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-

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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 *Pokŝtefl* 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

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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 socio-cultural 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

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-

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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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