Introduction

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

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

1 'GSWA' is used for pre-1918 events, 'SWA' for pre-1968 events, and 'Namibia' thereafter.

2 Cf. *Sheehan* 1981: 4; 22.

3 *Cooper* 2002: 66; cf. *Lindner* 2011; *Gissibl* 2011: 162 on the 'vital part played by the empires of others. They provided role models'; *Stuchtey* 2010: 238; *Matsuzaki* 2009: 107f.

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

State of the Art and Objects of Investigation

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

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

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

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

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

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

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

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

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

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

11 *Habermas* 2014: 47.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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32 *Wallace* 2012: 13.

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

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

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

36 George Orwell: Shooting an Elephant (1936).

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

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

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

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

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

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

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

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

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

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

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

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

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

Sources

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

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

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

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

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

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

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

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

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

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

Historians as Lawyers – Lawyers as Historians? Questions and Outline

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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