

'We're equal to the Jews who were destroyed. [. . .] Compensate us, too'. An affective (un)remembering of Germany's colonial past?

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Abstract

Following the globalisation of Holocaust memory in the 1990s, references to National Socialist crimes turned into a practise initiated by postcolonial memory carriers to claim recognition and reparation for colonial crimes – often by taking legal steps to qualify colonial crime a crime against humanity. This article argues that the globalised Holocaust memory established a distinctive emotional order. Consequently, marginalised memory groups align with this order to find a voice in official memory politics. The article examines emotional discourses in the OvaHerero class actions against Germany filed in 2001. It shows how media coverage hindered the recognition of colonial crimes when compared with the Holocaust. However, a diachronic contrast with the analysis of the renewed lawsuit filed this time by representatives of the OvaHerero and the Nama in 2017 shows how emotional discourses changed over time and transformed both colonial and Holocaust memory.

Keywords

affect, discourse analysis, emotion, Holocaust memory, postcolonial memory, restorative justice

Introduction: lawsuits as means to recognition and reparation of colonial crimes?

[. . .] We're equal to the Jews who were destroyed. The Germans paid for spilled Jewish blood. Compensate us, too. It's time to heal the wound.

(Chief Kuaima Riruako in *The Scotsman*, September 2001, quoted from De Wolff, 2017: 392)

In September 2001, a broader German public was confronted with its colonial past for the very first time when representatives of the OvaHerero,¹ a Namibian community, initiated legal steps against the federal government of Germany and three German companies. The OvaHerero demanded reparation for the genocide perpetrated against their ancestors during the colonial war in 'German Southwest Africa' (1904–1908). In 1884, the German Reich officially declared its 'Schutzherrschaft' ('Patronage') over 'German Southwest Africa' (Krüger, 2011 [2004]: 17). Designated a settler's

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colony, local communities constantly resisted German expansion and land appropriation. In response to the OvaHerero's anticolonial insurrections, the German 'Schutztruppen' instigated a war in January 1904 that quickly culminated into a genocide (Zimmerer, 2011b [2004]: 45). Nowadays, it is referred to as the first genocide of the twentieth century, causing more than 80,000 deaths and killing approximately 80% of the OvaHerero and 20% of the Nama community. Furthermore, the war also marked the beginning of the 'century of the camps' (Bauman, 1998) by establishing concentration camps in which a large number of prisoners died of 'neglect' (Zimmerer, 2011b [2004]: 58). Although German colonialism ended after the First World War in 1919, the OvaHerero's and Nama's political and social marginalisation survived the period under South African trusteeship until today (Kößler, 2015; Zimmerer, 2011a [2004]).

Plaintiffs in the 2001 case sued for compensation related to the loss of land and the still poor living conditions. More importantly, however, the OvaHerero demanded formal recognition of the genocide and an official apology. As my introductory epigraph shows, Chief Kuaima Riruako justified the OvaHerero's claims by referencing the reparations Jewish survivors were entitled to in compensation for the Holocaust. The lawsuits filed in 2001 and 2017 both substantiated their complaints by explicitly demanding the recognition of the genocide as a crime against humanity. The special character of a crime against humanity consists of suspending the statute of limitations which opens the possibility to prosecute crimes of distant pasts. Its definition was first laid down in the London Charter of the International Military Tribunal in 1945 after World War II (WWII). It was finally applied as a juridical instrument in the 1990s, with the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) (Sarkin, 2004: 67). Following these tribunals, lawsuits globally multiplied and turned into a much-appreciated strategy of memory activists to gain recognition for past crimes (cf. Barkan, 2001).

This new global attention for past crimes created momentum for postcolonial memory groups to find an audience to recognise hitherto marginalised stories of suffering² (Barkan, 2001: 270). Scholars discussed these global shifts in memory politics as a globalisation of 'accountability'. This framework implied the possibility to 'repair' even distant pasts by employing juridical means (Lorenz, 2014: 47). Against this backdrop, social scientists proclaimed the development of an 'international morality' (Barkan, 2001), the hope for a 'transcultural empathy' (Craps and Rothberg, 2011) or the formation of politics driven by regret (Olick, 2007) according to which perpetrators are willing to acknowledge their crimes and to comply with victims' claims. In conflict with this universalising idea to redress all past crimes, scholars have shown that the Holocaust stands out as the 'ultimate' crime against humanity which therefore defines an unattainable benchmark (Craps and Rothberg, 2011; Levy and Sznajder, 2002, 2006). In the past 2 years, this benchmark has become the subject of fierce debates in Germany. First, in the spring of 2020, the FDP-politician Lorenz Deutsch and later Felix Klein, Federal Government Commissioner for the Fight against Anti-Semitism, accused the Cameroonian political scientist and philosopher Achille Mbembe of relativising the Holocaust. They requested he cancel his invitation as the opening speaker of the international arts festival *Ruhrtriennale* (Deutsch, 2020). In a guest commentary in the newspaper *taz*, Mbembe (2020) explains that 'fighting antisemitism is part of Germany's reason of state' which facilitates its instrumentalization in German politics and consequently might cause 'the silencing of the other'. Eventually, in 2021, the German translation of Michael Rothberg's (2021) *Multidirectional Memory* and the article 'The German Catechism' (Moses, 2021) published by the historian Dirk Moses in the online journal *Geschichte der Gegenwart* (the History of Today) provoked the so-called *Historikerstreit 2.0*. ('historian's debate 2.0') (Von Moltke, 2021). These recent developments not only display how Holocaust memory provides a globalised memory template based on a language of genocide, they also show that Holocaust memory established a decisive emotional order.

This case study highlights in which ways the OvaHerero and Nama have emotionally referenced the Holocaust to strategically frame the genocide perpetrated against them during the colonial war in former ‘German Southwest Africa’. Although historical research uncontestedly identifies the events as genocide (Albrecht, 2014; Krüger, 2011 [2004]; Zimmerer, 2007), the German government insists on only using the term ‘in the moral and political sense, but not in the legal sense’ (Goldmann, 2020: 2; Zimmerer, 2019). The OvaHerero’s and Nama’s chances to obtain reparations by legal means have been extremely low for multiple reasons. In addition to the principle of state immunity which prohibits individuals or groups to sue national governments (Jaguttis, 2010: 82), many courts also declared their non-competency causing the rejection of the lawsuits. But probably the most important barrier has been the rejection of any retroactive conviction of crimes committed before the definition of the term crimes against humanity in 1945 (Kämmerer, 2010). For these reasons, the OvaHerero’s and Nama’s attempts to legally claim reparations have been repeatedly dismissed, most recently in 2019. These legal restrictions display postcolonial asymmetries in the attempt to appropriate the juridical term crime against humanity and to claim reparations (De Wolff, 2017; Dhawan, 2010; Goldmann, 2020). Therefore, postcolonial memory carriers, such as the OvaHerero and Nama face a contemporary ‘postcolonial dilemma’ (De Wolff, 2017; Kämmerer, 2010) where the marginalised are exposed to the political memory norms set by Western perspectives.

Despite the improbability of obtaining reparation through legal actions, the diachronic discourse analysis of the 2001-lawsuit and its renewal in 2017 shows how media reporting changed its depiction of colonial crimes along with the emotionality ascribed to them. In the following analysis, I make use of a multidirectional framework as suggested by Michael Rothberg (2009) to demonstrate how linguistic borrowings and paralleling are productive and have induced the (still ongoing) transformation of both colonial and Holocaust memory. In this regard, I want to stress that it is not my intention to follow debates on the rightfulness of comparing the Holocaust with colonial crime. Instead, I want to emphasise the transformative potential of this comparison in memory politics (Rothberg, 2009: 3). The present article highlights the ways in which the globalised Holocaust template describes a dominant emotional order that the marginalised refer to in order to be heard by state governments of the Global North. An analysis of newspaper articles related to the 2001-lawsuit initially suggests an affective unremembering that foregrounds Holocaust memory to silence the OvaHerero’s claims for recognition. The centenary of the genocide in 2004 and the first repatriation of human remains to Namibia in 2011 fundamentally changed postcolonial memory politics in Germany (cf. Köbler, 2015; Köbler and Melber, 2017). However, Holocaust memory remains the central point of reference. The discourse analysis of the 2017-lawsuit demonstrates how the colonial past is now being linked to discourses on shame and pride. Within these discourses, the ‘exemplary’ commemoration of the Holocaust serves as a role model to also remember colonialism. The case study reveals both the importance as well as the ambivalences produced by emotional discourses in processes of ascribing significance to marginalised pasts. In the following, I suggest an analytical framework by drawing on perspectives from the history of emotions and affect studies to better understand the mechanisms by which ‘forgotten’ pasts re-emerge in the present.

Affective (un)remembering: theorising emotions in memory studies

The postcolonial class actions which I analyse in this article explicitly reference the Holocaust to substantiate their complaints in demanding recognition of colonial crimes as a crime against humanity. William F.S. Miles (2010) suggests the term ‘H/holocaust parallelism’ with ‘[t]he

capital/lower case H/h' to put emphasis on the difference in 'proximity that victims of (certain) genocides/holocausts attempt to establish with "the" Holocaust' (Miles, 2010: 382). According to Miles (2010), the paralleling with the Holocaust helps '[. . .] otherwise ignored groups under fire to gain support and sympathy from the West' (Miles, 2010: 371). Seemingly, sympathy, or empathy and regret as other scholars have suggested, became driving forces in processes of political action for reparation and reconciliation (Aschheim, 2016; Assmann and Detmers, 2016; Barkan, 2001: XI). Memory scholars therefore often hoped for the creation of a transcultural empathy (Craps and Rothberg, 2011; Landsberg, 2004) that would conclude in the global recognition of marginalised crimes. However, repeated references to the Holocaust highlight its uniqueness as a globalised memory template (Craps and Rothberg, 2011; Levy and Sznajder, 2006) that constructs the Holocaust as both a prototype for genocide as well as the 'ultimate' crime against humanity. This contradiction indicates that no other crime can pass the threshold in competing with the Holocaust (Moses, 2012: 233). Therefore, generalising claims for a globalised dissemination of empathy or regret that would further the recognition of the colonial pasts cannot be analysed without considering the power relations from which the dominant understanding of established memory standards emerged (cf. Stoler, 2009: 101).

When taking the power divides between dominant and marginalised pasts into account, paralleling the Holocaust to evoke sympathy is not as self-evidently helpful or effective as Miles suggested. According to the sociologist Maurice Halbwachs (1947), only those pasts that can be experienced emotionally will be relevant for societies. Conversely, this means that pasts without an emotional attribution are not 'rememberable' (Halbwachs, 1947). Ann Laura Stoler (2009), whose work echoes Michel Foucault's concept of power-knowledge, argues that the harnessing of emotions is a part of the rationale of state powers and consequently a technique to govern. Based on this assumption, emotional discourses not only produce emotional knowledge. Rather, semantic articulations of emotions become discursively affective, making them 'embodied' social practices (Abu-Lughod and Lutz, 1990: 13). Employing the term emotional discourses as suggested by Lila Abu-Lughod and Catherine Lutz (1990), I will analyse emotions as '*created in*, rather than shaped by' texts (Abu-Lughod and Lutz, 1990: 12, italics in original). Applied to the field of memory politics, emotional discourses thus regulate what is recognised – and thus rationalised – as (affective) knowledge about the past. Consequentially, emotionality and rationality cannot be construed as opposites; rather, their discursivity creates the very conditions 'to sense and feel what exactly constitutes rational actions' (Koschut et al., 2017: 503). In the same vein, this article argues that emotional discourses are also involved in a 'production of dis-affectation' (Stoler, 1995: 136) which would cause a 'dis-memorisation' (Ha, 2012; my translation of *Entinnerung*) of colonial pasts (Abu-Lughod and Lutz, 1990: 10).

The dominant Holocaust memory produces a distinctive emotional order that defines the universal standards of suffering. Emotional orders describe the hierarchical discursive arrangements of emotional discourses that exist within social groups and larger institutional contexts. Emotional discourses as smaller units describe structured and structuring practises at the same time (Diaz-Bone, 2006: 74). They are structured insofar as they obey distinct rules in the production of their objects. New statements to the discourse, on the other hand, comply with the established 'conditional and enabling contexts' that define the structuring effects of emotional discourses (Diaz-Bone, 2006: 74). Translated into memory politics, this means that it is not enough to refer to the emotional standards of the universalised Holocaust memory. Rather, postcolonial memory carriers need to attain these emotional standards to make their claims be heard. To test my assumption that Holocaust memory defines universal standards of suffering and thus establishes an emotional order, I first analysed emotional wordings, or respectively their absence in the OvaHerero's and Nama's class actions, press releases, governmental positions, and the corresponding newspaper

articles. In a second step, I went beyond the analysis of emotion words and scrutinised if and in which ways the debates over reparations were connected to the Holocaust and National Socialist-related crime in the selected corpus. Third, I analysed how the emotional discourses and the detected references and borrowings shape the production of the memory political content – which then revealed the hierarchical relationship between the colonial and National Socialist past.

The analysis of the lawsuits filed by the Namibian communities of the OvaHerero in 2001 and by the OvaHerero and Nama in 2017 as well as the respective media reporting exemplifies how colonial crime is negotiated on a national scale against the background of the globalisation of memory politics and the dominance of Holocaust memory. Focussing on transformations in public opinion, I defined newspaper articles as the main sources of this case study. I reviewed articles from the so-called German quality press and assured the representation of the political spectrum from conservative to leftist positionings. Altogether, I analysed all newspaper articles that thematized the lawsuits in the time periods from 2001 to 2003 and from 2017 to 2019. Excluding news-flashes, the corpus encompasses reports of the events, commentaries as well as opinion pieces. In detail, I reviewed articles in *Die WELT*, *tageszeitung (taz)*, *Süddeutsche Zeitung (SZ)*, *Frankfurter Allgemeine Zeitung (FAZ)*, *Frankfurter Rundschau (FR)*, *Neues Deutschland (ND)*, the weekly *Die ZEIT*, but also added other frequently referenced online and newspaper articles. I considered the limitations of newspapers to represent OvaHerero and Nama perspectives and therefore included claim statements and press releases by these activist groups.³ Furthermore, I reviewed selected political speeches as well as enquiries to and reactions from the federal government. Below, I demonstrate how the reference to the Holocaust promulgates an affective unremembering in media reporting in 2001/2003.

Gaining sympathy for colonial crime? The 2001-lawsuit to claim recognition and reparation

In September 2001, representatives of the OvaHerero decided to file a class action after compensations were guaranteed to Eastern European forced labourers who initiated multiple lawsuits against German companies in 1998. The forced labourers made use of a special regulation of the US legal system enabling foreign individuals to file in charges of civil law for ‘gross violations’ committed outside of the United States (Wissenschaftliche Dienste/Deutscher Bundestag, 2017: 4, 7). Despite these recourses to legal action in the US, the class actions did not succeed in legal terms. An agreement on paying compensations could only be reached because of the enduring advocacy work and lasting political pressure on German companies. As a result, the foundation *Erinnerung, Verantwortung und Zukunft (EVZ, Remembrance, Responsibility, and Future)* was created in 2000 (Pagenstecher, 2016; Spiegel Online, 2000), but only under the precondition that further reparatory claims would be foreclosed (Goschler, 2012: 26).

Notwithstanding the dismissal of the class action, the forced labourers’ case encouraged the OvaHerero to equally take their case to court in the United States. The OvaHerero’s previous attempts to start a dialogue with Germany on its shared colonial past had been fruitless since Namibia’s independence in 1990 (Köbler, 2015: 236–237). On several occasions, the OvaHerero tried to press charges against Germany. In 1999, the lawsuit they presented in The Hague was rejected because international law prohibits individuals or groups to sue states (De Wolff, 2017: 394; Jaguttis, 2010: 82). Still today, Germany rejects the charges by pointing to its state immunity in accordance with international law (Wissenschaftliche Dienste/Deutscher Bundestag, 2018: 7). However, the filing of the class action in the United States offered new political means to the OvaHerero to draw attention to their case and to scandalise the observed ‘colonial amnesia’ in German collective memory (see Albrecht, 2014; Goldmann, 2020; Köbler, 2006). Both in

interviews and in the text of the class action, the OvaHerero referenced the success of the forced labourers' case in order to draw attention to their comparative invisibility. They repeatedly demanded to be integrated into the negotiations with the federal government 'just as Jewish people were'. In this regard, Riruako is quoted in *Die WELT*, saying that '[t]he German government should face its responsibility – just as it did with the Holocaust' (*Die WELT*, 2001). The class action itself also made explicit reference to the Holocaust:

Foreshadowing with chilling precision the *irredeemable horror of the European Holocaust only decades later*, the defendants and Imperial Germany formed a German commercial enterprise which cold-bloodedly employed explicitly-sanctioned extermination, the destruction of tribal culture and social organisation, concentration camps, forced labour, medical experimentation and the exploitation of women and children in order to advance their common financial interests. (Herero People's Reparation Corporation (HPRC), 2001: 21; italics added)

By referring to the 'European Holocaust', the class action not only created a continuity from 'Windhoek to Auschwitz' (Zimmerer, 2007) but also 'provincialized' (Chakrabarty, 2008 [2000]: 1) the Holocaust by emphasising its European situatedness. This framing directed Western attention to 'other' genocides. The *Herero People's Reparation Corporation* (HPRC), the initiator of the 2001 class action, referred frequently to the 'Final Solution' (HPRC, 2001: 47), 'Concentration Camp' (HPRC, 2001: 21, 29, 43, 54–57) – also in its German translation (HPRC, 2001: 53), Eugen Fischer (HPRC, 2001: 57) and the racial medical experiments (HPRC, 2001: 21) carried out in 'German Southwest Africa' as well as to Adolf Hitler (HPRC, 2001: 57).

How did German news media react to these Holocaust references and which emotional discourses can be reconstructed? German media coverage in 2001/2003⁴ suggests that Holocaust memory established an emotional order. This emotional order can be demonstrated on two grounds. First, only a few newspapers of the quality press reported on the lawsuit in 2001 and 2003 in comparison to the 2017 lawsuit (cf. De Wolff, 2017: 403). Halbwachs (1985 [1925]) wrote that, in order to be remembered, an historical event needs a 'place' in the social framework of collective memory (Halbwachs, 1985[1925]). However, such a place is not created passively. The apparent silencing or 'blinking out' of colonialism therefore indicates an affective production of unremembering (Stoler, 2011: 125). Second, the framework of Holocaust memory provided a structure for emotional discourses, within which the OvaHerero case was embedded. This can be seen in nearly every article that covered the case and that took up the reference to the Holocaust. Due to the lack of contextualisation, the Holocaust was conflated with other NS-related crimes, creating a single template.

However, Herero chief Riruako's explicit reference to the successful compensation claims of former forced labourers under National Socialism were perceived as a provocation. An article published in *Frankfurter Allgemeine Zeitung* in 2001 harshly criticised the OvaHerero by stating that

[t]he African people of the Herero are suing German companies because they were purportedly involved in the annihilation policy pursued by Imperial Germany in 'Southwest Africa'.⁵ Both cases are based on crimes that were committed by Germans sixty or a hundred years ago. In both cases there is no legal basis for the claims [. . .]. The commitment made by Germany to compensate former forced labourers now encourages imitation. The Herero openly admit that the lawsuits in the United States serve as a model for them. (Müller, 2001)

As this quote shows, newspaper articles problematised that the NS case served as a role model and that the OvaHerero founded the HPRC for that purpose (cf. Müller, 2001, 2003). The lawsuit's

reference to the forced labourer case therefore failed to establish a ‘moral authority’ (Miles, 2010: 371) because it was reduced to an immoral, profiteering campaign for the OvaHerero cause. Resulting from this rejection of the reparatory claims, media reporting unanimously expressed that ‘the “terrible legacy of colonialism” cannot be paid off with reparations’ (Bittdorf, 2003: 7) as the *Süddeutsche Zeitung* quotes an official governmental position. In contrast, reporting deemed the demand for an apology as morally acceptable (FR, 2003: 7). However, state officials refused to apologise because of the unpredictable compensatory claims such an endeavour could cause. Against the background of avoiding the creation of precedents, the German government refused to recognise the Namibian communities as legitimate plaintiffs by arguing that only nation-states have the right to press charges against other states. Moreover, state officials strictly avoided the term genocide which otherwise could have provided the ground to qualify the colonial war a crime against humanity. Since the end of WWII, German law has conformed to the international legal standard that ‘an incident and its legal implications must be judged according to the legal rules that were in place at the time the incident occurred’ (Wissenschaftliche Dienste/Deutscher Bundestag, 2016: 6). This framework thus prevents the retroactive application of the term genocide, which was coined in 1948, in claims against colonial crimes. Through these exclusions, the law preserves the Holocaust as the ‘ultimate’ crime against humanity (Moses, 2012: 230). Postcolonial scholars underline that international law emerged and universalised in a manner that excluded ‘colonised subjects’ and favours Western legal systems to avoid the question of colonial reparations (Dhawan, 2010; Goldmann, 2020; Kämmerer, 2010). The persistence of this legal interpretation hinders post-colonial memory carriers to successfully take action (Kämmerer, 2010).

The analysis suggests that the legal as well as political recognition of colonial crime is emotionally situated in relation to the Holocaust and the thereto related memory politics. In adopting the concept of a ‘political economy of empathy’, Steven E. Aschheim (2016) draws attention to the unequal distribution of empathy in relation to divergent victim groups. Furthermore, Aschheim highlights the emotional framing – or what I would call an emotional order – that the Holocaust imposes. He clarifies that the framework produces a ‘symbolic construct of absolute evil [that] has become engraved at the very centre of our contemporary moral and emphatic consciousness’ (Aschheim, 2016: 24). At the same time, Aschheim is very aware that ‘our consciousness’ is formed by Western standards which consequently affects the production of felt proximity or distance to the ‘suffering’ of the others (Aschheim, 2016: 24). This Eurocentric or Western perspective produces Holocaust memory as something being ‘generally better remembered’ because of the perception that ‘the atrocities of Europe are perceived as morally more significant than atrocities elsewhere’ (Craps and Rothberg, 2011: 518). Consequently, Holocaust memory can block the remembrance of marginalised pasts. Instead of bridging global asymmetries, the analysis of the class action rather suggests a ‘counter-empathic’ effect of Holocaust memory (Aschheim, 2016: 26) that hindered the ascription of moral significance to colonial crime.

In 2001/2003, the comparisons made by postcolonial memory carriers to NS-related crimes were unanimously rejected. Emotional discourses constructed the fields of morality and jurisprudence/politics as separate realms. In this regard, news reporting constructed the legal preconditions as a non-negotiable given. The Holocaust, on the other hand, is construed as emotionally unique, which therefore does not allow for any paralleling. Both the fixity of the law and the paramount situatedness of the Holocaust further relegated the German colonial past away from collective memory. In conceiving of the class action as an ‘impertinence’, the ‘dis-affection’ Stoler (1995) spoke of is emotionally produced. The illegitimacy ascribed to the lawsuit *dis-memorised* (Ha, 2012) the genocide and refused the creation of a ‘place’ in the framework of German history. However, in 2017 a new lawsuit was filed, now by representatives of the OvaHerero and Nama. Emphasising the interrelatedness between colonial and National Socialist violence stayed

fundamental in the activists' reasoning and struggle for recognition. In the following, the analysis will show how the references to the Holocaust displayed a multidirectional productiveness (Rothberg, 2009). The 'counter-empathic narrative' (Aschheim, 2016: 26) of these early debates over Germany's colonial past is changing in relation to the establishment of an understanding that connects the colonial period with National Socialism – with lasting effects on both colonial as well as Holocaust memory.

The emotional discourse on pride in German memory politics: inscribing colonial history into Germany's Holocaust remembrance

In 2017, circumstances had significantly changed in German memory politics regarding the OvaHereros' and Namas' claims. In 2004, then Federal Minister for Economic Cooperation and Development Heidemarie Wieczorek-Zeul (SPD) first formulated a 'half-apology' for the OvaHerero and Nama genocide during the celebrations of the centenary in Namibia (Köbler, 2015: 247–272). During the official commemoration on the 14th of August, the Minister said that 'in the words of the Lord's Prayer that we share, I ask you to forgive us our trespasses and our guilt' (qtd. in Köbler, 2015: 254). Attempting to avoid statements that could be relevant for compensations, the German government did not officially recognise the Minister's position (Köbler, 2015: 257). However, the term genocide – still used in quotation marks at that time – gained more significance. In the following years, minor and written enquiries by political parties as well as petitions to accept the responsibility for the colonial past and to recognise the genocide increased (Antrag der Fraktionen und Bündnis 90/Die Grünen, 2012: 1–4). The year 2015 marks a decisive shift in the government's official positioning. First, Norbert Lammert (CDU), then President of German Parliament, published a much-quoted newspaper article in the weekly *Die ZEIT*, naming the genocide and positioning it as a memory political concern (Lammert, 2015). Two weeks earlier, the Foreign Ministry had unofficially called the crimes committed in 'German Southwest Africa' a genocide (Bundesregierung, 2015). The swiftness which caused this rather unexpected shift has to be considered in the context of the debates related to the centenary of the Armenian genocide on 24 April 2015 and concluding in its official recognition by the parliament on 2 June 2016 (Deutscher Bundestag, 2016).

In his 2015-article, Lammert repeatedly references the Armenian genocide and problematises the lack of remembrance in the face of 'immediate' 'German guilt' through actions in 'German Southwest Africa' (Lammert, 2015). 'Like the Turks, we are responsible for how we deal with this history', Lammert (2015) concludes, and demands a 'clear stance of the state'. In 2016, the federal government repeats the term genocide in a press conference (Bundesregierung, 2016b) – but again without providing an official apology, presumably because special emissaries from Namibia and Germany were negotiating the conditions for the recognition of the genocide and a formal apology since 2015 (Zimmerer, 2018). However, the lasting exclusion of OvaHerero and Nama representatives from the negotiations resulted in renewed charges pressed against Germany (Köbler, 2020: 126). The 2017-lawsuit intensified the references that built upon the 'continuity thesis' (cf. Zimmerer, 2007) that historically connects colonial with National Socialist crime. But also, media reporting drew much more on the continuity which highlights two discursive shifts: on one hand, it puts emphasis on the historical continuities and the entanglements of colonial violence and violence in Europe. On the other hand, it creates a memory continuity to explain racism in contemporary postcolonial Germany, as I will explain in the following section.

In the justification of the lawsuit, the OvaHerero and Nama refer to Germany's History of Knowledge by emphasising the connections to racist German ideology and its terminology that

emerged in the nineteenth century. For instance, they elaborate on Friedrich Ratzel's concepts of 'Lebensraum' and refer to Hans Grimm's 1926 novel 'Volk ohne Raum' (Rukoro et al., 2017: 8). Whereas the medical experiments executed by Eugen Fischer on the remains of OvaHerero and Nama victims were already mentioned in the 2001-lawsuit, the renewed class action explicitly links the concentration camps on Shark Island with Auschwitz. The plaintiffs argue that

[. . .] the German authorities learned many of the lessons [on Shark Island] that were later employed at Auschwitz and other concentration camps during World War II. All prisoners were first divided into two categories: those who were fit to work and those who were not. For administrative purposes, pre-printed death certificates uniformly gave the cause of death as 'death by exhaustion following privation'. (Rukoro et al., 2017: 12–13)

By referring to the 'selection process' (Rukoro et al., 2017: 14) and to the enforcement to wear 'metal discs' after the closure of 'Shark Island Concentration Camp and other death camps', the OvaHerero and Nama described the genocide in a way which echoed the extermination of Jewish people in Eastern European camps. Instead of debating the historical rightfulness of such comparison, I am more interested in their memory political effects. Here, Holocaust memory displays its structuring mechanisms by defining the 'enabling contexts' (Diaz-Bone, 2006: 74) in which its emotional standards may be attained. Holocaust memory creates a template providing wordings that marginalised groups need to refer to if they want to be heard in the discourse for recognition (De Wolff, 2017). Therefore, the reference to the Holocaust not only creates a historical continuity but also produces a memory political continuity.

In their attempt to juridically claim reparations, the OvaHerero and Nama not only create a continuity from Windhoek to Auschwitz. They also produce a memory continuity in referring to Germany's politics of *Wiedergutmachung* [amends]. Vekuii Rukoro, the successor of Riruako as Paramount Chief, states in an interview with *Die WELT* that the OvaHerero still are in favour of out-of-court settlements just like Jewish organisations were. He underlines that

Germany has done this before in relation to the Holocaust [. . .]. And Adenauer was wise enough to insist that not only the State of Israel should sit at the table. He insisted that the Jewish people, the affected people, represented by their own organisations, should also sit at the negotiating table. He wanted a broad and conclusive solution. (Aust and Konnerth, 2018)

In contrast to the first class action in 2001, media reporting is now drawing much more on the historical as well as memory political continuities. Due to the time passed since their conclusion, references to the forced labourers' cases lost their significance in 2017/2018 and so did the negative reading of the attempt to claim compensation. One major finding is that the newspaper articles at this later stage not only used the term genocide without any contestation but that they also rationalised the claim of the OvaHerero and Nama to be compensated for the historical crime. Germany 'should finally be called to account for the rampage of the *Kaiser's Schutztruppen* in German Southwest Africa' (Buchter, 2018). The newspaper *Die WELT* called it 'absurd' that the Foreign Ministry rejected the statement of claim since the federal government does not recognise the US-American competence of the proceedings and insists on its state immunity (Leimbach, 2018). In contrast to 2001/2003, the class action was no longer framed exclusively as 'hopeless' and 'illegitimate', rather its 'precedent' character (cf. Pelz, 2017) and 'the uncertain outcome' were emphasised (Leimbach, 2018). What is more, in many articles the juridical rightfulness of the claims is not among the prominent arguments which was still the case in 2001. Instead, the articles are calling upon the government's 'decency' (Reader's opinion in FR, Buroh, 2017: 22) framing the compensatory claims as a 'moral question' (Rietzschel, 2017). In a *FAZ* commentary published in

December 2019, legal historian Patrick Heinemann first lays out in detail why reparatory claims cannot be legally successful, and then concludes that ‘legal modesty is recommended: Because the law is only one of many human conflict resolution mechanisms – and not always the best’. He concludes his article by demanding an apology, the repatriation of human remains, but also a financial compensation (Heinemann, 2019). The increased number of articles published between 2017 and 2019 suggests a successful inscription of the genocide in Germany’s national history. Newspapers from all political camps, like *taz*, *Süddeutsche Zeitung*, *Frankfurter Allgemeine Zeitung* and *Die WELT*, state that even if there are no legal duties to compensate for the genocide, Germany should engage in a dialogue with the OvaHerero and Nama and also consider ‘collective reparations’ (Memarnia, 2018). These developments suggest a gain of legitimacy by which Germany’s colonial past could take on a memory political place on its own. However, the legal preconditions are still constructed as a non-negotiable, despite the discursive shifts presented above.

The Eurocentric implications of Holocaust memory should, therefore, not be side-lined. The perceptibility of colonial suffering still is positioned within the emotional order established by Holocaust memory. Consequently, the struggle for legal redress as well as the memory political recognition of colonial pasts should be construed within a ‘postcolonial dilemma’ (Chakrabarty, 2010: 11 f. qtd. in Kerner, 2017 [2012]: 76). The postcolonial dilemma which Chakrabarty had in mind describes the indispensability and simultaneous insufficiency of Western thought to understand contemporary politics and historical processes. In legal terms, it means that groups that seek justice for crimes committed during colonialism are extremely limited in claiming reparations at national and international courts (De Wolff, 2017: 395) because these refuse the retroactive application of today’s human rights standards (Kämmerer, 2010: 85–86). Therefore, it is almost impossible to seek reappraisal through the courtroom which, on the other hand, needs to be called upon to inscribe marginalised crimes into the frame of universalised justice (cf. Savelsberg and King, 2007: 200). The prevalent emotional order of Holocaust memory thus differentiates legal claims from moral obligations to compensate. As a result, the emotional order in place depoliticises the legal sphere and reproduces the marginalisation of the former colonised, as the German government’s official positioning suggests.

The federal government did not change its position regarding the reparatory claims and still refuses the terms ‘reparation’ and ‘compensation’. When the lawsuit was rejected eventually in March 2019 on the basis of Germany’s state immunity (Oer, 2019), special emissary Ruprecht Polenz (CDU) comments that ‘we have always said that this is not a legal question, but a political and moral one’ (SZ, 2019). Foundational to this reasoning is that the federal government differentiates between *reparation* and *Wiedergutmachung* (compensation, amends). Whereas the former only is intended to redress the losses and damages between nation-states, the latter exclusively addresses ‘victims of the Holocaust and other NS-related wrongdoing’, as the government explains in the response to an enquiry (Bundesregierung, 2016a: 9–10). In fact, neither reparations nor compensation would thus be applicable to the OvaHerero and Nama genocide because of the creation of these very narrow definitions. In an article in *ZEIT-Online*, Barnabas Veraa Katuuu, the founder of the Association of Ovaherero Genocide in the United States, carves out Germany’s divergent dealings with its colonial and National Socialist past. Katuuu states that ‘Germany is so proud of its so-called amends towards the victims of National Socialism’, he suspects racism behind the reluctance to deal with the genocide (Buchter, 2018). The politician and OvaHerero activist Esther Utjiua Muinjangu similarly argues that ‘our genocide is ignored because we are black’ (Schlüter and Habermalz, 2017). Consequentially, the struggle over the recognition of the genocide describes a memory continuity which connects the oblivion of the colonial past with the persistence of racist stereotypes in the present. As a result, the Holocaust still defines the memory

political standards – which is also reflected in the heated debates on the comparability of the Holocaust. Before the filing of the lawsuit, special emissary Polenz caused an incident at the German embassy in Namibia when he stressed the incomparability of the colonial genocide with the Holocaust. With hindsight, he clarified that ‘it is certainly the case that I reacted a little emotionally. But the Holocaust is part of the German self-image. The Africans, they also have to bear to hear our self-image’ (Schlüter and Habermalz, 2017). Although the historical, as well as the memory political continuities, are still controversially discussed in Germany, the growing number of contributions on the matter suggests that the emotionality ascribed to the remembrance of National Socialist and colonial pasts has transformed. In the following, I will show how Holocaust memory takes on an exemplary role for the remembrance of the colonial past in the debates over the 2017-lawsuit.

In 2001/2003, most of the articles published on the class action referred to Germany’s Holocaust memory to reject the OvaHerero’s reparatory demands, thus stressing the emotional uniqueness of the Holocaust. In 2017/2018, the reference is used to exemplify how Germany’s colonial past should be remembered. Consequently, the OvaHerero and Nama genocide attained emotional significance, which can be explained by the medial appeals to *work through* Germany’s colonial past. The historian Jürgen Zimmerer is one of the most prominent advocates for the OvaHerero and Nama cause and regularly publishes in different newspapers on the genocide, German colonial history and memory politics in general. It is important to note that, in the reparation case presented here, the continuity from the colonial genocide to the Holocaust is only evoked by quoting or directly referring to Zimmerer’s work (Bommarius, 2017; ZEIT ONLINE, 2017). For instance, in *Die WELT*, Zimmerer is quoted as follows: ‘The moral credit was great because Germany was internationally considered a model role regarding the reappraisal of its colonial history’. In his own contributions, Zimmerer repeatedly parallels the remembrance of the Holocaust and German colonialism by highlighting Germany’s role model in remembering historical atrocities. In January 2018, he wrote in the newspaper *taz* that

Germany’s way of coping with the past [*Vergangenheitsbewältigung*] after the Second World War became an important element of German identity, the recognition of historical guilt and the related reconciliation became a part of the reason of state. (Zimmerer, 2018)

It is thus ‘shameful’ and ‘difficult to convey’ that Germany should employ ‘shady tricks’ to render the class action ineffective, instead of stimulating an ‘open dialogue’ (Zimmerer, 2018). Germany’s ‘prestige’ is now heavily ‘damaged’. People used to be ‘so proud [of German memory politics]’, Zimmerer (2018) continues, ‘that German politicians even recommended Germany to Turkey in dealing with its genocidal past’. By ignoring the lawsuit and denying an open dialogue, Germany is now acting ‘shamefully’. Sara Ahmed (2004) convincingly argues that emotional discourses on collective shame are an important component in processes of historical recognition. She states that the ‘nation may bring shame ‘on itself’ by violating its own ideals (Ahmed, 2004: 108). The spokesperson of *Berlin Postkolonial* and member of the alliance *Völkermord verjährt nicht* Christian Kopp therefore calls it a ‘shameful refusal’ that the genocide is still not officially recognised (FAZ, 2019). In not dealing in a similar manner with its colonial past, Germany cannot ‘keep up’ with the high standards it established through the remembrance of the Holocaust. In consequence, Germany risks losing its exemplary role in memory politics and related to that the ‘pride’ it established regarding its remembrance practises. In wanting the federal government to truly deal with the colonial war and the genocide, the articles consequently imply that the pride in the ‘nation’ and the international exemplary role can be restored.

Although the class action had no legal success, it produced broad media attention and increased the interest in Germany’s colonial past. In summary, newspaper articles increasingly assigned

colonialism a legitimate place in German history which included a reappraisal of the genocide and non-judicial perspectives on how to 'repair' colonial crime. The tone in the analysed articles suggests that the persistent referencing to the Holocaust and the borrowing of wordings created an acceptance for the OvaHerero and Nama cause. Their demand to be recognised as an official negotiating party along with their compensatory claims was not set in stark contrast to Holocaust memorialisation anymore. The remembrance of the OvaHerero and Nama genocide, the demand for an open dialogue with OvaHerero and Nama representatives as well as the issuance of an apology would instead inscribe the genocide into the Holocaust template. Emotional discourses transformed in a way that the 'uniqueness'-narrative of the Holocaust would not be challenged anymore by also remembering the colonial past. Nonetheless, Holocaust memory still is the dominating emotional order. Whereas it functioned as a reference to exclude the 'suffering of the others' in 2001/2003, media reporting construed the Holocaust as a role model of exemplary international 'radiance' in 2017/2018. Nonetheless, integrating the colonial past into national narratives should therefore draw our attention to the reservations pointed out by Ahmed (2004), namely, that 'recognition [would thus] work [. . .] to restore the national or reconcile the nation to itself by "coming to terms with" its own past [. . .]' (Ahmed, 2004: 102).

Conclusion: the postcolonial dilemma in negotiating colonial pasts – prospects of provincialising emotional orders

Since the 1990s, postcolonial memory carriers increasingly sought recognition for the crimes of their pasts which Barkan (2001) and others translated into the global emergence of an international morality. The rediscovery of crimes against humanity provided a juridical instrument which paved the way for the many 'forgotten of history' to renegotiate their past by trying to abrogate the statute of limitations (cf. Barkan, 2001; Sarkin, 2004). However, its application was narrowly linked to the National Socialist past since the term was first defined at the Nuremberg tribunals in 1945. The OvaHerero's case demonstrated how their approach to inscribe the colonial genocide into the Holocaust-narrative was first rejected in 2001/2003. In this article, I reconstructed the discursively produced emotions in media debates over the lawsuits. In doing so, the analysis could show how German media labelled the claim for monetary compensations as morally reprehensible by also revoking the OvaHerero's legitimacy in presenting their demands. As a result – and this is due to the special memory political context in Germany and the place the Holocaust occupies in German memory – the Holocaust is framed as emotional unique which therefore does not allow for any paralleling. Furthermore, the low media coverage in 2001/2003 expressed a non-perceptibility of colonial crime which describes what Stoler (1995) called the 'production of dis-affectation' (Ahmed, 2004: 135).

Scrutinising newspaper articles in 2001/2003 suggests that the Holocaust standing for 'a shared moral memory for humankind' (Craps and Rothberg, 2011: 518) produced a distinct emotional order. In the present analysis, the OvaHerero aligned with the language of genocide to find a voice in official memory politics which displays the discursively structuring effects of emotional discourses. On the other hand, the emotional order is structured insofar as it perpetuates the uniqueness of the Holocaust as the 'ultimate genocide' which explain why a juridical renegotiation of colonial crime as crime against humanity is rejected up until today. Its emotional uniqueness describes a postcolonial dilemma which is reflected in the legal framework in Germany where crimes against humanity are only defined in relation to NS-related wrongs. Despite the sustained rejection to adjust the juridical framework to renegotiate colonial crime, the references however were productive in transforming media content in 2017/2018.

The diachronic comparison indicated that the emotional discourses in relation to colonial crime changed with the filing of the subsequent lawsuit in 2017. In contrast to 2001/2003, the transfer of compensation now is framed as the morally right thing to do. Furthermore, media coverage increasingly depicts the OvaHerero and Nama genocide as a precursor of Auschwitz which highlights the process of inscribing the remembrance of colonialism into the Holocaust template. Consequently, the forgetting of the colonial past is associated with the emotional discourse on shame which can only be overcome by properly remembering the colonial past. Germany therefore needs to match with its high commemorative standards established in relation to the Holocaust. Nonetheless, media reporting particularly focused on the negotiation of shame which Germany would face if not being able to establish an adequate remembrance practise. The postcolonial others, however, are largely side-lined in these debates.

Analysing emotional discourses and emotional orders as structured and structuring mechanisms in memory politics provides a tool to understanding the complexities of emotional discourses. They both perpetuate established asymmetries and alter them at the same time. On one hand, the OvaHerero and Nama case showed that a legal renegotiation of the colonial past is very unlikely because of ordering effects established by Holocaust memory – even if (legal) scholars have recently challenged this consensus (Goldmann, 2020; cf. Samudzi, 2021). On the other hand, the diachronic analysis of media reporting in relation to the lawsuits suggests that new emotional discourses were produced. These discourses not only ascribed emotional relevance to the colonial pasts but also transformed the way in which Holocaust memory and the colonial past were related to one another. The construed interrelatedness of the recent *Historikerstreit 2.0* with the debates on the ‘reconciliation agreement’ between the German and the Namibian government (which was concluded in May 2021) indicates a further gain in emotional relevance of Germany’s colonial past. Additional research will be necessary to address these current changes in emotional discourses and the multidirectional relation between Holocaust and postcolonial memory (for an overview on the criticism of the agreement, see genocide-namibia.net, 2021).

Nonetheless, researchers interested in postcolonial memories should be critical of national interests to integrate ‘their’ colonial pasts since memories of colonialism might be reduced to a matter of ‘reconciling’ the nation (Ahmed, 2004: 102). Provincialisation in the sense of Chakrabarty (2008 [2000]) entails that one must question common assumptions of memory politics and memory theory (cf. Erll, 2011). This includes the integration of emotions as a category of domination, especially since Western knowledge production was for too long associated with rationality. The conceptualisation of emotions as discursively produced orders, that define the structuring as well as structured mechanism of postcolonial memory, helps us not only to understand emotional discourses in the maintenance of power relations, but also to generate a better understanding of the postcolonial present in which we live.

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Notes

1. I employ this term because it is the chosen self-denomination of the OvaHerero instead of ‘Herero’ which is the common terming used in German media reporting.
2. I use this term in quotation marks to emphasise its discursive constructiveness by which the hierarchical produced differences in the recognition of historical ‘suffering’ shall be laid out.
3. All translations of German sources are my own. I accessed the material for my corpus via the archival access provided by Justus-Liebig-Universität Giessen and Staatsbibliothek zu Berlin. My research material, like legislations and enquiries, is in large parts freely accessible on websites of German institutions, like dipbt.bundestag.de/dip21.web/bt.
4. I integrated media reporting of 2003 because the lawsuit was eventually dropped that year. In addition, media reporting referred to the 2001-class action and the question of reparations when then Foreign Minister Joschka Fischer (Bündnis 90/Die Grünen) paid an official visit to Namibia.
5. My translation is an approximation to do justice to the German grammatical structure which is used. By using the subjunctive, the author distances himself from the demands of the OvaHerero, see: ‘Das afrikanische Volk der Herero klagt gegen deutsche Firmen, weil sie an der Vernichtungspolitik des kaiserlichen Deutschlands in Südwestafrika beteiligt *gewesen seien*’ (*italics added*).

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