
524 *Wheeler* 1969: 427.

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> of ferocious, but less cruel people … and, who knows, perhaps he was remembering some three very dirty little black children in the lap of a revolting black woman …. he cried silently, the tears ran in a ribbon down his large ebony coloured face. Then one of the soldiers, a bent, crumpled and filthy man with a low forehead, who always glanced fearfully behind him – one of the numbskulls necessary for such a roundup – was delighted to catch a glimpse of his Negro crying … He grabbed the man and was vigorously applauded by a round of guffaws from his comrades: even beasts cry!
> It was five o'clock in the evening. The sun was over the side of Matolla, enveloped in its ruby-eyed ray of lights. It was about to set, to hide itself, so not to see so many things in this grotesque world. Later the blacks, still tied together by the neck, two by two, surrounded by a square of bayonets which gleamed in the sun of a just God, traveled along the road of this city [Lourenço Marques] on their way to the police headquarters – a kind of purgatory where they prepare souls for exalted bliss.
> Days after this scene another contingent arrived in this same place with this same destiny, and in Inhambane another and another, and at this hour other contingents are en route to serve the country. The country needs soldiers. Enough is enough!"[525]

This account portrays the climate of ruthlessness in which African soldiers were "conscripted". In his literary style, Albasini elevates the "savage… as a tower of humanity…amidst debauched cruelty." With a thinly veiled parody this "eloquent and passionate man" turns colonial notions of savagery and ferociousness upside-down when he contrasts the African family and the Portuguese soldier sending the 'recruits' through the hell of a boot camp to prepare them for the purgatory of war.[526] A Portuguese resident of the Zambezi Valley was scarcely less appalled by the recruitment practices:

> "They [the peasants] are all forced volunteers, except for those who are criminals, treacherously incarcerated in a manner that the metropolitan government chooses to ignore. The volunteers are recruited under the pretense of doing a particular job, and when they arrive they are suddenly detained, until the opportune moment when they are transported to military centers where they receive enthusiastic discourses on the responsibilities of military life. …"[527]

The much talked-about term "collaborator" that is used to describe "native police men" and "native soldiers" acquires a different meaning in light of the violence described by Albasini and others. These colonized men were not necessarily "willing to play their assigned parts" and yet they helped

525 *O Africano*, 19.6.1909, transl. in: *Penvenne* 1996: 444f.
526 *Penvenne* 1996: 445; 422; cf. *Hayes/Haipinge* 1997: 85
527 Carlos Wiese: Zambésia, in: BSGL (1907), transl. in: *Isaacman* 1977: 8.

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the "native policy regime to succeed"[528] – because they were compelled to do so. Given that so many men were shanghaied, disciplining the colonial agents remained a structural problem for the Portuguese Empire. The *guerra preta* not only quelled rebellions and protests; there were also numerous "army mutinies of Angolan troops".[529] Officials thus preferred to "convoke loyal African chiefs, who would come with their private armies".[530]

It is certain that other African men willingly joined the Portuguese army. Nevertheless, the term "volunteer" might be problematic since often those men registered as volunteers were in fact sent by their chiefs, rather than men who freely chose to join the army. Apart from their ability to fight, language skills made them indispensable interpreters, clerks and, at times, officers of military units. The relationship between rulers and the ruled was more complicated than the image of a dualistic colonial state might entail. In September 1914, for example, around 200 Christians of the mission station Catoco in southern Angola were enlisted, much to the despair of their Spiritan missionaries who saw their work threatened by the army.[531] Novelists have repeatedly analyzed the "basic tragedy" of Africans serving the colonizers and the resulting "clash of cultures" and transitions. Castro Soromenho (1910–68) related the conquest of the last Lunda chief Calendende and described how a lieutenant calls Tipóia (one of his African *praços*) a "brave Portuguese soldier", "which causes the puzzled African to ask how a black man can be Portuguese." The author continues to exemplify in "the faithful black Portuguese" the perversion of one's own "sense of values" which is so great that Tipóia "substitutes for his loss of cultural identity a blind devotion to the government." However, once he loses his rifle in an ambush, Tipóia is stripped off his uniform and banished to the bush after thirty years of service. His "last thread of self-respect" is broken when he returns to the bush, "symbolically naked as he came, he is neither African nor Portuguese."[532]

The interpretation of the motives and incentives for the "collaboration" with the colonial state has its own particular history. Albert Memmi, in his essay *The Colonizer and the Colonized* (1957) could see "those among the

528 *Steinmetz* 2008: 608; cf. *Lawrance* et.al. 2006: 3f.; *Zollmann* 2010: 90f.
529 *Wheeler* 1969a: 3; cf. *Corrado* 2008: 20; 102.
530 *Borges Coelho* 2002: 131; cf. *Birmingham* 1978: 532.
531 AGCSSp 3L1.11a2, Keiling to Eminence Reverendissime, 9.9.14.
532 *Hamilton* 1975: 38f. on Fernando M. de Castro Soromenho: Viragem, 1957.

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colonized who worked with Europeans only…in pathological terms."[533] In the decades since differing interpretations have gained influence that try to rationalize motives and pay "attention to non-dualistic forms of cross-cultural linkage." While some African men might have hoped to protect their own group against "historic enemies" or encroach upon the latters' territory, others wanted to reinforce a privileged position, increase their economic status, or enjoy the prestige of the military. These factors were neither mutually exclusive nor were they the only reasons for men to become colonial soldiers.[534]

2.6.2 A New Breed – the Colonial Army of GSWA

The German army (taking into account the federal structure of the German Empire: the Prussian, Bavarian, Saxon and Württemberg contingents of the *Reichsheer*) was *not* the guarantor of the German colonies. Though "the protection of the territory of the Federation" was a national objective according the Constitution's (1871) Preamble, Art. 1 defining the "territory of the Federation" did not mention the German colonies, as there had been none at the time of its drafting – and they were never included subsequently. However, Imperial legislative powers comprised "the military and naval affairs of the *Reich*" (Art. 4 no. 14). The Imperial Navy was thus early on commissioned with the 'protection' of German "protectorates" that were according to the Colonial Law (*Schutzgebietsgesetz*, 1886) under the state authority (*Schutzgewalt*) of the Emperor on behalf of the *Reich*. It was a task only reluctantly accepted. Germany's military elites of the late nineteenth century were highly critical of the colonial adventure. The former Chief of the Admiralty, Chancellor Caprivi, bluntly stated "The less Africa, the better for us."[535]

This reluctance has found its continuation in historiography. The German colonial army, the *Schutztruppe* (protection, or security force) has been recently characterized as Imperial Germany's "forgotten third military branch".[536] Indeed, classic treatises on the German military barely mention the colonial army. Gerhard Ritter's seminal *The Sword and the*

533 *Cooper* 2002: 55; cf. *Memmi* 1991 [1957]; *Shipway* 2008: 24f.
534 *Cooper* 2002: 60; *Isaacman/Isaacman* 1977: 57-61; *Michel* 2004; *Bührer* 2011: 138f.; 154.
535 *Schwarz* 1999; on colonial law cf. *Hartmann* 2007a: 53f.; *Grohmann* 2001; *Fischer* 2001.
536 *Bührer* 2011: 87.

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Scepter made no allusion to it at all. Contemporary historians could assume: "The Bismarckian Empire and the Prussian army formed an indissoluble entity."[537] However, the *Schutztruppe* was barely part of that entity, having no traditions and originating from mercenaries and the navy. The latter being itself a rather new and bourgeois creation that gained in reputation only under Secretary of the Navy Tirpitz. Yet, the standing of the *Schutztruppe* in German politics or popular culture did not mirror the growing popularity of the navy since 1900. German boys wore sailor suits, not khaki. It is said that the *Schutztruppe* acted as the "dumping ground" for disgraced German officers. Their fluctuation was high, the composition too heterogeneous to allow for the creation of an *esprit de corps*. However, the soldiers attempted to create a myth around their "heroic" service in *Südwest*.[538]

The colonial army in GSWA had very humble beginnings. A small military detachment was formed in 1888. Privately financed by a colonial company (*DKGSWA*) it consisted of three German officers and twenty African commoners. Unable to exert any power, Germany's first commissioner of the colony, Heinrich Göring (1838–1913), requested a force of between 400 and 500 men, a request rejected by Chancellor Bismarck. In January 1889, however, the Parliament in Berlin agreed that under the private command of Captain Curt von François (1852–1931) around fifty German "mercenaries" would be detached to GSWA. In the following years the *Schutztruppe*, as it was called since 1891, was constantly increased. In 1894, under the new Commander Theodor Leutwein (1849–1921) the *Schutztruppe* – no longer a private enterprise – had grown to 540 German soldiers, fully financed by the Imperial budget.[539]

The German colonial military administration, based on parliamentary vote and headed by the Chancellor, was a peculiarity within the body of German military law. Traditionally, the German military was no *Parlamentsheer*. Instead, the Emperor ruled the army and the navy with almost absolute power. Although mentioned in the constitution of 1871, the military remained quasi extra-constitutional.[540] Colonial military law as enact-

537 *Ritter* 1970 [1965] *Staatskunst und Kriegshandwerk*, v. II; *Rosenberg* 1964 [1928]: 1.

538 *Olusoga/Erichsen* 2010: 120; *Kuss* 2010: 131-8; *Ciarlo* 2011: 271 argues '[c]olonial troopers became the new hot "brand", both metaphorically and literally';

539 Cf. *Tiebel* 2008: 65-78. The *Schutztruppe* of GSWA celebrated its 25th anniversary in May 1914, cf. *Südwestbote*, 11. Jg. no. 47, April 1914, 'Die Schutztruppe'; no. 64, 29.5.14.

540 *Wehler* 1970: 14 called the German military an 'enclave within the constituional framework autonomous from the parliament' ('parlamentsautonome Enklave im Verfassungsbau').

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ed since 1891 deviated from this tenet. The official justification for this was that rights and duties of German citizens in the colonies were affected by military law and therefore a formal parliamentary law (*Gesetz*) and not just an Imperial decree (the ordinary form of colonial 'legislation') was required. The decisive step of the *Schutztruppengesetz* of 1896 was the exclusion of the Naval Office from the colonial administration (including military affairs), which became henceforth the exclusive realm of the Foreign Office's Colonial Department, thus a *civilian* responsibility. In 1897, the high-command of the colonial forces, headed by a staff officer, was integrated into the Colonial Department and thus supervised by the Colonial Director, himself responsible to the Foreign Secretary and the Chancellor.[541] Besides this separation of the German colonial forces from the army and naval forces, another novelty of the law of 1896 was the fact that Germans living in the colony could be drafted in the colony (§ 18). The pension system of the colonial military became far more attractive than in the army and navy. Contrary to German forces in Cameroon or in East Africa, commoners were almost exclusively recruited among German volunteers from the army and navy (§ 25, who signed up for three years) or conscripts from GSWA. They were mostly employed as "mounted infantry" or in the field artillery. "Native troops" (*Eingeborenen-Soldaten*) were recruited only reluctantly and in small numbers. While the Germans in East Africa could count on the (allegedly) "singular fidelity of their *Askari*",[542] the *Schutztruppe* in GSWA had alienated the *Baster* auxiliary troops to such an extent that the latter rose against their colonial rulers in 1915.[543] There was no *guerra preta* in GSWA.

Despite the political and military necessity for *Schutztruppen* if the German Empire was to hold onto its colonies, they were generally assigned "police tasks" to defend Germans and their property against "rebellious" Africans. Section 1 of the *Schutztruppengesetz* of 1896 stipulated cautiously: "For the maintenance of public order and security in the African *Schutzgebiete* … *Schutztruppen* shall be employed whose supreme commander is the *Kaiser*."[544] For anything else they were simply too small, as

541 Cf. *Bührer* 2012: 2-13; 2011: 103-12; *Kuss* 2010: 128; *Conrad* 2003: 202f.; *Grohmann* 2001 134 the Emperor remained commander-in-chief; he appointed *colonial* officers.

542 *Michel* 2004: 919 'singulière fidelité de leurs *askari*'; cf. *Bührer* 2011: 158; *Kettlitz* 2005.

543 Details of organization, recruiting, and disciplinary systems were stipulated by Chancellor's ordinances (§ 27 SchTrG); *SchutztrO* v. 25.7.1898; *Tiebel* 2008: 141; 146; *Kuss* 2010: 160.

544 § 1 Zur Aufrechterhaltung der öffentlichen Ordnung und Sicherheit in den afrikanischen Schutzgebieten…werden Schutztruppen verwendet, deren oberster Kiegsherr der Kaiser ist.

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became evident during the first months of the Herero- and Maji-Maji wars in 1904. Without enforcements from the German army and navy the *Schutztruppen* were – at times – almost helpless against concerted African military action. In this respect, it is important to note, that the civil supervision of the German colonial forces, which made it a *Parlamentsheer* (parliamentary army), was *de facto* revoked after five months of the Herero War, when the General Staff in Berlin took over the command of the *Schutztruppe* in May 1904. General Lothar von Trotha (1848–1920) was dispatched and took over the civil governorship in Windhoek until November 1905, while Governor Leutwein (himself colonel) was sidelined. During the war against the Nama, up to 13,000 men were sent in from Germany. The conduct of the war in GSWA 1904–07 and its "genocidal escalation" remained highly disputed. Faced with criticism, colonial enthusiasts complained bitterly "about the 'unpatriotic' opponents of 'world policy', but also about the noticeable lack of enthusiasm for the war that prevailed in Germany." Historian Isabel Hull has scrutinized the development of German military culture in the early twentieth century and argues that the organizational dynamics inherent in this culture led the army to annihilate civilians wantonly in the course of war, the African theater of war being no exception.[545]

Civilian superiority was introduced in 1905. The posts of civil governor and commander of the local *Schutztruppe* were divided and the governor assumed a higher-ranking role in order to avoid "frictions" between military and civil administration on the ground. In German colonial politics and in the everyday administration of GSWA, the *Schutztruppe* played a less important role "as the pioneering period drew to a close".[546] The governor could determine the leader and strength of a military campaign. He also decided upon the distribution of the troops in 'his' colony. In 1914 GSWA's colonial forces were organized into nine companies and two artillery batteries. The *Schutztruppe* had been reduced constantly after 1907. Similar to Angola, the Imperial government subsidized the colonial budget. A profitable colonial economy was never achieved in GSWA. The colonial troops were paid for by the Imperial budget and the majority of parliamentarians in Berlin insisted repeatedly on further troop reductions;

545 *Häußler* 2011: 76 points out: 'The extermination of the Ovaherero was not originally envisioned by the military command, but developed gradually as an option.'; *Dedering* 1999a: 21; cf. *Hull* 2005: 1; 33f.; 131f.; *Clark* 2007: 687f.

546 *Gann/Duignan* 1977: 93; on colonial law's nature *Hartmann* 2007a: 52; cf. *Schack* 1923.

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the military equipment was mediocre at best.[547] In 1914, 1,950 soldiers (90 officers, 350 non-commissioned officers and 1,500 German commoners) and 875 civil servants (incl. 450 policemen) served in GSWA. They made up 17 per cent of the European population of 14,830.[548] Given the strength of the German army in 1914 of around 800,000 soldiers it is justified to speak of a "minuscule mounted infantry garrison" in GSWA, a *quantité négligeable*. Finally, the merging of the *Schutztruppe* and the police in GSWA into a *Gendarmerie* was discussed. The Colonial Office only halfheartedly defended the intentions of GSWA's military to maintain the numbers of troops. This has later been described as the "weak attitude of the colonial administration".[549]

Rumors about the strength and the purpose of the *Schutztruppe* in GSWA were rampant when it was enlarged during the war 1904–07. Portuguese, but also British officials harbored "grave suspicions about the number of soldiers" that were transferred to GSWA in 1905 to subdue the Nama. It was considered that 13,000 troops were militarily unnecessary for this task. Thus, the assumption was made that the Germans aimed at putting themselves in a position "to squeeze us" in southern Africa, as Britain's High Commissioner in South Africa, Lord Selborne suggested. Also historians have described Germany's colonial force as "well equipped and well trained".[550] On the other hand, it has been emphasized time and again by German officers after 1918 that the *Schutztruppe* was not prepared to wage war against Europeans. Neither were the ports fortified against attacks from man-o-war nor was the latest military equipment made available to the troops.[551] This policy was based on the assumption that the German colonies would be protected in the North Sea. The German Navy was not prepared to defend the colonial coasts. Her British counterpart was aware of this strategy and assured the South Africans that

547 *Gründer* 2004: 122; 126, ‚For the *Reich*…the colonies remained…purely a losing enterprise.' In 1914 the support of the Imperial budget to *Schutztruppe* and police was reduced from 14.8 million to 12.2 million *Reichsmarks*. Further expenses of around 6.1 million were to be born by the budget of the colony. *Der Südwestbote*, 11. Jg. no. 36, 25.3.14, S. 2; no. 60/61, 20.5.14: 1.

548 Cf. *Michels* 2006: 154; *DKL* 1920 III: 321 'Schutztruppen'; *Bley* 1996: 233; *Seitz* 1920:7.

549 *Neugeb.* 1993: 212; *Nasson* 2014: 436; *Kolonialkrb.* 1924: 81 'schwächliche Haltung'.

550 *Dedering* 2000:46; 2006: 278; Selborne to Lyttelton, 24.5.05 *id*: 49; *Michel* 2004: 919.

551 *Eckenbr.* 1940: 165: 'Armamemt [of SchTr] was lacking'; *RKA* 1918: 23; *Tirpitz* 1919: 67.

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in case of war the supply lines between Germany and GSWA would be interrupted.[552]

2.6.3 The South African Conquest of GSWA (I), September–December 1914

The question whether Africa (outside the realms of the Congo-Act) would become involved in the war was answered by the Germans: On August 4, 1914 German battle ships bombarded two French ports in Algeria. British forces bombarded the wireless station of Dar es Salam on August 8.[553] Soon after, hostilities (involving German gun boats) broke out along the Congo River in *Neu*-Cameroon.[554]

On August 7, South Africa's government under General Louis Botha (1862–1919) offered to support the British government, which responded with the request to "seize such part of GSWA as will give [the South African government] command of Swakopund, Lüderitzbucht, and the wireless stations there or in the interior".[555] In London, the Admiralty considered the seizure of the "coast wireless stations … an urgent necessity", and the capture of Windhoek was also being discussed because of the wireless station there.[556] A sub-committee of the Committee of Imperial Defence (C.I.D) had a discussion of "offensive operations against" GSWA on the agenda in mid-August, but no results were minuted.[557] The Parliament in Cape Town decided on September 10, 1914 to declare war on Germany. It was claimed that Germany had the "desire to possess the Union". Already in 1904 scenarios had been considered in case that troops from GSWA "invade[d] the South African colonies." On September 14 the Royal Navy bombarded the wireless station at Swakopmund. The Caprivi Strip in the far north-east of GSWA was "fortuitously secured by a virtually bloodless" campaign" by Rhodesian forces on September 22. The British then set up several posts along the Kwando valley along the

552 *Dedering* 2000: 50; cf. *Seligmann* 2012; *Kuss* 2010: 328.
553 *Marguerat* 2006: 98; *Almeida-Topor* 2010: 85; *Samson* 2006: 28f.; 33.
554 NARA RG 84, Boma, v. 18, 703, Fritz Gerber to German Consul Luanda, 22.12.14.
555 Governor-Gen. to Ministers, 7.8.14, in: *Union of South Africa* 4/1915: 4; *Spies* 1969: 47.
556 TNA ADM 137/9: 86, Naval Notes on Expedition to GSWA, 8.8.14; CO 633/83/11: 111-113, Ax C Report , U.G. 46-'16, 12/1916; CO 633/83/8, U.G. 42-'16, 12/1916.
557 TNA FO 371/1883: 172, Agenda, CID sub, 14.8.14; *Samson* 2013: 69; *Nasson* 2014:436.

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border between Angola and Northern Rhodesia during the war "to guard the fords".[558]

The *Schutztruppe*'s mobilization (starting August 7) had been rather disorganized, transport capacity (four lorries) seemed miserable. The General Staff in Berlin was barely interested in the colonial theater of war and considered these troops as helpful only to bind enemy forces in Africa. Governor Seitz was told by the Colonial Office not to engage with South Africa unless forced to do so.[559] Contrary to what was claimed during the World War, *no* "large military force" was stationed in GSWA in 1914.[560] The *Schutztruppe*, including all reserves now 5,000 men strong, was not prepared to face a fully equipped European army. Thus, not so much GSWA's "poorly defended frontiers" or military capacity but geography made the conquest challenging. According to one South African officer "it was a case of 'sand, and sand, and sand, and sand, and not a drop to drink'."[561] "The total [South African and British Rhodesian] forces, which at one time or another took part in the operations numbered some 50,000, though probably no more than 40,000 were ever in the field at one and the same time" under the command of Louis Botha.[562] The South African troops were detached in four columns of 8,000–10,000 men. Three columns were operating in the south of GSWA targeting the railway junction at Keetmanshoop: Colonel Beves landed in Lüderitzbucht on September 19 with 16 man-o-wars. The German troops withdrew and the town with its important wireless station surrendered. Beves then wanted to follow the railway tracks eastwards across the Namib Desert to Aus and Keetmanshoop. However, the *Schutztruppe* repeatedly prevented the South Africans from taking over strategic waterholes.

South Africa's second column headed by Colonel Grant moved north from Port Nolloth and overran the German border post Ramansdrift on the Orange River on September 18, 1914. However, their first attempt to enter deeper into German territory ended "in fiasco".[563] On September 25 the Germans led by Commander of the *Schutztruppe* Heydebreck attacked near Sandfontein and took 200 rank-and-file and 15 British officers as

558 *Crabt.* 1915: 4; *Park* 1916: 115-9; *Samson* 2006: 21; *Yorke* 1990: 373; *Reyn.* 1972: 245.
559 *Bührer* 2012: 20; cf. *Samson* 2013: 41; an account full of hatred is *Hintrager* 1934: 88.
560 *Cana* 1915: 360f.; *Weck* 1919: 131.
561 *Davenport* 1978: 185; *Alport* 1934: 63; cf. *Seitz* 1920: 8f; *Kraus/Müller* 2009: 223-9.
562 *Park* 1916: 132; cf. *Samson* 2013: 38f on military organization.
563 *Michel* 2004: 922; *Samson* 2013: 76f.; cf. *Robinson* 1916.

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prisoners of war, including Colonel Grant. Furthermore, to the detriment of South African war efforts, there "was real opposition" among South Africans – most of all in the Afrikaaner camp – to war against GSWA. It had been "[o]ne of the aims of South African leadership … to use the war to promote greater unity between the Boers and the English speaking population", but instead a "rebellion" broke out. This held off the South African advance more powerfully than German resistance. S.G. "Manie" Maritz (1876–1940), Jan C.G. Kemp (1872–1946), Christiaan Beyers (1969–1914) and other Afrikaaner officers from the South African War (1899–1902) aimed at liberating South Africa from the British "yoke". Soon their deeds were blamed on "German intrigue", since much to the "embarrass[ment]" of the Germans, who wanted to avoid the provocation of hostilities, Maritz and Kemp joined the German forces with their men after they were driven out of South Africa. Loyalists under Smuts and Botha had to fight the "rebels" from October to December 1914. Given "a little breathing space", German forces used the time for maneuvers against the Portuguese.[564]

2.6.4 An Unlikely Victory – the Battle of Naulila, December 18, 1914

None of the colonial powers had a strategic plan for Africa when hostilities broke out in Europe.[565] Neither the German nor the Portuguese colonial army was prepared to fight European adversaries in Africa. Forces stationed in the colonies were intended to act as the primary vehicle through which European rule manifested itself towards Africans.

One day after the decision to attack Fort Cuangar was taken by Seitz and Bethe, on October 25 the governor authorized a "punishment expedition" via telegram against Angola as proposed by Commander Heydebreck. The German target was Fort Naulila. The intended conquest was a "top secret" affair. GSWA's most experienced officer, Major Victor Franke, an *alter Afrikaner* (old African) in the colony since 1896 was to be its leader. The first transports left Kalkfontein on October 26 and 27. On October 29, upon his return to Windhoek from the south with around 400 men, Heydebreck assessed the situation along the Angolan

564 *Davenport* 1978: 184; *Samson* 2006: 8; 83-9; TNA CO 633/83/11, Report U.G. 46-16, 12/1916; *Nasson* 2014: 436 ; *Nasson* 2014a: 167; 170.

565 *Michel* 2004: 920; a contemporary perspective Strümpell in *Kolonialkriegerbund* 1924: 81.

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border with Seitz. They concluded: It would be "ignorant" to assume that there was *no* state of war between the two colonies because Angola's Governor General had *not* notified Seitz formally about the outbreak of the war (General Botha had neither informed Seitz before South Africa started its conquest of GSWA in September 1914). Given the Portuguese silence after the Naulila incident (and the German wireless messages, if they were sent), the rumors about Roçadas' army approaching the Kunene border, and the claims that the Portuguese had extended their patrols into German territory up to Ondonga, as well as the alleged attempts to instigate a revolt against the Germans, Seitz and Heybreck not only "took it for granted that a state of war now existed between the two countries". They also "had reason to believe because of the size and composition of Roçadas' force that the Portuguese were about to intervene in support of the British." They resolved that it would be irresponsible to send another official as negotiator to Angola to demand satisfaction for "Naulila". Since previous attempts to contact Portuguese authorities with envoys (Brauer, Schultze-Jena) failed, they expected that only a strong military expedition could obtain clarification about the unlikely case that Portugal was *not* at war with Germany. It was expected that in this case the Portuguese would immediately start negotiations to avoid a confrontation.[566]

The decision to send Franke to Angola was *not* dictated by "strategic consideration[s]", but by the perceived threat of an imminent invasion – and the intention to revenge (*vergelten*) the death of the three officials, as one soldier put it bluntly. The Germans, anxious to defend their porous southern border along the Orange River and the Kalahari Desert against South Africa, would have liked to *avoid* having to "establish a decisive presence in th[e northern] border region."[567] There were no military forces stationed north of Otavi and Outjo, almost 300 kilometers south of Angola's border, whereas six companies were stationed in the south. Furthermore, the decision to dispatch an entire regiment to the northern border had only been made possible by the anti-British rebellion in South Africa forcing Botha and Smuts to first turn against the rebels.

During the last months of 1914, the question of Portugal's decision to go to war or to remain "neutral" was most puzzling, and not only to offi-

566 BAB R 1001/6645: 131, Telgr Cdr to KGW, 25.10.14; R 1001/6634: 158f., report Seitz (10.5.21), Ax 13; 161, Eickhoff to RMW (15.11.21), Ax 14, Memo Allm. 23.5.22; *Cann* 2001: 162; *L'Ange* 1991: 169; *Southern* 2007: 11; *Stals* 1972; *Kuss* 2010: 136.

567 *Hayes* 1993: 90; *Almeida Tei.* 1935a: 10-35; NAN A.424 War Diary Bertling, late Oct. 14.

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cials in GSWA. Contemporaries in Portugal and elsewhere found it equally difficult to predict the next step. In early October the American Minister in Lisbon, Thomas H. Birch, met with the Foreign Minister Freire de Andrade who stated "Portugal would enter the war just as soon as called upon by the British Government". Birch then mentioned various manifestations of a "strong popular sentiment among the masses … against the sending of troops from Portugal." The Foreign Minister "expressed himself as anti-German in feeling, [however,] he personally hoped Portugal would not enter the conflict." Still, he informed his envoy in Berlin, Sidónio Pais, about the possibility of Portugal's entry into the war. The army in Portugal was partially mobilized.[568] Two months later, the German Consul in Luanda claimed to "know that Portugal is no longer neutral. However, a declaration of war has not yet been issued." He did not mention how he had learnt about the alleged decision.[569]. It was the subtle Norton de Matos, who reminded him that the Portuguese Government had never declared officially its neutrality.[570]

While these questions were debated, Major Franke was already on his way north. He had arrived in Windhoek with Heydebreck from Kalkfontein and immediately continued with his regiment northwards to eliminate the Portuguese threat along the border and to "retaliate" against Fort Naulila.[571] However, the preparation of Franke's "expedition" took several weeks. In early November, a British man-o-war intercepted a wireless code message from Governor Seitz to Berlin including the line "Franke marching against Portuguese". Britain's envoy in Lisbon, L. Carnegie, shortly thereafter informed the government in Lisbon.[572]

Franke's regiment reached Otjiwarongo by rail on November 1 and it was clear that the expedition would arrive in Ovamboland in the middle of the rainy season (lasting from October to April), which would make things more difficult. However, since the Germans were convinced that the Portuguese were preparing their own attack on GSWA, time seemed of essence to avoid being crushed between British and Portuguese forces. A large train of ox wagons was compiled for the remaining 400 kilometers'

568 NARA RG 84, Lisbon, v. 151: 820, USML to SoS, 9.10.; 14.10.; 21.10.; 26.10.; 2.11.; 24.11.14; *Samara* 2004: 59; cf. *Teixeira* 1998.

569 PA Luanda 3 (Krieg, v.II) German Consulate Luanda to VK Benguela, 2.12.14.

570 PA Luanda 3 (Krieg, v.II) Chefe de Gabinete to German Consulate Luanda, 4.12.14.

571 BAB R 1001/6634: 65f., General ret. Franke to RMW, 23.03.22; *Historicus* 2012: 36-9.

572 TNA FO 371/1884: 487, GG South Africa to CO, 5.11.14; FO to BML, 10.11.14.

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trek, the hardship of which (most of all the lack of water) was amply described by Franke, Suchier, and Bertling. After the tragic death of Commander v. Heydebreck on November 12 due a grenade accident, Franke had to return from Ombika near Okaukwejo to Windhoek to attend the funeral and to take over the command of the *Schutztruppe*.[573]

Historian Ernest Stals poses the relevant question whether the attack on Naulila was still advisable from a military point of view. Fresh South African troops were assembling, the commander dead, and instead of the rainy season, Franke's soldiers were faced with a drought in the north. Nonetheless, given the perceived threat from the troops at the Angolan border, the intention to "take revenge", and, as Franke noted, in order to avoid that "our reputation among the Ovambo suffers", he returned on November 24 to Ombika, south of the Etocha Pan. His regiment still consisted of around 400 soldiers (four maxim guns, six artillery pieces).[574] The rather small number of soldiers – less than ten per cent of the *Schutztruppe*'s force level after mobilization – demonstrates the preeminent German concern with the South African invasion. Detachments advanced to find and deepen waterholes; there was barely enough water for all men and animals. Hundreds of the 2,000 oxen perished while pulling weaponry and supplies through the sand. Vageler joined the regiment near Okaukwejo to guide the men towards Fort Naulila. The government's native commissioner Hermann Tönjes, a former missionary, arrived from Olukonda. For Franke, he was not only an important interpreter, but most of all he could explain to the Ovambo kings that the Germans were not a threat to *them*. Franke also "spoke to the Boer du Plessis" who brought news from Angola and accompanied the regiment to Naulila. As Schultze-Jena before him, Franke had to visit Ovambo kings to make "presents" to those whose territory he wanted to cross. On November 25 he met with Ondonga King Martin and missionary Martti Rautanen (1845–1928) in Olukonda. Ongandjera King Tshanika (1887–1930) and Uukualudhi King

573 NAN A.560 Diary V. Franke, v. 14: 973, 1.11.14; *Oelhafen* 1923: 55; 81; *Suchier* 1918: 39; *Samson* 2013: 75 others claim he was killed by a 'Boer rebel'.

574 *Stals* 1968: 188; NAN A.560 Diary V. Franke, v. 14: 976, 12.11.14; 2. Kompanie, Ukamas 90 men lead by Captain von Watter; 6. Kompanie, Outjo 150 men lead by Captain Erich Weiss; 1. Batterie artillery equipped with 4 mountain- und 2 fieldguns, 150 men lead by Franke's deputy Cpt Georg Trainer; Cpt. Gerhard Sulling; wireless station; Doctors: H. Greiner, W. Suchier, BAB R 1001/6634: 134, Baericke, Kimmel, Jensen to DGL (30.04.15), Ax 8 to Memo Allem., 23.5.22; *Suchier* 1918: 32; *Hennig* 1920: 113; *Baericke* 1981: 84; *Mattenklodt* 1936: 29.

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Mwaala (~1880–59) were hesitant to permit the troops into their land. Only when Franke visited them with an automobile (indicative of his status as the new commander) they became "more compliant". Private Bertling noted in his diary "Mandume and other chiefs absolutely want to join us against the Portuguese. But they have to do it alone. So nobody can say later we have instigated [*aufgehetzt*] natives against whites. Today [Dec. 12] an entire wagon full with gifts was sent to one chief." Franke had indeed ordered the delivery of "100 rifles for Mandume" to the Finnish mission station Olukonda. Its head, Rautanen, was less than pleased with this "gift".[575]

The (outmoded M 71) rifles had been stored in Outjo following Governor Seitz' plan from August 1914 to deliver guns to Mandume in case the Portuguese instigated a revolt. However, native commissioner Tönjes considered it "not advisable" to send more than seventeen rifles to the Kings – five for Mandume and three each for the others. Seitz conceded, but asked Tönjes to transport the guns to Ovamboland. When the latter visited the Kings in October 1914 to counter Portuguese advances through the distribution of "gifts (worth 400 M)", he handed over rifles for the kings only. Given Franke's expedition, Tönjes was told to remain in Ovamboland and to keep the "100 rifles" until the *Schutztruppe* commander decided about their distribution; whether he ever did so remains unknown. At least with Mandume the German gifts had the intended outcome. Through missionary channels, he thanked Governor Seitz for the promised guns, and assured him of his allegiance to the Germans. Later, the King let the governor know that he looked forward to the death of the three Germans being revenged. Nevertheless, Franke was eager to avoid that Mandume's men join the German forces at Naulila. According to Portuguese sources, however, he enlisted African support, most of all Shihetekela, the chief (*soba*) of Little Cuamato (Ombandja), deposed by Roçadas after the conquest in 1907.[576]

575 NAN A.424 War Diary Bertling 10.12.14; NAN A.560 Diary V. Franke, v. 14: 975; 978, 11.11.; 24.11.14; *Baericke* 1981: 66f.; *Suchier* 1918: 35; 46; *Historicus* 2012: 57; 65.

576 BAB R 1001/6645: 47, Tönjes to KGW, 25.9.; 50, KGW to Tönjes, 30.9.; 53, 64 BA Outjo to KGW, 1./3.10.; 68, KGW to BA Outjo, 9.10; 132, KGW to Nord-Etappe, 26.10.; Wulfhorst to KGW, 8.10.; 16.11.14; cf. *Historicus* 2012: 77; *Hayes* 1992II: 90; *Almeida Teixeira* 1935a: 24

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Ill. 24 Capitão Alves Roçadas

Ill. 25 Major Franke

In the meantime, also Lt.-Colonel Roçadas marched with most of his forces closer to the border. He was reportedly appalled by Sereno's acts and assumed a German invasion was now imminent. Coming from Lubango he arrived in Fort Roçadas on November 23, which he had erected in 1906. The Portuguese knew about Franke's march from as early as November 12. Rumors poured in about alleged German movements near the border and the considerable size of Franke's regiment. Roçadas later claimed that King Mandume had sent him word about the approaching Germans on November 5. Given the slow progress of Franke's column being still far away, this intelligence was misleading and confused Roçadas. Expecting an attack, but unaware where Franke might strike, he "left the bulk of [his] force dispersed along a 35-kilometer front in mutually supporting formation" to protect the roads and the fords. Making matters ever more complicated, on November 25, the minister of colonies reminded Roçadas via telegram "all [soldiers must] know that we are not at war with Germany". A few days later, also Norton de Matos sent him a telegram requesting to "maintain [Portugal's] neutrality" and not to "provoke" any hostilities. Roçadas was not allowed to cross the border.[577]

Roçadas was presented with the German prisoners taken in Naulila and interrogated them. The mysterious German deserter Haunschild had been arrested north of the borderline. He was allegedly working for Uukuambi King Iipumbo and eager to prove that he was not one of the "German

577 *Roçadas* 1919: 166; *Machado* 1956: 55; 88; *Baericke* 1981: 69; *Southern* 2007:12, *Cann* 2001: 154.

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spies" – whereas the Germans were concerned that he was spying for the Portuguese. He drew a map depicting all military stations in GSWA and their composition.[578] Carl Jensen later claimed to have warned Roçadas during his interrogation of German revenge. Jensen, who was recognized by his former employer Roçadas, lied to him by stating that GSWA had 20,000 troops, four times more than in reality. Roçadas gave orders to concentrate troops along the Kunene fords to prevent an attack on Humbe – 300 men were stationed at Erickson Drift (Vau do Calueque). He relied early on the *guerra preta*, ordering to provide the Cuamato with weapons to be used against the Germans. Due to their friendly relations with King Iipumbo the Portuguese were informed about Franke's next moves. According to Jensen, "every officer expected war". From the direction the Germans were marching a particular target was not discernible. Roçadas, convinced that the German's would cross the Kunene River, "saw no reason to concentrate his forces east of the Kunene in a committed defense of Naulila." He was eager to protract Franke's attack. 600 marines from Moçâmedes were expected to arrive every day.[579]

When he arrived in the Uukwaludhi area near the Kunene River on December 11, Franke ordered a reconnaissance of Fort Naulila. Two patrols were sent to find a campground for the regiment. None of the commanders had sufficient intelligence about the enemy's army. Within the administration of GSWA, the native commissioner Captain Streitwolf was also in charge of the military affairs of Angola. But, as his biographer writes, this responsibility always remained an unimportant (*onbelankrik*) part of his official duties – the files were only maintained to 1911. Franke set up a camp south of Erickson Drift around 25 kilometers west of Naulila. A Portuguese camp was located on top of the Kampili Hills across the river observing everything. In the first skirmish between patrols several Portuguese and German soldiers were wounded, the Portuguese prevented the Germans from getting closer to the fort. The soldier Baericke lost his group and was arrested the next day by a patrol under Lieutenant Aragão. Roçadas, who had arrived in Fort Naulila on December 9, interrogated him. Using the Norwegian trader and hunter Brodtkorb as interpreter the commander threatened to shoot Baericke if he did not tell him the strength of Franke's regiment. He also asked Baericke about his own estimation of

578 BAB R 1001/6641: 12, extra-file: 30, statement Commander Antonio F. Varão, 11.11.21.

579 *Machado* 1956: 116; *Cann* 2001: 155; BAB R 1001/6634: 121f., Report Jensen, Ax 4; 6, Memo Allem. 23.5.22.

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the number of soldiers in Naulila and whether he believed that Franke would conquer Naulila.[580] The captive responded with an estimation of the Portuguese troops concentrated in Naulila (around 2,000 men) and lied to him that Roçadas was observing only the advance column and that Franke has no particular target, but was planning to invade southern Angola in three columns via Zwartbooi Drift, Erickson Drift and Naulila. In his later report, Baericke was of the opinion that due to this response Roçadas decided to reduce his troops in Naulila and sent several platoons west to Erickson and Zwartbooi Drift, claiming thus to have contributed to the German "success".[581]

Following the interrogation Roçadas indeed found it difficult to establish not only when, but also where Franke would attack, considering the German encampment 25 kilometers away from Naulila and right in front of a ford. It seemed that there would be more valuable targets than Fort Naulila, such as the town of Humbe across the river. Roçadas ordered Major Salgado to move with his company to Naulila, but on December 13 he told him to go to Erickson Drift in order to fortify the hills and prepare for an "artillery barrage" of the German camp. Mozambican soldiers were sent nearby to Fort Otoquero.[582] Manasse Veseevete, a Herero born in GSWA who had settled in the Nkumbi-area after 1904 where he joined the Portuguese army, remembered in 1986 the situation along

> "the [Kunene] river where there was war. We were given rifles with telescopes to watch the river where Germans might cross, both where there are mountains and where there are no mountains. The Portuguese realised that when the Germans were out of water they were very strong but in the water they were vulnerable. They thought it wise to overcome the Germans in the water."

However, the Germans never tried to cross the river. They were aware of the danger posed by the observing Portuguese on top of the hills.[583] On December 16, after six weeks, Franke's regiment had completely arrived in the camp near Erickson Drift. Of Roçadas' 3,000 men about 450 European and 300 Mozambican infantrymen and 60 dragoons remained in and

580 *Stals* 1979: 95; NAN STR 21, II m 1, Bl.22; *Baericke* 1981: 67;88;101; *Historicus* 2012: 72.

581 BAB R 1001/6634: 145f., Report Baericke (16.11.19), Ax 9 Memo Allm., 23.5.22.

582 AHM/Div/2/2/21/18: Major A. Salgado, [n.d.]; *Cann* 2001: 159; *Historicus* 2012: 83.

583 *Heywood/Lau/Ohly* 1992: 180, Manasse Veseevet[e] on his youth narrated to A. Kaputo, 30.3.1986; V. then 'dodged the war' by pretending to have fever; *Suchier* 1918: 49.

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near Fort Naulila that was similarly constructed as Fort Cuangar. An unknown number of "irregulars", Cuamato combatants, were given guns by the Portuguese to support them outside the fort by attacking the German flanks.[584] Roçadas' forces were "deployed south of Naulila in a defensive arc of some 2,000 metre radius" including three artillery pieces, four machine guns, infantry and cavalry. "A supporting line was established 200 meters behind the first". On the 17th in the afternoon the bulk of the Germans began to march eastwards, moving away from the river (and the artillery prepared to hit if they attempted to cross) and circling the eastern (less protected) flank of Fort Naulila, that was by now the clear target. But Roçadas was hesitant to move additional forces to the defense of Naulila. Salgado continued to guard the fords.[585]

Ill. 26 "Fort Naulila, 18.XII.1914"

584 *Stals* 1968: 190; *Oelhafen* 1923: 90; *Hennig* 1920: 114; *Ferreira Martins* 1942: 52-59; *Varão* 1934: 59f.; different numbers in *Morlang* 1998: 46; *Mattenklodt* 1936: 41f.; BAB R 1001/6634: 134, Baericke, Kimmel, Jensen to DGL (30.04.15), Ax 8 Memo Allm., 23.5.22.

585 *Cann* 2001: 160; NAN A.424. War Diary Friedrich Bertling, 17.12.14; as the German march left no room for speculation, the Portuguese could have, as Vageler pointed out, avoided the fighting by clarifying their neutrality. BAB R 1001/6634: 148f., Vageler to RMW (10.11.21), Ax 10 Memo Allem., 23.5.22; *Historicus* 2012: 93-8.

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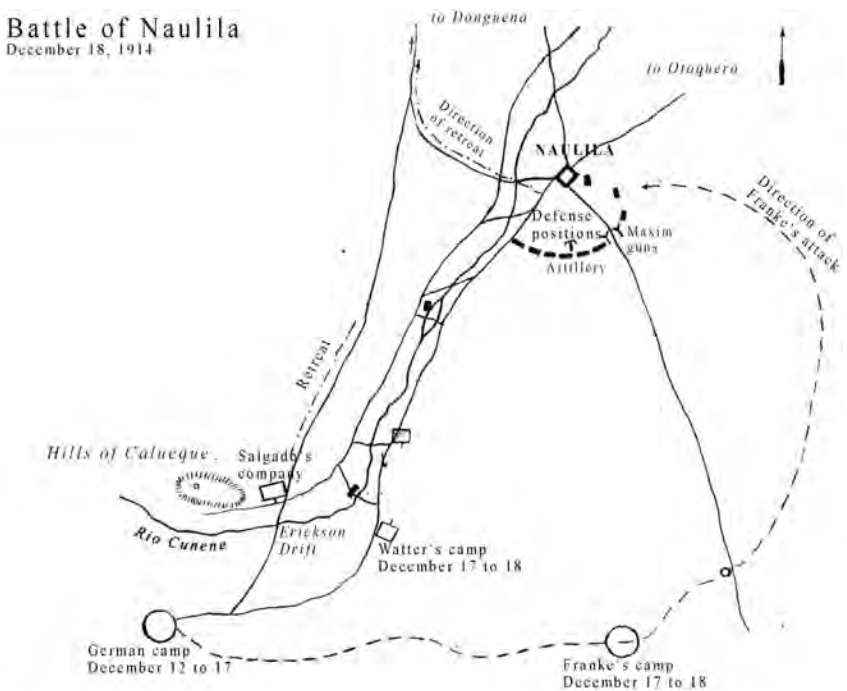
In Prussian tradition, Franke planned a battle "in which the enemy was enveloped and attacked at its flanks… Such a battle risked everything in a single moment". The 6th Company of 150 men led by Captain Erich Weiss and the 1st Artillery battery of 150 men equipped with four mountain and two fieldguns, led by Franke's deputy Captain Georg Trainer were ordered to march eastwards during the night to Fort Naulila and to attack from the north-eastern direction in the early morning of December 18 under Franke's command. The 2nd Company of around 90 men led by Captain von Watter was to march through the night along the Kunene River. Watter was to open the battle with an attack on the trenches protecting the fort along its southern flank, thus preventing the Portuguese from crossing the Kunene River.



Map 3 Battle of Naulila

However, things did not unfold as planned. When ordering the attack for December 18, Franke knew that he was taking a risk. The military theorist Carl von Clausewitz' warning regarding "attack[s] on defensive positions"

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was not new to him: "One thing is sure …: *it is a risky business to attack an able opponent in a good position*." Roçadas' men had improved fortifications, and it was to be seen whether they were "able opponents".[586] Luckily for the Portuguese, Captain von Watter's guide du Plessis had underestimated the distance to the fort and his 2nd Company did not arrive in time to open the attack from the south. The other two companies waited in vain to hear the first German shots. Around 5 a.m., shortly before sunrise, the Germans were fired at from trenches their reconnaissance patrol had not noticed. It was pure luck that the Portuguese artillery shot too high; the thick bush made any orientation almost impossible. Despite their shock about the miscarried pincer movement and the surprising Portuguese barrage, the Germans correctly positioned their artillery and machine guns and used them "to great effect".[587] Fort Naulila's munitions depot was hit and exploded; all barracks and surrounding huts caught fire. Until 7 a.m. Franke's troops came as close as 200 meters to the fort. Roçadas made a fateful decision: he left the fort, but he did not organize relief forces from his regiments nearby. The men left behind tried to keep the Germans at bay by increased firepower. The fort was equipped with four guns and four maxim guns, the quintessential European weapon of choice during "expeditions" against "natives" that was now turned with equally great effect against Europeans.[588] In addition, the huge baobab trees nearby served as base for snipers. The Germans found themselves attacked from all sides by native *franktireurs*, who were equipped by the Portuguese and supported them "excellently", as they targeted the officers in particular.[589] The body of the sacrosanct white colonial master now became the target if he belonged to the enemy's army. The Germans were shocked by this 'tactic'. But the Portuguese were not satisfied either with the *guerra preta*, who had allegedly left their left flank unguarded and allowed Franke to pass during the night without warning the Portuguese. Captain Varão complained in his memoirs that many of the "Cuanhama" (meaning Cuamato) auxiliaries had escaped the night before the fighting commenced. This was, he and others assumed, due to the above-mentioned *soba* Shi-

586 *Hull* 2005: 161; *Clausewitz* 1976 [1832]: 535; BAB R 1001/6641: 12, file: 29 testimony A. Varão, 11.11.21.

587 *Southern*, 2007: 12; NAN A.424; Bertling 22.12.14; cf. *Oelhafen* 1923: 86; *Morlang* 1998: 46; on artillery as the 'decisive' weapon of WWI cf. *Ziemann* 2013: 29f.

588 *Ellis* 1975: 75; *Historicus* 2012: 104 claims R. remained in Naulila, but quotes no source.

589 BAB R 1001/6634: 66, General ret. Franke to RMW, 23.03.22 'vorzüglich unterstützt'.

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hetekela, who was deposed by Roçadas in 1907 and now took revenge by supporting the Germans.[590] Both sides thus considered – much to their chagrin – the participation of Africans to be decisive for the battle. *Alferes* Sereno, regarded by the Germans as responsible for the "murder of Naulila" took part in the battle.[591]

The longer the combat lasted, the greater the absence of unity between the Portuguese officers and the rank-an-file became apparent. Headed by Roçadas there was no absence of battle-hardened cadres, but he had left the fort too early. Tactical mistakes, inadequate commandership, the lack of preparation of the metropolitan forces, and the lack of motivation to defend the fort at all costs against a numerically inferior enemy became more and more evident. The troops stationed in Naulila had a rather low level of combat moral, which led to panic in the ranks the closer the enemy got to the fort. Private Bertling observed from his position that the Portuguese soldiers were "constantly running around haphazardly [*planlos*]. From left to right, and from right to left", while their artillery was hitting the German baggage train; a cavalry counter-attack was gunned down. Whereas the Germans at one moment believed the battle to be lost, the Portuguese evacuated the forward trenches, having run out of ammunition. Franke was always near the first line, a far cry from his characterization by South Africans "as a cautious commander". When a white flag was seen, he left his cover, but was shot in the face from a sniper above him in a tree. Believing his wounds to be deadly and aware that the heavy death toll would soon make any advance impossible, Franke ordered Captain Trainer to take over the command and to storm the fort immediately. With bayonets the Germans charged through the thorn bush fences inside the fort, whose mud walls had been destroyed by artillery.

Finally, the 2nd Company of Captain von Watter – whom Franke had already called in November "unreliable" and horribly slow (*schreckliche Transuse*) – arrived at the battlefield, convincing the Portuguese that any counter-strike would be hopeless. Most Portuguese had already escaped across the Kunene, others surrendered. In one forenoon the Portuguese had lost not only their face but also "the fruit of their previous campaigns.

590 *Varão*, 1934: 59f.; *Teixeira* 1935: 24; *Cann* 2001: 160; *Hayes* 1992: 181.

591 AHM/Div/2/2/21/16: 44, 'Oficiais que tomaram parte nos combates de Naulila'; *Baericke* 1981: 104 summarizes the rumors about Sereno's fate: Officially, he was killed during the battle of Naulila; Vageler and Suchier reported that he was jailed for the 'murder'; Baericke was told in Luanda that Roçadas shot Sereno during the retreat near Fort Gambos.

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Inability and inaction of the officers, most of all Roçadas, were responsible for this reverse."[592] "Fighting terminated after three hours".[593]

Directly after the battle, German troopers started to reconnoiter the vicinity for *franktireurs*, who were still shooting at them after the capitulation. The fear and horror of the battlefield after the battle, the cries of the wounded and the destructions were described in Private Bertling's diary. He expressed his disgust (*widerlich*) at the fact that seven Africans, wearing loincloths and no signs of affiliation with the Portuguese – so the Germans said – were caught with their guns and hanged.[594] A drumhead court-martial (Weiß, Vageler and one lieutenant) had sentenced the "irregulars" to death.[595] "Cruelty [is] probably the strongest sign of power at all."[596] Five hundred Africans were assumed to have fought for the Portuguese – a rather unlikely estimate. Their *soba* stated to Trainer that they had been forced by the Portuguese and had been promised bounty after the defeat of the Germans. The latter considered it a disgrace that Africans had seen Europeans fight one another.[597] Worse, however, was the fact that (civilian) Africans had been given guns by colonial authorities and had been ordered to shoot at Europeans, a situation, Art. 3 of the Congo-Act (1885) wanted to exclude. Such wars were considered by the Germans contrary to "reason" and "race consciousness"; they would damage the "respect" for and the "nimbus of the white man"[598] This hysteric debate continued well into the post-war period.[599]

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592 NAN A.560 Diary V. Franke, v. 14: 974, 9.11.14; *Morlang* 1998: 46; *Pélissier* 1969: 100; 1977: 485; cf. battle details in *Machado* 1956: 140-173; *Oelhafen* 1923: 85-9; *Baericke* 1981: 69-72.

593 AHM/Div/2/2/25/12: 2, Amaral Polonia, report on J. Pissarra, 3.2.15; *Suchier* 1918: 55.

594 NAN A.424 War Diary Bertling 22.12.14; BAB R 1001/6638: 25 Leskowski to AA, 13.10.24.

595 BAB R 1001/6641: 224 (28), Trainer Denkschrift, 9.2.29; on war violence *Ziemann* 2013: 9.

596 *Häußler/Trotha* 2012: 83 'Grausamkeit, das vermutlich stärkste Zeichen von Macht überhaupt.'

597 The same was true for verbal abuses among Europeans. The German Consul in Belgian Congo Asmis, for example, had to endure numerous insults when he had to leave the Colony. Fellow passengers on the steamer threatened to throw him over bord and, much to the chagrin of Asmis, explained all the insults to the Germans, their Emperor, and the Empress 'to the natives'. NARA RG 84, Boma, v. 18, 703, USC Boma to SoS, 24.9.; Asmis to GG Boma, 16.9.14.

598 *Fonck* 1917: 3; *Hintrager,* 1952: 440; cf. *Dedering* 1999: 2; *Nasson* 2014: 454f.

599 On the campaign against French colonial soldiers in Germany, the 'black shame' on the Rhine cf. *Koller* 2001: 207-61; *Maß* 2006; 2001; *Wigger* 2006; cf. chapter 3.3.9.

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The number of men killed, wounded, and imprisoned during the battle is inconsistent in the literature. At least three Portuguese officers and 65 commoners were killed, but there are also claims that 200 Portuguese soldiers died. 75 soldiers were wounded. The Germans took 37 (or 66 as others claim) Portuguese prisoners, among them three officers. Nine German soldiers were killed in action, three men died of their wounds on their way back.[600] Thirty Germans were wounded, Franke among them.[601] The sanitary and medical conditions made warfare in Africa "particularly cruel".[602]

After their victory, German officers tried to interrogate their Portuguese counterparts. Neither party spoke the other's language. However, the Germans did understand that Roçadas had "escaped" from the battlefield. They soon noticed panic among the Portuguese. The shooting continued, unabated, the battle seeming to continue with the Germans as mere onlookers.

2.6.5 The Power of Rumor – the Portuguese Retreat, December 1914

The worst predictions had come true: Germany, which had been feared by the Portuguese for the last thirty years, had become a Germany that attacked the Portuguese in Angola. For the first time since the Dutch capture of Luanda in 1641 and the debacle against the French in Cabinda in 1784, Portugal was faced with a European invasion of Angola.[603]

Eighteen Portuguese officers started to retreat with their men from the right flank of the battlefield and crossed the Kunene River, following the example of their commander Roçadas.[604] The combat ended around 8:30 a.m. The last Portuguese troops crossed the Kunene River around 9 a.m. and marched immediately to Fort Dongoena where the first men arrived around 2 p.m.[605] Roçadas, who would not believe that 400 Germans had merely come to the Kunene River to destroy Naulila, was convinced that Franke's regiment was just the spearhead of a large invading army. Having still massive numerical advantage, Roçadas decided not to go on the

600 NAN A.424 Diary Bertling 22.12.14; BAB R 1001/6638: 24, Suchier to AA, 13.10.24; R 1001/6922: 8-19, 'List: killed in action' 1926; *Santos* 1978: 215; *Fraga* 2010: 129.
601 *Oelhafen* 1923: 90; *Pélissier* 2004: 263; *Morlang* 1998: 46; *Mattenklodt* 1936 [1928]: 46.
602 *Michel* 2004: 925; cf. *Brou* 1916; *Suchier* 1918: 65-75; *Kuss* 2010: 304-10; *Proppe* 1974.
603 Cf. *Penha Garcia* 1918: 130; *Pélissier* 1977: 485.
604 AHM/Div/2/2/21/16: 46 Ax XIX Relação dos officiais e praças; *Historicus* 2012:123.
605 AHM/Div/2/2/21/14: 1 E. Machado, A retirada de Naulila após o combate do dia 18 [n.d.].

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offensive to reverse the initial setback, as he was concerned the Germans would cut his retreat. He hoped to block the Germans marching to Humbe and gaining access to the Huila plateau. But the retreat he ordered was disorganized; the morale was broken although there had been no outright destruction of Portuguese forces at Naulila. The continuing shooting created confusion; hundreds of Portuguese soldiers began to run for their lives, no longer obeying their officers. The retreat transformed into a wild escape and finally into a stampede that invited catastrophe – but the victorious Germans did not pursue them. What had happened? African "irregulars", being equipped by the Portuguese with guns and ammunition, turned sides. While the Germans complained that they were still shot at by these men, others had already began to target the withdrawing Portuguese – an army that had conquered Cuamato and deposed their *soba* only seven years before. Historians of colonialism have repeatedly pointed to the false dichotomies of resistance and collaboration and emphasized the complexities of colonial encounters. Motives and strategies of all groups evolved and changed over time according to their own needs[606] – sometimes abruptly, as was the case after the battle of Naulila.

The German witnesses analyzed this blurred picture of a colonial encounter – that ran contrary to the common ideology of European superiority – as a cautionary tale: The Portuguese had "committed a crime" by handing weapons to these "irregulars". They were playing a "dangerous game" and now that they had lost the battle they could not expect any loyalty from Africans, "the arrow had to return to the shooter".[607] The fleeing soldiers, however, in their panic, could not know whether they were targeted by Germans, or Africans under German command, or Africans on their own.

In considering the shooting by Africans, Captain Trainer wrote a letter to Roçadas offering joint action against the "imminent rebellion". Sending a Portuguese sergeant with the letter to his commander, Trainer never received an answer. He ordered that all Africans had to hand in their guns and threatened to hang those who disobeyed, but with little success.[608] The Portuguese prisoners complained about the degrading treatment by the German troops, who forced them, bound together on their necks and holding a white flag, to form a living shield when the Germans fetched water

606 Cf. *Aldrich* 2010: 106; *Oelhafen* 1923: 91; *Hennig* 1920: 118 Africans took 'revenge'.
607 BAB R 1001/6641: 222 (15), Trainer: Zur port. Denkschrift, 9.2.29; cf. *Hayes* 1992: 182.
608 BAB R 1001/6641: 224 (28), Mj. Trainer: Zur portugiesischen Denkschrift, 9.2.29.

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at the Kunene River. All guns were prepared. "We were ready for combat", had Roçadas' force used this moment for a counter-strike from the opposite bank. Contrary to what is still stated in secondary literature, German troops did *not* raid "deep into southern Angola". After tearing down the fort, Franke's regiment returned to GSWA the next day, handing out presents to the "pro-German" Ovambo and taking with it as bounty a maxim gun, guns and ammunition, 16 ox wagons and medical equipment. Any hopes to receive further supplies from Angola were dashed. However, the threat of a Portuguese attack on GSWA was minimized. The troops were welcomed back in Outjo on January 12 and were soon sent south to resume a (hopeless) fight against the South Africans who had landed in Walvisbay.[609]

Roçadas, on the other hand, who had provisionally assembled his troops at Dongoena, finally believed in the German invasion, Norton de Matos' *idée fixe*. He assumed that an invading army was immediately behind him. Similar to other sites of World War I, the rumor (*boato*) developed into its own truth, verified by the shooting that could be heard, everywhere. *Capitão mor* Varão remembered that near Fort Dongoena his troops had received a letter from the Germans forwarded by a Portuguese soldiers. The letter demanded the immediate commencement of peace negotiations and threatened that all Africans carrying weapons would be hanged. It was, according to Varão, also claimed by the Germans that there were more troops behind them. The Portuguese did not respond to the letter. Some spent the night in Fort Dongoena; others left the fort at 7 p.m. heading for Humbe. The next day, December 19, in Humbe, rumors spread that the Germans had crossed the Kunene. Order was given to vacate Fort Roçadas and to destroy everything that could not be taken away. A hut housing all artillery ammunition was set ablaze. The detonation could be heard in Humbe where soldiers and population alike presumed that they were under a German artillery barrage. The impossibility of controlling rumors was underlined by the "panic" that followed this "false alarm".[610] Humbe was vacated too and subsequently sacked by Africans. The troops marched until 10 in the night to Bela-Bela, 25 kilometers north of Humbe.[611] The degree of panic that had stricken the Portuguese can be

609 NAN A.424 Diary Bertling, 22.12.14; *Roberts* 1986: 496; *Teix.* 2003: 25; *Suchier* 1918: 74.
610 AHM/Div/2/2/25/12: 13;19, Polonia, Conclução, 3.2.15; *Hayes* 1992:183; cf. *White* 2000.
611 *Varão* 1934: 59f; *Suchier* 1918:60 quot. *O Mundo*, 2.9.15; BAB R 1001/6634: 146, Report of Baericke, Kimmel (16.11.19), Ax 9 Memo All., 23.5.22 (photos); *Baericke* 1981: 78f.

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seen from the continued march northwards for the following ten days until December 28: Mutucua, Cahama, Cavalaua, Binguiro, Forno da Cal. It was said that Africans pursued the Portuguese up to Fort Gambos, 150 kilometers north of Fort Naulila.[612]

Lacking any intelligence about their retreat, Roçadas still assumed that the Germans had continued their invasion and were behind all the shooting. This assumption led him to his second, "monumental error": He ordered the "evacuation of all forts in the south". Still ten days after the battle the commander of Fort Evale believed that "the Germans were in Humbe". According to Varão it was predominantly the lack of cavalry that prevented the rumors from being clarified by reconnoitering the Germans. Franke had become the "bogeyman" of the Portuguese and Roçadas thought it necessary to win time and space in order to organize the defense of the Huíla plateau.[613]

When the "news" about the Portuguese defeat spread, this was, as missionary Wulfhorst expressed it, "for all Ovambotribes like a call to rise against the Portuguese; [e]ven though nothing had been said." South of Cuito Cuanavale there was not a single Portuguese fort left between the Kunene River and the Northern Rhodesian border. Except for the missionaries, there was "not a single white in the region".[614] Garrisons were attacked, soldiers ran for their lives, leaving behind provisions, weaponry, and war materials (40,000 cartridges in Fort Evale alone). The "strong sense of vulnerability" that has been described for soldiers at Angola's periphery proved to be justified in December 1914. The "violence, hunger, despair, crying, and fear" experienced by the escaping troops have barely found their way into the sources subsequently, but it is reasonable to assume them to be accurate.[615] This "disaster", as was clear to the observing missionaries, could have ended up much worse if the *boches* had decided to pursue the fleeing troops. But there was no need for that. The Cuamato and others, assuming "the Portuguese gone for good", took revenge for the defeat in 1907 and looted the forts. And with every abandoned fort more

612 AHM/Div/2/2/21/14:1, E. Machado, 'A retirada de Naulila após o combate do dia 18'[n.d.].

613 AGCSSp 3L1.11b5, Keiling (Evale) to TRP, 27.12.14; *Varão* 1934: 59; *Pélissier* 1977: 485 'le croque-mitaine'; on research about rumors in WWI *Altenhöner* 2008: 2-6.

614 BAB R 1001/6634:146, Report Baericke, Kimmel (16.11.19), Ax 9 Memo All., 23.5.22; NAN A.505:35, Chronik Omupanda, 20.11.15; *Suchier* 1918:61 quot. *O Mundo*, 2.9.15.

615 *Roque* 2003: 110 on a source from Moxico, 1904; on rumor in Africa *White* 2000.

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weapons came into their hands. Within days the 'colonization work' of thirty years collapsed – *além-Cunene* was free again.[616]

The Portuguese had repeatedly faced the problem that "African soldiers deserting from the harsh conditions in the colonial army" could turn against them.[617] This time, however, it was not a riot by a makeshift *guerra preta*, who had been given guns and now turned against their "masters"; rather, the shooting after the battle of Naulila developed within days into an open rebellion by peoples the Portuguese had expected to have defeated seven years before. While it has been stated about the First World War in Africa that African people were "always secondary actors and direct victims",[618] the situation in southern Angola following the battle of Naulila changed dramatically. The Portuguese became secondary actors and direct victims, being chased northwards and leaving behind their military equipment and settlements.

King Mandume, against whom Roçadas was supposed to fight in the first place, became aware of his adversary's downfall. His men soon joined the Cuamato and Vavale and attacked Fort Kafima, east of Evale. This ended in just another disaster for the Portuguese. Kafima's garrison was "completely annihilated" and one lieutenant and one sergeant were taken prisoner by the Kwanyama. Mandume took his chance, while two of his adversaries, the Portuguese and the Germans, were about to be defeated.[619] However, a third colonial player entered the scene in GSWA and Ovamboland.

2.6.6 The South African Conquest of GSWA (II), January–July 1915

Given the complete retreat of the Portuguese, "the Germans did not have to worry about their northern frontier for the remainder of the war." But in December 1914 General Jan Smuts (1870–1950) also crushed the "Boer Rebellion", following which he could finally resume South Africa's GSWA campaign; "a short clinical campaign … with only 266 deaths."

The "rebels" 'Manie' Maritz and Kemp deflected to the Germans in late 1914. On December 22, near Scuit Drift, Maritz undertook it to attack

616 AGCSSp 3L1.13.7, Tappaz to Faugère, 15.1.15; *Meneses* 2010: 44; *Southern* 2007: 13.
617 *Clarence-Smith* 1976: 220 on 'bandit groups in the rugged lands of the escarpment'.
618 *Bois* 2006: 19: 'des acteurs secondaires et des victimes directes'; cf. *Nasson* 2014: 442.
619 AGCSSp 3L1.11b5, Keiling (Evale) to TRP, 27.12.14; 20.2.15; *Hayes* 1992: 184.

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South Africa's third column, headed by Colonel van Deventer, coming east from the Kalahari Desert. On February 3, 1915 German forces near Kakamas again attacked van Deventer. However, these skirmishes proved militarily meaningless. Maritz "complained about the red tape in the Prussian military machine" and "denounced the German soldiers as 'poor horse masters'."[620] After reinforcements, van Deventer's column took Warmbad and reached Kabus north of Keetmanshoop on April 20. Coming from Lüderitzbucht, the South Africans, now under General Duncan McKenzie reached Aus in March 1915 and pushed towards Gibeon. From the east, across the Kalahari Desert, Lt.-Colonel Christian Berrangé advanced via Hasuur. On April 12 Keetmanshoop was occupied. On May 2 the three united columns of van Deventer, McKenzie, and Berrangé, now under the command of General Smuts, attacked the German troops near Gibeon and took 200 prisoners. The remainder of the *Schutztruppe* barely managed to retreat towards Windhoek. The fourth column had landed in Walvisbay (belonging to South Africa) on December 25, 1914 and occupied Swakopmund on January 14. Commander-in-Chief General Botha, arriving in Swakopmund on February 26, hoped to unite in Windhoek with his three columns coming from south. German counterstrikes under the command of Franke proved fruitless considering the South African manpower. The eagerly awaited German East Asian Squadron from Kiautchou under Admiral Maximilian von Spee (1861–1914) never arrived. The 2,200 men were lost in the battle of the Falkland Islands. As the First Lord of the Admiralty, Winston Churchill, put it: "the clearance of the oceans was completed".[621] There was no more hope for relief.

The Germans relocated the remainder of the *Schutztruppe* and the entire administration northwards. Governor Seitz escaped to Grootfontein in early May. On May 12, Botha occupied Windhoek. After a four-week pause and failed attempts to negotiate a cease-fire until the end of the war in Europe, fighting resumed. The *Schutztruppe*, exhausted and lacking any confidence merely administered its own retreat. Military engagements ended in disaster, the German officers were shocked at the speed of Botha's advance. Proposals to link up with GEA were put down as unrealistic. On July 9, Governor Seitz and Commander Franke signed in Khorab the un-

620 *Cann* 2001: 162; *Samson* 2013: 80f.; quote in *Dedering* 2000: 52; *Samson* 2006: 89-92; cf. *Walker* 1917.

621 *Herwig* 1980: 158; *Seitz* 1920: 23; *Eckenbr.* 1940: 179 Franke offered a reward of 100 M to whoever reported first the arrival of Spee; *Stevenson* 2004: 199; *Sondhaus* 2011: 107.

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conditional surrender of GSWA. The *Schutztruppe* still consisted of 3,497 men.[622] Most of the commoners were put into camps near Aus. Officers were allowed to keep their weapons and returned to their farms. In subsequent years, the "laxity of the rules regarding the treatment of the Germans" gave rise to protests in South Africa. The Administrator E. Gorges had to justify his policy before Parliament and argued that such claims were based on "misleading statements". German civilians, he emphasized, were law abiding under British rule. The Magistrate of Omaruru, Major Thomas O'Reilly, wrote: "the general conduct of black and white leaves little to criticize and much to be grateful for."[623]

Aware of the catastrophic consequences (for the Portuguese) of the African participation in the border war between GSWA and Angola, the South Africans taking over GSWA were eager to "warn" the African population, "that this was a white man's war; that they could take no share in it".[624] However, the South African troops soon had to turn to a new German adversary who did not adhere to this notion of waging a "white war". Southern Africa was in turmoil. The war had repercussions in Northern Rhodesia and Nyassaland, where the Chilembwe rising of January 1915 shortly challenged British authority.[625]

The Luso-German and the Anglo-German confrontation in Angola and GSWA had ended. In East Africa, however, the carnage between Portuguese, Belgian, British and German troops had just begun to unfold. After first skirmishes in August 1914, Portuguese troops coming from Mozambique occupied in 1916 the disputed Kionga triangle south of the border river Rovuma. Then, 1,500 soldiers traversed the Rovuma River and occupied Newala in German East Africa just to learn that they were trapped by the troops of Colonel Paul von Lettow-Vorbeck (1870–1964). The battle in November 1916 ended in disaster for the Portuguese. In November 1917, the *Schutztruppe* (1700 *Askari*, 300 Germans) crossed the border. A nightmare descended upon the people of northern Mozambique. The ensuing *odyssey* was a hopeless attempt of Lettow-Vorbeck to survive and to bind allied forces in Africa. The "main weapons of the *Schutztruppe* were their legs". "Bushcraft" was the only response the Ger-

622 NAN A.566, v. 3: 6, Hennig, 5.1.18; *Devitt* 1937: 92; *Samson* 2013: 84f.; *Nasson* 2014: 437; cf. NAN ADM 8, 25/23, German casualties (15 Officers; 134 privates).

623 TNA CO 633/84/2: 4f. Memo, 12.3.17; cf. *Raif* 1935; *Spies* 1969: 56f.; *Rizzo* 2012: 75.

624 *Pritchard* 1916: 2; cf. *Nasson* 2014a:167; 178; *Keegan* 1999:228; *Kaufmann*; *Siebold* 1916.

625 *Page* 1978: 90f.; 1990: *Nasson* 2014: 445; cf. *Vandervort* 2009; *Vogt* 1973.

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mans had against the overwhelming allied forces. Hunger and diseases haunted the marauding *Schutztruppe*. Hunted by General Smuts' troops they had no particular aim but to find the next Portuguese settlement they could loot. The few surviving German members compared their deeds to those of the *Landsknechte* during the Thirty Years War leaving behind only terror, famine, and death.[626] Despite the Portuguese claim to have sent altogether 34,000 troops to Africa, the Germans "seemed able to move at will", almost reaching the Zambezi River in July 1918. Then Lettow-Vorbeck turned northwards, he crossed into Northern Rhodesia where he surrendered on November 18, 1918. Throughout the East African campaign, "the British were much irritated by the lamentable performance of the Portuguese armed forces".[627]

2.7 Greater than a "Small War" – the "Rebellion" in Angola, 1914–15

Portuguese escape and German retreat did not mean the end of the war in Angola. For the region's inhabitants, the battle of Naulila meant the continuation of an ordeal that had began years ago with the Portuguese attempts to cross the Kunene River. The worst was yet to come. It is significant to emphasize the continuity of war in (southern) Angola in order to assess the situation in late 1914. After continuous attempts at conquest since 1859, and after a crushing defeat in 1904, the Portuguese had established themselves in the region for seven years, albeit marginally, inside their forts. Beginning in June 1914, even the German Consul Eisenlohr in Luanda had learned of "native revolts in southern Angola".[628] None of the colonial administrations had the effective control over Ovamboland it may have wished for. Therefore it is mistaken to speak of "a power vacuum [that] was suddenly created" by the border war and the Portuguese retreat.[629] Rather, when they withdrew from the region, the Portuguese had found themselves reduced to the role they had played before 1907. Thus, the kingdom of Kwanyma under Mandume that had economically and demographically dominated Ovamboland since the late nineteenth century attempted to re-establish a position threatened by the Portuguese advance.

626 *Bührer* 2011: 467f.; cf. *Pesek* 2010; *Meneses* 2010: 52; *Strachan* 2004; *Samson* 2006: 4.
627 *Stone* 1975: 732; cf. *Teixeira* 2003: 25; *Samson* 2013: 175f.; *Meneses* 2010: 60; 77.
628 PA Luanda 3 (Krieg, v.I) German Consulate Luanda to VK Moçâmedes, 16.8.14.
629 *Clarence-Smith/Moorsom* 1975: 374.

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Given the "biographic turn" in colonial and imperial history, the relative power of the elites (of both the Portuguese and the Kwanyama military) may serve as a justification for the focus on the leaders. In the notable absence of sources that relate the perspectives and the "consciousness" of the "subaltern" classes on both sides of the battlefield, it must be left to the future to let them "speak" by historiographic means. Historiographic "elitism" that includes colonizing *and* insurgent subjects will at least add a layer to the recognition of the interests that guided them and the conditions under which they acted – that is, their "use of armed force". This chapter therefore hints at the under-investigated area of modern African military history as a potential avenue of further research.[630]

2.7.1 The "Expedition" under General Pereira de Eça, 1915

The Portuguese in Angola had experienced the "long and complex wars of the seventeenth and eighteenth centuries". Against people like the Kissama, the Portuguese had undertaken "numerous campaigns" for three centuries. "They had no lasting success."[631] Only with the advent of advanced military technology, better transport facilities and improved health services colonial armies won the upper hand in the early twentieth century. The contemporary scientific breakthroughs neutralized the geographic and disease barriers that had hitherto limited European encroachments.[632]

These technological changes, the new "tools of Empire" are to be taken into consideration in the following sections on the crushing of the African "rebellion". However, neither better equipment nor improved logistics could exclude military setbacks, as the Portuguese army experienced in 1904 and again in December 1914. Portuguese reactions to the debacle and its catastrophic consequences were confused and, to a certain degree, dishonest. On December 20, the Governor General related to Consul Hall Hall that "about one thousand whites … and large numbers of natives … attacked inferior Portuguese forces at Naulila". Norton de Matos assumed that the Germans, being "driven out of their colony [by the British]" desired to establish themselves in Angola.[633] The same day, Norton de

630 *Rolf* 2014: 6 quoting Osterhammel; *Spivak* 1988; *Moyar* 2007: 226f.; cf. *Thornton* 1999: 2.
631 *Thornton* 1999: 1; *Heintze* 1972: 415f. the Kissama were finally subdued around 1917.
632 Cf. *Black* 2009: 151–71 for an overview on the 'the victory of the West, 1860–1913'.
633 *Headrick* 1981; TNA FO 371/1884:424, Con. Luanda to FO, 20.12.14; cf. *Rizzo* 2012:233.

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Matos informed Eisenlohr about the battle, deploring a "long series of infringements on Portuguese sovereignty by German forces".[634] The news about the "serious battle" in Naulila soon spread in Angola.[635] On December 27, after anti-German demonstrations, Norton "suggested" to the consul (who was an almost daily visitor of the Governor General in his "palace on the hill"[636]) to leave Angola immediately, which Eisenlohr did the same night. Four weeks later, the crew of a British cruiser arrested him on board a Portuguese ship.[637]

In Parliament, the Minister of Colonies Alfredo Gaspar (1865–1938) explained on December 22, 1914 that the Germans had "again" attacked *o pôrto de Naulila*, with much superior force than "the first time". He spoke of "800 to 1,000 aggressors". Roçadas had retired and concentrated his troops to assure a "counter-attack". He deemed it to be "very urgent to send more troops" to "maintain our territory".[638] On December 24, a note of protest was sent to the German government. Portugal's envoy, Sidonio Pais, demanded reparations from the German government and requested an investigation. In Berlin, the news from Angola caused consternation and disbelief as politicians relied on Portuguese information and had no intention to go to war with yet another country.[639] Further, the German attack on Angola caused "considerable excitement in the press." Not only in allied but also in neutral countries reports were published that "Germans again invade[d]" neutral Portuguese Angola – to tarnish the "German reputation", as Berlin complained. Politically, the victory at Naulila proved to be a "disaster".

In Lisbon, on December 29, a cabinet meeting took place to consider the details of sending additional expeditionary forces to Angola.[640] In the following weeks, the battle of Naulila occasioned "considerable renewed activity in Portuguese military circles".[641] While in Great Britain and Ger-

634 PA Luanda 3 (Krieg, v.II) Chefe de Gabinete to German Consulate Luanda, 20.12.14.
635 AGCSSp 3L1.11b6, Keiling (Cubango) to TRP, 18.2.15; cf. *Rosen* 1932: 227.
636 *Wheeler* 1969a: 18; cf. *Norton* 2001: 212; NAN A.529 n.2:57f., Busch: Erlebnisse, [n.d.].
637 PA Luanda 3 (Krieg II) Consul to GG, 27.12.14; AHD 3p ar.7 m 48, rmk MNE, [n.d.].
638 Diário da Câmara dos Deputados, 22.12.14: 16f. 'É urgentissimo mandar mais tropas'.
639 BAB R 1001/6634: 4, DGL to AA, 20.04.21 *Whitebook* 17.2.19: 201 No.302; *RKA* 1915: 86.
640 *Castro Brandão* 2002: 278; *Fraga* 2010: 129; *Wheeler* 1978: 107; *O Seculo*, 30.12.1914; *Morlang* 1998: 47; a GEA newspaper reported about the battle, embedding it into the narrative of German victories *DOAZ*, Jg.17, no.9, 27.1.15: 2 (Wilhelm II. birthday).
641 NARA RG 84, Lisbon, v. 153: 820, USML to SoS, 4.1.15; cf. *New York Times* 24.12.14: 2.

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many "military interventions in the non-European world grew increasingly unpopular"[642] following the wars in South Africa and Southwest Africa, Lisbon's government could count on public support for its effort to maintain Portuguese rule in Angola. After all, the enemies were European intruders and their African proxies. A declaration of war on Germany seemed likely; a step the British deemed "undesirable", however. Nevertheless, closer cooperation between South African and Portuguese troops was discussed. Republican circles around Afonso Costa were convinced that "only Britain could protect Portugal's colonies in Africa from German cupidity."[643] Mid-January the government contracted a company to transport men, horses, and ammunition to Angola. This indicated for the American minister in Lisbon "that Portugal is virtually at war with Germany". However, due to growing dissatisfaction of officers in Portugal, ongoing plots and subsequent resignations of ministers, the preparation of the expedition was hampered.[644] When the state of emergency was pronounced in Lisbon following an attempted coup and a new dictatorial government was formed under General Pimenta de Castro (1846–1918), new troops were about to embark on their journey to Angola. In the night of January 19, 1915 just before they boarded the ships, officers were arrested for plotting against the government. There were calls to "desert or to refuse to embark for operations against the Germans in Africa …; fear among armed-forces personnel burgeoned once the news" about 'Naulila' reached Lisbon.[645]

In Berlin, the Portuguese envoy received the response that no information was available about Angola, but an enquiry would be initiated if the Portuguese government facilitates the transmission of a cypher telegram between Germany and GSWA. This request was discussed with British diplomats in London who argued that the Germans could "communicate with SWA by wireless". Foreign Secretary Grey initialed the draft of the Portuguese response, informing the Germans that Portugal's government exercises no control over cables to Africa.[646]

In Luanda, shortly thereafter, Norton de Matos lost his post; Angola's south had become the "Achill[e]'s heel of his governorate". Bearing the political responsibility for the disaster, he was axed from his post by Pi-

642 *Methfessel* 2012: 52.
643 TNA FO 371/2231, Tlgr. CO (Harcourt) to GG SA, 1.1.15; *Birmingham* 2011: 153.
644 NARA RG 84, Lisbon, v. 153: 820, USML to SoS, 18.1.; 25.1.15; cf. *Ramos* 2001: 440f.
645 MAELC CPC/NS, v. 6, Port.: 140, FML to MAE, 31.1.;156, 4.3.15; *Wheeler* 1978: 113/8.
646 TNA FO 371/2231, BML to FO, 7.1.15; remark A. Nicolson, E. Grey, 8.1.15.

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menta de Castro in late January 1915. At the end of February, after having written a lengthy report about Angola and the numerous "rebellions" in recent months,[647] he left a colony that was politically and economically worse off than in the preceding years.[648] Due to the defeat in Naulila, it was not granted him to present himself as a "second" Salvador Correira de Sá e Benevides, who had expulsed the Dutch 'invaders' from Luanda in 1648.[649]

In February 1915, Portugal's new strongman, Pimenta de Castro, who opposed any intervention on the European battlefield, appointed the former Minister of War and ardent interventionist General Pereira de Eça to the post of Angola's Governor General and Commander-in-Chief. Aged 63, he seemed "an unlikely choice" for this mission. It seems probable that Castro hoped to have neutralized a possible opponent. Never before had a general been appointed to lead a campaign in Angola. His mission had three objectives: (1) Protecting Portugal's sovereignty against further German attacks and revenge for Naulila, if necessary; (2) re-occupation of the areas and fortresses abandoned in 1914 and (3) occupation of the Kwanyama kingdom.[650] Given the Portuguese investments, the South Africans were concerned that Portugal's troops could go on the offensive against GSWA. However, they wanted to "carry through the campaign" all by themselves. From Pretoria, he Governor General reported to London his ministers were "anxious that no Portuguese claim to territory [in GSWA] should arise." But Foreign Secretary Grey knew that it was "impossible" to give the Portuguese "an assurance against German aggression" when they "consider that a serious attack is already in progress." Grey therefore refused to "ask them to limit in any way their own action against the Germans in [GSWA]."[651]

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647 *Dáskalos* 2008: 181; 188; cf. *Norton* 2001: 215f.; *Pimenta* 2008: 94; NdM would have stated his term was over. GG served short terms of duties. 1900 -10, nine GG ruled in Luanda, *Henige* 1970: 232; *Wheeler* 1969a: 6.

648 Mostly due to the war (German ships could no longer reach Angola) the value of foreign trade had decreased by ~35 per cent, exports by ~40 per cent; the escudo 'fluctuated greatly after the outbreak of war.' NARA RG 84, Lisbon, v. 152: 610, USC Boma, Report on Trade of Angola, 9.9.15; BAB R 1001/6640: 111, extra-file: 36, testimony Norton de M., 5.5.26; *Da Costa* 2008: 212.

649 *Norton* 2001: 186; *Henriques* 1995: 83 on Correira de Sá's historiographic 'function'.

650 *Meneses* 2010: 45; *Strachan* 2004: 80; *Pélissier* 2004: 271; cf. *Teixeira* 2003: 25.

651 TNA FO 371/2231, remark A. Nicolson, E. Grey; CO to FO, 8.1.; FO to CO, 12./18.1.15.

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Angola's new Commander-in-Chief had, just as his predecessor, a fully-fledged "imperial biography". The artillery officer made his first experience in the African theater of war in 1891, when he spent one year in Mozambique (again in 1897). A "hero" of the conquest of Mozambique, the Major was sent to Cap Verde in 1903. During the first years of the republic the Colonel made himself a name as defender of the new order when he subdued monarchist plotting in Northern Portugal in 1912 – in these years the army was regularly called in to intervene in questions of public order. A few months later de Eça was promoted to the rank of General. Due to his ruthlessness, he soon bore the byname "iron man". In February 1914 he became Minister of War in Bernadino Machado's government. In London, de Eça negotiated Portugal's participation in the war, which he favored. However, the Government could not agree on a common position and, furthermore, failed to prepare the general elections. On 12 December 1914, Machado' Government resigned.[652]

In southern Angola, in the meantime, Africans were eager to push back any Portuguese attempt to reestablish colonial influence. Small platoons did not stand a chance in the area "abandoned by the [Portuguese] government in such a cowardly way". The thickness of the bush around the Kunene River benefitted the defenders.[653] Of a first Portuguese reconnaissance peloton that dared to enter the region, most soldiers were "massacred".[654] Fear for the mission stations and concern of Africans "waiting for an occasion to plunder" reined among missionaries. But it seemed that the "promises of the chiefs" not to attack the mission stations were kept.[655] It was understood since the end of January that the Germans had "evacuated Portuguese territories but are inciting the natives near frontier to revolt." However, on February 1, 1915 a German platoon crossed once more the border, after having been informed about this opportunity by "the Ovambo", to take away the artillery that was left in the abandoned Fort Dom Luís de Bragança.[656]

In stark contrast with the "classical" Portuguese mode of waging war in the colonies, more and more metropolitan troops were sent to Angola,

652 *Rolf* 2014: 9; *Da Costa* 2008: 124-7; *Wheeler* 1969: 759; 1978: 107; *Minist. da Guerra* 1917: 10; *Pélissier* 2004: 269f.; *Teixeira* 2003: 24; *Malva Novais* 2006.

653 AGCSSp 3L1.11b5, Keiling to TRP, 27.12.14; *Hartmann* 1902: 229; *Kanthack* 1921: 329.

654 AGCSSp 3L1.13.7, Tappaz (Huíla) to Faugère, 15.1.15.

655 AGCSSp 3L1.13.6, Bonnefoux (Huíla) to TRP, 3.2.; (Tyipelongo) 4.4.15.

656 TNA FO 371/2231, telgr. BML (Carnegie) to FO 4.2.15; *Oelhafen* 1923: 92.

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hastily recruited in Portugal's countryside. After the disaster of Naulila the General Staff in Lisbon considered it evident that only heavily armed metropolitan troops in sufficient numbers would withstand the *Schutztruppe*. In early 1915 it did not seem unlikely that the Germans might attack Angola again since they had "already twice violated the border."[657] However, the Foreign Minister admitted that the first task of the reinforcements "would be to restore order among the natives in the South". He assured the British Minister Carnegie that no "operations" against Germans would be initiated "without previous consultation with [the British] government."[658] When the new reinforcements arrived, the population of Huíla, relieved that the Germans had not attacked their town, considered it unfortunate that these troops had no experience. Moreover, the troops had a reputation for being "undisciplined". It was feared that they would "panic" on their first encounter with German troops, "just as in Naulila".[659] General de Eça had similar reservations. After his arrival in Luanda in March 1915 (replacing Lt.-Colonel Roçadas who had requested that the campaign "be prosecuted by a more senior officer"[660]) the General took his time to meticulously prepare the campaign to secure southern Angola for good. He did not occupy himself with the "revolt" in the Congo district.

The hesitation of de Eça to push forward against the German border and the Kwanyama was also due to the difficulties with regard to the reorganization of the armed forces. The "state of Portuguese national defenses" was described by one officer as "disgraceful". "By 1915, the army-reform laws appeared to be a failure". The political upheavals in Lisbon, and most of all the constant ministerial crises worsened the situation. Given the endless changes, the role of political direction in the determination of force structure and military objectives was limited. When Pimenta de Castro was overthrown on May 14, he was accused of not having acted with courage against the Germans.[661] Norton de Matos was among those in Lisbon who worked on bringing him down. Under Prime Minister José de Castro he was appointed Minister of Colonies in June. France's Minister to Portugal, Emile Daeschner, saw it with a sense of irony that Norton de

657 AGCSSp 3L1.11b6, Keiling (Cubango) to TRP, 18.2.15.
658 TNA FO 371/2231, BML (Carnegie) to FO 26.2.15.
659 AGCSSp 3L1.13.7, Tappaz (Huíla) to Faugère, 15.3.15.
660 *Southern* 2007: 13; cf. *Pélissier* 1969: 102; *Sousa* [n.d.~1935]: 11.
661 MAELC CPC/NS, v. 6, Portugal: 196, FML to MAE Delcassé, 20.5.15; *Wheeler* 1978: 115.

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Ill. 27 Norton de Matos, ministre de la guerre du Portugal

Ill. 28 General José Pereira d'Eça

Matos, who was recalled after the disaster of Naulila because the army under his responsibility appeared to be "completely unprepared", found himself in charge of providing his successor in Angola with the means necessary for the operations he himself was unable execute. After a cabinet reshuffle in July 1915 Norton became Minister of War and was responsible not only for the campaigns in Angola and Mozambique but also for organizing the departure of Portuguese troops to France.[662]

Mistrust, lack of discipline and insubordination were rampant in the armed forces following the revolution; relations between officers and rank-and-file were strained and deteriorated under war conditions. The loyalty of officers and civil servants to the republic was openly questioned. While the troops assembled in Angola, Norton de Matos' Ministry of War set up a committee "to investigate the personnel of [its] department with the view of making such changes as may be compatible with … safety and harmony of the government". Monarchist officers were axed while promotions were granted to men unfit for their positions.[663]

662 MAELC CPC/NS, v. 6, Portugal: 229, FML to MAE Delcassé, 24.6.15; *Norton* 2001: 222.

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In March 1915 de Eça had 3,700 men at his disposal. In June, the new government granted his expedition another 1,500.000 Escudos in expenses.[664] In July, a European army the size of which has never seen before in Angola was assembled: 265 officers, 7,500 commoners, and 60 guns were shipped to Moçâmedes; additional personnel and materials came from Angola, Mozambique or South Africa. Altogether the forces included 372 officers, 10,049 commoners (including *degredados*), 70 guns, 340 ox-wagons, and 82 Fiat trucks. The size of the expedition was thus three times as large as the one of Roçadas in 1914 and almost reached the size of Portugal's entire army in times of peace (13,000 men).[665] This campaign was the "most extensive" in Angolan history until the war 1961–74. Further, the army enlisted Africans; as elsewhere during the World War "in their search for local combatants, European administrations resorted to an almost enslaving form of conscription".[666] And as in all campaigns since the 1880s, the Portuguese could count on Afrikaaner "auxiliaries". By 1915, these expeditions were not yet "something of the past". Looking for German movements, since January Afrikaaner guides began to reconnoiter the drifts to *Damaraland*. A formal "Boer commando" was established in May.[667]

In the meantime, another limiting factor for the campaign became more and more evident: the drought and the lack of water and transport resulting from it. De Eça's strategy consisted of crushing any resistance to his advance with the sheer number of men, thereby reducing any tactical disadvantage of his troops. But the supply of so many soldiers was an exemption in the way colonial wars were fought by the Portuguese. It was only possible "against the backdrop of World War I and the threat of German encroachments".[668] Since 1912, agriculture and cattle raising had made

663 NARA RG 84, Lisbon, v. 153: 801, USML to SoS, 27.7.15, *Wheeler* 1978: 113.

664 NARA RG 84, Lisbon, v. 142: 800, US CG to SoS, 11.6.15.

665 *Pélissier* 1977: 489f.; 2004: 272; cf. *Iliffe* 2007: 219 on the effect of lorries on the colonial economy; *Wheeler* 1969: 428; 1978: 114 dispatchments from Portugal usually comprised less than 1,000 men. From 1914-18 Portugal deployed in Angola 23.445 men, plus 'several thousand *Cipais*-irregular troops'. Troops from Portugal: 392 officers, 11,777 soldiers. Colonial troops: 292 officers, 1,774 'white soldiers', 9,240 'native soldiers'; 3,473 horses and mules were sent from Portugal (BAB R 1001/6634: 32, excerpt Portug. Memo., 17.2.19: 336); *Hayes* 1993: 91.

666 *Wheeler* 1969: 429; *Nasson* 2014: 443 on British and French practices; cf. *Kuss* 2010: 18.

667 AHM/Div/2/2/37/55, Pimento (Lubango) to Estado Mj, 24.9.15; *Pélissier* 1979: 194; *Stassen* 2011: Figure 6.

668 *Isaacman/Isaacman* 1977:56; cf. scale of 'African-white' participation *Pélissier* 1969:119.

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Map 4 Southern Angola in 1915

progress in the administration's bid to overcome Angola's dependence on rubber exports.[669] The troops, however, consumed far more than could be produced locally. Next to expensive imports, the military administration resorted to violent requisitions of food – and porters to carry it. This caused upheaval not only in southern Angola. In the north, near São Salvador, Chief Alvaro Buta "found himself pressured by the government to recruit porters for the campaign against the Germans" and decided instead to continue a smoldering rebellion. The costs for the expedition were enormous, prices rose in Angola. To make things worse for officers and civil servants, since early 1915 their salaries had not been paid to incur expenses.[670]

In comparison to previous campaigns the infrastructure available to the army had improved considerably, and de Eça ordered his men to carry out further expansions. The need to deploy the army to extend and guard *o Império* spawned technical changes such as the laying of new rail tracks or

669 NARA RG 84, Lisbon, v. 152: 610, USC Boma, Report on Trade of Angola, 9.9.14.

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telegraph lines. Most importantly, the challenge to transport weaponry and personnel across the desert had been alleviated by the construction of the railway from Moçâmedes eastwards since 1905. The tales about the twelve days in the unforgiving desert – a "white man's grave" – and the hundreds of oxen that "perish[ed] annually in the journey"[671] were now a relict of a legendary past. The "toy railroad"[672] had not yet reached the plateau in early 1915, but had crossed the desert. In March 1915, the first platoons were transported to Vila Arriaga. They had to cross the Chella Mountains on foot. In mid-1915 the railways had reached kilometer 183 east of Vila Arriaga, leaving behind the escarpement.[673] Furthermore, as a consequence of the campaigns since 1904, there were, as the botanist Pearson put it, "at present well-beaten tracks from the plateau down to the Kunene" following the Caculovar River to Humbe.[674] However, de Eça had to postpone the march down south due to "lack of water and pasture". For the Afrikaaners, who had lost much of their ox-wagon business to the railway,[675] the war was a chance to regain profits.

Despite his time-consuming procurement of war materials and shipment of troops, the situation de Eça faced on the ground was still characterized by want not only of water and transport facilities. Telegraph lines had to be set up. Knowledge of southern Angola had improved since the campaign of 1904, but credible maps were lacking.[676] Intelligence was scarce; in Benguela, the General at least met with Prefect Keiling who informed him about his encounter with King Mandume in January and warned him of the danger for his men caused by the lack of water. When in February a few raindrops fell, small troops (with their cattle and horses) could dare to

670 *Wheeler* 1969a: 6; AGCSSp 3L1.11b6, Keiling (Huambo) to TRP, 14.4.15.

671 *Rooney* 1912: 286. Before the railroad, the 'whole of the transport of the country … [was] in the hands of the [Afrikaaner]' (*Cuninghame* 1904: 156). Previously, the tsetse fly had prevented the use of oxen in the area, but 'as a result of the destruction of the indigenous buffalo' at the end of the nineteenth century this ecological 'shield' no longer existed (*Kienetz* 1977: 568).

672 *Wittlesey* 1924: 124.

673 *Sousa* [~1935]: 14; *Santos Correira* 1943: Mp.1; cf. *Wittlesey* 1924:124; *Dáskalos* 2008: 83.

674 *Pearson* 1910: 508 'circuitous, exceedingly rough' roads to the east; 511; *Kuss* 2010: 16.

675 AGCSSp 3L1.11b4, Cancella (Kwanyama) to TRP, 21.6.10 via Evale; *Pearson* 1910: 507.

676 *Whittlesey* 1924: 114; AGCSSp 2L1.1.1, Carte de l'Ovampo par le R.P. Duparquet, (L. Wuhrer) ca. 1885. In 1893, the American Consul Heli Chatelain claimed there 'is no satisfactory map of the Province' of Angola. Knowing Kimbundu, he did not trust 'the misprints of names' on Portuguese maps, *Chatelain* 1893: 304; NARA RG 84, Loanda, v. 4, USC to SoS, 26.7.92: 463.

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advance southwards; but since the rainy season came to a close the worse was yet to come. Given the secrecy of the military, missionaries were doubtful how the officers would decide about their "expedition".[677] Prefect Keiling was concerned that if the Portuguese continued to wait, they would "not find a drop of water on their way and die of thirst, which is worse than the bullets of the Kwanyama."[678] Unease about the long period of preparation grew. In May 1915, a missionary in Huíla wondered why 1,200 men had been sent and did not move, but consumed the little food that was left. Soldiers, decimated by malaria, were rendered "useless" before being sent to the battlefield.[679] A small expedition staffed with soldiers from Mozambique was sent against the people of Tyipelongo. However, the assembled army did not deter the Kwanyama to continue their raids which caused a further exodus to the north.[680]

Finally, preparations were concluded and marching order was given in June to de Eça's 10,000 men. Rumors about the Germans' hopeless situation had reached southern Angola. Equipment was transported from the railway terminus via Lubango, Chibia, and Fort Gambos by ox wagons, motor trucks and thousands of human carriers. Missionaries deplored that even men from Christian villages were requisitioned, just as the carriages of private individuals (including missionaries') and all mission-educated craftsmen (smiths, carpenters) with their tools, as well as any cattle of Africans.[681]

It is said that the Portuguese officers neither had the operational capacities nor the necessary means available to organize a campaign of this size 300 kilometers away from the point of departure in Moçâmedes. Most motor trucks broke down. Those still running had to be used to transport water, provisions and officers of the General Staff. All others had to march from the plateau down to the Kunene River and beyond. For the time being, the "major task" of warfare in the region meant "subduing the forces

677 AGCSSp 3L1.11b5, Keiling (Huambo) to TRP, 15.4.15; Goepp (Bailundo) to TRP, 7.7.15; 3L1.13.6, Bonnefoux (Huíla) to TRP, 2.3.15; (Tyipelongo), 4.4.15.

678 AGCSSp 3L1.11b6, Keiling (Huambo) to TRP, 14.4.15; 25.4.15. It seemed 'consoling' to him to know that the Germans were in dire straights too. It was said that they had retreated to Etosha. 'They are dying of hunger.' Rumors had it that Franke had retired to the forts 'Omtuni [Namutoni] and [O]Kaukueyo' with merely 200 white and 100 black soldiers dying from hunger.

679 AGCSSp 3L1.13.7, Tappaz (Huíla) to Faugère, 14.5.15.

680 AGCSSp 3L1.13.6, Bonnefoux (Tyayombo) to TRP, 17.5.15.

681 AGCSSp 3L1.11b6, Keiling (Huambo) to TRP, 25.4.15; 3L1.11b5, 28.7.15.

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of nature", as one German officer had expressed it already in 1905. Other concerns were subordinated to the persistent search for water. As in most previous colonial campaigns, also the Portuguese in 1915 experienced "nature's role as a direct threat to [their] armies." Hundreds of forcefully recruited porters paid with their lives, dying of hunger, malaria, and exhaustion. The horrors of warfare were experienced even without engaging the enemy. Soldiers drew a "dantesque picture of their march … ravaged by thirst and diseases", while decomposing bodies of famine victims were seen all along the routes. Father Goepp, in a letter to his superior in Paris, knew who was to blame for all the ruins and bloodshed in Africa: *l'horrible Guillaume*. And he admitted the "disgrace" he felt about the conclusions drawn by Africans who "could not understand at all that we [Europeans] have killed each other for one year in a row": "Whites are worse than all beasts."[682]

On July 7, 1915 de Eça reoccupied Humbe whose African population, weakened by the famine, did not resist. Those still able to bear arms had probably fled to Kwanyama territory. Simultaneously, de Eca sent 100 cavalrymen and 36 Afrikaaner to raid the western shore of the Kunene River – a reprisal for the humiliation in December 1914. Near Fort Dongoena they massacred allegedly 600 *indigenas* among them the *soba* of Dongoena and seized 500 head of cattle. The "Boer commando" then crossed the river into Uukwambi areas. In mid-July 1915, they made a reconnaissance tour to Fort Naulila. Not informed about the surrender at Khorab, they questioned Africans about "German movements", but most of all they were establishing roads and water reserves. The whereabouts of the weapons looted in the forts were of great concern. The risk of Portuguese soldiers being shot with their own guns was high. One officer obtained a *Mauser* and learnt that the people of Dongoena had sold twenty *Mauser* to the Uukwaludhi "whose *sóba* sides with the Germans."[683]

More fresh troops were called in. The 3rd Infantry Battalion, for example (in Moçâmedes since early December 1914 and stationed in Vila Arriaga since March) reached Humbe on August 6, where the General assembled his troops. An entire day had to be scheduled to cross the river

682 *Pélissier* 2004: 273 ref. to *Gusmão* 1935; François quot. in *Lehmann* 2014: 533; 535;AGC-SSp 3L1.11b5, Goepp (Bail.) to TRP, 7.7.15.

683 *Pélissier* 2004: 274; AHM/Div/2/2/37/55, Pimento (Vau de Caloéque) to Chefe do Estado Major, 16.7.15.

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north of Humbe.[684] Informed about the German surrender and relieved of the necessity to guard the border, de Eça subdivided his army into four columns to occupy the areas east of the Kunene River around forts Cuamato, Naulila, Evale, and the Kwanyama region. The Portuguese policy of conquest was built around the notion of different "tribal" polities that were to be occupied one by one. Pockets of resistance were to be isolated and than crushed. The occupation of Cuamato, Naulila, and Evale was realized without much fighting. King Mandume was now encircled from the north and the west and found it difficult to concentrate his troops. Ombandja (Cuamato) Chief Shihetekela Hiudulu was no longer able to organize resistance. De Eça ordered the reestablishment of Forts Cuamato and Naulila.[685] He had "no information about the exact number of Kwanyama forces" and did not exclude the possibility that Mandume's men would be joined by Ombandja – possibly with all the weapons that had fallen into the hands of the Africans since the Portuguese retreat.[686] Nevertheless, de Eça's troops began to enter Kwanyama territory.

2.7.2 Reforms and the Coming of War – King Mandume, 1911–15

Modern-day Namibian politics has no want of "heroes of anti-colonial resistance": Hendrik Witbooi (c.1830–1905), Samuel Maharero (c.1856–1923) and Jacob Marengo (c.1875–1907) are glorious names in history. What distinguishes Mandume ya Ndemufayo (c.1894–1917) from most of these men was not only his young age, but, most of all, his totally uncompromising stand on foreign occupation of his kingdom. While his older co-"heroes of anti-colonial resistance" were, at one time or another, integrated into the colonial political or economic landscape, located in the "grey area between domination and resistance",[687] he never was. "Mandume", as one of the missionaries stated who knew him best, was "of a fighting disposition and would never rest."[688] His "fighting disposition" was based on personal experiences and historic changes within Ovamboland. These

684 Cf. *Sousa* [n.d.~1935]: 14f.; *Pearson* 1910: 506; 511; *Hayes* 1992 II: 196 (Sheetekela, 27.12.89).

685 *Sousa* [n.d.]: 11; *Pélissier* 1977: 491; AHM/Div/2/2/38/27: 1, Ordem do Commando Superior (Humbe), 8.8.15.

686 AHM/Div/2/2/38/27: 2, Commando Superior (Humbe). Instruções No. 3, 9.8.15.

687 *Apter* 1999: 589; cf. *Kössler* 2008: 318 on memorialization of 'national hero[es]'.

688 BAB R 1001/6640: 125, extra-file: 41, testimony missionary Albert Hochstrate, 26.4.26.

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were not necessarily evident to European contemporary observers. They mostly assumed that "pre-colonial societies were in a pristine condition that to all intents … had remained unchanged over aeons."[689] However, these changes can only be sketched here in order to locate Mandume's resistance within the political and social history of the region.

Ovamboland, located on the Cuvelai floodplains between the Kunene and Okavango Rivers, was described by a contemporary geographer, less than enthusiastically, as "the [Kalahari] desert margin": "The plain is covered with thorn which is almost impenetrable in places. … A very scanty population ekes out a wretched living."[690] The notion of an isolated population permeates also historiographic accounts: Even in the 1970s, Angola's southern border has been described as "one of the least known regions of Africa."[691] The isolation based on geography was emphasized politically since 1886 by the Luso-German border. From a colonial perspective, the border cutting Ovamboland in two designated the region to the status of a periphery and marginality. Similar to Darfur, the Rif, or the interior of British Somaliland, Ovamboland "remained outside European control" before the First World War.[692]

Ovambo societies had developed during the nineteenth century into several "strong centralized kingdoms". Missionaries and officials, adhering to the notion of the bounded ethnic groups, usually spoke of "tribes" whose leaders were called "chiefs", *sobas*, or *Häuptlinge*. Modern historians prefer the term "King", in Namibia the term *ohamba* is also in use.[693] Since the mid-nineteenth century the Kwanyama kings of northeastern Ovamboland were considered "the most powerful" (reigning over a population estimated between 45,000 and 80,000 before 1914).[694] Among Europeans they had a fearsome reputation. The prospector Boyd Cuninghame heard in 1903 of "Olulu [Weyulu 1884–1904], the King of the Kwinhamas, the great raiding tribe… who … have never been subdued."[695] The Apostolic Prefect of southern Angola, Louis Keiling, alleged they would "live only on warfare and looting. The military authorities and citizens without defence are terrified when they merely hear their

689 *Vansina* 1987: 437.
690 *Wittlesey* 1924: 125; cf. *Urquhart* 1963; *Nitsche* 1913; *Tönjes* 1911.
691 *Miller* 1977: 108 on the pioneering work of *Clarence-Smith;* cf. *Miettinen* 2005: 13f.
692 *Clarence-Smith/M.* 1975: 365 (pre-1915); *Iliffe* 2007: 197; *Almeida-Topor* 2010: 17f.
693 Cf. *Miettinen* 2005: 56: *Corrado* 2008: 84 FN 21; *Harding* 2013: 146-8 on terminology.
694 *Clarence-S./M.* 1975: 368; cf. *Wallace* 2012: 11; *Oliveira* 2010:1057; *Wright* 1999: 409f.
695 *Cuninghame* 1904: 164 (did not cross into Ovamboland); on the term 'tribe' *Jones* 1990:76.

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name."[696] Irrespective of any colonial remoteness, Kwanyama territory was located along a political and economic key frontier: Geographically "closer to the Angolan slave trade" for which they raided their northern neighbors and "marked by a higher degree of militarization, the Kwanyama became the most embroiled of all Ovambo in this 'frontier of violence'."[697]

Combining seasonal rain-fed settled agriculture with cattle herding (agro-pastoralism) and hunting, Ovambo polities also set up a "vigorous local trade". The mode of production in Ovamboland was not only highly vulnerable to prolonged drought, cattle diseases, and locusts, it was also increasingly influenced by European traders, missionaries and, later, colonial officials.[698] European goods, including clothing, ox-wagons, alcohol, but most of all firearms were purchased from European traders of Walvis Bay or Moçâmedes, or Ovimbundu traders from Caconda. By controlling trade in Ovamboland and beyond, several kings and other chiefs monopolized horses and guns and built up a following of men (*omalenga*). The *omalenga* and modified military organization proved to be the basis for accumulation through raids and the forcible collection and sale of cattle, ivory, and slaves. The increasing demand for these items and the accessibility of firearms facilitated their rise to dominance. As in other African societies, this kind of 'modernization' had "counter-evolutionary tendencies", leading to insecurity and instability.[699] For the first time, significant differences in style of living emerged within Ovambo societies. The growth of trade and the rising tide of new commodities flooding the region intensified social divisions. The kings were utterly dependent on European goods and begun to rely on "internal taxation" (cattle and slave raids, extortion of tribute) in order to pay for the merchandise and their growing debt.

> "[T]he *[oma]lenga*, each of whom received a horse and a number of rifles from the King … led a body of about 100 men on raiding expeditions. The *[oma]lenga* now became the tax collectors, and the traditional ritual seizure of cattle for the King's court (*okasava*) became a harsh and arbitrary tax, which fell mainly on the most vulnerable members of society."[700]

696 AGCSSp 3L1.11a2, Keiling, Rapport sur la Prefecture de la H. Cimbebasie:10 (1911).
697 *Hayes* 1993: 96, ref. to Miller 1988; cf. *Williams* 1991 for an overview.
698 *Moorsom* 1977: 56f.; *Siiskonen* 1990: 79;92;146
699 *Cooper* 2002: 50; cf. *Dobler* 2014: 2-20; *Heintze* 2011; *Bazin/Terray* 1982: 22.
700 *Clarence-S./Moorsom* 1975: 376; *Hayes* 1993: 97 'modifications in military organization'.

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The subjects – who had suffered stock losses as a result of the great epizootic in 1897 and the famines that followed the droughts and floods since 1908 – reacted with resistance. Their impoverishment (caused by the replacement of "traditions" with arbitrariness in combination with natural disasters) led to the erosion of the kings' and *omalenga*'s means of accumulation and control. In response, they tried to manipulate the system of labor migration as additional source of revenue by extorting "tax" from returning labor migrants; whereas many Ovambo attempted to avoid the predation of the *omalenga* by resorting to migration.[701] Likewise, kings and *omalenga* were jeopardized by the actions of the government of Portugal. The reactions in southern Angola or northern GSWA to the encroachment of merchant capitalism were manifold. While rulers took their chances and enriched themselves, others, especially those of lower social strata saw no alternative but to respond violently. The concept of "social banditry" has been applied to explain the reactions of these men (and women). In Eric Hobsbawm's universalist terms: they either came to "the world of capitalism", "or, what is even more catastrophic, it comes to them from outside, insidiously by the operation of economic forces which they do not understand and over which they have no control".[702]

Thus was the situation when Mandume became King of Kwanyama in early 1911, succeeding his uncle Nande. The predatory raids and excessive taxation weakened not only societal ties but also the King's central authority to contain centrifugal tendencies. The loss of central power was probably also related to the relationship made in pre-Christian Ovambo cosmology between the King and his rainmaking powers. The unremitting droughts undermined the legitimacy of the King. Despite the sacred character of kingship, kings had been deposed in the past purportedly for failure to make rain. In a time of fragmented power, immense social pressure, repeated famines, and rising inequality, Mandume decided to focus his rule on "internal renovation". A strong personality who "knew how to inspire fear from an early age" and having a "reputation for forcefulness", he perceived the legacy of his uncle as a "'degeneration' of the Kwanyama state".[703] Mandume's policy is an example of what T.O. Ranger analyzed as an African reaction to the "stresses of the nineteenth century": some African societies "developed both stronger military institutions and

701 *Clarence-Smith* 1979; cf. *Dobler* 2014: 7 on kings stealing cattle to pay commercial debts.
702 *Clarence-Smith* 1986; *Hobsbawm* 1959: 3; 14 emphasizing the 'uniformity' of banditry.
703 *Hayes* 1993: 97f.; cf. *Pélissier* 1977: 205; *Estermann* 1976: 126 on raids; *Salokoski* 2006.

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more centralized political machinery."[704] Profoundly traditionalist, the "essence of Mandume's reformism was to increase Kwanyama agricultural productivity, reduce dependency on external links with merchant capital and re-assert the centrality of royal authority at a time when fragmentation at the Kwanyama state seemed imminent."[705]

The *omalenga*, on the other hand, tried to extend their judicial and military power. They presided over their own administrative districts of the kingdom (*oshikandjo*). "The tension between kings and *omalenga* lay at the heart of Ovambo politics". King Mandume tried to re-centralize power and curbed the power of the *omalenga* and their followers. He not only ordered them to cease trying people at their homes, he also prohibited further raids for cattle and captives without the King's sanction and centralized tribute exaction under royal control. As a response to the hunger, he urged his subjects to cultivate more land.[706]

Finding Kwanyama society in turmoil and involved in several power struggles (with the colonial powers, between fractions on the royal lineage, between King and *omalenga*, between *omalenga* and subjects, between King and subjects) Mandume made two important decisions after his accession: He moved his capital southwards to N'giva (Ondjiva) closer to the German border and since 1891 a Rhenish mission station. He "intended to balance pro-German leanings with an anti-Portuguese stance." To this end, he stood in friendly contact with the Rhenish mission (yet at times, conflicts did occur) and he expelled Portuguese traders from his kingdom. The population was "ill disposed towards [them] owing to their charging too high prices for their goods."[707] Mandume is said to have rejected their trade in alcohol and slaves. His policies were considered successful by Rhenish missionaries, who would try to act as his advisors and reported in 1911: "Mandume holds himself well. He is not as weak as the

704 *Ranger* 1969: 296; cf. *Mittelberger* 1968/69 on Kwanyama 'religião primitiva'.

705 *Hayes* 1993: 92f.; cf. *Pélissier* 1977a.

706 *Hayes* 1993: 95; 97; 100; 112; 109: 'In Mandume's tussle with the military commanders, the latter had argued that Kwanyama prosperity depended on their raids. Mandume countered that the only way to obtain sufficient food was to work hard in the fields and that the real Kwanyama problem was fear of work. This argument … constituted the core of Mandume's populist 'reforms' because they were directed most fundamentally at producers, not the *élite*. Centralisation and the curbing of the latter were prerequisites for the healing of society after decades of increasing social division. The healing itself would come with the elimination of hunger.'

707 *Hayes* 1993: 99; BAB R 1001/6640:125, extra-file: 40f., testimony A. Hochstrate, 26.4.26.

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deceased Nande. Also, the poor man gets his rights with him. The big people, who were previously ruining the country, he holds in discipline."[708] The Spiritans, on the other hand, were not so well disposed towards the new King. His predecessor Nande had been their "friend". Prefect Keiling considered Mandume to be "jealous" of the Catholics' influence on the youth. Mandume disliked their connection with the Portuguese authorities and therefore, Keiling maintained, looked for closer bonds with the German Lutherans.[709] Furthermore, there were rumors that the Portuguese prepared an expedition to occupy Kwanyama territory. Mandume seemed convinced that the Catholic missionaries had requested this expedition.[710] The Spiritans, afraid of being caught between the adversaries, decided in October 1911 to move their mission station north to Evale were they also hoped to find water.[711] In 1912, Mandume ordered the Catholic mission station to be destroyed.[712]

Cuamato (Ombandja) to the west of Oukwanyama territory was occupied since 1907. To the north an ongoing war of the Portuguese against Evale (first occupied in 1909[713]) ravaged the country. The fate of his neighbors convinced Mandume of the colonial threat to his sovereignty. It is likely that this threat also caused Mandume to work against the political fragmentation of his kingdom since it reduced the prospect of waging war successfully against either the Portuguese or the Germans. Both could have used the smaller chieftaincies to pursue a 'divide and rule' strategy. Oral tradition has it that Mandume already during the second meeting with his councilors after becoming King in 1911 pointed to the possibility of "war with foreigners who threatened to seize [Ovambo] land."[714] All parties rearmed. The Portuguese set up new fortresses and also Kwanyama authorities amassed weapons and continued the raids to recoup their losses. Missionaries working in Ovamboland knew the smuggling practices

708 *RMG* Berichte 1911: 215, transl. *Hayes* 1993: 102; *Hayes/H.e* 1997: 77; *Becker* 2005: 45.
709 AGCSSp 3L1.11a2, Keiling to Cardinal, 9.9.16; 3L1.11b6, Keiling to TRP, 8.9.12.
710 AGCSSp 3L1.11b5, Keiling (Cuanhama) to TRP, 29.10.11.
711 AGCSSp 3L1.11a1, Keiling: Compte-Rendu, Cuanhama, 1.11.11; 20.10.11; 1.5.13.
712 AGCSSp 3L1.11a2, Keiling to Congr. de Propaganda Fide, 8.11.13. Keiling sent him two 'resolute' Christian Kwanyama to tell him that irrespective of the destruction the Spiritans had the 'intention to return to his country.' Keiling claimed that Mandume received the envoys well, gave presents, and claimed to be a friend of the mission that would be welcome to return.
713 AGCSSp 3L1.7b4, Keiling (Caconda) to TRP, 7.8.09 (excerpts).
714 *Hayes* 1993: 100.

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quite well: Missionary Wulfhorst remembered that the Portuguese traders in the Kwanyama area

> "sold spirits to the natives, and that weapons were sold to them secretly. The Portuguese at that time [~1911] were not in possession of that area and therefore they could not compel the natives to work. There was originally trade in slaves, but this became less in Mandume's time. The Portuguese did not energetically suppress the trade in slave, but carried it on secretly … Mandume drove away the [Portuguese] traders".[715]

As a result of decades of trade in guns, the military capacity of the Ovambo was not to be underestimated. Colonial officials in GSWA had repeatedly considered the possibility of attacking individual kingdoms but had always decided against it. When an official argued in 1912 for the apprehension of chief Tshanika, 'native commissioner' Captain Streitwolf declared: "we will never apprehend Tschanika. He is chief of Ongandjera (~15,000 inhabitants, 3,000 warriors)".[716] King Mandume was assumed to have "30,000 warriors at his disposal of which almost all have guns."[717]

In the Brussels Act of 1890, the European powers had agreed to impose a ban on gun and ammunition sales to Africans. The widespread sale of modern weaponry across the continent (estimated at 16 million over the nineteenth century) caused concern and fear among nascent imperialists of the military modernization (or "revolution", as historians describe it) taking place in Africa. The battle of Adua (1896), the "greatest African victory against foreign invaders", would soon prove them right.[718] In order to avoid conflicts (and sales) the 'German' part of Ovamboland was prohibited to Europeans. "Nevertheless, certain individuals from South West came in. The traders who wished to reach the Oukuanyama area had to make a detour and … had to do so via Portuguese territory."[719] The smuggling of weapons, alcohol, ivory, and cattle between formally German and Portuguese territories proliferated in both directions. "Ovambo leaders sought firearms above else in their dealings with merchant capital" since they needed them for their raids. Also after 1900, it was palpable that neither colonial power had the means to enforce the "border":[720] In June 1902,

715 BAB R 1001/6640: 125, extra-file: 15, testimony Wulfhorst, 3.5.26; cf. *Santos* 1978: 172.
716 NAN ZBU 688, F V b 2, Bl.22, Ref 8 to Ref 3, 26.4.12; cf. *Eirola* 1992: 269–275.
717 BAB R 1001/9027, Bl.107, Dr. P. Vageler, n.d. [~ 12/14].
718 *Reid* 2012: 108; *Iliffe* 2007: 196; cf.*Tlou* 1985: 78.
719 BAB R 1001/6640: 125, extra-file: 49, testimony of missionary Hochstrate, 26.4.26.
720 *Hayes* 1993: 96; smuggling continued into WWI; cf. *Zollmann* 2010: 313.

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Angola's Governor General complained that an "Orlog of Damara-Hottentotts" had crossed the Kunene.[721] In 1904, the German administration stepped up its efforts to subdue the weapons trade in Ovamboland, since guns and ammunition had found their way to the "rebellious" Herero. Two Greeks were arrested and admitted to have traveled from Moçâmedes to Kwanyama territory to barter powder and front loaders for cattle for Rhodesia. Both confirmed that Portuguese and German traders sold "many guns" to the Ovambo. "Almost every Ovambo bears a gun, Mauser, Henry Martini, M 71".[722] When GSWA's Governor Leutwein, encouraged the German consul in Luanda to request the Governor General to prevent further trade (also by German traders via Moçâmedes), the consul deemed such steps "inopportune". He did not want to give the Portuguese reason to utter counter-claims. After his journey across southern Angola the consul confirmed to Leutwein that Portuguese smuggling to Ovamboland was rampant.[723]

For decades, the traders bartering between the Kunene and Okavango were part of the social fabric of the area, just as the missionaries. They were of military concern to the colonial administrations, but at the same time these "[b]ackwoods traders were the forerunners of Portuguese expansion on all the frontiers of the old slaving colony." Dr. Schultze-Jena, when still head of the Grootfontein district of GSWA, characterized them in 1909 as men who "have nothing to lose".[724] Unrestrained by legal or moral norms they blurred lines of distinctions in many ways. They sought freedom from social or religious "constraints of their own societies" as much as economic advantage among Africans. The resulting temptation to 'go native' by living with and from the local population made them not only suspicious to administrators, but also caused concern among colonial ideologists, since they obscured the clear demarcation of "us" and "them" on a colonial frontier. Their trade in weapons, alcohol, and even slaves caused an embarrassment to the colonial administration by pointing out its inability to act according to international law. The traders and their deeds

721 PA Luanda 4 (Luanda-Politisches) German Consul Luanda to RK Hohenlohe, 25.6.02.

722 PA Luanda 4 (Luanda-Politisches) Minutes: Chr. Metrossuto, C. Roumelioti, 14.10.04.

723 PA Luanda 4 (Luanda-Politisches) German Consul to KGW, 24.11.04: 'In Angola, in connection with the military operations against Ovamboland, in order to deflect attention to their own guilt, the accusation has been raised again and again that the high-quality weapons in Ovamboland were delivered by German traders.'

724 *Birmingham* 1978: 527; transl. in *Eckl* 2007: 20f.; cf. *Medeiros* 1977: 79.

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also challenged the imperial narrative of order and discipline brought to Africa.[725]

Reactions of Ovamboland's *élite* to the colonial intrusion were manifold. While Mandume expelled traders, others were more welcoming. Historian John Iliffe recognizes "one common feature" during the period of colonial invasion: "African polities were divided. Like the European Powers, each had its war and peace parties, its hawks and doves."[726] The formation of factions among Ovambo kingdoms and within these societies is a case at point. While the politics of King Mandume in 1915 underlines the "juxtaposition of European aggressors against African defenders", the history of Ovamboland makes equally clear that the choice of reactions to the colonial onslaught cannot be confined to these "categories".[727]

Cultural differences between individual kingdoms became more marked. Historians speak of a "cultural mutation" that was "most advanced among the Ondonga by 1915, for they were most profoundly affected by all aspects of European intrusion". Finnish missionaries began to evangelize in Ondonga from 1870 onwards. It was no coincidence that the last independent King of Ondonga "was the first Ovambo or Nkhumbi King to be converted to Christianity."[728] A "sense of fraternity" is not discernible from the conduct of neighboring Ovambo kings. Furthermore, "the study of resistance has been extremely elitist",[729] but questions could be posed about splits within Kwanyama society. Who opted to fight, who wanted to stay neutral or 'collaborate'?

It appears that Mandume's assertive personality dominated the decision to fight. After four years in power, his *omalenga* were willing to support him in his confrontation with Portuguese colonialism. Patricia Hayes, a historian who has written substantially about Mandume, describes the King as a "forceful leader in both his drive for social renovation and in his resistance to colonial occupation. [H]e stands out as one of the most compelling figures in Namibian history." Contemporaries were divided over his character and policies: After a visit to the King in 1911, German native commissioner Streitwolf described him as "amiable" (*liebenswürdig*).[730]

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725 *Viotti da Costa* 1985: 42f.; cf. *Lindner* 2011: 320f.; *Zollmann* 2010a; *Penvenne* 1996: 459.
726 *Iliffe* 2007: 200; on the debate about 'the notion of tribe' cf. *Apter* 1999: 582.
727 *Isaacman/Isaacman* 1977: 34.
728 *Clarence-S./Moorsom* 1975: 380; cf. *Lau* 1986: 38 on Jonker Afrikaner; *Hayes* 1993: 96.
729 *Isaacman/Isaacman* 1977: 39; 55 'speak of recurring patterns of collaboration'.
730 *Hayes* 1993: 89f.; NAN BGR 2, F 9 b, Report Streitwolf, KGW to BA Grootfontein, 31.10.11.

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Rhenish missionary sources "suggest that Mandume was impetuous, restless and highly autocratic, reluctant to accept criticism, whether from headmen, elders or paternalistic German missionaries. "He was intelligent and thoughtful," wrote Missionary Wulfhorst, "but very willful" [including the killing of 'many people']." His intelligence also "greatly impressed [the Spiritan Father] Keiling".[731] Self-confident but aware of the challenges that lay before him, Mandume demanded to be on equal terms with the colonial rulers in their distant capitals.[732] In his argumentation he resembled Prince Nicolas of Congo (c. 1830–1860) who had declared in a famous letter of protest that "the Catholic kingdom of Congo is a friend and loyal ally, but not a vassal" of Portugal.[733] Recognizing the importance of close relations with the Germans, Mandume went so far as to speak of the German Governor Seitz as his "brother in Windhuk". Allegedly, in early 1914 he approached the German police station Kuring-Kuru asking whether he could take refuge there since "he feared a Portuguese campaign of revenge".[734] As shown in the previous chapters, since August 1914, when Seitz became concerned about possible Portuguese attempts to instigate an Ovambo revolt against German rule, a sense of alliance is discernable between Mandume and the governor who promised the King support in case of a Portuguese attack.

Mandume's enmity to the Portuguese was older than this 'alliance' with the Germans. This might have, first of all, geographical reasons. The Portuguese, since they crossed the Kunene River, were nearby and, with their soldiers and traders, unsettled the polities of Ovamboland. The Germans, on the other hand, were far away; the only Germans the King saw regularly were missionaries with whom he seemed to have built a relationship of trust. The nearest German settlements Outjo and Tsumeb were located at least 200 kilometers south of Ovamboland, 'behind' the waterless and thinly populated Etosha Pan. Thus, chances for conflict were minimized and German traders or soldiers were few who could have been raided by Mandume's men.

If bounty was a goal of the raids, it was easier to seek in northern direction. It is to be acknowledged that many reports about the gruesomeness of the Kwanyama and their relentless raiding of neighbors and colonialists

731 *Hayes* 1993: 103 on *Keiling* 1934: 171-5; cf. *Estermann* 1976: 174, 'a sadistic youth'; 145.
732 On the tradition of Portug. Kings treating African chiefs as equals *Viotti da Costa* 1985: 53.
733 Letter of Prince Nicolas to *Jornal de Commercio*, 1.12.1859, transl. in *Wheeler* 1968: 58.
734 *Südwest*, 5. Jg., 28.4.14: 2; NAN ZBU 2365, VII a, Bl.4, KGW, 16.7.14, 'Rachefeldzug'.

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alike should be judged as colonial exaggeration that served but one purpose: to justify the final conquest. Nevertheless, the reports are too many from too different sources to dismiss the core, the raids, as untrue.[735] As mentioned above, these raids were controversial also within the Kwanyama court. Mandume aimed at reserving the privilege for himself to decide about individual raids. Whether it was the unremitting drought, or the intention to provoke and harm the Portuguese who encircled Mandume's realm, or mere Kwanyama renegades that stood behind the resumption of raiding in 1914 must be left open; complaints accumulated. In May 1914 a newspaper in Moçâmedes reported that a Portuguese supply train was raided by some Kwanyama. Prefect Keiling related the incident privately by commencing with the words "as usual" (*comme de coutume*). Kwanyama had blocked the road leading to Forts Evale and Kafima. Of the 19 soldiers and two Portuguese traders only a few escaped, the rest was killed or taken prisoner. In addition, two ox-wagons and one field gun including ammunition were taken. The attack was an embarrassment to the colonial government. But in spite of attempts to better guard the roads between Humbe and Kafima, the Kwanyama continued their raids northwards along the Cuvelai river bed on neighboring Ganguella and others, destroying villages, taking prisoners and many head of cattle.[736] Soon thereafter, Fort Evale to the north of Kwanyama territory was attacked. In June 1914, Kwanyama troops robbed a traveling party including a priest who survived severely injured. Pater Keiling was concerned about the security of his mission. He described a situation of all-encompassing fear. For him, Mandume was a ruthless overlord in Southern Angola who enslaved Ganguela and Ambuela people and forced them to pay him "heavy taxes to save their lives".[737] He mentioned 42 destroyed villages (Ganguella and Gallangues) and almost 300 killed villagers; 200 were taken prisoner in August 1914 alone. The Spiritan mission was engaged in paying ransom for a few of them who were then resettled at the mission station Catoco.[738] In August 1914, Father Bonnefoux spoke of a "revolt" led by the Kwanyama.[739]

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735 *Nathanael* 2002: 1 'In his youth my father was himself captured in a tribal war and taken to a place in north-eastern Oukwambi, now lying across the border in Angola, where King Mandume ya Ndemufayo of the Kwanyamas kept him as a slave'.

736 AGCSSp 3L1.11b5, Keiling (Caconda) to TRP, 19.5.14; cf. *Estermann* 1976: 130.

737 AGCSSp 3L1.11b5, Keiling (Bailundo) to TRP, 14.7.14, 'impôt assez élevé'; 18.8.14.

738 AGCSSp 3L1.11a2, Keiling to Eminence Reverendissime, 9.9.14; 9.9.16.

739 AGCSSp 3L1.13.6, Bonnefoux (Huíla) to TRP, 11.8.14.

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For the Portuguese administrators, "Mandume's audacity" became manifest in these incursions into territory they had deemed already 'pacified'. Planned since 1913, the expeditionary force under Alves Roçadas was sent in September to execute a "punitive expedition" against the "terrible opponent".[740] Given that also missionaries were attacked, Prefect Keiling had intended in September to visit the "King of these terrible Kwanyama", but considered it prudent to wait until the government had occupied the region *manu militari*.[741] As this attempt came to naught after the Naulila incident and the battle, and as Roçadas was more concerned with the German threat, Mandume could send his men to sack Fort Kafima (Okafima) in late December 1914. Three Portuguese soldiers were captured by Mandume's men and taken to N'giva. The King, according to missionary Wulfhorst, was well aware of the Naulila incident and told him: "This is how the Portuguese do it." In "recognition" of Mandume's contribution in the fight against "our enemies", GSWA's Governor Seitz presented "his friend" with three horses.[742] Still in June 1915, when all odds were against him, Commander Franke requested missionary Rautanen in Olukonda to express his gratitude to the "chiefs [*Kapitäne*] who gave me presents" and to assure them that he would return their favors in due time.[743]

King Mandume was now the "most powerful" man in Ovamboland and beyond. He was so powerful that Prefect Keiling – following the King's invitation – deemed it necessary to visit Mandume in January. Despite "intrigues of German Protestant missionaries", the King gave the Catholic missionary an impressive reception at his *palais* with his "thirty ministers" and ample presents. Keiling asked for guarantees for the mission stations in southern Angola. Mandume's men had taken hostage 94 Christians from the Kavango area and Keiling requested them to be released. Defending war as "honorable" and "necessary for the upkeep of his court", Mandume granted the guarantees and the release. But he made it also clear that "he did not wish any more Portuguese (i.e. Catholic) mission [stations]." When asked to release the three Portuguese soldiers captured at Kafima, Mandume reportedly responded: "Are you a missionary of God or

740 *Sousa* [n.d.~1935]: 9 'a audácia do Mandume'; 'um terrível adversario'.
741 AGCSSp 3L1.11a2, Keiling to Cardinal, 9.9.14.
742 BAB R 1001/9025: 40f, DG Lisbon to Bethmann-Hollweg, 15.12.14; 98, Tlgr. AA, 7.2.15; NAN A.505: 34, Chronik Omupanda, 20.11.15; *Oelhafen* 1923: 92.
743 NAN A.566, v. 3 Franke (Otjiwarongo) to M. Rautanen, 14.6.15; *Peltola* 1958: 179.

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an agent of *Mnene Poutou* (the [Portuguese] government)?" Promising Keiling not to hand his prisoners over to the Germans, he did release two of them to the Lutherans, who had them transported to the German Fort Okaukwejo.[744] The third prisoner, a sergeant, was allegedly killed because he refused to instruct the Kwanyama on how to use a captured canon.[745]

According to the missionary Wulfhorst, in April 1915 Mandume received a letter of complaint "from the Portuguese". "He had a headman who could read a little Portuguese … I [Wulfhorst] said to Mandume, 'leave the Portuguese alone; if they attack you, you will be destroyed and all your headmen who influence you against the Portuguese will run away and misfortune will overtake you.' Mandume rose and stated that he would knock their heads off." He had made a similar statement to Captain Streitwolf in 1911, and, given the message of Seitz from October 1914, still "hoped that the Germans would wage war against the Portuguese."[746] Despite the guarantees given by Mandume, Keiling reported about new raids of Kwanyama men against neighboring villagers. Near Caconda a village was burnt down in mid-1915, 25 were killed and 45 taken prisoner.[747]

Did Mandume make "an attempt to impose his paramountcy over the whole area [the Ovambo-Nkhumbi population]" following the expulsion of the Portuguese in late 1914?[748] Given what Keiling reported about his visit in January 1915 of the "the *grand Seigneur* of all Ovampo" who – according to Keiling – was able to instate "his own appointees in smaller Ovambo polities to the north" and who succeeded to play Protestants off against Catholic missionaries, the King seemed at the height of his power, being at liberty to act as it pleased him.[749] The onslaught of colonialism threatened all this, including traditions, that were so cherished by Mandume and formed the baseline of his reign. Colonial policies to be implemented in the future stood at odds with the Kwanyama way of life. Mandume would lose his power to rule. Instead a petty white official would be placed in a fort near his royal residence, similar to Cuamato or Evale. Road construction would have brought in more "foreigners" he so de-

744 AGCSSp 3L1.11b6, Keiling to TRP, 18.2.15; 3L1.11b5, Keiling to TRP, 20.2.15.
745 BAB R 1001/6639: 61, Questions to Hochstrate and Wulfhorst, 1/25; *Morlang* 1998: 47.
746 BAB R 1001/6640: 125, f:15, testimony 3.5.26; NAN A.505: 39, Chronik Omupanda, 20.11.15; NAN BGR 2, F 9 b, Report Streitwolf: 14, KGW to BA Grootfontein, 31.10.11.
747 AGCSSp 3L1.18.8, Keiling (Huambo) to Cardinal, 15.8.15.
748 *Clarence-S./Moorsom* 1975: 380 ref. to *Eça* 1921; cf. *Pritchard* 1915; *Hayes* 1992: 184.
749 AGCSSp 3L1.11b5, Keiling to TRP, 20.2.15; *Hayes* 1993: 90f.; *Vigne* 1998: 293.

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spised. They would have carried with them more alcohol and merchandise. Mandume instead aimed at increased self-sufficiency. Tax collectors and corvée were to be expected and would have driven more Kwanyama into labor migration. Violent reactions to these prospects were therefore likely. However, as T.O. Ranger has emphasized, it would be wrong to assume that "resistance … necessarily impl[ies] a romantic, reactionary rejection of 'modernity'". Mandume enjoyed modern merchandise; he lived in a house constructed in rectangular European style; he wore European clothes; he was willing to accommodate missionaries and learnt from them how to write.[750] The 'distant' colonialism of GSWA, as he experienced it through trade and negotiations, was acceptable to him. However, he was unwilling to directly forego his sovereignty to Portuguese officials, as his western, northern, and eastern neighbors were forced to do since 1907. Considering the ongoing attempts at conquest Ovambo leaders seemed to be left with no option but to acquiesce or to resist. King Mandume made a decision. His kingdom was the "only state still capable of contesting colonization". The Kwanyama would resist.[751]

2.7.3 Battle Between Equals? – Mongua, August 18–20, 1915

In waging a war against the Portuguese, Mandume pursued his goal of maintaining political independence. He chose to act upon the defeat of the Portuguese on the hands of the Germans, since his chances of winning had improved considerably. As in similar cases elsewhere on the continent, the campaign of 1915 was thus not a "sudden rupture", but represented "the dragging out of older and more entrenched animosities" In the war between Mandume and de Eça the nexus between local initiative and imperial context becomes evident. It is important to keep in mind what historian John Hargreaves had pointed out already fifty years ago: African rulers "often pursued clear purposes of their own – the maintenance of independence, the retention of power within their dominion, and the elimination of commercial rivals."[752] And it was the reference to the "racist assumptions

750 *Ranger* 1969: 305; cf. *Dobler* 2014: 7 on the 'European style' of Ovambo Kings; *Shiweda* 2011: 143f. on 'modernity' among Ovambo.

751 *Pélissier* 2004: 270; *Harding* 2013: 76f. on resistance; *Walter* 2014: 120 on motives.

752 *Nasson* 2014: 445; *Hargreaves* 1960: 108; cf. *Reid* 2012: 14 on the 'righteousness of war'.

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… of Africans as passive barbarians"[753] that made it so easy for Portuguese plaintiffs to claim later a *soba* could never have fought so adamantly for his own power without outside support.

However, when de Eça's forces crossed the Kunene River, years of famine and social upheaval had "eroded the capacity of societies in Ovamboland to overcome drought".[754] This in turn diminished any military capacity that was left. Nevertheless, colonial warfare in the heydays of imperialism did not mean that well-equipped European soldiers fought against helpless 'savages'. When Africans acquired the skills and equipment the Europeans had used to their advantage, the image changed. This had been true for African defense against European incursions before the eighteenth century and it became in part true again, when Africans gained possession over considerable numbers of firearms in the late nineteenth century. European technical superiority was challenged by its own means. In strategy and tactics this often resulted in a "particular type of cross-cultural synthesis" in the art of war, as has been described for several African theaters of war.[755] For decades now, historians have established the fact that colonial administrators were "aware of their limitations." Military or financial "colonial weakness" has been described as a characteristic of colonial rule that brought grievances but also opportunities to Africans.[756] Since the days of the *descobrimentos* the Portuguese had time and again lost hundreds of men to their African adversaries. The memories of the defeat at Pembe Drift in 1904 and the retreat in 1914 were still fresh. Also, the Germans in their war against the Herero had suffered "international humiliation of defeat by an African adversary during the first part of 1904".[757]

The alleged specificities of colonial wars have repeatedly been analyzed by contemporaries and historians. Colonel Charles E. Calwell's *Small Wars* (1896) on the theory and practice of counterinsurgency war became the starting point for an ever-growing literature. Recently these wars have been called "transcultural" or "asymmetrical". All these attributes set them apart from the wars fought in Europe. The laws of war, as proscribed by the Geneva (1864) and Hague Conventions (1899/1907) were deemed applicable only to "civilized" states and their military. Rules

753 *Isaacman/Isaacman* 1977: 31.
754 *Gewald* 2003: 217; cf. *McKittrick* 2002: 160f.
755 *Thornton* 1988: 360f.; cf. e.g. *Bührer* 2011; *Reid* 2012: x on 'misleading imagery'.
756 *Ranger* 1969: 298f., pointing to R. Oliver; cf. *Iliffe* 2007: 206; *Osterhammel* 2011: 697.
757 *Steinmetz* 2008: 608; *Prein* 1994: 102; cf. *Dedering* 1999a: 207; *Lindner* 2011: 74.

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about combatants and non-combatants were thus considered irrelevant when fighting "natives". Wars against indigenous adversaries were regarded as "domestic" affairs. In international law, the Congo Conference had "irreversibly exclude[ed] any pretensions to sovereignty that indigenous communities might have entertained." The "native" enemy was considered "unequal", often degraded into a subhuman category. Legally speaking, the insurgents were treated as "criminals", "bandits" – and culturally as "barbarians". Europeans called their wars against these adversaries "punitive expeditions". "According to a widespread notion, *other* forms and means of warfare that differed from those employed in warfare in Europe were both necessary and legitimate when fighting non-European adversaries."[758]

For example, the chances to ask for mercy, to surrender, and to survive as prisoners of war were minimal in "small wars". The taking of prisoners in colonial wars was deemed "impractical"; they would have needed guards and provision, therefore the killing of prisoners appeared to be the "obvious solution". The shooting was rationalized as a form of penalizing violence, setting an example for what would happen to those who rebel. Equally, colonial soldiers could barely expect to survive their capture by Africans. For example, one African contemporary stated about the Portuguese defeated in 1904: "we just killed them". The handing over of Portuguese prisoners to the Germans by Mandume was a rare counter-example. From the European perspective, ceasefire and capitulation of native forces after a battle were deemed to be inexistent. "Small wars" ended in defeat or victory – the latter at times meaning outright annihilation not only of the "rebels", but also of the people living in the conquered areas. More often than not such policies were accepted by the commanding officers and their superiors. Consequently, colonialism has been characterized as "structurally latent genocidal".[759]

The colonial peace was "armed" and could, by definition, include "pacification measures". Ideological justifications for bestialities were easily found by categorizing the enemy into a 'lower race', who would be defeated by its own 'savage' means. African traditions of warfare were important factors too for the escalating violence in "transcultural wars". These practices may have shocked European contemporaries. Reports

758 *Koskenniemi* 2001: 126f.; *Methfessel* 2012: 46; cf. *Walter* 2014: 83; 157; 171; 2008; *Reid* 2012: 133; *Kuss* 2010: 17; *Hull* 2005: 131; *Guha* 1994.

759 *Walter* 2012: 90; 99; 97; 2008: 14f.; 2006: 39; *Hayes* 1992 II: 193 (Sheetekela, 27.12.89).

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about them often had apologetic undertones, justifying and legitimizing the brutal "pacifying" of "native rebels". Furthermore, European forces could directly benefit from those traditions if "native auxiliaries" were employed who did not concern themselves with the observance of the European *ius in bello*.[760]

At the imperial home front, an easy victory against the racially different opponents was taken for granted. The number of fallen soldiers from the metropolis was usually minor (in comparison to the Africans killed in action or subsequently). Often these "campaigns", given their relatively low loss on the European side, were not treated "as a 'war' worthy of the name." There was a widespread and strongly held teleological belief that the "uncivilized native" societies were doomed by history to succumb.[761]

Taking this background into consideration, it was expected of General de Eça to win this "small war" by resorting to the utmost force that was put at his disposal. Until the crossing of the Kunene River, the campaign was understood to be the suppression of a 'post-pacification rebellion'. The war against the Kwanyama, on the other hand, was a colonial war of conquest. Until mid-August, the Portuguese army was privileged in its occupation efforts by being able to avoid any major engagement. The logistical difficulties required that of 11,000 troops under de Eça only about 5,000 soldiers and 500–1,000 African "auxiliaries" were employed east of the Kunene River. As usual in colonial wars, for reasons of mobility and logistics the men were further subdivided into (four) columns with 18 artillery pieces, 28 maxim guns, over 400 ox-wagons, 800 horses, and 73 camels. It belongs to the tragedies of this war that King Mandume was faced with a colonial army that was equipped to face a different adversary – the Germans.

Among contemporaries, estimates for the Kwanyama forces under Mandume remained disputed. The intelligence service of General de Eça has been blamed for its "amateurism".[762] Portuguese estimates ranged from a low of 50,000 to a high of 150,000 "rebel fighters", among them 50,000–60,000 Kwanyama. Also the Portuguese estimates of the number of weapons of the "rebels" differed greatly: from several hundreds, to

760 Cf. *Walter* 2012: 108f.; cf. *Cook* 2006: 638 on the killing of European POW during WWI.

761 *Ravlo/Gleditsch/Dorussen* 2003: 521. In war-databases colonial wars often have not been taken into account because they require a 'threshold criterion of 1,000 battle death ['for the system member', i.e. Europeans]…in a single year.' *ibd*: 529; *Fulbrook* 2011: 31.

762 *Pélissier* 1977: 491 on the number of Port. forces; *Hayes* 1992: 190f.; *Walter* 2014: 76f.

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around 5,000, up to 15,000–20,000 guns.[763] German missionary Wulfhorst later disputed that the "rebels" had "100,000–150,000 men able to bear arms" and 10,000 guns. He had been with the Kwanyama for many years and stated

> "[t]hey were not in a position to place such a number of men in the field. During that year [1915] there was a famine in the land, for which reason many of the natives did not go forward. … There was no war until August 1915 … as far as the fight with Mandume in August 1915 is concerned, there could not have been more than 4,000–5,000 natives present at such fight."[764]

His colleague Albert Hochstrate estimated "the total number of [Ovambo] able to bear firearms during that time to be between 10,000 and 15,000, which would include the other tribes", i.e. other than Kwanyama.[765] There was a colonial "tradition" of extreme exaggeration of the numbers of defeated enemies. "Observers might exaggerate the size of armies because they wished to trumpet the virtues of their partisans" or they included the porters. "Alternatively, they may have been misled by the way African armies fought, which made them appear large" due to their "open order".[766] Furthermore, there seemed to be a gap between what the military claimed in public to know about the enemy and what was put down in internal correspondence, indicating the General Staff's ideas about the enemy forces. "Knowledge systems are essential for empire. Agents of empire need to understand the behavior and culture of those they rule." This functional understanding of knowledge about Africans was essential to prepare for fighting. Discourses about African "tribesmen", past or future military adversaries, were thus part of these imperial knowledge systems that were created for one foremost goal: to rule.[767]

A listing of "knowledge" about Kwanyama politics and the way of fighting can be discerned from the instructions of de Eça's high command.

> "Reportedly there are political divergences between both chieftaincies [Ombandja/Cuamato and Kwanyama]. During the attack, they organize all the firearms in the first line, extending it in a long line of shooters shaped like a half moon. The remaining combatants, those who do not possess firearms, wait to reenforce at the time of the assault. The *Lengas*, warlords, lead their *cuas* [platoons] in combat. [They] usually ride on horseback, dressed like Eu-

763 BAB R 1001/6639: 62, Questions, 1/25; R 1001/6638: 138, summary Mascarenhas, 7.6.24
764 BAB R 1001/6640: 125, extra-file: 12f., testimony of missionary A. Wulfhorst, 3.5.26.
765 BAB R 1001/6640: 125, extra-file: 38f., testimony Hochstrate, 26.4.26; *Hayes* 1992: 192f.
766 *Thornton* 1988: 365; cf. *Walter* 2014: 95; *Alencastro* 2011: 43.
767 *Price* 2008: 154; cf. *Walter/Kundrus* 2006; *Vansina* 1987: 438f.

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> ropeans in khaki uniforms.The *soba* [chief] is not usually showing himself in front of his warriors. It is likely, however, that Mandume, the Cuanhama chief, will break with this tradition, and join in the play [the fight] for the destiny of his chieftancy. We must therefore count on the greatest resistance [of the Cuanhama]."[768]

The Portuguese knew that they barely knew enough to predict the next steps of the Kwanyama. It was admitted that nothing could be said about the number of troops. However, the sober exposition of the enemy's fighting order indicates the degree to which de Eca's staff was willing to recognize the rationality of Mandume and his military leaders.

Having sent three smaller columns to the north and west of Kwanyama territory, the General personally led the largest column of around 2,700 men against King Mandume (the majority being soldiers from Portugal, most of them illiterate, many had never heard before the word "Angola"). Most prominent among de Eça's "mercenaries" was Harunga or Vita "Oorlog" Tom (1863–1939) with his men. He had already supported João de Almeida in his conquest of southern Angola and was a "key figure within the militarized raiding economy" of the Kunene region, having made a fortune by his "advancement within the military hierarchy". Among other tasks he had been a "tax collector" for the Portuguese. According to the above-quoted Manasse Veseevete, the "Portuguese regarded him as a general."

The marching order for August 12, the day of departure from Humbe, acknowledged under the rubrique "situation": "There is no news about the situation of the natives of the Cunene and Cubango areas." The Afrikaaner commando, arriving from Fort Cuamato and Fort Roçadas, was mostly ahead of the troops and tried to gather intelligence about the attitude of the people.[769] The actual theater of war, the *terrain* where the enemy was expected to wait until the attack, caused extreme operational strains on colonial troops. However, the relative familiarity of the Portuguese military with the area east of Humbe was a striking advantage for General de Eça in comparison to previous campaigns. Furthermore, the invading army had a precise aim to target: Mandume's royal residence at N'giva.

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768 AHM/Div/2/2/38/27: 2, Com. Superior. Instruções No. 3, 9.8.15; *Hayes* 1992: 191.

769 AHM/Div/2/2/39/18: 1; 4, Com. Superior (Humbe) Ordem de Marcho, 12.8.; 15.8.15; *Pélissier* 1969: 107; *Rizzo* 2012: 53f.; *Heywood et al.* 1992: 185, Manasse Veseevet[e], 30.3.1986; *Bollig* 1998: 507; 2004: 261; NAN STR 21, II m 1, Bl.18, *Portugal em Africa*, no. 224: 118, 20.4.1910; cf. *Stals/Otto-Reiner* 1999.

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African fortifications in Angola were "generally composed of complex patterns of trenches, obstacles, and palisades".[770] While they had proved adequate to repel attackers for centuries, with the advent of the maxim gun and field gun, Europeans could use their technical superiority to devastate the palisaded hamlets of Ovamboland. Mandume was aware of these weapons and decided not to wait until the Portuguese had closed in and would sack his residence. He would try to stop them beforehand.

While Mandume's troops were able to forage for food, the Portuguese had to transport everything, which restricted the size of their army and their radius of operation. Eight cannons and sixteen maxim guns slowed down de Eça's trek and made it vulnerable to attacks. Most of all the lack of water impeded the Portuguese army. Within days pull-oxen and the cavalry's horses fell victim to the drought. The soldiers "went crazy of thirst".[771] There were rumors that the troops had to be re-sized due to the drought.[772]

Apart from logistical challenges, another motive for de Eça's meticulous preparation of his campaign is discernable. Well aware of the Kwanyama's reputation as unconquered "great warriors", he had respect for his task – in this, he differed from many colonial officers. De Eça's campaign is another example that proves wrong the notion of colonial omnipotence – the possibility of defeat on the hand of African adversaries was always given. The African "initiative during the 'pacification'", so clearly emphasized by historian Terence Ranger and many after him,[773] can also be discerned from de Eça's slow march against Mandume.

Missionary Wulfhorst remembered that the first shots of the battle

> "were fired on the 15th August, 1915. I was not present at the fight. I was 80 km distant. I saw that Mandume and his warriors went out to fight. They were mostly armed as natives are, and Mandume also had one or two cannons. I personally saw one. These were taken from the Portuguese. He was not able to use the cannons as he had no ammunition."[774]

770 *Thornton* 1988: 370.

771 AGCSSp 3L1.18.8, Keiling (Huambo) to Cardinal, 15.8.15; *Pélissier* 1969: 107.

772 AGCSSp 3L1.11b6, Keiling (Huambo) to TRP, 22.8.15 reported most men would return to Europe after having incurred expenses of 400,000 Contos, only 4,000 men should stay and wait for the rain before they attack Kwanyama. 'Dans quel pays vivons-nous!!!'

773 *Ranger* 1969: 293 'Africans helped to make their own history'; *Walter* 2014: 238.

774 BAB R 1001/6640: 125, extra-file: 10, testim. Wulfhorst, 3.5.26; *Vieira da R.* 1936: 34f.

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As historians have pointed out, "[t]here is no distinctively 'African' way of war",[775] and African leaders knew that it might be advantageous to fight colonial forces with their own weapons. Mandume's fruitless attempt to break the colonial monopoly of heavy weaponry attests to this; irrespective whether he lacked ammunition, or whether he could not find an enemy soldier willing to teach his men how to use artillery. Instead, he had to resort to alternative means, counting on the strength of his numbers and the thirst of the Portuguese. However, the General's "lifeline" was not cut: most of the few motor trucks that transported water to de Eca's men could pass across Ovamboland unhindered – the "first mistake of the Kwanyama". On August 16, Portuguese cavalry and African "auxiliaries" reported the concentration of hostile "natives" at Mongua, near a few small waterholes (*cacimba*) at the border of the Kwanyama territory. De Eça ordered his troops into this direction, where Mandume's *lenga* Calola held the position with his men and refugees from Humbe. The Portuguese arrived the next day and set up a bivouac, a defense position to stay over night laid out in the form of a quadrate. As predicted, Mandume prepared himself to join his men, after being alerted "in the forest" that the Portuguese were approaching his territory. Wulfhorst remembered that the King called on him on the 17th and seemed less self-assured about his victory than ever, telling the missionary "When the Portuguese arrive, I will shoot myself, I will die in Ondjiva."

On August 18, early in the morning Calola, a personal friend of Mandume, who had repeatedly campaigned against the Portuguese and eleven other *omalenga* attacked the eastern and northern flank of *o quadrado* with all force. Two batteries of field artillery, four batteries of maxim guns, two infantry battalions, and two cavalry squadrons responded with "a true rain shower of bullets". This first engagement lasted for three hours.

The ensuing battle of Mongua, barely mentioned in Anglophone historiography, would constitute – in terms of numbers – the largest sub-Saharan battle between European and African forces since Ethiopia's victory over Italy in Adua in 1896.[776] The "roar of canons" was heard up to the mission station in Namakunde. Missionary Heinrich Welsch (1875–1927) remembered that at first the people believed this to be thunders announcing the

775 *Reid* 2013: 114; *Walter* 2014: 211-15.

776 NAN A.505: 33, 41, Chronik, 20.11.15; *Sousa* [~1935]: 14f.; *Pélissier* 2004: 269; 275; AHM Div/2/2/40/32, details on the Portuguese soldiers who took part in the battle of Mongua.

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rain.[777] The number of attackers shot by de Eça's maxim guns and cannons is unknown, but the losses were immense. One Portuguese officer and sixteen privates were killed the first day. Mandume's men, having at their disposal abundant ammunition, tried to cordon off the Portuguese and targeted horses and pull-oxen to immobilize the invaders. While de Eça was surprised to find his baggage train attacked, the Kwanyama were forced to rely on the Portuguese rations since there was almost no food left in their territory. They "endeavored to outflank the Portuguese and to cut off their rear communication", Missionary Hochstrate later learnt about this tactic: "the road of retreat leading through the forest was very narrow, sufficient only to allow the passage of a wagon, and that it had been barred by the natives who had thrown trees across it."[778] De Eca was trapped. He tried to call in support from his other detachments to the west. But despite the Kwanyama's efforts and the capture of several ox-wagons, the Portuguese still managed to get supplies from Humbe into the combat zone. During the night and the next day the Portuguese dug trenches that protected them against snipers from trees and anthills. A merciless battle raged over those *cacimbas* that still held water. Wulfhorst, not an eyewitness of the battle but close to the event, received this description from the Kwanyama afterwards:

> The "Portuguese were surrounded by the natives … they were cut off. For two or three days the Portuguese were without food or water. The natives occupied the water hole, and obtained possession of about twenty wagonloads of provisions and other goods. While they were plundering these, the Portuguese opened fire and drove away the natives from the water hole. The Portuguese then obtained reinforcements".[779]

According to this report, lack of discipline and attentiveness in one particular moment of success lost the Kwanyama the *cacimbas*; marines and Mozambican soldiers, the men so ruthlessly enlisted into the army, captured the ponds on August 19 – *the* "essential mistake" of the Kwanyama. When King Mandume arrived that same day in the evening with new soldiers, including his personal guard,[780] and five ox-wagons of guns and am-

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777 BAB R 1001/6640: 125, extra-file: 37, testimony Hochstrate, 26.4.26; R 1001/6634: 210, Welsch to Gouv Seitz, 2.5.18; *Hayes* 1992: 193f.; 1992 II: 150 Jer. Benjamin.

778 BAB R 1001/6640: 125, extra-file: 37, testi. Hochstrate, 26.4.26; *Gonçalves* 1926: 118.

779 BAB R 1001/6640: 125, extra-file: 11, testimony Wulfhorst, 3.5.26; *Pélissier* 2004: 271.

780 AGCSSp 3L1.11b5, Keiling (Cubango) to TRP, 20.2.15: 7 describes the guard as composed of 80 chosen men (aged 20-25 years) and all equipped with 'fine' *Mauser* and *Kropatschek* guns.

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munitions, he knew that his success depended on the re-capture of the water. Being a better strategist than his *omalenga*, he also ordered to ensure that no more supplies reach *o quadrado*. What caused the Portuguese such apprehension was to find that Mandume did not follow the strategy that had become "the classic defensive stance of many … African states at war with the Portuguese in Angola: taking full advantage of [one's own territory's] inaccessibility" and refraining "from open attacks".[781] Mandume instead appropriated 'colonial' forms of fighting and adapted them to his own needs. He attacked the supply routes of the Portuguese successfully and introduced volley fire. Contrary to Ovambo "royal taboo" he personally took part in battle. He had "trained himself to be an excellent marksman".[782]

On August 20, a ferocious battle raged over the *cacimbas*. Mandume had assembled several thousand men ready to assault the Portuguese camp, shouting "The land does not belong to the white[s]!" According to Portuguese sources, the King had at his disposal not only Kwanyama soldiers, but also men from his traditional enemies, the Cuamato, Vavale, Humbe, and Uukuambi. Was this the "vast and efficient coalition" of Africans that rarely ever occurred during the period of colonial conquest, the Ovambo "league" the Portuguese had feared since 1904? Taking into consideration the Portuguese exaggerations, René Pélissier points out that, except for the Italians in Ethiopia, "never in modern times the Europeans had to face an enemy so numerous in tropical Africa." General de Eça, aware of his potentially catastrophic situation, finally managed to send out messengers to his columns in Evale and Cuamato to call in support. The enemies shot at a distance as close as 50 meters. But the longer the battle lasted and the deeper the Portuguese could dig their trenches the more hopeless the fight became for Mandume, since the Portuguese, having received supplies the day before, were not running dry of ammunition. Without water and against maxim guns and artillery the defense of Kwanyama territory was a lost cause. As most horses were shot, marines instead of the cavalry had to launch the counter-strike and Mandume's men could not withstand their force. After ten hours of fighting merely 15

781 *Pélissier* 2004: 276; *Miller* 1972: 50.

782 *Pélissier* 2004: 270; *Hayes* 1993: 104; 98, ref. to NAN RCO 10/1916/1, UG Representative Namakunde, Notes re Mandume, 29.4.1916; RCO 15/1916/1, RC Ovamboland and Hahn, Re Ovamboland and Chief Mandume n.d. (ca. 1915-16); *Hayes* 1992: 195.

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Portuguese had been shot, but Mandume had lost his *élite* guard in the trenches. He withdrew southward.[783]

In three days of fighting, the Portuguese had suffered only 35 casualties (including four officers) and 57 wounded which attests to the limited operational success of Mandume's men.[784] Given the low number of casualties it seems also likely that the Kwanyama forces had fewer guns at their disposal than claimed by the Portuguese. Portuguese officers boasted to South African Major Pritchard shortly after the battle that their soldiers had fired in one day between 7 a.m. to 5 p.m. no less than 2,000 rounds of French 75' shell grenades. They assumed "immense losses"[785] of between 4,000 and 5,000 "natives", but claimed that only 100 Portuguese soldiers had participated in the battle.[786] The Afrikaaners who took part in the battle kept their own (glorifying) memories that differed sharply from this Portuguese version. Most of all they inserted 'Mongua' in a long tradition of

> "being called [by the Portuguese] on commando against belligerent native tribes. In forty years' time this happened no fewer than twenty-two times, and the last commando … was during the World War when a native chief, Mandumi, and his warriors surrounded a Portuguese Laager of several thousand Europeans. The Boers had to come and help, and such was the respect which the natives had for the Boers that the approach of a commando of twenty-two man caused Mandumi to retire".[787]

King Mandume, on the other hand, told missionary Welsch afterwards that he had lost merely 25 men; only 100 were wounded. Wulfhorst, who spoke to Mandume on the 22nd in N'giva, however, had the impression that the King's self-assuredness was "gallows humor". Apart from self-applauding exaggerations, rumors about German participation on Mandume's side began to spread after the battle (even though the last German official visiting Ovamboland had wished his farewell to King Martin and Marti Rautanen in May). The Portuguese notion of two differing military

783 *Pélissier* 1969: 105 'a terra não é do branco'; 1977: 493; 2004: 13; 211; 271; *Hayes* 1992: 196; AHU MU DGC Angola 1915-18, Pt 5, 5ª Rep, Cx.973, Tlgr. GG to Min. Colon., 18./25.8.15.

784 AHM/Div/2/2/40/3, Mongua list of fallen; Div/2/2/39/4, Diary Cuanhama campaign 1915.

785 *Pritchard* 1916: 4f.; cf. *Hayes* 1993: 91; *Diário de Notíçias* 17.8.28 'Uma acção gloriosa'.

786 NAN SWAA 1496, Report on tour of Ovamboland Mj Pritchard 1915; *Gewald* 2003: 218.

787 *Die Burger* cit. in: NARA RG 59, MF 705, roll 28, 853m00/21; USC Luanda to SoS, 10.12.28; On the Afrikaaner self-image during the war 1899–1902 *Teulié* 2000: 338-45.

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cultures, here 'rational' European, there 'savage' African, was challenged by Mandume's men. But it was unimaginable that African "warriors" could "learn" themselves how to wage war; thus, European support was assumed. Not only had Portuguese soldiers seen "2,000 cartridges of German guns and more than twenty guns" after the battle of Mongua.[788] Also the tactics applied by the Kwanyama showed, according to the Portuguese, a European-style military knowledge. Since many of Mandume's men "wore khaki uniforms with hats and looked like Europeans", the Portuguese claimed that Germans or other "white people" had supported them. Recent Portuguese historiography sustains the claim that the "Ovambo received sophisticated arms from the Germans". Indisputably, Commander Franke handed out 20 (or perhaps 100) guns and Seitz presented three horses to "his friend" Mandume after the sacking of Fort Kafima; many of the Kwanyama's guns were paid for by money earned in GSWA. But German deliveries of weapons and military training in 1915 were "quite impossible" as Wulfhorst and Hochstrate underlined. They argued: "The natives themselves possessed khaki clothing and hats. ... These were brought with them from South West when they returned from their work on the mines."[789] Evidently, in addition to the guns bought from Portuguese traders, many weapons from the looting of Portuguese forts in late 1914 found their way to Kwanyama.

The days following their victory at Mongua, the Portuguese saw the abyss opening. It was *not* yet decided whether the victory over Mandume's army would turn into a disaster. Without any provisions left and most horses and pull-oxen dead de Eça's troops were isolated, five days from Humbe. 2,700 men could neither continue to occupy Kwanyama territory nor could they return to Humbe. The victorious Portuguese were immobilized while the defeated King Mandume escaped. It was mere luck for the Portuguese that he did not decide to return on August 21 or 22, but rather saved the ammunition that was still left, heading instead for the border with SWA. Aware of the catastrophic retreat of Roçadas in December 1914, the General decided to wait for relief; a solution that was not available to his unfortunate predecessors in 1904 and 1914. A convoy arrived

788 BAB R 1001/6634: 48, RMW to Franke, 6.3.22; Eça, in Memo Just., Doss. 9, doc.2: 10f.; R 1001/6634: 212, Welsch to Seitz, 2.5.18; NAN A.505: 42,A. Wulfhorst. Chronik der Station Omupanda, 20.11.15; *Walter* 2014: 251.

789 BAB R 1001/6640: 125, extra-file: 12, testimony Wulfhorst, 3.5.; 38; Hochstrate, 26.4.26; *Morlang* 1998: 47; *Dáskalos* 2008: 181; cf. *Peltola* 1958: 178.

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from Cuamato and Naulila on August 24 and saved the situation. Finally, also the column from Evale joined the troops in Mongua. De Eça, now with 4,000 men at his disposal, ordered the erecting of a fort in Mongua and continued to push southwards. Again, the Afrikaaner commando that took part in the battle of Mongua proved valuable on the march to N'giva, since they "kn[e]w southern Angola like no one else."[790]

The remainder of the campaign was conducted with fearful brutality; a pattern that de Eça had learnt during his campaigns in Mozambique and northern Portugal. The Herero soldier M. Veseevete recalled soberly that

> "when we were on our way to Kwanyama, we came to a certain place called Otjizemba where the troops gathered. The Hereros were sent to go and fetch cattle from Owambos, which were to be slaughtered and eaten by the troops. By that time the people had been to Naulila and back. The Owambos had started killing the people, and the people had run to Naulila. It was decided that all Ovambos must be killed, so they were killed."

Violence was employed purposefully to achieve a political goal – to rule over the region. The aim to instill terror in order to impress upon the Kwanyama the futility of further resistance but also to sustain the army was evident. "[F]oraging armies were a bane in all areas where they moved as the country was stripped of food and famine followed".[791] Restraints in exercising "punishment" were considered inapposite. "Uncivilized races attribute leniency to timidity", Colonel Callwell wrote in his *Small Wars*.[792] No colonial soldier wanted to appear weak or timid.[793] Many Kwanyama now attempted to surrender. Only a minority under Calola aimed at continuing the fight – without success. Not only the *sobas*, *omalenga*, and other chiefs were hanged. De Eça, the "great military leader", was alleged to have "ordered the killing of all natives aged over 10: some were hanged with barbed wire, other crucified." One author went so far to speak of a "veritable holocaust. The Portuguese had taken no prisoners."[794] Two years later opposition members in the Portuguese parliament read out sworn statements about these "terrible atrocities which undercut any sense of a Portuguese civilizing mission in [Ovamboland]:

790 AHM/Div/2/2/37/55, Pimento (Lubango) to Estado Major, 24.9.15 'são bons guias'.

791 *Heywood et.al.* 1992: 180 Manasse Veseevet[e], 30.3.1986; *Thornton* 1999:120.

792 *Callwell* 1906: 148 was read by colonial officers all over Europe, *Kuss* 2010: 193f.

793 *Walter* 2012: 106; *Häußler/Trotha* 2012: 68; 79 'Tensions and fear of death end in a bloodbath'.

794 *Stachan* 2004: 80; *GEPB* 1936 II 'Angola': 662; *Goldblatt* 1971: 206; cf. *Pélissier* 2004: 278.

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Portuguese rule there now rested solely on terror." Refusing a parliamentary inquiry, Prime Minister Afonso Costa defended General Pereira de Eca, who was now Military Governor of Lisbon and ordered his men to shoot hunger rioters: "We must not be moved by idealism or forget the concept, or the estimate, that blacks have of humanitarian respect, which they view as weakness or pusillanimity."[795]

Indiscriminate killing of (potential) rebels and destruction of enemy agricultural production was considered the ultimate response to deal with suspicion and to alleviate one's own fear of being killed by an unrecognizable enemy 'hiding in the African bush', thus making nature (seemingly) the foremost adversary. Historian Dierk Walter pointed to these and other reasons for the blatant ruthlessness of colonial wars, while he stated that "racism as a prime determining factor [for the brutal warfare in colonies] …has often been overestimated."[796] In a similar vein, others have analyzed colonial wars in a from below-perspective that emphasized the processes of brutalization of ordinary soldiers: "brutalization by revenge, by fear, and by frustration."[797] This departure from top-down-perspective on ideologies, intentions, and orders of superiors can be fruitfully applied to the Portuguese soldiers fighting in southern Angola. Similar factors caused the troops to engage in gratuitous violence: privations, danger, fear, and the death of comrades. In Angola, the war against "the natives" began with defeat in late 1914. Looting, killing, and destruction were pervasive after the Kwanyama and others took the chance to chase away Portuguese soldiers and traders. After this humiliation, the call for revenge was widespread and was closely related to the intention to "reestablish" colonial order. As in other wars, feelings of revenge caused the war to become excessive. It is characteristic of reprisals that they are stronger than the original attack. The guiding principle is "'tit for tat' instead of only 'tat for tat'"[798]

When Mandume attacked the Portuguese in open battle, he allowed them to use their technical and organizational superiority in leading a war with artillery, trenches and several lines of defense. The war in southern Angola was a colonial war, but it was not the typical "small war" in which, more often than not, *guerilleros* sought to avoid open battles with

795 In *Meneses* 2010: 59; 57; 1998: 91-94; cf. *Jerónimo* 2009; *Methfessel* 2012: 45.
796 Cf. *Walter* 2012: 101; 107 'Rassismus ist als primäre Determinante…überschätzt worden'.
797 *Häußler/Trotha* 2012: 89; cf. *Lehmann* 2014: 552f.; *Walter* 2014: 157; 172-79.
798 *Häußler/Trotha* 2012: 63 'Revenge celebrates excessiveness' ref. *Waldmann* 2003: 174.

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Europeans and resorted to ambushes, traps, and other guerilla tactics. General de Eça achieved in Mongua what General von Trotha failed to achieve in GSWA in August 1904: Mongua was a 'true' battle on the battleground, there was a front, and combatants were recognizable. In this sense, "Mongua" was an "exception" in colonial history and an "archaism" in 1915. What also distinguished this war from the German war in Hereroland was the fact that there was a 'recognizable' target, the residence (*embala*) of King Mandume in N'giva. Unlike in other colonial theaters of war, where "conquest was not an event but a dynamic process",[799] de Eça's war was completed with the occupation of Ngiva (for thirty years the "Timbuktu of Angola") on September 2.[800]

Mandume, aware that the gallows awaited him, escaped to King Martin of Ondonga south of the border, where de Eça could not follow him.[801] 2,000 troops remained in the area after the General returned to Moçâmedes. Six forts were erected in Kwanyama territory. Still in 1916, under the new Governor General Massano de Amorim (1862–1929) the districts of Humbe, Cuamato, Cuanhama and Evale were described as *zonas militares*.[802] After decades Lisbon had reached the frontiers that had been accorded in 1886. The perceived German threat in 1915 had caused the provision of sufficient men and materials to subdue the last southern "tribe". King Mandume became the most prominent victim of the Naulila incident.

"The resistance of African societies was bound to be broken in the end." The battle of Mongua has been characterized as the "Armagedon of Ovambo",[803] King Mandume, despite his military wit, did not win the battle. Given his young age and in power only for four years, he was no experienced warrior in the fight against colonial forces – contrary to de Eça, who had learnt to wage a "bush war" in Mozambique. Mandume's offensive collapsed after three days of fierce fighting. "In a sense, the duration of an engagement can be interpreted as a separate, secondary success. The decision can never be reached too soon to suit the winner or delayed long enough to suit the loser. A victory is greater for having been gained quick-

799 *Pélissier* 2004: 270; *Mann* 2002: 199 on the conquest of German East Africa 1888 to 1904.
800 *Pélissier* 1969: 108; cf. *Walter* 2014: 87 ref to *Callwell*; *Kuss* 2010: 16.
801 AHU MU DGC Angola 1915-18, Pt 5,5ªRep, Cx.973, Tlgr. GG to M.Colónias, 6.9.15.
802 AHU MU M. de Amorim, Pt 26 (1915-27) – Angola. Negocios Indigenas. Relatório 1916.
803 *Ranger* 1969: 297; *Pélissier* 1977: 492.

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ly; defeat is compensated for having been long postponed."[804] According to Clausewitz, Mandume's defeat was thus well compensated by the three-days duration of the battle. Considering the size of the armies, had Mandume won, "Mongua" would have become an important name in history like "Little Big Horn" (1876), "Isandhlawna" (1879), or "Adua" (1896), three famous battles where "native people" shattered the invading European armies. However, Mandume did not become a second Sitting Bull, another Emperor Menelik II. General de Eça was more successful than Colonel Custer or General Baratieri. The leading *History of Namibia* does not even mention the name (O)Mongua.[805]

What were the (probable) causes for de Eça's success? What influence did the social and political problems of the Kwanyama under Mandume have on the defeat of his large army? Most of all: Kwanyama society was weakened by years of famine. The tensions between the King and his *omalenga* may have had their repercussions on the way the battle was fought. However, the Kwanyama point of view is entirely lacking in the sources. The operational difficulties of Mandume's forces can be determined by the low number of Portuguese casualties despite the large number of men (and possibly weapons) at his disposal. General de Eça, on the other hand, had more technological advantages at his disposal than his precursors: overland and submarine cables made immediate communication with the administrative center possible where previously words would have taken days or weeks to reach the addressee; steam navigation had enabled the navy to transport more troops in shorter time across the Atlantic; medical skills reduced the numbers of soldiers becoming unfit for war; since the area had seen previous campaigns, it was known to the Portuguese; mechanized transport across the desert was independent of pastures; the employment of motor trucks and ox wagons for the remaining kilometers proved to be successful since the Portuguese did not run dry of ammunition. However, there is no reason to overemphasize the use of technology in warfare when appraising military power. Greater importance is to be attached to the human factor: the military culture, organization, doctrine, operational art, logistics and tactics. More or less disciplined Portuguese soldiers managed to hold the Kwanyama at bay and could finally make use of their superior firepower to inflict enormous ca-

804 *Clausewitz* 1976 [1832]: 238, ch. *Duration of the Engagement*.
805 *Wallace* 2012: 208 speaks of 'four days of heavy fighting in August'; cf. *Reid* 2012: 135.

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sualties on the Kwanyama forces. Nevertheless, de Eça, in his report, paid respect to Mandume's soldiers, whose morale and capabilities "would have honored the best white troops." As a long-term effect, similar to the French and British also the Portuguese were identifying "martial races", and the reputation of the Kwanyama as "the most feared African opponents of Portuguese expansion" was such that in the 1960s the Portuguese army resorted to preferably recruit amongst them for the war against nationalist revolutionaries.[806]

2.7.4 Famine in Ovamboland and the Death of King Mandume, 1915–1917

Using hunger and famine as a weapon in (colonial) warfare had a long tradition in Africa and beyond. The Germans followed a scorched-earth policy in the Maji-Maji war in German East Africa. The Portuguese applied similar methods in their African colonies. In Ovamboland, however, the famine was older than the latest attempts at conquest, but the war aggravated the situation and the famine "undoubtedly facilitated Portuguese victory over the Kwanyama in 1915."[807] And from as early as 1908, colonial administrators had tried to use hunger as a tool to lure young men of the region away to work in the colonial economy – with growing success. Southwest Africa's new administration was eager to continue this policy.

In August 1915, Southwest Africa's Military Governor, Percival Scott Beves, sent his Natives Affairs Officer, Major Stanley M. Pritchard (b. 1874) to Ovamboland "to get in touch with the native chiefs in order to notify them of the establishment of the [South African] Military Protectorate".[808] By motorcar, Pritchard and his three officers first reached King Martin of Ondonga. In his residence they discussed the political changes

806 *Eça* 1921: 46: 'Vou terminar, como é de justiça, fazendo também o elogio do adversário, cuja bravura foi inexcedível. Atacar três dias seguidos um destacamento constituído por duas baterias de artilharia de campanha, quatro baterias de metralhadoras, dois batalhões de infantaria, estando estas forças em quadrado e aproximando-se delas com uma insistência que, no último combate, que durou dez horas, a uma distância que chegou a ser de cinquenta metros, revela um moral e uma instrução de tiro e de aproveitamento de abrigos que fariam honra às melhores tropas brancas.' *Wheeler* 1969: 432; cf. *Frazão* 1946: 266; *Pélissier* 1977: 495; 2004: 279.

807 *Dias* 1981: 375 referring to *Pélissier*; cf. *Hayes* 1992: 185f.; *Hull* 2005: 156.

808 *Journal of the Royal African Society* 15 no.60 (1916): 372: 'Dinners of the Society'.

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and the sending of young men to work in the south. During Pritchard's sojourn in Ondonga, "messengers arrived with reports of serious fighting between the Ovakuanyama tribe of the Ovambo nation and the Portuguese." King Martin expressed his fear that the

> "Portuguese would drive the Ovakuanyama far south into Ovamboland and that the whole country would be thrown into a state of turmoil …, the consequences of which would be disastrous as the people of Ondonga had not sufficient food for themselves, and certainly could not give any help in this respect to the Ovakuanyama".[809]

This concern was not unfounded since King Mandume, after the "disastrous" battle of Mongua, "sent word [to the missionaries] that his people were retiring, and he could give no guarantee as to what they might do. He had no more power over them."[810] Resistance came to an end "since the Kwanyama literally die[d] of hunger."[811] Pritchard turned to the border in an "endeavor to mediate between the natives and Portuguese". According to Missionary Wulfhorst "Mandume desired the protection of the British Government and discussed the matter with me. At his request, [Wulfhorst] drew up a [German] letter, which was handed to Major Pritchard."[812] Mandume, fleeing from N'giva, met with Pritchard (and Wulfhorst as interpreter) in Namakunde, in the neutral zone. The King, who "had great hope that the Germans … could render a helping hand against the Portuguese" understood that the Germans were gone for good. He thus asked "to place my country under [British] protection from the Portuguese". Safe passage was granted on the condition that Mandume, whom Pritchard "described as a perfect savage", would no longer fight against the Portuguese. On the occasion of this agreement a photograph of Mandume and Pritchard was taken.[813]

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809 NAN SWAA 1496, Report on tour of Ovamboland by Mj Pritchard, in *Gewald* 2003:218.
810 BAB R 1001/6640: 125, extra-file: 42, testimony Hochstrate, 26.4.26.
811 AGCSSp 3L1.11b5, Keiling (Huambo) to TRP, 9.9.15.
812 BAB R 1001/6640: 125, extra-file: 19, testimony of missionary Wulfhorst, 3.5.26.
813 *Pritchard* 1916: 4; *Timm* 2001: 146; *Hayes/Haipinge* 1997: 79; *Hayes* 1992: 197f.; 1992 II: 91; the collection of pictures taken during Pritchard's tour is available under http://hpra-atom.wits.ac.za/atom-2.1.0/index.php/report-by-major-s-m-pritchard.

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Ill. 29 "Chief Mandume and our party, from left Capt Liefeldt, Major Pritchard, Capt Bell and Lieut Moroney", 1915

After the 'signing' ceremony, Mandume returned to Wulfhorst in Omupanda. He was aware that he had lost the larger part of his kingdom. "He was very sad. He cried." That same night, September 2, the Portuguese forces advanced to nearby N'giva. Mandume "set his palace on fire. Everything got burned down including the food". The Kwanyama were fleeing southwards and the Portuguese pushed to the border.[814] With the royal grain reserves burnt, hunger, chaos, and panic spread. The refugees were running for their lives.

How do colonial wars end? There was no formal capitulation of Mandume, merely the chance for his men and their families to escape southwards. South of the border, people were safe from Portuguese soldiers but not rescued from starvation. Missionaries reported about "a shocking

814 NAN A.505: 46, Chronik, 20.11.15; BAB R 1001/6634: 214, Welsch, 2.5.18; *Hayes/H.* 1997: 80; a signature by Mandume's own hand is reproduced in: *Keiling* 1934: 176.

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famine and terrible robbing and stealing"[815] A few days after Mandume's defeat, King Iipumbo of Uukwambi, located to the south-west of Kwanyama territory appealed to the new masters of Southwest Africa:

> "My country is under starvation, my people are dying of hunger, and I beg the Government for help. I, myself have got nothing. Through the war every road of buying food have been stopped, and I ask for some flour, rice, coffee and sugar."[816]

On September 11, after the cessation of hostilities, Pritchard visited de Eça's headquarters at N'giva, where a "useful provisional agreement was entered into between him and the Portuguese Commandant with regard to the boundary line".[817] Provisionally, the disputed 11-km border strip was to be considered neutral (the 17°23'10" south position was considered the interim "cut-line border") and "administer[ed] … jointly by a [Luso-South African] commission" at Namakunde. According to the line, 70% of the Oukwanyama lived on Portuguese territory. Following his escape to Namakunde, Mandume resettled south of the line at Oihole, from where he "uprooted" *lenga* Ndjukuma ya Shilengifa, with whom he shared a conflicting relationship since he became King in 1911.[818]

The administrative advance of both colonial states did not change the underlying picture of starvation and turmoil. The only food available was what was found in the "bush".[819] In September, General Smuts ordered relief programs, but they could do little to rescue the situation. The South African soldiers were depleting their own food stocks. The next rainy season due starting in November again failed. The harvest in 1915 was "completely nil" in the area between Humbe to Gambos and Kwanyama.[820] In December 1915 Finnish missionary Marti Rautanen, in Ovamboland since 1870, described an utterly desperate situation:

> "The present famine is simply indescribable, as far back as August … one saw living skeletons from other tribes wandering down to Ondonga. A great number of such men, women and children died in the forests, being unable to

815 A. Wulfhorst: Erlebnisse 1910-30 (AVEM), transl. in *Hayes* 1992: 199; *Walter* 2014: 82.

816 NAN ADM 17, Iipumbo to Government of Damaraland, 26.8.15, cit. in *Gewald* 2003: 218. 'This letter was written for Iipumbo by the Norwegian trader and hunter Brodtkorb.'

817 *Pritchard* 1916: 4f.; AHU MU DGC Angola 1915-18, Pt 5, 5ª Rep, Cx.973, Telegr. GG to Ministro Colónias, 13.9.15.

818 *Jour.RAS* 15 n.59 (1916): 284; NAN A.450 Map 1915; *Vigne* 1998: 296; *Akweenda* 1997: 222; *Shiweda* 2011: 25; 31.

819 AGCSSp 3L1.11b6, Keiling (Huambo) to TRP, 27.7.15 'nourriture indigène'.

820 AGCSSp 3L1.12a7, Bonnefoux (Huíla) to Direction Generale de la S.-Enfance, 3.12.15.

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> reach Ondonga. Those who still had some strength left robbed the weaker of what little they had and left them lying to die of hunger and thirst. Mothers with their sucking babes were found lying dead together; in other cases the mothers threw their living babies into the bush, being unable to carry them further. In other cases children a little older, after their parents had died on the road, wandered on alone to Ondonga. Of these children of misfortune I adopted more than 30 but in spite of attention several have died. Thousands of such unfortunates have come to Ondonga and distributed themselves more over the whole tribe. The first refuges were naturally the mission stations and hundreds of people beleaguered our houses begging for food … Thousands of people have died so that it has become a problem how to get them buried, the more so as the people are too weak to dig graves in the hard ground."[821]

Given the "unprecedented famine", Pritchard "urged that relief measures should be undertaken to prevent the natives in some areas from being completely wiped out by starvation." During a second trip in November 1915, he again negotiated with Martin and Mandume about sending migrant laborers to the mines and farms in the south. He brought with him officers to administer Ovamboland: the new Resident Commissioner Major Charles Manning, Captain Octavus Bowker, and Lieutenant Carl Hugo L. Hahn (1886–1948), called "Cocky" by his friends and *shangolo* (the whip) by Ovambo, the future longtime Resident Commissioner of the norther regions of SWA (1921–1946). Pritchard thereby advanced the South African occupation of Southwest Africa in its entirety. Pritchard, who mentioned the "complete obedience" of Africans to South African orders, also transported the first batch of relief supplies.[822] In a telegram from Namakunde to Windhoek he warned: "Considerable numbers of dead bodies seen along the road and natives dying here daily also at other centres. Instances occurring in which natives resorting to consumption human flesh."[823]

The missionaries in the area credited themselves with having protected many Africans in their mission stations during the campaign and the

821 NAN RCO 9, Rprt. Rautanen, 26.12.15, quot. *Gewald* 2003: 219; cf. *Miettinen* 2005:73.

822 *Pritchard* 1916: 1f.; 5 'The picures he showed of famine stricken natives were truly appalling.' Thirteen pictures were used by Pritchard during a talk he gave to the *African Society* on May 11, 1916, among them one described as 'Famine stricken natives wait for food'. These 'photographs of the German South-West Africa Campaign, 1915' are now held by *Cambridge University Library. Royal Commonwealth Society Library* (Ref. GBR/0115/Y3057A) [http://janus.lib.cam.ac.uk/db/node.xsp?id=EAD%2FGBR%2F0115%2FY3057A;sib0=637; 9.10.2014]; on Hahn *Dobler* 2014: 22-25; *Hayes* 1996.

823 NAN ADM 18, telegram Pritchard to Administrator, 27.11.15, cit. in *Gewald* 2003: 220.

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famine.[824] Father Devis estimated that "4,000 blacks" had been saved in 1914/15.[825] The stations were "flooded by those dying of hunger"; and the missionaries were not always able to find the necessary food.[826] Prefect Keiling estimated in March 1916 that a third of the population in southern Angola had died due to the famine.[827] Father Bonnefoux reported that in certain regions more than 80% had died, while others had migrated elsewhere. The population of the Mission District Cunene, in 1914 estimated at 200,000, had shrunk to 120,000 in 1916; most of all, the children had succumbed to starvation and dysentery. Even in 1916, skeletons and hyenas abounded along the roads.[828] The Portuguese authorities calculated that 154,412 people had died in the district of Huíla due to the "German invasion in southern Angola and the ensuing native rebellion", i.e. the famine.[829] Southern Angola and Northern SWA had been turned into a "great cemetery". Modern research speaks of "the death of around a quarter of a million people from starvation between 1911 and 1916" in the region.[830]

The famine of 1915 was called "the famine that swept" – *Ondjala yawekomba*. It "is one of the most fundamental events in twentieth century Namibian history." Due to famine and colonial conquest the traditional economy based on agriculture, cattle, and trade collapsed, resulting in utter violence and a "suspension of a functioning social order".[831] Sustainable living conditions were only to be found elsewhere. After the defeat, many of the surviving Kwanyama voted with their feet and moved southwards into the South African part of Ovamboland. The situation was com-

824 AGCSSp 3L1.11a2, Keiling to Eminence Reverendissime, 9.9.16; *Hayes* 1992: 203.
825 AGCSSp 3L1.11a1, Devis, Sur la mission du Cuanhama, pour son retablissement [8/1920].
826 AGCSSp 3L1.11b6, Keiling (Huambo) to TRP, 26.11.15, 'inondé par les affamés'.
827 AGCSSp 3L1.11b6, Keiling (Huambo) to TRP, 9.3.16; cf. *Mittelberger* 1956.
828 AGCSSp 3L1.12a7, Bonnefoux (Huíla) to Direction Gen. de la S.-Enfance, 12.9.16; 3L1.13.6, Bonnefoux to TRP, 20.8.16; BAB R 1001/6634: 216, Welsch to Gouv Seitz, 2.5.18.
829 BAB R 1001/6634: 39, excerpt of Dossier 10, no.1 Mémoire justificatif, ~ 3/1922.
830 *Dias* 1981: 375; *Pélissier* 2004: 279; 272 deems this 'exaggerated'; *Wallace* 2012: 207.
831 *Gewald* 2003: 213; 238; *Hayes* 1992: 199-207 (201); cf. e.g. *Ndeikwila* 2014: 2 'My grandfather, Ndeikwila, was killed by his close relatives [Aiyambo and Nailenge] … during the famine of 1915. Armed with a rifle, they came early in the morning to his homestead ... As my grandfather was coming out of his sleeping hut, Aiyambo fired a shot … [my grandfather] died instantly. The two brothers had assumed that there were *mahangu* grains in his granaries, which they did not find. They raided the homestead, taking everything of value they could lay their hands on.'

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parable to Mozambique, were peasants "expressed their discontent by migrating in the illusory search for a more benign form of colonialism." The existence of a related ethnic group facilitated the migration.[832] From April 1915, missionaries reported on the migration, since people had to look for new pastures for their herds.[833] But in search of survival and work thousands moved further south. Considering that people perished on the road, the South African administration began in late 1915 to "set up feeding and holding camps along the route from the north." In need of workers for the farms and mines, officials concentrated the majority of Ovambo famine victims who managed to reach the center of Southwest Africa in the town of Karibib. A camp was set up for over 4,000 inmates to recuperate (some famine victims were given horse fodder) before the men, women and children were sent to their employers. The horrifying conditions in this camp have been amply described by historian Jan-B. Gewald.[834]

The Ovambo migrant labor system had its early start in the 1890s. It had brought (due to famines and the discovery of diamonds near Lüderitzbucht) soon after 1910 around 10,000 Ovambo per annum to GSWA and developed after the First World War into the economic backbone of Ovamboland.[835] The working conditions in the mines and elsewhere were often horrendous. Ovambo knew well that "entering into migrant labor was a process that approached death."[836] The South African administration, despite describing the workforce as "idle", could not run the economy of the mandated territory without contract labor.[837] Thousands of young men worked annually in the farming and mining sectors of Southwest Africa from where they returned after six months for the harvest. The effects on the social life and the cultural changes were drastic. Older institutions such as matrilineal kinship, polygamy, and kingship lost in importance. Permanent occupation "of the whole area in 1915 was followed by a general increase in conversions" to Christianity. The Portuguese government had made it clear to the Spiritans already in 1914 that it wished to see a mission station erected "in the heart of Kwanyama after the expedition".[838] In the first fifteen years (1900–1915) the Spiritan mission station

832 *Isaacman/Isaacman* 1977: 50f. referring to 50,000 peasants escaping to S. Rhodesia.
833 AGCSSp 3L1.13.6, Bonnefoux (Tyipelongo) to TRP, 4.4.15.
834 *Gewald* 2003: 224; 236.
835 Cf. *Clarence-Smith/Moorsom* 1975: 372-7; *Shiweda* 2011: 105-114; *Dobler* 2014: 11-18.
836 *Gewald* 2003: 233 ref. to the return home of a laborer: 'I see that you are alive once again'.
837 *Cooper* 1999: 130 (Report of the Administrator 1922: 21); *Humboldt* 2000: 143f.
838 *Clarence-S./M.* 1975: 380; AGCSSp 3L1.11b5, Keiling (Cubango) to TRP, 10.11.14.

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Evale, for example, had baptized only 380 individuals and counted merely 76 Catholic families. Often, the converts were freed slaves and used by the missionaries "in their attempts to socially engineer Christian communities."[839]

The war-related social disruptions, famine, and diseases played an important role as a catalyst to the rapid expansion of Christianity since 1916. "The new religion was felt to have proved itself the more effective."[840] Prefect Keiling spoke of indescribable scenes after the "last grain of rice and corn" had been distributed. Many of the baptisms in 1915/16 were executed *in extremis* due to the famine.[841] He remarked, with a sense of black humor: "The famine has its good sides too." This belief that Africans "needed catastrophe to bring them to their senses" was not uncommon. Also missionaries in the Eastern Cape made a strong "association between catastrophe and conversion" after the Xhosa cattle killing in 1856/57.[842]

The "famine broke the Ovambo kingdoms." Also the direct effect of the fighting on the societies and politics in the region was disastrous. Following the loss of most of his men, King Mandume found it harder to mobilize resistance. South African officials were able to enter Ovamboland peaceably in 1915. However, despite the occupation, unrest remained a challenge to colonial rule. Missionary Welsch complained about the "lack of any authority".[843]

Few weeks after the battle of Mongua missionaries feared that a new "rebellion" may erupt. Mandume, from his new *embala* in Oihole in the neutral zone continued "to wage war against the Portuguese in the north" and then withdrew south.[844] Recognizing the tactical advantage the border offered to him, he was neither willing to renounce his kingship over his subjects in Angola, nor send more men to work. Instead, "Mandumes' incursions [into Angola] continued". The Portuguese demanded his extradition. But the King also "increasingly defied the terms of South African

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839 *Maxwell* 2013: 79; cf. AGCSSp 3L1.11a1, Keiling, Situation Evalé, n.D. [January 1916]: 2.

840 *Ranger* 1969: 316; cf. *Hayes/Haipinge* 1997: 95 Kaulinge: 'so many people were converted'; *Gordon* 2006: 125 today, Namibia 'is statistically the most Christian country in Africa and the heavily populated north has the highest density of Lutherans in the world.'

841 AGCSSp 3L1.11a2, Keiling to Eminence Reverendissime, 9.9.16; Compte-rendu annuel, 1916; 3L1.13.6, Bonnefoux (Huíla) to TRP, 5.10.15 on baptism of 'moribund' individuals.

842 AGCSSp 3L1.11b5, Keiling (Humabo) to TRP, 10.9.16 'a son bien aussi'; *Price* 2008: 136.

843 *Gewald* 2003: 238; BAB R 1001/6634: 217, Welsch to Seitz, 2.5.18; cf. *Rizzo* 2012: 77.

844 AGCSSp 3L1.13.6, Bonnefoux (Huíla) to TRP, 5.10.15; *Vigne* 1998: 294.

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Ill. 30 King Mandume and Lieutenant "Cocky" Hahn at Oihole, 1916

'protection'". Officers visited him to bring him to reason. Yet, in October 1916 (missionary Bonnefoux had just reported that all was "calm, even among the Kwanyama"[845]), a Portuguese patrol was ambushed by Mandume's men, killing one officer and 16 privates. General Botha was so upset that he told Mandume to explain his conduct in Windhoek. He received the response that Kwanyama law prohibited the King from leaving his territory. Mandume had his "own proud view of his actions – 'My heart tells me I have done nothing wrong'." In early 1917, open conflict between Mandume and South Africa's recently appointed Resident Commissioner Manning erupted and the King uttered his famous warning: "If the English want me, I am here [in Oihole] … I am a man, not a woman and I will fight until my last bullet is expended."[846]

Refusing joint operations with the Portuguese, who "thirst[ed] for his blood", the South African administration deemed it sufficient to send in 700 soldiers under Colonel de Jager against Ovamboland's once most

845 AHD 3p ar.7 m48, GG to MinCol, 21.2.16; AGCSSp 3L1.13.6, Bonnefoux,13.9.16.

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powerful ruler. Over the previous year, Manning and "Cocky" Hahn had collected enough intelligence on the King to make feasible an open attack on him. King Mandume, who "embodied the ethnic nationalism of [his] dependents", was killed in action on February 6, 1917 near his *embala* in Oihole. "It is widely alleged that [Ndjukuma, whom the King had displaced from from Oihole to Omhedi,] collaborated with the South African troops to dispose of Mandume." Portugal's most important enemy in Angola was dead. But other "rebellions" followed suit in the north and the east. The Seles and Amboim rose in 1917, and in 1919 the Portuguese led an expedition against the Dembos. Others would follow. After around 350 years of constant military campaign somewhere in the colony the "era before the complete military control and conquest of the present area of Angola" ended only in 1926.[847]

The narration and "interpretation" of the death of King Mandume is a striking example of the difference between "official" (paper-based) and "public" memory: "Colonial officials believed that his death in battle was as a result of machine gun fire. But the belief that spread on the ground at the time and which has continued to persist in oral history is that Mandume, after being wounded, committed suicide before he could be killed or taken by the enemy." By doing what he had announced to his followers before, he upheld honor at his death. Reverend Vilho Kaulinge (1900–1992), a relative of the King and one of his officers in 1917, stated in 1989 that the South Africans cut the King's head off and "they showed us his head" in Ondangwa.[848] "This suicide in oral history is the most socially

846 *Silvester/Wallace/Hayes* 1998: 9; *Pélissier* 2004: 279; *Hayes* 1992: 214; *Silvester* 1992:24.

847 *Vigne* 1998: 294; *Coquery-Vidrovitch* 1988: 66; *Shiweda* 2011: 25; *Pélissier* 1977: 509; *Hayes* 1992: 234.

848 *Hayes* 1993: 91; 111, ref. to: AGCSSp 476-A-IV, Situation des missions 1911-30: 205; NAN RCO 10/1916/1 v 1, Jan Vennel statement, 8.9.1916; RC Ovamboland to Secretary SWA, 3.7.16; RC Ovamboland to Deputy Secretary SWA, 14.5.16; RC Ovamboland, notes for discussion with Mj Fairlie, 6.5.16; *Hayes/Haipinge* 1997: 86-92;75; cf. *Timm* 2001: 145f; *Wallace* 2012: 209; *Shiweda* 2005: 48; NAN A.306 no. 5: 22, Expedition 1917; no. 6: 24 Report of meeting 14.2.17 Col M. de Jager; no.19: 80 photograph 'Chief Mandume killed Ovamboland 1917' which suggests that Mandume was beheaded (*Ndongo* 1998: 290 writes that 'Mandume and some of his warriors were shot dead.)'. The Resident Commissioner Ovamboland Manning (1877–1944) stated that the King was buried according to Kuanyama rites, but according to oral history his head was buried in Windhoek.

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healing explanation for his death, which could hold together a conquered, divided and kingless Kwanyama nation facing colonial rule."[849]

Tragically, the reign of King Mandume, which aimed at achieving "order out of chaos" and replacing the instability and hunger of the reigns of Namhadi, Weyulu, and Nande with "peace and plenty", ended in anarchy and starvation. In 1917, Kwanyama Kingship was abolished.[850] The long-term impact of the war in Ovamboland was similar to other areas in Africa affected by the World War: social destabilization, closer colonial control, the definitive end of "primary resistance", in short: the "consolidation" of the colonial state – that once more earned its name "crusher of rocks".[851]

Ill. 31 "Chief Mandume killed Ovamboland 1917"

849 *Hayes* 1993:108 'Such explanations… are frequently the reaction to loss of power'; 1992: 236; *Nathanael* 2002: 1.

850 *Hayes* 1993: 110 quot. Kaul.; cf. *Estermann* 1976: 52; 180; *Kreike* 2004; *Shiweda* 2011: 25.

851 *Young*, 1994: 134; *Michel* 2004: 927 'l'avènement réel de l'État'; *Nasson* 2014: 433.

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2.7.5 Inverted Chronology – POWs, Seizures, and the Declaration of War

African prisoners of war in European hands were an exception to the custom according to which African adversaries after a battle were either slain or left to escape. As mentioned before, "savages" were not considered to be entitled to the legal "privilege" of prisoner-of-war status reserved for European soldiers.[852] After the Naulila incident, the Portuguese arrested the two "Police Servants" August and Andreas from GSWA, who were part of Schultze-Jena's group, but apparently they were not heavily guarded since they managed to escape soon. This was also the situation after the battle of Naulila. Major Trainer reported later that Portuguese "native soldiers" were not among the prisoners since they had "managed to escape".[853] It was not reported that the Portuguese took any prisoner during or after the battle of Mongua.

European soldiers, however, were taken prisoner. 37 (or 66 as Germans divergingly claimed) Portuguese soldiers, among them three officers, were taken to GSWA. The treatment especially of the officers became a contested issue after the war. While the Portuguese emphasized the dishonorable treatment on the hands of the Germans, the latter pointed to the customary 'hardship' of war and the dishonorable behavior of the Portuguese. Captain Aragão had allegedly gone to his knees to beg for his life.[854] In January 1915, the Portuguese were joined by two comrades who had been taken prisoner by the Kwanyama during the raid on Fort Kafima and were handed over to the Germans.[855] As mentioned, a third soldier was allegedly killed for having refused to teach Mandume's men how to use the artillery captured from the Portuguese. All Portuguese soldiers were released after the surrender of GSWA in July 1915 and received a "heroes' welcome". It was reported that masses marched through Luanda and Lourenço Marques to celebrate the victory over the *Schutztruppe* "as if it were a triumph of the Portuguese".[856] This way, prisoners (of war) were taken and released even before a state of war was declared between the two states.

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852 The 'exception' is enslavement – an anachronistic practice no longer applied in WWI.

853 BAB R 1001/6634: 59–61, Major ret. Trainer to RMW, 17.03.22.

854 AHD 3p ar.7 m 48, MNE to Min Col., 2.6.15; BAB R 1001/6634: 146, Report Baericke (16.11.19), Ax 9 M All., 23.5.22 photo of POW in GSWA in rpt; *Casimiro* 1922: 212f.

855 AGCSSp 3L1.11b5, Keiling (Cubango) to TRP, 20.2.15.

856 AHM/Div/2/2/31/2, POW Naulila, 1915; *DOAZ*, Jg.17, no.90, 5.11.1915: 2 'Bothas Sieg'.

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German soldiers and civilians were also arrested following the Naulila incident, the battle of Naulila and afterwards. On October 27, 1914 private Georg Kimmel and the farmer Jensen were transferred to Fort Cuamato, where they were interrogated by the *Capitão Mor*.[857] Interrogations continued in Lubango by Lt.-Colonel Roçadas about the size and strategy of the *Schutztruppe* and the incident.[858] Following the Naulila incident, Governor General Norton de Matos wanted to avoid confrontation between Portuguese and German citizens in Angola. To that end he asked Consul Eisenlohr to order all Germans living in the interior of Angola without proper employment and residence to return to Luanda or to Europe.[859]To avoid further rumors about German machinations in the hinterland,[860] Eisenlohr also urged the ethnologist Dr. Schachzabel, trader Busch and engineer Kéry to return to Luanda.[861] However, Schachzabel had already been brought to the fort of Benguela with three other Germans. Here they were joined by Fritz Schwarzer and Otto Busch, who were arrested in Caconda. The head of the Study Commission Schubert was accused to be a spy too and was taken to Luanda; Pieter J. van der Kellen faced similar charges.[862] On November 19, the state of emergency was declared for the entire Province of Angola; all Germans were to be taken aboard ships and concentrated in Luanda. Altogether 143 Germans were deported to the Azores Islands. Busch was handed over to the British before the ship entered the harbor of Lisbon.[863]

Max Baericke, caught before the battle of Naulila, was, following his interrogation, also taken to Luanda and met Jensen and Kimmel. Their le-

857 BAB R 1001/6634: 134f., Baericke, Kimmel, Jensen to DGL, 30.04.15, Ax 8 M All, 23.5.22. Jensen was told Sereno was ignored by his co-officers and had to take dinner alone.

858 BAB R 1001/6634: 104f.; 121 Reports of Jensen, Ax4; 6 Memo Allem., 23.5.22; cf. AHM/Div/2/2/23/3: 67, Relatório pedido pelo Capitão-Mor de Cuamato, 22.10.14.

859 PA Luanda 3 (Südwest Krieg) Chefe de Gabinete to German Consul Luanda, 11.11.14; Vageler estimated in 1914 that there were around 30 'Angola-Germans' BAB R 1001/6634: 149, Vageler to RMW (10.11.1921), Ax 10 Memo Allem., 23.5.22; p.157; 154, Vageler to KGW (~11/1914), Ax 11; BAB R 1001/6640: 95, Dr. Vageler, excerpt: 'Die Bahnfrage auf dem Planalto', 15.7.1919.

860 PA Luanda 3 (Südwest Krieg) German Consulate Luanda to DGL, 16.11.14.

861 PA Luanda 3 (Südwest Krieg) Cnsl. Luanda to VK Benguela, 15.11.14; *Santos* 1978: 174.

862 PA Luanda 3 (Krieg, v.II) VK Benguela to German Consul Luanda, 25.11.; 1.12.14; NAN A.529 n.2: 51, Busch: Erlebnisse...in Angola, August–24.12.14; *Baericke* 1981: 32.

863 PA Luanda 3 (Südwest Krieg) German Consulate Luanda to DGL, 25.11.14; NAN A.529 n. 2: 58, O. Busch: Erlebnisse...in Angola, Anfang August–24.12.14 [n.d.]; *Stassen* 2011: 82.

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gal status as "criminals" or "quasi" prisoners of war caused the Portuguese administration much consternation. The three (it was never accepted that the Danish national Jensen was a farmer) remained imprisoned in the medieval Fort São Miguel when their compatriots were deported to the Azores. Stating "[we] cannot complain about treatment and food", they tried in April 1915 to contact the German envoy in Lisbon to obtain their release; but to no avail.[864]

Over the course of 1915, Luso-German relations deteriorated further. Neither the Portuguese nor the British were in doubt about the reasons:

> "In regard to [Foreign Minister] Senhor Soares' observations respecting the breaches of neutrality committed by Portugal in virtue of her alliance with Great Britain which might involve her in war with Germany, Mr. Carnegie [the British Minister in Lisbon] was directed to state that His Majesty's Government fully recognized these facts, but that if the Portuguese government themselves declared war on Germany it must be on their own responsibility and they must not say that they are obliged to do so in consequence of the Alliance."[865]

Afonso Costa, upon becoming Prime Minister at the end of 1915 and still believing in the virtues of joining the Allies against Germany, searched eagerly for an opportunity to bring his country into the conflict. The allies' shortage of naval material seemed to offer this opportunity. When Britain finally requested the Portuguese Government under the alliance to seize all German ships (around 80) in their ports, the requisition (despite the fact that there was formally no war between both states) "was done in such a way as to cause maximum offence to German sensibilities." Following the seizure in February 1916, the German government lost patience.[866] Calling the Portuguese "a vassal of England", it declared war on Portugal on March 9, 1916; thereby rendering superfluous the tiptoeing of the Allies.[867] In 1916, the Portuguese government handed over to the British at

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864 AHD 3p ar.7 m 48, GG to Min Colon, 8.3.16; BAB R 1001/6634: 134f., Baericke, Kimmel, Jensen to DGL, 30.04.15; *Baericke* 1981: 106.

865 AHD 3p ar.7 m 48, BML to MNE, 27.10.15.

866 *Meneses* 2010: 48; *Stone* 1975: 732; SBRT, v. 307, 39.Sess., 5.4.16: 851 (Bethmann).

867 AHD 3p ar.7 m 48, BML to MNE, 2.2.; 1.3.; MNE to DGL, 3.3.; DGL to MNE, 9.3.16. So dependend were the Portuguese on the British that before Germany declared war due to the seizure of ships the British Legation in Lisbon drafted for the Portuguese Foreign Ministry the justification for the seizure to be provided to the German Legation; cf. NARA RG 84, Lisbon, v. 156: 700, USML to SoS, 13.3.16; *Wheeler* 1978: 128; *Wolff* 1984: 373 (# 347: 26.4.16).

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least 25 German steamers and three sailing vessels.[868] While Portugal's participation in the fighting "occurred, in many ways, against Great Britain's wishes", also among Portuguese politicians the participation remained disputed. But the majority of the Republican Party under Prime Minister Costa recognized the war as an opportunity to portray Portugal as a modern nation, consciously fighting on the side of 'civilization' against German 'militarism'. The national effort to win the war would, it was hoped, strengthen patriotic sentiment and alleviate the nation from any doubt by foreigners as to its ability to stay independent and to develop the Portuguese Empire.[869]

Being formally at war now, on April 20 the Portuguese government issued a decree on the status of enemy subjects, banishing all German subjects from mainland Portugal. Sequestration and liquidation of German property was ordered. German men between the age of 16 and 45 were to be "removed to whatever locality the government may see fit." Their wives and children were permitted to join them, provided they paid all expenses.[870] Prefect Keiling reported from Angola that since the declaration of war, the "entire colony is in excitement". As one of seven Alsaciens among the Spiritans he was concerned that they would be interned too. Leaving no doubt about his allegiance to France and his believe in France's victory over the *boches*,[871] he turned to the French consul for assistance (which was granted). Several of the Portuguese patres were called to arms.[872] German property was seized and liquidated, trade with Germany was prohibited. After protesting, the German government responded with similar provisions towards Portuguese nationals and property as "reprisal".[873]

All Germans in Lisbon, on the Azores Islands, in Mozambique and Goa, Portuguese India, were incarcerated. Consul Wallenstein from the Azores (and his Portuguese wife) apparently took these security measures with a certain sense of humor, speaking to his American colleague about the "'gay prison' in which they all live … the [Portuguese] authorities are

868 NARA RG 84, Lisbon, v. 156: 711, German vessels, n.D. [1916]; cf. *Gaurier* 2014: 715f.
869 *Meneses* 2010: 38-69; 77; *Wheeler* 1978: 129 Costa 'wished to reestablish the good name'.
870 NARA RG 84, Lisbon, v. 157: 800, USML to SoS, 10.5.16; *Isay* 1923: 123.
871 AGCSSp 3L1.11b5, Keiling (Humabo) to TRP, 20.12.16; 3L1.11b6, Keiling (Huambo) to TRP, 30.11.16 'Quand donc ces sales Boches cesseront-ils de torturer notre cher pays?'
872 AGCSSp 3L1.11b5, Keiling (Humabo) to TRP, 26.3.; 10.5.; 10.9.16.
873 SBRT, v. 307, 60.S.,6.6.16: 1519; v. 308, 68.S., 27.10.16: 1838; cf. *Livermore* 1967: 325.

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in every way considerate and civil to all".[874] US Consul Bardel, charged with the care of German interests after the declaration of war, reported about the 110 inmates of three "concentration camps" on the Azores: "they are resigned to their lot, do not complain, and, as I am told, are very well behaved."[875] The conditioned worsened over the course of the war. German submarines operated in Portuguese waters. In December 1916, a U-boat sneaked into the harbor of Funchal, Madeira, sunk three French and British ships and bombarded the city; Ponta Delgada, Azores, was bombarded too.[876] In Mozambique, Portuguese troops "suffered great reverses" against the invading troops of Lettow-Vorbeck.[877] At the same time, deadly epidemics of typhoid fever broke out in the camps and chicanery by the Portuguese guards became more marked.[878]

The three Naulila-prisoners were still in Luanda. After 2½ years, during which they lived from German money transfers, they were sent to Lisbon in October 1917. Here they were put in solitary confinement in the Santarem prison. When in December 1917 another military coup in Lisbon brought the former Envoy to Berlin, Sidonio Pais, to power, he ordered the Germans to be transferred from the military prison to an internment camp for civilians on the Azores Islands, where the conditions were "very good". It took both governments almost one year after the armistice to organize the departure of their respective prisoners: 7,740 Portuguese POW held by Germany found it excruciatingly difficult to obtain from Lisbon the necessary means to return home. In October 1919, the German government chartered a Woermann ship to return the 650 German inmates of the Azores Islands camps. They arrived in Hamburg on November 11, 1919.[879]

The war was over, but, as demanded already in late 1914 by Sidonio Pais, the Portuguese government was determined to recuperate from Germany all expenses not only for the prisoners of war, but also for all costs and damages caused by "German aggression" since 1914.

874 NARA RG 84, Lisbon, v. 156: 703, USC St. Michael to USML Lisbon, 16.5.16.
875 NARA RG 84, Lisbon, v. 156: 703, USC St. Michael to SoS, 23.5.16.
876 BAB R 3301/2284: 58, Marineleitung to RMW, 28.2.21 'German U-boots at Funchal'
877 NARA RG 84, Lisbon, v. 156: 711, USML to SoS, 6.12.; 17.12.16.
878 NARA RG 84, Lisbon, v. 156: 703, USML to MNE, 6.12.16; 5.1.17.
879 BAB R 1001/6634: 147, Baericke, 16.11.19; *Baericke* 1981: 101f.; *Rezendes* 2014: 146f.

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PART TWO. The Arbitration Procedure and Awards

3. The Luso-German Arbitration Procedure 1919–1928

Following the armistice, the Allies were confronted with the task – among many others – of claiming German reparation payments and to avenge alleged German war criminals. The peace treaty signed on June 28, 1919 did not resolve these questions conclusively. The Allies' governments and most of all their administrations subsequently undertook to negotiate and work out the details. Germany's international relations after 1919, on the other hand, "were governed by the conflict over the consolidation, modification or destruction of the status quo established in [Versailles]."

The peace treaty, a massive bilingual volume of over 200 pages with 440 articles plus annexes, had to regulate many complex issues in great detail. The indemnification of the damages that had arisen from German acts since the beginning of the war (July 31, 1914) and before that Allied Power formally entered into the war was among these issues. In the following chapters the preparations for as well as the initiation and proceedings of the legal dispute concerning the war in the African colonies between Portugal as claimant and Germany as defendant will be analyzed. According to the peace treaty, the dispute was to be referred to arbitration. First, interstate arbitration will be examined in its historical context before and in the course of the negotiations leading to the Treaty of Versailles. Second, the personnel involved in the Luso-German arbitration and their respective competences will be briefly mentioned. Third, the legal procedure itself will be considered by analyzing the Portuguese claims and German responses during an exchange of written arguments, followed by oral testimonies and finally the pleadings of the party representatives before the arbitrator.

During the war, representatives of the Allies claimed that they were "engaged in the defense of international law and justice". These aims were considered "common" and "obvious". But also Germany attempted "to claim the international-legal high ground." Considering the atrocities since 1914, former US Secretary of State Elihu Root was less convinced. In 1921, he remarked that during the war "the world went on for several years without much reference to [the rules of international law]; and the

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question now is: How far do they exist?" The Luso-German dispute, fraught with legal problems that grew out of customary international law or provisions of the peace treaty, proved the "indestructible vitality" of these rules. But the dispute was also fraught with questions of international politics and (colonial) history. Further, the interest of the Portuguese public in the indemnification of damages (or – in the German case – the refusal of it) played a significant role in the initiation of the arbitration procedure. And these political influences will thus be taken into consideration too.[1]

3.1 The Treaty of Versailles and Arbitration

In historian Gerald Feldman's frank assessment, the Treaty of Versailles, "no matter how understandable in its historical context,… must be accounted as disaster of the first rank." For defeated Germany this seemed certainly true, even though the existence of one German nation state was – at least – not called into question by the treaty. Apart from the loss of ten per cent of its population, the loss of the colonies and industrial capacity, Germany was liable for reparations. The final sum to be paid was yet to be announced.[2]

With its numerous provisions the treaty "marked a fundamental turning point in the history of international law." Two aspects are of particular relevance in the context of the Luso-German arbitration. First, the Treaty was the "starting point for the era of international organizations", including international tribunals. Second, the Treaty was also "the first punitive peace between sovereigns since the late Middle Ages".[3] Of course, also previously victorious nations stipulated payments in their peace treaties. The Franco-German Treaty of Frankfurt 1871 set forth the payment of a French war indemnity of five billion francs. However, the Treaty of Versailles went beyond these pecuniary aspects and was a far cry from the classical vocabulary of "oblivion" as used in peace treaties such as the Treaty of Westfalia in 1648. In addition to the fact that "Germany renounce[d] all her rights and titles over her overseas possessions"

1 *Kolb* 2007: 7; 189; *Hull* 2014: 1f. quot. Bower (1916); *Root* 1921: 225; *Isay* 1923: iii.

2 *Feldman* 1997: 148; cf. *Day* 1920: 312 'no man on earth…could compose the conflicting interests and win a perfect peace'; *Boemeke/Feldman/G.*1998: 3 TV 'the best compromise'.

3 *Lesaffer* 2004: 5; cf. *Hirschfeld/Krumeich* 2013: 289 TV was 'quite a respectable effort'.

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(Art. 119), Article 227 charged the Emperor Wilhelm II, with offenses against international morality. These provisions caused particular outrage in Germany. Most saw these *Schmachparagraphen* (articles of ignominy) as deliberate attempts to humiliate Germany.[4]

Considering the way in which the peace treaty was negotiated and concluded also historians assume that one of its purposes was "to make visible the humiliation of Germany".[5] The most decisive characteristic about the negotiations at Versailles in spring 1919 was the fact that these negotiations – which attempted to create a new world order after the collapse of the old – were *about* the defeated nations, most of all Germany, but were not conducted *with* them. Indeed, it was a *Diktat* rather than a genuine treaty between two parties.[6] Altogether, more than 10,000 councilors participated in one way or another in the negotiations. Never before had the "expansion of the international system" since the nineteenth century be so visible than in these treaty negotiations with lawyers from all corners of the globe. They were organized in over fifty committees and subcommittees; all reporting to the Council of Foreign Ministers and, finally, the Council of Four (Woodrow Wilson, David Lloyd George, George Clemenceau, Vittorio Orlando). Only in late April 1919, when all the articles of the Peace Treaty were virtually formulated, were the Germans ordered to send their representatives. When the German delegation under Foreign Minister Brockdorff-Rantzau (1869–1928) received a completed document on May 7, 1919 he, the German government, political parties, and the public were hit "as if by a cudgel". And still, the Treaty was signed on June 28, 1919. The German Parliament, recognizing the hopelessness of the resumption of war, ratified the document after a stormy debate on July 7, 1919.[7]

In Portugal, despite being among the victorious nations, the situation seemed equally desperate. Since 1917/8, both republics were plagued by political violence and governmental and economic instability. Both republican regimes lacked, in the view of many Germans and Portuguese, political legitimacy. Among German contemporaries there was a "perception … that the previous certainties of their social and moral world were being

4 *Kraus* 2013: 38, the Dutch government refused to extradite Wilhelm II; cf. *Schwengler* 1982: 94f.; *Krumeich* 2001; *MacMillan* 2003: 157f.; *Speitkamp* 2010: 160.

5 *Kolb* 2011: 10 'Sichtbarmachung der Demütigung Dtls'; cf. *Cohrs* 2006: 51; *Krüger* 1986.

6 *Kraus* 2013: 11 ref. to G. Krumeich; 23f.; *Myerson* 2004: 206; cf. *Scott* 1920: 64-79.

7 *Keene* 2012: 479; *Kolb* 1988: 295; 2011: 47-53; 69; 75; cf. *Lorenz* 2008: 59-108; *Boden* 2000.

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radically shattered."[8] In both countries, political formations tended towards the extremes: declared enemies of the republican order like monarchists, fascists, conservatives, but also socialists and communists gained at times more influence than the constitutional orders could possibly bear. In Portugal, the dictatorship of the charismatic Sidonio Pais and his assassination in December 1918 further divided the country and resulted in a brief civil war between republicans and monarchists under the "colonial hero" Paiva Couceiro. In early 1919, the American Minister Thomas Birch, when considering the political situation of Portugal, drew a grim picture of the republic since its inception. He concurred with his British and French colleagues who "view[ed] the situation as hopeless."[9] When the Luso-German arbitration was initiated, politicians in Portugal and Germany were barely able to form stable governments; irrespective of the fact that in Portugal the Republican Party dominated the ballots. The outcome here was similar to the German case: Internal faction fighting hindered effective government.

3.1.1 Interstate Arbitration – a Historical Overview

Throughout the nineteenth century third-party arbitration was employed for the settlement of disputes between states. In principle, interstate arbitration stood in contrast to state sovereignty, since a sovereign state (represented by its government) was considered the sole judge of the truth or falsity of any charges laid against it. Furthermore, there was no institution above state parties that could have enforced the execution of an arbitration award. Nevertheless, governments committed themselves to numerous arbitration cases. Mostly, the involved states agreed *ad hoc* to refer a dispute to a third party for resolution. And the arbitration tribunal (a mixed commission or a head of state) to which the dispute was referred was created *ad hoc* for this single dispute. In the second half of the century, states began agreeing *in advance* to make arbitration available in cases of conflict. These bipartite agreements were, however, limited in scope. In particular, the United States concluded arbitration treaties with other countries. "The issues at stake concerned mostly boundary questions, debt recovery, mar-

8 *Fulbrook* 2011: 42; cf. *Nolte* 1999: 74; *McElligott* 2014: 35-38; 42; *Müller* 2014 emphasizes a more positive, 'optimistic' reading of German democracy after 1918.

9 NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 14.1.19; cf. *Meneses* 1998a: 109f.

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itime seizure, territorial questions, private claims, mutual claims, claims after insurrection or civil war, claims made due to act of war, illegal arrest, and fisheries." Researchers have identified more than 220 tribunals. During the First Peace Conference at The Hague a Permanent Court of Arbitration (PCA) was created by the "Convention for the Pacific Settlement of International Disputes" (July 29, 1899; revised during the Second Peace Conference by the Convention of October 18, 1907). In 1900 seventeen signatory states had ratified this Convention. However, states that were party to the Conventions of 1899 and/or 1907 were not obliged to employ the means provided by the PCA. The set-up of "special arbitral tribunals" was a valid alternative to the recourse to PCA tribunals.[10]

When Arthur Nussbaum, shortly after the Second World War, spoke of the century from Waterloo to the Marne as the "most progressive" for international law, interstate arbitration procedures as well as the faith placed in their effectiveness played part in this notion. Arbitration awards were generally accepted as being an important source of international law and its "development and enhancement". Major cases such as the *Alabama* claims or the *Fur Seal* arbitration (USA vs. GB, 1872; 1893) "enriched international law directly or indirectly with recognized rules."[11] "Progress both in the conduct of arbitration and in the negotiation of agreements to arbitrate paved the way for a regularization of the process of arbitration".[12]

Portuguese governments had had their own experiences with international arbitration awards, especially in the colonial context. Since 1870, Portugal had had several disputes with Great Britain (*Bolama*, *Delagoa Bay*, *Barotseland*) and the Netherlands (*East Timor*) related to the delimitation of boundaries and the sovereignty over colonial territories, which were referred to arbitration.[13] Some of the awards had been favorable to

10 *Riemens* 2010; *Langhorn* 1996: 52; cf. *Vec* 2011; *Herren* 2009; *Justenhoven* 2006; *Hudson* 1933: 441; *Myers* 1914.

11 *Nussbaum* 1947: 238; *Isay* 1923: 417 'Höherentwicklung des Völkerrechts'; cf. *Wehberg* 1913: 301.

12 *Hudson* 1933: 441; cf. *Isay* 1923: 410-416 cf. *Koskenniemi* 2001: 98; *Gaurier* 2014: 659-63.

13 RIAA: Portugal vs. UK reg. the dispute about the sovereignty over the Island of Bolama, 21.4.1870 (v. XXVIII: 131-140); UK vs. Portugal reg. territories formerly belonging to the Kings of Tembe and Mapoota, on the eastern coast of Africa, including Delagoa Bay, 24.7.1875 (v. XXVIII: 157-162); UK vs. Portugal reg. questions relative to the delimitation of their spheres of influences in East Africa (Manica Plateau), 30.1.1897 (v. XXVIII: 283-322); UK vs. Portugal reg. the Barotseland boundary, 30.5.1905 (v. XI: 67-69); Netherlands vs. Portugal reg. the boundary of East Timor, 25.6.1914 (v. XI: 490-517); *Fisch* 1984: 407-25; *Mártires Lopes* 1970.

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Portugal. On the other hand, Portugal also had to face the fact that the willingness to arbitrate a particular dispute was often considered a concession by the other party and recourse to force was still a possibility. In 1890 the Portuguese had hoped that the above-mentioned dispute with Great Britain about the upper Zambezi territories could still be decided by an arbitrator. However, Lord Salisbury "cut this hope short by refusing to consider outside mediation" about Matabeleland.[14]

Even though Germany was "averse to international arbitration law as a matter of principle", it nevertheless ratified the PCA Convention. Since 1889, Germany had been party to a number of international arbitration cases, also in a colonial context.[15] This practicability and feasibility of interstate arbitration raised high hopes for its contribution to an extended peace in Europe and beyond; "conclusion of arbitration agreements proceeded at an almost feverish pace." In retrospect, the world before 1914 "looked as if it were developing a system of conciliation and arbitration".[16]

3.1.2 The Cost of War – Portuguese Finances and Claims for Reparations

The British and American delegates to the Peace Conference in Paris were probably "the most prepared" in January 1919 to push through their agenda.[17] However, the Portuguese government had also initiated preparations for the upcoming negotiations, most of all to achieve two objectives: the territorial integrity of the colonies (and if possible an extension) and sufficient reparations in kind and in money from Germany and its allies. A few weeks after the armistice, Portugal's President Sidónio Pais sent his Foreign Minister Egas Moniz (1874–1955) to London to meet Arthur Balfour. The two discussed Portugal's participation in the peace negotiations. As

14 *Nowell* 1947: 16; cf. *Ralston* 1929: 228.

15 *Petersson* 2009: 96; cf. *Carl* 2012; *Schlichtmann* 2003: 384; *Ralston* 1929: 232; RIAA: Germany vs UK relating to Lamu Island, 17.8.1889 (v. XXVIII: 237-248); Germany vs. UK, USA reg. Samoan Claims, 14.10.1902 (v. IX: 15-27); Germany vs. Venezuela (Mixed Claims Commission) 1903 (v. X: 363-476); Germany, France, UK vs. Japan reg. real estate tax, 22.5.1905 (v. XI: 51-58); Germany vs. France reg. consular jurisdiction (Casablanca deserters), 22.5.1909 (v. XI, pp. 126-131); Germany vs. UK reg.Walfish Bay, 23.5.1911 (v.XI: 263-308).

16 *Hudson* 1933: 441; *Mowat* 1933: 674; cf. *Arcidiacono* 2005:14f.; *Kennedy* 1997: 132.

17 *Samson* 2006: 149; cf. *Kolb* 2011: 56; *MacMill.* 2003: xxviii; 3; *Burnett* 1940; *Lansing* 1921.

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they continued to prepare for the Paris conference – and following the assassination of Pais on December 14, 1918 – Moniz' delegation soon found itself trapped between forces close to the exiled republicans under Bernhardino Machado and Afonso Costa working to undermine Moniz's position and the unfriendly attitude of fellow Allies. Most of all the French pointed to an alleged pro-German leaning of Pais and were eager to minimize Portuguese representation in the upcoming negotiations. Considering their conflicting national interests, the Allies had to invest considerable efforts into reaching an agreement among themselves about the question of how to deal with Germany. Nevertheless, Moniz managed to secure membership for his country in four of the commissions of the Peace Conference. He provided the Reparation Commission with a first estimate of the Portuguese losses during the war, putting the total at £130,420,000, of which £75,433,000 had been spent on military operations. Portugal's officials had high hopes for the outcome of the conference: the settlement of (war) debts "through a mix of reparations and a deal with London" seemed an inevitability given Portugal's sacrifices during the war. The delegation also intended to seek compensation for the damages done by Germany, most of all in the colonies, and, finally, a share in the battle fleet seized from Germany.[18]

With the republican forces gaining the upper hand in Portugal's civil war, Moniz's position weakened. In February 1919, a new government was formed in Lisbon that informed him that the Portuguese delegation was to also include Afonso Costa and Norton de Matos, "the most important figures in the interventionist pantheon." On March 17, Moniz, who had dueled Norton de Matos in 1912 over a political dispute, had to make way for Afonso Costa. The latter hoped to use this position "to redeem interventionist politics and revive his own career." However, the former Prime Minister, and the men he summoned to his delegation, Augusto Soares, Norton de Matos, Teixeira Gomes, and João Chagas, Portugal's ministers in London and Paris during the war, "arrived too late on the scene to have any significant influence over the … content of the Treaty".[19]

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18 *Meneses* 2010: 79-85; *Pitcher* 1991: 65, from 1914-1918 '[m]uch of the government's finance was devoted to the war efforts … costs were estimated at between £60,000,000 and £80,000,000, £10,000,000 of it in Africa … raised through borrowing or printing money'.

19 *Meneses* 2010: 89f.; *Meneses* 2009a; *Norton* 2001: 178; 268f.; cf. *Costa* 1914.

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As the crisis in Portugal "reached a peak in the years 1919–20" and the rural and urban masses suffered great misery, Afonso Costa, hoping for the solidarity of the Allies, drew a grim picture in Versailles of the damage the war had done to Portugal and the resulting financial and social situation:[20]

> "The extraordinary expenditure borne by the Portuguese State on account of its military participation in the war on land and at sea, in Europe and Africa … amount to £79,007,000 … The Portuguese economic loss occasioned by the war, in accordance with the calculations of financial experts, amount to £225,000,000... which represents 37 to 47½ per cent of the Portuguese public wealth … Having regard to these figures and to the economic situation in Portugal before the war, it will easily be seen that the reconstruction of the country will be impossible unless the war costs and the economic damage be repaid."[21]

During the negotiations in 1919, "it turned out [that Costa] was more revanchist than even the French". No Wilsonian vision of a new world order could "replace the punishment of Germany and the redistribution of its wealth as the most immediate Portuguese goals."[22]

At the same time, fact-finding missions led by former governors were sent to Angola and Mozambique. They were charged with assessing of the "damages caused by the Germans" and had to obtain "proof" from "small commissions" set up for the purpose of collecting the claims of individuals and government entities.[23] Since 1915, the Portuguese administration had begun to prepare its arguments for reparation claims. The army had collected reports from soldiers who had witnessed the German attacks along the Kunene and Kavango Rivers.[24] Since 1918, different governments in Lisbon had attempted to assess the entire Portuguese war costs. A first

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20 *Wheeler* 1978: 126; AHD 3p ar 25 m 12-Reparações, 2e S.Com. Séance 28.3.19, Ax 3: 11.

21 NARA RG 84, Lisbon, v. 168: 800, Peace Conference, Prot. no.6, 6.5.19: 43. The US Consul in Funchal (Madeira) described a destitute population. The poor 'often have only one meal [of porridge] a day…the poverty here at this time exceeds that of any place I have ever visited.' NARA RG 84, Lisbon, v. 169: 848, USC Funchal to USML, 28.2.19. In comparison to 1914, in October 1919 the prices for bread had increased by 310%, for wheat flour by 483%, for potatoes by 566%, for coal by 900%. Government attempts to alleviate the shortage ended in failure, as the law professor A. Salazar criticized. NARA RG 84, Lisbon v. 169: 850.1, USML to SoS, 18. 10.19; *Madureira* 2010: 654; *Wheeler* 1978: 127; *Meneses* 2009: 22; *Birmingham* 2011: 157.

22 *Meneses* 2010: 66; 94; 97; cf. *Leitão de Barros* 2005; *MacMillan* 2003: 45; 57.

23 BAB R 3301/2284: 3, A. Costa: Notes complémentaires, Paris, 29.6.20.

24 AHU MU DGC Angola, Pt 5, 5a Rep, Cx.996, Varão: Auto de averiguações sobre os acontecimentos ocoridos no forte ... de Naulila, 5.2.15; Vasconcelos e Sá on Cuangar, 26.1.16.

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memorandum was presented by Moniz in Paris in February 1919 detailing the "immense losses" caused by the Germans in Africa. But in 1920 Afonso Costa had to "urge Lisbon to hurry the process of establishing the complete Portuguese reparation bill". Finally, in May 1920 Costa presented a memorandum on the damages suffered by the Portuguese state and its citizens to the Supreme Council and the Reparation Commission: "34,457 soldiers sent to Africa and 63,062 to France; 3,800 killed in Africa, 40,000 wounded, or rendered incapable of work (including locally recruited men); 1,787 killed in France, along with 12,483 wounded. … 273,547 people had lost their lives in the colonies as a result of the conflict". Costa claimed that due to the invasion and German "incitement" the revolt in Angola lasted for more than two years (a German official noted with irony on the page margins that German forces had surrendered already in "Korab 9.7.1915!"). Two maps of southern Angola attached to the memorandum showed the degree of devastation and indicated the mortality among the population "due to the German invasion" at 70 per cent among the Cuamatos, Humbes, and Dongoenas; the losses of the Kwanyama were assessed at 30 per cent. In total, Costa claimed "8,641,159,994 GM" (or £432,057,994) in reparations. He added that the *total definitif* "will still be higher". However, this "truly staggering sum" was dismissed by Britain's delegate to the Reparations Commission, John Bradbury (1872–1950). As one of the British government's foremost economic advisors, he was eager to avoid further burdens being laid upon Germany preventing it from restarting the economy and becoming able to pay reparations.[25]

There seemed to be a "general belief in [Portugal] that Dr. Costa would succeed in obtaining financial reparations from the Peace Conference." However, the American minister in Lisbon was unable to confirm the figures presented in Versailles. But he – even assuming an exaggeration by Costa – admitted a financial situation in Portugal "critical in the extreme". When he demanded reparations in Versailles, Costa, "the most beloved and most hated of Portuguese", was fighting for his political survival. Yet, the "weeks and months that followed saw the systematic defeat of Afonso Costa at the negotiating table": Portugal would not be a voting member of the Inter-Allied Commission on reparations; Portugal would not be one of the recipients of the 20 billion gold marks Germany had to pay immedi-

25 *Meneses* 2010: 128f.; BAB R 1001/6634: 30 (transl.) Memo, 17.2.1919; BAB R 3301/2284: 13, Costa: Notes complémentaires, 29.6.20 'Montant des dommages'; 28 'Sud de l'Angola'.

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ately to some of the Allies; the worst of all: future reparation payments would not included military expenses or the war's impact on international trade. While Costa, Soares, and Norton de Matos had "hoped that the [T]reaty … might rehabilitate [war] interventionists", the "inescapable conclusion" from these points was: "Portugal had been defeated at the negotiations in Paris."[26]

The seizure of German ships in 1916 "represented the only important increase of national industrial income accruing to Portugal through the war." Not the least the domestic turmoil and the excessive government spending had resulted in an international loss of face that weakened Costa's position at Versailles. Despite hyperinflation, a mounting budgetary deficit, growing debts and without tangible sources of income Portugal's government was unwilling to sell its colonies or to apply rigid austerity. "Instead, Portugal appeals to the Peace Conference for financial aid and, in spite of growing deficits, she increases the budget for each ministry … and continues to increase outlays on her useless army and obsolete navy."[27]

During the negotiations in Paris and afterwards, the Allied representatives found it most challenging to restrain the hopes of their electorate regarding gains and reparations to be obtained from Germany. After more than four years of merciless warfare and relentless propaganda that depicted the war almost as a crusade for one's own ideals and the corresponding demonization of the enemy ("hell is too good for the hun"), moderation seemed inapposite. Furthermore, the totality of Germany's defeat was aggravated by the fact that at the end of the war there were no relevant neutrals left who could have mediated between the parties during the negotiations and who may have prompted the victors to show restraint.[28]

3.1.3 Whose Slice? – the Fate of Germany's and Portugal's Colonies, 1919

During the war, German politicians hoped for considerable gains in African territory following an armistice – most of all the Belgian Congo

26 NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 1.9.19; *Meneses* 2010: 163; 99; *Wheeler* 1978:132.

27 NARA RG 84, Lisbon, v. 168: 800, USML, 1.9.; 830, 23.9.19; cf. *Norton* 2001: 269.

28 *Kolb* 2011: 42.

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and Portuguese colonies.[29] After the defeat, by far most German political groups were in agreement that German colonies should be "returned". Propaganda efforts to that effect were pervasive and even a few "Afro-German activists" promised in a petition their loyalty to Germany *if* provisions of German colonial law discriminating against Africans would be abolished in a future German colonial empire. The Allies, on the other hand, concurred that Germany must not be permitted to return to the colonies. The question of their allocation and administration, however, haunted Allied policy makers before and during the Peace Conference. As a result, Germans saw themselves reduced to the position before 1884 when "German imperialists were aspiring to something the country did not have. This perceived lack of empire … spurred irredentism after 1919".[30]

During and after the war the accusation of the enemy to be unfit to rule over "natives" was an argument regularly used. It was part and parcel of the general propaganda war that pitted "barbarism" against "civilization". In 1915, pro-German circles distributed a pamphlet in the United States entitled "British Rule in India" that left no doubt about the brutality of British officials.[31] The British government, after the occupation of GSWA, ordered the collection of material that would prove German atrocities. This material was not an end in itself, since the protectorate's administrator E.H. Gorges was requested to "giv[e] reasons why … GSWA should remain under British rule". The resulting *Blue Book*, printed as Parliament Publication in August 1918 brought to light a grim picture of the "treatment of the natives under German rule". It was, as one official in London's Colonial Office stated after reading the draft, "a most effective and moving document." Quotations from Africans about horrifying bestialities committed by Germans were underlined by photographs showing executions or the results of excessive flogging.[32] Accoding to the Governor-General of South Africa, Lord Buxton, the Germans "have shown themselves to be totally unfitted for the responsibility of governing the native races of [GSWA]". In contrast with "British and South African benevolence", the critical evaluation of German colonization was to show that

29 Cf. *Wolff* 1984: 289 (# 222: 28.9.15) on a meeting with W. Solf about future colonies.

30 *Gerbing* 2010: 86; *Gissibl* 2011: 161; cf. *Samson* 2006: 137-170; *Carrington* 1960: 434.

31 TNA FO 115/1905: 140, Br. Amb. Was. D.C. to FO, 17.8.15; *Cana* 1915: 365 'Their intrigues in South Africa … stamp the German government with indelible shame and warrant in full the complete expulsion of Germany from Africa.'; cf. *Louis* 1967.

32 TNA CO 532/109: 280 Davis, 26.3.18; 284, Gorges to L. Botha, 21.1.18; *Gewald* 2003.

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the practices in GSWA violated the norms of 'civilized' colonial powers.[33] Thus, in "the interest of the natives it would be criminal to hand back [the colonies] to Germany". Concepts such as "civilization, humanity, and ethics" became part of a colonial dispute. Evidently, however, the "colonial subjects of Germany never experienced any moment of liberation.[34]

At least half of the German nationals living in GSWA, GEA, or other colonies were repatriated in 1919. Their property was often expropriated by the Allies. According to Article 297 b–i Treaty of Versailles, Germany was obliged to pay reparations to its nationals for the liquidation of their property in the colonies. Back in Germany, the *Kolonialdeutschen* founded pressure groups that fought in vain for 'fair' reparation payments. The government – for years – was willing to pay only sums that accounted for hardly ten per cent of the amounts claimed.[35]

For Portugal having sided with the Allies did not "remove the threat to the empire's survival." Once more, it seemed threatened by foreign "expansionism". The political and financial conditions in Portugal were so grave that the liquidation of its colonies was considered "possible" in 1919 when the re-ordering of the map of Africa was negotiated.[36] However, having lost two empires in the past, the spice trade in the 'East' during the seventeenth century and Brazil in the nineteenth century, politicians in Lisbon were not inclined to administer a third colonial demise of Portugal in Africa – Africa that had since the fifteenth century "bec[o]me ... a laboratory of expansion, the primordial space of imperial and colonial campaigns"[37] Similar to the British who had discussed war aims in Africa, the Portuguese had their own intentions with regard to the disposal of the German colonies. Britain and Portugal were not only cooperating, they "remained rivals" during and after the war. In 1914, the British government had pressured Portugal *not* to become belligerent, suspecting Lisbon would make "inconvenient demands for more territory" in Africa. In 1919,

33 TNA CO 532/109: 908, Buxton to CO, 15.2.18; *Hartmann* 1998: 272. Germany was considered unfit to be entrusted with a mandate by the League of Nations to 'civilize native peoples.' Thus it was no longer among the 'progressive nations' and was denied a place in the League of Nations cf. *Grewe* 1982: 476; *RKA* 1919; *Klotz* 2005: 141; *Kuss* 2010: 336.

34 TNA FO 373/6/13, GSWA. Foreign Office Handbook, No.119, 3/1919: 19; *Poley* 2005: 12.

35 *Wallace* 2012: 215; *Aas/Sippel* 1997: 76; 90-4, payments were lost during the inflation.

36 *Roberts* 1986: 496. NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 11.8.19; *Penha Garcia* 1918: 132; 134. When Germany put its conditions for peace in 1918, including the repartition of Africa, Portuguese politicians feared seriously for the integrity of the Empire.

37 *Blackmore* 2009: 1; on negotiations in 1919 about mandates cf. *MacMillan* 2003: 98f.

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the Portuguese indeed claimed the south of GEA. They demanded to be given a mandate too over German colonies if Belgium would receive a mandate. In the end, Belgium secured Burundi and Rwanda (as mandate) and Portugal merely received the small Kionga triangle which rounded of Mozambique south of the Rovuma River (as sovereign possession). Both nations were not present during the debates on the allocation of mandates.[38]

The fact that German troops had entered Mozambique and continued to loot its northern provinces for months without being repulsed by its troops was just as humiliating for Portugal as the need for Allied support to drive out the invaders in 1918. Some argued that the South African troops under Smuts deliberately aimed at "forc[ing] Lettow-Vorbeck into Portuguese East Africa, which would enable the South Africans to capture that colony." The poor Portuguese military performance as well as the appalling conditions of Africans witnessed by British officers during their sojourn in Mozambique gave rise to demands to place Portugal's colonies under the mandate system of the League of Nations just as the German colonies. Britain's Foreign Secretary Balfour argued for such a solution in 1919 and demanded an inquiry into the Portuguese administration of Mozambique. Given the reports that called for an end of Portugal's rule characterized as "corrupt, inefficient, and cruel", the colonial "capacity" of the Portuguese was questioned. This echoed an older "Victorian concept of imperialism in that if Portugal was unable to fulfill its colonizing mission, then the 'white man's burden' should pass to those more capable."[39]

The Portuguese delegation fought hard against this notion widespread among Allied officials. Lecturing the Supreme Council about Portugal's "unforgettable services to Humanity and Civilization, especially in the African continent, which it has been watering with its blood since the 14th century", Costa keenly rejected doubts about Portugal's "colonizing ability".[40] Seeing the Portuguese position shaken by these accusations, he requested in April 1919 Bernhardo Botelho da Costa (1864–1948), a judge having served in Goa, Angola, and Cape Verde, to "verify the state of relations between the authorities of Mozambique and the native population" in light of the British reports. After one year of travels across Southern

38 *Samson* 2006: 5; *Stone* 1975: 732; cf. *Ferreira Mendes* 1940: 229; *Nowell* 1947: 14.
39 *Samson* 2006: 26; 2013: 214; *Almeida-T.* 2010: 98; *Cann* 2001: 146; cf. *Norton* 2001: 270.
40 Transl. in *Meneses* 2010: 120f.; cf. *Jerónimo* 2009; *Samson* 2006: 157; 163.

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Africa and numerous interviews da Costa concluded that the reported "abuses …[were] of relative insignificance"; violence was due to the war. Pointing to inconsistencies in the British accusations, he affirmed that "our colonial administration, in terms of native policy, is on a par with our neighbors'".[41]

Apart from the British accusations, the Portuguese were faced with a second (sub-) imperialist "threat". While "hopes of securing a position of domination in South Africa" and aspirations for Angola and the Congo were held vigorously against the Germans in 1918,[42] Louis Botha and Jan Smuts were eager to "extend South Africa's influence on the [African] Continent". Since 1917 Smuts had attempted to organize a land swap with the Portuguese, leaving South Africa with southern Mozambique, including the harbors of Lourenço Marques and Beira, in exchange for the southern part of GEA. He continued in Paris to press for this plan, but it failed; just as Smuts' scheme to incorporate Southern Rhodesia into the Union of South Africa. Already during the war, the South African government desired to fulfill the "age old dream" of incorporating GSWA into the Union. However, this kind of annexation was prevented by President Wilson. The Treaty of Versailles merely trusted the Union with the administration of the "mandated" territory of SWA, overseen by the League of Nations. A great redistribution game of colonies, as envisioned by South African and French colonial enthusiasts with an eye on the Portuguese and Spanish "enclaves" in West Africa, was eagerly avoided by the Americans and the British.[43] From Paris, Afonso Costa warned of the "South African pretensions to Portuguese territory as 'a terrible danger'". On Costa's request Mozambique's Governor Álvaro de Castro and former Foreign Minister Freire de Andrade arrived in Paris to meet with Botha and Smuts in April 1919. Their response to the South African plans was an outright rejection of any incorporation and the promise to enhance development. Also subsequent schemes for land swaps were refused by all Portuguese governments.[44]

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41 *Newitt* 1981: 41; *Hespanha* 2010: 184-9; cf. *Great Br.* 1920; *MacMillan* 2003: 48;105.

42 TNA CO 532/109: 285 E. Gorges to L. Botha, 21.1.18; cf. *Nasson* 2014: 457; *Millin* 1937.

43 *Davenport* 1978: 189; *Samson* 2006: 7; 90; 139; 154; TNA CO 532/109: 16, GG Buxton to CO, 10.1.; 244, 31.1.18; *Andrew/Kanya-F.* 1978: 12; 1974: 80; 89; 98; cf. *Wallace* 2012: 216f.; *Botha* 2007: 18; *Berat* 1990: 4; *Hyam* 1972; *Koller* 2001: 190 on demilitarization.

44 *Meneses* 2010: 94f. ; *Samson* 2006: 160f.; 2013: 182; 219; *Pimenta* 2008: 104.

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3.1.4 Arbitration before Reparations – § 4 of the Annex to Art. 297–298 TV

Among the victorious nations, the Treaty of Versailles derived its legitimacy also from the promised exercise of legal proceedings in order to bring to justice perpetrators and to establish exact amounts of reparation payments. Prime Minister Lloyd George (1863–1945) promised to "put the *Kaiser* on trial". Most famous is the vow by the First Lord of the Admiralty Eric Geddes (1875–1937) during the British elections in December 1918: "The Germans … are going to pay every penny; they are going to be squeezed as a lemon is squeezed – until the pips squeak". In June 1919, the Allied governments responded to a German rebuttal of the draft peace treaty: "Justice … is the only possible basis for the settlement of the accounts of this terrible war, [and] reparation for wrongs inflicted is of the essence of justice." The emotional debates about the definition of "reparations" to be paid by Germany to the Allies – the "thorniest issue of the immediate postwar period" – have been recurrently analyzed.[45] A mere sketch of the resulting Part VIII of the Peace Treaty will suffice here: Foreign Minister Rantzau's offer of February 1919 to pay 100 billion gold marks as German compensation for war damages (if Germany was to retain its territorial integrity of 1914) was turned down. Against the intentions of President Wilson, the British and French delegations fought hard for a broad definition of "reparations" in order to incur not only (private) damages to property but (as far as possible) the *entire* costs of war, including the pensions of soldiers, widows, and orphans – an obligation never before included in a peace treaty. In addition, Germany had to supply weaponry, coal, chemicals, hundreds of vessels, machinery, construction materials, agricultural implements, livestock etc. to enable the reconstruction of areas destroyed by the war. Placed at the beginning of Part VIII of the Peace Treaty, Article 231 (the so-called "war guilt" clause – that incidentally makes no mention of war guilt) was designed to stipulate Germany's overall legal obligation to pay reparations (in the future). But Article 232 in fact narrowed German responsibility to "compensation for all damage done to the [Allied] civilian population … and to their property

45 Quot. *Gomes* 2010: 14; *Hull* 2014: 10; *Cohrs* 2006: 60; cf. *MacMillan* 2003; *Stevens*on 2004: 420; *Ronde* 1950; *Scott* 1920: 160-9; *George* 1933; 1938.

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during the period of belligerency".[46] Since Allied experts could not agree about Germany's ability to make such payments, *no* total amount of reparation obligations was laid down in the Treaty of Versailles. Instead, Article 233 set up a reparation commission to determine the amount of damage and to announce the total amount to the Germans latest on May 1, 1921; in the meantime, Germany had to pay 20 billion gold marks, in merchandise, ships, gold, or otherwise.[47]

In Germany a "curious mix of fury, hatred, disappointment and deep depression" dominated after signing the Treaty in June 1919. The legitimacy of the Treaty's obligations was never accepted. The "wonder" that Germany's unity was maintained and the "compromises" upon which the Treaty lasted were not recognized by most Germans.[48] There was a genuine feeling that the new order was unjust. The subsequent months saw German attempts fail to influence the Allies towards a more lenient policy. Germany's foreign policy stood at its lowest point (*Tiefpunkt*).[49]

The reparation provisions were heavily criticized in some circles, most notably by John M. Keynes (1883–1946), who served in Versailles as deputy of the British Chancellor of the Exchequer. In defense of these provisions David Lloyd George later referred to precedents of massive reparation payments by France in 1815 and 1871 and reminded his readers: "The liability to pay compensation for damage done by a wrong-doer, and the payment by the defeated suitor of the costs incurred in a vindication of justice are among the integral principles of law in every civilized community. States are not immune from the application of that elementary doctrine of jurisprudence."[50] French President Raymond Poincaré (1860–1934) argued in a similar vein: "It surely did not seem unnatural that Germany, who declared war on France and lost, should be obliged to pay her

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46 Art. 231 'The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.' *Marks* 1978: 232; cf. *Hershey* 1921: 415; *Parker* 1926: 177f.; *Lamont* 1930: 336f.; *Kolb* 2007: 30; 189. Art. 231 became the focus of German protests against 'Versailles'. It was called a 'lie' and most Germans interpreted its rationale as a moral discreditation of Germany, cf. *Hiller* 1932: 50; *Myerson* 2004: 201; 207.

47 *Kolb* 2011: 64f.; *Marks* 1978: 231; *Ferguson* 1998: 406; *Krumeich/Hirschfeld* 2012: 242; *Cohrs* 2006: 58f.

48 *Kraus* 2013: 31f. 'Mischung aus Wut, Hass, Enttäuschung und tiefer Depression'.

49 *Kolb* 1988: 302; cf. *Feldman* 1997: 147 'peace terms … constituted an immobilizing shock'.

50 D.L. George: The Truth about the Peace Treaties, London 1938: 437, in: *Myerson* 2004: 196.

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creditors at least as fully as France creditors expect to be paid, and that wanton damage done by Germany on French soil should be repaired by Germany rather than by France."[51]

The question what Allied nation would receive which proportions of the German reparations was eagerly contested between the Allies. And the dispute was exacerbated by its "distinct transatlantic dimension": The Americans demanded the repayment of inter-allied war-debts in full; causing Britain and France "to put screws on the German reparation 'debtor'." This is not the place to penetrate the "arcane mysteries of Reparations Commission prose". However, during the negotiations it became evident that "Minor Powers" (as official terminology put it) would receive only minuscule percentages: In 1920, Portugal was accorded 0.75 per cent of all German reparation payments, which in 1921 were fixed at 132 billion gold marks. Future agreements foresaw further reductions of the Portuguese fraction of the total amount of payments to 0.66 per cent.[52]

While the disappointment in Portugal about the reparation provisions was undisputable, it was clear at least to the politicians present at the negotiation table that the details of German payments were yet to be defined in *future* negotiations. In Lisbon, the government encountered stiff opposition to the ratification of the Treaty considered by many deputies as disrespectful to the sacrifices of Portugal. Afonso Costa himself did not hide his disappointment. During the negotiations he had "vehemently opposed the terms" sanctioned by French, British, and American jurists. But conceding the "open-ended nature" of the Treaty's reparation-sections, he urged ratification. He knew that "German reparations [were] an excruciatingly tangled thicket" and that there were additional provisions, in part hidden in Annexes to the Treaty, which foresaw further German payment obligations.[53]

Among those, the Treaty provided for a number of cases where arbitration procedures should be applied to determine the amounts of payments. Article 304 (in the Treaty's "longest and most complicated" Part X, "Economic Clauses") provided for Mixed Arbitral Tribunals (MAT) that had to investigate claims not by governments but by Allied *nationals* who had

51 *Poincaré* 1929: 528; cf. *Day* 1920: 303f.; *Boemeke/Feldman/Gl.* 1998: 4; *Gomes* 2010: 27.

52 *Cohrs* 2006: 68; *Marks* 1969: 356; Miller Memo, 21.11.18, *FRUS* 1919: 355; *Pfleiderer* 2002: 22; 306 on distribution keys of Spa Conference (1920) and Young Plan (1929); *Santos* 1978: 240.

53 *Meneses* 2010: IX; 90; 102; *Marks* 1978: 231.

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suffered damages since the beginning of the war.[54] When the MATs began their work the lawyer Hermann Isay (1873–1938), Germany's leading experts on the Treaty, spoke of a "bitter reality that mendaciously and disruptively interferes with German economic life."[55] It seemed a matter of fact that these private claims should not be adjudicated before ordinary national courts as this would have run counter to the principle of international law that no sovereign state was to stand before foreign courts. Given more than one-hundred years of Anglo-American experience with interstate disputes being referred to arbitration, the solution to refer to arbitration also private claims against Germany growing out of the war seemed thus "self-evident".[56]

§ 4 of the Annex to Articles 297–298 (hereinafter § 4), which formed the legal basis of the claims laid against Germany by Portugal, did not refer to an MAT, but to a single arbitrator, appointed by the Swiss federal president and president of the ICRC, Gustave Ador (1845–1928). According to § 4, "[a]ll property, rights and interests of German nationals within the territory of any Allied… Power and the net proceeds of their sale,… may be charged by that Allied… Power… with payment of claims growing out of acts committed by the German Government or by any German authorities since July 31, 1914, and before that Allied… Power entered into the war." The arbitrator had to assess the "amount of such claims".[57]

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54 *Scott* 1920: 173; cf. *Isay* 1921; Art. 297 (e) 'The claims made in this respect by [Allied] nationals shall be investigated, and the total of the compensation shall be determined by the Mixed Arbitral Tribunal …'; Art. 304 (a) 'Within three months from the date of the coming into force of the present Treaty, a Mixed Arbitral Tribunal shall be established between each of the Allied and Associated Powers on the one hand and Germany on the other hand. Each such Tribunal shall consist of three members. Each of the Governments concerned shall appoint one of these members. The President shall be chosen by agreement between the two Governments concerned.'

55 *Isay* 1923: iii; 421 considered the Franco-Ger., Anglo-Ger., and Belgian-Ger. MAT the most important; their case-law unfolded the greatest influence upon later tribunals.

56 *Isay* 1923: 147 'Im X. Teil des VV erscheint zum erstenmal ein in dieser Form und in diesem Umfang allen früheren Friedensverträgen unbekannter Gedanke: die Begründung von vermögensrechtlichen Ansprüchen einzelner Staatsangehöriger der Siegerstaaten gegen den unterlegenen Staat.' ref.to Art. 297 e, f; Art. 298, Annex § 4; Art. 300 e-f; p. 423; but *Kaufmann* 1923: 19, aus § 4 ergebe sich kein ‚Individualanspruch, sondern er ist lediglich dem Staat als solchem gegeben, dessen Neutralität durch Schädigung seiner Bürger verletzt worden ist.'; cf. *Sauser-Hall* 1924; *Göppert* 1931.

57 § 4 'All property, rights and interests of German nationals within the territory of any Allied or Associated Power and the net proceeds of their sale, liquidation or other dealing therewith may be charged by that Allied or Associated Power in the first place with payment of amounts due in respect of claims by the nationals of that Allied or Associated Power with

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This sort of claims was included in the Treaty on request of the United States, since they "would cover any claims the United States might desire to make on account of the sinking of such vessels as *Lusitania* [May 7, 1917, when the US was still neutral]… or on account of other pre-war acts committed by the German authorities in violation of the rights of the American citizens."[58]

Given the complexity of the wording of § 4, mentioning three categories of claims, there was barely any question arising out of it that was not disputed. The "frequent obscurities" and "numerous lacunae" of the Treaty left much room for legal arguments – a few of which will be mentioned here: It started with the question who was entitled to claim under § 4. Traditionally, German jurists defined "international law as a *jus inter gentes* in the strictest sense; its subjects are the independent states only and never individuals".[59] However, Hermann Isay in his monumental work on "individual rights and interests under the Peace Treaty" argued that individuals were entitled to claim under § 4, as its enumeration commenced with "claims by [Allied] nationals".[60] On the other hand, German government lawyer reasoned that contrary to Article 297 (e), claims according to § 4 were *not* open to individuals of the Allied Powers. These claims were open only to the Governments themselves whose neutrality had been violated by an act committed to one of their nationals. In accordance with general principles of law, claimants under this article were on-

regard to their property, rights and interests, including companies and associations in which they are interested, in German territory, or debts owing to them by German nationals, and with payment of claims growing out of acts committed by the German Government or by any German authorities since July 31, 1914, and before that Allied or Associated Power entered into the war. The amount of such claims may be assessed by an arbitrator appointed by Mr. Gustave Ador, if he is willing, or if no such appointment is made by him, by an arbitrator appointed by the MAT provided for in Section VI. They may be charged in the second place with payment of the amounts due in respect of claims by the nationals of such Allied … Power with regard to their property, rights and interests in the territory of other enemy Powers, in so far as those claims are otherwise unsatisfied.' Cf. *Scott* 1920: 176; list of MAT *Isay* 1923: 444; on liquidation *Gaurier* 2014: 715.

58 *Baruch* 1920: 104; cf. *Isay* 1923: 199; *Fuchs* 1927: 264; *Parker* 1926: 175; 178.

59 *Masters* 1930: 361 ref. to Hatscheck; on Art. 4 Weimar Constitution and int'l law *ibd*. 381f.

60 *Isay* 1923: 425 'Unklarheiten', 'Lücken'; 198 Es 'können die StA…Ansprüche auf Schadensersatz gegen [Dtl.] erheben'; 148f. He underlined that § 4, while making Germany the debtor of the Allied nationals, did not establish direct liability of Germany towards these nationals. Next to the wording of individual articles, this was justified by the systematic argument that the TV did not establish claims under private law, since it was concluded under international law.

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ly entitled to damages which arose *directly* out of the alleged violation of (inter-)national law and were causally connected to it. Furthermore, only damage to property, rights and interests and *no* damage done to *individuals* could be claimed under § 4.[61] The basis of claims raised under § 4 was not particularly defined. However, the provision that the claims must grow out of "acts committed" by German authorities during a period between July 31, 1914 and before that Allied Power entered into the war, made it clear that these acts would have to bear the features of a delinquency[62] and must thus be acts violating an existing domestic or international norm.[63]

The mentioning of an arbitrator in the *Lusitania-clause* was one of the few negotiation successes of the German delegation in May 1919. After the Germans had received the treaty text on May 7 they were given fourteen days to respond. Most of the German proposals were rejected in the Allied response (*Mantelnote*) of June 16. However, the Allies agreed to organize a plebiscite on the future of Upper Silesia. And they conceded to the German request to have assessed by an arbitrator all Allied "neutrality claims"; thus giving up government control over the amounts to an independent lawyer.[64]

Provisions similar to § 4 were included in the Treaties of Saint-Germain-en-Laye, Trianon, and Berlin. Isay assumed that "probably only American claims will come into question." However, § 4 gave rise to hundreds of claims of individuals against Germany or Austria that were han-

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61 BAB R 1001/6637, Dt. Staatsvertreter Anglo-German MAT [Detmold] to RMW, 23.7.23; similar *Kaufmann* 1923: 19; *Isay* 1923: 198f. cf. *Schmid/Schmitz* 1929; *Fuchs* 1927: 261; the reading of § 4 by British officials differed. It was stated that the claims under this provision 'are dealt with in exactly the same manner as if they were claims under Article 297'. TNA CO 323/877/29, v. 27: 488, Notes on the procedure, Encl. III a; 492, Encl. III b (1921).

62 *Baruch* 1920: 296f.: 'it is in the quality of illegality alone which in law gives rise to a right of reparation. International law and the municipal jurisprudence of all civilized nations are in accord in this respect'; *Kaufmann* 1923: 19.

63 An arbitrator deciding a case of a British national against Germany discussed the meaning of 'acts committed'. He dismissed that it would included 'any measure of the German authorities which may have the character of an exceptional war measure.' Having no 'neutral meaning…the acts contemplated in § 4 are such as were considered by the framers of the Treaty as acts to be blamed, acts which were wrong, and which therefore imply a liability on the part of Germany. § 4 is not limited to such acts as constituted a distinct violation of a clear rule of international written law. There is no provision in § 4 which may warrant such limitation and it must be remembered that, precisely with regard to warfare, international law, even to-day, leaves a very wide field open to controversy.' TNA FO 328/1: 14, X/3, Chatterton vs. Germany, 8.11.23.

64 PA R 52528, AA to DG Bern, 10.12.20; *Isay* 1923: 63; *Fuchs* 1927: 265f.

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dled by numerous arbitrators starting in 1922 and lasting at least until 1930. The claims were often dismissed (e.g. for not having proved that German authorities had "committed" acts before the outbreak of the war); payments awarded were rather small, amounting from £20 to £300.[65] The Luso-German arbitration was thus exceptional not only in that it was brought against Germany by the Portuguese Government on behalf of its nationals *and* for loss of *government* property and revenue, but also because it was by far the most expensive and most politically charged.

Given the "systematic defeat of Afonso Costa at the negotiating table" in Versailles, the Portuguese government tried to insert all governmental and private claims into the arbitration under § 4: The legal proceedings were expected to deliver the results that could not be secured diplomatically in 1919. In Berlin, the arbitration was meant to ensure that Germany would not have to pay damages in addition to what would be agreed in the negotiations subsequent to the Peace Treaty. This arbitration procedure was part of the question of German reparation payments and this brought about the continuous presence of the war after the Peace Treaty.[66]

3.2 Personnel Involved

It has been repeatedly remarked that there is no "sociology of international law".[67] Among those who deplore this gap in the research literature is Martti Koskenniemi, who calls for a "social history of international law" that could, among other things, "connect international law's development to the development of international law as a professional practice. Who have been the international lawyers? How have they been trained? What types of activity have they been engaged in? Have foreign offices followed their opinions?" The following sub-chapters aim at responding to these questions for the Luso-German arbitration, thereby situating the involved lawyers in their "real world [context] where agents make claims and counterclaims, advancing some agendas, opposing others."[68]

The legal discourses of the arbitration proceedings took place in a complex environment whose structural frame can be described as follows. (1)

65 *Isay* 1923: 199 also on Belgian claimants; TNA FO 328/1, Arbitrations under § 4, 1922-30.
66 *Meneses* 2010: 163; *Kolb* 2011: 94.
67 *Luhmann* 2008: 339 FN 94 no 'Soziologie des Völkerrechts'; cf. *Huber* 1910: 62.
68 *Koskenniemi* 2004: 65 on 'possibilities for a historical sociology of int'l law'; 2014: 123.

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The "producers" of the discourses, the party representatives, were university trained lawyers, or more precisely high-ranking functionaries of different ministries, supported by colonial (military) officials who were more well versed in the factual situation on the ground. (2) The "addressees" of the discourse were the arbitrator(s), who had to be convinced of the accuracy and the plausibility of the party representative's statements. As the award would be published in the end, the (political) public also indirectly became an addressee (in rare cases, also the arbitrators became 'producers' when they issued ordinances to the parties). (3) The setting or *milieu* where these discourses were developed and finally presented to the arbitrator(s) consisted first of all of the ministerial and lawyer's offices. But the international social environment should also be taken into consideration: the long train journeys to Lausanne, Berlin, Paris, and Lisbon where the party representatives applied the finishing touches to their arguments; the grand hotels, legations, and court houses where they met their adversaries and the arbitrator(s); testimonies were also given in the colonial setting of SWA and Angola, which went into the discourses of both party representatives. (4) The tools used by them were the doctrinal techniques and contemporary modes of legal discourse as taught in law schools and refined by experience in court proceedings. The writings (legal memoranda) and pleadings during the arbitration procedure were not academic exercises, but statements compiled for one specific aim: to convince the arbitrator and win the case.

Both parties were aware of the fact that the future arbitration award would depend not only on the applicable norms, the witnesses and the evidence presented during the procedure, but most of all also on the arbitrator himself. Like any other individual, he held convictions, had a political standpoint, interests, preferences, and disinclinations; all of which could influence his assessment of the evidence presented and ultimately his arbitration award. These are basic assumptions of legal sociology and must be taken into consideration when studying how both parties evaluated their chances of success. Like any other party to a legal dispute, both parties had to ask for the conditions of a favorable award right from the start.

All persons involved in the case (with the exception of some witnesses) were accomplished, well-paid, polyglot gentlemen, wearing dark suits and working in elegant, wood-paneled bureaus. They belonged to the administrative (and in part the political) elite of Portugal and Germany. Many originated from the silk-gloved world of pre-1914 ministries and diplomacy. The arbitrator(s) and representatives were qualified jurists who knew

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well their elevated rank in society. Over the next decade they were to meet each other throughout Europe not only for the Luso-German arbitration but also for numerous other conferences, arbitrations, and signing of conventions. They were part of "the highly mobile cosmopolitan European middle and upper classes of the late nineteenth and twentieth century, at home throughout Europe and meeting in its large hotels."[69] In addition to their intelligence, eloquence, experience, and legal wit, their self-confidence and the conviction that they were representing a just cause before an international audience were pivotal for the ultimate success. Not the least their self-assurance was based on the "sense among international lawyers that they were part of a cosmopolitan project that had a long pedigree".[70]

3.2.1 Who is to Decide? – Appointing an Arbitrator, 1920

In October 1918, Portugal's government appointed a commission to collect and examine information about the property, rights and interests of German nationals within Portugal and about Portuguese property, rights and interests in Germany.[71] Afonso Costa knew that his most important task would be to secure reasonable terms for Portugal and its nationals in order to receive compensation for the damage caused by Germany. Once the Peace Treaty was signed, he urged Foreign Minister Melo Barreto to initiate its ratification. Only "those who had ratified it would be able to pursue their interests", namely "pressing Portuguese claims for all kind of reparations" and would be able to ask for the appointment of an arbitrator according to § 4. However, still in January 1920, Costa had to remind the Minister that he could only initiate the arbitration procedure after the ratification. By February 1920, "Teixeira Gomes had met Gustave Ador, who had shown his willingness to name an arbitrator… – but this, of course,

69 E.g. the *Convention on Certain Questions Relating to the Conflict of Nationality Law*, 13.4.30 (The Hague-Conference for the Progressive Codification of International Law) was signed by Göppert for Germany and by Caeiro da Mata, Barbosa de Magalhães, d'Avila Lima for Portugal, League of Nations, Treaty Series, v. 179: 89, No.4137; *Schmale* 2010: 20.

70 *Koskenniemi* 2004: 61; cf. *Galindo* 2012: 89; 97: 'Trying to argue the existence of a certain consciousness in international law of the past is different from saying international lawyers of the past were aware that they shared a certain consciousness.'; *Koskenniemi* 2001: 102.

71 NARA RG 84, Lisbon, v. 165: 860, Senator José E.C. de Almeida to USML, 23.11.18.

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could only happen if the treaty was ratified." This happened finally on March 31, 1920.[72]

The Portuguese delegation in Paris was now in a position not only to press for a more favorable interpretation of Article 237 TV on the distribution of German reparation payments among the Allies. It could also initiate the arbitration procedure according to § 4. This was all the more pressing since it had become evident that compensation for the damages suffered by Portugal in Africa before March 1916 would not be discussed at the reparation commission's meeting in Spa (July 1920). There, the Allies agreed on the percentage of German reparation payments each of them would receive; the total amount to be paid, however, was still to be negotiated. At the same time, the Portuguese were faced with demands from Great Britain for repayments of the wartime loans to Portugal.[73] Payments from Germany were thus a matter of urgency for Lisbon. However, the appointment of an arbitrator became more complex than anticipated by the Portuguese party.

Unlike the MATs, which were composed of three-person-bodies (each party appointed one national who in turn had to agree on a [neutral] third arbitrator to head the MAT), § 4 provided for one "arbitrator" only. It did not stipulate his nationality or "neutrality". But the fact that the Swiss Federal President Gustave Ador was named to appoint the arbitrator indicates that the framers of this provision assumed that Ador would appoint either one of his nationals or a citizen of another neutral state; thereby avoiding the potential characterization of § 4 as a tool of "victor's justice". § 4 neither stipulated a particular place of trial nor limited who should determine the place. This was another major difference to the MATs.[74] As § 4 did not stipulate who should request Mr. Ador to appoint an arbitrator, the Portuguese lodged requests with several institutions to initiate the arbitration.

In April 1920 Portugal's Minister in Paris and Afonso Costa approached the French Foreign Minister Jules Cambon requesting him to take the matter of appointing an arbitrator to the Conference of Ambassadors, which was charged with overseeing the execution of the Peace Treaty. However, the Conference of Ambassadors, consisting of Cambon and representatives from the United States, Great Britain, Italy, and Japan,

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72 *Meneses* 2010: 108; 110 (Costa to MNE, 22.10.19; 5.1.; 23.2.20).

73 Cf. *Meneses* 2010: 113; *Kraus* 2013: 41.

74 *Isay* 1923: 424; cf. *Strupp* 1923: 662; *Miller* 2011:19 illusion of neutral third; *Bass* 2000: 9.

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concluded in May "that it is for Portugal to inform Mr. Ador directly". The Portuguese delegation took this as an affront. Costa complained that the Conference "tells an Allied Nation… that it has nothing to do with the matter, and that she must look after herself". Was there an intention to reduce Portugal's rights? Were the Great Powers distancing themselves from the Portuguese claims? After Costa's protests, the Conference reconsidered the issue and passed a formal resolution that Portugal could "address Mr. Ador directly".[75]

In the meantime, the Portuguese minister in Bern had met with Ador in April 1920 who, after having asked details about the payment of the arbitrator, requested Aloïs de Meuron (1854–1934) to take over. § 4 did not stipulate anything about the qualifications of the "arbitrator", but it was apparently self-evident that only a man with legal training would be qualified for this task. De Meuron, a Protestant lawyer from Lausanne who was renowned for his pleas in important criminal cases, accepted. On August 15 he was formally nominated arbitrator of the Luso-German dispute.[76] The German Minister in Bern, Adolf Müller (1863–1943), informed his Foreign Office that de Meuron was a liberal-democratic member of the Swiss National Council (*Nationalrat*) since 1899. After further investigation he characterized de Meuron as one of the "most reputable lawyers of Lausanne, he is considered an able jurist and a respectable personality" with "considerable influence" over the *Gazette de Lausanne*, whose administrative council he presided. It was said that de Meuron had had German clients before the war; however "he had never made a secret of his anti-German disposition".[77]

75 TNA FO 893/4/2: 61, Notes of Meetg No.36,4.5.;542, No.45,26.5.20; *Meneses* 2010: 126.

76 de Meuron studied law (member of *Zofingia* fraternity) in Lausanne, Heidelberg, and Paris. He was admitted to the bar in 1879. From 1899 to 1928 he was member of the National Council and was member of several parliamentary and interparliamentary commissions. The Lt.-Colonel was member of the International Committee of the Red Cross, the Legal Commission of International Aviation, the Interparliamentary Union, and participated in several commissions set up by the Locarno Treaties. www.hls-dhs-dss.ch/textes/f/F4340.php.

77 PA R 52528, Ador to DG Bern, 15.9.20; DG to AA, 17.9.;8.10.20; cf. *Kaufmann* 1923: 18.

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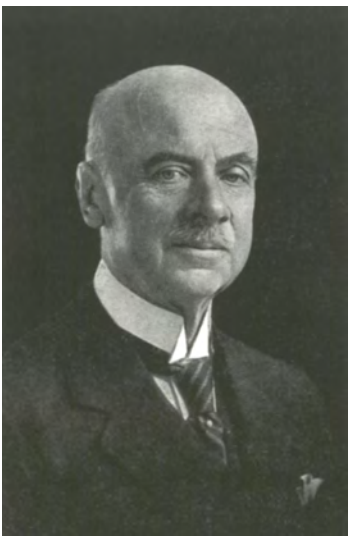

Ill. 32 Aloïs de Meuron

The practice of international law was excellently remunerated. In 1921 de Meuron received 10,000 Swiss Francs (around 115,115 Marks) "advance payment" from both parties. In 1924 de Meuron requested from them an "additional advance" of 10,000 Swiss Francs and another 10,000 Swiss Francs were paid to him in July 1928, before the arbitration award was published.[78] The German Finance Ministry repeatedly expressed its discomfort with these extraordinary amounts that were paid by the Foreign Office upon mere request and without any formal (contractual) basis.[79]

3.2.2 How to Decide? – the Competences of Arbitrator de Meuron

Already in spring 1915 the German Minister in Lisbon, Rosen, attempted "to come to some amicable settlement [with the Portuguese government]

78 PA Bern 1763, de Meuron to DG Bern, 7.7.28.

79 BAB R 1001/6638: 35-39, AA, 5.12; 27.11.24; 43, AA to RFM, 5.12.24. The RFM requested an 'accounting from de Meuron regarding the usage [of the money]...or hope[d] that the Portuguese demands will be turned back and that Portugal must return the advance. At any rate, the 10,000 Swiss francs can no longer be considered for a repayment from the *Reichsdiamanten* funds.' Cf. cpt 5.1.

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about the African questions". However, in June he judged these attempts in a letter to the American Minister to be "impracticable" in light of the "manifested hostile intentions towards Germany".[80] Convinced that "justice" was not exclusively a result of the application of the law, Germany's government attempted also after the war to find a diplomatic solution with the Portuguese to avoid legal proceedings. But after the formal nomination of an arbitrator this proved unlikely. In October 1920, de Meuron asked the parties to nominate their representatives for the case and invited them to a meeting to discuss formal aspects of the arbitration.[81]

Within the German Foreign Office, a guessing game about the Portuguese intentions began, since it was not known what kind of damages the Portuguese government or individuals would claim. It also did not seem easily apparent for which claims mentioned in § 4 the arbitrator would have competence to decide. The Foreign Office informed the Ministries of Justice, Finance and Reconstruction (Colonial Department – the former Colonial Office) about the new case. It was assumed that the German Minister in Bern would suffice to represent the German interests for the time being.[82] The Foreign Office and the Ministry of Justice agreed that de Meuron could assess only the so-called neutrality damages. The German Minister Adolf Müller was accordingly instructed. He responded that de Meuron did not know yet either what kind of claims the Portuguese would raise and whom they would appoint as their legal representative. For the planned negotiation with the Portuguese and de Meuron Müller was eager to receive details about the rules of procedure from other arbitral tribunals (Müller, a social democrat, was a trained medical doctor[83]). Before the first meeting took place, the Foreign Office provided Müller with an additional instruction that he should insist that the arbitrator would have to decide not only on the amounts due for the claimed damages but that he would have to decide first and foremost on the *merits* of the Portuguese claims. Only if this had been established for each individual case, the arbitrator could assess the amount of damages Germany would have to

80 NARA RG 84, Lisbon, v. 152: 700, DGL Rosen to USML Birch, 22.6.15.

81 PA R 52528, de Meuron to DG Bern, 18.10.20.

82 PA R 52528, AA to Ministries of Justice, Finance, Reconstruction, 8.11.20.

83 *Doß* 1977: 258; *Pohl* 1995. This appointment of an 'outsider' was a rare exception in the history of German diplomacy and was possible only in the context of the German revolution and the reforms of the Foreign Service. The Legation in Bern was one of the first among German legations that integrated the Consulate General and the commercial reporting into its realm.

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pay. The procedural rules of the MAT were considered inapposite for an arbitration under § 4. Rather, the German Foreign Office emphasized the necessity to allow each party to present their case in writing and to respond to the reasoning of the adversary. In line with domestic rules, oral proceedings could also be envisaged.[84]

On January 21, 1921 the Portuguese Minister to Switzerland, Bartolomeu Ferreira, the legal counselor at the German Legation Dr. Köhler and de Meuron met in Bern. Given the Swiss arbitrator, the Portuguese and German Legations in Bern would over the next years serve as the link between de Meuron and the Foreign Ministries that administered the arbitration for their respective governments. De Meuron and, according to the minutes, also Ferreira agreed to the German point of view that under § 4 only those cases could be decided by the arbitrator that occurred between July 31, 1914 and before Portugal entered into the war (March 9, 1916). Other cases would be discussed before the Luso-German MAT in Paris. While the Germans assumed that only a very limited set of cases could be brought before arbitrator de Meuron, Ferreira made clear that Lisbon aimed at bringing a considerable number of claims to the fore. The government had called on its citizens to report their individual claims and had documented them. Therefore, it was necessary to appoint experts to represent the Portuguese government. Contrary to the German intention of minimizing costs and efforts and to solving most of the claims diplomatically, Portugal insisted that the entirety of its claims would be presented to the arbitrator, who would then forward them to the German envoy in Bern for a response from the German government and finally decide on the entirety of the case.[85]

While the Portuguese reparation commission concluded its calculations of the § 4-claims from Germany, the Germans were still not aware of the nature and the cause of these claims. Germany's Minister in Lisbon (the legation reopened in July 1920),[86] Dr. Ernst Voretzsch (1868–1965), however hinted to the probable basis of the claims: the costs for the "Angola expedition" in 1914/15. Indeed, the *Imprensa de Lisboa* reported not only about the newly appointed Luso-German MAT (Art. 304 TV), but also mentioned the "German incursions in Naulila and Cuangar" and the Portuguese claims for damages in this respect, ("direct and indirect in goods

84 PA R 52528, AA to DG Bern, 10.12.20; 10.1.21; DG Bern to AA, 17.12.20
85 PA R 52528, Guex, minutes of meeting, 21.1.21; AA to DG Bern, 26.2.21.
86 AHD 3p ar 25 m 2, CdR to MNE, 26.4.21; PA Lissabon 176 (Vorkrfrdg.), DGL, 13.7.20.

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or persons, for the state or for individuals") amounting to 1.9 billion Escudos ("at current exchange rate 11 billion Marks"). Voretzsch considered that after the disappointing outcome at Versailles, Bernardino Machado's government would aim at keeping the question of reparations in the foreground for two reasons: first, Machado's "Entente friendly policy" during the war would become plausible to public opinion if Germany pays large reparations; second, the money obtained from Germany could enable the government to postpone the unpopular but urgently needed tax reform.[87]

Even though they were unable to attend the first meeting in Bern, the Portuguese government in the meantime appointed two representatives: Dr. Barbosa de Magalhães, Professor of Law in Lisbon, and Captain Manuel da Costa Dias. Arbitrator de Meuron appointed a secretary for the arbitration: Dr. Robert Guex (1881–1948), Professor of Law, affiliated to the Federal Court in Lausanne (*Greffier*) and Secretary General of the Franco-German MAT.[88] The German Foreign Office, in 1921 headed by Friedrich Rosen, who knew the case well from his service in Lisbon, involved the Colonial Department of the Ministry of Reconstruction early on to procure evidence and prepare potential responses to Portuguese colonial claims. However, the German diplomats still hoped to solve the reparation issue diplomatically and to avoid arbitration as far as possible. The Portuguese government was asked by the German Minister in Lisbon to provide all their claims to Berlin first to discuss the matter and to refer to de Meuron only those cases that could not be solved diplomatically. Similar notes were sent to de Meuron. However, these attempts failed soon.[89] The parties could not even agree on the formal questions of German liability for indirect damages, the inclusion of "natives" (as Portuguese nationals) into the reparation provisions of Art. 231 TV, the definition of pension, or the categories of damages.[90]

De Meuron invited the parties to a second meeting in Lausanne on April 18, 1921 on procedural issues and to determine the delay within Portugal would have to provide him with its claims. Against Germany he decided that *all* claims would have to be presented to him, since Portugal could not be forced to provide its claims first to the German government, when it intended to refer them to an arbitrator under the Treaty of Ver-

87 PA R 52528, DGL to AA, 7./8.3.; 16.3.21; *Imprensa de Lisboa*, 7.3.21.
88 PA R 52528, DG Bern to AA, 17.1.21.
89 PA R 52528, AA to DGL; to RMW, 14.4.21; 22.4.21; DG Bern to AA, 15.4.21.
90 BAB R 3301/2284: 68, Tlgr AA to RMW, 15.3.21 on Portuguese response.

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sailles.[91] In Lausanne, Portugal was represented by Professor Magalhães and Captain Dias, whereas Germany had still not appointed its expert representatives; so, again, councilor Dr. Köhler was in charge. In the meeting it was clarified that the Portuguese representatives acted legitimately on behalf of those Portuguese nationals (as their mandataries) who had suffered damages. It was not intended by the Portuguese government that individuals would turn to the arbitrator. A dispute ensued between the representatives whether the arbitrator would have to decide on all three categories of claims mentioned in § 4 (so the Portuguese argued) or only on the last category (neutrality-damages as argued by the Germans). Magalhães disputed that during the first meeting an agreement on this question had been reached. Further, the Germans challenged the Portuguese assumption that the arbitrator under § 4 would have to decide only on the *amounts* due for the claimed damages, but argued that he would have to decide first on the *merits* of the Portuguese claims (had there been an "act committed"?) before any amounts could be assessed. De Meuron therefore concluded that it was his task to determine this question and asked the parties to provide him with their written statements on the arbitrator's competence until May 31, 1921. De Meuron also set forth the proceeding of the arbitration (similar to those of the MATs): a first written part for which the Portuguese would have to provide their claims in a memorandum until October 1, 1921. He would then grant the Germans a similar period to prepare a counter-memorandum; followed by a Portuguese replique and a German duplique. After this, a second, oral part with testimonies and pleadings would be scheduled. The German representative was concerned that the delay for the German responses would be sufficient, since the procurement of evidence would be difficult whereas Portugal had already many years to prepare all claims. De Meuron asked the parties to provide all their memoranda and documents in three copies each in the French language. A set of rules of procedure would not be necessary for the written part of the arbitration. He pointed out that the parties were free to solve claims diplomatically without his involvement. The question of cost bearing would be decided by him later.[92]

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91 PA R 52528, de Meuron to DG Bern, 16.3.21; DG Bern to AA, 8.4.21; 23.4.21.

92 PA R 52528, Guex, minutes of meeting, 18.4.21; Ordonance de Meuron, 26.4.21. Though § 4 did not stipulate the language to be used during the procedure, given that de Meuron was a French native speaker, French was, as a matter of fact, the language of the arbitration. This limited the number of candidats for the position of national representative, as the oral pro-

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The Portuguese and the German Minister provided the statements of their governments on the competences of the arbitrator in due time.[93] De Meuron concurred with the German point of view and decided on August 11, 1921 that he had to decide on the merits and the amounts of the claims and that his competence was limited to arbitrate on Portuguese claims for neutrality damages. He justified his decision with reference to the context of § 4 and its history. De Meuron, however, also emphasized that the Portuguese had stated in any case that they would claim only damages for German acts committed before Portugal entered into the war in March 1916.[94]

3.2.3 Instead of Prosecution and Defense – the National Representatives

The procedures of interstate arbitration bore semblances to domestic court cases in certain respects, but differed greatly in others. Most importantly, the arbitrator was confronted directly with both parties: there was no prosecutor bringing the case for Portugal, and the German government responded to all claims not by a defense counsel in the stricter sense of the word. Both parties instead appointed national representatives who presented their governments' cases to arbitrator de Meuron.

Knowing billions at stake, the Portuguese government was quick to engage one of its most brilliant lawyers to represent Portuguese interests in the arbitration: José Maria Vilhena Barbosa de Magalhães (1879–1959). In December 1914 the professor of law had been appointed to be a remarkably young Minister of Justice for the left-leaning Democrats. However, the cabinet under Vitor de Azevedo Coutinho (1871–1955), although embraced by Afonso Costa, was "dubbed [by the opposition] *les miser-*

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cedings required (almost) the eloquence of a native speaker. However, while in other proceedings the Germans deplored the difficulties that arose out of the fact that the MAT's language was determined by the claimant (mostly French or English), in the Luso-German arbitration no-one required the Germans to speak Portuguese. Cf. *Isay* 1923: 424; 428; 437.

93 PA R 52528, Magalhães, memorandum on § 4, 21.5.21; Müller, memorandum, 27.5.21.

94 PA R 52528, de Meuron to DG Bern, 11.8.21. This procedure to establish the arbitrator's competences differed from earlier arbitrations. Interstate arbitration had no generally accepted rules of procedure. It was common to detail such rules in the arbitration agreement (*compromis*) between both parties. The US-British Jay-Treaty of 1794, often used as an example, defined the task of the mixed commission to 'decide the claims in question according to the merits of the several cases, and to justice, equity and the law of nations.' *Isay* 1923: 417f; cf. *Lingens* 2011.

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ables … and offered little hope of stability." Magalhães, who was described by Costa as "one of the republic's most dedicated servants and most distinguished jurists" stayed in office for merely four weeks. "In late 1914 parliamentary obstructionism became an obsessive art." Accidentally, his appointment came just a few days after the battle of Naulila.[95]

There was a long tradition in Portugal of "intimate links between the professoriate and the Portuguese political elite, something which gave rise to the term *catedratiocracia*"[96] "Given Portugal's small academic elite, to reach professorial status was to risk … being called to government." In 1917, the professor returned to politics as Minister of Education and Minister of the Interior in Afonso Costa's last government. Magalhães was an offshoot of the small Portuguese middle-class from where the republic recruited its cadres. The American Minister characterized this political class with little sympathy:

> "They have superb orators of the tragic, bombastic style capable of swaying and leading the mob; but as administrators they are not successful". He continued to characterize the Republican Party members: "They are positivists in philosophy, illuminati, and anti-clerical … They look to France for inspiration. For them the ideal is French republicanism. They have had no political training, especially, in matters of public administration and finance. Journalistic opposition has taught them practically all they know about politics. They have intrigued in the *Cortes*, written bitter seditious articles, and frequently gone to prison. The rest was theory."[97]

Being a confident of the republican strongman Afonso Costa, Magalhães was invited in 1919 to act as financial advisor to the Portuguese delegation at the Peace Conference in Paris. Here, he became acquainted with the legal technicalities of the reparation cases brought against Germany. Due to the constant postponement of the ratification of the Treaty of Versailles, he returned to Lisbon in March 1920 where he was tasked with representing Portugal in the Luso-German arbitration according to the Treaty.

In this, he was assisted by Captain Manuel da Costa Dias (1883–1930). The former Member of Parliament had more than two years of first hand experience in the conquest of southern Angola and was thus an excellent complement to the lawyer Magalhães. From 1910 to 1912, Dias was in the

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95 *Meneses* 2010: 44; *Wheeler* 1978: 107/9; Diário da Câmara dos Deputados, 22.12.14: 16; *Ilustração Portuguesa*, 2.ª série, n.º 461, 21.12.1914: 773 showing portraits of ministers.

96 *Gallagher* 1979: 397; under A. Salazar at times 'a quarter of his ministerial helpers [came] from one single university faculty, that of Law in Coimbra'; cf. *Lewis* 1978: 646.

97 *Meneses* 2009: 32; NARA RG 84, Lisbon, v. 157: 800 USML, 12.2.16; *Wheeler* 1978: 17.

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staff of João de Almeida when the latter undertook to occupy the area between Kunene River and Kavango River. Subsequently, he published on the "colonization of the Planalto". In March 1915 he returned with General Pereira de Eça to Moçâmedes and was in charge of administrative questions. In August 1915, he belonged to the columns that crossed the Kunene River and was tasked with the re-occupation of the Cuamato area. Following the battle of Mongua, Dias joined de Eça in N'giva and returned to Lisbon in November. From 1917 to 1919 he was member of the Portuguese Expeditionary Corps in Flanders. Consequently, he was appointed Professor at the War College and became member of the Portuguese reparation commission. During Magalhães' term as foreign minister, he served as his chief of cabinet.[98]

The "almost frantic" ministerial turnover in Lisbon (45 governments in sixteen years) did not affect Magalhães' position as the "devoted representative of the interests of our country" (*Diário de Notiçias*) throughout the arbitration procedure. It proved to be an invaluable asset for the Portuguese administration that the arbitration procedure was run not by a ministry but by Magalhães as an "independent" lawyer. He stayed in charge of the Luso-German arbitration even while he served as Foreign Minister (Feb. 6 to Nov. 30, 1922). The average cabinet duration was four months, some lasted only for days.[99] The State President found it increasingly difficult to find politicians who accepted Premiership. "[O]ften there was a hiatus of at least several days or a week or two between the resignation of one ministry and the finding of a new premier. During the hiatus, effective governance was virtually impossible." Due to the permanent parliamentary crisis the "ministers were beginning to lack initiative and were proving incapable of handling the day-to-day business of their portfolios." Correspondence addressed to the colonial minister, for example, took at times seven years to be "acknowledged".[100]

This "administrative chaos" in Portugal during and after the World War hampered the efforts to obtain redress from Germany. Before parliament the former head of the Portuguese *Comissão executiva da conferencia da*

98 *Meneses* 2010: 112; 137; PA R 52528, DG Bern to AA, 17.1.21; cf. *Ramos* 2001: 415f.; *Dias* 1913; on Tenente-coronel Manuel da Costa Dias cf. http://epsservicos1gg.com/o-projeto/investigacao/personalidades/personalidades-do-sam.

99 *Tavares de Al./S.* 2006: 124; *Diário de Notíçias* 18.8.28; cf. *Madureira* 2010: 648; 651.

100 *Wheeler* 1978: 88, from 1910–20 there were 366 cabinet changes. The Foreign Ministry's head changed 41 times; the Ministry of Colonies changed 33 times, the Prime Minister 27 times. NARA RG 84, Lisbon, v. 172: 800.2, USML to SoS, 2.4.20; *Smith* 1974: 657.

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paz in Paris, Vitorino Guimarães (1876–1957) estimated that all claims amounted to two billion Escudos, but complained about the difficulties to obtain the justifying documents. These were necessary to substantiate each claim. No proper institutions seemed to be in place to collect the data about war damages and related costs like pensions. In the resulting debate on these difficulties, Foreign Minister Domingos Pereira (1882–1956) promised to sufficiently prove to the reparation commission Portugal's demands. With respect to the reparations, Prime Minister Machado boasted that Portugal had "absolutely nothing to lose."[101]

When the Luso-German arbitration was initiated, Portugal's political situation was, as *The Times* put it, a "vicious water swirl round; political disintegration, financial chaos."[102] The situation in Germany was barely better. Intellectuals begun their "discursive assault upon the Weimar Republic", and in both republics, assassins targeted the highest state representatives. In Portugal, Prime Minister Antonio J. Granjo was shot in 1921 by "revolutionaries". In 1922, Germany's Foreign Minister Walther Rathenau was murdered by right wing extremists. From 1919 to 1923 Germany experienced ongoing right wing and left wing (military) attacks on the republican government in Berlin that put into question the very existence of the state.[103] During the war years and the revolution, the almost general perception of lawlessness, demoralization, "and a sense of inevitability" was aggravated by the breakdown of the administration. In "[public] offices, previously bulwarks of conscientiousness in the German lands, bribery had become a general practice."[104] This political context needs to be taken into consideration since it explains in part the despair by which the parties sought the payment of damages – or the avoidance of it.

The German Foreign Office, staying in charge of the arbitration procedure's administration throughout its duration,[105] was not immune from these ups and downs. Until 1922, the departments were regularly restructured according to a regional system plus departments for legal, personnel, and cultural affairs. The organizational reforms (1918–20) of Director Edmund Schüler (1873–1952) remained incomplete and resulted in few changes in personnel. Regardless of Foreign Minister Brockdorff-Rantzau

101 *Labourdette* 2000: 559f.; BAB R 1001/6634: 13, *Imprensa da Lisboa*, 12.3.
102 NARA RG 84, Lisbon, v. 179: 800, *The Times*, 30.12.21: 5790.
103 *McElligott* 2014: 1; cf. *Wehler* 2003: 397 on 'civil-war-like crises'; *Barth* 2003.
104 James B. 'Memoiren eines deutschen Juden und Sozialisten', quot. in *Fulbrook* 2011: 42.
105 Cf. *Doß* 1977: 217 FO stayed in charge of *all* foreign affairs; *Lauren* 1976.

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Ill. 33 José Maria Vilhena Barbosa de Magalhães

Ill. 34 Manuel da Costa Dias

Ill. 35 Anton Meyer-Gerhard, 1915

Ill. 36 Edmund Brückner, 1912

claim that "new men will be necessary" after the war, most diplomats after 1918 had served under the Imperial administration. The aristocratic-conservative attitude dominated for years to come. A "sense of independence" from domestic affairs and parliamentarians remained strong. However –

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despite an indisputable continuity –, the structure of the Foreign Office changed after 1919. The "two-class-system" of diplomatic and consular careers came to an end. Thus, for its foreign policy, the new republic had a "loyal and flexible instrument at hand" which understood how "to work efficiently".[106] In general, commercial and legal affairs obtained a more prominent role. New challenges posed by the League of Nations, international tribunals and international law resulted in new principles and practices of foreign policy.[107]

Legal affairs between states had been massively complicated in the course of the war and its aftermath due to the peace treaties in 1919. Most of all, the reparation questions and the details of payment schedules occasioned a new quality of international entanglement. The distinction between private and public international law was less clear than ever. The legal problems of the Treaty of Versailles were innumerous and German government lawyers were slow to appreciate the difficulties that arose out of the fact that the Treaty's terminology was based on concepts of French and English law. The first German attempts to win cases before the MATs proved "practically inadequate". The Treaty could "not be mastered with the eyes of a German lawyer". They were hindered in the preparation of their defense cases, as they did not fully comprehend certain individual provisions nor did they have available the protocols and materials from the Paris Peace Conference that would have made intelligible the rationale of complex provisions. In 1923 H. Isay was thus "happy" to diagnose that "in the meantime the academic familiarization with the questions created by the [Treaty] has begun." However, he still deemed the current stage of research (*Sonderuntersuchungen*) "insufficient".[108]

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106 *Doß* 1977: 147f.;152f.;166; continuity 188; 214; structure 222; 311; cf. *Conze et.al.* 2010: 31; *Jacobsen* 1968: 21f.; *Krüger* 1985: 13; *Hildebrand* 1995: 416; *Döscher* 1987: 21.

107 *Kraus* 2013: 87; *Döscher* 1987: 35; *Krüger* 1985:10; *Schöttler* 2012: 369; *Müller* 2014:75.

108 *Isay* 1923: iii; 425; cf. Strupp 1923: 665; *Jacob* 1930: 139; *Nörr* 1988: 102; *Basedow* 2001: 4f. In 1926 the Institute for Foreign and International Private Law was created for several reasons. One was the unenviable position in which German jurists found themselves under part X TV, which regulated economic relationships between Germany and its citizens vis-à-vis victor and associate states and their citizens. 'Since the German translation was not authentic, the solution to legal questions concerning contracts, debts, property rights, unfair competition, shipping, intellectual property, judgements, prescription, and social insurance had to be found in French and English legal concepts (such as *dette*, debt), interpretation methods, and legal institutions and traditions (for instance, *tribunal*, court).' *Clark* 2001: 42 ref. to E. Rabel and H. Isay; *Jacob* 1930: 146; 139: 'Ce n'est que depuis 1925 que les études du droit international se developpent avec plus de vigueur en Allemagne'.

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As a result, the workload that was put on the national administrations and in particular on the Foreign Office's legal department grew immensely after 1918. Already in 1921, the German Foreign Office published a memorandum lauding itself for the measures undertaken in executing each of the articles of the Treaty. On Articles 297 and 298 alone, dealing with German property in former enemy territory, seven decrees were enacted. The Foreign Office followed a bifurcated approach: On the one hand, "[i]n Weimar Germany, revision of the Treaty of Versailles was the chief aim of foreign policy". The "guilt office" (*Schuldreferat*) under the future Foreign Secretary Bernhard W. von Bülow (1885–1936) was set-up to "build a legal case disproving Germany's 'war guilt'" (Article 231) and publish these arguments against the Treaty in Germany and abroad. An "innocence campaign especially targeted the United States and American historians." "It was remarkably successful". On the other hand, German officials were working on a daily basis with all provisions of the Treaty. Former Colonial Secretary Wilhelm Solf, who had become ambassador in Tokyo in 1920, expressed it most adamantly: "Whether or not the Versailles Treaty was good or bad, necessary or unnecessary, it is law. We have to deliberate and behave within the parameters of these laws, even if it causes us undue hardship".[109] From 1921 (the London Ultimatum) to 1923, the German government attempted a "policy of fulfilment", ordering its officials to execute the Treaty with the least possible 'damage' to Germany, thereby aiming to "expose the impossible and unjust nature of the [Treaty] terms". The German Foreign Office, previously a bulwark of sovereignty-centered reasoning about international law that opposed any 'infringement' of the nation's sovereignty, recognized the political necessity to offset Germany's military weakening by a greater degree of obligations under international law that would bind – to Germany's advantage – the victorious governments. In 1921, the Legal Department was renamed "Legal Affairs and Peace Treaty" (*Abteilung VIII*) to reflect the relevance of the legal provisions agreed at in Versailles. It was headed in 1919/20 by Dr. Ernst von Simson (1876–1941) who became Secretary of State and was replaced in 1920 by Dr. Otto Göppert (1872–1943), who had worked in Paris in the Peace Delegation. Göppert, who was later appointed "Commissioner for the MAT" (1923–31), and the deputy-head of the legal de-

109 PA Lissabon 176 (Friedensvertrag), Die Erfüllung des Vertrages von Versailles durch Deutschland bis zum 1.4.1921; *Hull* 2014; 8;11; Solf in *Hempenstall/Mochida* 2005: 199.

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partment, Dr. Georg Martius (1884–1951), in charge of international law, would stay intimately connected to the Luso-German arbitration for years to come.[110]

Next to the legal department, the remainder of the German colonial administration – first as part of the Ministry of Reconstruction, than re-integrated as department into the Foreign Office – became involved in the Luso-German arbitration when it became evident that mostly the factual matters having taken place in Africa would dominate the dispute. The director of the Colonial Department (1920–1924) in the Ministry of Reconstruction, Dr. Anton Meyer-Gerhard (b. 1868) had been head of the subdivision for GSWA (*Referat A3*) in the old Imperial Colonial Office and was in charge also of all affairs relating to Angola and South Africa. He oversaw Dr. Julius Ruppel (1879–1949), who administered the drafting of the German memoranda as legal specialist and would become the German commissioner at the reparation commission in Paris. Also Meyer-Gerhard's successor, the head of the Foreign Office's Colonial Department, Dr. Edmund Brückner (1871–1935), had extensive colonial experience. In 1911–12, he was Togo's Governor. In 1927, Ruppel, himself a former colonial official (stationed in Cameroon) was appointed Germany's first representative in the Permanent Mandate Commission, but also previously he was intimately connected to all questions of Germans and their properties in the former colonies. It was left to an ex-military administrator from GSWA, Hugo Franz, from the Ministry of Reconstruction to collect all data and draft the legal memoranda. They all would, "from beginning to end, devote their inexhaustible energies to avoiding or reducing [Germany's] payments."[111] Germany's representatives during the arbitration and all those working towards its preparation were civil servants. No money was spent on outside legal consulting. It was one of the major differences to the Portuguese strategy that for many years of the arbitration changing representatives would be assigned *ad hoc* to take over the case for Germany.

110 *Kolb* 2007: 193; *McElligott* 2014: 43; cf. *Schifferdecker* 1931; *Kraus* 2013: 95; *Neitzert* 2012: 443f.; *Stevenson* 2004: 434; *Krüger* 1985: 15; *Doß* 1977: 225f.; 151, Göppert participated at the Hague Conf. (1907), the London Conference on the Laws of the Sea (1908/9) and was involved in reforming AA staff's training; cf. *Göppert* 1938.

111 *Marks* 1978: 255; cf. *Eberhardt* 2007: 134 on the Mandate Commission; 104; *Ruppel* 1912.

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3.3 Portuguese Claims and German Responses. Four Memoranda

Arbitrator de Meuron gave the Portuguese representatives until October 1921 to provide him with their memorandum on all claims. Upon request, he granted an extension until December 1.[112] In the meantime, the German Foreign Office, concerned about yet another arbitration whose (perhaps catastrophic financial) result could not be predicted, still hoped to avoid the arbitration at all and tried to solve Portugal's claims diplomatically. Again, all attempts were in vain.[113] On December 1, 1921, de Meuron received three copies of the "Memorandum on the Portuguese reclamations by the representative of the Portuguese Republic". He provided one copy to the German Legation in Bern from where it was sent to the Foreign Office in Berlin.

The Portuguese documentation consisted of over one thousand pages. The memorandum itself had 106 pages and attached to it were 14 *dossiers* with around 400 claims, and justifying reports, maps and photographs. In July 1922 the German government, acting under extreme pressure to find witnesses and to receive all their reports and documents in time, responded to these claims with its own "Memorandum concerning the Portuguese reclamations" (101 p.; 29 Annexes of 226 p.); a Portuguese "replique" followed (190 p.) and in March 1923 a German "duplique" (135 p.).[114]

The following sub-chapters will not merely follow the trail of twists and turns of evidence and counter-evidence in relation to the Luso-German dispute but rather, by showing international law in the making, they will focus on a number of argumentative patterns that were asserted and reasserted by both parties. Thereby, different layers of historical contexts can be identified that shaped the way the parties presented their arguments, hoping to convince arbitrator de Meuron. However, due to space limitations, such a synthesis requires the historian to make choices and select a limited number of themes to be analyzed. While it might be a legal historian's ideal to understand "the applicable history and law … as fully as possible",[115] choices lead to omissions, inevitable as they are – for the

112 PA R 52528, DG Bern to AA, 7.9.21.

113 PA R 52528, AA, remark Frölich, 7.11.21. When the arbitration had already begun, former Foreign Minister Freire d'Andrade went to Berlin as special envoy to discuss the outstanding issues. Cf. NARA RG 84, Lisbon, v. 179: 710, USCG to USC Gen. London, 13.12.21.

114 BAB R 1001/6634: 17, AA to RMW, 03.01.22; R 1001/6635, État recapitulatif, 1922 .

115 *Berat* 1990: ix.

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memoranda, the staggering number of annexes and testimonies add up to several thousand pages alone.

The subject of the arbitration procedure, German payments for (war) damages, was highly emotional and politicians had to justify the results in front of their constituencies. As historian David Felix has pointed out: "There are no innocents or villains in this story [of reparation negotiations and payments 1919–32]…. Both the Germans and the Allies were doing what had to be done." Germany, for its part, "saw no reason to pay and from start to finish deemed reparations a gratuitous insult." It seems reasonable to assume that while receiver countries hoped for more, "Germany tried to get out of reparations, but … this [is] neither very surprising nor very shocking."[116] This chapter thus puts different versions up against each other. The authors of the memoranda wrote on the subject of the damages, the "Naulila incident", the battle, and the "native rebellion" from the standpoint of claimants and defendants purely at the service of their nation's cause.

US Senator Hiram Johnson (1866–1945) is said to have argued in 1916: "The first casualty when war comes is truth." But despite claims to the opposite, legal procedures are not necessarily about "the truth", especially for the disputing parties, who may have reason to hide certain facts and exaggerate others. However, it is not the foremost aim here to assess the 'validity' of each side's claims, but to put them into historical perspective; thereby providing insights into the motives of each party to bring forward a certain argument, into their colonial past, as well as into the changing nature of international law.

3.3.1 Claims for Damages, Amounts, and Applicable Law

Portugal based its claims for damages against Germany on three different occurrences before Portugal "entered into the war": (1) attacks on Portuguese border posts in Angola and Mozambique; (2) requisitions by German authorities of property of Portuguese nationals in Belgium; (3) sinking of Portuguese vessels (among them the *Cysne*).

Dossiers 1 to 11 of the Portuguese memorandum of 1921 contained the claims of the Portuguese state, amounting to 3,073,773,090 GM. The

116 *Felix* 1971: 178; *Marks* 1978: 255; 1972: 361.

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damages claimed were mainly caused by the "fighting and the native rebellions" in Angola (to a lesser extent in Mozambique). Even though § 4 spoke of the damages suffered by "nationals/*resortissants*", Lisbon was not shy to include into the calculation of damages military expenses, comprising the campaigns by Lt.-Colonel Roçadas and General de Eça, or the costs for the upkeep of the German prisoners of war (121,482 GM). Portugal also claimed payments for the loss of revenues, since 68,193 Africans were used as carriers (and could thus not work elsewhere) and for 86,219 Africans who starved to death or died due to other reasons during the "rebellion". The Portuguese calculated reparations of £ 1,000 for each of these 154,412 women and men according to no. 5 of annex 1 to Art. 244 TV. Magalhães emphasized that "indirect damages" were not included in these calculations. Nevertheless, material losses to the Portuguese state, such as non-payment of taxes were claimed. Equally, he demanded pension payments for surviving members of the family of those perished during the war.

Dossiers 12 to 14 amounting to 43,386,171 GM contained the claims of Portuguese nationals (about 400 claims) from the colonies deriving from material damages and lost profits, assumed to be fixed at 30% p.a. Pointing to the invasion of its territories, Portugal claimed, in addition, "2 billion gold mark for infringement of Portuguese sovereignty and international law". The damages claimed totaled thus according to German calculations at "around 3,125 billion GM" plus the 2 billion GM. Especially the latter claims seemed to be based on the expectation of direct payments from Germany, irrespective of the fact that the provisions of § 4 explicitly did *not* refer to such direct payments, but only mentioned the liquidation of German property. In § 4, "as in so many other aspects of reparations, appearance and reality diverged."[117]

Right on the memorandum's first page, Magalhães pointed to Art. 231 TV as having "established the responsibility of Germany … for all loss and damages of Allied Governments and their citizens as a consequence of the war." Thus, he took for granted that the Treaty had "recognized" the (legal) "responsibility to indemnify" and that it was only left to the arbitrator under § 4 to establish the amounts in question. Accordingly, and de-

117 BAB R 1001/6634: 41, excerpt Dossier 11, no. 27 Port. Mémoire justificatif, ~ 3/1922; *Isay* 1923: 198f. 'Ansprüche gehen ausdrücklich nicht auf Zahlung durch Deutschland, sondern nur auf Befriedigung aus dem Erlös der Liquidation des deutschen Vermögens'; *Marks* 1978: 232.

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spite de Meuron's award of August 1921 that he would decide on the amounts *and* the merits of the claims, the cover page of the memorandum bore the title *Arbitral Commission nominated for the fixation of the amount [fixação de montante] of damages before the declaration of war*. As maintained by Magalhães, these claims for damages were based on international law *and*, pointing to "a lack of applicable international legislation", equity *and* by analogous application of certain Articles of the Treaty of Versailles. To give authority to this statement, Magalhães, in one of the few allusions to canonical texts of international law, referred to the treatises of A. Mérignac and Dionisio Anzilotti. Finally he demanded that Germany, having caused the damage, should bear all costs of evaluating the losses and of the arbitration.[118]

For contemporary politicians and lawyers there was no want of precedents for indemnity payments after war. Whereas the Hague Conventions of 1899 and 1907 (arts. 3; 47-56) stipulated only an obligation to compensate individuals who had suffered at the hands of invading armies, "punitive levies" had been imposed by Imperial Germany on France in 1871 (5 billion francs) and by Imperial Germany on Bolshevik Russia in 1918 (6 billion GM). As we have seen, at Versailles the questions of Germany's reparation liability became a "divisive issue". Portuguese politicians were among those who demanded full reparations from the Germans amounting to the restitution of *all* war costs.[119] "Sums as high as 800 billion gold marks were mentioned." But no explicit amount was stipulated in the Treaty of Versailles. While the Luso-German arbitration was in its early stages, in April 1921, the final amount of German "total indebtedness of 132 billion [GM]" (payable in annuities) was fixed; apparently the "lowest figure which was politically feasible" for French and British politicians. A sum, the German parliament accepted on May 10 after an Allied ultimatum. Over the next decade, several payment schedules regarding the annuities were arranged and broke down within short periods of time.[120]

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118 PA R 52529: 4;6;105, Magalhães: Mémoire justificatif des reclamations portugaises, 1921 (Mérignac: Traité de Droit Public Internationale: 527; Mérignac: Traité d'arbitrage: 294; Anzilotti: Corso di Diritto Internazionale: 110); BAB R 1001/6634: 17, AA to RMW, 03.01.22; R 1001/6635, État recapitulatif, 1922. Minor sums refered to acts committed by German authorities against Portuguese in occupied Belgium (~3.9 million GM) and at sea (~3.1 million GM).

119 Cf. *Kent* 1991: 17-40; *Gomes* 2010: 3; 7; *Barnich* 1923: 9; *Bergmann* 1927.

120 However, 'while maintaining the fiction of a higher figure [132 billion] for the sake of public opinion in receiver countries', most of the debt (82 billion) was deliberately 'consigned

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Given Moniz's claims of 1919 and Costa's memoranda of May and June 1920 demanding even higher sums (8,641,159,994 GM), the 5.1 billion GM claimed in Magalhães' memorandum and the arguments to back them up did not come as a surprise. Also, the first German responses compiled by former colonial officials (Governor of GEA Schnee [1871–1949] and financial councilor Kastl [1878–1969] from GSWA, who had ordered Schultze-Jena to go to Erickson Drift), rejecting Costa's claims as "ridiculous" and "unjustified", had already been received in 1921 by the Ministry of Reconstruction and formed the basis of the German counter-memorandum.[121]

While Magalhães' memorandum with its hundreds of claims was being verified by German officials for its correctness (or legal flaws), news arrived from Lisbon that the former Minister of Trade and delegate to the Portuguese reparation commission in Paris, Velhinho Correia (1882–1943), had admitted that fraud was rampant among individual claimants. Claims amounting to fantastic sums were raised by colonial entrepreneurs who had allegedly lost business or the opportunity to do so and were thus asking damages from Germany. According to Correia, the Portuguese commission in most cases willingly accepted these claims without looking into the details of the fraudulent lists of damages. *Diario de Noticias* quoted numerous examples of such exaggerated colonial claims. The German press spoke of "reparation scandals" in Portugal.[122] The officials of the Ministry of Reconstruction in charge of drafting the German response to the Portuguese memorandum began to assemble examples for "excessive" claims that were raised by government entities or individuals. Councilor Franz pointed out that Germany "shall be held responsible even for damages that were due to third parties or own neglect." He assumed that these claims were based on the "conviction *le boche payera tout*." He recommended raising the awareness of the public for a number of those claims

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to never-never land' through the opaque formulations of the London Schedule of Payment (debts were divided into A, B, and C Bonds; C Bonds [82 bn] 'were only fiction' [Marks 1972: 362]). Marks wondered 'in what fashion [the Germans] celebrated…when they received the ultimatum of May 5.' Others have pointed out that also the remaining 50 billion gold marks were 'a terribly damaging problem in the German economy.' *Felix* 1971: 178/3; *Marks* 1972: 360; 1969: 357; 359; cf. *Hershey* 1921: 412; *Ferguson* 1998: 411f.; *MacMillan* 2003: 180; *Gomes* 2010: 70f.

121 BAB R 3301/2284: 13, Costa: Notes compl., Paris, 29.6.20 [£432,057,994]; 41; 46.

122 BAB R 3301/2284: 101f transl. *Diário de Notíçias*, 8.12.21; 100, *Der Tag*, 12.3.22.

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he considered particularly "scandalous"; this might be advantageous "for the negotiations in Lausanne".[123]

Among those who had high expectation about future German reparations was also Norton de Matos, who had been appointed in the meantime as High Commissioner of Angola, being allegedly more independent than he was as Governor General (1912–1915). In September 1921 he sent his request for Angola's share in the German reparation deliveries to the Colonial Ministry. The "Caligula of Africa", as his critics called him, hoped most of all for the provision of railway materials: thousands of kilometers of rails, 70 locomotives and 1,000 wagons.[124] Such high demands for reparations in kind were disputed also within Portugal. It was said that officials in Lisbon's colonial ministry were "smiling" about "Mr. Norton de Matos' wish-list".[125] The *Journal de Comercio* considered the list as a "deliberate looting of Germany".[126]

Arbitrator de Meuron was also unsatisfied with the way the Portuguese government had assembled and listed the individual claims. He deplored that the amounts were not indicated "in francs and centimes for each of the claimants", that details for each claim were missing, and that he was not given a total amount. He thus requested from the Portuguese party to provide him with a general overview, "indicating for each claim the name of the claimant and the amount claimed. When he received the overview in March 1922, the Portuguese government had reduced its claims for damages to 2,859,089,911 GM (plus 2 billion GM).[127]

The German counter-memorandum of July 1922 stated that such "enormous amounts" based on claims from the colonies were completely "out of the question". The Germans tried to argue that Portugal's "fantastic" claim of around 5 billion GM was out of proportion for a nation of 5.96 million inhabitants: Belgium, the theatre of war for more than 4 years, claimed 11,5 billion GM, and Serbia, heavily impaired by the war, claimed 6,8 billion GM. In comparison to the damaged suffered by these nations, the damages in the Portuguese colonies before Portugal joined the war in Europe 1916 were characterized as "insignificant" (Kastl assessed

123 BAB R 3301/2284: 135f, RMW (Franz) to AA, 12.5.22; 147, remark Franz, 29.4.22.

124 NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 11.8.19, transl. *Diário de Notíçias*, 7.7.19; *Leal* 1924.

125 PA–188 (Schiedsgericht Vol.I), DGL to AA, 29.9.21; on Norton *Livermore* 1967: 329.

126 PA–188 (Schiedsgericht Vol.I), DGL to AA, 13.12.21.

127 BAB R 3301/2284: 141, AA to RMW, 30.3.22; de Meuron to DG Bern 6.3.22.

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the entire property damage [*Sachschaden*] in Angola due to the war at "under £1,000").[128]

The Germans also pointed out that the amount of 2,859,088,911 GM stipulated in the latest Portuguese calculation did not square with the sum of all dossiers of the Portuguese memorandum. Furthermore, the Portuguese claims were stipulated in the national currency Escudos and then converted into gold marks at different exchange rates between 1:4.44 and 1:4.57. However, as the German memorandum stated, one Escudo was no longer worth around 4.5 GM, an approximate value before the war.[129] Further, the gold mark was not a means of payment recognized in all countries but rather a means of calculation for the contracting parties of the Treaty of Versailles. It was meant to administer the *immediate* German payments of "reparations" to the Allies specifically foreseen in *this* treaty (Article 262) and could therefore not be applied to potential payment obligations resulting from "*international law* in general" as in § 4. It was, according to the Germans, common practice between states to regulate the payment of damages in the currency of the debtor state. Since there was no legal reason to deviate from this practice, the amounts due – to be established by the arbitrator – should be paid in Germany's currency, *en marcs papiers*. Considering the galloping inflation and the deplorable state of the German budget, this alternative seemed most attractive to the German councilors. However, the Portuguese replique rejected it emphatically: Magalhães argued that Germany profited from the inflation, and uttered the accusation, similar to other contemporaries, that German politicians had caused the inflation intentionally. Indeed, according to modern research, "it was impossible not to conclude that the German national economy had profited from the inflation and hyper-inflation by liquidating most of its internal and non-reparation foreign-debt." On the other hand, the "inflationary reconstruction" came to an "end in the fall of 1922, and 1923 was disastrous, the index of industrial production falling from 70 to 46 in 1923". It was thus no surprise that the German duplique of March

128 BAB R 1001/6635: 38f., Mémoire du Gouvernement Allemand concernant les réclamations portugaises, 7/1922 (p. 3); BAB R 3301/2284: 44, Kastl to Litter, n.d. [~2/1921] 'kann … noch nicht £1000 betragen'.

129 GM was an abstraction based on the US$, 7/14:1$=4M; 5/21: 1$=60M *Felix* 1971: 173.

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1923 rejected the claim of German profiteering from the inflation with equal zeal.[130]

The demand of two billion gold marks for the alleged violation of international law was only dealt with in passing by the German memorandum since according to its reasoning there was no violation of international law – except for the German attack on the Portuguese post Maziua in Mozambique for which reparations had been offered in 1914. Thus, the Germans wondered why Germany should be held liable to pay for troops being sent to southern Angola in 1914–15 when the Portuguese argued with the necessity to protect Angola's border. "The right to protect one's borders goes along with the obligation to bear the costs for such undertaking." Contrary to the Portuguese who wanted the Germans to pay for all arbitration fees, the Germans suggested that the arbitrator should decide on the cost bearing.

Also in their reading of § 4 and its application the Germans were (still) completely at odds with Magalhães. The discussion of one year before was repeated on an advanced legal level. The Germans underlined that the objective of this regulation was to merely designate reclamations of German properties within the territory of any Allied power – or the net proceeds of their liquidation. As a special provision, § 4 provided for amounts that may be charged "with payments of claims growing out of acts committed by … any German authority since July 31, 1914, and before that Allied or Associated Power entered into the war." The arbitrator "may assess" the amounts of such claims. An indication as to whether or how the claims can be considered as valid was provided neither by § 4 nor by any other disposition of the Treaty of Versailles. A neutral state's rights to reparation payments from a warring state should thus be defined according to "the principles of international law". For the assessment of its damages, Portugal, as a neutral state, according to the German point of view, did not deserve to be put in a legal position more advantageous than any other neutral state.

The Portuguese statement that the rules of international law are insufficient with regard to the disputed claims and should therefore be complemented by the arbitrator according to the "principles of equity" and analogies was categorically refuted: During an international arbitration proce-

130 *Feldman* 1997: 838, 1913 = 98; 1928 = 100; cf. *Köppen* 2014: 368; *Balderston* 2002; *Feldman et.al.* 1982; BAB R 1001/6636: 15-84, Duplique du Gvt Allemand, 3/23 (p. 11f.)

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dure only the rules of international law – customary and treaty law – could be applied, if not otherwise agreed in advance by both parties.[131] The German lawyers demanded the strict application of international law as they were convinced that according to its principles the Portuguese claims would prove to be mostly unjustified. They demanded that each act of the German authorities must be examined to be contrary to international law and that finally the contravening act must be causal for the claimed damage. In the dossiers the Portuguese had, according to the Germans, not adhered to these basic preconditions, e.g., the private claim for damages of a woman who fell into the hands of "the revolting natives" and was forced to become the chief's "mistress". An act not contrary to international law could not create a state's obligation to pay damages, except when international law specifically prescribes such payments. Even though Magalhães had stated that according to international law payments were due only for direct and not for indirect damages, he had not adhered to this principle, so the Germans argued. The "loss of business opportunity" or the refutation of "revolting natives" to pay taxes, for example, could – even if one assumes a causal relation between the "rebellion" and the frontier incidents in 1914 – barely be called direct damages. The Portuguese claimants, however, seemed to assume that the German participation in the war in itself qualified for the definition under § 4 of "acts committed by the German Government".

The German memorandum emphasized that § 4 regulates only the charging of German goods within Allied and Associated territory and enumerates the categories of claims in this regard. No regulation of the manner of payment had been included in this section. The arbitration award thus was to stipulate only the amount due for those claims and should not anticipate the execution of payments. The Germans also stressed that in the "system of the Treaty of Versailles" the German payments to the reparation commission have priority in order to pay for the debts caused by the Allied reparation claims. These reparation payments, however, would completely exhaust Germany's payment capacity.[132] In the Portuguese

131 However, in 1914, in the Luso-Dutch Arbitration Award (*Timor Case*), arbitrator C.E. Lardy considered facts also from 'the point of equity, which is important not to lose sight of in international relations', RIAA XI: 490-517 (508).

132 BAB R 1001/6635: 41; 44, Mémoire du Gouvernement Allemand, 7/1922. Besides the arbitration, Portugal participated in the reparation payments and deliveries as agreed in follow-up conferences. For example, in 1921 the Portuguese delegation in Paris requested the delivery of agricultural machines from Germany (PA Lissabon 188, DGL to AA; *Diário de*

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replique and in the German duplique both parties insisted on their points of view.

3.3.2 "History" as a Legal Argument – a Portuguese Claim

The Portuguese *Whitebook* presented in February 1919 to Foreign Secretary Arthur Balfour did not shy away from making reference to the rhetoric of "Portugal's glorious (overseas) past" when it argued that with sufficient reparation payments from Germany, Portugal would be enabled to fulfill its "colonial mission". Egas Moniz' delegation pointed to the "beautiful republic of Brazil, the blossoming Portuguese colonies in the United States (California and Massachusetts), and the colonies São Thomé and Principé and Zambesi" to prove the "civilizational" achievements of Portugal around the world.[133]

When he included historical arguments in the legal dispute, Magalhães, in his memoranda of 1921 and 1923, chose a strategy different from this grand imperial narrative. As a member of the Portuguese delegation in Paris he must have become aware of the reputation of Portugal's colonies as "the worst administered territories in Africa."[134] He thus focused not on Portuguese, but on German history. When the arbitration case was in a way a continuation of the war by other means, then 'history' – not law – became its foremost weapon. This, however, meant that "the past" was seen through the necessities of "the present" in order to support an argument and win the case; similar to Portugal's previous arbitration cases in which historical claims played a paramount role. "[M]ethodological concerns" for dealing with the past could not be expected. In the inter-war era,

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Notíçias, 19.5.21). After the conference at Spa, Afonso Costa listed the 'economic gains' obtained and to be expected from the war: next to German Navy ships and the liquidations acc. to § 4 (in the future), '0.75% of half the amount paid by the Germans and another [0,]75% of what is paid by other enemies.' (quot. NARA RG 84, Lisbon, v. 175:800, USML to SoS, 16.4.21) However, all this 'fell far short of what Costa had announced previously he was willing to countenance as a minimum [first he claimed 8%, then 2,5%].' In the end, 'very little money ever materialized' (*Meneses* 2010: 136;140;143). The German Minister in Lisbon assumed that Portugal received in 1922 and 1923 reparations of ~ £500,000 p.a. (BAB R 3301/2284: 177, AA to RMW, 20.3.23); *Santos* 1978: 242f.

133 BAB R 1001/6634: 26, Port. Memo, 17.2.19: 296; cf. *Jerónimo* 2009; *Silva* 2007: 411.

134 *Smith* 1974: 658.

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this was certainly a permissible strategy, since, "[f]rom the outset, [international law's] self-understanding was historically informed."[135]

When he put German history on trial, Magalhães used a two-part approach in this section of the memorandum. First, he laid out Germany's quest for world hegemony, and second, he explained in great detail sinister motives and German acts in preparation of the annexation of Angola from 1898 to 1918. The German councilors considered this strategy rather disturbing. In their counter-memorandum they explicitly pointed out that more than 40 pages (out of 106) of the memorandum were reserved for such "violent and injurious attacks" that had but one goal: to create an "unfavorable impression of Germany" (a claim, the Portuguese replique denied).

Detailing the alleged plans of German world hegemony before 1914, Magalhães started with a bold statement: the war did not come as a "surprise" to those who "had followed European politics since 1870" and who knew the "German aspirations" to rule the world. He backed up this argument with a plethora of names not only of politicians, but also of "poets, philosophers, and scientists" who had "nurtured in the Germans the belief in their own superiority (Goethe, Schiller, Humboldt, Giesebrecht, Chamberlain and many others)", and who had created "a cult of force… (Karl Marx, Wagner, Arndt, Hegel, Nietzsche etc.)". Magalhães' historico-philosophical commencement of his memorandum resonated with a discourse throughout Europe during the war. The Portuguese (academic) elite made use of it already at the beginning of the war in the above-mentioned "protest" written after the destruction of Reims. Teófilo Braga, a professor (in modern literature)-turned-politician, and his followers argued:

> "Germany is a typical example of moral madness, characterized by its megalomania and its criminal tendencies, aggravated by its irrepressible lack of scruples. Tacitus noted that the Germans attacked without reason. … And, as if the atavistic impulses that make Germany a permanent international threat are not enough, there are some philosophers who proclaim the immoral doctrine that success is the law: some of these scholars, through schooling, have promoted the selfish principle that the entire world should be subordinated to this nefarious empire; many of its politicians advocate the corrosive motto 'Might is Right', while many of its military writers hold the view, without the

135 Cf. *Jones* 1990: 79 who analyzed similar strategies of using the past in colonial Africa. On lawyers dealing with the past *Galindo* 2012: 101; *Koskenniemi* 2004: 61; cf. *RIAA* XI: 590.

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> least foundation, that their reason for being i[s] the complete annihilation of enemy states."[136]

Also elsewhere the question was raised whether German idealism as the leading philosophical movement in Germany would consider "atrocities and rigor necessary in order to get on (*um vorwärts zu kommen*) or would be ethically justified". Professor of International Law Franz von Liszt (1851–1919), when faced with this question by the *Svenska Dagbladet*, resolutely responded that German idealism would not justify atrocities and rigor, "except in case of self-defense". Indeed, most Germans "were convinced they were waging a war of defense", as Foreign Minister Brockdorff-Rantzau in May 1919 tried in vain to explain to the Allied delegates assembled at Versailles.[137]

Philosophical and historical justifications of German aggressive warfare were looked for by European commentators most of all in the writings of historian Heinrich von Treitschke (1834–1896) and his disciples. Émile Hinzelin in his *1914, Histoire Illustrée de la Guerre du Droit*, written during the war, pointed to a long line of continuity from Treitschke's justifications of the war in 1870 or the aggressive attitude of Chancellor Bismarck to the current conflict. According to Hinzelin and many other French and British authors, Treitschke personified the German conviction that war would permit everything; he had established *a code de la barbarie mystique*. Magalhães could take up this line of thought about the origins of German aggressions when he, like others before him, underlined the relevance of General Friedrich von Bernhardi's *Deutschland und der Nächste Krieg* (1912) for the German public opinion and an alleged consensus among German military thinkers that "war as an act of violence" could have no limits.[138] In Magalhães' memoranda, but also later during testimonies, allusions were made to the aggressive tone that permeated speeches of the *Kaiser* or politicians and German literature. The Luso-German arbitration is yet another example that Bernhardi's "writings have played such an uncommon prominent role in the war guilt debate". Bernhardi's book

136 O protesto de Portugal contra os vandalismos alemães, entregue aos senhores ministros da Bélgica e da França em 4 de Outubro de 1914, Lisboa 1914, transl. www.cphrc.org/index.php/ documents/firstrepublic/463-1914-10-04-german-vandals [14.10.2014].

137 Liszt in *Fetscher* 2003: 242; Brockd. in *McElligott* 2014: 41; *Scott* 1920: 43; *Hull* 2014: 9f.

138 Quot. in *Fetscher* 2003: 246; cf. *Fischer* 1967: 31; *Gerhards* 2013: 140-69; 270.

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> *Germany and the Next War* "became a best seller and a political disaster. … no other book ever did so much harm to the reputation of the German General Staff. The fact that it was written in a purely private capacity by an outsider not in the General Staff's good grace was completely ignored. It was cited on countless occasions as proof that the German General Staff was systematically fostering war, with the aim of making Germany the principal power in the world."[139]

Regarding Germany's quest for colonial hegemony since 1884, Magalhães tried to show how Portugal became a "victim" of the "late-comer". The "traditional fears among [Portugal's] educated groups" ("at times bordering on mania") were present in one way or another throughout his memoranda: loss of the African colonies and loss of Portugal's independence. According to Magalhães, Germany's colonial expansion was inextricably linked to aggression against Portuguese colonial possession. The history of GSWA served as an apposite example which Magalhães quoted directly from the bestseller *A expansão alemã – causas determinantes da guerra de 1914–1918* (1919) by General José Morais Sarmento (1843–1930). He concentrated his narration on Africa:[140] what had been a small harbor post (*Faktorei*) in Angra Pequeña (Lüderitzbucht) developed within two years into a huge colony that infringed upon Portuguese sovereignty north of Cape Frio, Angola's southern border until 1886. After the defeat of the Afrikaaner republics in 1902 the dream of a Germanic Southern Africa and aspirations for a link between GSWA and Transvaal vanished. However, an even greater scheme was soon ventured about: a link between GSWA and GEA by annexing Portuguese Angola and Belgian Congo. Smaller nations became the "preferred victims of an insatiable [German] hunger" for colonial expansion. Germany's disrespect for Portugal became evident in the Anglo-German conventions of 1898 and 1913 on the partition of Portugal's colonies (Magalhães was eager to state that Britain was "forced" into these treaties). This policy was accompanied by a German propaganda campaign amongst "the natives of Angola" against Portugal's sovereignty as well as by economic, scientific, and missionary penetration of this colony and by propaganda against the Portuguese colonial administration in European journals. Magalhães cited ample material from German publications demanding the execution of the Anglo-German convention of 1898 and declaring that Portugal, "a nation of mulattoes" and "a

139 *Ritter* 1970: 112; cf. *Hull* 2008: 370 on contemporary critics of German military ideology.
140 *Wheeler* 1978: 18; 177 on Sarmento.

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decomposing state", had lost "her historical rights" to colonize. The announcements of Heinrich Ziegler's *Angola Bund* about Angola (the harbor of Tiger Bay in particular) as a "necessary compliment" to GSWA served equally as evidence of "Germany's appetite"[141] and its justification by a "might makes right" philosophy: "from exploration to annexation". The quintessence of all these announcement was, according to Magalhães, "force and nothing but force as *suprema ratio*". The Portuguese replique quoted extensively from João de Almeida's *Sul d'Angola* (1912) relating border infringements from GSWA. The explorations of southern Angola by the Study Commission led by Schubert and Vageler were in Magalhães's analysis nothing but military reconnaissance tours. Germany's economic and scientific undertakings in Angola in 1913 and 1914, most of all the railway schemes were meant to support the annexation. When neutral Belgium was invaded in August 1914, Portugal was thus forced to send troops to Angola and Mozambique to defend its neutrality and integrity. Consequently, Portugal was entitled to repayment of all costs for these expeditions, whose necessity was proven by the German incursions since August, before Portugal's troops arrived.

Overall, a "weakened Germany aimed to use history to discredit the legal underpinnings of the [T]reaty [of Versailles] by attacking the 'war guilt'." However, the German memorandum did not attribute great importance to history in general. In constructing a counter-narrative to Magalhães' historical argumentation, the German councilors focused their response mostly on "the facts" of what had happened in southern Angola in 1914. Here they went into great detail, whereas they intended to refute Germany's alleged plans for world hegemony before the war by merely pointing to the recent publications of diplomatic documents of the *Reich*. This, they argued, demonstrated Germany's willingness to transparently prove the "truth" about the underlying aims of its policies.[142]

The German lawyers called it an *idée absurde* to think that Germany, in the moment when she was faced with Europe's "most formidable" powers,

141 The story of Ziegler's *Angola Bund* had become widely reported in Allied newspapers across the globe, e.g. *Evening Post* (New Zealand), XCI/53, 3.3.1916: 7 'Portugal's Treaties'.

142 *Hull* 2014: 9; *Kraus* 2013: 95; *Schöllgen* 2010: 11. In 1920, the Main Archives of the Foreign Office were founded in order to organize and 'publish as soon as possible' the files of the FO from before the outbreak of the war. These publications, it was hoped, would show the 'truth' about Imperial Germany's foreign policy. In 'record time' almost 16.000 documents (1871–1914) were printed in 54 volumes until 1927; cf. *Stevenson* 2004: 434.

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would have attacked Portugal's colonies, although GSWA and GEA were themselves threatened by a superior British army and although Germany had never prepared for war in the colonies. According to the counter-memorandum the true motive for the sending of Portuguese forces was not the concern of German troops attacking Angola and Mozambique; rather to the contrary, the Portuguese forces were sent to be able to launch an attack on the German colonies. The Germans, as we will see, put particular emphasis on their claim that Portugal was never, in fact, neutral and all decisions to send troops to the colonies were made in Lisbon already before the border incidents. As to the assertions of plans for an economic penetration of the Portuguese colonies by Germany, the counter-memorandum argued that those activities had been welcomed by and were agreed on beforehand with Portugal's authorities. Schubert's mission was received in Lisbon by Prime Minister Machado and was under the "special protection of the Portuguese government". Two high-ranking Portuguese officers had been part of the expedition, who ensured that nothing was done against Portuguese interests. Undertakings such as railway construction in the south to open up Angola's "most important and most fertile parts" were most of all in Portugal's interest. Moreover, considering these rather historical questions, the Germans asked how the alleged political aim of annexation could form the basis for a legal obligation to pay the expenses of Portuguese forces being sent to Angola and Mozambique at the beginning of the World War.

However, arguments grounded in the past have been "omnipresent in international lawyer's discourse, in the making of their doctrine or in their statements before international courts." After all, history for the Portuguese or the German party remained "a mere tool in order to prove an argument or the existence of a certain state of affairs."[143] The Portuguese party aimed at presenting the dispute with Germany as a major international question (as part of reparation payments) that had deep historical components. The sociologism still dominating Portuguese legal thought around 1920 put a premium on the understanding of the historical evolution of legal problems or concepts. Methodologically, such evolution was laid out – as legal historian António Hespanha has described it – in an "impressionistic and literary" manner with multiple references to extra-ju-

143 *Galindo* 2012: 87 quot. *Craven* 2007: 6 and Gordon 1996: 124.

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ridical factors and not always bound by "the empire of the document".[144] Magalhães's memoranda are an apposite example of this broad understanding of legal reasoning that put the exegesis of precise norms not at the forefront of a lawyer's tasks.

3.3.3 Just War, Right of Self-Defense, Reprisals, and Anticipatory Attack

Political theory had developed over centuries a European "just war tradition" that required the fulfillment of several conditions for the legitimate resort to force: among them were just cause, right intention, proper authority and public declaration, last resort, probability of success, and, disputably, proportionality. These "traditional norms"[145] were, in one way or another, addressed in each of the memoranda. Both parties attempted to prove to arbitrator de Meuron that the "enemy" had launched in 1914 (or was about to launch) an aggression against the colonial borders; thus, self-defense was necessary and legitimate and gave a just cause to one's own resort to force.

The law of *bellum iustum* in a colonial context was usually referring to the legal titles justifying the conquest of "heathens" and their land. There was a "specific colonial international law". The Spanish naturalists had "provided highly convenient ideologies for the empire-builders of the sixteenth century"[146] And also later on, "[w]henever a chief decided to resist, the [Portuguese] intruders would find an excuse for declaring 'just war' against him".[147] When, however, European forces fought against each other in the colonies, the principles of the *droit public de l'Europe* were applicable. In the nineteenth century, with the fading of the 'just war' doctrine, this included the sovereign right to make war at will and to acquire title to territory by conquest. It was a heritage of the nineteenth-century that "the resort to force became unregulated and a sovereign right of States."[148] However, considering "international morality" resort to force

144 *Hespanha* 1981: 427f. but see his caveat at 434 'un profond respect…devant le droit positive.' Since 1914, Magalhães headed the Faculty of Social Sciences *and* Law at Lisbon University; on 'international legal method' *Kennedy* 1997: 131-4.

145 *Orend* 2000: 525f.; *Butler* 2003: 232.

146 *Grewe* 1982: 453 'besonderes KolonialvölkR'; *Schwarzenb.* 1962: 53; *Korman* 1996: 49.

147 *Viotti da Costa* 1985: 54 'The Portuguese could always find a theological justification'; 56.

148 *Gardam* 2004: 29; cf. *Becker Lorca* 2010: 495f.

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needed to be justified and self-defense was probably the most legitimate reason of all.[149]

§ 4 spoke of "acts committed" by the German authorities as the legal basis of Germany's liability, and the Portuguese memorandum's foremost argumentative goal was thus to prove that such illegal acts had been committed when Germany resorted to force. The German motives were laid out in Magalhães historical exposé describing German acts that aimed at the annexation of Angola. Aggressions against Portugal's sovereignty gave it the right of self-defense. In the analysis of Magalhães, Portugal's defense measures were acts of resistance to the Germans. Self-respect, national pride, and love for independence formed the baseline of this argument.

The Germans, on the other hand, argued that the Portuguese had not made a public declaration of war (calling themselves "neutral") although the positive stance towards and active support of British war efforts was unmistakable. Thus, German motives to resort to force were dictated by military necessity to defend GSWA against an enemy approaching from the north. This was all the more legitimate as it fell under the definition of a lawful reprisal. A large part of all four memoranda and the attached reports of witnesses were thus concerned with the events leading to the death of three Germans in Naulila and the battle in December 1914.

The Portuguese memorandum and the replique claimed that the troops from Portugal that had landed in September and October 1914 in southern Angola were tasked with the protection of the border against German attacks *and* with subduing the unruly "natives". In response, the German councilors admitted that Portugal had an "undeniable right" to protect its borders and to prevent the "natives" to rebel; but they wondered – as said before – why Germany should bear the costs for this. Furthermore, it would not have been to the detriment of Portugal's *dignité* if Governor Seitz had been informed about the troop movement near GSWA's border and its claimed rationale; especially since Governor General Norton de Matos had shortly before agreed to abstain from a campaign against the Kwanjama on request of Governor Seitz. The latter had even offered to Portugal German assistance against King Mandume at a later point in time. The Portuguese replique justified Norton de Matos' silence in 1914 with the assertion that Germany had instigated "the natives" against Portu-

149 *Korman* 1996: 61 on 'international morality' and connections to 'civilization' discourses.

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gal and he therefore did not want to inform the Germans of the countermeasures. The Germans called this an "unproven claim" and deemed Governor Seitz justified in his conclusion in October 1914 that the troops marching towards the border of GSWA were not targeting the Kwanyama. This conclusion, the Germans underlined, was also drawn by the Angolan press: the *Benguela Post* of October 1914 claimed the troops are destined to "assist England" and to "attack Damaraland [GSWA]". The Portuguese replique called this article the result of journalistic "fantasy" beyond the government's responsibility. The German duplique insisted with a view to the military situation in GSWA that the "indiscretion" of the *Benguela Post* was a realistic expression of convictions held in Angola. Since GSWA was under attack from an overwhelming British force coming from the south and the east and having the sea to the west, the only way to retreat was towards the north and, irrespective of its neutrality, "Portugal had to close the hole in the north." The Portuguese troops were thus not necessarily meant to "conquer" GSWA but to create a threat in the back of the German troops being in a precarious situation due to the British. This conclusion is supported, the Germans wrote, by the declaration of the state of emergency for southern Angola on September 12, 1914 that was targeting Germans and Afrikaaners with the prohibition of commercial transports but had barely any influence on the Kwanyama. Magalhães coolly justified this measure as a legal prerequisite for the requisition of food and means of transport for the recently arrived troops.

The Portuguese memorandum labeled Schultze-Jena's convoy as an "armed detachment … invading Portuguese territory", allegedly in search of a German deserter; resulting in "yet another violation of [Portugal's] sovereignty". The Germans had aimed at illegally transporting goods from Angola to GSWA and used the occasion for military reconnaissance. Quoting extensively from Roçada's report, Magalhães highlighted that in Fort Naulila Schultze-Jena had threatened the unarmed Sereno with his gun and therefore the latter acted legitimately in self-defense when he ordered his men to shoot. The German lawyers refuted the claims that Sereno was justified and that the German expedition to the Kunene constituted a violation of international law. They considered the incident and the battle of Naulila to be "cause and effect." The Portuguese critique that the German group at the border was too large and armed for not being understood as a threat, was countered with the argument that it was out of question to cross "tribal areas" for 300 kilometers alone and unarmed. Further, an official mission would require a certain apparatus to make its

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importance apparent. The repeated claim, Schultze-Jena had crossed into Portuguese territory was rebutted by stating he had done so upon the explicit invitation of a Portuguese officer. The German camp at Erickson Drift was, according to German maps, on German territory. After Schultze-Jena's death, Governor Seitz had repeatedly tried to inform his counterpart in Luanda, about the incident in Naulila by sending messages to all surrounding wireless stations, without, however, receiving any response. According to the German memorandum, Seitz concluded that the Portuguese "astonishing" silence could be understood as an approval of Sereno's act and that there is a state of war between Portugal and Germany, of which he could not be informed since connections to Germany were cut off. The authorities in GSWA therefore were entitled by international law to seek justice on their own when they ordered the destruction of the Kavango fortresses and, shortly later, Fort Naulila.

Referring to Lassa Oppenheim (International Law, 3rd ed, Vol.II, p. 44) the counter-memorandum defined reprisals as acts, in themselves contrary to international law, committed by one state against another state which are exceptionally permitted since the state committing the reprisal is seeking satisfaction for a previous act by the other state that was itself contrary to international law. Reprisals may include military force, as the Germans stressed, naming three examples of international practice: the sending of a warship to Venezuela by the Dutch Government as reprisal for the expulsion of the Dutch Minister (1908); the British military occupation of customs offices in Nicaragua (1895); and the French seizure of Ottoman customs office in Mitilini (1901) following unlawful acts of the Ottoman authorities against French nationals. As reprisals require a previous act violating international law, the Germans emphasized that it is the key question whether the Portuguese shooting of the Germans was a lawful act or whether it was contrary to international law and would therefore legitimize the subsequent German reprisal. Since reprisals are permitted by international law, no damages could be claimed from Germany.[150] Already in the German declaration of war to Portugal on March 9, 1916, the German government characterized the "measures" undertaken following the Naulila incident as "retaliation".[151] The Germans also claimed that the Portuguese expected a reprisal after the incident in Naulila, as the Por-

150 BAB R 1001/6635: 64f., Memo Al., 7/22; cf. *Gaurier* 2014: 698; *Kalshoven* 2005: 4; 33.
151 NARA RG 84, Lisbon, v. 156:700, USML to SoS, 13.3.16; Congresso Sess. 9, 10.3.16: 51.

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tuguese memorandum itself implied. It would have been therefore up to the Portuguese to approach Governor Seitz to rectify the situation diplomatically; even more so, since he had informed Norton de Matos via wireless message about the Naulila incident and the latter had received this message.

The Portuguese replique attempted to make clear that there was no legal basis for any "reprisals" since all prerequisites were missing: First, there was no prior violation of international law by the other state since Sereno did not breach international law but acted in self-defense. Second, there was no serious attempt to find an amicable solution. And third, asserting that Governor Seitz was not entitled to order a reprisal, there was no proper authority and no order for the reprisal by the state's government. And neither was the "massacre of Cuangar" a reprisal but vengeance for the Naulila incident. It was also not a surprise coup, since there was no previous declaration of war, but a treacherous raid.

However; there was no authoritative definition of "reprisal" under international law. The governmental conferences of 1874 (Brussels), 1899 and 1907 (The Hague) "refrained from … openly dealing with reprisals." Germany in particular had ensured that "reprisal was … not to be curbed by positive law." Rather, German jurists aimed at leaving the regulation of reprisals to "military usages". This "suggests how strongly Imperial Germany associated reprisal with punishment, rather than as a way to return a[n offending] state to following law." Given this state of affairs, the law professor T.J. Lawrence admitted in 1915 that reprisal "is used in a bewildering variety of senses". In fact, reprisals were an undeniable "reality" in state intercourse and they "constituted a recognized institution of international law". Thus, the parties in the 1920s were free to continue their debate on the characteristics of legitimate reprisals under international law.[152]

The German councilors insisted in their duplique that the battle of Naulila should be considered a lawful reprisal against previous Portuguese violations of international law. The order to resort to force was given by the Governor, the bearer of the public order in GSWA and representative of the Emperor. At the time he had no direct contact with his superiors in Berlin and was entitled to proceed with the reprisal according to interna-

152 *Kalshoven* 2005: 66f.; *Hull* 2014: 65; 276-8; 2010 357; T. Lawrence quot. in: *Darcy* 2015: 881; on the (disputed) relation b/w reprisal, punishment and revenge *ibd*: 882; *Tucker* 1972.

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tional law. While Magalhães emphasized that the "massacre of Cuangar" was not causally linked to the Naulila-incident but was carefully planned before, the Germans argued that the measures taken against Cuangar and the other Kavango fortresses proved to be insufficient to obtain "satisfaction" from Portugal and to release Jensen and Kimmel from captivity. They refuted that on October 29, 1914 the order to attack fort Naulila was given together with the order to attack the Portuguese forts along the lower Okavango River, when it was not yet clear whether the Portuguese would release Kimmel and Jensen. The Germans argued that colonial geography makes it commonsensical that when Ostermann had received the order on October 29, it must have been given in Windhoek days earlier, since from the town of Grootfontein to Ostermann's station Kuring Kuru only a courier could convey the message. The preparations for Franke's expedition, however, took several weeks and could have been ceased immediately in case the actions against the Portuguese forts along the Okavango River would have led to the Portuguese reactions desired by the Germans. The German duplique stressed that Major Franke's action in Naulila was necessary since the Portuguese, in December 1914, were *still* in breach of international law (holding Kimmel and Jensen captive). The acts of German self-help along the Okavango River had proved to be insufficient.

The decision to send Franke's expedition was based, according to the German lawyers, on Governor Seitz' conviction – given the Portuguese conduct and news from Angola – that Portugal and Germany were at war. Seven 'facts' spoke for Seitz' conviction: (1) the incident in Naulila; (2) the subsequent silence of the Governor General of Angola (neither a complaint about an alleged violation of Portuguese territory nor an apology for the shootings); (3) the incursions of Portuguese patrols into German territory; (4) reports from Angola (by du Plessis, whom the Portuguese considered a German spy) that the Afrikaaners were ordered to either hand in their weapons or fight against the Germans; (5) the refusal to permit postal shipments from and to GSWA via Angola, eventhough this would have been permissible for a neutral state; (6) the arrival of troops from Portugal in Moçâmedes *before* the incident; (7) these troops were currently marching towards GSWA. His colony was cut off from any connection to Europe, and Seitz believed – as he stated in his attached report – that he just could not be informed about the war with Portugal from Berlin. The German councilors thus implied – and attached German reports stated this openly – that the Portuguese had caused the German governor's error and

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did nothing to rectify the wrong impression about the alleged state of war. The silence of the administration in Luanda seemed to support Seitz' wrong impression. The consequences of this silence (the forceful "reprisals"), should therefore not give the Portuguese government a *pretexte* for reparation claims.

The Portuguese replique stated that there were no wireless stations in place in Angola and that the government in Lisbon would have to deal with the difficult situations and not the administration in Luanda. Pointing to the wireless equipment aboard the ships anchoring in Luanda's harbor, the Germans responded that had there been good will on the Portuguese side, the Naulila incident could have quickly solved amicably between the two colonial governments.

Given the possibility of contact between Luanda and Windhoek, the German memorandum argued that Seitz did not resort easily to war. Once the decision to dispatch a regiment to Naulila was reached, it took Franke's soldiers seven weeks to reach the Kunene, and negotiations could have been opened by Portuguese anytime. Thus, the sending of troops did not amount to aggression *per se* but was still a mere *threat* and the Portuguese were free to choose how to react – to ask for an apology or to fight. On the other hand, the German memorandum argued, in light of the eminent threat of a Luso-British pincer movement from South and North, the Governor of GSWA had to take swift preventive military action to ward of incursions quickly before all would have been lost. The German memorandum urged the arbitrator to take into consideration the wartime situation and the overwhelming nature of the British attack. GSWA had to be defended.

What the Germans tried to describe here – as a sort of subsidiary argument – can be referred to, in modern vernacular, as anticipatory attack – an attack thus irrespective of prior wrongs (as requirement for lawful reprisal) or the state of war (that would make superfluous the need to justify the resort to force). For centuries, questions of "prevention" and "preemption" have been discussed by just war theorists with inconclusive results; according to current international law, an anticipatory attack must be aimed at an imminent danger; it must be a threat which is concrete, not merely abstract. Three elements have been outlined that justify an anticipatory attack: First, there must be "a manifest intent to injure" (for example by recent threats). Second, "a degree of active preparation that makes the intent a positive danger" must be apparent (for example build-up of offensive forces along the border). Third, the situation must be one "in

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which waiting, or doing anything other than fighting, greatly magnifies the risk [of being attacked]."[153] According to these criteria, the attack on Naulila may well have qualified for the justifying adjective "anticipatory", if the assumptions of Seitz and Heydebreck were taken into consideration. Recent historiography also states the "*strafexpedition* [against Naulila] represents a good example of active defense on the part of the Germans."[154]

3.3.4 Proportionality and Necessity of Military Reprisals

When mentioning the term "reprisal" the German memorandum included a conception of what must be considered a "lawful" reprisal, which they themselves referred to as "proportionality". When discussing the battle of Naulila, the Germans rhetorically asked whether the alleged violation of international law committed by Sereno had been compensated or "repaired" by the subsequent German destructions of the Portuguese Kavango forts. The German memorandum postulated: "For that party which takes reprisals, doing nothing other than responding to an act contrary to international law by another act, it is evident that the harm caused by the latter act must be proportional to the harm caused by the former." The Germans even stated: one could think that the death of three German officers in Naulila and the loss of equipment may be "compensated by the death of nine Portuguese, eleven natives" and the destruction of the forts. This sounded like an echo of Lt.-Colonel Roçadas, who was said to have stated his surprise about the German attack on Naulila, since he believed that after the destruction of the Kavango forts both sides had "offset" their losses. However, the German memorandum argued that this was not the case: The Portuguese had acted in "bad faith", dishonored the inviolability of an envoy on official mission and illegally captured Jensen and Kimmel. By doing so, the Portuguese had violated the "national honor of Germany" and therefore the actions of Constable Ostermann could not be considered a "sufficient" reprisal. His platoon was too small to obtain the required "satisfaction" and the prisoners taken in Naulila were not released by the Portuguese. The Governor of GSWA had thus to resort to stronger mea-

153 *Orend* 2000: 539 cf. *Hull* 2014: 318; *Walzer* 1991: 74; *Reichberg* 2007: 5; 32; *Rodin* 2002; *Mitchell* 2001: 157; *Gazzini* 2005: 149.

154 *Cann* 2001: 162; cf. *Kelly* 2003: 22; on 'guerre conditionelle'cf. *Séfériadès* 1935: 163.

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sures and the actions of Major Franke were a continuation of the German reprisal that begun in Fort Cuangar in the legitimate attempt to end the violation of international law by Portugal.[155]

When speaking about "proportionality", German councilors used a term that formed one of the tenets of contemporary German (administrative) law, with a pedigree, however, that reached back to the origins of any notions of justice. Proportionality, as Aharon Barak explains, "is an embodiment of the notion of justice and can therefore be found in the image of Lady Justice holding scales." The requirement that punishment be proportional to the offense is an ancient one:

> "'an eye for an eye' was considered a measured response. In the Jewish religious sources we find the Golden Rule which says: 'That which is hateful to you, do not do to your fellow'. … The classical Greek notions of corrective justice (*iustitia vindicativa*) and distributive justice (*iustitia distributiva*) have also contributed to the development of proportionality as a rational concept. Early Roman law recognized the notion as well. …During the Middle Ages, the international law doctrine of 'Just War' made use of the term [proportionality]. According to the doctrine, there was a need to balance the overall utility of the war with the damage it may inflict."[156]

Also in contemporary international law the principle of proportionality had found its expression, even though it was never undisputed. The *Caroline Case* (1842), dealing with a military border incident between the US and British Canada, led to correspondence between American and British representatives that established formulations of necessity and proportionality still representing the "position under the United Nations Charter system". The American Secretary of State Daniel Webster (1782–1852) elaborated on the necessity of self-defense by requiring the British government to show a "necessity of self-defense, instant, overwhelming, leaving no

155 BAB R 1001/6635: 69, Memo Allem., 7/22 'le mal causé par le second de ces actes doit être proportionné au mal causé par le premier.'; cf. *Hull* 2014: 278; 288 'The Great War was disfigured by wave after wave of violent reprisals exercised with lethal stubbornness, particularly against prisoners of war.'; German officials already then debated about the 'use and proportion' of reprisals. The Germans explicitely resorted to measures of reprisals not only by acts of war. The Government-Gazette of 1915 published an addendum to the Prize-Order of 1909 and justified this as 'reprisal against England's' acts contrary to the London Declaration on the Laws of the Sea (26.2.1909): 'In Vergeltung der von England … abweichend von der Londoner Erklärung über das Seekriegsrecht vom 16.2. 1909 getroffenen Bestimmungen' wurde Grubenholz (Nr. 20 VO) zur 'absoluten Konterbande' erklärt (PA R 52535, Ax RGBl 1915, Nr. 49, VO betr. Abänderung der PrisenO 30.9.09).

156 *Barak* 2012: 175; 177; cf. *Nolte* 2010: 245; *Gardam* 2004: 32-8; *Butler* 2003: 232.

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choice of means, and no moment for deliberation." Webster continued by stipulating the requirements of proportionality: "It will be for it to show, also, that the local authorities of Canada, even supposing the necessity of the moment … did nothing unreasonable or excessive; since the act justified by that necessity of self-defense, must be limited by that necessity, and kept clearly within it."[157] However, as Judith Gardam stresses, with the wording found in the *Caroline* correspondence "the idea that the use of force must be both necessary and proportionate was by no means from then on established in the practice of states." Up to the First World War there were "no developed customary rules that limited the situations in which states could resort to force." Lassa Oppenheim, for example, whose *International Law* was quoted in the German memorandum for a definition of "reprisal", "deals with the necessity aspect of the *Caroline Incident* but does not mention proportionality."[158]

The concept of reprisals as a European legal institution developed to address denials of justice abroad. By the nineteenth century it was the case that "all reprisals are public reprisals taken by the State itself and any international wrong done to the State or its nationals is a just cause for reprisals." Doctrinal aspects developed over time to define legitimate reprisals, including the requirement "that the reprisal taker had previously attempted to obtain redress from the wrongdoer."[159] Thus, "one of the requirements of legitimate reprisals was that they be necessary in light of the failure of other methods to achieve satisfaction. Whether or not legitimate reprisals also had to be proportionate was a matter on which views differed." In the second half of the nineteenth century reprisals as state practice of a coercive nature "were of considerable significance", as the three cases referred to in the German memorandum show.[160]

It has been stated that historians of public international law should give "more regard … to internal divisions in the discipline, the way particular concepts or doctrines reflect national, cultural or political differences."[161] The contrasting treatment of the issue of proportionality in the competing Portuguese and German memoranda may give an example of such divisions in the discipline. The German lawyers did not adhere to the notion

157 Quot. *Gardam* 2004: 41; cf. *Somek* 2014: 110; *Vranes* 2009: 9; *Reichberg* 2007: 32 FN 88.
158 *Gardam* 2004: 42f. ref. *Oppenheim* 1906: 177-81; cf. *Kalshoven* 2005: 67; *Kelly* 2003: 25.
159 *Carter/Trimble/Bradley* 2003: 971 quoting H. Waldock 1952.
160 *Gardam* 2004: 31;46; cf. *Carnahan* 1998: 228; *Hull* 2014: 67-72; 2010: 353f. on necessity.
161 *Kosekenniemi* 2004: 65.

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that military actions would have to accept any kind of quantifiable limits (number of attacks, number of deaths or damages) in order to be permissible. In their understanding, "the state" was free to defend its sovereignty and honor, most of all during a war, be it formally declared or not. The Germans, when explicitly invoking the principle of proportionality and arguing that it was upheld during the attacks on Cuangar and Naulila, assumed two tenets to be self-explanatory: First, the context of the World War (the conceived threat of a Luso-British pincer movement) warranted acts of war (a sovereign state right) as an urgent necessity after attempts to contact the Governor General were turned down by the latter. "[M]ilitary necessity is sometimes characterized as the source of the requirement that warfare be proportionate."[162] And second, a punitive element of the attack was a legitimate part of the reprisal. The punitive, retaliatory aspect was highlighted repeatedly by Germans during the war. Even the German Minister in Lisbon, Dr. Rosen, spoke in 1915 of a "punitive expedition [that was] sent [to Naulila] to chastise the aggressors". The settlers in GSWA and the *Schutztruppe* used harsher terms and demanded "revenge" for the "murder of Naulila"[163]

Revenge and punishment, however, are supposed to be severe to be effective, as they are meant to lead to an intended result (apology, reparations etc. – here, punishment was considered a means to an end). The destruction of the Kavango forts achieved nothing in this respect. For the German councilors, a proportionate reprisal thus did not mean "an eye for an eye"; their guiding principle was "'tit for tat' instead of 'tat for tat'." And similar to the contemporary debates about the "Belgian atrocities", "[t]here is every reason to believe that Imperial Germany thought its actions legal, permissible, or at least excusable". The Germans "were affronted by charges of lawlessness", feeling dishonored by "being judged criminally. Yet", as historian Isabel V. Hull has stated recently, "Germany's legal counterarguments, its justifications and rationales, were often strikingly narrow and technical; they were somehow sharply lawyerly

162 *Gardam* 2004: 7 'One of its earliest formulations is contained in Article 13 of the Lieber Code, drawn up in 1863 during the Americ. Civil War: "Military necessity … consists of the necessity of those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war".'; cf. *Hull* 2014: 27; 276; *Neff* 2010: 64; *Carnahan* 1998: 215.

163 NARA RG 84, Lisbon, v. 152: 700, DGL to USML Birch, 22.6.15; *Suchier* 1918: 25; 63.

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without partaking in the gravity or principled sweep characteristic of law."[164]

It was exactly this "unique" understanding of the relation between international law and military necessity that caused so much anger among the Allies during the war. The "most renowned international lawyer of the day, France's Louis Renault" defined in 1917 as one of the "goal[s] of the present war … the destruction of the German theory that necessity justifies the violation of all the laws of war." The councilors of the Berlin Foreign Office were well aware of this resentment to the "latitudinarian views [on military necessity] current in Germany", but they continued also after the war to use this "uniquely robust doctrine" in their legal argumentation.[165] It was to be seen whether they would convince arbitrator de Meuron or whether he considered the German reprisal excessive.

3.3.5 Violence, Non-Combatant Immunity, and War Crimes

"After the war came the reckoning." Considering the horrifying atrocities committed during the war and the demand to hold the perpetrators accountable, the question of postwar (punitive) justice was an international issue (during and) after the World War I. In Constantinople, a military tribunal was charged in December 1918 with investigating and prosecuting politicians and military leaders involved in the Armenian genocide. In the Treaty of Versailles, the German Government "recognize[d] the right of the Allied … Powers to bring before military tribunals persons accused of having committed acts in violation of the laws and customs of war" (Article 228). In 1919 and 1920, Germans accused of such deeds were awaiting their trial in Britain, France, and Belgium. "Reflecting the hold of international law on definitions of 'atrociousness', the Allies were determined to charge the enemy legally for its transgressions."[166] However, the extradition of alleged German war criminals did not take place. While the Allies had originally intended to try 896 individuals, the German government convinced the Allies that the Supreme Court (*Reichsgericht*) in Leipzig

164 *Häußler/Trotha* 2012: 63 consider it characteristic for retaliations (*Vergeltungsmaßnahmen*) that they are stronger than the original attack; *Hull* 2014: 58; 331; cf. *Stephan* 1998.

165 *Hull* 2014: 329; 1f. quot. Renault 1917; ix; 25; on German debates *Toppe* 2007.

166 *Horne* 2014: 582; cf. *Dadrian/Akçam* 2011; *Felman* 2002: 16; *Hull* 2014: 312f.; *Ziemann* 2013: 56; *Horne /Kramer* 2001; *Kramer* 2007; 1993; *Scott* 1920: 150.

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would indict the men for war crimes. From 1921 to 1927 ten verdicts were published (four acquittals and six indictments), all other cases were dropped.[167]

This context stood in the background when both parties to the Luso-German arbitration related the fate of their soldiers in the African theater of war. In addition, the *situation coloniale* had a major imprint not only on the way battles were fought, but also in the way lawyers talked about military engagements in the colonies.

Death was a constant element of colonialism. It figured high among the *dramatis personæ* in the power games of European imperialists. The recognition of an intimate link between colonialism and violence has developed into a historiographic tenet over the last decades. A treatise on colonial questions could barely be imagined without mentioning the violence of settlers and soldiers.[168] Contemporaries were aware of this connection too. Some deplored it, others took it for granted and did not attempt to pussyfoot around. In Portugal and in Germany, as elsewhere in Europe, based on "white race superiority, the premise asserting that the conquest and exploitation of African territories and people were totally legitimate was widely accepted." In the age of empire, "international lawyers shared a sense of the inevitability of the modernizing process".[169] However, after July 1914 brutalities committed by the European "enemy" in the colonies suddenly became a source of condemnation. Relations between the enemies were poisoned by reciprocal accusations of atrocities committed in Africa. In October 1914, the British started to interview Africans in Cameroon and to collect "reports" and "evidence", "all indicating that cruelty … has been shown to the native inhabitants by the Germans". Evidence was forwarded to London of the use of "expanding bullets" "which is contrary to the provisions of the Hague Convention."[170] In August 1914, when the cruelties committed by Germans in Belgium had begun to make headlines, Germans in Togo were accused of using dum-dum bullets and arming Africans they would not control. Germans responded with similar charges of barbaric acts committed by French troops. When France and Britain started to employ troops from Africa, India, and

167 PA Lissabon 176, Millerand to Lersner; Note, 3.2.20; At. Gen. to MoJ, 21.5.20; *Scott* 1920: 159: *Bass* 2000; *Hankel* 2003; *Wiggenhorn* 2005; *Gomes* 2010:33; *Kraus* 2013: 38.

168 *Pélissier* 1979: 9; cf. *Osterhammel* 2011: 531f; 697-701; *Simo* 2005: 110.

169 *Corrado* 2008: 66; *Koskenniemi* 2001: 109; cf. *Hull* 2005: 332.

170 TNA FO 371/1883: 459, General Dobell to CO, L. Harcourt, 28.10.14.

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Indochina in Europe, both were condemned by German propaganda "for betraying the white race". Throughout the war, the conscription of the "colored mob" (*farbiges Gesindel*) remained in the focus of the German propaganda.[171] According to historian Marc Michel, of all the grievances the heaviest burden also for the future was the claim of having humiliated the "white" adversary by exposing "white" prisoners of war to the "brutalities and mockeries" of "black" guards.[172]

The Luso-German arbitration was about the payment of damages, not about war crimes and criminals. No soldiers faced the threat of being imprisoned for crimes he had committed in southern Angola. The legal procedure left no room for the analysis of individual suffering during and after the acts of war. Especially from the Portuguese side almost only high-ranking officials were invited to write reports to be attached to Magalhães' memoranda and to speak during the testimonies. Violence was seen here as having caused financial damages and as an infringement of national honor. "[Only i]n the wake of Nuremberg [1945/6], the law was challenged to address the causes and consequences of historical traumas."[173] But still, the former war enemies accused each other of war crimes.

Magalhães referred to German atrocities in Europe, thereby creating an argumentative link to the debate in Europe during the war about German disrespect for international law and barbarism and thus making more credible the brutalities in Africa. He accused the Germans of having indiscriminately shot civilians during the "massacre of Cuangar" (including a trader and his son). However, the legal concept that "there should be a distinction between civilians and combatants in armed conflict… was [still] of a very general nature". Before the World War "there was as yet no suggestion of any legal requirements to protect civilians from the impact of armed conflict, although contemporary commentators talked … of the ille-

171 *Klotz* 2005: 139; cf. *Koller* 2001; 2002; *Hull* 2014: 53; *Close* 1916 POW in GSWA.

172 *Michel* 2004: 927. Asked by a journalist about German intentions to 'force German *Kultur* upon the world' novelist Thomas Mann responded in late 1914 with a drawing of a 'Senegal negro guarding German POWs … gurgling "One should butcher them. They are barbarians".' This discourse of shame would be reiterated on a national scale in Germany, when Africans were among the French troops occupying the Rhineland in 1921 causing the campaign against the 'Black Horror on the Rhine' (*schwarze Schmach*). Th. Mann: An die Redaktion des *Svenska Dagbladet*, in *Fetscher* 2003: 241; cf. *Ciarlo* 2011: 317: *Kolb* 2011: 97; *Poley* 2005: 163f.

173 *Felman* 2002: 1; on the question of soldiers' testimony of war *Hewitson* 2010.

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gitimacy of wanton and disproportionate warfare."[174] German ruthlessness was further underlined by claiming the use of dum-dum bullets during the raid and the killing of wounded soldiers point blank.[175] "Natives" were allegedly instigated by the Germans and supported them brutally against the Portuguese.

The German councilors expressed their regret about the 22 men killed in Cuangar, but rejected the Portuguese characterization of a "massacre". They insisted that the Portuguese soldiers were not treacherously murdered but died in open combat. Portuguese soldiers were shot dead, as the German memorandum insisted, with their guns in hand. "Surprise" constitutes a legitimate element of military attacks. The heavy Portuguese losses were, according to the Germans, due to the "incoherence of the Portuguese defense". The Portuguese soldiers were allegedly not prepared to defend the fort, but instead of surrendering to the German attackers, they attempted on an individual basis to take up their arms.

Further, the German memoranda provided a *tu quoque* response – a rather weak response to an accusation, since it can never refute the accusation. The German councilors tried to point out that the Portuguese had violated the laws of war in multiple ways. They sought to show first that the "murder" of the "envoy on official mission" Schultze-Jena and his party was a manifest violation of international law, and that during the battle of Naulila the German soldiers were, contrary to what had been maintained by Magalhães, far outnumbered by the Portuguese. The latter had equipped Africans with guns to be used against German attackers. The Portuguese accusations of German war crimes were countered by clarifying that indeed seven Africans were hanged after the battle since they had allegedly continued to shoot at the Germans after the Portuguese had surrendered. When they were caught, these men were not wearing any uniforms or other signs of their Portuguese affiliation. They were "men of neighboring tribes" equipped by the Portuguese with guns to enlarge their

174 *Gardam* 2004: 29; 53; cf. *Gallo* 2013: 259; *Cramer* 1991: 85f.; *Hull* 2005: 320.

175 Cpt. Trainer's letter to Roçadas of December 18, 1914 demanded to commence negotiations immediately and threatened that all Africans carrying weapons would be hanged; Europeans carrying dum-dum bullets would be shot (*Varão* 1934: 59f.). Portugal had *not* signed the Hague declaration of 1899 on the prohibition of dum-dum bullets, together with Great Britain and the United States. 'The Germans during the First World War repeatedly raised the accusation that the British Army was using Dumdum bullets … the accusation could never be proven.' *Gross* Art. ‚Dumdum Bullets' in *Hirschfeld et.al.* 2012: 481; cf. Hull 2014: 281; *Koller* 2001: 103; *Walter* 2014: 156.

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firepower. The German councilors pointed out that this Portuguese strategy of involving civilians violated the laws of war as agreed to also by Portugal in the Hague, stipulating that militias would have to bear signs of their affiliation and would have to observe the laws of war. The German troops were, so the German councilors, entitled to punish the men who had violated international law. Magalhães, on the other hand, argued factually by asserting that all Africans hanged by the Germans after a court-martial were neither loin-cloth wearing warriors nor in breach of international law, but regular Mozambican soldiers in uniform who had faithfully fulfilled their duty when they shot at German soldiers from the trees.

Another German accusation against Portuguese troops in Naulila was the abuse of the white flag that the Germans understood as a sign of surrender; whereas the Portuguese continued to shoot at them. Later, during the testimonies in Lisbon, General Roçadas stated that he had not given the order to hoist a white flag, since he had no intention to surrender. He had given an order to retreat. Major Aragão, however, explained that the white flag hoisted (a handkerchief) concerned only the 90 men under Lieutenant Marques who had been surrounded by Germans.

Both parties argued that "the enemy" had not adhered to the military rules of de-escalation after the cessation of hostilities. The Germans claimed that Portuguese soldiers had continued to fire after the white flag was shown and auxiliary troops had shot after their officers had already capitulated. The Portuguese, in contrast, accused the Germans of having targeted medical services and to have beaten Portuguese soldiers after the storming of the fort. Brutalities of soldiers were justified by both parties with reference to the threat posed by the foe. In the heat of the battle the soldiers had done their duty by defending themselves and advancing against the enemy. They were depicted as victims of the other side – an argumentative strategy that grew into an outright "victim myth". The hierarchical command structure of the military excluded any personal responsibility.[176]

176 Cf. *Kühne/Ziemann* 2000: 27f. 'the victim myth transforms … aggression in defense'.

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3.3.6 Portugal's Neutrality – a German Claim

International law stood as the "basis" of the Treaty of Versailles and of "each individual article". Considering the ongoing arbitration procedures initiated by the Treaty, the lawyer H. Isay reasoned in 1923 that it has become "obvious that international law is Germany's most powerful pillar and weapon in the battle for reconstruction. …Today, faith in Germany's continuity as a state… can be based only on the faith in the power of international law."[177] § 4 was thus first and foremost to be read in light of the doctrines of international law and this included the definition of the period of its own competence: "since July 31, 1914, and before that Allied or Associated Power entered into the war." The framers of § 4 did not use the term *neutralité*; nevertheless, this is what this section was all about: claims for damages during neutrality (*Neutralitätsschäden*). The Portuguese were thus eager to underline that they did not "enter into the war", but stayed neutral until Germany's declaration of war on March 9, 1916.

As we have seen, already in 1915 Foreign Minister "Soares [was aware of] the breaches of neutrality committed by Portugal in virtue of her alliance with Great Britain" and "His Majesty's Government fully recognised these facts". But in 1920, Afonso Costa during a financial conference in Brussels lashed out at the German delegates, accusing "Germany of having caused the country's deficits and expenses, which so burden its present situation, through its treacherous attacks against the Portuguese in Africa before any declaration of war."[178] The German memoranda, on the other hand, maintained that the Portuguese government was since 1914 constantly in breach of neutrality.

Before the outbreak of the World War, the term "neutrality" had already acquired a status in international law doctrine that few other terms would ever reach. Rights and duties of states declaring their "neutrality" during a war were codified in international treaties (1907 The Hague; 1909 London), the elaboration of which had developed into an important

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177 *Isay* 1923: iii, VölkR als 'Grundlage…des VV als Ganze[m und] seiner Einzelbestimmungen'. The *German-American Mixed Claims Commission* agreed to base its decision on 'general principles of law recognized by civilized nations, and, subsidiarily, on Rules of Law common to the US and Germany established by either statutes or judicial decisions.' As in previous and later memoranda in interstate disputes (*Bothe* 1976: 292; 283), arguments based on comparative legal analysis of municipal legal systems were made by the Portuguese and German representatives.

178 AHD 3p ar.7m48, BML to MNE, 27.10.15; *Dia.de Notíç.*, 18.10.20 in *Meneses* 2010: 138.

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field among academics of international law. During and after the war "neutrality" had become a key term in the (legal) disputes, since the war "begun with an international crime: Germany's violation of Belgian neutrality." The Allies, on the other hand, had occupied the German colonies.[179]

The neutrality of European overseas possession has been a disputed legal (and military) question that dates back at least to the seventeenth century. European powers repeatedly signed treaties that were supposed to ensure that wars in Europe did not spill over to the Americas, Asia, or Africa. However, European armies attacked each other outside the European theater of wars throughout the seventeenth and eighteenth century, the Dutch "occupation" of Angola in 1641 during the Thirty Years' War being an example. With the onset of the scramble of Africa, the members of the Berlin Congo Conference (1885) were aware of the risk of future (European) wars in Africa. However, they could not agree on a formally guaranteed neutrality of the Congo basin (that excluded GSWA). Especially France and Portugal were concerned about this limitation of state sovereignty (to wage war). The resulting Article 11 stipulated "that the territories … may be, with the common consent of this Power and of the other party or parties belligerent, placed for the duration of the war under the regime of neutrality and considered as belonging to a non-belligerent State". Thus, the powers were entitled but not obliged to jointly declare as "neutral" their territories in the Congo basin.[180]

At the beginning of the war, the authorities of Belgian Congo expressed their "desire … that Congo maintain its neutrality during the present conflict in Europe". However, the "French government denies absolutely to the Germans the advantage of the General Act of Berlin, 1885." In early August, French troops blockaded those parts of the Congo River that had been ceded in 1912 to German Cameroon and seized several German border posts. German troops tried to occupy French and Belgian territory in the upper Congo region.[181] The British government also decided that it was "not practical politics to treat any of the German possessions in Africa

179 *Hull* 2014: 16; cf. *Neff* 2000; *Delaunay* 2004: 858; *Poincaré* 1929: 529; *Gaurier* 2014: 855 on 'les limites des règles applicables à la neutralité et leurs lacunes'.

180 *Fisch* 1984: 99; cf. *Walter* 2014: 107; *Bührer* 2011: 359; Klöckner in: *Kolonialkriegerbund* 1924: 58; *Reeves* 1909: 115: 'The neutralization [of the Congo basin] was not compulsory or imposed upon the territories within the zone, but it was voluntary'.

181 NARA RG 84, Boma, v. 18, 718, USC Boma to SoS, 8.8.; 820, 14.8.; 16.9.14.

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as neutral." In September 1914 the Germans requested the neutralization of African colonies, but considering the already ongoing campaigns the Allies turned down this suggestion. At this point in time the neutrality of Portugal was already questioned by the administration in Windhoek. As we have seen, the Portuguese government affirmed on August 7 in parliament that Portugal continues to observe its obligations from the alliance with Great Britain. A formal declaration of neutrality was never given and during the war the British acknowledged that "Portugal ha[d] invariably shown from the outbreak of hostilities complete devotion to her ancient ally."[182]

While the Portuguese memoranda maintained that Governor Seitz knew from wireless messages that Portugal was neutral, the German councilors, referring to the annexed report of the former head of Windhoek's wireless station, argued that there had been no contact with Berlin any longer since the destruction of the stations Daressalam in GEA (August 8) and Kamina in Togo (August 27). The Windhoek station was not designed to directly contact the station Nauen near Berlin. On August 9, 1914 Windhoek received via Kamina the message: "Until now we are not at war with Portugal." However, given the news about troop movement towards the border with GSWA and alleged incursions, this may have changed. It was one of the objectives of Schultze-Jena's mission to clarify Portugal's neutrality.

In the same vein, the German memorandum rejected Magalhães' characterization of Schultze-Jena as smuggler (*contrebandier*). Instead, the official had intended to ask for a Portuguese permission to purchase the goods from Angola. Irrespective of an alleged prohibition of exports from Angola (of which Schultze-Jena was not aware), the German councilors were eager to stress that such procurement in a neutral state would have been in line with the provision of the V. Hague-Convention respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land. Furthermore, the German memorandum continued, Article 32 of the Annex to the IV. Hague-Convention respecting the Laws and Customs of War on Land (1907), guarantees to the parlementaire inviolability. Al-

182 *Samson* 2006: 633f.; 2013: 30; AHD 3p ar.7 m 48, BML to MNE, 17.2.16; *Teixeira* 1998: 187-210 on Portugal's 'ambiguous' neutrality. Portugal's neutrality had also in previous situations favored GB. The support granted to the British in Mozambique during the South African War 1900-02 was not only pivotal against war efforts of the Afrikaaner. By permitting British troops to pass its territories, Lisbon aimed at strengthening the ties with London in order to obtain 'the guarantee of the integrity of Portugal's African empire.' *Pélissier* 2000: 575 quot. Costa, F.: Portugal e a Guerra Anglo-Boer, Lisbon 1998: 6.

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though the two countries were not at war and Portugal was allegedly neutral in 1914, the rules concerning parlementaires would have to be applied analogously. The fact that Schultze-Jena, being on a special mission as representative of the Governor of GSWA, did not wave a white flag could not count against him being an envoy since he was entering Portuguese territory upon Sereno's invitation. Furthermore, the telegrams sent to and from the district officer of Humbe about negotiations with Schultze-Jena, as quoted in the Portuguese memorandum, indicated according to the German councilors that Schultze-Jena was considered an envoy. The Portuguese memorandum stipulated itself motives for the Germans coming to the Kunene River: negotiating with the head of district in Lubango, receiving news/telegrams about the war in Europe, and asking permission to purchase foodstuff. Those motives were, according to the German memorandum, in line with Articles 7 and 8 of the V. Hague-Convention: "A neutral Power is not called upon to prevent the export or transport, on behalf of one or other of the belligerents, of arms, munitions of war, or, in general, of anything which can be of use to an army". Nor was there an obligation to prevent them to use telegraphs. Portugal, as a neutral state, was entitled to permit the food deliveries or the usage of telegraphs; and the question of such permission or refusal was to be negotiated between Schultze-Jena and a Portuguese official.

The German councilors followed a twofold, at times contradictory, approach, accusing Portugal of breach of the laws of neutrality and at the same time, explaining that Portugal had, in fact, never been neutral. While Magalhães was eager to reduce this discussion to its formal aspects, emphasizing Portugal's neutrality in 1914 (the formal basis of any claims under § 4) by pointing out that neither side had issued a declaration of war, the German memorandum presented the arbitrator with a rationalization of Portugal's motives for the decision not to enter into the war. Allegedly, the Portuguese merely waited for a favorable moment. In a report attached to the memorandum, one witness pointed out that neither after the destruction of Cuangar nor after the battle of Naulila, Portugal declared war on Germany. He therefore assumed that Portugal felt "guilty".[183] The true attitude of Portugal towards Germany, according to German perception, would become clear when reading the Portuguese *Whitebook* presented at Versailles in 1919, excerpts of which were attached to the German memo-

183 BAB R 1001/6634: 93, Report A. Schubert, Ax 1 Memo All., 23.5.22 'fühlt sich schuldig'.

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randum. There, Portuguese Ministers were quoted as having repeatedly confirmed the alliance with Great Britain; even negotiations about the delivery of guns to France in September 1914 were mentioned as well as the permissions given to British ships to use Portuguese harbors or British troops to cross Portuguese (colonial) territories. Therefore, the German councilors assumed that a close reading of the *Whitebook* allows but for one conclusion: that Portugal had, from the beginning of the hostilities, aimed at supporting Great Britain and that Portugal was eager to immediately enter the war on the British side. The Portuguese neutrality should thus be considered a pretext to support Allied war efforts. This impression was allegedly confirmed by Egas Moniz' *Um ano de Politica*. He stated in his book that "Portugal had never been a neutral state. We had always been on the side of England and never declared our neutrality."[184] A translation of the relevant pages of this book was annexed to the German memorandum of 1922.

Given the Portuguese additional claim of 2 billion GM for Germany's infringement of international law and violation of Portuguese sovereignty the German duplique of 1923 left it to the arbiter to "examine" the Portuguese attitude towards Germany before the formal state of war was declared in 1916, an attitude that was in contradiction with the stated "neutrality". Only in consideration of this (adversarial) attitude the subsequent Germans measures, called an "infringement of sovereignty", could be understood.

This dispute underlines what Jan H. Verzijl later stated about the term "neutral": It "is in fact itself a neutral term in the sense that it lacks, even in the legal field, a well-defined meaning and has many connotations." From a political perspective the issue was considered less ambiguous – at least from a British perspective: a certain sense of gratitude for Portugal's handling of its neutrality was perceptible. Still in 1927, the British Foreign Office was well aware of the importance of Portugal's 'specific' neutrality to Britain: Had the Portuguese "been neutral in the sense that the Sweds were neutral" the situation in 1914 would have been "more dangerous and difficult" and this "might indeed have cost Britain the war."[185]

184 BAB R 1001/6634: 24, excerpt (German transl.) Moniz: Um ano de politica, 1919: 257f.
185 *Verzijl* 1979: 12; *Stone* 1975: 733.

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3.3.7 Discourses of Honor and Dishonor

On March 9, 1916, after German ships anchoring in Portuguese ports were requisitioned (on British request), Germany declared war on Portugal. Next to the requisitions, several instances of "violations of neutrality" by Portugal were mentioned in the declaration of war: Passage of British troops across Mozambique were tolerated four times; while "British war ships were permitted to remain for a long period in Portuguese ports", German ships could not even load coal in Portuguese harbors; Portuguese weapons were delivered to the British, who could also "use Madeira as a naval station". "Besides this, expeditions were sent to Africa with the openly avowed purpose to fight against Germany."[186] Portugal's Foreign Minister Augusto Soares "emphatically repudiate[d] the accusation" that Portugal would be in breach of neutrality: "no one in this matter should suspect us of dissimulation or treachery, incompatible with our honor."[187]

Such rhetoric of "honor" permeated the argumentation also during the arbitration procedure. The notion of "honor" – even though its meaning was never spelled out – to be upheld and defended under any circumstances was considered a key motive for the fighting in Southern Angola.

Capitão mor Varão, for example, was of the opinion that *Alferes* Sereno had acted in Fort Naulila like an "energetic officer, virtuous and diligent", *et un homme d'honneur*.[188] Conversely, the "enemy" was accused of having acted dishonorably. Magalhães' narration of the German attack of Fort Cuangar emphasized German malintentions by recounting that allegedly the commanders of Cuangar and Kuring Kuru, after the outbreak of the war, concluded a gentlemen's agreement to inform each other in advance in case they would have to "fulfill their military duty", i.e. to attack their neighbor. Since Commander Durão had trust in Constable Ostermann, no security measures were undertaken. Ostermann, however, violated his word of honor, attacked the fort treacherously and massacred soldiers and

186 NARA RG 84, Lisbon, v. 156: 700, USML to SoS, 13.3.16 German declaration of war; AHD 3p ar.7 m 48, BML to MNE, 1.3.16; MNE to DGL, 3.3.16 So dependend were the Portuguese on the British that before the Germans declared war on Portugal the British Legation in Lisbon drafted for the Portuguese Foreign Ministry the justification for the seizure of ships, which the Portuguese translated and sent to the German Legation; *Wheeler* 1978: 128.

187 NARA RG 84, Lisbon, v. 156: 700, USML to SoS, 13.3.16; Congr., Sessão 9, 10.3.16: 53.

188 BAB R 1001/6641: 12, extra-file: 37f., statement Antonio F. Varão, 11.11.21; Ministry of War, register Sub-Lt. M.A. Sereno, 3.7.25.

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civilians. The German councilors responded that – in case such agreement did exist – it would have lost its value for a German official learning about the murder of German officers in Naulila. Furthermore, an agreement between subalterns such as Ostermann and Durão would not create obligations between states.

Also other "scenes" of the border war put competing narratives of (dis)honorable behavior up against each other. The same occurrence could occasion two different grievances leading to many questions not only in the memoranda, but also during the testimonies. After the capture of Fort Naulila, Captain Trainer was outraged by the abusive (as he saw it) hoisting of the white flag ordered by Lieutenant Marques even though the shooting continued. When the latter surrendered with his men they were rounded-up by Germans and Marques was said have pleaded to Trainer: "It is not the fault of these men [that the others continue to fire], shoot me but not my men." Trainer did not understand Portuguese. He believed Marques insulted him and threw his field glasses (or hat) at him, thus violating the officer's honor in front of his subordinates. Over the years, several accounts of this incident were collected:[189] According to the account of Marques, this incident occurred after Trainer had asked him about the numbers and equipment of the Portuguese troops. When he responded that he had no obligation to answer, Trainer punched with his field glasses at Marques' chest.[190] Private Bertling, who witnessed the scene, described it four days later in his diary. He noted that Portuguese soldiers went to their knees and begged for their lives when they saw how Trainer had ordered to hang the first African. Then, a Portuguese officer, fell on his knees, his hat in his hands, begging Trainer for the lives of his men. "Trainer pushed him aside and threw his hat in [Marques'] face."[191] In 1929 the question whether Trainer treated his prisoners dishonorably was still ventured about, and Trainer tried to argue that it were the Portuguese themselves who acted shamefully: "There was no brutal attack, merely the shaking off troops bare of any discipline or honor."[192]

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189 BAB R 1001/6638: 126f., questions Franke, 15.1.25; 262, testimony Aragão 6/24.

190 BAB R 1001/6638: 128, questions Trainer, 14.1.25; 173, testimony Marques 6/24.

191 NAN A.424, War Diary Bertling, 22.12.14.

192 BAB R 1001/6641: 224 (28), Mj Trainer: Zur portugiesischen Denkschrift, 9.2.29 'sondern lediglich das Abschütteln einer von jeder Disziplin und Ehre entblößten Truppe '. The treatment of POW was a sensitive issue after the war. During WWI, Germany had captured ~ 2.5 million soldiers and civilians, most of them were put to work in part under horrendous circumstances. Treatment and death rates of POWs and deportees was the issue of protract-

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Next to the comportment of soldiers on the battlefield, another question loomed large throughout the arbitration: the nation's honor. In this sense, the German councilors were faced with the question whether the "violation of the individual honor of nationals by non-nationals … [was] a violation of national honor. Ultimately, the question [arose] how the medium of national honor should codify [*normieren*] individual conduct."[193] While the Portuguese depicted Sereno as *un homme d'honneur*, the Germans found that by dishonoring the inviolability of an envoy on official mission and illegally capturing two Germans, the Portuguese had violated the "national honor of Germany"[194]

It seemed a matter of course that not only individuals, but also "the State" possessed honor; its defense was considered legitimate, if necessary even by force. In one of Friedrich Schiller's most popular theater plays, arguments in this vein were uttered: "Base, indeed, the nation that for its honor ventures not its all."[195] Also historian Heinrich von Treitschke demanded the defense of the state's honor at all costs:

> "Any insult offered, even if only outwardly, to the honour of a State, casts doubt upon the nature of the State. We mistake the moral laws of politics if we reproach any State with having an over-sensitive sense of honour, for this instinct must be highly developed in each one of them if it is to be true to its own essence. The State is no violet, to bloom unseen; its power should stand proudly, for all the world to see, and it cannot allow even the symbol of it to be contested. If the flag is insulted, the state must claim reparation; should this not be forthcoming, war must follow, however small the occasion may seem; for the State has never any choice but to maintain the respect in which it is held among its fellows."[196]

It would be too far fetched to argue that the order of Governor Seitz to attack Cuangar and Naulila was 'predetermined' by this notion of the rela-

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ed disputes after the war and the German government issued lengthy reports about prisoners. Germany had captured 6,836 [or 7,740] Portuguese soldiers (mostly in France) of whom 163 deceased during captivity. The soldiers were repatriated in 1919. Cf. *Spoerer* 2006: 127f.; *Oeter* 1999; *Speed* 1990.

193 *Koller* 2003: 95, ob die 'Verletzung der individuellen Ehre von Nationsangehörigen durch Nichtnationsangehörige…die nationale Ehre verletzte. Letztlich geht es also auch um die Frage, wie das Medium der Nationalehre individuelles Verhalten normieren sollte.' Cf. *Best* 1981; *Kolb* 2011:71 on Foreign Minister Brockdorff-Rantzau: 'Ehre und Würde waren die Fixpunkte seines Weltbildes; an ihnen orientierte sich sein außenpolitisches Agieren.'

194 PA R 52535, Mémoire du Gouvernement Allemand concernant les réclamations portugais.

195 Earl Dunois: 'Nichtswürdig ist die Nation, die nicht alles freudig setzt an ihre Ehre.', in: Friedrich Schiller: The Maid of Orleans (I, 5), 1801; cf. *Kesper-B./Ludwig/Ortmann* 2011.

196 *Treitschke* 1916: 595, Cpt. 'International Law and International Intercourse', 'Sovereignty'.

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tion between individual and national honor. There were other reasons for the attacks that were stressed by the German councilors. However, Treitschke' influence is undisputable and recent research underlines that the German military was locked into the dialectics of "honor" and "disgrace": "as defined by soldiers' honor, defenseless[ness] is similar to dishonorable[ness]".[197] And according to the sociologist Norbert Elias not only the German military but also parts of the *Bürgertum* had developed combative (*kriegerisch*) traditions that focused on foreign relations; a tradition expressed in conceptual symbols "like courage, obedience, honor, discipline, responsibility, and loyalty".[198] Furthermore, when the German councilors deemed it worth mentioning that the killing of Schultze-Jena and two other officers had violated the "national honor of Germany", they were aware that also previous disputes in public international law had been 'triggered' by the alleged violation of a (European) nation's honor, for example in Venezuela (1908) or Turkey (1901). Just as in municipal law, honor was thus a subject of legal relevance in foreign relations.

For both, Portugal and Germany, colonial possessions seemed a matter of national honor. Following the war, defeated Germany was considered by many in the Allied countries a "pariah" among the nations. As shown above, the assertion that Germans were "unfit to govern native races" and the taking over of all colonies by other powers was deemed by most Germans a grave offense against the nation's honor. After all, the possession of colonies had been declared by German politicians early on as a "matter of honorableness"[199] The German councilors thus, in their memoranda, also aimed to argue against the qualification of Germans as "unfit" colonial administrators.

Also Portugal's honor seemed tarnished. "Of all the effects on Portugal … which derived from participation in World War I … the most important was the question of 'the honor of the army'." The (poor) performance of the army in Africa and Flandres "became a myth, threaded with ethnic jokes about the Portuguese", whom a British source had described as "our noble but nimble allies". Magalhães's memoranda had to take into account

197 On Treitschke *Gerhards* 2013: 178f.; *Offer* 1995 asks 'Going to War 1914. A Matter of Honour?'; *Koller* 2003: 87; 90 quot. W. Sulzbacher 1929: 'Die Ehre der Nation' muss fähig sein, 'Angriffen mit Waffengewalt zu begegnen und imstande sein, angriffsweise vorzugehen'; 'im Sinne der Soldatenehre ist wehrlos gleich ehrlos.'; *Speitkamp* 2010: 149f.

198 Elias: Studien über die Deutschen, 1989: 235 'begriffl. Symbole', in *Koller* 2003: 92.

199 StS Marschall: 'Das ist eine Frage der Würde des deutschen Reiches', in *Koller* 2003: 116.

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these discourses in Europe. He was eager to counter the narrations about fleeing Portuguese soldiers with images of heroism in Africa. Indeed, Portugal's "first republicans were anxious to earn the respect of civilized Europe."[200]

As the European concert of nations was considered acutely hierarchical, in military as well as in economic terms, European foreign politicians used thinly veiled warnings of the Portuguese fate to push their own colonial agenda, referring to former first class nations that were now relegated to the fourth rank.[201] Britain's Foreign Secretary Grey knew "it would be better that Portugal should at once sell her colonies." But he also knew that "Portugal won't part with her colonies … for when nations have gone downhill until they are at their last gasp, their pride remains undiminished if indeed it is not increased. It clings to them as Tacitus says the love of dissimulation to Tiberius at his last gasp."[202] Pointing to the ongoing (historiographic) debates about the explanations of Portugal's decline since the sixteenth century, the French Minister in Lisbon observed in 1911 that leading intellectuals had stylized *la question coloniale* to be a "question of life and death" for Portugal. The colonies "are for her [the Portuguese nation] most of all a remembrance of her former glories, the witnesses of the important role she has played for the discovery of Africa and the Indies. It is through the history of its colonial role that this people has become aware of its personality as a nation."[203] Given Portugal's lack of "energy" the Minister predicted the downfall of *o Império*. During his inaugural address in 1919, President António José de Almeida (1866–1929) pointed to such "defective elements saying our race is indolent". The President, however, emphasized that his compatriots had "always given proofs of vigor … throughout the world."[204] The "notion of the ultimate development of Angola and Mozambique" was part of the "official thinking" about the colonies. Yet, the defeat of the Portuguese army on the hands of the Germans in Angola and Mozambique and the discussions before and after the war on Portugal's "ability" to administer its colonies, were considered by many Portuguese politicians a grave humiliation of their nation's history

200 *Wheeler* 1978: 178; 261. This motive was familiar in Portuguese foreign policy. Already the abolition of the slavetrade was discussed (and finally executed) in Lisbon, 'because national honour was at stake'; cf. *Marques* 2006: 253; *Lourenço/Keese* 2011: 226.

201 Jules Ferry, 28.7.1885, in *Stengers* 1962: 484, nations 'descendues au ... quatrième rang'.

202 Grey to Goschen, 29.12.1911, in *Langhorn* 1974: 369; cf. *Sowash* 1948: 232 on Timor.

203 MAELC CPC/CP/NS/8, Portugal: 199, FML to MAE, 2.12.11; cf. *Wheeler* 1978: 6-16.

204 NARA RG 84, Lisbon, v. 168: 800.1, USML to SoS, 10.10.19, transl. inaugural speech.

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and honor. "The weight of tradition soaked the colonial discourse in imperial mysticism".[205]

3.3.8 Foreign Influence and Missionaries

For decades already historians are haunted by the question how to determine the influence and 'relevance' of "the Empire" for the European metropolis and "national" politics. Depending on the sources and perspectives detrimental responses have been given. Bernhard Porter's *Absent Minded Imperialists* (2005) on the British case is a pertinent example. Apodictical verdicts have also been given about the German[206] or French public, for whom their colonial empires were, it is said, "of only trivial interest" before World War I.[207] The Portuguese case seems different. The public, most of all in Lisbon and Porto had, at least since the British Ultimatum of 1890, shown a profound interest in colonial affairs. This interest "waned" only after the 'pacification wars' had ended in the 1920s.[208] Modern research speaks of a "consensus" in Portuguese politics as to the preservation of *o Império*. Among the Portuguese elites the belief dominated that Portugal could not be herself without overseas possessions. These were considered a *conditio sine qua non* to maintain Portugal's independence (against Spain) and formed an integral part of the nation.[209]

Following the Dutch "occupation" of Angola (1641–1648), apprehensions never abated in Lisbon that some foreigners, with support from within, might take away again the colony.[210] During the nineteenth century, foreign consuls were repeatedly accused of having complotted with "natives" aiming to expel the Portuguese. Irrespective of Brazilian or British consuls denying such claims, in 1883 the Luandan journal *O Pharol do Povo* had asked for the first time "If we think about the independence of the province …?"[211] Given the Matabeleland-dispute, the Anglo-German conventions, and the discourses about Portugal's "incapable" colonialism, the fear of the loss of the colonies was inextricably linked to the concern

205 *Smith* 1974: 654; *Corrado* 2008: 22 adds 'and the Angolan case is no exception.'
206 Cf. *Blackbourn* 1998: 435; *Seemann* 2011; *Strandmann* 2009: 464; *Dedering* 1999a: 215.
207 *Andrew/Kanya-Forstner* 1978: 11; cf. *Cooper* 2002b: 16f.; *Jansen/Osterh.* 2013: 120f.
208 *Duffy* 1959: 246; but cf. *Smith* 1974: 653f.: 'Portuguese society [was] uninterested.'
209 *Labourd.* 2000: 531f; cf. *Meneses* 2010: 9; *Corrado* 2008: 25; *Wheeler* 1972: 176; 1978: 3.
210 *Hamilton* 1975: 3 on these fears in the 1970s; *Curto/Gervais* 2001: 6f. on French advances.
211 *Corrado* 2008: xv on the relevance of these voices for the founders of MPLA; 167; 174.

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of foreign "secret agents" working to undermine Portugal's rule. This continuous concern found its way in (semi-) official historiography.[212] Portuguese politicians, the press and "many observers remained paranoically fearful of foreigners" and their pretensions on Portuguese colonies.[213]

Before, during, and after World War I, however, the claim that foreign "secret agents" stirred up discontent with the neighbors' colonial rule was not limited to the Portuguese. In 1904 the Germans accused the British and the Portuguese of having provided the Herero and Nama with guns.[214] On the other hand, following the disaster at Pembe Drift in 1904, rumors were rampant that "the Ovambo" with German support would form a league to expel the Portuguese from southern Angola.[215] Similar claims were laid against Germany in 1914 in British and French colonies.[216] Frederick Lugard (1858–1945), Governor General of Nigeria, complained about Turkish and German endeavors to incite the Muslim population of his colony with Arabic pamphlets against British rule.[217] Also, rumors that Germans would want to wrest colonial possessions from other nations were not limited to Portuguese possessions. In South Africa claims were made about German machinations with the Afrikaaners against British rule for which "the Germans are to get Bechuanaland and Gordonia."[218] "German commercial penetration" of South Africa seemed to constitute "a direct threat" to Britain's dominance in the region.[219] And the "Maritz Rebellion" in late 1914 allegedly proved right all concerns about "German intrigue".[220]

It is against this backdrop of (perceived) threats to Portugal's colonial Empire, its status, its historic achievements, and its economic development that the importance Magalhães assigned to the question of Germany's involvement in Angola becomes intelligible. In 1919, when the case against Germany was still being prepared in the chanceries of Lisbon, the *Diario de Notiçias* already assured its readers: "there can be no doubt

212 *GEPB* 1936, v. 2, Art. Angola: 663 'agentes provocadores'; cf. *Pélissier* 1993: 8.
213 *Smith* 1991: 502; cf. *Vasconcellos* 1926: 3f.
214 MAELC CPCOM/CP/NS/7, Portugal: 222b, French Ambassador Berlin to MAE, 7.4.04.
215 *Pélissier* 2004: 211; *Sousa* [n.d.~1935]: 7.
216 *Cana* 1915: 364; cf. *Dedering* 1999: 5f. on the Nama war and the British as 'scapegoats'.
217 TNA FO 371/1884: 530, GG Nigeria to CO, 6.11.14; cf. *Nasson* 2014: 447; *Hanisch* 2014: 13.
218 *Dedering* 2000: 50 (report, 26.1.06); 58 (Ferreira Raid, 1906); *Samson* 2013: 28.
219 *Van-Helten* 1978: 369, 'conflict between German and British commercial interests.'
220 TNA CO 633/83/11: 78, Report Judicial Commission of Inquiry, U.G. 46-'16, 12/1916.

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that in May, June and July of 1914 her [Germany's] agents were preparing a raid with a view to occupying the territory lying between the south frontier of Angola and the railway line from Lobito".[221] In his case against Germany, Magalhães thus never ceased to write within the Portuguese tradition of accusing other powers to mingle with its colonial affairs.[222]

In addition to Germany's intended *penetration pacifique* of Angola by commercial ventures and "scientific" expeditions in support of an annexation (cf. 3.3.2), Magalhães put a special emphasis on the subversive role of German missionaries in Angola. Relations between foreign missionaries and Portuguese officials or traders in Angola were strained already for centuries. After the Revolution in 1910 Afonso Costa, the "personal symbol of the republic's anticlericalism", pushed through parliament anti-Catholic ("Jesuit") legislation that would "undermine the political consensus" for years.[223] Also in Angola (foreign) clergymen were expelled. And the concern of foreign missionaries denationalizing the "overseas provinces" would still haunt the officials of Salazar's *Estado Novo*.[224]

With the onset of formal colonialism, missionaries were never completely "outside the colonial state". They "paved the way for conquest … by offering comprehensive representation of the indigenous population."[225] In his memoranda, Magalhães uttered this accusation quite literally: The German missionaries had paved the way for German soldiers to conquer southern Angola by guiding them across Ovamboland, negotiating with the "native chiefs" and convincing the "natives" that German rule would be advantageous to them. King Mandume's action in late 1914, when he attacked Portuguese forts, confirmed all the Portuguese administration's previous conceptions of the destabilizing role of the Rhenish Mission in Ovamboland. Magalhães went into great detail when he described the menace the German missionaries posed in Ovamboland (N'giva, Omupanda, Matenda). And so did the annexed reports and the Portuguese witnesses during their testimonies, explaining how the German Protestant missionaries educated Mandume and taught him to disrespect the Portuguese administration.

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221 NARA RG 84, Lisbon, v. 168: 800, USML to SoS, 11.8.19, transl. *Diário de N*. 7.7.19.
222 Cf. *Henriques* 1995: 83 historiogr. 'function' of 'British interventions'; *Silva* 2007: 411.
223 *Wheeler* 1978: 69; *Madureira* 2010: 648; AGCSSp 3L1.11b6, Keiling (Huambo), 27.12.13.
224 Cf. *Dores* 2015: 95f.; *Birmingham* 2011: 170f; *Corrado* 2008: 24.
225 *Steinmetz* 2007: 598, on German missionaries in GSWA, Qingdao, and Samoa.

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Such accusations of the Portuguese resident at Namakunde, for example, against the activities of the Rhenish Mission were eagerly rebutted by the German councilors. They highlighted that the "tireless work" of the missionaries, who had "renounced all the amenities of life and lived completely isolated from European civilization", was directed at the "natives". The councilors had requested the accused missionaries Wulfhorst, Hochstrate, Welsch and Tönjes to respond to these accusations and arbitrator de Meuron was referred to their annexed responses. With equal zeal the German memorandum refuted the Portuguese accusation that German missionaries had supported the German war efforts by arranging meetings between Franke and Mandume, with missionary Wulfhorst serving as interpreters.

3.3.9 Names, Citizenship, and "Races"

> "Deus fẽz o negro e o branco. O português … fẽz o mulato." [God made the black man and the white man. The Portuguese … made the mulatto]

This celebration of "Lusitanian miscegenation", attributed to novelist Eça de Queirós (1845–1900) and an often quoted bit of 'wisdom' ever since, expresses "Lusotropical patriotism" that (self-exoticizingly) wishes to set apart the social realities of Portugal's colonial empire from any other.[226]

Such an assumed difference between the Portuguese and the German colonial empire became a question of law after the war. Differing notions of "citizenship", "race", and "being an African" or "being a European" would have a significant influence on the amount of damages Portugal could claim from Germany. Thus the status of individual claimants led to disputes between the German and Portuguese representatives. In 1919/20, the delegation in Paris under Afonso Costa aimed at claiming damages for each and every person who had died as a consequence of the war. However, it "seemed" to Costa that some would "object to the inclusion of natives" into the calculation of damages. He thus went into great detail to elucidate that neither Portuguese laws nor the Treaty of Versailles would make a distinction between races, nor would this be admittable given the "humanitarian principles inspiring the Treaty", nor from an "economic point of view". He claimed that especially "natives living in villages …

226 G. Bessa Victor: 'Mistica do império' (1943) , transl. *Hamilton* 1975: 49; *Pélissier* 1993: 8.

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had already acquired a certain degree of civilization, some are public officials, others participate in the exercise of public functions, others exercise a profession. All are, to use the common term, 'assimilated'." Costa also argued that the Portuguese state had a (financial) obligation to the "non-assimilated natives" who had lost their relatives during the war. Assuming 154,415 casualties in southern Angola, he admitted that the families of only 20 per cent of those passed away (30,882) had been identified. For these families he claimed pensions amounting to 20,000 GM or £1,000 per person, but he insisted that also for the remainder reparation payments would be necessary. Altogether, in 1920 Lisbon claimed damages for the families of "107,441 Europeans and natives who had acquired a certain degree of civilization" amounting to "2,148,817,777 GM"; and "199,929 other natives" whose heirs were unknown at the time amounting to "3,998,577,777 GM".[227]

These numbers were confusing and not well explained. During the negotiations in the Reparation Commission the Portuguese were 'reprimanded' by the British, French, and Belgians for including the number of Africans killed during the war in the calculation of damages owed by Germany. While the British charged the Portuguese for not having understood "the exact scope of the reparation provisions of the Treaty", Afonso Costa "denied that loss of life in the colonies, mostly of civilians, fell outside the scope of the reparations." With a certain sarcasm, considering Costa's apologetic stance towards General Pereira de Eca's policy in Angola 1915, historian Filipe Meneses notes that Costa "suddenly developed a sense of racial equality, arguing that what was good for Europeans was good for Africans as well: many families in Angola and Mozambique had been left without their breadwinner, and the Portuguese government had, he claimed, stepped in to make up the shortfall."[228]

The German officials who dealt with the Portuguese claims ventured on to ascertain the legal situation of Africans in the Portuguese Empire in order find ways to postpone, refuse, or reduce payments. One official suggested in 1921 to ask the Ministry of Justice for a report in this respect.[229] Next to the tenet that Germany would be liable only for direct, not for indirect damages, the principle that this liability would be limited to Allied governments and their "nationals" (Article 231 TV), thus excluding "na-

227 BAB R 3301/2284: 7f, Costa: Notes compl., 29.6.20; 13, 'Montant des dommages'
228 *Meneses* 2010: 130;132f. (Oliphant to Bradbury, 5.6.20).
229 BAB R 3301/2284: 49, Karpinski (Reichsentschädigungskommission) to RMW, 19.2.21.

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tives", was to develop into one of the most often invoked German arguments during the arbitration. The Germans demanded that only "nationals" should be included into Portugal's list of claimants. One of the drafts bluntly spoke of "white" or "European" nationals, but this was crossed out by his superior.[230]

It seemed simply incomprehensible that non-Europeans also were listed in the Portuguese memoranda as victims entitled to compensation due to the destruction of their property. From a German perspective, they were thus put on the same legal level as "whites" in a double sense: First, being "white" is "bound up with [individual] ownership"[231]; second, only "whites" could have the legal standing of plaintiff in court (in particular against the state). The lists did not include a rubric of "race". However, a few names appeared "suspicious" to the German councilors. They doubted whether all claimants mentioned in dossier 14 were Portuguese citizens. The Portuguese replique clarified that these men were *hindustanis*, natives (*naturels*) of the Portuguese *Estado da India*, Goa, Damão, and Diu, living in Mozambique.[232] Evidently, also persons who would have been labeled "Africans" by the German colonial notion of "white" and "black" were among those of the list. However, they were *not* recognized as such by German lawyers since often the "name forms are typically Portuguese" and "their [Christian] names also suggest a certain level of acculturation" to the Portuguese colonial society.[233] According to the paternalistic standards set by German colonial law, Africans (*Eingeborene*/natives) had, similar to minors, no legal standing in court and were not entitled to any claim – "Natives were not able to speak legally". The practice of colonial law as applied by the German administration and the courts aimed at the complete exclusion of those considered African and entrusted them to their "traditional customs" as applied by the "native chiefs" and the German "native administration."[234]

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230 BAB R 3301/2284: 35, remark, ~2/1921; German officials took note of the decree of 19.11.1920 stipulating legal equality in terms of civil rights between Europeans and 'assimilated' Africans. Ibd.: 32, decree No. 7151, 19.11.1920, *Diário do Governo* 1. No. 237, 22.11.20.

231 *Nuttall* 2001: 133 with regard to post-apartheid South Africa.

232 PA R 52530, Portg. replique, doss. 14, doc. 1-49; cf. BAB R 10001/6635, État recapitulative des reclamations, dossier 12 doc. 321, Muene Handengue, Chibia; doc. 323, Nambonde Iá Tuida, Caculovar; doc. 327, Odonga, Lubango; doc. 339, Circonscription Civile de Chibia (au nom d'indigènes); dossier 14, doc. 49 Sakoor Hajee Habib, Beira.

233 *Curto* 2002: 41; similar issues in *Birmingham* 1978: 531 regarding witchcraft.

234 On this 'ancient' tenet of colonial law *Nuzzo* 2011: 207f.; cf. *Schaper* 2012: 68-86

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Both, Portuguese and German colonial societies were deeply racist societies. However, as historian Henri Brunschwig remarked forty years ago, prejudices based on color are not a "stable" but a "variable condition".[235] The Portuguese and the German policies towards "the native question" attest to this. During the Luso-German arbitration this "question" transpired in two sets of debates: First, with regard to the above-mentioned possibility to include "natives" into the list of "nationals" entitled to damages. And second, with regard to the involvement of Africans in the fighting in southern Angola. The Portuguese representative's stand was 'multifaceted': on the one hand Magalhães argued according to the principles set forth by Costa that both, "natives" and "Europeans" should be entitled to payment of damages; a claim categorically denied by the Germans. And simultaneously he joined the German defendants in accusing the other party of having made a "white man's war" "black".[236] The difficulty to define the difference between "black" and "white" individuals was not expressly laid out in the memoranda. It seemed the representatives assumed the other side knew what his counterpart was talking about; only over the course of the procedure it became clear that this was not the case.

In theory, both sides agreed to what the British Foreign Office had stipulated in 1911: a European war in Africa would "be of great detriment to the prestige of the white races."[237] Implying this notion of prestige, the Germans accused the Portuguese to have enlisted irregular African combatants to fight white soldiers during the battle of Naulila. The Portuguese, on the other hand, accused the Germans to have extended their war efforts by using, equipping, and instructing African "savages", so Mandume could rebel and face the Portuguese. In Magalhães' chronology, German "acts committed" contrary to international law continued well after the battle of Naulila and had begun long before. Germans were accused of having recruited Africans (Kandjimi "Auanga") for the "massacre of Cuangar", and Shihetekela in Naulila. And the war in Ovamboland in 1915 was represented in the Portuguese memoranda and annexes in simple terms that placed Portuguese forces in opposition to Mandume's *and* Ger-

235 *Brunschwig* 1974: 60 'Le préjugé de couleur est…une donnée variable'; *Corrado* 2008:51.

236 Cf. cpt 2.2.6; *Cornevin* 1969: 389 'The war was strictly a white man's affair'. Germans concurred in the notion of the war in *GSWA* as 'a white man's war', but accused the British of having employed 'colored forces' in the battle of Sandfontein cf.*Weck* 1919: 130; *Wallace* 2012: 212; *Koller* 2001: 103; this looked different in GEA, where thousands of Africans served for Germany cf. *Bührer* 2011: 401-77; *Michels* 2009.

237 Quoted in *Samson* 2006: 22.

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man troops who allegedly acted as instructors and even took part in the battle of Mongua.

The dispute about the legal standing of non-Europeans triggered by a list of names made obvious the stance of German colonial thinking towards Portuguese policy. The Germans considered themselves to be the more "modern", more strict colonial administrators adhering to the "positivist view that uncivilized peoples were not legal entities" and had no concept of property and had no legal standing.[238] "The native" was supposed to be invisible, he had to have no name – and if so it was conferred upon him (as a kind of joke) by his master. The practice of first names and surnames to distinguish individuals beyond any doubt was supposed to be to the exclusive benefit of Europeans.[239] The usage of non-European names made individual claimants and their (Indian) background visible on the list; an inadmissible situation according to German understanding since configurations of citizenship and all the legal ramifications it entailed remained in Germany's colonial empire a "configuration of whiteness". However, individuals of Luso-African descent may have attached great importance to the surname of their grandfather from Portugal and bore complete Portuguese names. Thus, on the claimant list they remained undistinguishable from other Portuguese. A "European surname [may have] reflected at least one European ancestor in the past few generations, but in many other cases it reflected a patronage or godparent relationship, not a birth relationship."[240] German councilors would have liked to prevent them from "passing for white" and have them made "visible" by "exotic" names, but abstained from allegations about the 'pedigree' of claimants.

The Portuguese representative, on the other hand, could unhesitatingly present the claims of those individuals as indicated to him by the colonial administration and he did not bother to enquire their ethnic origin. "A strict application of a color bar was not only against Portuguese law and tradition, but would have been impractical in the face of the realities of colonial family structures."[241] At the time of the Luso-German arbitration, however, the "Race Relations in the Portuguese Colonial Empire" were changing profoundly. A short overview of these historical developments

238 *Anghie* 1999: 50.
239 *Zollmann* 2010: 105f.; 126
240 *Penvenne* 1996: 457.
241 *Newitt* 2007: 52 on the Afro-Portuguese elite and Portugal's *assimilado* policies.

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in contrast with German policies will thus serve to explain and put into historical perspective the status of some of the Portuguese claimants.[242]

The long held "article of faith with many Portuguese that their country has never tolerated a color-bar" has long been deconstructed by at least three generations of historians.[243] Yet, prior to the twentieth century the "practice of miscegenation and cultural assimilation was surely the only means by which the Portuguese could respond to … such an adverse environment" as Angola.[244] Since the offspring of these colonial unions, called *mestiços*, proved useful for the upkeep of the Empire, their legal status, but also that of other Africans was strengthened by the liberal regime in Portugal after 1820, *as long* as they were considered assimilated to the Portuguese culture: "citizenship and equal rights [were conferred] on all individuals who were considered to be Portuguese, regardless of their ethnic background."[245] Thus, a tiny faction of Africans (less than 1%) became "certificate-bearing citizens … whom colonial authority acknowledged as 'civilized'"; that is assimilated, as distinct from the *indigenas* (natives).[246] As a result of this policy there were "virtually no legal restrictions … to access to jobs, education, or voting rights" for those later-on called *assimilados*.[247] A colonial bourgeoisie, an "indigenous middle social strata began to emerge". Most of all their command of the Portuguese language had become the reason as well as the measure of their privileged status.[248] As a result, "the mulatto population *grosso modo* identified itself ideologically, politically, and economically with the whites, together forming the preponderant element in urban Angolan society." In the middle of the nineteenth century, the extravagant luxury of the Euro-African elite's lifestyle, importing "furniture from Venice" and following "trends dictated by Paris or London", impressed not only foreign visitors.[249] Enjoying a "sentiment of exclusivity", they held and inherited private proper-

242 Even though any attempt to distinguish between two historically specific modes of colonialism runs the risk of constructing and setting apart two stick figures. Interestingly, there are barely any comparative studies on colonialism and racism. Cf. *Lindner* 2011: 300 FN.

243 *Boxer* 1963: 1; on Boxer cf. *Arenas* 2011: 9; Matos 213.

244 *Corrado* 2008: 3 'only chance of survival'; xvii; cf. *Newitt* 2005: 257; *Rodrigues* 2009: 34.

245 *Smith* 1991: 504; cf. *Silva* 2010; *Roberts* 1986: 497; on previous centuries *Boxer* 1963: 38f.

246 *Birmingham* 1991: 166; *Duffy* 1961: 295, 1950 ~30,000 *assimilados* among 4 million Africans.

247 *Wheeler* 1969a: 9; cf. *Corrado* 2008: 116 236 on terminology; *Steinmetz* 2008: 593.

248 *Hamilton*, 1991: 315; cf. (ironic) summary of *assimilação* policies in *Duffy* 1961: 294.

249 *Corrado* 2008: 5; 46f. on Dona Ana Joaqina dos Santos (*Ná Andêmbo*) from Luanda; 77.

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ty, thus allowing for the accumulation of riches within one family. Some of the "great creole families of the nineteenth century" like the Van-Dúnem traced back their ancestors to the Dutch occupation during the 1640s and have "provided military leaders ever since."[250] They formed "a tiny fragment of Angolan urban society … [, were] reprovingly involved in the slave trade", and distanced themselves from low class Africans and slaves, distastefully referred to as *macacos* (monkeys – the hatred was mutual[251]) and living in the *musseques* (shantytowns).[252] Only few of the "old *assimilados*" were "racially classified as *mestizo* from having a distant white male ancestor,… the majority were black". They professed to the Catholic Church, lived in the "elegant residential areas of Luanda", "spoke Portuguese as their preferred or only language and punished their children for using Kimbundu vernacular."[253] Historian Patrick Chabal calls the Luanda Creole community "undoubtedly both singular to Angola and of protracted significance."[254]

Angola's bureaucracy required not only African interpreters, but also white collar workers such as customs officials, tax collectors, district administrators, scribes and clerks. The government in Luanda was willing to draw them from the local population to include them in the lower and middle ranks of the colonial state structure. No doubt, it was a "minefield that those who wanted to acquire *assimilado* status had to traverse" in the "slavocratic society" of Angola's capital.[255] Peculiar relations of patronage tied individuals to powerful patrons. Especially the "sophisticated, European-dressed African of Luanda in the post 1850 bureaucracy" had

250 *Birmingham* 1988: 94; *Dias* 1984: 64; cf. *Boxer* 1965; the Van-Dúnem family is still influential. Law professor Fernando José F. Dias Van-Dúnem was twice Prime Minister of Angola (1991-92; 1996-99); *Alencastro* 2007: 192-9; *Chabal* 2007: 5; *Hamilton* 1975: 154 'The Van-Dúnems of Luanda form the nucleus of an extended family whose roots go deep into Kimbundu tradition. This tradition had been sustained by a set of moral and cultural values that have given old African families a sense of pride and identity in a larger societal framework that generally denies the philosophical validity of an African tradition. The Van-Dúnems place a premium on formal, Western education, but, along with other extended African families, they reject the condescending categorization of assimilation.' Cf. *Pepetela*'s novel about the family: A gloriosa familia, 1998.

251 *Bontinck* 1969: 119, on the murder of Dom Nicolau, 'un *mundele-ndombo* (un blanc noir)'.

252 *Corrado* 2008: xiv; *Tams* 1845: 99 quoted in *Heintze* 2007: 378; cf. *Birmingham* 2011a.

253 *Birmingham* 1991: 166 on *Messiant* 1989; cf. *ibd.* 2011: 144; *Corrado* 2008: xx; 76.

254 *Chabal* 2007: 3f. 'The most salient pre-colonial historical consideration has rightly been the very special place occupied by the Luanda Creole community.'

255 *Newitt* 1996: 175; *Curto/Gervais* 2001: 37; cf. *Corrado* 2008: 6

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formed his own traditions within the hierarchies of Angola's colonial society, so colorfully depicted by the prose of Oscar Ribas.[256] Politicians in Lisbon preferred to administer the colonies with the *assimilados* because of their "very low salaries".[257] At the beginning of the twentieth "century the bureaucracy contained many of the scions of the old creole families". However, their "economic and political marginalization" and the demise of their "oligarchies" had already begun, most of all due to the end of slavery and restrictions on foreign trade.[258] The "product" of "fierce autodidactism" and at times masonic inspired, some of the *filhos da terra* (sons of the land) still "rose to achieve significant managerial positions," but the relations with the administration were tense: "rather than stigmatize Western civilization, they denounced Portugal's failure to implant that civilization in Angola." Irrespective of the "colonial censorship being constantly on the watch", they published their own newspapers, some of them bilingual (Portuguese-Kimbundu), "thus giving proof of an acculturated elite's interest in preserving part of its African heritage." In these journals a "small vanguard of creole intellectuals" begun to develop an "Angolan" identity (giving rise to the terms *angolanidade* and *crioulidade*) and "protested against social injustices and claimed their own social emancipation."[259]

Evidently, life of the 'ideal' *assimilado* diverged dramatically from the realities of racism and corvée labor most Africans had to endure under Portuguese rule according to the official "indigenous code". Furthermore, discourses and policies changed. With more European immigration and increasing competition for jobs the "heyday of the *assimilados*' position in society" was over. Following the revolution in 1910 – hailed by most *filhos da terra* as the beginning of an era that would bring them equal opportunities – "began a long period of decline" for the "old creoles". Dashing all hopes, republican administrations set more 'lines of demarcation' between the "races". It started with the raising of formal educational requirements that could not be fulfilled by Angolans since except for the Semi-

256 *Wheeler* 1969a: 9; cf. *Pélissier/Wheeler* 1971: 94f.; *Hamilton* 1975: 47 on Ribas' *Uanga*.

257 *Clarence-Smith* 1979a: 168; *Vansina* 2005: 2 on district administration by (Luso-) Africans.

258 *Birmingham* 1988a: 6; *Dias* 1984: 61; *Corrado* 2008: 45.

259 *Corrado* 2008: 8f.; 167; 230; *Dias* 1984: 62; 81; *Wheeler* 1969a: 10f.; 1972a; already in 1882 Fontes Pereira complained that the 'Government of the metropole and their delegates … depriv[e the *filhos da terra*] of the exercise of the first public offices now filled by certain rats they send us from Portugal', transl. *ibd*.: 15; *Hamilton* 1975: 27f.; cf. *Dáskalos* 2008: 139f.

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nary there were no secondary schools until 1919. Under Governor General Norton de Matos "racism became [formally] a criterion for preferment in the bureaucracy". He continued this policy in his second term as High Commissioner since 1921. Thus, Angolans were more and more excluded from public life.

Nevertheless, the "carpet-baggers of the Portuguese revolution" arriving after 1910 "in search of petty government employment … [who] drove out the old creole functionaries with loud racist self-justification", often married African women. "Marrying light has always been the racial ambition of social climbers in Luanda."[260] Some immigrants even accepted to be circumcised and to pay customary bride-wealth. Irrespective of any contradiction with their own history of becoming bureaucrats, they wanted to see "their brown children properly educated and integrated into the state sector of employment." These "new creoles" were mostly an urban phenomenon, but not limited to Luanda.[261]

Within a lifespan notions of "race" had changed: For members of the African bourgeoisie of the colonial centers like Luanda or Lourenço Marques, born before 1880 their life began "in a time and place where race, ethnicity and class were quite malleable categories, but during [their] lifetime they hardened and chafed"[262] In 1909 a disillusioned minor official and journalist, Pedro da Paixão Franco (1869–1911), born to an African family from Dondo, still dared to plead for Portuguese fraternity (*Todos somos portuguezes – somos irmãos*). But with the First World War the "gilded age of the creole community was definitely over." After 1920, "new statutes were given to natives, Europeans and the 'assimilated population', … legal discrimination got a more stable legal framework."[263] In the end, "racism characterized every dimension of the system". In response to the rise of the relevance of "whiteness" in Portuguese colonialism, the emergence of an "Angolan nationalism" became more and more visible; the official prohibitions of African (political) groups like the *Liga Angolana* in 1922 attested to this process considered a threat to colonial rule.[264]

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260 *Birmingham* 1988: 95; 2011: 157; *Wheeler* 1969a: 12f.; *Hamilton* 1975: 54; *Dias* 1984: 74; on education *Corrado* 2008: 121; on African coffee growers: this 'black enterprise' ended after the arrival of republican administrators *Birmingham* 1982: 344; *Heywood* 1987: 359f.

261 *Birmingham* 1988a: 6f.; 1994: 148; *Clarence-Smith* 1979: 179; *Penvenne* 1996: 445.

262 *Penvenne* 1996: 457; on 'identity crises' of Luso-African intellectuals *Hamilton* 1975: 20.

263 *Dias* 1984: 89; *Corrado* 2008: 15; 109; *Tavares/Silveira* 2006: 118; cf. *Dáskalos* 2008: 21.

264 *Cooper* 2002b: 139; *Gonçalves* 2005: 194; cf. *Newitt* 2007: 50-3; *Errante* 2003: 10f.

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These complex webs of historical developments over three to four centuries and notions of otherness, hybridity, integration, and racial toleration, later blurred by Gilberto Freyre's euphemistic and 'mystical' concept of *lusotropicalismo* as justification of a perceived Portuguese 'exceptionalism',[265] were impervious for most German contemporaries.[266] In his first speech as Germany's Colonial Secretary, Bernhard Dernburg (1867–1937) claimed: "All colonizing nations of Europe are solidly united with regard to their policy towards natives."[267] However, things were more complicated than this. The "deeply entrenched … Lusitanian traditions … in Lusophone Africa"[268] conflicted with the (still rudimentary) strategies of clear cut race relations the German administration had begun to implement in the colonies based on an "empirical definition of race", namely physical, "racial characteristics" and descent. While in GSWA a few (church) marriages between German troopers and African women were concluded in the 1890s,[269] official "race" policy changed afterwards, following a "pan-European paradigm change" around 1900 that was based on a hierarchical concept of two separate biological "races" reflected in morphology, "black" and "white".[270]

Questions of German citizenship became inseparably tied to the "race" of individuals. After 1900 interracial marriages became not only controversial; in 1905 the administration in Windhoek stipulated anti-miscegenation laws. In GSWA, "questions of moral purity and sexual contamination, mixed with nationalist sentiment, surely drove some of the arguments that were put forward" to justify this restrictive policy. The way in which

265 Cf. *Wheeler* 1969a: 16f.; *Bender* 1978: 4f; *Voigt* 2009: 14f referring to *Freyre* 1946; *Burke/Pallares-Burke* 2008; *Lourenço/Keese* 2011: 229.

266 *Torgal* 2009: 493 '[O] multirracialismo foi ... o grande mito da politica colonial ... portuguesa.' Perhaps nothing describes the differences between the Portuguese and German case more poignantly than the burial of João dos Santos Albasini, 'the leading journalist and critic of Portuguese colonial administration in Mozambique': 'the funeral [in 1922] was attended by an estimated 5,000 people. Among the mourners were Mozambique's acting head of state, every member of Mozambique's Legislative Council, João Belo (the future Minister of the Colonies), representatives of every local newspaper, all the local clergy, Albasini's cousin Queen Sibebe of the Maxaquene clan of the local Ronga-speaking people and her entire entourage.' High Commissioner Manuel de Brito Camacho 'considered Albasini both a close friend and an intellectual soulmate.' *Penvenne* 1996: 425; 448.

267 SBRT, 28.11.06, translated in *Methfessel* 2012: 58.

268 *Birmingham* 1988a: 2.

269 *Lindner* 2011: 330 on *Mischehen* in GSWA; *Haney-L.* 1994: 135; cf. *Hartmann* 2007: 39.

270 *Lindner* 2011: 309; 320; *Haney-López* 1994: 136 on the US; cf. *Blackbourn* 1998: 434f.

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"whiteness" was (officially) constructed in the German colony comprised the notion of a complete discrimination from "blacks" that included not only the legal realm but also sexual relations. It goes without saying that German men in the colonies may have heard this (official) discourse and may have participated in it loudly, but acted (under the guise of employing "washing maids", for example) to the contrary – irrespective of their position as high-ranking colonial officials.[271] Even though GSWA's "mixed" population (*Mischlingsbevölkerung*) was constantly growing, German visitors of Angola noted with disdain that the population consisted "almost exclusively of negro bastards. Portuguese with negro hair and brown faces are a matter of course [*an der Tagesordnung*]."[272] In GSWA holding a government position and being married to a woman of African descent would have been unthinkable. The debates in court, within the colonial administration, and the wider public about the legal status ("German national" or "native") of the engineer Ludwig Baumann, a grandchild of the missionary Schmelen, who had *one* African great grand-mother, would have been considered with ridicule in Angola. The German settler community in GSWA "was determined to involve itself in constructing a localized German identity" and racial difference was considered the "central paradigm of the colonial order".[273] The distinction of colonizer and colonized was supposed to be self-evident in the German colonies. It was considered a necessary element in the appropriation of the colony as *Heimat*. Even though German officials never succeeded in legally defining "the native", a bifurcated legal system was established in the colonies that separated courts and legal provision applicable for "Africans" and "Europeans". Social, legal, and economic inequality was thereby legally determined.[274]

A man of African parentage taking "part in the city's intense café culture" was a matter of course in Lourenço Marques around 1910,[275] but would have been inconceivable in Windhoek or Dar-es-Salaam. Missionary attempts at religious conversion or schooling of African children did not change the official German policy that Africans should *not* be "assimi-

271 *Hartmann* 2007a: 80 Vice-Governor Tecklenburg and one councilor had fathered children.
272 *Reiner* 1924: 334 'P. mit Negerlocken'; cf. *Lindner* 2011: 327; *Walgenbach* 2005: 75; 183.
273 *Hartmann* 2007a: 81; *Kundrus* 2003: 273f.; *Botha* 2007: 11; cf. *Güttel* 2012: 140f.
274 *Jaeger* 2009: 488; *Hartmann* 2007a: 56-9; *Bowden* 2005: 17; *Schaper* 2012; *Sippel* 2001.
275 *Penvenne* 1996: 428 ref. to the journalist João dos Santos Albasini; cf. *Conrad* 2003: 188.

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lated" into the German populace and *Kultur*.[276] Under German colonial law there were no *assimilados*. In GSWA it was "generally accepted … that purely economic arguments ought to be applied to the relationship between Europeans and Africans." The "native treatment" was described by Governor von Lindequist with the patriarchal formula *streng aber gerecht* (firmly but fairly).[277]

German colonial officials carefully watched the race relations in neighboring colonies and paid attention to 'native legislation' and the everyday-treatment of Africans. A "too liberal" and "too lenient" "native policy", as allegedly practiced in the Cape Colony, was rejected as "dangerous" and reflecting "a misguided 'emotional' humanitarianism".[278] Portuguese "permissiveness" was equally rejected. German visitors to Angola were disturbed when they had to share the First Class train coach "with mulattoes or Portuguese of doubtful origin."[279] Administrative and public discourses about "miscegenation" in Germany and its colonies often evolved around the alleged "decay" of the Latin colonies due to "the degradation of the European race in the former Spanish [or Portuguese] colonies". Processes of "acculturation", "creolization" (or how ever the "Africanization of Europeans" – as exemplified in the Portuguese colonies – was later-on called) were feared and rejected by German colonial officials.[280]

These differences in colonial histories help to explain why both parties to the arbitration were unwilling to acknowledge the other's point of view with regard to who should be entitled to lay claims for damages.

3.3.10 Proof beyond texts. Maps, Photographs, and Witnesses, 1924–1926

Afonso Costa, when detailing the Portuguese damages in 1920 to the Supreme Council in Paris, stressed the objectivity of the numbers he pre-

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276 Cf. *Kundrus* 2003: 201-210; *Lindner* 2011: 60; *Walgenbach* 2005: 205; *Krause* 2007.

277 *Bley* 1996: 226; 241; *Stals* 1979: 93;

278 *Lindner* 2011: 59; *Dedering* 2006: 286.

279 NAN A.529 n.1: 6, O.Busch: Studienreise von Südwest nach Angola [~12/14]. In Angola, '[c]ompared to neighbouring colonial dominations, day-to-day relations reflected both a minor social distance between blacks and whites and the aptitude, even if relative, of the whites to adapt themselves to indigenous customs.' *Corrado* 2008: 68 on loathing *caffrealisation*.

280 *Güttel* 2012: 142 quot. V.-Gov. Tecklenburg, 1905; *Lindner* 2011: 62; *Hamilton* 1975:12.

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sented by pointing out that they were "based on research" in government files and commercial diaries, "visits" on the spot by technical experts, "photographs, eyewitness accounts" and official statistics.[281] When the Luso-German arbitration began, also the parties attached maps and photographs to their memoranda to advance their arguments based on 'objective facts'.

Even though it would be impossible to assess what role these means played in the outcome of the arbitration, it is relevant to state that the parties deemed it advantageous for their cause to seek proof for their arguments "beyond texts". Maps were used for more than purposes of geographically situating places like Naulila or Cuangar for the arbitrator in Lausanne. The Portuguese drew maps that indicated by color the percentage of loss of lives in certain areas of southern Angola during the war. Other maps explained the difficulties of establishing the "neutral zone" between Angola and GSWA. Such maps linked with the Portuguese assertion that prior to 1914 Germany had never accepted the border with Angola and had constantly violated Portuguese sovereignty by sending military personnel, traders, or recruiters across the border. As a result, Kwanyama defying Portuguese pacification efforts were "inundated" with arms from GSWA.[282]

Most important of all the arguments the Portuguese made regarding the border and its geography was what they considered the "fact" that Schultze-Jena *did* camp on Portuguese territory in October 1914. The Portuguese replique thus advised that Schultze-Jena could have remained in territory being less disputed and argued that already in 1909 the Germans had faulty maps that indicated Portuguese territory as being German. The German duplique responded that the most important "fact" along the border was that a precise fixation of the border had *not* yet taken place. Nevertheless, the Germans stated that the camp was on the "German" side of Erickson Drift (that is, still inside the neutral zone). They argued that also the administrator Campos Palermo had reported that the Germans had not yet passed the border of Angola. However, it appears that the Germans did not put as much emphasis on that point as would have been possible, for example by describing in more detail the complications due to the course of the river: Erickson Drift was six miles upstream of the Kavale (or

281 BAB R 3301/2284: 3, Costa: Notes complémentaires, Paris, 29.6.20.
282 Cf. e.g. *Casimiro* 1922: 60.

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Cazembué) cataracts (the starting point for the northern ["German"] parallel delimiting the neutral zone). Yet the Kunene River formed a northwards stream bend between Erickson Drift and the Kavale rapids. According to German maps, but also according to one Portuguese map attached to the files of the arbitration, this northern parallel 're-touched' the river at Erickson Drift before it turned again northwards, thus leaving Erickson Drift's southern bank in the "neutral" (or German) zone and not on indisputably Portuguese territory.

Magalhães invested more energy in proving that Schultze-Jena's camp was on indisputably Angolan territory. Using to their advantage that the Germans could no longer reach the scene of dispute in Africa, the Portuguese summoned in August 1925 the witnesses Adelino Gonçalves and Pieter J. van der Kellen, who in 1914 accompanied the administrator of Humbe, Campos Palermo, to Erickson Drift, to identify the place of the German camp. Surveyors erected a "pyramid" on the location, determined its coordinates, took a photograph of it and sent it together with a map (also showing the northwards stream bend of the Kunene River) and a report to Lisbon to have them provided to the arbitrator.[283]

And not just (incriminating) locations were photographed by the Portuguese. The administrator of Namakunde attached to his report two photographs of commander Franke and missionary Wulfhorst in Ovamboland to underline their close cooperation. However, his claim that Franke had made a reconnaissance tour to the Kunene with the support of the Rhenish Mission before the battle of Naulila was rejected by the German councilors. They pointed to Franke's explanation that before the battle he had been the last time to Ovamboland in 1908 when also these pictures were taken.

283 BAB R 1001/6636, Duplique 1923: 35; 84-7; R 1001/6641: 12, extra-file: 49f. Proces-verbal de l'identification, 10.8.25; even a South African map of Ovamboland (1915) showed that the Kunene River at Erickson Drift 're-touched' the northern parallel, NAN A.450 Hahn Collection.

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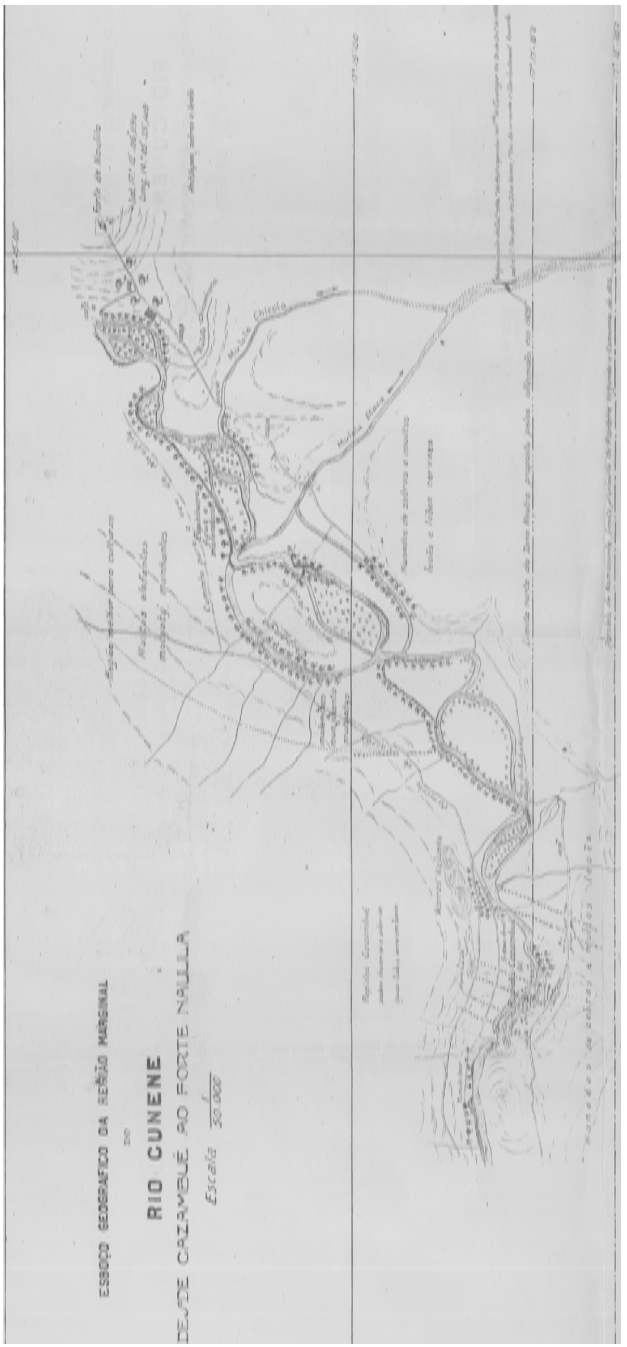

Map 5 "Rio Cunene desde Cazembuè ao Forte Naulila", ca. 1920

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From these disputes about very specific occurrences in the colonies the relevance of (eye) witnesses can be discerned. The Portuguese memorandum contained a list of seven "witnesses" and Portugal reserved its right to forward additional documents and to name additional witnesses in the course of the arbitration.[284] The German memorandum named twelve witnesses and reserved equal rights.

After the German duplique had been received in May 1923, de Meuron considered it to be fruitless to continue with the exchange of memoranda. He therefore ordered the parties to provide him with a definitive list of witnesses until August 1, 1923.[285] Magalhães presented a list of thirteen witnesses, four of whom lived in Angola.[286] Also the German Colonial Department updated the list. The Germans first considered only Carl Jensen to be a necessary witness for Germany from Africa. He had returned to his farm near Outjo; but later, also German missionaries from Ovamboland were nominated to give their testimony.[287] All witnesses were nationals of the party in whose favor they were expected to speak (except the Dane Jensen). However, Germany's financial chaos in 1922 caused the former soldier Georg Kimmel to seek his fortune by what some might have called treason. He approached the Portuguese Legation in Berlin and proposed to make "revelations" about the Naulila incident – if "recompensated". It is unknown whether Magalhães, who was then Foreign Minister, accepted Kimmel's offer (after all, he did not witness the Naulila incident, but arrived one hour after the shooting; the Minister re-

284 PA R 52529, Mémoire justificatif, 12/1921: 106: 1. Norton de Matos, 2. Alves Roçadas, 3. Maia Magalhães, 4. Vasconcelos e Sá, 5. Mascarenhas, 6. Pinto Basto, 7. Augusto Marques. In March 1922, an additional claim of a Portuguese citizen, formerly living in Belgium, was sent by the Portuguese government to de Meuron (PA R 52529, de Meuron to DG Bern, 20.3.22).

285 BAB R 1001/6637, AA to RMW, 9.7.23, attached: Ordonance of de Meuron of 3.7.23.

286 BAB R 1001/6637, AA to RMW 17.8.23 attached: list of witnesses, 24.7.23: 1. Admiral Alberto Ferreira Pinto Basto, 2. General José Mendes R. Norton de Matos, 3. General José A. Alves Roçadas, 4. Dr. Alexandre José B. de Vasconcelos e Sá, 5. Colonel Brevete Eduardo Marques, 6. Colonel Domingos Patacho, 7. Colonel Carlos Roma Machado de Faria e Maia, 8. Lieutenant Colonel Brevete Manuel F.A. Maia Magalhães, 9. Lieutenant Colonel Brevete José E. da Conceição Mascarenhas, 10. Capitane Roque d'Aguiar, 11. Lieutenant Alberto Pereira, 12. Sous Lieutenant Julio Santos, 13. Sergeant Americo Inacio da Rocha.

287 BAB R 1001/6637, AA to RMW, 9.7.23; RMW to AA, 19.7.23 attached: German witnesses of colonial damages: 1. Generalmajor a.D. Viktor Franke, 2. Gouverneur a.D. Dr. Theodor Seitz, 3. Major a.D. Trainer, 4. Geh. Baurat Schubert, 5. Stabsarzt a.D. Weck, 6. Gouverneur z.D. Dr. Heinrich Schnee, 7. Farmer Carl Jensen, 8. Max H. Baericke, 9. Georg Kimmel, 10. Dr. Paul Vageler, 11. Ingenieur Eickhoff, 12. Oswald Ostermann.

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minded his Legate to avoid any correspondence with Kimmel). In 1925, Kimmel gave his testimony in Berlin, speaking in favor of Germany about the plundering of the bodies of Schultze-Jena and Lösch and providing the arbiter with a sketch of Fort Naulila.[288]

The presentation of witnesses for one's own case was not only an analogy to domestic court cases and national rules of procedure. The period following World War I became an 'era of hearings' about past wrongdoings. Witnesses all over the world were heard before courts or other public bodies about alleged crimes of former enemies. In GSWA, British authorities began already during the war to collect accounts of (African) eyewitnesses and others about the brutality of German colonial administrators. The judge Bernhardo Botelho da Costa traveled to Mozambique and Southern Rhodesia to hear witnesses about potential abuses and violence in the Portuguese colony. Given his task, it was considered a matter of course that he would also hear Africans. In his final report he laid out at great length the challenges related to African witnesses given that their "mentality [is] different from ours" and notions of truth and narration would vary.[289]

During the Luso-German arbitration, none of the parties ventured the idea of calling African witnesses to give their testimony, although the German "police servants Andreas and August" were eyewitnesses of the Naulila incident and had escaped Portuguese custody. August was, however, quoted in the German memorandum as having witnessed Portuguese border infringement after the Naulila incident when a patrol allegedly entered 15 km into German territory. August even claimed that Sereno personally shot jointly with his men when the Germans were about to leave Fort Naulila, thus rejecting Portuguese accounts that Sereno was unarmed during his dispute with Schultze-Jena.[290] Also the Portuguese memorandum mentioned African witnesses when discussing the damages in Angola.[291]

The fact that, apart from these few hints, any African voices would be made legally unreadable in the arbitration was not explicitly discussed.

288 AHD 3p ar.7 m 48, MNE to PLB, 25.7.22; BAB R 1001/6638: 122, questionaire Kimmel, 13.1.25.

289 *Gewald/Silvester* 2003; *Hespanha* 2010: 185.

290 BAB R 1001/6634: 148f., Vageler to RMW (10.11.21), Annex 10 to Memo Allemand, 23.5.22; p. 154, Vageler to KGW (~11/1914), Annex 11 to Memo Allemand, 23.5.22;

291 PA R 52529, Memo Portug., 12/1921: 45 FN 1, Chipuampanda, Chitabarera (dossier 5).

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There was apparently a consensus that Africans were unreliable and untrustworthy witnesses, not apposite to give testimony before a court or arbitral body. This line of argument was used already by Germany during the Anglo-German *Walvisbay Border Arbitration* (1909). The British had argued that Africans ("Hottentotts") were present during the ceremony of annexation in 1878 and could give testimony as to the extension of the British land claim. The Germans responded by attacking the credibility of "the native" witnesses. They pointed to "the natives' natural inclination" to lie and reasoned that their "joy" during the annexation ceremony was due to "Cape brandy".[292] Also judge da Costa's doubts about alleged African narration structures and notions of truth pointed to such reservations.

Arbitrator de Meuron had no objections to the lists of witnesses. He invited the parties for a meeting in his office in Lausanne (September 17, 1923) on the planned testimonies.[293] This technical consultation between the arbitrator, Magalhães, B. Ferreira, Portugal's Minister in Bern, and Dr. Ruppel set the conditions for the testimonies. De Meuron expected both governments to arrange for the institutional back-up of the testimonies (rooms, interpreters, stenographers). He emphasized the necessity to define precisely the questions to be put to those witnesses he would not be able to interrogate himself. Turning seventy soon, he had no intention to visit Angola or Southwest Africa. Magalhães suggested that the witnesses living in Angola should be interrogated by local courts. De Meuron demanded precise information about Angolan courts and all questionnaires put to those witnesses. The Germans would be given a chance to comment on the questions before they would be sent to Angola. Ruppel requested the interrogation of the German witnesses to take place in Berlin, including the "main witness" Carl Jensen, who lived in Southwest Africa. The German government was willing to bear the costs for his journey to Berlin. Ruppel emphasized the German desire to accelerate the arbitration procedure, considering the general interest of the German government to identify its foreign obligations; but, as he found, the Portuguese reacted "with reserve". He also pointed out to the Portuguese that they had nominated only high-ranking officials as witnesses who were not present during the Naulila incident and invited them to present to the arbitrator the

292 *Fisch* 1984: 425; 427; cf. RIAA XI: 267-308.

293 BAB R 1001/6637, AA to RMW 17.8.23 (attached: Ordonance of de Meuron, 6.8.23).

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surviving Portuguese eyewitnesses of the incident. Also, de Meuron underlined the importance of the clarification of what had happened in the fort. Magalhães responded that there were two surviving Portuguese witnesses; both lived in "Angola and it would be difficult" to bring them to Europe.[294] However, already in October, the Portuguese were able to present to de Meuron, four new witnesses, two of whom were said to be eye-witnesses of the Naulila incident and now lived in Portugal.[295]

The Germans were not so fortunate. It took the Colonial Department, the Consulate-General in Cape Town, and most of all Germany's representative in Windhoek Dr. Franz (not to be mixed with Mr. Franz who drafted the German memoranda in Berlin) five months to convince Jensen to return to Europe. The frustrated and ruined farmer pressured the officials not only to reward him with an *Eisernes Kreuz* first class. He also demanded "reparations" for his captivity and economic loss during the war. He received altogether around 3,000 GM for his willingness to testify before arbitrator de Meuron.[296] Much to the chagrin of the Finance Ministry, the German Foreign Office and the Colonial Department were willing to pay this staggering amount since they considered ex-Governor Theodor Seitz and Carl Jensen the most important witnesses.[297]

In the meantime, de Meuron invited the parties to attend the first testimonies in Lisbon on June 2, 1924. Also Jensen was expected to make his appearance in Portugal. De Meuron agreed to have the witnesses living in Angola (High Commissioner Norton de Matos, Lieutenant Alberto Pereira, Sub-Lieutenant Julio Santos and Sergeant Americo I. da Rocha) interrogated by the President of the Court of Appeal in Luanda.[298] After he received Magalhães' questionnaire, councilor Franz, the colonial 'expert' from GSWA, drafted the German counter-questions to be put to the Portuguese witnesses in Lisbon and in Luanda. Franz tried to identify the witnesses according to the Portuguese and German memoranda and was look-

294 BAB R 1001/6637, Ruppel: Aufzeichnung Termin vor dem Schiedsrichter, 22.9.23.

295 BAB R 1001/6637: 49, Ordonnance de Meuron, 26.2.24; cf. *Hewitson* 2010: 318f.

296 BAB R 1001/6637: 94, RMW to Dr, Ruppel, 12.4.24; p.111, Note on meeting, 6.5.24; p. 112, AA to C. Jensen; AA to DKG, 6.5.24; p. 120, Dr. Franz to RMW, 16.4.24; p.140, DKG to AA, note Franz, 23.5.24; p.155f., calculation expenses19.6.24.

297 PA R 52531, remark Martius to Frohwein, 12.9.23.

298 BAB R 1001/6637: 49-51, Ordonnance de Meuron, 26.2.24.

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ing for inconsistencies in the reports made by these witnesses, as they were annexed to the Portuguese memorandum of 1921.[299]

"Questionnaires have a long and complex history", not only as juridical tool, but also for ethnographic and even diplomatic purposes. Questionnaires seemed the perfect means to ensure objectivity and fact-based procedures. "No more narrative at all".[300] However, both parties framed their questions in a way to provoke responses that favored their stance. To counter these attempts, both representatives struggled to change the arbitrator's perspective on the case by counter-questions. It was the task of the representatives to assess the (probable) biases of the responses to questionnaires and the trustworthiness of each of the witnesses and their testimonies *before* his (there were only men) appearance before arbitrator de Meuron.

It is also relevant to point out that statements by (eye) witnesses in court (or before an arbitral body) are not identical with what historians today call "oral history". The setting differs profoundly between interview and court hearing, and the same is true for the results of the words spoken in court or during an oral history interview. On the other hand, both kinds of evidence are formed in a similar process, first, by word of mouth and then by transcription. Historians using oral evidence from court (or arbitration) proceedings can refer to the insights gained by historians using oral history evidence. This concerns most of all the limits of this source to shed light on events in the past: "Historians using oral evidence now know enough about memory to avoid the naïve assumption that it is a 'verbalized reflection of personal truth and social reality'."[301] Furthermore, it is important to understand that "testimonies, as the first-hand experience of informants, often draw on traditional historical perceptions". The oral discourses were formed and mediated not only by the memories and intentions of the witnesses, but also by the questions raised and the process of transcription and translation into French.[302] In this form they found their way first to the desks of the arbitrator and the party representatives and then into the archives. In Lisbon, the Portuguese administration provided

299 BAB R 1001/6637: 108, AA to REA, 3.5.24; p.94, RMW to Dr. Ruppel, 12.4.24; p.131, REA to AA, 19.5.24; p. 133-137, remarks Franz, 23.5.24

300 *Vansina* 1987: 435.

301 *Hayes* 1993: 106 'The dimensions of implicit world views in oral history are much larger than the academic research agendas which tap their riches.'

302 *Hamilton* 1987: 68 in *Hayes* 1993: 108; cf. *Koskenniemi* 2014: 128 on 'opaque' intentions.

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stenographers for the statements of their witnesses and translated them thereafter into French. Since the German councilor Ruppel assumed Jensen's Portuguese to be rather "limited", a German-Portuguese translator was also necessary in Lisbon, as Jensen gave his testimony in German.[303]

The first out of altogether seven hearings of witnesses over the next two years took place from June 3 to June 11, 1924 in Lisbon's Supreme Court building. Professor Magalhães and his colonial councilor, Captain Manuel da Costa Dias commenced interrogating their witnesses. Also the Portuguese Minister in Bern, Dr. Bartolomeu Ferreira, was present. After the statement of each witness, the German representatives (the new head of the Foreign Office's Colonial Department, Edmund Brückner, who deputized for Ruppel being unable to leave his post in Paris,[304] and councilor Hugo Franz) were given the opportunity to ask their questions. In Lisbon the arbitrator emphasized his neutrality by living "in a withdrawn way". He wanted to follow an invitation of the German Legation only in case also the Portuguese representatives would attend the function. He finally cancelled it due to his "overstrain".[305] Of the 14 witnesses invited, 13 were present. Even though the arbitration was not a court procedure in a formal sense, the arbitrator functioned similar to a judge during the testimonies, authoritatively instructing the witnesses to restrict themselves to courtroom protocol and only to answer the questions posed by him or the party representatives.[306]

The arbitration became a stage for the expression of anger by the Portuguese witnesses and their claim to justice for Portugal. The testimony of General Alves Roçadas and several other high-ranking officials brought little surprise for either side. They quoted German authors as proof of Germany's quest for world hegemony, confirmed that Germans had constantly violated Angola's southern border and had supported King Mandume and others with guns and military instructions. Among the witnesses was also Lt.-Colonel Manuel Maia Magalhães (1881–1932), the brother of Portugal's representative. He had not taken part in the battle of Naulila,[307]

303 BAB R 1001/6637: 94, RMW to Ruppel, 12.4.24; p.95f., Ruppel to Martius, 19.4.24; p.98, de Meuron to Ruppel, 16.4.24; p.100, AA to ORR Franz, 28.4.24.

304 PA R 52531, Telgr. Ruppel to AA, 24.5.24; power of attorney Brückner, 25.5.24.

305 PA R 52531, remark Martius, 23.6.24.

306 BAB R 1001/6638: 143, Compte-rendu des séances de l'arbitrage, Lisbon 3.-7.; 9.6.24.

307 AHM/Div/2/2/21/16: 42, Pessoal que nelas tomaram parte [de Naulila].

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but was a member of the chief-of-staff of Roçadas and de Eça. After having referred to Friedrich von Bernhardi's *Vom heutigen Kriege* (1912), he explained the German "conspiracy" in Angola by "agents" such as Eisenlohr, Schöß, Vageler's study commission and missionaries. Maia Magalhães then described the Naulila incident as if he had been an eye-witness; justifying his good command of the particulars with the explanations Sereno had given to him in 1914.[308] Portugal's witnesses firmly rejected any wrongdoing on the Portuguese side like employment of irregular troops during the battle of Naulila.

The two eye-witnesses of the Naulila incident were asked to relate their accounts of what had happened ten years previously. Carl Jensen remembered that when Schultze-Jena had learnt that *Capitão mor* Varão was not in the fort, he wanted to leave. Sereno tried to convince him to stay but Schultze-Jena rode his horse towards the gate. When he reached the buildings next to the gate he noted that soldiers were pointing their guns at him. He attempted to take his own gun but was shot before he could do so.[309] Sergeant Gentil, the commander of the fort, was not present at this very moment, since Sereno had sent him to his office; but when Gentil heard gun shots and ran towards the noise, he saw Schultze-Jena lying dead on the ground. Gentil was told by his soldiers that the latter had shown a threatening attitude and had therefore been shot. Gentil denied that Sereno had ordered him to falsify a letter presumably from the *Capitão mor*. When arbitrator de Meuron wanted to know whether Jensen, in Gentil's opinion, spoke Portuguese, Gentil responded that Jensen spoke very poor Portuguese.[310]

After more than one week, the first hearing of witnesses was closed on June 11, 1924. According to the German Minister Voretzsch, Brückner and Franz were not contented with the hearing. They immediately requested to hear in Berlin the former High Commissioner of Angola, General Norton de Matos, who had just been appointed Ambassador to London and could not come to Lisbon. And they reserved the right to request the hearing of the missionaries Wulfhorst and Hochstrate in the former German colony by a British court.[311] Brückner's and Franz' impression was that the Portuguese had prepared their witnesses very well for the hearing

308 BAB R 1001/6638: 143, extra-file: 197ff. testimony Magalhães, 7.6.24.
309 BAB R 1001/6638: 139, summary testimony Jensen, 7.6.24; cf. *Santos* 1978: 222-4.
310 BAB R 1001/6638: 143, extra-file: 297ff. testimony Gentil, 9.6.24.
311 BAB R 1001/6637: 171-190, Franz: report on hearing, 3-11.6.1924, 28.6.24.

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and may have "instructed exactly" each testimony, as their structure followed the line of argument of Magalhães' memoranda. The German representatives, on the other hand, had agreed not to meet with Jensen after his arrival in Hamburg on May 10, and not to instruct him about his testimony. The deputy-head of the Foreign Office's legal department, Georg Martius, decided that Jensen should not be allowed to see the files with his previous statements. Even though nothing in this regard had been discussed with the arbitrator, Martius – making an analogy to German rules of procedure – was concerned that this could be interpreted "as influencing of witnesses".[312]

Brückner and Franz identified two Portuguese main arguments: the alleged German intention to annex the Portuguese colonies and the German instigations of "natives" against Portuguese rule.[313] And indeed, the recurring emphasis given by the witnesses to the anti-Portuguese propaganda of Germans was striking; even a German "doctor Strauwald" (possibly the farmer [S]Trauwald) treating Africans was claimed to have served German interests.[314] Upon their return to Berlin, Brückner and Franz confirmed their disappointment about the hearing. Brückner deemed it improbable that de Meuron would accept Franke's expedition to qualify as legitimate defense (*berechtigte Abwehrmaßnahme*). Based on the Portuguese witnesses' accounts it seemed possible that the transgression of Angola's border by Schultze-Jena's expedition could be considered a fact by de Meuron and, even worse, that it was executed with intent. However, Brückner, who had been received in Lisbon by the Foreign Minister, neither deemed an offer for a diplomatic compromise to be more successful. Voretzsch assumed that any German offer under 100 Million GM would be futile.[315]

There would be no compromise also in the future. The arbitration continued unabated. Testimonies of further witnesses took place in Berlin

312 BAB R 1001/6637: 94, RMW to Dr. Ruppel, 12.4.24; p.111, Note on meeting, 6.5.24; p. 112, AA to C. Jensen; AA to DKG, 6.5.24; p. 120, Dr. Franz to RMW, 16.4.24; p.140.

313 BAB R 1001/6637: 191, Voretzsch to AA, 13.6.24.

314 BAB R 1001/6638: 140, summary testimony Marques, 7.6.24; no 'doctor' of such name is known to the files. However, a bankrupt Farmer, Richard Strauwald, had left in late 1913 his Farm in order to go to Ovamboland; 'he expressed his intention to go to Angola'; NAN ZBU 1891 U V c 11 Farm Choantsas (R. Strauwald): 56, BA Grootfontein to KGW, 17.1.14; NAN ZBU 1010 J XIII b 4: 204f., Zawada to KGW, 2.12.09 mentions the 'Tsumeb trader Strauwald'.

315 PA R 52531, remark Martius, 23.6.24.

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(January 1925), again in Lisbon (before a Portuguese judge on behalf of de Meuron, April 1925), in Angola (before Portuguese judges on behalf of de Meuron in Silva Porto [Bié] and Benguela, July 1925), in Frankfurt (October 1925), in Southwest Africa (before South African magistrates on behalf of de Meuron in Windhoek and Swakopmund, May 1926), and finally also Ambassador Norton de Matos gave his testimony in Paris (May 1926).

The German witnesses, most of all Governor Seitz and General Franke spoke about the military necessity to attack Naulila, their conviction that Germany was at war with Portugal, and the impossibility to receive information from Germany. The Portuguese soldiers in Angola who had survived the attack on Fort Cuangar recounted German brutalities. Dr. Vageler denied allegations that his study commission fulfilled military purposes or was engaged in illegal activities. The German missionaries in SWA rejected claims that they had treated King Mandume "like a white monarch". And Norton de Matos responded eagerly to the questions of his minister colleague of 1917 in the government of Afonso Costa, Magalhães, about the German "infiltration of Angola". The Ambassador was well prepared and read a philippic with numerous facts to prove his claims.[316]

In the end, arbitrator de Meuron and his secretary Guex had listened to similar explanation of 'facts' time and again from the witnesses of one party with minor variations. These 'facts' were then emphatically denied and explained from a different perspective by witnesses from the other party. The French transcriptions of the testimonies added up to several hundred pages. Arbitrator de Meuron was left with the task to add them to the four memoranda and form his opinion on matters of facts and of law.

3.4 Colonial Border Agreements, Pleadings, New Arbitrators, 1926

In 1926, it became evident to the German councilors that the case was not going well for Berlin. Not only had the testimonies not brought forward the intended predominance of facts in favor of Germany. Also on the colonial ground, facts turned against German arguments and interests. In June 1926, shortly after the military coup of May 28 in Lisbon against "Euro-

316 BAB R 1001/6640: 111, extra-file: 3-37, testimony of General Norton de Matos, 5.5.26.

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pe's most unruly parliamentary system" (45 governments in 16 years) and the resulting end of the republic, agreements were signed between the Portuguese Government and the Government of the Union of South Africa. This *rapprochement* reduced years of mistrust between the parties and Portuguese concerns about its sovereignty in southern Africa.[317] Already at Versailles, the Portuguese urged the British to finally regulate the question of Angola's southern border and thus the question became a matter of high politics.[318] The Portuguese elite was still concerned about the possibility of losing the colonies and "such fears reached a zenith during the years 1922–28".[319] The *Estado Novo*, soon to be established by António Salazar, was just as committed to the Empire as was the republic.[320]

The agreements concerned the delineation of the borderline between Angola and the Mandated Territory of Southwest Africa (June 22, 1926) and the use of the Kunene waters for the purpose of power generation and irrigation (July 1, 1926). Both parties were not satisfied with the provisional agreement of 1915 declaring the disputed area a "neutral zone", jointly administered by Portuguese and British commissioners. A Luso-British commission met in July 1920 at the Ruacana Falls to initiate the delimitation of the boundary. The Portuguese were headed by Colonel Carlos R.M. de Faria e Maia, in 1914 member of the Luso-German "study commission". He took an extensive trip around southern Angola and documented in a photo album the commission's work and the reestablished Portuguese fortresses destroyed in 1914, among them Fort Naulila. The head of the South African commission, Surveyor-General Francis E. Kanthack, considered as "fairly clear" the definition of the precise spot through which the parallel of latitude from the Kunene to the Kavango should be drawn according to the Luso-German Treaty of 1886. He called

317 *Wheeler* 1978: 3; cf. *Roberts* 1986: 497 'It was the principal achievement of the Estado Novo that, after 1926, … diplomatic support was obtained from both Britain and South Africa … Both internally and externally, the Portuguese empire was more secure in the 1930s than at any time in the previous hundred years.'; *Ministério das Colonias* 1929: 3.

318 TNA FO 608/217: 1, Hardinge;34, Crowe to Read, 6.5.;39, Curzon to Balfour, 17.5.19.

319 *Wheeler* 1978: 188.

320 On this continuity *Arenas* 2003: 6 referring to V. Alexandre.

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the German claim "ingenious" that the borderline must be drawn further upstream at the "Small Cataract" instead of the Ruacana Falls.[321]

In the following years it seemed that the Portuguese administratively incorporated the "neutral zone" into Angola. Only in 1926 South Africa's new Afrikaaner nationalist government under Barry Hertzog (1866–1942) was willing to accept Portuguese claims to the neutral zone. This was a determined move away from the "imperialist aspirations" of Jan Smuts (ousted in 1924). In turn Lisbon accepted Sout h African water rights and ratified the first treaty that the Union negotiated and signed "in its own right" without involvement of the British Foreign Office. "[P]rofoundly important" for the National Party's notion of South Africa's independence, the preamble asserted that the Union "possesses sovereignty over the territory of South West Africa" to which the Portuguese agreed despite the protestations of the League of Nations.[322] Thus, "South Africa, gradually emerging from British suzerainty, took great pride in its new role as a colonial power"[323] Demarcation started in 1931.[324]

The connection of these agreements with the Luso-German arbitration was palpable: The Portuguese delegation in Cape Town was headed by the former Prime Minister and Foreign Minister Augusto de Vasconcelos, who had dealt with the border issues already before the war. He was accompanied by Colonel de Faria e Maia, who knew the disputed areas from his tours in 1914 and 1920 and who had given his testimony on German border infringements in Lisbon in 1924.[325] The German Consul General Alfred Haug reported that Prime Minister Hertzog had explained to him that the Portuguese standpoint in the Angola boundary dispute was "well-founded". In 1927, Portugal concluded an equally successful treaty with the Belgians on the border with the Congo.[326] These successes of Portuguese foreign policy stood in contrast to the domestic affairs of Portugal

321 *Kanthack* 1921: 321; 334; *Faria e Maia* 1941; PT/CPF/CAF/0012, Missão da Delimitação da Fronteira Sul d'Angola, 58 photos [http://digitarq.cpf.dgarq.gov.pt/details?id=65446], 1920; cf. *Akweenda* 1997: 225; *Pélissier* 1977: 501; *Dias* 1991 on photography in Angola.

322 *Cooper* 1999:127 1928 Pretoria ceased flying the Union Jack in SWA; *Vigne* 1998: 300.

323 *Botha* 2007: 19; cf. *Akweenda* 1997: 228f.; *Ndongo* 1998: 291.

324 Art. 1; 2, BAB R 1001/6641: 12, extra-file: 43-7, French transl. of Luso-South African Border Agreement, 22.6.26; on the delimitation (23.9.28) *Brownlie/Burns* 1979: 1033-36.

325 Cf. *Kanthack* 1921: 335; *Faria e Maia* 1941.

326 BAB R 1001/6640: 131, German CG Pretoria to AA, 12.7.26; cf. *Vellut* 1980: 103.

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where "public powers grind[ed] to a halt" and the political situation was characterized by "relentless instability and overall uncertainty".[327]

Considering that the facts turned against them, a more qualified legal support to the German Foreign Office and its Colonial Department was necessary than the former colonial official Hugo Franz could offer. During the last hearing in Paris, arbitrator de Meuron had indicated that he intended to have the final oral pleadings in autumn 1926. Again, it became obvious that the lawyer wanted to follow similar rules of procedures as in a domestic court cases.[328] While it was considered a matter of fact that Professor Magalhães would represent the case for Portugal, the Legal Department of the German Foreign Office started in May 1926 to search for a "personality" who could represent Germany in eloquent French.

The choice fell on the appellate court judge (*Oberlandesgerichtsrat*) Dr. Robert Marx (1883–1955) from Düsseldorf. He knew the task of representing Germany in cases based on the Treaty of Versailles. Since 1921, Marx was commissioned to the Franco-German MAT in Paris where he worked and lived with his family.[329] Fluent in French and English, Marx accepted the nomination. He commenced to work on the four memoranda during his summer holidays. Interestingly, the hundreds of pages of testimonies were considered of minor relevance for Marx' preparations.[330] Knowing billions at stake, Marx worked since August exclusively on this arbitration in Berlin.[331] Again, the Germans hoped the Portuguese would accept a diplomatic settlement to avoid the formal arbitration.[332] Already in February 1926, the Portuguese and the German delegation to the Reparation Commission in Paris agreed to limit the value of German deliveries in kind to Portugal. Such sense of compromise could be upheld.[333]

Arbitrator de Meuron was not a disguised "state attorney". He had to weight the facts as presented to him by the parties. He was not entitled to undertake his own inquiries. Thus, pleadings were his last chance to clarify questions of fact or law. In July 1926, de Meuron sent a clarifying

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327 *Madureira* 2010: 658; *Madureira* 2007: 82; cf. *Meneses* 2009: 32f.; 45.

328 PA Bern 1763, AA to DG Bern, 31.5.26; on this 'analogy' already *Lauterpacht* 1927.

329 LANRW Gerichte Rep. 244 Nr. 848: 196 Personalakte Robert Marx, MoJ to Marx, 19.9.1921; PA R 52531, Martius to Brückner, 14.5.26; remark Frohwein, 19.5.26.

330 BAB R 1001/6640: 121, Dr. Marx (*Deutscher Staatsvertreter beim deutsch-französischen Gemischten Schiedsgerichtshof*) to Göppert, 17.6.26; p.138, remarks.

331 BAB R 1001/6641: 31, remark Frohwein to Martius, ~10.8.26.

332 PA R 52532, Martius to Göppert, Brückner, Franz, 4.9.26; Martius to Frohwein, 14.9.26.

333 AHD 3p ar 25 m 1-Reparações, Proc.1, Port. Delegation to Reparation Com., 4.5.26.

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memorandum to both parties regarding the pleadings in Lausanne on September 20, 1926. He considered the damages in the colonies the "most important" part of the case, as compared to Portuguese damages in Belgium and at sea. Before the indemnity for damages could be assessed, the principles and the limits of Germany's responsibility had to be determined: for that end, 1) the Naulila incident had to be further clarified; and it needed to be decided 2) whether that incident was such as to justify the measures subsequently taken by Germany; and 3) whether Germany assumes responsibility for all of the harm ensuing from these measures, or if its responsibility is diminished by the fact that concomitant causes independent of its will might have contributed to augmenting such harm.[334]

The hearing in Lausanne took place in the auditorium of the University (*Palais du Rumine*) and was headed by arbitrator de Meuron and the Professor of law Dr. Guex, who had supported de Meuron already for years. Despite the important political changes that took place in Portugal and the intense struggles within the administration, Professor Magalhães and Major Costa Dias were still Portugal's representatives. Judge Marx and Councilor Franz represented Germany. Anyone was admitted to hear the representatives in Lausanne; sessions lasted from 9-12 a.m. and from 3-5 p.m.[335]

Following a short introduction by de Meuron, Professor Magalhães was the first speaker on Monday morning, September 20. As was to be expected, he commenced his pleading, which lasted for almost ten hours, with a historical overview of the political situation at the eve of the war. He underlined that German greed (*convoitise*) with regard to the Portuguese colonies was no secret. Magalhães reiterated the Portuguese version of the Naulila incident and put great emphasis on the "fact" that the Germans had camped not in the contested "neutral zone" but on undisputable Portuguese territory. He referred to the new border agreement with South Africa of June 1926, recognizing the Portuguese definition of the border to commence at the Ruacana-Falls. This agreement served him as prove that Portugal has always been right when it claimed that Schultze-Jena had camped in Angola.[336] As to the German justification of the destruction of forts, Magalhães reminded the audience that according to international law measures of reprisals would have to be equitable. The destruction of the

334 BAB R 1001/6640: 130, de Meuron to DG Bern, 19.7.26; transl. *Heinze/Fitzm*.1998: 1267.
335 PA R 52532, Telgr. Bülow (Genf) to Martius, 18.9.26; remark Martius, 28.9.26.
336 BAB R 1001/6641: 12, extra-file: 15, statement Contre-Admiral Gago Coutinho, ~2/1926.

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forts along the Okavango River would have "sufficed". When Governor Seitz ordered the attack on Fort Naulila, he did not consider it a reprisal but an act of war, which was contrary to international law. Finally, Magalhães restated that the "native rebellion" was caused by German propaganda from German agents and missionaries, who had also delivered modern guns to Africans. He concluded that Germany would be liable for all consequences caused by the "native rebellion".

Magalhães' pleading was as ardent as Marx' was sober – a legal duel with uncertain outcome. Marx commenced with a statement from a purely legal perspective. He reiterated that § 4 of the Annex to Article 298 TV did not establish new obligations but regulated the usage of German property in allied territory for damages committed by German authorities during the neutrality of the respective allied power. Referring to a number of precedents, he emphasized that under this clause the arbitrator would have competence only to decide on the merits and the amount due, but that it is not his task to decide on the mode of payment (the execution). In line with public international law, only states would have a claim against another state and not individual citizens.[337] Only the next day, September 22, 1926, Marx included the factual situation on the colonial ground in his pleading, which lasted for around three hours. He reasoned that the witnesses had not clarified whether Schultze-Jena had camped on Portuguese, German or neutral territory. German intention to procure foodstuff in Angola would have been perfectly in line with the rights and duties of neutral states according to international law (Art. 7; 8, V. Hague Convention). Marx spoke of an illegal order by the *Capitão mor* of Cuamato to arrest and disarm the Germans, which was taken to the extreme by Lieutenant Sereno who had tricked the Germans to get them into the fort. The authorities in GSWA, without information from Berlin and after several attempts to contact the Angolan authorities via the wireless station, were entitled to take "reprisal" measures against the Portuguese forts. The attack on Fort Naulila was necessary considering that the first measures proved futile to obtain the prisoners Jensen and Kimmel. The expedition of Commander Franke was also justified by necessity to protect the border of GSWA against Portuguese intrusions which seemed to be imminent. However, even if certain reprisal measures would be qualified as "excessive", such excess were compensated by the grave errors committed by the Por-

337 Cf. on the contemporary legal discussion *Petersson* 2009: 97-107.

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tuguese. Marx concluded that German authorities had not "committed" acts in the sense of § 4 and therefore no German responsibility could be claimed. Furthermore, the "native revolt", on which most of the Portuguese claims for damages were based, could not be considered causally related to German acts. The "troubles" with Africans were already ongoing for years before 1915. Roçadas' retreat up to Gambos after the battle of Naulila was not caused or justified by any German military act. Finally, the famine and the resulting damages were not only caused by the war but also by the lack of rain. Marx agreed to the German payment of an indemnity for the incident in Mazuia, Mozambique, but asked de Meuron to reject the claims for damages in Angola.[338]

On Wednesday afternoon, Magalhães was given time to prepare his replique to the German statement. Apparently, he found Marx's division of the pleading in a legal and a factual part convincing. When Magalhães commenced his replique the next day, he divided the subject in the same manner. While he had barely touched on legal substance in the days before, Magalhães now changed his tactics visibly. He brought with him a stack of international law treatises, which he put on his desk to read quotations from them from time to time. Magalhães denied that Schultze-Jena was a "peace envoy", since there was no war. Germany would not have been entitled to "reprisals" since treatises of international law stated that according to the statutes of the League of Nations no such law of reprisal exists any longer. Provided such law had existed in 1914, its exercise would have been lawful only after a respite of several weeks after the original incident. Governor Seitz had violated this rule, when he ordered the attack on Fort Cuangar three days after the Naulila incident. Finally, Magalhães resorted to factual issues and quoted extensively from the testimonies. His replique took almost seven hours. Marx reported later that Magalhães prided himself with his ability as "politician, professor and lawyer" to speak for hours without efforts. On September 23, de Meuron invited all participants and their wives for a dinner party to his house.[339]

Dr. Marx, whose fluency in French impressed de Meuron, did not request a pause for his duplique to Magalhães, since the latter had not brought up new arguments. Marx contented himself with less than three hours on Friday afternoon. His duplique was driven by the political argu-

338 BAB R 1001/6641, Plaidoyer Marx, 20.9.; 12, file: 57f., conclusions Marx, 20.9.26.
339 BAB R 1001/6641: 4-11, report of H. Franz to AA, 18.10.26; cf. *Santos* 1978: 224-7.

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mentation brought forward by the Portuguese, claiming that in 1914 Portugal had aimed at "no frictions with the Germans and strict neutrality". Marx however referred to the Portuguese *Whitebook* and wanted to prove that Portugal had never been neutral. Regarding Schultze-Jena's standing as "peace envoy" or not, Marx considered this an issue of denomination without legal substance; in any case he would have been entitled to enjoy protection as envoy. The final pleading of Marx was full of quotations from the testimonies. He preferred to quote Portuguese witnesses to underline his own standpoint. Marx reminded Magalhães that only the engineer Schubert had been taken to court in Angola because of his alleged German propaganda. However, the accused was acquitted for want of evidence. Thus, he considered as pointless the Portuguese claim about the German propaganda and its consequences. Under international law only direct damages would create an obligation to pay damages. Emphasizing that the Germans never pursued the Portuguese troops after their defeat in 1914, Marx argued by quoting the witness Maia Magalhães that the battle of Naulila was "simply a reprisal", which did not cause Africans to rise. Marx concluded by pointing to the "future" of Germany, loaded with the obligations of the Treaty of Versailles, which should not be further aggravated by the arbitration award.[340]

The pleadings anticipated most of the arguments which would finally find their way into the award. De Meuron and Guex never made any comments during the sessions and did not even ask a question after the oral proceedings were over. De Meuron merely remarked that he would send his decision to the envoys in Bern, but did not indicate when he would do so. Marx lauded the handling of the hearing by the arbitrator as being fair and neutral. Marx did not want to speculate on the outcome, but remarked that he was "optimistic", considering the "the manner in which de Meuron and Guex listened to our arguments" and a comment by R. Guex after his first "pleading, that he had rediscovered many lines of thinking in it that corresponded to his [Guex'] ideas in studying the process". [341]

Over the following year, both parties speculated that the award would be published soon. However, de Meuron struggled with the stenogram of Marx' pleadings that were wrongly recorded, so Marx had to revise the 120 pages.[342] In October 1927, Marx met the secretary of the arbitration,

340 PA R 52532, Marx, Paris to AA, 3.3.28, Plaidoyer du Dr. Marx: 120.
341 PA Bern 1763, Dr. Marx to Göppert, 24.9.26.
342 PA Bern 1763, de Meuron to Dr. Marx, 26.9.27; Dr. Marx to AA, 6.10.27.

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Ill. 37 Robert Guex

Ill. 38 Robert Fazy

Professor Guex (who was himself arbitrator in several MATs) in Paris. He told Marx "in a very humorous manner about his persistent but heretofore fruitless attempts to convince Mr. de Meuron to hand down the arbitration award and [he] concluded with the observation, that in his opinion, a decision would be available until January 1, 1928".[343] In December 1927 de Meuron's request to meet the Portuguese and German ministers in Bern led to rumors that the award would be imminent. However, de Meuron suggested to nominate two additional arbitrators, thus deviating from § 4. Considering the significance of the irrevocable definite decision, the enormous amounts involved and the serious factual and legal problems of the case de Meuron wished the arbitration award to be the result of a collective work. He referred to analogous considerations of the Greek-German arbitration tribunal, which had also involved several arbitrators. De Meuron suggested nominating a Swiss federal judge and Professor Guex who had been involved in the case for years and knew all documents and proceedings.[344]

The Secretary of State of the Portuguese Foreign Ministry bluntly stated that he had no intention to reject de Meuron's suggestion, "whose reason apparently is rooted in the concern of the arbitrator to bear all responsibility himself."[345] Guex was accepted unanimously. Due to his French native language and his domicile in Lausanne, federal judge Robert Fazy (1872–

343 PA R 52532, Marx to Martius, 20.10.27.

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1956), the president of the German-Romanian arbitration tribunal, was the favorite of de Meuron. Portugal's minister in Bern pointed to Fazy's "Latin mentality" and saw his appointment as "favorable to Portugal". Even though the Germans would have preferred a Germanophone judge (the President of the Federal Court Emil Kirchhofer (1871–1944), Schaffhausen) they conceded to Fazy in February 1928.[346]

4. *The Award of 1928 (Merits)*

While the Portuguese administration, and most of all the Finance Ministry, since April under the helm of Professor António Salazar, was hoping for the immense amounts it had claimed,[347] its German counterpart was faced in early 1928 with another pressing 'colonial issue': the reparation payments for the Germans expelled from the ex-colonies (and those expelled from Russia and Eastern Europe). Altogether 10,4 billion marks in "foreign damages" (*Auslandsschäden*) due to the war had been claimed, but the Ministry of Finance could allocate only 1,4 billion marks for payments to claimants who were waiting now for almost ten years. Given that pressure groups repeatedly linked the ongoing German reparation payments to the Allies to the outstanding amounts for "expropriated Germans", the issue was highly politicized. When the final bill on war damages (*Kriegsschädenschlussgesetz*) was discussed, hundreds of claimants expressed their anger in front of parliament. The Vice-President of the Reparations Office (*Reichsentschädigungsamt*), faced with more than 350,000 claims, was even attacked in his office by a farmer expelled from GEA.[348]

The obligation to pay additional billions could well have derailed the German budget (even though § 4 made no allusions to the execution of an award, as Marx had repeatedly stressed). Nervousness increased and Marx had thus any reason to send encouraging letters from Paris to the Foreign Office that – after having met Guex and Fazy during other arbitration tribunals – he had won the impression from private conversations that the

344 PA Bern 1763, pro-memoria de Meuron, 12.12.27; DG Bern to AA, 15.12.27.

345 PA R 52532, DGL to AA, 18.12.27.

346 PA Bern 1763, AA to DG Bern, 3.1.28; Portug. Minister Bern to Meuron, 12.1.28; AA to DG Bern, 26.1.28; R 52532, Marx to AA, 21.1.28; Fazy to DG Bern, 28.4.28; *Santos* 1978: 228f.; *Tscharner* 1956.

347 *Meneses* 2009: 46; 59; *Smith* 1974: 662 on Salazar's 'passion for balanced budgets'.

348 *Aas/Sippel* 1997: 153-5, verdict *Schöffengericht Berlin-Schönebg.* vs. Langkopp, 9.4.1929.

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two agreed in essential parts with the German standpoint; especially with regard to the claimed damages due to the "native rebellion".[349] In early July de Meuron asked the parties for a payment of 10,000 Swiss Francs each,[350] upon receipt of which he sent to the Portuguese and German Ministers in Bern on August 1, 1928 the award of the arbitration tribunal. Dating July 31, 1928, the 34 pages were immediately forwarded to Lisbon and Berlin.

4.1 *Disproportion évidente* – Content of the Award

The question what makes jurists think what they think is always elusive – an awareness of matters of fact and matters of law will not suffice to explain a specific decision by arbitrators. Most importantly for historians, the arbitrators left no traceable sources about their reasoning other than the text of the award itself. The criterion of falsifiability of the evidence provided was certainly applied by the three arbitrators. Their award was heavily based on matters of fact while those claims that seemed implausible to them were excluded. Verifiable 'objectivity' was the goal of the arbitrators when analyzing the 'facts' in light of the law:

While Germany had argued that the attacks on the Portuguese fortresses were lawful reprisals, Portugal contended that the reprisals were unjustified and that Germany was responsible for all damage caused by the invasion. Portugal, in its memoranda and during the pleadings, had claimed two categories of damage. One related to the direct consequences of the German invasion of Portuguese colonial territory, like the killing or wounding of soldiers or of civilian population, and the destruction of property. The other related to the damage caused by the "African rebellion" in the territory evacuated by Portuguese forces which became the scene of pillage, and for the (re-)occupation of which it was necessary to send a costly expedition.

The award focused exclusively on the colonial damages and began with a discussion as to the law applicable. The arbitrators held that their award must be governed by general rules of international law as distinguished from any particular treaty provisions. The question was one of state responsibility, and as such must be determined by general international law.

349 PA R 52533, Marx, Paris to AA, 4.5.28; 25.5.28; 26.6.28; 26.7.28.
350 BAB R 1001/6641: 51, de Meuron to DG Bern, 7.7.28.

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The designation of a purely neutral tribunal and the use in § 4 of the term "acts committed" – a term taken from the terminology of international law – showed that there was no intention to substitute a special *ius tractatus* for general international law. Pointing to two awards (*Chatterton* 1923; *Karmatzucas* 1924), the arbitrators decided that the fact that the Treaty of Versailles did not expressly lay down the rules of law to be applied by the arbitrator could be interpreted only as meaning that the arbitrator should apply international law. This being so, the law applicable by the arbitrators was that laid down in the first four paragraphs of Article 38 of the Statute of the Permanent Court of International Justice.[351] In case where there was no rule of international law applicable to the case the arbitrators filled the gap by applying "principles of equity". In doing so the arbitrators remained, they argued by referring to Heinrich Lammasch, within the "purview of international law applied by analogy, and taking its evolution into account."

De Meuron, Fazy, and Guex carefully reiterated the facts examined during the arbitration. However, seeing that the witnesses disagreed "on several points" they acknowledged that the "investigation did not yield a clear reconstruction". Therefore, "[i]n order to apportion responsibility, the arbitrators, after having considered the testimony in accordance with the customary rules governing allocation of the burden of proof, must then fill any gaps by accepting the most plausible presumptions".[352] Among the "facts" the arbitrators recognized as "established" was the Portuguese contention that "Erickson Drift [south of which Schultze-Jena had his camp], located to the north of the extreme limit of [the neutral] zone, was situated on Portuguese territory." (p. 1019f.) They found that the death of the three Germans on October 19, 1914 was due to a *déplorable* misunderstanding caused largely by the fact that the actors did not understand each other be-

351 Art. 38 StPCIJ: '1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) subject to the provisions of Article 59 judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law. 2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.' Cf. *Kennedy* 1997: 120f.

352 RIAA II: 1011-35 (page numbers hereinafter in the text); transl. in: *Heinze/Fitzmaurice* 1998: 1272f.; *Fitzmaurice* 1932: 156f.; cf. *El Boudouhi* 2013: 148.

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cause their interpreter was *incapable*[353]; and that the Portuguese officer who gave the order to fire believed himself to be in danger (p. 1024f.). They pointed out that in the following the colonial authorities did not communicate with each other, but acknowledged that the Germans sent uncoded radio-telegrams about the incident; a fact unknown to Angola's governor. Following this factual clarification the arbitrators defined the term *représailles*:

> "Reprisals are an act of self-redress (*Selbsthilfehandlung*) of the injured State, an act done in reply – after giving notice and not receiving satisfaction – to an act contrary to the law of nations by the offending State. Their effect is temporarily to suspend, in the relations between the two States, the observance of one or another rule of the law of nations. They are *limited* by humanitarian experience and by the rules of good faith applicable in relations between States. They would be unlawful if a prior act contrary to the law of nations had not furnished the cause for them. They seek to impose on the offending state reparation for the offence, the return to legality and the avoidance of new offences."[354]

Given this definition they found Germany responsible for the damage caused by the invasion for the following reasons:

(a) A necessary condition for the legitimate exercise of the right of reprisal is the prior violation of a rule of international law by the state against which the reprisal is directed. However, there was no such violation in the present case, given that the death of the three German officers was due to an accident caused by an unfortunate misunderstanding.[355] Neither could the internment of the two surviving Germans be regarded as an act contrary to international law. Portugal, as a neutral state, had the right to disarm and intern armed belligerents who crossed its frontier (giv-

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353 Brückner, Ruppel, or Seitz had attributed utmost importance to Jensen's testimony (BAB R 1001/6634: 107, Seitz to Colonial Ministry, 21.10.19), but the arbitrators were not hesitant to 'express reservation, if not about the sincerity, than at least about the probative value of testimony of the translator Jensen, regarding the meaning of certain conversations that had taken place, or texts that had been written, in Portuguese. For it has been demonstrated by the testimony of numerous witnesses – German as well as Portuguese – that Jensen, whilst employed as a 'translator' for the German mission, knew little Portuguese and barely understood it.' (p. 1020)

354 RIAA II: 1026, cit. in: 1998 ICJ: 432 (731) WL 1797317 *Fisheries Jurisdiction* (Spain vs. Canada), 4.12.98 [transl. by the Registry]; cf. *Séfériadès* 1935: 139; *Waldock* 1952: 460.

355 *Grewe* 1988: 734 in his summary of *Naulilaa* errs when he states: 'Repressalien der deutschen Schutztruppe in [DSWA] aus Anlass der *völkerrechtswidrigen* Tötung einer Gruppe deutscher Beamter und Militärpersonen auf portugiesischem Hoheitsgebiet in Angola.' [emphasis added].

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en that the arbitrators considered the German camp on Portuguese territory; the "fact that the [German] mission … was, at Erickson Drift, still on German territory, has never been established").

(b) Reprisals are illegal if they are not preceded by a request to remedy the alleged wrong. There is no justification for using force except in case of necessity. Germany did not deny this principle and pleaded that the German governor informed all German posts by wireless of the death of German officers, and this notice, which must have reached the Portuguese authorities, should have been sufficient warning. Germany also pleaded that Governor Seitz refrained from sending a party with a flag of truce because he feared that the members of the party might be put to death or imprisoned. However, the arbitrators did not regard these reasons as sufficient.

(c) Reprisals which are altogether out of proportion with the act which prompted them, are excessive and therefore illegal. This is so even if it is not admitted that international law requires that reprisals should be approximately of the same degree as the offence. The arbitrators, knowing that this argument was doctrinally the weakest, went into some detail in their discussion of the legal literature:

> "The most recent doctrine [of reprisals], notably the German doctrine … does not require that the reprisal be proportioned [*proportionée*] to the offence. On this point, authors, unanimous for some years, are now divided in opinion. The majority considers a certain proportion between offence and reprisal a necessary condition of the legitimacy of the latter. International law in process of formation as a result of the experience of the last war tends certainly to restrain the notion of legitimate reprisals and to prohibit their abuse [*l'excès*]."[356]

Germany never denied the requirement of proportionality, but even mentioned it in the 1922-memorandum. The arbitrators concluded that there was an obvious lack of proportionality (*disproportion évidente*) between the incident in Naulila and the six acts of reprisals which followed the incident.

All three requirements (prior illegality, prior demand, and proportionality) were explicitly addressed in the German memoranda of 1922 and 1923, but the arbitrators interpreted the facts differently than the German representatives. Also the other contentious claims (German camp on Portuguese or German territory; Portugal's siding with the Allies or neutrali-

356 RIAA II: 1026, transl. *Gardam* 2004: 47; cf. *Séfériadès* 1935: 141-7 ref. K. Strupp.

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ty) were decided against Germany: The first was apparently a question of a few meters and the Portuguese had forwarded ample of evidence in their favor; the second would have involved a balancing of political assessments about Portugal's "loyalty" to Britain that could have derailed the entire arbitration under § 4 about "neutrality damages". Evidently, the arbitrators had not intention to do so and followed the formal argumentation of Portugal. As a result, German reprisals in Angola were illegal and unjustified in light of modern tendencies of international law.

After investigating the Portuguese contention that Germany was liable in damages on the additional ground that the uprising of Africans was fomented by German agents – a contention which the tribunal rejected as unfounded – the arbitrators considered the question whether and how far Germany was responsible for the *indirect* damages caused by the German invasion. They referred to the fact that the decision in the *Alabama* arbitration (1872), denying compensation for other than direct damage, was subjected to criticism, and that international tribunals frequently awarded damages for indirect losses. "It would not be equitable to allow the victim to suffer from losses which the author of the first illicit act foresaw and, perhaps, willed, for the mere reason that there were intermediate links in the chain connecting that act with the damage sustained." On the other hand, the arbitrators held that it was impossible to charge a state with the responsibility for damage connected with the initial act by a chain of exceptional circumstances which could not be foreseen. They referred to the decisions of the American-German Mixed Claims Commission (under the Treaty of Berlin, 1921), which refused to award damages for losses which, although causally connected with the initial event, were at the same time due also to other causes.

The arbitrators held that Germany was responsible for such damage as the German authorities as "author of the initial act … should have foreseen as a necessary consequence of its military operations."[357] For the arbitrators it was "natural" that the German invasion should produce unrest among the Africans and increase the opportunities for revolt, and Germany was, in so far, responsible. It would not be just to limit German responsibility to damage caused directly by the German troops themselves. But Germany was *not* responsible for the extension of the revolt, which was due to specific circumstances connected inside Angola. It was not im-

357 Transl. in *Eritrea-Ethiopia Claims Comm.*, Decision No. 7, 27.7.07 (H. van Houtte).

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material that Roçadas who ordered the retreat evacuated a rich area, although there was no pressure on the part of the German regiment, which after the battle of Naulila retired to GSWA. The arbitrators concluded that Germany could not be saddled with exclusive responsibility for the consequences of the Portuguese officer's decision.[358]

The award was decided only on the merits of the case; no amounts of "Goldmark" were mentioned. Germany was obliged to compensate to Portugal the direct damages caused to the forts, and to a limited extent Portugal was also entitled to compensation of its indirect damages. The award did not mention the Portuguese accusations about the alleged German intrigues before the war to annex Portuguese colonies and did not state that Schultze-Jena's expedition had an illicit purpose. In their "ordinance" to the parties delivered together with the award, de Meuron, Guex, and Fazy ordered Portugal to provide them within three month with a memorandum listing detailed and complete amounts of *direct* damages caused by German attacks on the Forts Mazuia, Cuangar, Bunja, Sambio, Dirico, Mucusso, and Naulila. For other claims for damages a limited supplementary and equitable indemnity would be fixed, considering the preponderance of causes beyond the responsibility of Germany. The Portuguese memorandum would be forwarded to Germany for a response within three months. Subsequently, a hearing on the amounts would be scheduled.[359]

As to the colonial setting of the case and the language used by the arbitrators with regard to the "rebellion" and King Mandume, who was described as *chef sanguinaire*, it seems noteworthy that the subduing of the "rebellion" was considered a necessity not to be questioned by the award. The distinction between "civilized and uncivilized states" was one of the "central features of positivism" in international law. The arbitrators explicated the principle of the proportionality of reprisals, and it was out of question that such limitation to the use of force would *not* apply because the fighting took place in the colonies. International law, in this respect, was truly universal – between Europeans. However, completely different standards were, legitimately in contemporary discourse, applied to the categories of "civilized and uncivilized" people and all recourse to war

358 RIAA II: 1031f.; *McNair/Lauterpacht* 1931: 274, No. 179; 466, No. 317; 526f., No. 360.
359 PA R 52533, ordonnance de Meuron, Guex, Fazy, 1.8.28; DG Bern to AA, 2.8.28.

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against "natives" was considered by international lawyers a domestic affair, since only European (colonial) power could exercise sovereignty.[360]

4.2 Responses to the Award. The Amount of Portugal's Damages

In August 1928, both administrations began to assemble information on the value of the destroyed forts and their equipment. Also the legal implications of the award were assessed. Evidently, Professor Magalhães was not pleased with the finding that Portugal would be – more or less – only entitled to direct damages from Germany. The award's wording of a "limited equitable" indemnity did not leave room for much speculation that the billions Portugal demanded since 1919 would be forthcoming soon. In September, German representative Marx provided the Foreign Office's legal department with his estimation of the costs to be expected according to the award. He assessed Germany's "risk" to amount to around 18 Million GM (9 Million direct damages and maximum 9 Million "supplementary equitable indemnity" for indirect damages).[361] However, while Portugal's administration was busy finding proof for the smallest piece of equipment destroyed in 1914, the Germans began to contemplate about legal reasons why no money should be paid at all.

4.2.1 German Hopes – A Possibility of Non-Payment?

Ruppel, the former head of the German team on the Portuguese claims commented on the award: "I am not really delighted by the opinion the tribunal has about the incidents in Naulila." However, he assumed that the "indemnity" would not be "too high". Moreover, "we will not have to bear it in addition to the Dawes annuities."[362] Judge Marx made a similar argument. In October 1928 he explained why diplomatic negotiations with the Portuguese about an extra-judicial settlement (as recommended before)

360 *Anghie* 1999: 22; 7 'The violence of positivist language in relation to non-European peoples is hard to overlook. Positivists developed an elaborate vocabulary for denigrating these people'; cf. *Koskenniemi* 2001: 102f.; 128; *Bowden* 2005: 20; 23; *Becker Lorca* 2010: 487.

361 PA R 52533, Marx, Paris to AA, 12.9.28; AA to RFM, 27.9.28.

362 PA R 52533, Ruppel, Paris to Martius, 10.8.28. 'Im übrigen werden wir diese ja nicht gesondert neben den Dawes-Lasten zu tragen haben.'; cf. *Dawes* 1926.

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would no longer be necessary. He based his change of mind on the latest award by arbitrator Robert Fazy in the Romanian-German arbitration *David Goldenberg vs. German Empire* (September 27, 1928) which did not mention

> "according to German request … the question of execution [*Erfüllung*]. Furthermore, he indirectly supports the German thesis that neutrality claims [§ 4] do not have a particular status vis-à-vis the reparation claims and do not form a reason for payment obligations beyond the Dawes-annuities, by explicitly stating that these are claims (*Ansprüche*) from state to state … there is no sentencing [*Verurteilung*] to payments, but merely the amount of damages has been determined."[363]

The German Finance Ministry's councilors, when provided with the award and Marx' estimate of 18 Million GM went even further and attacked the basis of most of Portugal's claims. They came back to basic considerations of § 4, of which all participants to the dispute had apparently lost sight: The award obliged Germany to pay damages for the destruction of forts and military equipment – property belonging without any doubts to the Portuguese state. However, referring to legal literature of standing (*Baruch* 1920; *Isay* 1923; *Fuchs* 1927), the Finance Ministry argued that § 4 limited the competence of the arbiter to damages of *nationals* of neutral states. It was thus considered a contradiction of the award that it obliged Germany to pay damages to the Portuguese *state* for the destruction of military equipment, and at the same time it determined the arbitrators' proper jurisdiction for "taking cognisance of indemnification claims brought by *nationals* of the allied powers against Germany" (p. 1016) Considering the wording of § 4 there could not be any obligation to pay damages to the Portuguese state. The councilors assumed that the larger part of the risk of 18 Million GM assessed by Marx would fall under the damages caused by Germany to Portuguese government property.[364]

However, the Foreign Office was – despite the Finance Ministry's insistence – hesitant to raise this objection to "state property" with the arbitrators. It did so for purely tactical reasons. Dr. Martius, deputy-head of the legal department, conceded that the Finance Ministry's understanding of § 4 was not unfounded. But he reminded Judge Marx that it was "impossible" to use this argument officially at this point in time at the end of

363 PA R 52533, Marx, Paris to AA, 16.10.28 'keine Verurteilung zur Zahlung'.

364 BAB R 1001/6641: 75, RFM to AA, 20.10.28; PA R 52534, RFM to AA, 21.2.29; *Fuchs* 1927: 259 *Kaufmann* 1923: 19.

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the arbitration procedure. Considering that the new Portuguese memorandum, having reached the Germans in the meantime, did not always adhere to the prescriptions of the award of 1928 when those were in favor of Germany (only direct damages could be claimed), it was a German strategy to emphasize the "the legal force of the interim award". "[W]e would damage ourselves if we contest the interim judgment in a substantial point." Furthermore, Martius argued, it was likely that the factual assessment of Portugal's claims would make evident that the damages to the Portuguese state to be recognized by the arbitrators were minimal in comparison to the original demands. He authorized Marx to use the argument of the Finance Ministry only during the oral proceedings and in case the Portuguese representative would question the "legal force of the interim award"; then Marx could respond that also Germany had not raised a substantial objection against the award.[365]

4.2.2 The Portuguese Memorandum, October 1928

Magalhães' new memorandum on Portugal's "direct damages caused by German aggressions in Maziua, Cuangar, Sambio, Dirico, Mucusso and Naulila" and a "detailed list of damages" (171 pages) reached Berlin in November 1928.[366] The Portuguese demanded 1) 275,000 GM for the Maziua incident; 2) 4,025,000 GM for the destruction of Cuangar and the other forts along the Kavango River and 3) 22,700,000 GM for the destruction of Naulila; in total more than 27,000,000 GM for the colonial damages – thus three times higher than estimated by Marx. Magalhães stipulated the damages in US dollars and summarized his calculations in gold marks. The calculated damages were "extremely detailed" (listing values as low as "23 dollar cents"). Included in the final amount were interest rates of 5 per cent p.a., calculated from 1915 to 1921 and compound interests to the amount of 30 percent on account of loss of profits. Personal injuries (*reine Personenschäden*) in Maziua were assessed to amount to 192,000 GM; in Cuangar 2,466,000 GM ($20,000 for the trader Machado shot, $10,000 each for his wife and his son João [the German councilors remarked that the two were "natives"], and $4,500 for other African civilians killed in the raid); and in Naulila 7,706,000 GM

365 PA R 52534, AA to Marx, Paris, 5.3.29 'Rechtskraft des Zwischenurteils'; *Bruns* 1929a: 7.
366 BAB R 1001/6641: 96, AA to Marx, Paris, 29.11.28.

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($40-45,000 for officers, among them Sereno [around 180,000 GM], $20,000 for sergeants, $10,000 for European and African soldiers killed in action).[367] Additionally, indemnities were claimed for the maltreatment of Portuguese prisoners of war in GSWA ($10,000 for lieutenants and $1,000 for rank-and-file). Around 100,000 GM were claimed for property of the "natives" destroyed during the raid of Ostermann; around 8,000,000 GM were demanded for claims of private individuals (also soldiers who lost private property) or companies. The remainder of 8,000,000 GM consisted of claims for damages to Portuguese government property (1,290,000 in Cuangar etc.; 6,750,000 in Naulila).[368]

Despite de Meuron's request to only list "direct damages", Magalhães maintained the claim of 2 billion GM for the infringement of Portuguese sovereignty and international law by Germany. He in fact criticized the distinction made in the award between direct and indirect damages. Irrespective of the arbitrators' demand for a "precise list" of damages, the Portuguese also forwarded a list of damages where the underlying documentation would not allow distinguishing between the German "aggression" and the "native rebellion" as immediate cause of the claimed damages. The Portuguese memorandum again demanded that Germany should bear all costs arising out of the arbitration.

4.2.3 The German Counter-Memorandum, March 1929

Germany was given a deadline until February 10, 1929 to provide the arbitrators with a counter-memorandum, which was extended until March 15.[369] Faced with the detailed Portuguese description of colonial damages, Judge Marx and the councilors from the Foreign Office again referred to 'colonial experts', most of all (again) Hugo Franz, Major Trainer (commander Franke's deputy during the battle of Naulila), and Constable Ostermann, who now worked as a tax administrator.[370] They were tasked with assessing the value of the property destroyed in southern Angola.[371]

367 BAB R 1001/6643: 16, Annexe, liste detaillée des domages, ~10/28.
368 PA R 52533, Meuron to DG Bern, 6.11.28; Limmer, 22.11.28; on POW *Ziemann* 2013: 38.
369 PA R 52533, de Meuron to DG Bern, 30.1.29.
370 PA R 52533, Marx on the meeting in Berlin, 15.12.28.
371 BAB R 1001/6641: 100, III K to Legationskasse, 9.2.29; p.104, Eltester to Trainer, 28.1.29.

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Trainer wrote a 40-page memorandum on the battle and why Germany was not to be held responsible for Portuguese damages, most of which were due to the disorderly retreat and the hatred of the Africans for Portuguese troops based on a history of repression. He considered the figures given in Magalhães' memorandum about the costs of building the forts and their equipment (including large numbers of cattle and horses) bloated.[372]

The counter-memorandum written by Marx included many of the arguments Trainer made. Marx commenced by emphasizing that the Portuguese did not adhere to the frame set by the award of 1928 when they calculated their colonial damages. Only direct damages were of relevance according to the award. But Marx claimed that the Portuguese memorandum still included indirect damages, since the Portuguese commission established to assess the damages had not made this distinction and its findings were nevertheless included. Marx disputed any causality between costs for military convoys, loss of oxen, or the deterioration of roads and German actions against the six forts along the Kavango River. Marx also disputed that Germany should bear the cost for damages caused by the "Auanga gang", since these Africans were not "German auxiliaries", as claimed by Magalhães. The Portuguese memorandum had again causally connected to German actions the retreat of Roçadas' troops from Naulila to Humbe and the ensuing destruction and rebellion. However, the arbitration award had clearly stated that Roçadas did not act under military pressure from the Germans. They had offered to fight the Africans in cooperation with the Portuguese. Therefore Roçadas had to bear the responsibility of leaving the area to "the natives". The award did mention a supplementary "equitable indemnity" to a "very limited extent" for those damages that followed from the "native rebellion" immediately after the battle of Naulila. This however would exclude – according to Marx – those indirect damages that resulted from the military expeditions by Roçadas and de Eça against the rebelling Kwanyama, which were planned long before the war and ordered in Lisbon in August 1914. Equally, the costs for transports, carriers and lost ox wagons of individual claimants would have to be rejected, as they were related to these military expeditions.

Marx dealt with Portugal's 2 billion GM claim for Germany's infringement of international law in an extra-chapter. This claim was not specifi-

372 BAB R 1001/6641: 107-149, Major Trainer: Zur portugiesischen Denkschrift, 9.2.29.

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cally mentioned in the award of 1928, and Marx argued that for factual and legal reasons it would be unjustified. He underlined that the claim was not meant to be an indemnity but a punishment, nowhere mentioned in the arbitration award. According to international law there was no such thing as *indemnité pour des dommages vindicatifs* (exemplary, punitive damages). Marx quoted from the Mixed Claims Commission's *Lusitania* case (1923):

> "The industry of counsel has failed to point us to any money award by an international arbitral tribunal where exemplary, punitive, or vindictive damages have been assessed against one sovereign nation in favor of another presenting a claim in behalf of its nationals."[373]

In the *Lusitania* case, umpire Edwin B. Parker (1868–1929) underlined that the Treaty of Berlin between the United States and Germany, in its meaning of "Peace Treaty", would exclude the imposition of a penalty by one state to another state. And Marx, while admitting that Part VII of the Treaty of Versailles dealt with "penalties", used this argument to underline that also in the Luso-German arbitration in the context of a "Peace Treaty" there should not be any mentioning of "penalties" between the parties.

Marx also rejected the inclusion of a "lost profit" category and criticized the different classes of indemnities for military ranks mentioned by Magalhães for the loss of lives. All prisoners of war were according to Marx treated reasonably and according to the difficult circumstances in GSWA in 1915. He refused the payment of an "equitable indemnity" for them, but conceded that the arbitrators would have to decide on the issue. The hanging of seven "native franctireurs" was justified as in line with the laws of war. According to a calculation of Major Trainer, Marx also assessed the Portuguese list of damages and the value of the forts destroyed by German forces. The material loss in Fort Naulila (weapons, ammunition, animals – including two camels, 15 ox wagons, uniforms etc.) was estimated by him to amount to only 255,625 GM. Marx deemed the claimed damages for the destroyed military constructions "incomprehensible", considering that even the value of Fort Naulila – one of the larger forts – was estimated by (German) eyewitnesses to amount to only 8,000

373 *Lusitania Case* 1.11.1923, RIAA VII: 32-44 (40) Parker refered to Jackson Ralston: International Arbitral Law, 1910, § 369: 'While there is little doubt that in many cases the idea of punishment has influenced the amount of the award, yet we are not prepared to state that any commission has accepted the view that it possessed the power to grant anything save compensation.'

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GM. Marx rejected reparations for losses in Fort Cuamato, Otoquero, and eleven other forts mentioned in the Portuguese memorandum, since German soldiers had never attacked them. All damages were due to the "rebellion". Marx also mentioned "the drought" and "the epidemics" in Southern Angola as causes for Portuguese loss unrelated to German actions. He thus asked the arbitrators to assess the "supplementary indemnity" for indirect damages at a lower level then the 27 Million GM demanded by Portugal for direct damages. To substitute the opinion on the limited military value of the Portuguese forts and the minor costs borne by the Portuguese state for their construction, the German memorandum had as annexes three photographs of Cuangar and Naulila and seven of the German police post Kuring Kuru.[374]

4.2.4 The Portuguese Replique and the German Duplique, April/June 1929

The 60-pages replique of Magalhães put great emphasis on the "native revolt" and insisted that the damages it caused were causally connected to German actions and therefore qualified as "direct damages". He stated that also the award of 1928 had argued that way. Magalhães argued, the attack on Fort Cuangar had determined the Portuguese authorities to send more troops and equipment to prevent further probable aggressions. The attacks on the forts were not necessarily executed by Germans but by their "allies, the Auanga gang (Kanjime)". The Portuguese retreat to Humbe was a military necessity to avoid total destruction and therefore the damages in the areas south of Humbe due to the "revolt" were an immediate consequence of the German aggression against Naulila. Trainer's offer to Roçadas to jointly subdue the "rebelling natives" was considered by Magalhães as not "sincere". By invading Angola, the Germans had not shown any sign of "solidarity" between Europeans in Africa. Instead, they had cooperated with the "natives". Magalhães conceded that the expenses of the military expedition of de Eça could not, according to the provisions of the arbitration award, be considered an immediate damage. He, however, insisted that the expedition of Roçadas of August 1914 had been made necessary not only by the Kwanyama but mainly by the war and the "attitude" of

374 PA R 52534, AA to Marx, Paris, 1.3.29; Mémoire du Gouvernement Allemand, ~1.3.29.

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Germany against Portugal's colonies. These troops had to suffer the German aggression and the resulting damage was caused directly by Franke's troops.

The replique categorically denied any double-charging of claimed expenses as assumed in the German memorandum for claims of transport costs, loss of cattle and ox wagons. Magalhães explained that the Portuguese state had indemnified some claimants already and claimed these costs from Germany; whereas other private claimants had not yet received an indemnity, therefore their losses would be directly claimed from Germany.

The claim of 2 billion GM for the infringement of Portugal's sovereignty and international law was upheld. Magalhães rejected the German argumentation that 1) this claim would be a "sanction"; 2) the American-German Mixed Claims Commission had concluded that there is no German obligation to pay indemnities to the U.S. for "vindictive damages"; 3) such kind of indemnities would be unknown to international law; and 4) the claim could not be maintained in the context of § 4. The first objection was considered a mere technicality of denomination, since any reparation could be called a "sanction". The second objection was considered irrelevant since the American-German Mixed Claims Commission was based on the Treaty of Berlin which did not incorporate Part VII of the Treaty of Versailles on "penalties". The German counter-memorandum's argument was thus not applicable to the Luso-German arbitration. The third objection was considered erroneous since international law would recognize that reparations for damages must be complete. Finally, Magalhães maintained that § 4 did not exclude such claim but would admit it "in spirit and letter".

As to the calculation of the claimed indemnities for loss of lives, Magalhães justified the establishment of three groups, officers, non-commissioned officers and African and European rank-and-file as to be in line with Portuguese and International Law. He considered it reasonable to put European and African soldiers in one common group considering that the latter "possessed a certain degree of civilization which distinguishes them from uncultivated natives, and some of them were Christians". Europeans and Africans "cooperated in equal standing in the defense of the border." The "value attributed to each categories of killed military or civilians for which Germany has to pay an indemnity" was, according to Magalhães, rationally calculated in the annexed list. Also the indemnities claimed for the Portuguese prisoners would have to take into consideration the distinc-

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tion between military grades, considering that the degree of humiliated honor and "moral prejudice" differed between officers and recruits.

Similar to previous statements, the Portuguese disputed that irregular African troops had been deployed or that a white flag had been hoisted. Therefore, the hanging of seven alleged *franctireurs* for indiscriminate shooting after the end of the fighting was considered contrary to the laws of war. The Africans were regular infantry soldiers.

Referring to the classic Lapradelle and Politis, Magalhães rejected the statement in the counter-memorandum that international arbitration would exclude an indemnity for (indirect) lost profits. The method of calculating the lost profit and the application of 5 percent interest was in line with international law and the practices of the Mixed Claims Commission as well as section 352 of the German Trade Code.[375]

Finally, Magalhães put in doubt the pictures annexed to the German memorandum. He claimed that those on Cuangar would not give an "idea of the importance of the fort and its buildings and annexes"; while the other of Naulila would show nothing of the fort. As was to be expected, Marx, in his duplique of June 1929, insisted on all the points he had made in March and rejected Magalhães criticism with previously used arguments.[376]

4.2.5 The Pleadings and the Dispute about the Young-Plan, 1929/30

After the exchanges of memoranda, arbitrator de Meuron invited the representatives for the oral proceedings on September 3, 1929 to a Hotel in Crans Montana, Switzerland. He also ordered the parties to pay to him 10,000 Swiss Franc each (8,077 RM).[377] To a large degree the pleadings over five days in Crans Montana concerned the Portuguese claims regarding damages in Belgium and on sea, which had not been dealt with in the latest exchange of memoranda or in the previous oral proceeding. While

375 Lapradelle/Politis 1905 vol.1: 469, 472; 1923 vol.2: 284; 285: 'L'arbitre doit donc tenir compte du manque à gagner lorsqu'il ne constitue pas un dommage indirect'; 285-7; 70; 636; 675. § 352 I HGB (1900) 'Die Höhe der gesetzlichen Zinsen, mit Einschluß der Verzugszinsen, ist bei beiderseitigen Handelsgeschäften fünf vom Hundert für das Jahr. Das Gleiche gilt, wenn für eine Schuld aus einem solchen Handelsgeschäfte Zinsen ohne Bestimmung des Zinsfußes versprochen sind.'

376 PA R 52534, Réplique du Gvt. portugais, ~15.4.29; Duplique du Gvt. allemand, 6/29.

377 PA Bern 1763, Ordonance de Meuron, 3.7.29.

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preparing themselves for the new and complex legal issues, all involved personnel, including the arbitrators, had to refer to special law treatises.[378]

Again, representatives Magalhes and Marx, and Costa Dias and Franz as "colonial experts", 'crossed swords' over the question of assessing the direct damages and the 2 billion GM indemnity for the violation of Portugal's sovereignty. The Portuguese representatives were of the opinion that the assessment of the "equitable damages" to be paid by Germany should commence from the claimed sanction of 2 billion GM. Franz won the impression that the Portuguese therefore would expect to obtain "at least several 100 Million [GM]".[379]

Marx, who had previously complained about Magalhães' undiplomatic language and stylistic "faux pas" (*Entgleisungen*) in Lausanne and in some parts of his memoranda, emphasized that his counterpart this time was showing "restraint". He was satisfied with the course of the pleadings. Also arbitrator de Meuron, during a joint breakfast at the end of the pleadings, underlined the "pleasant atmosphere" during the sessions. Marx again applauded de Meuron, Fazy, and Guex for their impartiality during the hearing. De Meuron concluded the hearing with an appeal to the parties to find a compromise until November 30 and offered his support. In case, the parties would not conclude a settlement on the claims until that date, they would render their arbitration award. However, the Portuguese government did not come forward with an offer. And the Germans, who were in principle in favor of such a solution, argued that they had requested a settlement already once and were turned down by the Portuguese. This time, it would be for Lisbon to commence settlement negotiations.[380] Arbitrator Fazy conceded that the gap between the amounts the Portuguese government demanded and those the Germans deemed justified "is too big".[381] The time to find a compromise lapsed and the parties found themselves soon bogged down in another disagreement that grew out of the question of Germany's payment obligations – even before any final amount was indicated by the arbitrators.

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378 PA Bern 1763, AA to DG Bern, 17.8.29; 30.8.29; R 52534, Marx, Paris to AA, 4.7.29; also arbitrator Robert Guex counted on the library of the German Foreign Office. He requested in 1929 Vol.2 of the awards of the *Mixed Claims Commission* and Verzijl *Le droit de Prises de la Grande Guerre* and received them. He handed them back once the arbitration was over. PA Bern 1763, AA to DG Bern, 26.10.29; R. Guex to A. Müller, 8.11.29.

379 PA R 52534, remark Limmer, 12.9.29.

380 PA R 52534, Marx, Crans to Göppert, 7.9.29; AA to RFM, 20.9.29; AA to DGL, 20.9.29.

381 PA R 52535, Marx, Paris to AA, 14.10.29.

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A few months before, on June 7, 1929, Germany and the Allied Powers had finally agreed on a new payment schedule for German reparation annuities. According to this Young Plan (replacing the Dawes Plan of 1924) Germany agreed to payment obligations of 54 annuities beginning in 1929 and ending in 1988 (reaching from 1,7 to 2,4 billion GM p.a., thus considerably less than the 2,5 billion p.a. according to the Dawes Plan). Furthermore, the payments could be partly postponed in times of economic turbulences. From the German perspective, the advantages of the Young Plan consisted in a "fix[ed] reparation total", and it also "provided for a distinct reduction in payments for the immediate future" (1929–32); third, "it proposed to end all foreign financial controls of the Dawes regime, thus reestablishing Germany's 'financial sovereignty'."[382] The newly established *Bank for International Settlement* in Basle replaced the Dawes supervisory structure "to receive and disburse reparation payments" and to coordinate central bank policies.[383]

Most of all due to German and British opposition there was a "protracted and acrimonious struggle over the ratification of the [Young] Plan at the Hague Conferences of August 1929 and January 1930."[384] During these two conferences, officially entitled "The Conference on the Final Liquidation of the War", the implementation of the Young Plan and the end of the Rhineland occupation by Allied forces were negotiated not only between the Great Powers and Germany, but also with the British Dominions and six smaller European nations, including Portugal. While the British and French were not in accord about the allocation of German annuities, the French and the Germans argued hard about the Rhineland and possible sanctions in case of German default. The Germans also insisted that these negotiations about the "final liquidation of the war" should determine that all other claims based on the Treaty of Versailles (including

382 *Cohrs* 2006: 537; cf. *Lamont* 1930: 350-63; *Krüger* 1985: 476-95; *Ferguson* 1998: 437-9.

383 *Kraus* 2013: 121; *Marks* 1978: 251; cf. *Myers* 1929; *Draeger* 1929; *Lamont* 1930: 354; *Lamont* 1929: 366f. 'The Bank will be the Trustee of the creditor countries in dealing with annuities. … It will receive funds from Germany in foreign exchange and in reichsmark – the latter in an amount sufficient to cover payments within Germany on account of deliveries in kind. Out of the funds received in foreign exchange, it will make distributions to the creditor countries by crediting the accounts which the several central banks maintain at the Bank. … All political influences are excluded from the operations of the Bank, which will be carried on according to business principles only."

384 *Kent* 1991: 287; cf. *Heyde* 1998: 65-75; *Gomes* 2010: 166-83.

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the liquidation of German property) would be considered as replaced by the payments according to the Young Plan.[385]

The Portuguese, however, were alarmed by the prospect of possibly not being entitled to claim payments separately and *in addition* to their percentage (between 1,5 and 6,5 million RM p.a. until 1939) of the German annuities. Legal difficulties would arise from a demand to execute German payment obligations that should follow from the award of de Meuron, Guex and Fazy. During the discussions on January 19 and 20, 1930, Portugal (together with Romania and Czechoslovakia) raised its reservations against Art. III of the Second Hague Agreement on the final acceptance of the Young Plan.[386] This reservation was based on Portugal's intention not to lose its rights under § 4 of the annex to Art. 298 of the Treaty of Versailles, in particular due to the "neutrality damages" in Angola, the amounts of which were still not decided by the arbitrators. Portugal's representative, the law professor and former director of the *Banco de Portugal* Rui Ennes Ulrich (1883–1966), remarked on January 19, 1930:

> "The Portuguese delegation unfortunately is not in a position to accept Article 3 of the Protocol as drafted now, as long as the German Government and the Portuguese Government have not reached an Agreement … I have made all efforts since the beginning of the Conference but, as I have not been able to get the necessary reply [from Germany] I must make reservations on Article 3."

Julius Curtius (1877–1948), Germany's new Foreign Minister, who distanced himself from the fulfillment policy of Gustav Stresemann (1878–1929), responded that his delegation was of the opinion that all additional claims of Portugal against Germany had lapsed by the Young Plan. A percentage of the German annuities would be all Portugal was entitled to. Still, Ulrich signed the Agreement on January 20. Portugal's reservations were found only in the minutes of the meeting, whereas Ulrich's signature

385 Cf. *Kraus* 2013: 122; *Marks* 1978: 250; *Krüger* 1985: 495f.; *Kent* 1991: 313-9; *Lamont* 1930: 361; *Pfleiderer* 2002: 271f. on the course of the conference; cf. 244; 287.

386 Art. III B (b) Creditor Powers accept 'the payment in full of the annuities fixed thereby as a final discharge of all liabilities of Germany still remaining undischarged and waive every claim additional to those annuities, either for a payment or for property, which had been addressed or might be addressed to Germany for past transaction …'
Art III C (a) Creditor Powers undertake 'as from the date of the acceptance of the Experts' Report [Young Plan] of the 7th June, 1929, to make no further use of their right to seize, retain and liquidate the propery, rights and interests of German nationals or companies controlled by them, in so fas as not already liquid or liquidated or finally disposed of…' cf. *Santos* 1978: 234.

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under the text of the Agreement was not marked with a reservation (*Vorbehalt*).[387]

Also among German politicians the Young Plan was highly disputed. "Reparations dominated the political life of the Weimar Republic until its breakup." It was not accepted that obligations "dictated a decade ago" would bind Germany "forever".[388] Adolf Hitler's NSDAP and other right wing parties initiated a plebiscite in December 1929 against its obligations. However, on March 12 1930, after Chancellor Hermann Müller's promises of budget consolidation and austerity measures, parliament ratified the Young Plan and the payment details set-forth in the second Hague Agreement. On June 30, 1930, the Rhineland was evacuated by foreign troops.[389]

5. *The Award of 1930 (Amounts)*

5.1. Direct and Indirect Damages – Content of the Award

Robert Fazy uttered in January 1930 that due to his "overwork" the three arbitrators could not yet meet to find a conclusion on the Luso-German dispute about the amount of damages to be paid.[390] Finally, in May 1930, de Meuron announced the decision on the damages and ordered a last payment of 25,000 Swiss Francs (20,294 RM) from each party.[391]

After having concluded in 1928 that the German Empire violated international law when invading Angola, as a measure of alleged "reprisal", the

387 AHD 3p ar 25 m 1-Reparações: 58, Extrato da Acta da 3ª Sessão, 19.1.30; PA R 52535, objections Port., 11.2.30; *Kraus* 2013:134; *Köppen* 2014: 351; *Mata/da Costa* 2014: 907.

388 *Felix* 1971: 175; *Schöttler* 2012: 372f.; cf. *Lorenz* 2008: 133f.

389 *Köppen* 2014: 366; *Kraus* 2013: 126; *Myerson* 2004: 203; *Krüger* 1985: 505; *Marks* 1978: 252.

390 PA R 52535, Marx, Paris to AA, 20.1.30, 'Arbeitsüberlastung'.

391 PA Bern 1763, de Meuron to DG Bern, 21.5.30. The publication of the award was postponed until end of July since the Portuguese money transfer did not arrive in time in Lausanne (R 52535, Marx to AA, 8.7.30; Telegr. DG Bern to AA, 28.7.30). Altogether, the Portuguese and German Governments paid to de Meuron 130,000 Swiss Francs. Considering that during the first two payments of 20,000 Swiss Francs each (1921; 1924) de Meuron was the sole arbitrator, and during the last three payment of 45,000 Swiss Francs each (1928, 1929, 1930) he was supported by Guex and Fazy, de Meuron had earned 70,000 Swiss Francs and Fazy and Guex 30,000 Swiss Francs each. Contrary to the German Finance Ministry the Foreign Ministry regarded these amounts as 'modest' (PA R 52536, Limmer to Martius, 15.12.30 'mäßig').

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award of June 30, 1930 dealt with questions of the amount of damages claimed by Portugal. By far the largest part of the award concerned the damages in Belgium due to German requisitions and the damages on the high seas (parts A and B), which were not mentioned in the decision of July 1928. These cases were decided on the merits as well as on the amounts to be paid by Germany.[392]

As to the amounts due for the colonial damages (parts C and D), the arbitrators based their decision on the provisions of the interim judgment of 1928. They upheld their distinction between direct and indirect damages in the colonies that was criticized by the Portuguese in the memorandum and during the oral proceedings. It was also repeated that the "native rebellion" on which Portugal based most of its claims, had neither been instigated nor encouraged by Germany (p. 1074). On the other hand, de Meuron, Fazy, and Guex did not follow the German argumentation that – contrary to what was stated in the award of 1928 – only private damages should be taken into consideration and damages to Portuguese state property be excluded from the award (Marx made this argument to please his Finance Ministry, he did not believe in it [p. 1071]). The distinction between "private" and "state" claims was less clear under public international law than the wording of § 4 might have suggested. In the wake of the First World War also numerous "private" business claims pitted governments against each other.[393]

With regard to *direct damages* de Meuron, Fazy, and Guex held that Germany was not only responsible for the losses caused in connection with the destruction of Fort Naulila and others. Germany, they decided, was also responsible for the losses suffered as the result of the retreat of the Portuguese troops beyond the line of German attack. For the Portuguese commander had no reason to assume that the German force would regard its objective as achieved with the destruction of Fort Naulila and would *not* "exploit the fruits of victory" by a further advance aiming at the annihilation of Roçadas' forces. The retreat was thus the "immediate, normal, and necessary consequence" (p. 1069f.) of the defeat. "Owing to the haste" required after the first German attacks, the arbitrators included even the additional costs for delivering Portuguese military goods to Fort Naulila among the direct damages. Other items of direct damages includ-

392 RIAA II: 1035-77; cf. *Lauterpacht* 1935: 200-2 (Case No. 126); *Parry/Grant* 1986: 299.
393 *Caron* 1990: 151 'many…disputes were not truly between two states named as parties'.

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ed: (a) Damages for loss of life in respect of persons killed in the course of the military operations. However, considering the claims put forward in this matter by Portugal the arbitrators remarked that they were exaggerated inasmuch as they were higher than the claims put forward under this head by the Allied Powers against Germany or than the sums awarded in similar cases by arbitral tribunals; (b) damages for destroyed roads, cattle, forts, farms, ammunition, and provisions; (c) 5 per cent interest on the sum awarded (*intérêts compensatoires*). The arbitrators refused to award compound interests to the amount of 30 per cent on account of loss of profits as demanded by Portugal. They pointed out, in regard to some of the claims, that the objects in question could have been replaced by the owners who, by purchasing substitutes for them, would have been able to earn the profits. "If they now receive their full value, plus normal interest as from the date of the loss, they must be regarded as fully compensated." (p. 1074)

With regard to *indirect damages* the arbitrators awarded damages *ex aequo et bono* on account of the losses suffered in consequence of the "African rebellion" following upon the retreat of the Portuguese troops. As stated in the previous award, the rising of Africans constituted an injury which Major Franke "ought to have foreseen as a necessary consequence of the military operations" (p. 1075). Also, the German attack resulted in disorganization of the Portuguese forces which would otherwise have been available for suppressing the "rebellion". On the other hand, as a mitigating circumstance, the arbitrators considered as relevant the continued inaction of the Portuguese troops subsequent to the German invasion. This inaction was due to the mistaken belief of the Portuguese authorities that Franke had the intention to continue and extend the German invasion and to the resulting decision of the Portuguese authorities to choose a rallying point at a considerable distance from the original operations and to delay unduly the resumption of the operations against the Africans. Germany, they decided, could not be blamed for this "error of judgment" (p. 1076).

Finally, the arbitrators dealt with the question of *penal damages*. They were unable to accede to the Portuguese claim for penal damages of 2 billion GM as compensation for the "violation of Portuguese sovereignty and offences against international law", as such "sanction" lay beyond their "sphere of competence". De Meuron, Fazy, and Guex justified this by pointing out that this claim was not in fact a claim for indemnity, but a demand for retributory and deterrent punishment. However, Portugal and

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Germany in charging the arbitrator(s) with fixing the amount of damages did not intend to endow them with the right to inflict punishment. The arbitration procedure acted under a part of the Treaty of Versailles entitled "Economic Clauses" (part X), whereas it was another part of this Treaty (part VII) which bore the designation "Sanctions". Moreover, Article 232 of the Treaty recognized that Germany was financially unable to bear fully the burden of purely economic compensation.

With regard to questions of computation of damages the arbitrators, contrary to the memoranda and contrary also to their assessment of damages in Belgium and on sea (parts A and B), did not go into factual details. They concluded that

> "Portuguese claims are admitted to the amounts which follow, in capital and interest, to the date of the present award: Damages in Belgium: 653,861 GM; Damages on sea: 572,607.30 GM; Direct damages in Africa: 22,000,000 GM [5 Million below the Portuguese claims]; Indirect Damages in Africa: 25,000,000 GM [which included the expenses for the entire arbitration], totaling 48,226,468.30 GM. For these reasons the indemnity to be paid to Portugal in terms of § 4 of the Annex to Articles 297-298 of the Treaty of Versailles, is fixed at 48,226,468.30 GM" (p. 1077).

This sum was less than 1 per cent of what the Portuguese government had hoped for since 1921; it was more than double of what Marx had estimated in 1928; but it was much lower than what the Germans had expected when they had tried to make a settlement offer in the early 1920s.

5.2 The Negotiations over the Young-Plan

"The Young Plan proved non-viable in the grim economic conditions of the late 1920s", but its provisions had nevertheless profound legal consequences. And the German officials were eager to use them to Germany's advantage.[394] Immediately after the second award was published Judge Marx pointed out with relief that the arbitrators did *not* mention the question of the award's enforceability (*Erfüllung*), as he had requested during the pleading. The Portuguese could thus not find any indication in the award for their intention – made visible through their reservation to the second Hague Agreement on the Young Plan – to obtain direct payments for their "neutrality claims" (*Neutralitätsansprüche*). Even though the

394 *Gomes* 2010: 182.

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awards final phrase spoke of an "indemnity to be paid to Portugal", there was no "sentence" (*Verurteilung*) of the German government to payments. The award merely stipulated the amount of damages.[395]

Consequently, the Portuguese government was in an awkward position. It planned to demand the execution of the award of June 1930, but it had also signed in January 1930 the second Hague Agreement with the abovementioned reservations. However, in case of a ratification of the Young Plan, the Portuguese entitlement for claims of damages deriving from the time before the declaration of war in 1916 (neutrality damages, as awarded by the arbitrators in Lausanne) might be lost, since the annuities (and Portugal's percentage thereof) were Germany's "final" payments according to the Hague Agreement. During meetings in Lisbon, the German Minister Albert von Baligand (1881–1930) repeated what his Foreign Minister Curtius had uttered at the Hague Conference: Portugal would not receive additional payments for the neutrality damages, "because these claim had also been made good through German reparation payments" and would "be void due to the Young Plan."

However, the Portuguese government, also with regard to public opinion, believed that there needed to be some acknowledgement of the results of the Lausanne arbitration and therefore insisted on separate German payments outside of the scope of the Young annuities. The Portuguese never accepted the German understanding of § 4 that it would be a violation of the Treaty of Versailles if the Allied state were to use the proceeds of the liquidated German property, rights and interests for its own budget or to cover its war expenses. After several rounds of negotiations in the first half of 1930, the Portuguese and the Germans agreed that Lisbon would ratify the Young Plan provided that 1) the question of payments to be stipulated by the Lausanne award would be referred anew to an arbitration tribunal; and 2) negotiations would continue over the Portuguese payments of German pre-war loans (*Staatsanleihe*) and in case an agreement should not be found on this issue, an arbitration procedure would be initiated too. Only after the ratification of the Young Plan a new arbitration (Art. XV of the Hague Agreement of January 20, 1930) would commence.[396] The Portuguese re-payment of private German pre-war loans to the Portuguese government (in gold) was a question that complicated the negotiations.

395 BAB R 1001/6642: 55-9, Marx, Paris to AA, 1.8.30, 'l'indemnité à payer par l'Allemagne'.
396 PA R 52536, AA, 26.9.30; *Fuchs* 1927:269 Liquidationserlös nicht für Haushalt verwerten.

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While the Portuguese aimed at compensating parts of their loan-repayment with (future) German payments out of the Lausanne arbitration, the Germans tried (in vain) to separate both issues as far as possible.[397]

After the arbitrators in Lausanne had published their award in July 1930, the Portuguese government was not satisfied and changed its approach to the Young Plan. Not only were the 48,226,468.30 GM considered a completely insufficient indemnity, the ministers in Lisbon were also concerned about possible effects the award of the Lausanne arbitration could have on other disputes with Germany. On August 8, 1930, the Portuguese Secretary of State told the German Minister the award had "created a new situation". An agreement between the governments with the aim to refer disputes under the Young Plan to an arbitration tribunal would be out of question now. New negotiations should start on the issue in Lisbon. The German claim for payment in gold for the pre-war loans could be discussed in concert with other concerned countries. Irrespective of what had been stated before, the Portuguese government would demand from Germany the immediate execution of payment of the amounts awarded by the Lausanne tribunal, since they needed to be paid separately and over all the Young annuities. Only *after* Germany had paid its "Lausanne debts", Portugal would ratify the Young Plan.

Neither the Portuguese Secretary nor his German interlocutor had any illusions: Germany would not pay the amounts stipulated by the Lausanne tribunal, and Portugal would not initiate the repayment of the German pre-war loan. However, without ratification of the Young Plan, Portugal could not participate in the distribution of German annuities; money, Portugal's new strongmen, Finance Minister Salazar, needed "urgently", since he saw it as his "first task … to balance the budget, deemed to be an impossible feat".[398]

The German government, on the other hand, was of the opinion that the award of June 30, 1930 had changed nothing. Rather, it was claimed that both, the German and the Portuguese government had agreed right from the beginning that the Lausanne arbitration concerned Portugal's claims "only on the merits and on the amounts". For the Germans there was thus also an understanding that the execution of the award would be guided by the legal principles currently in force between both governments. Irrespec-

397 PA R 52534, DGL to AA, 6.7.29; AA to DGL, 31.7.29.

398 PA R 52535, Telgr DGL to AA, 9.8.30; *Meneses* 2009: 46; 59; *Kay* 1970: 79.

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tive of an application of the provisions of the Dawes Plan or the Young Plan, the German reparation payments, "in view of its all-encompassing nature", would cover also the obligations from the Lausanne award. From the German point of view this resulted in particular from the provisions of Art. II and III B b of the Hague Agreement of January 20, 1930. Again and again German representatives in Lisbon stressed that "an immediate payment of the amount stipulated by the arbitrators was out of question".[399]

Nevertheless, end of August 1930, Portugal's Minister in Berlin, António da Costa Cabral, met the new German Secretary of State Bernhard W. von Bülow to formally demand the execution of the award of de Meuron, Fazy, and Guex. Cabral assumed that the German answer would refer to the annuity payments of the Young Plan, as the German Minister in Lisbon had done already, and warned: "that is a non-starter". When Cabral pointed to the possibility to refer the payment-dispute to the arbitration tribunal set forth in the Hague Agreement, Bülow, "a decided opponent of Stresemann's ideas and the exponent of an outspoken nationalist policy", reminded him that this procedure could only be applied if Portugal had ratified the Young Plan.[400]

The German Ministries of Finance and Economy wanted to prevent any negotiations with Portugal on the payments before Lisbon had ratified the Young Plan. However, since the negotiations in Lisbon had reached a dead end, the Foreign Office wanted to continue the dialog with Cabral in Berlin. It sent a councilor to him twice to discuss the possibility to agree on a new arbitration *before* Portugal would ratify the Young Plan. The formal German answer of September 6 to the Portuguese request stated merely, as Cabral had anticipated, "that the execution of the arbitration award would be fulfilled according to the principles set forth in the New [Young] Plan." The wording avoided any justification that could create a prejudice by which Germany were bound in a future arbitration. When Cabral had received this statement he deemed an agreement on the arbitration (mentioned only verbally by the Germans) reasonable; however, he reminded his German interlocutor that for their next step the Portuguese government would also have to take into consideration "public opinion in Portugal.[401] The same was true for the German side. The new foreign policy of the

399 PA R 52535, AA Note, 6.9.30 'im Hinblick auf ihre allumfassende Natur'.
400 *Kolb* 2007: 201; PA R 52535, remark Bülow; Cabral to Curtius, 30.8.30; *Santos* 1978: 237.
401 PA R 52535, Bülow to Cabral, 6.9.30; remark Busch, 8.9.30, remark on meeting, 2.9.30.

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presidential cabinets after the death of Stresemann focused on "bring[ing] about a rapid and offensive solution to the reparation … questions".[402]

Given the disappointment in Portugal that no payments followed the Lausanne award, the government did not even introduce the Young Plan for ratification. The German government in turn increased the pressure. In September 1930, the German reparation commissioner in Paris was ordered to stop any delivery of reparations in kind to Portugal according to the Young Plan. The Finance Ministry justified this act to the *Bank for International Settlements* by arguing that it would be unjustified to concede to the Portuguese government unilateral advantages based on the Young Plan, while Portugal did not honor its obligations from the Young Plan. The Ministry emphasized that prompt Portuguese ratification had been assumed and therefore deliveries had taken place; but from now on, Germany would refrain from doing so until Portugal's ratification. The commissioner of the Portuguese government for deliveries in kind with the reparation commission in Paris, Captain Tomás Wylie Fernandes (b. 1883), reminded his German colleague Litter that first of all the German industry producing the goods would be hurt. He pointed to the possibility to refer the matter to a new arbitration tribunal and underlined that it should be clear that by ratifying the New Plan, Portugal would not lose its entitlements to refer the matter of the Lausanne award to a new arbitrator.[403]

End of September 1930, Portugal's Foreign Minister met with his German counterpart in Geneva during a session of the League of Nations and spoke about the dispute regarding the payment out of the Lausanne award. Both concluded to exchange notes detailing the number of open issues between the two countries and to formally agree to refer these disputes to arbitration.[404] In December, Germany protested against the payments to Portugal by the *Bank for International Settlements* out of German Young annuities. Again, the Germans argued that "a power which has not ratified the [Young Plan] should not enjoy [its] advantages". Concerned about seeing his bank dragged into a complicated legal dispute with Germany, the bank's director, Leon Fraser (1889–1945) wrote a personal letter to commissioner Fernandes in Paris. Frazer expressed his hope that Finance Minister Salazar would "abstain from drawing further funds from us until …

402 *Kolb* 2007: 202; cf. *Cohrs* 2006: 569; *Köppen* 2014: 357f.; *Graml* 2001.
403 PA R 52535, RFM to BIS, Basel 6.9.30; Telgr German Commissioner Paris to AA, 9.9.30.
404 PA R 52536, Telgr Curtius to AA, 24.9.30; Telgr DGL to AA, 30.10.30.

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ratification takes place". The bank had sent a telegram to Salazar in this respect. And Fernandes wrote another long letter to him personally, pointing to the public opinion of the world and asked him to abstain from drawing German reparation funds. Salazar, who had "[f]rom his ivory tower [at Coimbra] built up a mystique about his financial omniscience", conceded. He responded that negotiations with the Germans should be initiated soon in order to permit ratification of the Young Plan.[405]

However, the suggested exchange of notes was not finalized until July 8, 1931.[406] It stipulated the different opinions of the parties on the execution of the arbitration award of June 30, 1930 and confirmed that an arbitral tribunal according to Article XV of the Hague Agreement of January 20, 1930 should decide on the matter. On July 11, 1931 Portugal ratified the Hague Agreement on the final acceptance of the Young Plan.[407] In the meantime, the international discussion about the reparation payments continued unabated, conference followed after conference. While Portugal's public could not understand why no payments had come forward for the colonial damages after ten years of legal reasoning, many in Germany considered the Young Plan an affront, yet alone additional payments. The president of the German Reserve Bank, Hjalmar Schacht (1877–1970), in his critique of the reparation regime *Das Ende der Reparationen* (1931) stressed that foreign governments "must refrain from any attempts to squeeze (*herauspressen*) extra-payments beyond the Young Plan". Schacht, exonerating himself from any responsibility for the execution of the Young Plan, demanded from his government "that it does not condone additional outflows".[408] Since 1929 Germany lurched near bankruptcy, a fact that weighed heavily on its political stability. Portugal did not profit from its ratification of the Young Plan, for in 1931 the annuities could no longer be paid. Given the "Great Depression" around the world, in Germany the feeling prevailed that "we have paid enough". The Young Plan "had failed" and "reparations had been spirited off the international stage."[409] In early 1932 it seemed clear – at least to Germans – that payments would not be resumed. The Lausanne Agreement of July 9, 1932,

405 *Birmingham* 2011: 162; cf. *Wheeler* 1978: 248f; AHD 3p ar 25 m 12-Reparações, BIS to Salazar, 19.12.30; Fraser to Fernandes, 19.12.30; 21.12.30; Fernandes to Fraser, 21.12.30; Fernandes to Salazar, 21.12.30; BIS to Salazar, 20.12.30; Salazar to Fernandes, 23.12.30.

406 AHD 3p ar 25 m 1-Reparações: 58, *Diário do Governo. Supplemento*, 11.7.31

407 PA R 52536, *Reichsanzeiger* Nr. 159, 11.7.31.

408 *Schacht* 1931: 107; cf. *Heyde* 1998: 71; *Cohrs* 2006: 515.

409 *Kent* 1991: 321; *Fischer* 1932: 193; *Grimm* 1932: 64-6 ~67 billion GM in reparations.

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the 35th intergovernmental conference on reparations, sealed the end of German reparations.[410]

In November 1931 a new Luso-German arbitration on Portugal's demand for the payment of the amount awarded by the Lausanne tribunal was initiated. An exchange of memoranda and counter-memoranda followed.[411] The Portuguese, in their presentation of the facts and the law of the Young Plan did not save theatric means. The 50-pages memorandum was adorned with a strong quotation about the duties of those who execute the Hague Agreements by Henri Jaspar (1870–1939), Prime Minister of Belgium and President of the Hague Conference.[412] The Portuguese replique of 1932, emphasizing the legitimacy of the claims for payment, concluded in demanding from the arbitrators: "JUSTICE!"[413]

6. *Can the Germans Pay? The Award of 1933 (Execution)*

"With his passion for balanced budgets", Finance Minister António Salazar had reason to look for reparation payments from Germany. His ministry (he remained Minister of Finance also after becoming President of the Council of Ministers in July 1932) became much more involved in the arbitration than in previous years. As the "undisputed center of the political system"[414] Salazar was always informed about new developments in the arbitration and received the same correspondence as did the Foreign Minister.[415] His keenness for detail – which would characterize his handling of government affairs for the next thirty-six years – was already apparent at this point in his career. It was in this time leading up to the final award that the decisive steps were taken in the ascent of Salazar and his innermost circle which led to the creation of the New State (*Estado Novo*)

410 *Petersson* 2009: 131; 114-133; *Kraus* 2013: 141-6; *Kolb* 2011: 100; *Wehler* 2003: 250.

411 AHD 3p ar 25 m 1-Reparações: 58, Arbitration Tribunal to Fernandes, 5.9.31.

412 AHD 3p ar 25 m 1-Reparações: 58, Case of the Portuguese Government, Lisbon 1931: 5: The Hague Agreement 'will only stand if those who execute it bring to the task the same faith of those who were its first craftsmen. To carry it through, they must also remember a past overburdened with murderous terrors, with countless sorrows, with perilous discussions and deceptive revisions.'

413 AHD 3p ar 25 m 1-Reparações: 58, Réplique du Gouvernement Portugais, Lisbon 1932: 24: the memoranda (and all three awards) are reprinted in *Portugal* 1936 (340 pages).

414 *Smith* 1974: 662; *Roberts* 1986: 499; *Lewis* 1978 629; cf. *Meneses* 2010: xxx.

415 AHD 3p ar 25 m 1-Reparações: 58, Fernandes to Salazar and MNE, 31.1.33; 10.2.33.

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in 1933. However, the dictatorship was not yet consolidated as several military and civil revolts from left and right against the new authoritarian institutions attested.[416]

As head of government, Salazar "was finally free to recruit those who identified most closely with his own position".[417] Feeling that the former republican minister Magalhães who was Costa's confidant would not be a suitable representative of the new regime, Salazar appointed a new arbitration representative: José Lobo d'Avila Lima. Like his predecessor, he was Professor of Law at Coimbra and in Lisbon. He acted as the legal counsel to the Foreign Ministry. Together with Magalhães (who would, in the 1940s, join the opposition's ranks of the *Movimento de Unidade Democrática* [MUD]), d'Avila Lima had represented Portugal in numerous League of Nations conferences on international law. During the new arbitration on Portugal's claim to the payment by Germany of the amount fixed by the award of 1930, d'Avila Lima was supported by Tomas Fernandes, the commissioner with the reparation commission in Paris. As we have seen, the outspoken admirer of Salazar had dealt with the questions previously.

The German government retained Judge Marx, who had received much acclaim from the Foreign Ministry after the award in 1930. However, considering that the new arbitration was no longer about the war in southern Angola, but most of all about the technicalities of the Young Plan and the law and policies of reparation, Dr. Richard Fuchs (1986–1970), councilor in the Finance Ministry and author of a treatise on the *Sequestration, Liquidation and Release of German Assets Abroad* (1927) was considered the main expert and thus drafted most of the German memoranda.[418]

Even though – given the state of Germany's finances – there was some doubt among specialists "that the legal position is to be decisive now", the new arbitration tribunal in Paris was set up with great care. It consisted of five high-profile arbitrators: George W. Wickersham (U.S.) as president, Marc Wallenberg (Sweden), Anton Kröller (Netherlands), Albrecht Mendelsohn-Bartholdy (Germany), and José Caeiro da Matta (Portugal).[419]

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416 *Baiôa/Fernandes/Meneses* 2004; cf. *Livermore* 1967: 331f.

417 *Madureira* 2007: 86.

418 *Matta* 1934: 9; PA R 52536, RFM to AA, 8.12.30; Minister to Marx, 18.12.30; 27.12.30.

419 *Fischer* 1932: 192; 194 'legal view is necessarily inadequate'; George W. Wickersham (1858–1936), US Attorney General 1909–13; President of the Council on Foreign Relations

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After a week of deliberations these experts in law and business pronounced on February 16, 1933 that Germany was "not obliged to make payments to Portugal, separately and over and above all the other obligations accepted under the New [Young] Plan, of the amount [48,226,468.30 GM] awarded by the [Lausanne] tribunal" on June 30, 1930.[420] The tribunal found that this amount came under the general reparation payment for war damages paid by Germany, limited to the annuities according to the Young Plan. The Portuguese based their claim primarily on three arguments: 1) Portugal was still neutral when it suffered the damages due to German aggression; 2) the indemnity for damages was based on a valid award rendered by an international arbitration tribunal before the Young Plan came into force. Therefore, this award should be executed without taking the Young Plan into consideration; 3) the Portuguese government had its reservations to the execution of the Young Plan recorded during the Hague conference (and before the Plan's ratification). These reservations explicitly referred to the claims disputed between Germany and Portugal.[421] The arbitrators, however, were not convinced by these arguments, but held that with the Luso-German agreements of 1931, "Portugal waived any question of reservation to the agreement of January 20, 1930". They concluded "that the payment fixed by the [Lausanne] award cannot be made separately and over and above all the other obligations accepted by Germany in the [Young] Plan as a definite settlement of the financial questions resulting from the war." (p. 1385). This award was final and binding. It created a precedent for other governments claiming due neutrality damages, since the Hague conference declared the arbitration awards of the tribunal to be a binding interpretation of the content of the conference.[422]

1933–36; Marc Wallenberg, banker and businessman; Anthony George Kröller (1862–1941), banker and businessman; Albrecht Mendelsohn-Bartholdy (1874–1936), Professor of International Law in Hamburg, 1919 German representative in Versailles and in arbitration procedures (*Nicolaysen* 2011: 217); José Caeiro da Matta (1877–1963), Rector of the University of Lisbon (1929–46), Professor of Private International Law with a decidedly 'anti-positivist' stand (*Hespanha* 1981: 430), served as judge (*juge suppleant*) at the PCIJ (1931–45). He, Barbosa de Magalhães and Lobo d'Avila Lima usually represented Portugal during law conferences of the Leage of Nations.

420 RIAA II: 1371-1391; AJIL 27 (1933): 543-554 (543); *Berliner Börsen-Zeitung* No.66, 8.2.1933; cf. *Santos* 1978: 236f.

421 AHD 3p ar 25 m 1-Reparações: 59, Fernandes: Observações, 18.12.31; Informação, 7.12.31.

422 BAB R 1001/6642: 64, *Nachmittags-Ausgabe*, 16.2.33, 84. Jg. Nr. 329.

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While the Germans were celebrating one of the first foreign policy successes of the Third Reich, arbitrator Caeiro da Matta informed Salazar immediately after the decision of the tribunal. The disappointing outcome of the arbitration did not hinder Caeiro da Matta's rise to an illustrious *cursus honorum* in the *Estado Novo*. Less than two month after the award Salazar made him his Foreign Minister (1933–35).[423] Both parties continued their negotiations about German property in Portugal (which had been ongoing since the 1920s[424]) during and after the arbitration procedure – among these properties were still parts of the load of the steamer *Adelaide*, which in 1914 was seized in the harbor of Luanda by order of Norton de Matos.[425]

German payments had come to an end. "Reparations were never formally cancelled [the Lausanne Agreement of 1932 was never ratified by either party], but fell into limbo as they became increasingly unrealistic." Although the Portuguese hoped that legal technicalities would allow them to recover the money, this turned out not to be the case. However, reconstruction and pensions still had to be paid for. "In the end, the victors paid the bill."[426] Also the Angolan treasury never received any transfer money from Germany. In the words of historian Filipe Meneses, the arbitration procedures, so eagerly anticipated by those who had pushed Portugal into the World War, "yielded even less [than German reparation payments]; they proved to be an elaborate and overly long waste of time and energy." With the award of 1933 "Portugal had been well and truly defeated."[427]

423 AHD 3p ar 25 m 1-Reparaçoes, P 58, Caeiro da Mata to Salazar and MNE, 16.2.33; he became Portugal's representative in Vichy-France and returned to the Council of Ministers (Education, 1944–50; Foreign Affairs, 1947–50).

424 AHD 3p ar 25 m 12-Reparações, DGL to MNE, 21.2.25 on German restitution claims. The Portuguese government could liquidate the German property it had sequestrated during the war and kept the proceeds. Information about these properties was not given by the Portuguese government to German proprietors, as the German Legation responded to numerous inquiries from Germany. Negotiations about clearance remained 'unsuccessful' (PA Lissabon 176 (Vorkriegsforderungen), DGL to IHK Remscheid, 29.10.29).

425 AHD 3p ar 25 m 1-Reparações, P 59, Fernandes to MNE, 20.7.32; Fuchs to Fernandes, 18.1.33; 23.3.33;5.4.33; Fernandes: Mémoire au sujet de la réclamation de 'Stahlwerksverband', 11.4.33; minutes of meeting, Fuchs, Hechler, Fernandes, Paris, 13.2.33.

426 *Marks* 1978: 254; cf. *Felix* 1971: 176; *Heyde* 1998: 430-55; *Gomes* 2010: 203-12.

427 *Meneses* 2010: 162f.

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PART THREE. Legal and Historiographic Perspectives on the World War in Angola, 1918–2014

7. *Portuguese and German Reactions to the Awards*

The first half of the twentieth century was not yet an "era in which trials … ceased to be a matter of exclusive interest to jurists."[1] There were few public reactions to the arbitration awards. During the ongoing procedures, the press was rarely informed about latest developments. Afonso Costa was at least once quoted in a Lisbon newspaper when he spoke (self-applaudingly) about the (future) arbitration according to § 4 and the forthcoming reparations.[2] In 1926, the German Foreign Office notified the press about the oral proceedings in the Luso-German arbitration case.[3]

After the award of 1928 was received in Berlin, the Foreign Office was not eager to see the result (German responsibility under international law due to excessive use of violence by the *Schutztruppe*) widely published or discussed. By the late 1920s, the "central importance of international law" during the Great War had sunk into oblivion. In Europe and beyond, German efforts to dismiss "[c]laims of systematic violations … as mere war propaganda" won the day. The German Minister in Lisbon was notified: "Press release is only intended in case the affair gets known to the press by other means."[4] It did; Portuguese developments pressured the councilors to take a different stand. The Lisbon daily *Diario de Notiçias* used the 13th anniversary of the battle of Mongua on August 17, 1928 not only to inform its readers about the award and to stress the "most glorious action" of Portugal's colonial forces, but also pointed out that the Africans were "instigated and financed [to revolt] by the Germans". Germany's Minister in Lisbon commented that this article was not a sign of triumph, rather, as he remarked: "One cannot hold it against the Portuguese that they put the best face possible to the public on the bitter results [of the ar-

1 *Felman* 2002: 2.
2 Quoted in: NARA RG 84, Lisbon, v. 175: 800, USML to SoS, 16.4.21.
3 PA R 52532, Martius to AA, Press Dpt, 17.9.26.
4 *Hull* 2014: 12; PA R 52533, AA to DGL, 3.8.28.

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bitration award]".[5] Still, he sent a letter of protest to Portugal's Foreign Minister, referring to the Lausanne award, which stated that there was no proof for the alleged German instigations. The German Legation also provided *Diario de Notiçias* with an excerpt of the award and requested a rectification. One day later *Diario* published a long article on the award and explained that the arbitrators had concluded that there was "no proof" that German agents had "provoked" the "rebellion".[6]

Other journals in Portugal had published excerpts of the award without comment, and it seemed only a matter of time until its content would be published in the German press. The legal department therefore provided the Foreign Office's press department with some details on the award that proved favorable to Germany: It was emphasized that the award did not mention the Portuguese accusations about German intrigues before the World War to annex Angola. The arbitrators described the Naulila incident as an unfortunate chain of events that were not due to illegitimate purposes of Schultze-Jena's expedition. Finally, the award declined the Portuguese allegation that Germany had made propaganda among Africans against Portuguese rule. Shortly thereafter, a statement in this respect was given at the press conference of the Foreign Office[7] The *Frankfurter Zeitung* more or less copied the Foreign Office's statement.[8]

While the award of 1928 was celebrated in *Diário de Notiçias* as a reason for "great joy of all Portuguese", the award of 1930 was more soberly received in Portugal. The newspaper *La Voz* merely reported that the arbitrators had obliged Germany to pay 48 Million GM to Portugal.[9] Judge Marx was "more or less satisfied" with the award of 1930.[10] In its assessment of the award of 1933 the German Press office was clear: "Across the board the decision came down in favor of Germany". Arbitrator Caeiro da Matta, now Foreign Minister, on the other hand was so disappointed that he published his dissenting opinion (*Le différent Luso-Allemand*) in 1934. He spoke of the "fidelity to the principles of law" as the "condition of the prestige of [interstate arbitration]", leaving thus little doubt that he saw these principles violated by the award. However, the prestigious *Boletim*

5 PA R 52533, DGL to AA, 3.12.28.
6 PA R 52533, DGL to AA, 29.8.28, *Diário de Notíçias* 17.8. 'Uma acção gloriosa'; 18.8.28.
7 PA R 52533, Martius to AA, Press Dpt, 15.8.28; remark AA, Press Dpt, 18.8.28.
8 PA R 52533, *Frankfurter Zeitung*, No. 619, 19.8.28.
9 *Diário de Notíçias* 17.8.28; PA R 52535, *La Voz*, 6.8.30 in: Telgr. DGL to AA, 6.8.30.
10 PA R 52536, Marx to Martius, 20.12.30; cf. *Göppert* 1931.

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da Faculdade de Direito of the University of Coimbra abstained from publishing any article about the Luso-German arbitration. Rather, the editors, among them Prime Minister Salazar, decided to publish an amicable article in French about the situation of international law in Germany that emphasized the close relations between Portuguese and German legal researchers.[11]

Also the political relations between Portugal and Germany were not adversely affected by the ongoing arbitration. Several other disputed issues were being negotiated at the same time, for example the German reparation deliveries in kind, Portugal's re-payment of German pre-war loans, or the clearance of sequestrated German property in Portugal. Especially the Legates in Berlin and Lisbon, Costa Cabral and Voretzsch, attempted to 'normalize' the relations of the former enemies. Finally, in 1936 the long-standing question of the sequestrated German property was regulated by the Luso-German accord on German properties, rights, and interests. Under the title *Portugal e Alemanha* (1936) Salazar's government published a massive compilation of the documents relating to the arbitration. During the Second World War the *Estado Novo* followed a policy of carefully balanced neutrality – and upheld the Luso-British treaty of 1373.[12]

8. The afterlife of Naulilaa in International Law

Even though the arbitration procedure from 1920 to 1933 has been characterized as an "overly long waste of time and energy",[13] this cannot be understood as a valid judgment of the effects the arbitration awards had on international law. Most of all, the award of 1928 – known today as the *Naulilaa* case – has not only "made legal history"; it is counted among the "landmark cases in public international law."[14]

Legal commentaries on the Lausanne award commenced immediately after it was rendered. In September 1928 Judge Marx drafted an article about it. Since he was Germany's representative in the case, he requested

11 BAB R 1001/6642: 64, *Wolff's Telegraphen Büro* 16.2.33, Nr. 329; *Matta* 1934: 12; *Jacob* 1930; 1932/34.

12 NARA RG 59, box 6811; 753.62/1, note, 3.4.28; *Cabral* 1931: 340 hoping for closer 'academic and economic cooperation'; *Santos* 1978: 242; *Portugal* 1936; *Pereira* 2012.

13 *Meneses* 2010: 162f.

14 *Heinze/Fitzmaurice* 1998; Sir R. Jenning in *ibd*.: vii.

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permission of the Foreign Office‘s legal department. He argued that his article would provoke a reaction to his questions about the reasoning of the arbitrators in the coming award. In November, 1928 Marx’s short article, more or less a summary of the 34-page award, was published in the *Deutsche Juristen-Zeitung*. He saw the three requirements for a lawful reprisal, mentioned in the award, and most of all the “proportionality” rule, as an argumentative device of the arbitrators to avoid any doubts about Germany’s responsibility, since the factual findings of the award (Schultze-Jena had camped on Portuguese territory, he had made an “unfortunate move” in Fort Naulila, Governor Seitz had insufficiently tried to reach a compromise with the Portuguese before he ordered the attacks) were “mainly based on the accounts of Portuguese witnesses.”[15]

At the same time, the award that immortalized the misspelling of Fort *Naulilaa* in legal literature, received a more scathing critique from German academics. It was included in a long article on § 4 by Karl Schmid and Ernst Schmitz. They left no doubt that the arbitrators (similar to other awards of MAT) had committed grave legal errors when they found Germany liable for the destruction of the forts in Angola. The arbitrators, they maintained, had (illegitimately) based their requirement of the “proportionality” of reprisals on considerations of “equity”. To them it seemed

> “clear that it cannot be determined according to what the arbitrator in 1928 considers to be *principes d’équité*, what formed a German *act commis* during the first years of the war. It does not need any elucidation that when in 1914 rules of positive international law were inexistent in this respect, an *acte commis*, a delinquency according to international law cannot be retroactively constructed by way of filling the gaps out of considerations of equity by devising rules that have been violated.”[16]

A short while later, Viktor Bruns (1884–1943), professor at Berlin University and Director of the Kaiser Wilhelm Institute of International Law, joined in this criticism with the question how international arbitration tribunals establish the norms they apply in their awards? “Or are these norms not part of positive international law?” – implying thus the same allega-

15 PA R 52533, Marx to AA, 18.9.28; 6.11.28; *Deutsche Juristen-Ztg.*, 33.Jg/21, 1.11.28

16 *Schmid*/*Schmitz* 1928: 317. Sei doch ‘klar, daß nicht nach dem, was der Schiedsrichter 1928 für principes d’équité hält, sich bestimmen kann, was in den ersten Kriegsjahren einen acte commis Deutschlands darstellte. Daß da, wo Regeln des positiven Völkerrechts 1914 fehlten, nicht nachträglich aus Billigkeitserwägungen im Wege der Lückenfüllung ein acte commis, ein völkerrechtliches Delikt konstruiert werden kann, indem Rechtsregeln, die verletzt worden sind, fingiert werden, bedarf eigentlich keiner Erörterung.‘

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tions that (politically motivated) considerations of equity had found their way into the award. In these comments, the skepticism of conservative German legal scholars with regard to international law dominates. To them, the international legal order created at Versailles and Geneva was "mere cant, or a fig leaf for allied imperialism." A few years latter Carl Schmitt (1888–1985) would cement this world view in his *International Law Forms of Modern Imperialism* (1932).[17]

Given that the legal dispute was not yet decided, the Foreign Office in the *Wilhelmstraße* nearby the university tried to influence Bruns in writing his comment. Marx had a conversation with him and also the *Dirigent* of the legal department, Martius, discussed the matter with Bruns. Bruns wanted to send a copy of his article to de Meuron. Marx and Martius, having read a draft, had no objections, but Martius reminded Bruns: "until now we were of the opinion that the award of July 31, 1928" had taken into consideration the complicated facts "carefully and objectively" and that the award, irrespective of doubts caused by the legal argumentation, "was acceptable to us." Marx and Martius aimed at influencing Bruns to soften his tone towards the arbitrators. A few days later Martius wrote to Marx that he met Bruns who told him that he "intends to commence his article on the Luso-German arbitration with two acknowledging sentences. He will also review his article and moderate possible incisiveness (*Schärfe*). Our step (*Aktion*) was thus completely successful in this respect"[18]

Nonetheless, the critique was indeed fundamental, not only in terms of the understanding of the facts (according to Bruns, Sereno and Varão had violated international law, when they arrested the Germans), but also of the law. Like others before him, Bruns underlined that § 4 was *not* concerned with damages to state property, but only with damages suffered by Allied nationals prior to the declaration of war. Most importantly, however, while the arbitrators concluded in 1928 that the acts committed under Franke's command and ordered by Governor Seitz in 1914 violated in-

17 *Bruns* 1929: 1 'Die Urteile dieser Schiedsgerichte insbesondere stützen sich auf eine große Zahl von Rechtsnormen, die weder zum [internationalen] Vertragsrecht, noch zu dem gesicherten Bestand des Gewohnheitsrechts gehören. Eine sorgfältige Prüfung … ergibt bereits einen Bestand von mehreren hundert solcher Regeln. Wie gewinnt d[er Haager] Gerichtshof, wie gewinnen die anderen Schiedsgerichte diese Normen? Oder gehören gar diese Normen nicht zum positiven Völkerrecht?'; *Hull* 2014: 13; cf. *Schmitt* 2005; *Verzijl* 1973.

18 PA R 52534, Martius to Prof. Bruns, 1.6.; Marx to AA, 7.6.; Martius to Marx, 10.6.29.

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ternational law, Schmid, Schmitz, and Bruns (even if he recognized the "careful" analysis of the facts) criticized this reasoning. According to Bruns, the arbitrators were "not entitled to base their award on principles of equity", since this was not previously agreed on by the parties. Bruns based his argument on a consideration of "fairness" in international law: an act in 1914 that was not illegal during the World War could not be found wrongful in the 1920s. The legal proceedings against alleged illegalities (violation of the proportionality doctrine) contravenes the legal principle that measures should not have retroactive effects (*nulla poene sine lege*). The arbitrators were supposed to decide according to the "positive norms" in place in 1914.[19]

On the one hand, this critique of the application of the proportionality doctrine to inter-state relations by a German law professor seems remarkable because the "historical roots of proportionality as a public-law standard can be found in eighteenth-century German administrative law." Around 1900, the proportionality doctrine had developed into one of the tenets of Prussian administrative (police) law and administrative judges regularly applied the standard when inquiring about the possibility of a less drastic measure of the administration/police in order to achieve a certain end. In 1928, Swiss law Professor Fritz Fleiner (1867–1937) "properly summarized the law of proportionality of the time, when he said: 'You should never use a cannon to kill a sparrow'."[20]

On the other hand, the critique may have some substance to it since in the realm of international law and more specific in the rules of *ius ad bellum* there was, in academia and legal practice, a "lack of focus on proportionality" at a time "when war was a sovereign right of States". As stated above, up to the First World War "the idea that the use of force must be both necessary and proportionate was by no means … established in the practice of States". Infrequent references to the *idea* "that the use of force should not be out of proportion to the situation that had provoked it" did not suffice "it to acquire the status of customary international law." There

19 *Bruns* 1929a: 81; *Franck* 1995; cf. *Strupp* 1923: 686 on 'void decisions'; *Jacob* 1930: 144.

20 *Barak* 2012: 177 ref. to C.G. Svarez (1746-98); 179, Fleiner, Verwaltungsrecht; cf. *Arnauld* 2000; *Vranes* 2009: 11; *Somek* 2014: 110: 'Proportionality is about assessing the reasonableness of interferences with liberty … it is particularly apt to constrain where there is no positive rule setting limits to power. The limits can then only be determined from within the perspective of reasonable action.'

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was, furthermore, a noted "absence of clear positive or customary rules governing reprisals".[21]

However, Aloïs de Meuron and his co-arbitrators did refer to certain changes in the notion of what constitutes legitimate use of force (in this case reprisal) when they wrote about "[i]nternational law in process of formation as a result of the experience of the last war" (p. 1026). This "formation" included the Covenant of the League of Nation of 1919 restraining the liberty of states to resort to war; also, the "proportionality equation … was articulated by several commentators during the period of the League. The focus tended to be on the gravity of the attack". Such tendencies found their political climax in the General Treaty for the Renunciation of War (Kellogg-Briand Pact) concluded in August 1928.[22]

Post-war tendencies, however, did not obviate the criticism of retroactive application of 'new' rules to past acts; for the extent to which the requirement of 'necessity' for legitimate reprisals was reflected in state practice (especially prior to 1918) "is not clear". And – given the "permissiveness of international law towards the use of force" – the same seems true for the requirement of "proportionality". While authors referred to it when discussing forcible reprisals, there are precedents of state practice "where proportionality was clearly not a restraining factor." Legal scholar Judith Gardam refers to the forceful occupation by the United States of the Mexican port Vera Cruz in 1914 in response to the (unlawful) arrest by the Mexican authorities of three US seamen. In 1923 Italian forces bombarded and occupied the Greek island of Corfu in response to an alleged wrong committed by Greece. After a lengthy discussion, the League of Nations did not condemn this use of force. Evelyn Colbert therefore concluded the proportionality requirement of the *Naulilaa* award "has little or no support

21 *Gardam* 2004: 42-4; *Darcy* 2015: 884; cf. *Huber* 1910: 88 on 'Selbsthilfe'; *Kelly* 2003: 10f.; *Corten* 2012: 261 'At that time [nineteenth century], States were able to use force if they could invoke `legitimate grounds´ largely defined: self-preservation, autoprotection, redress of torts or outrages, and so forth. … legal limitations were still so broad that it would clearly be excessive to contend that these were equivalent to precise rules. These limitations – like `self-preservation´ – must rather be characterized as broad standards [and] … these standards can be characterized as a sort of blend between legal and moral/political considerations. No `sharp distinction´ between law and moral thus prevailed.'

22 *Gardam* 2004: 45; cf. *Poincaré* 1929: 520 acknowledged 'such evident progress'; *Séfériadès* 1935: 146; *Roscher* 2004.

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in the practice of states." In this respect, she agreed with Bruns' critique from twenty years earlier.[23]

However, this critique overlooks that even prior to 1914 neither "positive international law" nor state practice were the only way to assess the conformity of a certain act with international law. Irrespective of the fact that during the Hague Peace Conferences no convention was concluded about (forceful) reprisals, in the theory of just war – discussed since the Middle Ages – "proportionality" was next to "necessity" and "immediacy" one of the possible limitations to a (defensive) act of war. There was "also a long history of restraints" in state reprisals.[24] "Proportionality" was thus not only a key term in domestic, administrative law, but also known to the doctrines of public international law. While "in the 1920s … well-known writers had argued that proportionality was not a legal requirement but merely a moral obligation [,c]ontemporary doctrine … was decidedly in favor of such a requirement".[25] The arbitrators of 1928 could base their argumentation on this contradictory history. They openly admitted that the "most recent doctrine [of reprisals], notably the German doctrine … does not require that the reprisal be proportioned to the offence. On this point, authors, unanimous for some years, are now divided in opinion." The arbitrators then did not balance arguments in favor or against the proportionality of reprisals, but went with the "majority [that] considers a certain proportion between offence and reprisal a necessary condition of the legitimacy of the latter." International law "certainly tends to restrict the notion of legitimate reprisal and prohibits excess". (p. 1026).

The arbitrators also avoided the criticism that they had not adhered to the fundamental positivist position that states are bound only by that to which they have consented (the accusation implicit in Schmid, Schmitz and Bruns' critique was that Governor Seitz and Franke could not know in 1914 about the [evolved] doctrine of proportionality in 1928). Rather, they emphasized (p. 1028 FN 1) that the Germans had first mentioned the argument of proportionality in their memorandum of 1922. This hint sufficed to show that German officials were well aware of considerations of proportionality for (military) reprisals. Any critique about an allegedly retroactive application of a "newly" evolved doctrine on proportionality as

23 *Gardam* 2004: 47f; *Darcy* 2015: 885; *Colbert* 1948: 76; cf. *Kelly* 2003: 11; *Séfériadès* 1935: 140.

24 *Reichberg* 2007: 8; *Hull* 2014: 92; cf. 59;278 ref. Carl Lueder (1889); *Mitchell* 2001: 161.

25 ILC, 2238th meeting (Arangio-Ruiz), 10.7.1991, in: UNYB ILC 1991: 207.

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an important limit to the right of self-defense could be contradicted by the award's longest footnote listing legal literature (p. 1026). It has been remarked recently that "none of these requirements for reprisals were established or altered by the *Naulilaa* case; rather, they confirmed rules of reprisals established by earlier writers".[26] And indeed, "proportionality" as a limit to the right of self-defense can latest be found in attempts to define reprisals since the nineteenth century.[27]

Since the arbitrators could rightly have the impression that their understanding of a lawful reprisal was not altogether "new", "proportionality" as the measure for lawful reprisals was not emphasized in the award of 1928. It merely confirmed that forceful reprisals could be appropriate *if* they responded, in a proportional way, to an illegal act. The balancing of interests (abuse of rights or not) or the relation between the original illegal act, appropriate counter-measures, and effective success of the reprisal was not discussed – even though only this relation could determine the "proportionality" required. The arbitrators limited themselves to describe the facts and concluded that "there was an obvious disproportion between the incident at Naulilaa and the six acts of reprisal that followed." (p. 1028)[28]

In the realm of international law, the question of what this law includes and how to balance (contradictory) sources of law (state practice, case law/precedents, academic writing, etc.), never produced one straightforward answer. In the 1920s, the sources of international law had been analyzed by a host of legal scholars, but the critique of the *Naulilaa* award shows that they never agreed on a single concept. What Schmid, Schmitz, and Bruns strongly contested can be described (in modern terms) as the "rules of change" in international law: Given the absence of a centralized (world) legislator or sovereign, who has, and who is conferred by whom, the authority to change the interpretation of old rules? In subsequent decades, legal scholars elaborated on these questions in detail and showed

26 *Sverrisson* 2008: 88f.; but cf. *Bruns* 1929a: 86; *Malanczuk* 1985; 1983: 724: 'In classical international law the right to reprisal as an instrument of self-help in response to an international offence was frequently invoked with little attention paid to proportionality of the wrong suffered and the wrong inflicted upon the delinquent state.'; cf. *Kennedy* 1997: 113.

27 *Pokštefl* 1975: 637 on Lieber Codex (24.4.1863) and Brussels Conference (27.8.1874), draft of the Russian delegation: 'Des représailles démesurément sévères sont contraires aux règles du droit de gens.'; cf. *Hull* 2014: 64; *Neff* 2010: 64; *Gaurier* 2014: 700; *Kalshoven* 2005: 45-51; 67; *Watts* 2009: 365f.; *Röben* 2003; *Bleckmann* 1981: 193 on literature.

28 Transl. *Nolte* 2010: 249; cf. *Cannizzaro* 2001: 892; *Franck* 2008: 716; *Vranes* 2009: 17f.

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that the development of (international) law had to accommodate two conflicting demands: on the one hand, law must be consistent over time to be predictable for all parties; on the other hand, law must be responsive to changing or new circumstances to retain its legitimacy. The legal philosopher H.L.A. Hart (1907–1992) took on these questions on the "rules about rules" by articulating the concept of "secondary rules" and he explained changes in these rules about rules by revolutions and wars.[29] As the wording of the *Naulilaa* award indicates ("international law in process of formation as a result of the experience of the last war"), contemporary arbitrators cherished a notion of legal innovation (as opposed to a static character of rules) in international law. The "freedom of judicial law creation" (*Freiheit richterlicher Rechtsfindung*) proved to be one basis of international law by assessing and applying existing principles of international or municipal law in light of (new) questions put before the arbitral body that could not be solved by treaty law or *ius cogens*.[30] Other arbitration awards in the context of the Treaty of Versailles were criticized for not being active enough in "further developing" the rules of international law.[31]

However, de Meuron, Fazy, and Guex were not merely (un)consciously attempting to introduce new concepts into international law. Rather, they were referring to precedents and legal literature, where – as we have seen previously – the idea of a necessary and proportionate use of force as a justification for self-help or -defense had been developed at some length. The award of 1928 was thus based on the conviction that the use of violence was to be avoided (call for negotiation prior to resort to forceful reprisal), or at least to be limited (proportionality of reprisal). This conviction was in line with contemporary tendencies in international law, as can be seen from the "Convention respecting the Limitation of the Employment of Force for Recovery of Contract Debts" of October 18, 1907.[32] International law expert Georg Nolte (b. 1959) has thus recently pointed out that the "tribunal, in its legal language, more or less said:

> We all come from our national legal systems with their more or less refined sense of and intuition about what is proportionate. While this informs our un-

29 *Fuller* 1963; *Hart* 1961: 117f.; cf. on evolution *Foster* 1909; *Lauterpacht* 1934.

30 *Bothe* 1976: 291. The arbitrators (or international judges) had to solve two 'fundamental problems': 'the choice of the legal orders to be considered and the comparability or transferability of the results found in a municipal legal order.' 299; cf. *Hull* 2014: 88-92

31 *Isay* 1923: 427 concluded the Franco-German MAT had 'failed' in this respect.

32 *Huber* 1910: 94 'Schaffung von Anstalten zur friedl. Erledigung'; cf. *Carnahan* 1998: 213.

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> derstanding of what 'proportionality' should 'normally' provide, we recognize that in international law we cannot assume that our specific sense or intuition of proportionality is shared by others in certain situations. But we can assume that we all have enough of a common background understanding to identify and apply a minimum of common substance. International law only identifies certain factors as being relevant for proportionality analysis, fewer factors that one would 'normally' take into account. Such factors are those which have a higher degree of visibility or which are manifest."[33]

Arbitration awards thus reflected the current legal standards of their time *and* they contributed to a further development of international law. Already contemporaries lauded the Lausanne-awards as "particularly rich in the enunciation of general principles of international law, which are stated with great clarity and precision." Today, the *Naulilaa* case (1928) is cited as "represent[ing] the only noteworthy judicial application of the concept of armed reprisal". Furthermore, this early example for the definition of the law of reprisals and the law of neutrality by tribunals is counted among "the most important arbitral decisions of the inter-war period".[34] Others go beyond the historical context and count it among the "landmark cases in public international law. For the subject 'use of force in international law'" the award of 1928 has been described as "representative", just as the *Caroline* case of 1842.[35] It is considered "authorative" and "a major step towards the modern system of international law aimed at limiting the use of force as much as possible."[36]

When assessing the (judicial) afterlife of the *Naulila* case it is important to bear in mind that judicial bodies such as the three arbitrators "are not primarily concerned with the elaboration of the general rules … but with the relative superiority of the evidence produced by one of the parties."[37] The award's neat listing of the three requirements for a lawful reprisal, however, almost 'invited' the readers to "regard the *Naulilaa* Arbitration as authoritatively establishing the conditions for legitimate reprisals."[38] Whereas prior to 1945 the "actual influence of ideas of proportionality in limiting the use of force … must not be over-emphasized",[39] today the le-

33 *Nolte* 2010: 250; cf. *Dietz* 2014: 681 on 'zeitlos überpositive Maßstäbe'; *Somek* 2014: 111f.
34 *Fitzmaurice* 1932: 156; *Darcy* 2015: 884; *Pierling* 2005: 44; *Boczek* 2005: 354.
35 *Heinze/Fitzmaurice* 1998; Sir R. Jenning in *ibd*.: vii.
36 *Kalshoven* 2005: 8 FN 19; *Pfeil* 2007 Rn 18; cf. *Partsch* 1997.
37 *Schwarzenberger* 1957: 309.
38 *Gardam* 2004 referring to *Waldock* 1952; 460.
39 *Gardam* 2004: 10; cf. *La Brière* 1933.

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gal requirement of "proportionality" of reprisals is "almost universally affirmed in international practice and literature", and for this the *Naulilaa* case is still the most often quoted case.[40] Numerous are the authors who consider that the "best account of the customary law of reprisals is to be found in the *Naulilaa* case".[41] However, even though "proportionality is the quintessential factor in appraising the legitimacy of the counter-measures", Yoram Dinstein (b. 1936) pleads for a sense of pragmatism. With a view to the requirements for "defensive armed reprisal" he assumes it to be

> "unrealistic to expect defensive armed reprisal to conform strictly and literally to the tenet of 'an eye for an eye'. A precise equation of casualties and damage, caused by both sides (in the course of the armed attack and the defensive armed reprisals), is neither a necessary nor a possible condition. All the more so, since in every military entanglement there is an element of chance, and defensive armed reprisals can unpredictably give rise to more casualties and damage than anticipated."[42]

With the advent of the United Nations system forceful reprisals as acts of legitimate self-help or -defense came increasingly under scrutiny. In 1965, during the Vietnam War (after incidents in Chinese air space), U.S. Secretary of State Dean Rusk (1909–1994) while detailing the Guidelines of U.S. Foreign Policy, made clear: "Nothing in international law or morality confers on an aggressor immunity against reprisal. There can be no privileged sanctuary if we are to organize a decent world order."[43] Referring to an "aggressor", he 'embedded' the US reprisal measures legally within the limits of the "inherent right of individual or collective self-defense" according to Article 51 UN Charter. In 1970, in light of Article 2 (4) UN Charter (prohibition of the use of force in international relations), the General Assembly stated in consensus that "states have the duty to refrain from acts of reprisal involving the use of force." As a result, the three "Naulilaa principles are still applicable in today's international law, [but] subject to their interpretation in the light of the ban on the use of force in

40 *Cannizzaro* 2001: 889; cf. *Nolte*: 2010: 245-8.

41 *Waldock* 1952: 460; *Carter/Trimble/Bradley* 2003: 971, referring to the three requirements for lawful reprisals in international law set forth in the 1928-award, it is noted that the award 'is generally accepted as giving a correct interpretation of the customary law of reprisals.'

42 *Dinstein* 2001: 197f. 'A calculus of force, introducing some symmetry … between the dimensions of the lawful counter-force and the original (unlawful) use of force, is imperative.'

43 Quoted in *Poulantzas* 2002: 334; cf. Mitchell 2001: 160f.; *Tomuschat* 1973.

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international relations."[44] Therefore, the majority of experts are currently of the opinion that the UN Charter's (Art. 2 [4]) comprehensive prohibition of the threat or use of force "also applies to reprisals employing force." As Julia Pfeil points out, however, "States have not completely adhered to this principle and have carried out actions which they characterized as acts of self-defense permitted under the UN Charter, but which should, in fact, be characterized as reprisals" (she gives the example of the 1986 bombing of Libya by the United States). Others "have characterized the attacks on the Taliban regime in Afghanistan following the terrorist attacks of September 11, 2001 as reprisals." However, Pfeil cautions that reprisals "should not be used as an excuse to circumvent the strict preconditions of the UN Charter which must be fulfilled before States may legally resort to force."[45]

Yet, even if the original question on the legitimacy of *forceful* reprisals is today differently answered than in 1928 (they were, but are no longer legitimate), the *Naulilaa* case remains relevant, most of all due to its reference to the principle of proportionality. Not any reprisal (or counter-measure, as it is called nowadays) is legitimate as long as it does not resort to physical force, but it still needs to remain within the limits of proportionality. The *Naulilaa* award did not provide lawyers with a "proportionality test", but seemed to assume that proportionality is self-explanatory. Others have since attempted to lay out the questions more comprehensively: What was supposed to be the aim of the legitimate reprisal? "[I]f retribution were the aim, the gravity of the offence could be a relevant factor in the assessment of proportionality. If what was sought was reparations, then the damage … suffered would be a primary factor to take into account in the assessment of what was a proportionate response."[46] "The challenges of proportional calculation explode … as soon as one puts the least thought to the question. What counts as costs and benefits in wartime? Only elements we can quantify, like casualties? But usually we also want to appeal to qualitative elements, like the value of sovereignty. Is there a distinction between explicit and implicit costs? Short term and long-term benefits?"[47]

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44 *Boczek* 2005: 112; cf. *Darcy* 2015: 888; *Kalshoven* 2005: xvii; *Kelly* 2003: 12; *Stein/Marauhn* 2000: 27.

45 *Pfeil* 2007 Rn 20-22; cf. *Kelly* 2003: 31 on 'resurrection of anticipatory self-defense'.

46 *Gardam* 2004: 48; cf. *Vranes* 2009: 21f.

47 *Orend* 2000: 537 ref. to Walzer 1991: xv-xxi; a most encompassing account is *Barak* 2012.

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While some authors have questioned whether the principle of proportionality can be legitimately applied at all in public international law, others consider the *Naulilaa* award in its application of this principle "quite strict". They are of the opinion that this strictness has to be considered in light of the fact that the arbitrators were dealing with a forceful reprisal that was – in principle – legitimate.[48] In 1978, the question was further developed in the U.S.-French *Air Services* case from which a "less strict concept emerged" as the award referred to "some degree of equivalence" and to the fact that judging the proportionality of countermeasures could at best "be accomplished by approximation". Recently, Erich Vranes concluded that the "overall function of the test of proportionality [requirements of suitability, necessity, and proportionality in the narrow sense] can be seen in structuring, and increasing the rationality of, complex decisions."[49]

Also another aspect of "strictness" in the 1928-award has been criticized. The requirement of a prior demand (*sommation*) for reparation of the alleged damage, as stipulated by the arbitrators, is not supported by references to precedents or literature. The only footnote in this paragraph refers to the rule that the "use of force is justified only in case of necessity" and therefore the preceding notice must have "yielded no satisfactory response" (p. 1027). Indeed, international law "classic" Emer de Vattel (1714–67) underlined in 1758 that "Nature gives us the right to have recourse to force only when gentle and pacific methods have proved ineffectual."[50]

The requirement of prior demand, however, is not uniformly supported by state practice or writers and may not be appropriate or possible in some circumstances. For critics of the *Naulilaa* award, it seems "exaggerated" to uphold this requirement of an attempt to seek contact and demand reparations if circumstances do not allow for this.[51] The arbitrators wrote of "messages transmitted from Windhoek to German stations", which they did not accept as "inter-State notice". However, the measure of the arbitrators seems unclear given the expressed intention of Governor Seitz in

48 *Stein/Marauhn* 2000: 27 ob es 'so strikt zu handhaben ist, wie [im] im *Naulilaa*-Schiedsspruch wird heute bezweifelt, denn der Schiedsspruch betraf die damals grundsätzlich zulässige gewaltsame Repressalie'; cf. *Vranes* 2009: 6; 21f.; *Krugmann* 2004; *Gazzini* 2005: 164.

49 ILC, 2238th meeting (Arangio-Ruiz), 10.7.1991, in: UNYB ILC 1991: 207; *Vranes* 2009: 35.

50 *Vattel* 1916 [1758] § 330: 225; cf. *Bleckmann* 1981: 194f.

51 *Malanczuk* 1983: 726; cf. *Klein* 1998: 39f.; *Nickles* 2003 on diplomacy and the telegraph.

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Windhoek to contact his counterpart in Luanda by radio-telegrams, for which "he took the initiative" as the German memorandum of 1922 underlined. The award assumed not only that these messages were destined (only?) to "German stations", but also accepted that these messages had "not come to the attention [*avoir été ignorés*] of the Portuguese authorities". Given that wireless apparatuses were available in Luanda this appears doubtful – if such messages had been sent by Seitz. Considering the archival documents of 1914, Seitz, on the insistence of commander Heydebreck, ordered *not* to send the radio-telegrams he had drafted only hours before; this, however, would put in doubt the testimonies of the governor and his technician Eickhoff during the arbitration. The statement of ex-Governor Norton de Matos in 1926 – on the other hand –, responding to the question whether he found it necessary to contact his German counterpart after he learnt about the Naulila-incident (Oct. 21): "I could not and must not have done it", seems in itself an indicator that he refused to communicate with Seitz.[52] But even if they had reached Luanda, the arbitrators stated apodictically, "these messages would not have amounted to notice" (p. 1028). The arbitrators would have liked to see Seitz send a messenger. However, given the war in the south of GSWA and the concern of a Portuguese invasion from the north, the alternative described in the award to send a negotiator with a letter to Fort Cuangar and demand reparations seems out of touch with everyday life. From the perspective of Seitz the treatment of Brauer in Moçâmedes and the fate of Schultze-Jena in Naulila left little doubt how the Portuguese would deal with yet another negotiator or commission. Given the state of war in GSWA, it seems barely adequate to require Seitz to send to the Governor General in Luanda (however this could have been accomplished) a warning of an imminent forceful reprisal, since this would have negated the "protection function" of the reprisal. Karl Doehring therefore concludes: "The notice can only be demanded, if it does not render ineffective the protection" the reprisal efforts.[53]

52 BAB R 1001/6635: 64f.; 71, Memo Allm, 7/22; R 1001/6640: 111 (34) testimony of Norton de Matos, 5.5.26.

53 *Bowett* 1972: 3; *Doehring* 1987: 51; cf. Yearbook ILC 1992, Vol. II/1 (Documents of the 44th Session), New York 1995: 10. (State responsibility): 'While rejecting the charge that it had not met that requirement [of a preceding *sommation* that has proved fruitless], the accused State [Germany] did not contest the rule [of prior demand]'; cf. *Darcy* 2015: 892f.

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A "landmark case" such as *Naulilaa* has been much-analyzed, and not only by academics in treatises or by the UN's International Law Commission.[54] International courts or commissions have also referenced *Naulilaa* in their decisions, thereby elevating it into the highest ranks of authoritative texts in international law. Here, mentioning only a few examples from the judiciary over the last decades shall suffice: The International Court of Justice (ICJ) in giving its Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons* (July 8, 1996) cited the *Naulilaa*-case in connection with considerations of "humanity" in warfare, observing that "the right of reprisals 'is *limited* by the experiences of mankind'".[55] The same phrase was included in the dissenting opinion by Judge Torres Bernárdes in the ICJ *Fisheries Jurisdiction Case* (Spain vs. Canada) (December 4, 1998) when underlining the "unanimity about the definition of reprisals" according to the Naulila award, which the Judge quoted at length.[56] The *Naulilaa* award is not exclusively an important reference for questions of reprisals or proportionality. A decision of the *Eritrea-Ethiopia Claims Commission* (2007) referred, among others, to the 1928 award when discussing the "connection between delict and compensable damage", asking, as de Meuron did, "whether the damage was foreseeable … to the perpetrator."[57]

Finally, the arbitration award of 1928 can also be read as a "monument" to King Mandume's effort to halt the onslaught of colonialism. Certainly not versed in a neutral tone (the King is described as a bloodthirsty tyrant), arbitrator de Meuron did not lose sight of the fact that the war was not over in southern Angola after the German withdrawal from Fort Naulila. While research on colonial scandals has shown that forms of African resistance that may have become apparent through such scandals were hidden, silenced, or "lost in transfer", in this particular case the possibility of

54 ILC, Hague Conference 2010: 306 FN58 on the 'foreseeability' of the harm suffered due to the violation of international law; *Sverrisson*: 2008: 171. 'In the commentary to Article 50 of the 2001 Draft Articles, the ILC explained somewhat the meaning of fundamental human rights in paragraph 1 (b). The commission cited the tribunal in the *Naulilaa* Case and a resolution of the ILC, which stated that states taking countermeasures had to respect the law of humanity.'

55 1996 ICJ: 226 (408) *Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons*, 8.7.96 (Dissenting Opinion Judge M. Shahabuddeen); cf. *Lovric-Pernak* 2013.

56 1998 ICJ: 432 (731) WL 1797317 *Fisheries Jurisdiction case* (Spain vs. Canada), 4.12.98. (Dissenting Opinion Judge Bernárdes) Reprisals 'are limited by humanitarian experience and by the rules of good faith applicable in relations between States' [transl. by the Registry].

57 Eritrea-Ethiopia Claims Com., 27.7.07 (Guidance *ius ad bellum* liability, H. v. Houtte): 3.

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African "agency" had to be acknowledged[58] during the arbitration. After all, the Portuguese claimants demanded reparations for the damages caused during the campaign of General de Eça against King Mandume.

9. Naulila and King Mandume in the Memorial Cultures of Portugal, Germany, Angola and Namibia

"[D]espite all warnings that historians should not press their noses too flat against the windowpane"[59] this chapter attempts to follow ideas and events that connect, in one way or another, the Naulila-affair to the present. This chapter will thus engage not only with 'events' in 'history', but also with historians or others engaged in 'history-making' by turning positivist 'knowledge' about historical occurrences into commemorative content. Four modern nations, Portugal, Germany, Angola and Namibia are involved. And although all four are treated separately in subchapters in order to highlight particularities, comparative allusions are made in order to illustrate the ways the four countries are entangled with each other in their modes of remembering the legacies of the Angolan battles of 1914–15 and their colonial heritage in general.

While it has been assumed that "today the German punishment expeditions [against Angola] have more or less sunk into oblivion" (at last, the "German victory at Naulila … achieved nothing in the long run"),[60] it seems evident that the destruction of Fort Naulila have had two results that still hold relevance for today: The afterlife of the *Naulilaa* award in public international law has been recapitulated in the previous chapter. The memorial cultures that developed not only around the German "punishment expedition" in itself, but also around the military campaign of and against King Mandume as a result, is to be analyzed in the following. The sociologist Reinhard Kössler pointed out that historical processes are "transformed into memory" in the form of "fixed states or events. In a strict sense … public memory operates on myths, where myth denotes the transfer of contents to contexts that differ from their contexts of origin."

58 *Habermas* 2014: 78f on the Atakpame colonial scandal, 1902-07.
59 *Birmingham* 2011: 7; cf. *Hilton /Mitter* 2013; *Drayton* 2011: 671.
60 *Cann* 2001: 163; *Morlang* 1998: 48 'Strafexpedit. weitgehend in Vergessenheit geraten'.

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Evidently such "myth-making" integrates some interests while it excludes others.[61]

The "consequences of colonialism … remain omnipresent."[62] It seems received post-colonial wisdom that the former colonizer and the formerly colonized have profoundly influenced each other's sense of self. What has been remarked about the relation between Brazil and Portugal is true also for other constellations: "The (post)colonial link will always inform the cultural memories of both countries to one degree or another, yet, such memories will be differently lived by [the colonizer or the colonized nation]."[63] Indeed, the continued presence of Angola and Portugal and Namibia and Germany in each other's national life is manifold and includes features of memorial cultures. The debate about how to appropriately commemorate colonial history is ongoing in the former colonies and the former metropolises. The "impossibility of uncritically commemorating historical events marked by colonialism (and its corollary slavery)" has thereby often been restated.[64] Given the multifaceted nature of the memorial cultures in question and the relatively recent political interventions, the following discussion is a rather skeletal statement of developments.

9.1 Writing about "Heroes": Portugal

The Portuguese government organized days of remembrance early on for those fallen in Angola and elsewhere during the World War. The *Consagração dos Mortos da Infantaria Portuguesa* was celebrated in June 1920, with Portugal's president attending.[65] In April 1921, homage was paid to two unknown soldiers killed in Africa and Flanders who were buried in the Monastery of Batalha. This "high point of the commemoration of Portugal's participation in the war" was also destined to be a symbol of national reconciliation. The ceremony, attended by the head of state, dignitaries, and soldiers of all Allied nations, among them Marshal

61 *Kössler* 2007: 364 referring to Roland Barthes; cf. *du Pisani* 2007: 99.
62 *Osterhammel* 2003: 124 'die Folgen des Kolonialismus, … [bleiben] doch allgegenwärtig'.
63 *Arenas* 2003: xxviii; cf. *Hobuß/Lölke* 2006; *Jansen/Osterhammel* 2013: 122-6.
64 The wording is borrowed from *Arenas* 2003: xix on 'Luso-Brasilian complicities'; xvii.
65 NARA RG 84, Lisbon, v. 172: 845.5, MNE-USML, 8.6.20; *Meneses* 2006; on WWI memorials *Janz* 2013: 353-8; *Hettling/Echternkamp* 2013.

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Joseph Joffre of France (1852–1931), was the first since the founding of the republic in 1910 where not only church leaders were present, but representatives of the toppled monarchy, as well. Furthermore, ex-Prime Minster Afonso Costa had returned from Paris and – despite being considered the "arch-enemy of the clergy" – attended the ceremony including the mass. The American Minister quoted an observer saying "that it would have been impossible for such a gathering to have taken place three years ago". In the following years, "physical evidence of Portugal's war efforts" were inaugurated "in numerous town squares from Cascais to Lisbon" and throughout the Empire.[66] Streets in Porto and Lisbon were named *Rua de Naulila* or *Herois de Naulila*.

In addition to the erecting of monuments, literature on the war in Africa played an important role in the "politics" of memory and memory construction. In 1919 the former Minister of War, General Morais Sarmento published a book on the *German Expansion* as the "determining reason of the war 1914–19". As we have seen, the book – detailing pan-German devotion to violence and "universal hegemony" and recognizing a "specific German character" built around the "cult of war" – seemed to have been the inspiration for many paragraphs of the first Portuguese memorandum of 1921. In fact, Magalhães quoted extensively from the "most persuasive and celebrated of war books". Quotations from the Generals Meisendorf, von der Golz, and Bernhardi, as well as from the philosophers Arndt, Hegel, Marx, Nietzsche, and Wagner provide the reader with an unmistakable sense of German expansionism. "Sarmento's work was popular in Portuguese military circles and was translated into French…. It is significant, too, that his work concentrated on Portuguese Africa".[67] Exculpating himself, immediately after the war in 1919 also Alves Roçadas published his account of the events leading to the disaster of Naulila. A few years later, one of Portugal's more important novelists at the time, the civil servant Augusto Casimiro (1889–1967), who repeatedly wrote novels on the colonies, authored a 200-page account of *Naulila* (1922), while he accompanied Norton de Matos on his second term as High Commissioner in Angola. He had access to original documents from 1914, but was no eyewitness of the events. Glorifying the Portuguese attempts to withstand the

66 NARA RG 84, Lisbon, v. 175: 800, USML to SoS, 16.4.21; *Meneses* 2010: 141; 2006: 109 reconciliation between republicans and monarchists was facilitated by a political amnesty, political prisoners were freed; *Wheeler* 1978: 133; cf. *Mosse* 1999; *Aldrich* 2005 on France.

67 *Sarmento* 1919: 24-36; *Wheeler* 1978: 177; cf.; *Arruela* 1940; *Faria e Maia* 1941.

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German onslaught, Casimiro, who participated in the Portuguese Expeditionary Corps in Flanders, left no doubt that Franke won the day only by treacherously enlisting Africans. But he did not hide his criticism of Lisbon's politicians and officers whom he considered disinterest in colonial affairs. As a result they abandoned the army in times of need. A convinced colonialist, Casimiro believed, just as his former superior, in altruistic civil servants paternalistically guiding Africans towards a brighter future under Portugal's flag.[68]

In its article on Angola, the semi-official *Grande Enciclopédia Portuguesa e Brasileira* (1936) not only pointed out that the Germans "invaded" southern Angola in 1914 prior to the declaration of war. It also claimed that the battle of Naulila was an "undecided military action, but it forced the Germans to hastily retreat south of the Kunene [River]. Meanwhile, all the peoples of the South, manipulated by *agents provocateurs* of the European invaders rose up against us; the events of the Dutch invasion [1641] are repeating themselves." Years later, the publishers of the *GEPB* decided to grant the keyword "Naulila" its own article at a stunning ten (!) pages in length. The article detailed the "incident" and the "battle" carefully but did not mention at all the arbitration and the futility of Portugal's legal battle for reparations.[69]

Given that the battle of Naulila was depicted as "a draw", Roçadas' rise to the rank of General was less surprising. First of all, he remained the "hero of 1907" who avenged the disgrace of 1904 and occupied Cuamato. He is among the "heroes" of Portugal's military history whose picture (laid with *azulejos*, tiles) still adorns the court of the Army General-Staff building in Lisbon. General de Eça, on the other hand, is missing in this frieze of honor. The battle of Mongua, despite being Portugal's only decisive victory in Africa during World War I and despite being one of the largest battles ever fought in colonial Africa, did not find its way into the Portuguese national consciousness. Even historians barely touched upon it. It has been assumed that one of the likely reasons for this was the absence of any capable Portuguese "propaganda in 1915". "In Mongua there

68 Cf. *Hamilton* 1975: 33; *Camacho* 1934; *Norton de Matos* 1926; 1934.

69 *GEPB* 1936, vol. 2, Art. 'Angola': 663; 1948, vol. 13, Art. 'Naulila': 466-475. The rumor that Germans had attempted to incite a 'native rising' against Portugal after the battle of Naulila remains stubbornly quoted by Portuguese historians as fact, just as the Naulila incident of October 1914 is described as a 'German attack'. Cf. *Teixeira* 2003: 25; *Fraga* 2010: 133; *Oliveira Marques* 1995: 557, in 1915 'tornou-se novamente necessário pacificar algumas tribos angolanas, incitadas pela Alemanha a revoltar-se contra Portugal.'

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was no equivalent to Winston Churchill covering the campaign of Kitchener in Sudan in 1898." Only in 1921 was de Eça's official report, a cumbersome volume of 600 pages of dry language, published posthumously. The difficulties of his campaign and the occupation can barely be found between the lines. Later on, some articles and books were published about the campaign in 1915 by ex-combatants like Coronel Pires Monteiro, but the output was small in comparison to the "Boer War" or the Herero War.[70] *Cabo* Adelino, whom the Germans believed to be the "murderer" of Schultze-Jena, wrote an autobiographical novel *O convite* (The Invitation), where he explains how Germans misled Roçadas before the battle of Naulila.[71] The majority of these authors had in mind a patriotic purpose: to pay tribute to the fallen "heroes". Courageous Portuguese troopers were depicted in their fight against brutal Germans and barbaric "savages" led by *soba* Mandume and his German financiers.[72]

Norton de Matos also used his memoires to repeat in unmistakable terms his anti-German sentiments when he related the Naulila affair that so rudely interrupted his career. To a certain extend the pages of these four volumes (1944–46) dealing with the 'German threat' are mere repetition of all he had to say during the Naulila-arbitration on German expansionism; he spares no detail of espionage, infiltration, and incitement of "natives" like Mandume or "Ananga" (Kandjimi), their training by German military instructors and an extended German trade in weapons with "natives". In his view, the German incursion and Portugal's defeat at Naulila were the culmination of a long history of a well-planned annexation scheme whose execution was prevented by Germany's defeat in the war.[73]

Forty years after the debacle at Naulila, Angola's former Chief-of-Staff, General Ernesto Machado, in 1914 a lieutenant in Roçadas' general-staff who had partaken in the battle and the chaotic retreat, began to collect data in the military archives and in the memorial literature about the causes of the defeat. Written from a Portuguese perspective (he spoke about "us" and rarely drew on German sources), the resulting 450-page volume (*No Sul de Angola*), published by the Overseas Ministry in 1956, remains up to the present the most comprehensive treatise on all military aspects of the

70 *Pélissier* 2004: 270; cf. *Eça* 1915; 1922; *Teixeira* 1935a,b,c; *Soares* 1934; 1937; *Vieira da Rocha* 1936; *Monteiro* 1947; 1952; *Santos* 1957; *Pimenta* 1941.

71 *Baericke* 1981: 93.

72 *Sousa* [n.d.~1935]: 3; cf. *Diário de Notíçias* 17.8.28 'Uma acção gloriosa'; *Varão* 1934.

73 *Norton de Matos* 1944-6; cf. *Silva* 2008: 364f.; *Baericke* 1981: 9f.; 21 written in 1953.

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Naulila incident and the battle. The book is to a large extent a self-justification and furthermore has a 'pedagogical' purpose in its explanations for future officers about 'dos and dont's' in African 'bush' warfare. In his "general critique" of Roçadas' army, Machado assessed the expeditionary forces' preparations as having been "defective" and wondered about Roçadas' "inaction" upon Franke's arrival at the Kunene River. Another work on the subject, the long article of Eduardo dos Santos on *Naulila* (1978) focuses mostly on the events leading to the Naulila incident. Like later authors working on the World War in Angola, he relies overwhelmingly on the published accounts of contemporaries, but avoids the nationalistic overtones of his predecessors and includes, albeit briefly, the arbitration procedure. Recent overviews on Portugal and the Great War barely mention the Angolan theater of war. A source based monograph on the issue that is considering also the preparations, logistics, and experiences of the rank and file, or the details of the occupation regime with its raids and court martials is still lacking.[74]

The long-time dominance of overtly nationalist narratives about the war in Africa that put "us", the Portuguese, against treacherous Germans, should be seen in the context of Salazar's New State. Salazar put an "emphasis on national pride [that] was also effective on broadening the basis of consent for the dictatorship." "[H]eavy architectural projects", including historical monuments, resulted from this policy. And it was not only the Marquis de Pombal (1699–1782) or Henry the Navigator (1394–1460) who were honored,[75] but also the soldiers of the war in Africa. Some went so far to argue that "the national reason for being was transformed into a 'longing' (*saudade*) for what Portugal used to be."[76] While foreign visitors to Lisbon in the 1950s and 60s may have frowned upon "the primitives of Western Europe's Albania", Salazar attempted to endow his compatriots with the self-confidence to identify themselves with the sentence "we are all the children of Dom Henrique [the Navigator]."[77] For many in Portugal, their national history "demonstrated that there was a uniqueness in the Portuguese soul, which … would enable this tiny country to recreate the

74 Cf. *Matos Gomes/Afonso* 2010.
75 *Birmingham* 2011: 170; cf. *Salazar* 1963 – a speech for a foreign audience.
76 *Arenas* 2003: 12 referring to Eduardo Lourenço: O labirinto da saudade, 1978.
77 *Pélissier* 1979: 15 mocking French officials; *Birmingham* 2002: 227; cf. *Silva* 2008: 355.

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triumphs of the past."[78] Emotional attachment to the colonial cause could be backed up by these kinds of mystic accounts that were 'rationalized' as Portugal's "humanitarian and noble task – to educate and civilize backward peoples."[79] The history of Portugal's presence in Africa was related as the history of a "civilizing mission". This old "ideological assumption of the Portuguese imperial vocation" was strengthened under the *Estado Novo*. "Historical lessons" were understood to be "moral lessons" for the nation, putting historiography at the service of the state. For Marcello Caetano, law professor, minister and Salazar's successor, history was supposed to be "an instrument of national recovery".[80] The claim of Portugal's "special genius for Christianizing and assimilating indigenous populations into a nonracial people" developed into "what many considered an absurd nationalistic mythology"; but it became instrumental to defend the colonies until the downfall of *o Império* in 1975.[81]

Already before the days of sociologist Gilberto Freyre (1900–1987), (semi-) official debates on the "'qualities' of Portuguese colonialism were permeated by characterizations such as 'benign', 'unique' and 'distinct' (read '*better*') in relationship to other colonialisms." Especially the "Freyrean Lusotropicalist nexus has proven to be quite resilient as it has migrated from the intellectual field to the realm of politics and that of mentalities with lasting effects until today".[82] During the quincentennial celebrations in 2000 marking the "discovery" or "founding" of Brazil, Portuguese President Jorge Sampaio (b. 1939) continued the tradition of his predecessors by seeking to "emphasize past Portuguese glories". Commentators noted "the euphoria expressed in official discourses" on this occasion. Contrary to the demands of some protesters, he offered "no apologies for the misdeeds of colonial-era Portuguese."[83]

Also after decolonization, the legacy of Portugal's "ties to the sea and of empire still plays a large role in the national collective imaginary". The Portuguese still call themselves *heróis do mar* (heroes of the sea) whenever they sing their national anthem. The social scientist Fernando Arenas speaks of "the symbiotic relationship between nation and empire in the

78 *Smith* 1991: 597; cf. *Hamilton* 1975: 3 on the 'unique role as revealers of Africa to Europe'; *Birmingham* 2002: 227f. on the theme of Portugal's 'uniqueness' and the search for identity.
79 *Ferreira Mendes* 1940: 225; cf. *Caetano* 1970; *Corrado* 2008: 23; *Errante* 2003: 16.
80 *Roque* 2003: 112; *Hespanha* 1981: 441; cf. *Minist. Colónias*, Decreto No. 16.473, 6.2.1929.
81 *Cooper* 2002b: 139; *Hamilton* 1975: VIII.
82 *Arenas* 2003: 7 ref. to Cláudia Castelo; *Arenas* 2011: 11; 15; *Madureira* 1994.
83 *Arenas* 2003: xvii; 9; cf. *Almeida* 2004 on identity discourses.

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Portuguese collective unconscious" that remained unchanged for the greater part of the twentieth century.[84] While some observers of modern Portuguese historiography or the society in general have marked the absence of "a coming to terms with" the colonial past, others have written about "Portugal's significantly more mature relationship to its colonial past". They speak of "significant shifts in Portuguese national identity that have occurred in the past twenty-five years."[85] Asked whether "the Portuguese are defensive about their [colonial] past", António M. Hespanha, the legal historian often quoted in this book and head of the *National Commission for the Commemoration of the Portuguese Discoveries* (1995–1998) responded:

> "The Portuguese are not free from nationalistic biases. But the new generation of Portuguese historians and scholars have basically the same intellectual attitude of their colleagues all over Europe. … Old, apologetic historiography … is not any more in fashion." He added: "Believe me, the Portuguese are not obsessed by the past."[86]

9.2 Writing about "Heroes": Germany

"The historiography of the First World War had already begun during the war." Throughout Europe, the "great public interest in treatises on the war produced countless 'illustrated histories' and other nationalistic publications."[87] The battle of Naulila was probably first described to a German audience in an article by the *Kölnische Zeitung* (Feb. 24, 1915) that was translated from the newspaper *O Mundo* (Feb. 9). The details of this article about the panic among Portuguese soldiers during the retreat and the destruction of Fort Roçadas were quoted with evident pleasure in a pamphlet issued by the Colonial Office and in several publications over the following years. The story of the three Germans in Naulila, who were first

84 *Arenas* 2003: 6; 9; cf. *Ramos* 2007: 429f. on decolonization; *Larsen* 2006.

85 *Lourenço/Keese* 2011: 243 'Aufarbeitung'; *Arenas* 2003: 10; 21.

86 *Hespanha* 1997; *cf. Arenas* 2003: 20. 'Portuguese national metanarrative linked to the sea and its imperial past, though weakened, has not altogether disappeared. … Portuguese national identity has been, and will continue to be, linked to the memory and the symbolic space of empire.'

87 *Krumeich/Hirschfeld* 2012: 241f.; better refer to the German version 2003: 304.

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invited to breakfast and then shot dead, was also recounted a great number of times.[88]

Despite the one triumph at Naulila, Governor Seitz was concerned about future political and historiographic assessments of his performance. As early as June 1915, with the loss of Windhoek and the continuous retreat of the German troops, he already knew: "It would be sad if we surrender the entire country without fighting; later on, people will make accusations against us!!"[89] After the war such accusations were indeed voiced, as one *Schutztruppen* officer lamented. The constant comparison with the "heroes" under Lettow-Vorbeck in GEA especially offended their comrades from GSWA.[90] The *Schutztruppe*'s operation in GSWA and that of commander Franke were scathingly criticized after the surrender at Khorab in July 1915. Franke, whose alcoholism and morphine addiction was an open secret among German officers, was seen by many as unfit for his position as commander. The victory at Naulila was explained by a younger officer – full of contempt for his superior for the surrender – as owing to Franke's "well-known luck in war" (*Kriegsglück*) and the fact that the larger Portuguese forces did not immediately attack the exhausted Germans upon their arrival near Erickson Drift. Also Franke's conduct during the battle was depicted as "very careless, so that defeat" could have easily followed.[91]

This criticism continued well into the Nazi period. A draft of the monograph by the historical department of the army (*Kriegsgeschichtliche Forschungsanstalt des Heeres*) on the "Campaign in GSWA 1914/15" (April 1943) described the colonial army as "well organized, disciplined and equipped", but emphasized that it seemed "improbable" that the *Schutztruppe* would be employed against "foreign enemies." The battle of Naulila was described over three pages, which mentioned heavy losses "also on the German side". The historians of the *Wehrmacht*, however, could not understand why the commander decided to attack Angola instead of South Africa and why Franke personally led this operation, thus leaving the more important theater of war for an extended period of time.

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88 *RKA* 1915: 87 (6.3.1915); W*irtschaftsdienst*, Hamburg, No. 12, 9.9.1916: 145-7; *Weck* 1919: 139 FN 14; *Suchier* 1918: 57-62; a corrupted version in *Historicus* 2012: 155-7.

89 NAN A.560 Diary V. Franke, v. 15: 986, 25.6.15, 'man wird uns Vorwürfe machen'.

90 *Hennig* 1925: 9 summarizing the accusations as 'You have not done your duty!'

91 NAN A.566 v. 2: 20; 70, Schmitt to his parents, 12.9.; 15.9.15; Schmitt,Bemerkungen zum Feldzug in DSWA, 24.2.16.

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To them, the necessity of sending a strong force northwards seemed doubtful, against so irrelevant an enemy that it would have been "unable to instigate a general revolt in the north". The army-historians probably did not know about the arbitration award of 1928, but they too argued that "it was not out of the question that a resolution [after the Naulila incident] and sufficient atonement could have been obtained via diplomatic channels."[92]

Nevertheless, Franke was promoted to the rank of general after the war, but he had few friends left. In 1930, he emigrated to Brazil. His loneliness was already evident at the first anniversary of the battle of Naulila in December 1915. Only Franke, Trainer, and another officer celebrated secluded in Karibib and Okawayo, Franke's Farm, where he lived on parole. Except for the "great amount of alcohol" and the drunkenness of Trainer, "nothing special" happened. Among German troopers Naulila was soon "called… 'Blaulila' or Blue Lilac, partly from the peculiar coloration of the faces of their drinking officers, partly because the fight at one time looked almost like lost."[93]

Although it is claimed that after the Naulila-incident "the bodies of the slain were returned to the Germans with apologies",[94] the documents do not provide evidence of such return. As none of those shot in the fort received an identifiable grave, it was left for the Germans to erect some form of monument in their memory. In the municipal cemetery in Jena, the family of Hans Schultze-Jena (his father, a Professor of medicine, was an honorary citizen of Jena), marked a part of the family grave with the name of their son Hans. This was a private undertaking, without official endorsement.[95] The gravestone made neither allusions to GSWA nor Angola, but merely stated that Hans was "killed in action at Naulia in Africa". Germany, whether Imperial or republican, refrained from "recognizing colonial engagements." There were no state funerals for "colonial pioneers". Also among the public the death of a "colonial hero" was met with little resonance. It was rare to see one of them honored with a monument before 1914. As historian Winfried Speitkamp pointed out: "Also

92 NAN A.566, v. 1: 13; 44f; 146 'Der Feldzug in DSWA 1914/15 (Draft)', April 1943.

93 NAN A.560 Diary Franke, v. 16: 1040, 18.12.15; TNA FO 371/2231, Smuts to Buxton, 15.10.15.

94 *Cann* 2001: 150 gives no reference for his claim, but relies mostly on *Casimiro* 1922.

95 Nordfriedhof Jena, Gräberfeld E 9. I gratefully acknowledge the research of Constanze Mann, Head of *Stadtarchiv Jena*, to ascertain the private character of the symbolic burial.

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during memorial functions the colonial community kept to itself". "The 'colonial community' retreated more and more to the margins" "Evidently, the popularity of the colonial idea remained limited."[96]

The loss of colonies in 1919 had repercussions in Germany not only in the political and administrative sphere (reintegration of the colonial officials into other branches), but also in cultural terms. Literature was written that "provide[d] an opulence of strange images, bizarre fantasies, and spectral cultural symbols that fit together to reveal the contours not of an 'imperialist imagination', but of a postcolonial one."[97] In particular the German "fear of reverse colonization" produced such strange images. This fear was manifested in the hysteria and the campaigns against French colonial troops deployed during the Rhineland occupation in 1921. It "might seem counterintuitive to think of the Weimar Republic as a postcolonial state" And indeed, the loss "provoked an explosion of colonialist discourse." Schoolbooks were understood to be a formidable means to ensure that Germans would always remember their (former) colonial "glories". Interestingly, "colonial literature" had its heyday (measured by the number of publications) in the postcolonial phase – in 1938/9.[98]

However, these political efforts to use education and culture as a tool of colonial revisionism were also a sign *that* – considering the far more pressuring domestic political issues – Germany's former colonies were increasingly forgotten by the mid-1920s. Despite a host of organizations such as the German Colonial Society (*DKG*), or pressure groups founded by re-migrees from Africa to keep alive colonial memories, the ranks of German colonial enthusiasts dwindled after the loss of the colonies. The DKG had a mere 25,000 members, many of them former colonial officials or settlers. They all joined the chorus of denunciation of the Treaty of Versailles and demanded the return of their lost African "homeland". But they gained only marginal influence on politics and society, irrespective of a "burgeoning colonial nostalgia industry" that campaigned against the

96 *Speitkamp* 2005: 145-7 'Die Popularität des kolonialen Gedankens war offenkundig begrenzt'; cf. 2009; 2000; *Janz* 2013: 358; *Hirschf./Kr.* 2013: 301 kein 'gemeinsamer Totenkult für die Gefallenen'; on 'postcolonial Germany' cf. now the excellent study of *Schilling* 2014.

97 *Poley* 2005: 13: 'As the images, hypotheses, criticisms, words, and worries of theses people crept up on one another, strange inversions resulted: the African imperialist, the African slavedriver, the whipped German, a German-Jewish voodoo queen, …, whites who become black, men who became women, colonizers who were themselves colonized.'

98 *Klotz* 2005: 135; 142 'it brought to life a ghost that had long haunted the practitioners of empire: Africa colonizing Europe'; *Poley* 2005: 11f.; cf. *Bley* 2003: 56f.

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colonial *Schuldlüge* and continued to report about the former colonies. The "lost colonies" were not a cause for mass mobilization in the Weimar Republic. Parties paid lip-service to colonial revisionism, but true colonial enthusiasm was rare among politicians.[99] "[R]ecolonization of the lost colonies was never a stated goal of the Weimar Republic [governments]". Foreign Minister Stresemann, arguing that Germany deserved of "equal treatment", demanded during his negotiations with the Allies that Germany should participate in the mandate system of the League of Nation. But this implicit acceptance of the mandate system brought him in conflict with colonial pressure groups. The most important German success in the field of colonial policy was the lifting of most bans on German immigration and trade in the mandated territories and other colonies in the late 1920s.[100]

A number of memorials for the "lost colonies" and those fallen in Africa during the war were erected in the 1920s – in private initiative. The support of the German government was limited. Parliamentarians and councilors repeatedly referred to the difficult financial situation of the *Reich*. They openly stated that the financial support of the expelled *Kolonialdeutschen* would be more important than new monuments. Statues of "colonial heroes" like Peters, Wissmann or Dominik which had been erected in the colonies before the war and which had been removed by the victors during the war, were returned to Germany and re-erected.[101]

Although the Luso-German arbitration had barely started, in Portugal, but also in Germany, novelists, amateur historians, retired soldiers and colonial officials had already begun to write about the events in Naulila, leaving no doubt about the true culprits: it was always the other party. More often than not, their arguments mirrored those uttered during the arbitration. In 1918, Walther Suchier, one of the medical doctors during the battle of Naulila, published one of the first German accounts of the World War in GSWA. He called the Naulila incident a "wretched assassination". Richard Hennig called the German attack on Cuangar a "coup de main" (*Husarenstückchen*). He mentioned that when it became known in GSWA that Portugal was actually neutral when Fort Naulila was sacked voices were raised "which were critical of the government's measures instead of

99 *Ciarlo* 2012: 320; *Dannert* 1926: 186; cf. *Schnee* 1926; *Patin* 2010: 70f.; *Conrad* 2012: 117f. 'Kolonialrevisionsimus [blieb] … ein Randphänomen'.

100 *Gründer* 2004: 219-24; cf. *van Laak* 2003: 71f.; *Wright* 2002: 81; 436f.; *Krüger* 1985: 480.

101 BAB R 1001/6614: 28, AA to F. Behn, 13.2.25; 80, Exc. SBRT, 14.3.22; cf. *Zeller* 2000.

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being thankful for the forceful defense in the face of serious danger." Much to Hennig's chagrin, these critical voices in GSWA somehow found their way into the South African and British press, which happily reported about the "Hun's" violation of Portugal's "neutrality". Hennig used more than three pages of his *GSWA during the World War* to justify the attack on Naulila and to prove that Portugal was in fact never neutral.[102] Governor Seitz in his exculpatory *South Africa during the World War* (1920), when describing the fight against the Portuguese, called the "murder of Naulila" "one of the greatest acts of villainy in this history of the world". In his massive memoirs (3 vols., 1927–29), he kept the same tone when speaking about "the Portuguese" and Naulila. In 1923, Major Oelhafen published the semi-official history of the GSWA campaign with the explicit aim of countering the accusation "that the [*Schutztruppe*] did not attack with the necessary tenacity." He knew of voices that – comparing GEA and GSWA – called the campaign in GSWA a "short fiasco". Oelhafen tried to show that the men in GSWA had fought to the "bitter end". He dedicated an entire chapter to the Naulila-affair. Wilhelm Mattenklodt, a NCO of the "regiment Naulila" who had furnished information about the "reprisal" during the arbitration, did the same in his highly readable memoirs about the war in GSWA and Angola. Constable Joseph Schaaps, who in October 1914 had been waiting in vain for the return of Schultze-Jena to Erickson-Drift, wrote in the Festschrift for the German colonial police forces about "the murder of Dr. Schultze-Jena". He deemed that "for the Portuguese Army and its officer corps, this act represents a badge of shame for all time."[103]

During the Nazi period, general publications on the former German colonies mostly included sections on "Germany's entitlement to the return of its colonies" (*Deutschlands Recht auf Rückgabe*) and historicized "Germany's struggle for the lost colonies". Quotations from Adolf Hitler such as "we need colonies just as any other power", were frequent. Narrations about the Portuguese in Naulila became markedly racist. Adolf Fischer in his *Südwester Offiziere* (1935) painted a rosy picture of young German colonial officers who heroically fulfilled their dreams of a "German mission" with honor and a strong sense of liberty and duty. His pathetic language and rampant stereotyping not only of "the natives" but also of "the

102 Strümpell in: *Kolonialkriegerbund* 1924: 83; *Suchier* 1918: 28; *Hennig* 1920: 118f.
103 *Seitz* 1920: 33; 1929: 95; *Oelhafen* 1923: I; *Mattenklodt* 1936: 35-46; *Schaaps* 1930: 384.

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German colonial officer" and his "enemies" becomes most glaring in his description of "the murder of Naulila". Everything "Portuguese" was depicted as corrupt and "racially degraded". Thus, the "punishment of Portugal in Angola remained within the limits of German campaigns against natives; shameful to admit it." Even children's and youth's books were published about the "Murder in Naulila"; several others about "German Africa" mentioned the Portuguese "misdeeds".[104]

The *Kolonialpost*, magazine of the *League of German Colonial Soldiers*, headed by Franz Ritter von Epp (1868–1947, a veteran of the Herero War of 1904), used the publication of *Investidas alemãs a o Sul de Angola* (1934) by António Varão (the former head of Fort Cuamato and the superior of Lieutenant Sereno) to remind its readers of Portuguese "treachery" and German "bravery" in Naulila. The German Foreign Office assisted with a translation of the relevant pages of Varão's book.[105] When, however, the former soldier Max Baericke presented a manuscript on "Naulila" and hoped to have it published in 1936, one of the new men in charge of colonial affairs in the Foreign Office, Dr. Seger, having in mind the improved relations between Portugal and Germany, questioned whether it would be wise to publish the book. Seger recommended contacting the *Dienststelle v. Ribbentropp* and the *Prüfungsstelle für nationalsozialistisches Schrifttum*. However, Baericke was fairly critical of the Naulila affair. For him the attack on Fort Cuangar was "no honorable page" in the history of GSWA. The affair should have been solved "diplomatically", and if this were not possible, war should have been declared. For Baericke, Franke's victory at Naulila "was pure luck". He did not get

104 *v.Rudolf* 1938: 197; *Fischer* 1935: 109; *Pietzner-Clausen* 1943: 236; *Vageler* 1941: 61; *Tanz* 1938; *Lehr* 1941.

105 BAB R 1001/6642: 67, *Dt Kolonialkrieger Bund*, v.Boemcken to Dr. Lotz, 26.11.35; p.68, AA, Dr. Seger to v.Boemcken, 7.5.36. The taking over of power by Hitler in January 1933 had no immediate repercussions for the personnel of the Foreign Office; only the Ambassador in Washington D.C. Friedrich von Prittwitz (1884–1955) resigned from his post. The attitude of the Foreign Office's high ranking officials has been characterized as 'policy of wait and see' (*Politik des Abwartens*). Many hoped for the new government's 'energetic measures' against unemployment and were eager to support it in its 'combat against Versailles'. In early 1933, around ten senior officials (*höhere Beamte*) were members of the NSDAP, in late 1933, fifty more. In the course of this year, a number of diplomats were relieved of their positions because of their Jewish origin or an affiliation with Social Democrats. *Döscher* 1987: 67;73; *Graml* 2012; *Kröger* 2014; on colonial literature *Schneider* 2011.

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his Naulila-book published.[106] The writer Julius Steinhardt (1880–1955), was more successful with his colonial books for young people. The retired lieutenant and ex-farmer had lived in GSWA for ten years, where he was constantly in dispute with the administration due to his insistence to hunt and trade in the Okavango region. Following in the footsteps of ex-farmer Karl Angebauer's (1882–1952) *Mandumes Jagdzug* (1926), Steinhardt's *Sultan Mandumes Tod* (1942) is a lively written piece of racist fantasy.

At this point in time, the man who had, more than any one else, averted the possibility that Germany would have to pay damages for the Naulila-campaign, was already out of office: In 1935, Judge Marx, who was once hailed by Minister Curtius, Brückner, and his colleagues in the case for his service to the Foreign Office, lost his position as German representative at the MAT in Paris. At the same time, he was discharged by the Appellate Court (*Oberlandesgericht*) in Düsseldorf and forced into retirement due to his Jewish descent (though he was actually a Lutheran). He did not return to Germany but remained in Paris, where he tried to establish himself as legal consultant on questions of international law.[107] In 1941, the retired judge was denaturalized. He was by now addressed in public correspondence with the Jewish-identified middle name "Israel" assigned according to the "Law on Alteration of Family and Personal Names" (1938). His remaining funds were confiscated by the Gestapo and he had to flee Paris. He survived the Nazi period, probably in Monaco. In 1949, left without any regular income and for reasons of health no longer able to work as legal consultant, he approached his former employer, the OLG Düsseldorf, to rectify the situation of his pension. For the previous ten years, since the beginning of the Second World War, he had not received any of the payments that were his by right from the German government.[108] However, it would take at least another year until the court and the North Rhine-Westphalian state Ministry of Justice had assembled sufficient legal expertise to legitimize the transfer of pension payments to a "foreigner" (Marx was no longer a German citizen) living abroad (in Paris). He was then retroac-

106 BAB R 1001/6642: 97, Baericke to AA, 9.11.36; p.75, AA to Baericke, 17.11.36; cf. BAB R 1001/2193: 176 BA Grootfontein to KGW, 23.10.12 re Steinhardt; cf. *Tabel* 2007.

107 LANRW Gerichte Rep. 244 Nr. 848: 258 Personalakte Robert Marx, MoJ to Marx, 18.12.35; Marx to MoJ, 7.1.36.

108 LANRW Gerichte Rep. 244 Nr. 848: 280 Personalakte Robert Marx, Marx to OLG Düsseldorf, 5.2.49; 285 Copy: Deutsche Bank to Robert Israel Marx and Gertrud Sara Marx, 13.6.41.

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tively (starting in 1936) promoted to the rank of *Senatspräsident* and honored in 1952 with the Federal Cross of Merit.[109]

Marx' colleague in the 'third' Naulila arbitration procedure (1930–1933), Richard Fuchs, the Reich's leading expert on the law of reparations, had lost his position as *Ministerialrat* in the Ministry of Finance already in 1933. He then worked as a consultant for the *Zentralausschuss* and the Reich Representation of German Jews (*Reichsvertretung der Juden*) under Rabbi Leo Baeck (1873–1956). In 1939 Fuchs emigrated to Great Britain and returned, in 1945, to Germany as legal consultant of the British Control Commission for Germany.[110]

The community of former colonial soldiers still alive in the 1960s (no one questioned their entitlement to pension payments) continued the apologetic tradition of the 1920s and 30s of emphasizing the "moral justification" of the German reprisals in their publications.[111] From a Marxist perspective, East-German historian Helmut Stoecker explained how the expansionistic imperialists of the *Kaiserreich* planned to orchestrate border incidents with neutral Portugal in Africa in order to have a "pretext" for an attack on the colonies they wanted to annex.[112] It took more years until Thomas Morlang published his article – the first based on archival files – on the German campaign against "neutral Portuguese-Angola". Neither concerned with the "moral" justifiability nor with a preconceived image of German expansionism, he did not shy away from quoting the order of police commander Bethe to attack Fort Cuangar and "give no quarter". He also reiterates the Portuguese claims that Germans had supported the "rebellion" in southern Angola.[113]

Morlang's work fits in the picture of "a growing interest in the history of Africa" in German speaking countries. While the critique of Eurocentrism and Eurocentric research profiles is still high on the agenda of historians of Africa, some have observed, however, also attempts at revision-

109 LANRW Gerichte Rep. 244 Nr. 848: 304 Personalakte Robert Marx, OLG Düsseldorf to MoJ NRW, 24.2.50; LANRW NW 110 Nr. 1182, Innenministerium: Wiedergutmachung, Einzelfälle, vol. 2, 1946–1965; *Schätzel* 1955: 386.

110 *Walk* 1988: 108; *Röder/Strauss* 1980: 207; it needs to be added that in 1933 also the German arbitrator in the 'third' arbitration (1933), Albrecht Mendelsohn-Bartholdy, was forced into retirement. In 1934, he emigrated to Great Britain where he died two years later.

111 *Dammann* 1968: 2f.; *Speitkamp* 2005: 175f. on the German colonial army *Kameradschaft*.

112 *Stoecker* 1986: 284f.; 1991: 251 quot. Jagow to Zimmermann, 21.1.14.

113 *Morlang* 1998: 45 'Keine Schonung'; 47 'dt. Regierg. unterstützte die Aufständischen'.

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ism and colonial apologetics in the writing about African history.[114] A certain strand of German memorial practices (including German-speakers in Namibia) with reference to the former colonial empire has been criticized for its strategy to "relativize, belittle or embellish" the colonial past and its inherent brutality.[115] While the interest in Germany in the history of the First World War has grown over the last years (bestselling authors such as Christopher Clark and Herfried Münkler attest to this), in German "collective memory" the "colonial past barely plays a role." In this context, historians of colonial and global history have coined the term "colonial amnesia". Reinhard Kössler deplores that "everything that relates to German colonialism… has for long remained thoroughly expunged from national memory."[116] The short period of the formal colonial empire might be one reason for this. Also colonial repercussions have, at first sight, barely impacted German society. Historians of (German) colonialism, however, tirelessly underline the "continuing relevance" of the "colonial legacy in German history". The "colonial turn" in German historiography continues unabated.[117]

9.3 History as a Source of (National) Pride: Angola

The at times passionate debates about appropriate forms of memorial cultures in post-colonial Africa have been extensively researched. While the "official approaches in projecting images of the past differ widely",[118] the necessity to officially institutionalize certain forms of memory, most of all the deeds of a number of men during the "liberation struggle", is hardly questioned. Monuments, national shrines or other forms of commemorative complexes in South Africa, Zimbabwe, Angola, or Namibia attest to the dominance of glorifying narratives of "great heroes" who fought (and sacrificed themselves) for "the nation".[119] The intention is to make history a source of (national) pride that can translate into national unity. On the

114 *Sonderegger/Grau/Eckert* 2009: 9f. 'ein wachsendes Interesse'; 17; cf. *Eckert* 2013a: 140f.
115 *Kössler* 2007: 378 (transl. B. Schmidt-Lauber 1998); 2008: 317; 2009; cf. *Jansen/Osterhammel* 2013: 125.
116 *Conrad* 2003: 195; *Kössler* 2007: 365; cf. *Krüger* 2003: 120; *Pawliczek* 2014; *Münkler* 2014: 9; *Clark* 2013; on Clark's 'revisionism' and success in Germany *Winkler* 2014: 14.
117 *Conrad* 2003: 204; 2012: 121; *Bruns* 2009; cf. *Lindner* 2008; *Speitkamp* 2005: 184f.
118 *Kössler* 2007: 361.
119 *Fassin* 2008; *Werbner* 1998; *Kössler* 2010; *Shiweda* 2005.

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other hand, a critical analysis of contemporary African cultural productions like film or literature has brought to light strategies "to problematize the experience of independence as historical telos". Speaking about Angola, Fernando Arenas notes an "exhaustion of the utopian fervor associated with the struggles for independence". The end of the Cold War, the demise of Marxist-Leninist ideology and its vision of a new, egalitarian society, to which both leading nationalist movements, MPLA (Angola) and SWAPO (Namibia), once adhered to, have contributed to this sociocultural change. Considering the transformation of the post-Marxist political elite "into an oligarchic state largely divorced from the needs and aspirations of the poor majority", this disillusionment can be understood as part of the realization (not only by academics, but also by ordinary women and men) of the "internal dynamics of formerly colonized nation-states whereby the post independence elites have replicated such [colonial] power structures."[120] Historian David Birmingham has summarized the morally bankrupt situation devastatingly: "the colonial class of three hundred thousand privileged and semi-privileged expatriates had been replaced by a similar number of black Portuguese-speaking Angolans who retained many of the old colonial attitudes of moral and social superiority".[121]

The ways in which politicians officially commemorate "heroes of anti-colonial resistance" in modern day Angola also follows a colonial tradition of celebrating "a national pantheon peopled by immaculate and monodimensional heroic discoverers, restorers, soldiers, and explorers".[122] In 1937 a "colossal" and "elaborate" monument to "Our Honored Dead in the Great War" was inaugurated in Luanda's borough of Quinaxixe.[123] With a fine sense of historical irony, it was "incorrectly known [to Luandans] as *Maria da Fonte*" after the instigator of a popular uprising in Portugal in 1846. The reason "the statute has taken on this name", the novelist José E. Agualusa (b.1960) recalls, "relates to the main figure, an athletic-

120 *Arenas* 2011: xvi; xxi; xxvii; 172 on 'pernicious forms of coloniality of power' in Angola.

121 *Birmingham* 2006: 157: 198; in *Pepetela*'s novel O Desejo de Kianda, 2002 [1995]: 53, a husband reflects on his wife's 'little quirk' to call all her maids 'Joana': 'It was the colonial madams who changed the names of their domestics to Maria or Joana – there is evidence of this in literature. His wife [a member of Angola's communist party elite] had taken her lessons from those colonial madams and, even after Independence, she continued to play by the same rules. When he pointed this out to her they had a tough argument'. cf. *Clarence-Smith* 1980: 109f.

122 *Corrado* 2008: 20.

123 *Pélissier* 1969: 100; *Wells* 1940: 566.

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looking and determined woman, who holds up a sword. *Maria da Fonte* was destroyed immediately after independence [in 1975], and replaced by a military tank."[124] Also ex-Governor General Norton de Matos, who in 1949 had dared to challenge Salazar's regime in the presidential elections (a move in which he was supported by his former ministerial colleague Magalhães), was honored with a huge monument in Nova Lisboa (Huambo), the town he 'founded'. In 1975 it was "defaced by the slogans and colors of the new power in the land ["UNITA", "MPLA", and "Holden Roberto"]. All of these statues were later destroyed."[125] However, small memorials deep in the countryside more or less survived. In Cuangar a monument (an obelisk) was erected in May 1950 to commemorate the Portuguese killed during the German raid in October 1914.[126] After 1915, Fort Naulila was re-erected and maintained until 1975. The border incidents involving the fort were now more mundane (mostly trespassing cattle) and less politically charged than in the (pre-) World War I era; even though after 1920, the Luso-South African rivalry was unmistakable. It was felt in the region since officials from SWA encouraged the local population's "flight movements" to the south of the border in order to increase the labor force.[127] In Naulila and Mongua small monuments were also erected next to the war cemeteries, whose inscriptions are, after years of neglect, barely visible. In 1936, it was claimed that in Angola "December 18 is still a day of mourning."[128]

The indisputable bravery of Mandume's men during the battle of Mongua made a lasting impression on Portuguese officers. As mentioned, following the defeat of King Mandume, within fifty years the "Ovambo warriors" became the most trusted and "best soldiers" of the Portuguese colonial army against nationalist insurgents (1961–75). The reasons underlying this might be an interesting research topic alone. Here, it suffices to

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124 *Agualusa* 2007: 298 FN 2; cf. *Bettencourt* 2011: 22 'A sua simbologia ficou reduzida a pó'.

125 *Steenkamp* 1989: 45 photo of defaced memorial; *Salvador* [n.d.]: 153; *Norton* 2001: 193.

126 Cf. *Dammann* 1968: 2 quotes the inscription: 'Aqui repousam os restos mortais das vitimas do massacre ocorido neste local, na madrigada do XXXI de Outobre de MCMXIV; 28.5.1950.'

127 NAN NAO 59 6/17, Native Commissioner Ondangua to Chief Native Commissioner, 6.12.51; *Keese* 2015: 237; cf. *Bollig* 1998: 515; *Nathanael* 2002: 52.

128 AHM/Div/2/2/60/6, Monument in Mongua, 1923; *Eckenbrecher* 1940: 181 'ein Trauertag'; on the last hoisting of the Portuguese flag in Naulila in 1975 cf. http://www.momentosdehistoria.com/001-grande_guerra/001-03-republica-e-guerra/001-03-04-culto_mortos/001-03-04-01-monumentos/001-03-04-01-03-angola.html [3 Feb. 2015]

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Ill. 39 War memorial in Naulila

say that they were stationed throughout southern Angola and beyond.[129] Other memories of the World War also left their traces in the colonial psyche. Rumors about German intentions to annex Angola remained acute in Angola. It was "important…that a number of Portuguese leaders believed that the German menace was a real one." In 1924 rumors still abounded in Angola that "natives, under the guidance of German [immigrants], are going to revolt against the Portuguese rule". A similar story as in 1914 was repeated about a "hidden large stock of guns and ammunition in the interior".[130] The Portuguese press continued to point to the threat of "denationalization of our colonies".[131] In 1926, even Mussolini's Italy seemed a menace to Angola.[132]

Looking back at Portugal's history in Angola, publications from the late colonial era lauded the Portuguese "for their lack of racial pride – a lack that not too many years ago was despised by those white people who, to-

129 *Pélissier* 1979: 198; 195.

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day, pretend to be defenders of the black race".[133] The "ideology of miscegenation and its Luso-tropicalist deflections" which was given literary form by Gilberto Freyre "proved to be particularly successful not only in Brazil, but also in Portugal and in its former African colonies, where it still arouses interest, nostalgia, or resentment." In fact, the Luso-tropicalist ideology of the *Estado Novo* "proved to be a tenacious obstacle to the liberation cause".[134]

However, even during colonial times, it became evident that King Mandume's candor and military wit has earned him a "place in the pantheon of early Angolan protest and dissent".[135] While official colonial memorial policies were still focused on the King's enemies (N'giva, his former capital, was renamed Vila Pereira de Eça and in 1927 was made seat of the *Baixo Cunene* district), a counter-discourse to official rhetoric emerged and signs of public (as opposed to official) memory about Mandume became evident to Europeans. Following his death, the King had become the subject of poems. In his magisterial three volume work *Etnografia do sudoeste de Angola* (1958, English 1976), the missionary Carlos Estermann (1896–1976), who spent most of his life among the peoples of southern Angola, "transcribe[d] and interpret[ed] an encomiastic poem composed in memory of Mandume". Estermann was not a friend of the late King, whom he called a "tyrant".[136] However, the perception of King Mandume as a man of exemplary courage and inspirational heroism seems to have continued unabated among the African population throughout the colonial period. During the war against the Portuguese and the civil war after 1975, commanders (re-)namend themselves "Mandume", others were given the name by their parents. This shows: "The past was very much present in the organization of violence, even during … the self-consciously mod-

130 *Wheeler* 1978: 129; NARA RG 59, MF 705, roll 28, 853m00/8; USC Luanda to SoS, 20.8.24.

131 NARA RG 84, Lisbon v. 168: 800, USML to SoS, 11.8.19 on *Diário de Notíçias*, 7.7.19.

132 NARA RG 59, box 6811; 753.65/2, USML to SoS, 1.11.26; cf. *Alype* 1926; *Jessen* 1936.

133 Almeida Santos 1964, transl. in *Corrado* 2008: 69; cf. *Abshire/Samuels* (eds) 1969.

134 *Corrado* 2008: 52; *Arenas* 2011: 162; cf. *Lourenço/Keese* 2011: 224; *Andrade* 1969.

135 *Wheeler* 1968: 56.

136 *Hamilton* 1975: 72; cf. *Estermann* 1976: 174. He argues that the 'poem was undoubtedly composed to please the relatives … of the deceased chief [Mandume]. It does not express the general opinion, for the chief's subjects were content with that death; through it they were freed from a tyrant'. Cf. the hommage to Estermann by *Pélissier* 1979: 201 'Cet homme a fait pour l'Afrique plus que tout le Corps consulaire luandais en soixante ans.' Cf. *Estermann* 1963.

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ernist struggles of the mid-twentieth century. States and societies sought historical precedents and heroic forebears, for both inspiration and solace".[137]

After Angola's independence, the perception of 'good' and 'bad' were reversed; the villain became the hero and the hero became the villain of the war in 1914–15. Just as Portuguese-Angola was "in desperate need of heroes"[138], so was the independent state. Or, as the protagonist in José E. Agualusa's novel *O vendedor de passados* explains to one of his clients, who is purchasing a new past: The authorities changed the name of his former school from Salvador Correia to Mutu Ya Kevela "because they wanted an Angolan hero – in those days [after 1975] we needed our own heroes like we needed bread to feed us." Again, the "material of the past is adapted to the needs of the present."[139] However, there was an older tradition of celebrating "heroes of anti-colonial resistance". During Angola's "'Free-Press' Period" (1866–1896) newspapers not only published articles that criticized Portuguese administrators as "crocodiles" or "rats" and mentioned that "in the interior of the country the colonial troops hunt people as if they were game", but they also dared to "cheer as heroes those who still resisted Portuguese penetration."[140]

Decades ago, historian Henri Brunschwig (1904–1989.) assumed that (early) leaders of African resistance to colonial rule (and there cultures) have been forgotten.[141] However, it has been recently shown that – contrary to pessimistic assumptions about a "crisis of memory" in Africa – there is an "incessant labor on memories ongoing in present African societies". The manner in which "memory" of a personality in history is constructed and transmitted differs between those who attempt to construct and transmit and their goals. Politicians use the past in different ways than civil society organizations or academics. The past, as ethnologist Arjun Appadurai's (b. 1949) famous dictum says, is not "a limitless and plastic symbolic resource", but "a scarce resource". And the "discourse concerning the past between social groups is an aspect of politics, involving competition, opposition and debate." The "hero of the past is a 'scarce re-

137 *Reid* 2012: 10; cf. *Shiweda* 2005: 1.

138 *Corrado* 2008: 43; cf, *Chabal* et al. 2002; *Keese* 2005.

139 *Agualusa* 2004: 110; *Kössler* 2007: 364.

140 *O Arauto Africano*, 20.1.1890, transl. *Wheeler* 1969a: 16; 10; *Corrado* 2008: 174; 177.

141 *Brunschwig* 1974: 55 'Ces combattants, admirables, sont morts deux fois, physiquement d'abord, puis moralement, quand disparut la culture qu'ils incarnaient.'

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source'", too, whose usage as symbolic capital is determined by political power games.[142] And "[h]istory is thus, above and beyond official narratives, a haunting claim the dead have on the living, whose responsibility it is not only to remember but to protect the dead from being misappropriated."[143]

It is not the task of this work to decide whether the Kwanyama culture of Mandume's time has disappeared (almost) one hundred years after his death, but it can be ascertained that in modern Angola and Namibia the King has become "an unblemished hero of anti-colonial resistance." While "academics in the [global] north sing the praise of hybridity and multiple identities…, many Africans [not all, as we will see], especially the urban elites, call for a history that acts as a moral institution and forges identities." Indeed, Mandume's official iconography hinders the presentation of a multifaceted personality; the somewhat ambiguous and less edifying episodes of his life are concealed.[144] Mandume is not a "father of the nation" – this title is reserved for others in Angola and Namibia. After all, he lost the war in 1915 and was shot in 1917. The question remains, however, how modern politicians attempt to include his legacy of anti-colonial resistance into a national narrative of "struggle", independence, self-determination, and nation-building. Did he develop into a (popular) hero? Such an attribute is mostly determined by the charisma that stems from his deeds (often war activities). These deeds may, later-on, have been the cause for official veneration not to speak of a 'cult'.[145]

This is not the place to analyze the attempts of the MPLA government to rewrite Angola's history according to Marxist-Leninist doctrines.[146] During the 1980s, the government in Luanda even rejected the description of Angola as "Lusophone", even though Portuguese remained the administrative language. At the same time, the new masters found it disturbing to hear from historians that instead of "500 years of uninterrupted Portuguese colonial rule", Portugal was in fact the last power to implant itself in the African hinterland around 1920. If this was the case, how could they speak of "500 hundred years of oppression", the "alpha and omega of the

142 *Appadurai* 1981: 201f.; *Charton/Fouéré.* 2013: 5; cf. *Jewsiewicki/Mudimbe* 1993; *Speitkamp* 2007: 394f.

143 *Felman* 2002: 15 qut. W.Benjamin 'the dead will not be safe from the enemy if he wins'.

144 *Hayes* 1993: 91; *Wirz/Deutsch* 1997: 12;

145 Cf. *Charton/Fouéré* 2013: 3f.; *Centlivres/Favre/Zonabend* 1999.

146 *MPLA* 1975: 179 'Enfim, a História de Angola...é uma História da luta de classes'; *Heintze* 2008: 182 on attempts at reform and the hope to have more research by Angolans.

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new regime in Luanda"? Therefore, and given that he was hesitant to speak of Angolan nationalism before 1940, the works of historian René Pélissier on the colonial conquests were received very differently in Lisbon and Luanda.[147]

While many memorials were blown to pieces, others had to be erected, thereby inviting a reevaluation of the Portuguese conquest and the resistance to colonial domination. Government-sponsored publications since 1975 have narrated de Eça's war in 1915 as a "treacherous attack" on the Ovambo: The latter fiercely fought under their "courageous chief, Mandume", who began to "reunite all the Ovambo tribes" and was able to beat the Portuguese several times. However, – "using treason more than once" – they brought in reinforcements and overpowered Mandume (who is put in a long line of resisters since Queen Njinga [c.1583–1663]) in the battle of Mongua. Even the King's "suicide" in 1917 is explained by "treachery" of some of his followers. "Still today this hero of Angolan resistance to colonial occupation is loved and venerated all over in Ovamboland."[148] While in colonial accounts of "Naulila" the campaign against Mandume was mentioned only in passing, in post-colonial narratives the King's fighting and stamina in facing colonial occupation take center stage. Not Naulila but Mongua and most of all Oihole seem destined to become Angolan *lieux de mémoire*, relating events of colonial oppression, war, and glory. In 1994, Mongua and Vau do Pembe [Mupa], the site of the colonial defeat in 1904, were declared "historic sites".[149]

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147 *Dianoux* 1989: 9; 13; 25 'reactions contrastées'; cf. *Schubert* 2015: 5f.

148 *MPLA* 1975: 148, Mandume 'ainda hoje é querido e venerado em todo o Ambó.'

149 *Heintze* 2008: 185 on Francisco Xavier Yambo, Director do Instituto Nacional do Património Cultural, speaking in Luanda about 'pertinência e prioridades no estudo dos locais de memória'; I am grateful to Beatrix Heintze for pointing to me the publications of AngolaPress: 'Lista de património mundial deve conter Monumentos e Sítios angolanos', AngolaPress 11.9.2006; 'Governo deve criar política dos bens culturais', AngolaPress 11.9.2006; 'Huambo: província dispõe de 82 monumentos por classificar', AngolaPress 17.4.2008; 'Moxico: Estudantes defendem conservação de monumentos e sítios', AngolaPress 17.4.2008; 'Huambo: Huíla: Académicos defendem classificação dos monumentos históricos', AngolaPress 18.4.2008; Cunene: Cultura pretende catalogar monumentos e sítios da província', Angola Press 18.4.2008; 'Cabinda: Província conta com 76 monumentose sítios', AngolaPress 18.4.2008; 'Benguela: Sociedade garante conservação dos monumentos e sítios', AngolaPress 18.4.2008; 'Bié: Província diespõe de duzentos e cinquenta monumentos e sítios', AngolaPress 24.4.2008; www.hpip.org/default/en/contents/navigation/geographicToponymicNavigation/Place?a=264.

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The practice of naming boys after Mandume lives on in modern Angolan literature. In his novel *My Father's Wives* José E. Agualusa nicknames one of the protagonists "Mandume" (whose brothers are called Mutu [ya Kevela] and Mandela, African freedom fighters in their own right). Ironically, while aware that he was named after the "Cuanhama tribal chief who killed himself during a battle, in the south of Angola, against German [!] troops", young Mandume "isn't very interested in finding out about the historical figure" or Africa in general. Having grown up in Portugal, he is teased by others (in Angola) as "Mandume, the whitest black man in Portugal." In 2005/6, his journey – reluctantly accompanying his girlfriend – across Angola to Namibia, South Africa, and Mozambique brought them close to the venues of Mandume's war in 1915. However, they only found the time to recall places of fighting during the South African invasion of 1975.[150]

The widespread indifference among the younger generation to the "heroes" of the past and their "glorious deeds" is a subject that has been explored also by other Angolan authors. Manuel Rui's (b. 1941, a former MPLA minister and author of Angola's national anthem) novella *Um anel na areia* (A ring in the sand) describes "the loss of faith in grand…belief systems such as Marxism, Catholicism, animism, capitalism, and even… independence". Even "attraction and repulsion surrounding the taboo object of colonialism", in particular the older generation's nostalgia for colonial times is touched upon. Such affection, however, is met with bitter sarcasm by one of the protagonists. He wonders why those who fought for independence say "that the old times were the best": "If life was so great back then how is it that they gave birth to this shit hole that we're in." Expressions of sympathy such as nostalgia for colonial times can be read, as suggested by Fernando Arenas, as "emotional strategies to cope with the recent civil war trauma, complicating the hegemonic colonial/anticolonial binary that operated during the liberation wars."[151]

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150 *Shiweda* 2005: 94; *Agualusa* 2007: 13; on Agualusa cf. *Arenas* 2011: 30.

151 Transl. in: *Arenas* 2011: 175f 'como é que eles pariram esta merda que estamos com ela'; 189f '[S]een through the prism of trauma [of war]... it is easier to understand the perception that life was relatively better for many during colonial times, in spite of the inequalities and injustices'. In *Pepetela*'s novel O Desejo de de Kianda, 2002 [1995]: 23, a Luandan couple, belonging to the *nouveaux riches*, reflects on the appropriateness of the term "overseas", given its colonial origins: 'What we're seeing now is a reappropriation of the colonial heritage. There are plenty of people around who miss the old days; they say people were better

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The regions that were the theater of war in 1914/5 remained war torn for years after Angola's independence. The South African photographer John Liebenberg (b. 1958) described one of his pictures of a landscape near Ruacana (1987), when the war between Angolan, Cuban, SWAPO, UNITA and South African troops was in full swing, as "the valley of death" and pointed to the southern Angolan "towns of Ngiva [Pereira de Eça], Xangongo [Fort Roçadas], Cahama – land of war, and more valleys of death."[152]

Considering the widespread disaffection with the "Angolan Revolution" after forty years of war and the alienation of the majority population from the ruling MPLA oligarchy in far-away Luanda (the "African Dubai"), the fact that a "hero of anti-colonial resistance" like Mandume would become a prime object of government-sponsored memorial practices should be understood in this context of the "relativization of the independence metanarrative". There are political reasons for putting emphasis on Mandume over the last decade. They are connected to the civil war that ended in 2002 and "the climate of fear and repression [most of all the purges following the failed 'coup' in May 1977] under the regime led by Agostinho Neto [1922–1979]"[153] and his successor José Eduardo dos Santos (b. 1942). Given that the Kwanyama area and southern Angola in general was considered a stronghold of the UNITA-rebels against the MPLA government, this government (still in power) found it necessary to include a popular hero from the south into the national narrative of the struggle for Angola's independence, thus "blending communal with national historical accounts". Aiming to reduce centrifugal tendencies and hoping that this honoring of a southern "hero" on a national scale could prompt reconciliation and better integrate the Ovambo of Angola with the far-away center, the MPLA government in Luanda launched an explicit memorial campaign that allowed Ovambo to claim "a rightful place for the community within national history."[154] In the context of nation building and the debate about the "coloniality of power" in post-independence Africa, it may be too far-fetched to speak of a (post-)colonial occupation of public memory by naming schools, streets and squares in the south of

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off before Independence. That's why to call a company "Overseas"'; cf. *Diawara* 1997: 21; *Eckert* 2013 responding to such 'allzu rosige Sicht auf das koloniale Projekt'.

152 *Liebenberg/Hayes* 2010: 252 photo 81.

153 *Arenas* 2011: 190; 170 on Boaventura Cardoso; cf. *Pawson* 2014; *Schubert* 2015: 7

154 *Kössler* 2007: 375 on the Namibian case; an African overview in *Speitkamp* 2007: 390-408.

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Angola after King Mandume. If the naming of universities is understood as expressing a hierarchy of (historical) "relevance" (as decided by those in power), Mandume seems well positioned: Luanda's state university is named after Augustinho Neto (the founding president), Huambo's (the country's second city) after José Eduardo dos Santos (President since 1979), and Lubango's university, which has been in charge of academic education in the southern provinces since 2009, is named after Mandume ya Ndemufayo.[155] Nearby the university, a street is named "rua Mongua". Also in Lubango, the Diogo Cão High School was renamed after 1975 in Mandume High School. Angola's postal office issued a stamp with Mandume's counterfeit.

In 2002, the MPLA government inaugurated the national Mandume memorial at the King's grave in Oihole. This was a move, whose (positive) economic impact on the war-torn area should not be forgotten and which fits well into the governmental development rhetoric of sidelining the UNITA opposition. At Oihole, the place in the formerly "neutral zone" where the King was shot by South Africans, there was already "some sort of commemoration at Mandume's grave" taking place in colonial times every February 6th, the day he died. "Even the Portuguese used to attend this commemoration by joining the festivities as people slaughtered cattle and prepared drinks."[156] A government publication quotes longtime President dos Santos saying during a visit to Oihole in 1997 "We are the decendants of Mandume" and posing the (rhetorical) question "why not a statue of Mandume?" The Oihole Shrine inaugurated five years later does not include a statue and its design is far less militarized than Namibia's "Heroes Acre" (cf. 9.4). The "traditional grave" has been transformed into a massive concrete structure resembling three Omufati leaves that are connected atop with a golden ring "which allegedly symbolizes the union and strength of the Kwanyama people in both Angola and Namibia." The leaves are adorned with a photograph of the King and two quotations that emphasize his virility and courage. Again, the complexities and "ambiguities" of Mandume's personality and politics are flattened out by this memorial culture focusing exclusively "on his bravery in fighting colonial occupation."[157] In Kwanyama tradition Omufati leaves are related to "the

155 https://umn.ed.ao/umn/index.php/umn/tradicao-historica; cf. *Schubert* 2015: 13f.

156 *Shiweda* 2005: 95 quot. Godfrey Nangonya, 10.1.2005; cf. *Oliveira* 2010: 1066f.

157 *Shiweda* 2005: 23 quotes from the monument: 'My heart tells me that I have done nothing wrong'; 'I am a man, not a woman…and I will fight until my last bullet is expended.'

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grave of an important person. The practice of laying Omufati leaves on Mandume's grave existed long before the present commemoration at the site" and continues. Visitors are invited to take some leaves in their hand and to present other offerings to the King's grave. The memorial services on February 6th each year are currently attended by high-ranking state representatives (Angola's and Namibia's Presidents in 2002). Namibian officials and representatives of the Kwanyama authorities are invited, thereby ensuring massive media coverage. Historian Napandulwe Shiweda, when commenting on the current Mandume memorial practices in Angola, rightly pointed to the massive presence of persons in official attire (women wearing the party colors), "suggesting the degree to which this is an MPLA project." Indeed, the legitimizing aspect is evident in this postcolonial memorial culture, allowing the ruling elite with only meager democratic credentials to present themselves during such "events" as the conscious heirs and proud trustees of honorable and courageous heroes of the past.[158]

9.4 History as a Source of (National) Pride: Namibia

Compared to other African states, Angola became independent relatively late (1975); Namibia was even later (1990). Today, the Portuguese legacy in Angola is probably more marked in Angola than the German legacy in Namibia. This is first and foremost evidenced by the prominence of Portuguese as Angola's official language, but also by around 100,000 Portuguese migrants. Having lost administrative power in 1915 to the South Africans, the German population, however, upheld a remarkable degree of economic and cultural influence upon Namibia. Africa's only German daily is published in Windhoek for around 15,000 *Namibiadeutsche* who maintain their schools and a radio station.[159]

Memorial practices during the South African rule over SWA/Namibia (1915 to 1990) were very much divided between the rulers and those

158 *Shiweda* 2005: 96-101; ix, explaining the pictures she has taken in Oihole (6.2.2005); monuments were also erected for other 'historical figures': 'Malanje; Ministro da Cultura anuncia construção de monumentos de figuras históricas', AngolaPress 14.4.2004; 'Ministro testemunha lançamento da pedra de construção do Monumento do Rei Ekuiki II', Angola Press 27.8.2008; cf. the recent excellent analysis of MPLA policies by *Schubert* 2015: 10f.

159 *Chabal* 2007: 4f; cf. *Schmidt-Lauber* 1997; *Keegan* 1999: 228 'Windhoek remains today the only distinctively German city in the southern hemisphere.'

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ruled, as the example of Windhoek's "Mandume Column" indicates. In 1919, the South African administration inaugurated the "Ovambo Campaign Memorial" in a small park at the center of Windhoek opposite the railway station. Consisting of an obelisk with six sides (in reference to the battle of Oihole on February 6, 1917) and surrounded by nine palm trees (in reference to the nine South Africans killed in combat), the monument soon became the object of competing interpretations of the past. "Virtually no whites knew of the Kwanyama belief that [Mandume's] head had been cut off [after his suicide during the battle of Oihole in 1917] and buried under" the Ovambo Campaign Memorial in Windhoek. The bodies of the nine soldiers it was meant to commemorate were disinterred in 1928 from the former neutral zone after Portugal and South Africa agreed to make the southern line of the neutral zone their common border. The South Africans, when reburying their soldiers in Odibe, the Anglican mission station south of the border, "overlooked the important fact that Mandume's body now lay buried in Angola." "The literal and symbolic bisection" of the Kwanyama-kingdom and the King's body, the border line "cutting Mandume's head from his body anew, was referred to by the Kwanyama as *onhaululi* – separation."

The rededication of the Ovambo Campaign Memorial as the (partial) grave of Mandume and thus the "reappropriation" of space in Windhoek's city center has been explained most of all with reference to its vicinity near the railway station "through which many contract workers passed *en route* to their southern labor centers and a place familiar to many urbanized Ovambo."[160] As Windhoek became increasingly a site "of (re-)construction of African identities and hierarchies" Ovambo groups did not shy away from proposing their own version of history, which collided with colonial history, and "claimed a [public] space [of their own] within the capital city (a white controlled area) when they claimed the monument."[161] By projecting alternative contents of memory onto the "column", "urbanized Ovambo were drawing on 'tradition' to mobilize some form of self-constituting unity, which they could present" to others. Much to the surprise of the colonial administration, a "Mandume Memorial Committee" consisting of Christianized Ovambo emerged and in 1937 it "obtained permission to lay a wreath at the memorial" to honor King Man-

160 *Silvester/Wallace/Hayes* 1998: 10.
161 *Shiweda* 2005: 37 quoting Wallace 2002: 24; cf. *Timm* 2001: 147.

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dume, whose head they believed to be buried there. However, when they reapplied in January 1938 their request was refused by the South African administration as inappropriate because the monument "stands as remembrance of the British troops who fell in the war with Mandume". The memorial was meant to remain a decidedly 'colonial space' that left no room for different – joint or competing – forms of commemoration. The Memorial Committee "seems to have disappeared".[162] However, with a sense of irony, those working in the colonial economy found ways to actively remember Mandume's name and his fate in very different ways and literally beyond the control of the colonial state. In his memoirs, Andimba Toivo yaToivo (b. 1924), one of Namibia's "legendary revolutionaries" against South African rule recalls the practice of "*okulila ohamba*, mourning the King. When the Namibian workers pinched from their workplace, they used to say they were mourning King Mandume, who was killed by the Whites and not given an honorable funeral; therefore whoever stole from a white man said he was mourning the King."[163]

Evidently, Mandume's "resistance to both Portuguese and South African colonialism won him legendary status in both African and colonial eyes."[164] The belief in Mandume's head being buried under the memorial, whether a "reaction to trauma" or not, persists up to the present time, and many Namibians are "just now … finding out that the monument was actually honoring other people, not Mandume."[165] Whereas South Africa's administrators considered the Ovambo belief as "irrational", the remaining German community in Windhoek also adopted the notion of a monument (re-)dedicated to King Mandume. They called it *Mandumesäule* (Mandume Column) in memory of the "faithful Mandume"; thereby underlining their supposed good relationships with Africans and their rulers and countering the claims of the *Bluebook* about German colonial 'incapacity'.[166]

A further example of the divided memorial practices in SWA is the erecting of the "Naulila Memorial" in Outjo. The German Committee

162 *Silvester/Wallace/Hayes* 1998: 10f. quot. Location Superintendent O. Bowker, 2.2.38.
163 *yaToivo*, Memoirs (Manuscript). I am thankful to W. Hillebrecht for providing this excerpt.
164 *Hayes* 1993: 91.
165 *Shiweda* 2005: 42f.; 48 quoting Godfrey Nangonya, Windhoek, 10.1.2005; 51; 54.
166 *Shiweda* 2005: 13; *Eckenbrecher* 1940: 182 '…ein schlichter Obelisk, die Mandumesäule. Er trägt die Namen aller Angehörigen der Unionstruppen, die beim Niederwerfen des Mandumestammes fielen. So bleibt der Name des treuen Mandume lebendig unter unseren Nachfahren.'

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(*Deutscher Verein*) Outjo, in a private capacity, asked in the early 1930s one C. Wille to erect a small monument in honor of the 31 German soldiers killed during the battle of Naulila. This monument, listing all names of those who died as "heroes", was inaugurated on June 12, 1933 in the church yard in Outjo. During the ceremony, Major Erich Weiss, who had fought with Franke in Naulila, reminded his audience also of the initial incident at Fort Naulila that had caused the death of Schultze-Jena, Lösch, and Roeder. Only in June 4, 1971, after the town council had agreed to maintain it, was it proclaimed a "National Monument". The monument still exists.[167]

At least two accounts of the events in Naulila were published during the South African era. In comparison to his German contemporaries, Namibian historian Ernest Stals, based on German sources, was in a position to provide a more nuanced, less "moralistic" analysis. He interpreted the German victory as an indicator of the "indisputable assertiveness which the *Schutztruppe* had". In 1981, Baericke's account, written in the 1930s and declaring Franke's victory a "piece of luck", which did not find a publisher in Nazi-Germany, was (expanded to include a chapter on the Germanophobe *Memorias* of Norton de Matos) posthumously published in Swakopmund.[168]

Shortly after Namibia's independence, the change of historiographic perspectives towards African "agency" in the history of Namibia, which had been under way at least since the work of Brigitte Lau (1955–1996), manifested itself in a study on King Mandume by Jeremy Silvester. He could rightfully state: "The name of Mandume is familiar to most Namibians. He is often mentioned in speeches as a fallen hero of the struggle of Africans against colonialism." Patricia Hayes' work on Mandume, combining archival research with oral history interviews in Ovamboland, contains the most comprehensive analysis to date. In all the interviews she undertook in 1989 with contemporaries of Mandume, the centrality of the battle of Mongua emerges for subsequent events during his reign. Hayes speaks of an "enduring magnetism Mandume holds for researchers". However, given the wealth of materials available, it is remarkable that no bio-

167 NAN RNG 36, 1/s/O-t/1 Naulila Monument, 1.7.85; Decl. 917, 4.6.71; *Vogt* 2006: 111.

168 *Stals* 1968: 191 'die onbetwisbare deursettingsvermoe wat die Schutztruppe vir 26 jaar lank' had; *Baericke* 1981: 61, 75. In 1953, he revised his memoirs; he then lived in Calulo, Angola. In 1981, the last member of 'Regiment Naulila', Hugo Pleitz, lived in Swakopmund and was asked about details of the battle when the memoirs were edited.

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graphical monograph about him has been published to date. Considering works such as the one by Napandulwe Shiweda or Natanael Shinana, this seems to be only a matter of time, given that the expansion of the educational system has increased the number of potential authors (and readers); even though for the time being "the cost of books remains prohibitive for most of the population [in Angola and Namibia]."[169]

As Silvester's remark about "speeches" that mention Mandume suggests, in Namibia the memory of the King is also considered of extraordinary political relevance. "Indeed, history frequently appears in [Namibia's] public domain". The consensus among many Ovambo that Mandume's head was cut off and buried in Windhoek is "[s]o important … that a question was raised in the first National Assembly in 1990 as to whether his head could be located, for the purpose of erecting a national monument." While South Africa's Ovambo Campaign Memorial was the "first monument that people came to identify…with King Mandume" it was not to remain the last.[170] One of the major thoroughfares in modern-day Windhoek, commencing at the "Mandume Column" and leading to the University, was re-named *Mandume Ndemufayo Avenue*. In 1998, Kwanyama Kingship was reestablished. When Namibia's multi-million dollar national monument, "Heroes Acre", was inaugurated near Windhoek in August 2002, King Mandume was among the nine initially identified "national heroes and heroines" who received a symbolic grave out of the 174 graves that are foreseen for future burials. Here, Mandume's (symbolic) grave in Windhoek is finally made "tangible" with his name and picture on marble. Similar to its Zimbabwean 'role model' near Harare, questions of selecting the "heroes" and a possible broad ethnic range of these heroes in order to avoid marginalization and to foster national reconciliation, remain unresolved. Even though "[i]n Namibia, explicit controversy [over history] is rather limited",[171] the opposition in parliament headed by Ben Ulenga (b. 1952) spoke of "unaffordable megalomania" and accused "living politicians" of budgeting for a "burial site for themselves".[172] As "Heroes Acre was Sam Nujoma's [b. 1929] project",

169 *Silvester* 1992: 1; *Hayes* 1992 v. 2: 12; 1993: 91; *Arenas* 2011: 164; cf. *Saunders* 2008; *Raphael* 2003: 53f. *Shinana* 2002; *Speitkamp* 2007: 438-42; *Lourenço/Keese* 2011: 243.

170 *Wallace* 2012: 6; 315; *Hayes* 1993: 108, FN 127 refers to Brigitte Lau; *Shiweda* 2005: 46.

171 *Düsing* 2002: 129; *Kössler* 2007: 362; cf. *Speitkamp* 2005: 180; *Kössler/Pisani/L.* 2010.

172 *Shiweda* 2005: 81 on the SWAPO vs. COD [Ben Ulenga] debate; cf. *Becker* 2011: 520.

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the countries first President (1990–2005), it comes as no surprise that those recently buried were "SWAPO [the ruling party] associates only".[173]

In independent Namibia, public memory and debates about the colonial past are dominated by the "struggle" against South Africa (1966–89) and, albeit to a lesser extent, by the German war against Herero and Nama (1904–08).[174] A public debate about the nine "heroes of early anti-colonial resistance" symbolically honored in 2002 seems not to have taken place. When asked about the selection criteria, the curator of Heroes Acre spoke of a "national consensus that Mandume is a hero, Jacob Marengo is a hero … I don't think it would have been debatable to say Mandume is a hero or not."[175] From those (symbolically) buried so far, it becomes evident that official commemoration in Namibia is focused on (male) elites and especially military commanders. This memorial policy of Namibia's ruling party is mirrored by the architectural layout of Heroes Acre. Constructed by North Korean contractor *Mansudae Overseas Projects* who flew in its own construction workers, this massive complex (286m x 134m) with a seating capacity of over 5,000 people overlooking the capital is designed to impress its visitors and to inscribe a post-colonial order into the landscape. An eternal flame and the enormous statute of the Unknown Soldier (stunningly similar to Sam Nujama) holding an AK-47 and throwing a hand grenade in the direction of the city give the site a distinctly militaristic ambiance, reflecting the official historical narrative of warfare leading to liberation.[176]

Given that Angola has dedicated a monument specifically to King Mandume, Namibia is eager to follow in Angola's footsteps: Namibia's Ministry of Veterans' Affairs announced in February 2013 "the erection of monuments of important historical figures" among them King Mandume.[177] Four weeks later, Namibia's President Hifikepunye Pohamba (b. 1935), during a remembrance ceremony of King Mandume's death, echoed the debate of 1990: "The British should inform us where Man-

173 *Shiweda* 2005: 58 FN 177; 60; cf. *Kössler* 2007: 369; *Speitkamp* 2007: 394.

174 For an overview cf. *Förster* 2010: 349-59; *Kössler* 2008: 314f.; *Speitkamp* 2005: 176-80.

175 *Shiweda* 2005: 72 quot. Iipinge Pombili, Windhoek, 24.2.2005. The director of the Namibian Monument Council, when asked [in 2005] about the criteria to be used to determine who should be buried at Heroes Acre, replied: 'I don't think I am presently in the position to talk about these things. The issues you mentioned…are all politically sensitive and…I am not the person to express myself on such issues.' *ibd*.: 72; cf. *Conrad* 2012: 122.

176 *Kössler* 2007: 370; 361; 2008: 327; on memory in Namibian literature *Arich-Gerz* 2008.

177 *New Era* (Windhoek) 7.2.2013 'Anti-Colonial Resistance Fighters to Be Honoured'.

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dume's head is and it is a demand, not a request, that they return his skull." Comparing Mandume to "African leaders such as Patrick Lumumba", the President saluted "his spirit of resistance. The bravery of leaders such as Ohamba [King/chief] Mandume yaNdemufayo inspires us to always face challenges head on". It was announced that in the future, on February 6, the date of his death, an annual remembrance ceremony for the King would be held. After all, also founding President Nujoma, in his autobiography *Where Others Wavered* (2001), credited King Mandume with being inspirational to him in his early years.[178] Windhoek's *Independence Memorial Museum*, inaugurated in March 2014 and – in one way or another – a museologist version of *Where Others Wavered*, unquestioningly tries to put on display "an inexorable march towards freedom". The book – just as the museum – is, as Namibia's leading public intellectual, political scientist André du Pisani (b. 1949) put it, "rarely gendered. By and large, it is preeminently about the heroism of one man and a few other men." Pictures of Mandume are also prominently exhibited in the museum, including his alleged decapitation. In modern Namibia, "[t]races of Mandume's memory are present in many things such as songs, folklore, poems", or even tourist articles.[179]

The question of competing memorial practices between Angola and Namibia seems undeniably of relevance as the King's name is used by politicians to foster post-colonial national unity in two countries. Nujoma has been quoted as stating about King Mandume: He "was and continues to be a common hero of our people on either side of our common border." Even though Nujoma added that "[o]ur people are bound together by unbreakable bonds of blood, kinship, and a common culture", this is true for only (a small) part of the respective Angolan and (a larger part of the) Namibian population – the Kwanyama (or other Ovambo, who make up around fifty percent of Namibians). The celebration of Mandume's deeds during the First World War and his legacy, however, is meant not to nurture any forms of "tribalism" in Angola and Namibia, but to assist two

178 *The Namibian* (Windhoek), 5.3.13 'Pohamba demands return of yaNdemufayo's skull'; cf. *Nujoma* 2001: 29; *Nathanael* 2002: 35 on references to Mandume in the 1970s.

179 *du Pisani* 2007: 100; 104; *Shiweda* 2005: 1; cf. *Margo* 2001: 145f.; *Nghifikua* 2001 consisting mainly of poetry in English and of the prophecies of the Kwanyama prophets Shishaama shaNdunge, Nakulenga, Mutweutwima waKaluwa kaMushimba and 'last remarks and war-songs of the late King Mandume'; Andy Botelle: The Power Stone. A History of the Kwanyama Kingdom, Windhoek, Mamokobo Video&Research [53 min.], 1999; on du Pisani's analysis of SWAPOs 'anti-colonial nationalism' *Botha* 2013: 21f.

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governments in nation-building within the frame of the post-colonial state. Therefore, the "frontline" of the competition about Mandume's memory seems not to lie between Angola and Namibia. Rather the competition lies between those who want to promote the post-colonial unity of two modern African states on the one hand, and those, on the other, who aim to replace the colonial border in order to enable people to regain their pre-colonial unity. As elsewhere, "it is not only governments that determine the content and emphases of public memory."[180]

Irrespective of the different experiences that Kwanyama have had since 1915 under two different colonial rulers, there have been attempts (mostly from Namibian nationals) to raise the issue of a possible border shift. In 2001 the *Mandume Traditional Community Discussion Committee* was quoted in Namibia's leading daily as aiming "to have the border shifted 60 kilometers up to Ondjiva in Angola so that Oshikwanyama speakers in Angola and Namibia could be reunited." As elsewhere, suggestions of "drawing a better line" have re-emerged since the 1990s with regard to the "taboo" of the integrity of colonial boundaries in Africa and redrawing them. Schemes have been devised to "abandon the principle of *uti possidetis*" and to "disassemble African states and reconfigure them." In 2014, following Russia's invasion of the Ukraine, it was even asked: "Is the Crimea referendum a good model for Africa?"[181]

In Namibia, such differing 'calls for unity' from a civil society group that makes "claims for identity and redress based on one or another kind of historical argument"[182] needs to be read in conjunction with the reestablishment of the Kwanyama kingship in Namibia (1998). There was also a profound disillusionment among many Kwanyama with Namibia's political and economic situation at the time, which influenced such alternative historical discourses. The Traditional Authorities Act granted jurisdiction to the kingship only up to Namibia's border and it thus did not comprise all areas once under Mandume's rule. The larger part of the Kwanyama population lives in Angola. However, such groups, which do not enjoy

180 *Shiweda* 2005: 106; ix, Fig. 16; 107; *Kössler* 2007: 366; cf. *Diawara* 1997: 26.

181 *Mazrui* 1993: 32; *Mutua* 1995: 1114; 1175; 1118; *Ratner* 1996: 595; *Dowden* 2014; cf. *Bley* 2005; *Nugent/Asiwaju* 1996; *Griffith* 1986: 212; the Constitution of Angola (2010), Article V 5 declares: 'O território angolano é indivisível ... e inalienável'. According to Article 30 of Namibia's Constitution (1990), the President of the Republic merely takes an oath to protect the 'territorial integrity' of the Republic.

182 *Kössler* 2007: 362; cf. *Friedman* 2005.

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government support, have barely any access to the media or any resources.[183]

Finally, the official memorials honoring King Mandume serve politically to prevent these traditionalist opposition circles from claiming Mandume as their *spiritus rector*, a personality that could stand in the way of constructing two distinct national identities. Thus, government attempts to "build a myth around the memory of the last independent King" are part and parcel of a policy that intends to entangle Mandume into a national, Namibian 'history' and emphasize the 'memory' of a man who fought colonial oppression. They are also to be seen in connection with a "nation-building rhetoric [after 1990] that calls for the preservation of Namibia's 'national heritage'". According to social scientists, the main addressees – the postcolonial ("born free") generation – seem to creatively deal with these political demands upon their identity. Their sense of pride in their "warrior-forefathers", as presented to them by official historiography, still remains to be assessed. Seeking to avoid "becoming constructed as an exotic object", their re-interpretation of "a heritage as an essential component of modernity" enables them to "claim a distinctive Owambo/Namibian subjectivity." Irrespective of a separatist movement in the far-off Caprivi-Strip, which was bloodily repressed in 1999, historian Marion Wallace recognizes "a strong discourse of 'Namibianness' since 1990 [that has] a restraining effect on ethnic divisiveness". Thus, given the growing concern about "tribalism"[184] and the need to further foster national unity in Namibia, the creation of (new) *lieux de mémoire* out of the memory of the First World War in Ovamboland is to be expected in the future.[185]

183 *Namibian* 14.3.01 'Kwanyama group wants northern border shifted', *Shiweda* 2005: 111.

184 *Pélissier* 2004: 280; *Fairweather* 2006: 731; *Wallace* 2012: 314; *The Namibian* 1.8.14 'PM'; *New Era* 6.8.14 'Prime Minister Hage Geingob…on…the rise of tribalism'.

185 *The Namibian* 5.3.2013 'Mandume-Museum'; *New Era* 7.2.2013 'Fighters to be honoured'.

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Conclusion

Can African history, European legal history, and the history of memory speak to each other, enrich each other? The history of an African region laid out in the previous chapters points to this possibility. The region's fate was dominated by a contested borderline that bore witness to political machinations between colonial powers, to a border war, and to the "rebellion" of African peoples. These events gave rise to seemingly unending legal disputes. Also, the divided and shared memories of the First World War in the region of southern Angola and northern Namibia and its impact on the peoples living there can be analyzed from several perspectives; four national contexts have been chosen here, whose entanglement is just as evident as are the differences. Portuguese and German narrations about the war and its pre-history were informed by a colonial *zeitgeist* that assessed and justified events from a moral standpoint putting the rights of 'the nation' in Africa at the forefront. With the change of the *zeitgeist* towards the consent of the unjustifiability of colonialism, these justifications are no longer upheld. The focus of memorial practices in independent Angola and Namibia has shifted to questions of national unity.

The long pedigree of the Luso-German dispute about the regions of southwestern Africa, commencing with Bismarck's announcement that Germany would not recognize Portuguese "pretentions" on the Congo region (1884), played an important role in the ensuing arguments that finally led to the assumption of a German invasion in 1914. The weakness of colonial presence in the areas that had become since 1886 a Luso-German "border" region invited not only for transgressions by private individuals such as trafficking in alcohol, guns, slaves, or ivory. It also accommodated and accelerated the development and spread of rumors, false information, and insinuations about alleged plans and intentions of the colonial competitor. The decision of the Portuguese government to step up the occupation of southern Angola after 1900 increased the colonial presence north of the borderline and led to German concerns about alleged Portuguese border violations. But it only went so far to alleviate Portuguese anxieties about German pretensions on southern Angola that grew steadily since Germany had pressed for the borderline along the Kunene River. These anxieties were not necessarily based on facts on the colonial ground – be-

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fore 1914, growing German (economic) presence was felt in many places around the globe and was not limited to Portuguese possessions. Also, the Germans did not respond in kind to the Portuguese expansion of their military network near the border. Only one, somewhat symbolic police station manned with three Germans was erected at Kuring-Kuru, Kavango. However, the impression the Anglo-German negotiations of 1898 and 1913 created among Portuguese politicians and the public at large was unmistakable: The Germans would do their utmost to rob Portugal of its colonial sovereignty. This impression was further confirmed due to numerous German voices that were not shy in their denouncement of Portugal's colonial rule as 'archaic' and 'incapable'. In retrospect, the presence of the rather Germanophobe governor-general Norton de Matos since 1912, who took German expansionism for granted, aggravated the situation when in 1914 he allowed the German invasion of Angola to become a self-fulfilling prophecy. The occurrences at Fort Naulila in October 1914 remain difficult to establish. All witnesses were representing one party or the other and did not even claim to be impartial. The arbitrators of 1928 attempted to be salomonic when they found that the death of the three Germans was entirely due to a misunderstanding; it seemed bad luck in a moral sense. Given these conflicting accounts it is comprehensible when historians of international law have warned that history "is not unequivocal in producing answers."[1]

Considering this background, the German war efforts in late 1914 against Angola did not come as a surprise to the Portuguese. Given Roçadas' expeditionary corps, they were exceedingly well prepared to repel any intruder. While the Germans under Franke had a clearly offensive task, the Portuguese were bound by their defensive orders from Lisbon. It remains one of the conundrums of this case, why the Angolan administration did not undertake to clarify Portugal's neutrality when it became evident that Franke was marching against them. Was it the aversion of Norton de Matos to start any negotiations with the Germans? He later stated that he would not have been competent to deal with foreign administrations. Was it the confidence of Roçadas that he would defeat Franke's small regiment in case he dared to attack? Was it the intention to demonstrate to the British allies that Portugal, too, was a victim of German expansionism and that Portuguese colonial troops could overcome an adver-

1 *Grewe* 1999: 90.

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sary as reputable as Franke's *Schutztruppe*? It ended differently. Given the number of soldiers available to both military leaders, the Portuguese defeat came as a surprise. Baericke's assessment of a German "piece of luck" is convincing. The catastrophic retreat of the Portuguese troops, however, was unrelated to any German action; it was the result of years of rumors, poor intelligence and sheer panic.

King Mandume, who had since 1911 repeatedly expressed his desire to expel the Portuguese once and for all from the territories east of the Kunene River, used this opportunity in late 1914 to exert his dominance in the region. The 100 guns possibly delivered by Franke to Mandume were less decisive for this undertaking than the thousands of guns that had been bartered with Portuguese (and to a lesser extent German) traders over the previous decades. Mandume's defeat at Mongua after one of the longest and largest battles of colonial Africa was possible for two reasons: 1) the Portuguese under General Pereira de Eça were equipped for a different adversary, the Germans; 2) the drought and famine had weakened the capacities of Ovambo to resist. In the end, de Eça had achieved what the Germans had never dared to do: direct occupation of Ovamboland.

Given the costs of the "expeditions" in Africa, the humiliations at the hands of the Germans (and to a lesser extent by several African adversaries), and the general discourses in Allied Europe about Germany's obligation to repair the damage she had caused from 1914 to 1918, the intention of the Portuguese government to recoup the losses, if not by direct reparations then by claiming damages in legal proceedings, seems intelligible. During the arbitration, Portugal proved wrong all those who had solely observed the republic's "administrative chaos". Thousands of documents were compiled and a massive case was prepared against Germany. The argumentation used during the procedure, as has been shown in the previous chapters, was deeply rooted in historical claims and factual occurrences. Legal arguments were less central for the government representatives. Despite the professional preparation of the case, the outcome for the Portuguese party was disappointing, firstly, considering the division between direct and indirect damages (1928), secondly, considering the "minuscule" amount conceded (1930), and finally considering the non-execution of the award (1933).

The German party, on the other hand – seeing the arbitration as part of the puzzle posed by the foremost goal of German (foreign) policy, namely the revision of the Treaty of Versailles – was not satisfied with the 1928-award's legal interpretation of the facts (an illegitimate excess of the

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1914-military reprisal). While the German government lawyers remained attached to the point of view of their predessessors since the Brussels Conference (1874) who "had developed military necessity into a more principled … and explicit legal cover for [Germany's] stance on the laws of war", the world had changed. "Public opinion and most jurists had been moving towards limiting the writ of military necessity." Nevertheless, the end result proved to be a German victory. While successive Portuguese governments had, since 1920, hoped that they could obtain by legal means the redress Portugal had neither won militarily in Africa, nor diplomatically in Versailles, the outcome of the arbitration proved wrong the assumption that international law would reverse diplomatic setbacks. This conclusion, however, was very much in the eye of the beholder. For the German lawyers, some of whom had personally witnessed the 'humiliation' at Versailles, international law proved to be Germany's most vital tool to counter the Allied claims for reparations they so despised. For them, the outcome after thirteen years of legal reasoning was indeed a victory for 'right over might'.[2]

The constellation of the end of this arbitration was just as linked to contemporary history as was the background of the dispute in 1914. The Luso-German arbitration was decided based on political considerations that had little to do with the problems and questions at the origins of the case. The government in Lisbon had pushed for the arbitration expecting that, based on the Treaty of Versailles, the violation of Portuguese sovereignty could be punished and hoping that damages could be claimed by the state and its nationals for "acts committed by the German Government … since July 31, 1914, and before [Portugal] entered into the war [in March 1916]." The award of 1933, however, referred to the agreement made in the Young Plan that Germany was not obliged to make payments to Portugal separate from all the other obligations accepted under the Young Plan. The amount mentioned in the award of 1930 thus came under the general reparation payment for war damages, limited to the annuities of 2.05 billion *Reichsmark* according to the Young Plan. While the Allied experts had in view the capacity of the German budget that was not to be thrown out of its "equilibrium" by additional, separate payments outside of the national budget (award 1933, p. 1379), the Germans considered the Young

2 *Hull* 2014: 67; cf. *Isay* 1923: preface to the third edition. 'Das Vertrauen auf Deutschlands staatliches Fortbestehen und die Zuversicht auf seinen Wiederaufstieg können heute lediglich auf dem Vertrauen in die Macht des Völkerrechts beruhen'.

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Plan a "success" since it "reconstituted [German] sovereignty in the economic realm" and led to the evacuation of the Rhineland by Allied troops.[3] The financial interests of smaller nations such as Portugal that aimed at enlarging their minuscule percentage of the general reparation payments, on the other hand, were cast aside. The arbitration tribunal set up according to the Young Plan proved to be a protection tool against particular interests. For the arbitrators of 1933, the original case of 'Naulila' and the campaign against King Mandume did not play any significant role.

While the handling of the Luso-German arbitration underlined the substantial and procedural judicialization of international tribunals, the award of 1928 acquired relevance later on for the development of the doctrine of public international law. With regard to the legitimacy of (forceful) reprisals, the Lausanne award articulated a set of principles that continue to be formative for present-day international legal order: Reprisals are only legal (1) if there is a previous act by the original wrongdoer in violation of international law; (2) if the reprisal taker pursues, prior to any reprisal, non-violent means to demand satisfaction; (3) if there is proportionality between the original offence and the reprisal. Even though the requirement of proportionality of the use of force has developed over the years into the most famous principle of the *Naulilaa* award, also other stipulations of the award, like the question of direct and indirect damages under international law, or the requirements of causality, remain central to public international law. As to the requirement of proportionality, it needs to be emphasized once more that – beyond the comparison between three men shot and six forts destroyed – the award of 1928 did not stipulate any proportionality-test, thus indirectly acknowledging the complexity of the term 'proportionality. While the German memorandum, when discussing the alleged proportionality of the German reprisal against Angola, more or less argued that neither the decision to resort to reprisals nor the extent of its execution could be determined by law, the Portuguese countered in a more substantial way.[4] They used the term 'proportionality' to correct the asymmetrical power relationship with Germany. Portugal, as the weaker party was eager to claim disproportionality as a shield from the stronger party.

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3 *Winkler* 2000: 478, YP stellte die 'Souveränität auf wirtschaftspolitischem Gebiet wieder her'.

4 This argument made reprisals a question of *pure politique*. They are thus tools used most of all by great powers against smaller nations that must not be concerned about possible *riposte* of those against reprisals were executed. *Gaurier* 2014: 700.

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When, with the centenary of World War I, scholars are currently reconsidering the impact of this war on the modern world, the award of 1928 is a case at point. It is an expression of the "concerted efforts to regulate the resort of States to force" in the aftermath the World War. Thereby, *Naulilaa* and its interpretation by generations of international legal scholars became part of the enduring arguments that "revolve around determining what is a just cause for resorting to armed force".[5] Due to the disproportion of the German action in 1914 and the 'didactic' enumeration of the conditions required for a legitimate reprisal the award of 1928 was destined to become a "landmark case in public international law."

One further aspect of the arbitration should be considered: Even though two European armies fought against each other, *Naulilaa* was also a "colonial case". On the one hand, *Naulilaa* thus seems to be another example that, from a doctrinal standpoint, colonialism has "yielded a generous by-product in international law", as was evident already for contemporaries: "Protectorates, spheres of influence, hinterlands, the position of savage and semi-civilized tribes, nominal and effective possession, territorial lease" – all these terms and the attempts to define them grew out of the discussions that commenced at the latest with the Berlin Congo Conference in 1884/5. In fact, "much of the international law of the nineteenth century was preoccupied with colonial problems".[6] However, the Luso-German arbitration procedure also underlined discursive ruptures that are too easily concealed by sweeping statements about international law's "complete complicity with the colonial project." Such criticism launched by researchers affiliated with the intellectual school of *Third World Approaches to International Law* (TWAIL), who call the "regime of international law…illegitimate"[7], tends to obscure that – from a historical perspective – international lawyers never "developed a fully homogeneous colonial discourse."[8] Differing interpretations of pre-1914 colonial rule, especially notions of 'race' or the (legitimate) involvement of Africans in combat between Europeans, played an important part in the Luso-German arbitration.

On the other hand, and although the award of 1928 lengthily set out the conditions in Angola in 1914, the arbitrators abstained from any notion of

5 *Gardam* 2004: 57; *Kelly* 2003: 8; *Orend* 2000: 546.
6 *Reeves* 1909: 99; *Anghie* 1999: 5; cf. *Koskenniemi* 2004: 65; 2011; *Galindo* 2012: 86.
7 *Anghie* 1999: 74; *Mutua* 2000: 31 IL 'is a predatory system that legitimizes…subordination.'
8 *Koskenniemi* 2001: 105; 2014: 122; cf. *Fassbender/Peters* 2012: 4; *Pauka* 2013.

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the colonies as a lawless space or a "laboratory" that would have exotizingly justified the use of relentless violence (against Europeans). The award thus underlined that the norms of international law were "universal" and consequently binding for governments 'even' in the colonies. The fact that the case arose out of a "colonial dispute" was not only no hindrance for it to develop into a "landmark case". For the legal interpretation of the facts by the arbitrators it was most of all of *no* relevance that the dispute had taken place between GSWA and Angola – and not between Germany and Belgium. The question, whether European (and international) legal systems "have also been the product of colonial experiences"[9] has been rightly posed. For the reasons stated above, however, *Naulilaa* should not be considered an example for the effects colonial rule had on international law.

The sketched juxtaposition of the memorial cultures in the four involved countries raises the "question of which side's interpretation … will be forgotten and which will have a historical impact. This is clearly an important question for historians, since scholarly historical analysis ought to analyze and not duplicate the processes of forgetting and the emergence of the historically significant."[10] As we have seen, *Naulilaa* is certainly "significant" in international law; the history of the Luso-German border war and the defeat of Mandume, however, have barely marked any entries in the latest overviews of World War I for readers in the Northern Hemisphere – not to speak of any interpretation of these mostly forgotten facts. In the historiography and also in politics of Angola and Namibia, on the other hand, the subsequent war between the Portuguese, the Kwanyama, and the South Africans has made a significant "historical impact". The reinterpretation of King Mandume, his "shift from tyrant to hero might be more gratifying and more historically accurate", but it is still a distortion as other social strata are excluded from the accounts, "a characteristic common to all so-called Great-Man views of history." Similar to colonial times, an adversarial interpretation of history still dominates. It remains to be seen how future politicians and historians will consider the challenge of constructing a more encompassing interpretation of the history of "anti-colonial struggle."[11]

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9 *Becker Lorca* 2010: 477; *Conrad* 2003: 188; 199 on 'laboratories'.
10 *Habermas* 2014: 80.
11 *Isaacman/Isaacman* 1977: 39f.; cf. *Heintze* 2008: 185.

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