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Crime and justice administration in the Portuguese colonial war: analysis of the criminal proceedings against combatants

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Centro de Investigação
Interdisciplinar sobre Crime
Justiça e Segurança.



Arquivo
Histórico Militar



Research project

Crime and justice administration in the Portuguese colonial war (1961- 1974): exploratory analysis of the criminal proceedings against combatants of the Portuguese Armed Forces in Angola, Mozambique, and Guinea-Bissau.



Arquivo
Histórico Militar



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Abstract

War provides a unique context of opportunities for crime and research has indicated that the armed forces, involved in these conflicts, sometimes exercise violence beyond the law and war customs. The portuguese colonial wars (1961-1974) were no exception. Sexual violence, forced displacement of populations, torture and execution of prisoners and massacres are some of the deeds the portuguese administration of justice at the time did not ignore. There are already some investigations focused on the analysis of crimes that may have been committed during that conflict. They examine massacres committed by the forces involved; explore military crimes and crimes against the State,; and analyze memory and post-memory of those crimes. None has yet addressed common crimes that have been perpetrated by members of the Portuguese Armed Forces whose criminal proceedings took place within the scope of the territorial military courts (TMCs).



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Abstract

A preliminary investigation at the Military Historical Archive (MHA) revealed that numerous criminal proceedings were initiated during the war. The indicted crimes are multifarious, such as homicides, rapes, assaults, bodily harm, authority abuse, property destruction, thefts, and robberies, among others.

Based on this repository, this communication is part of an ongoing research project that seeks to investigate how these criminal facts were interpreted by the Territorial Military Courts of Angola, Mozambique and Guinea during the colonial war (inJUSTiceWAR, nº2022.05692.PTDC, funded by Fundação para a Ciência e Tecnologia - FCT).. This communication will present a first reflection on the collected data. Based on a descriptive statistical analysis it is intended to present a synthesis, description, and comparison of the most relevant aspects of the collected data.



Research team

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INJUSTICE WAR aims to understand how the crimes presumably committed by the Portuguese Armed Forces (PAF) combatants were interpreted by the Territorial Military Courts of Angola, Mozambique and Guinea, during the colonial war (1961-1974).

Portuguese colonial war/ Independence wars

Angola: February/March (1961-1974)

Guinea: January (1963 – 1974)

Mozambique: September (1964-1974)

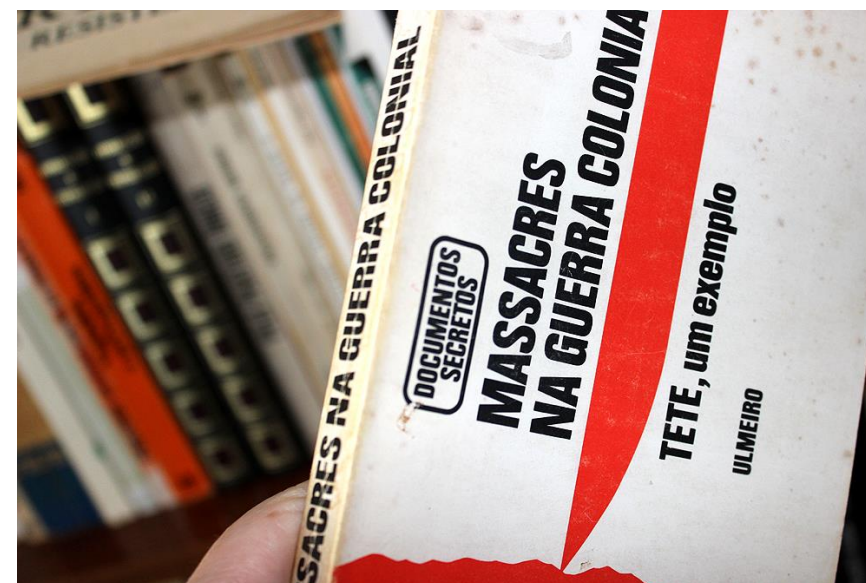
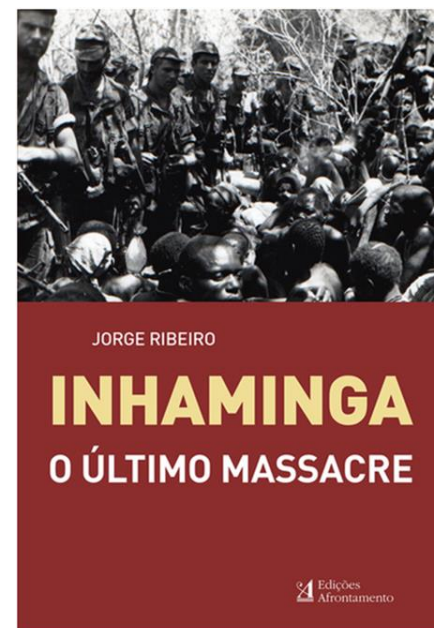
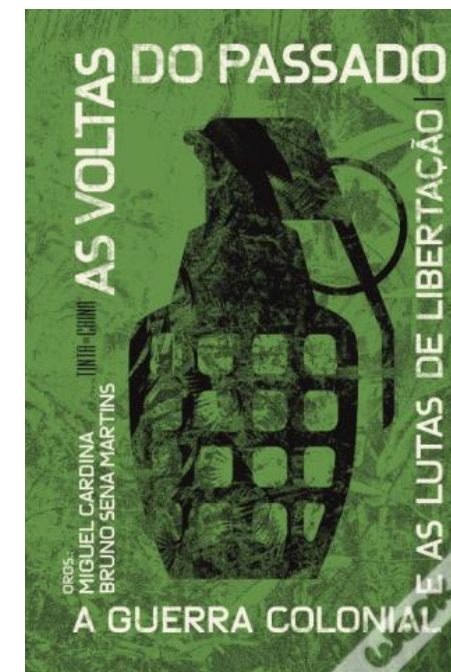
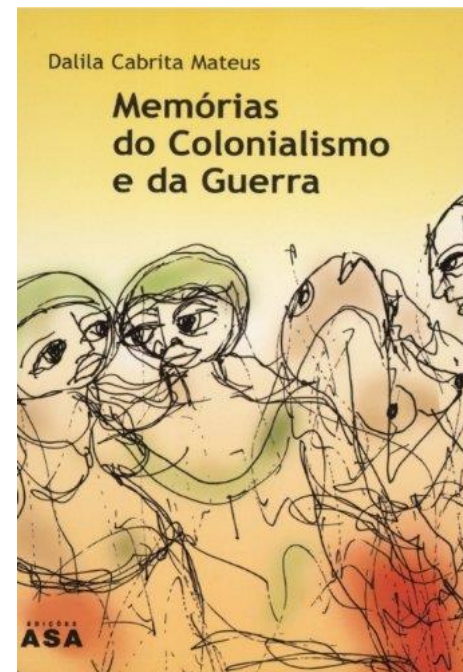
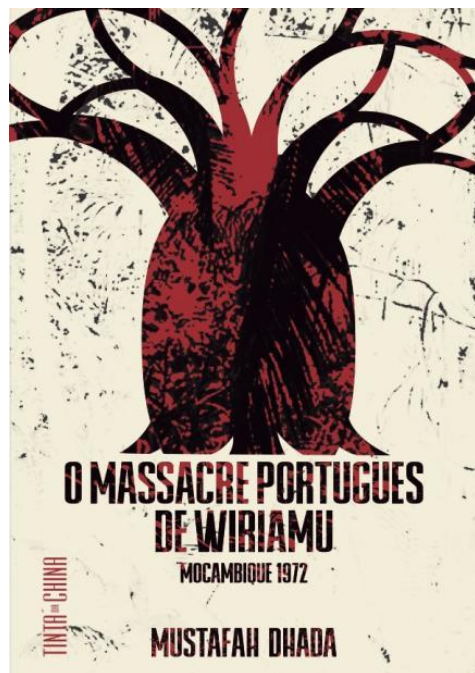
RECRUTAMENTO NOS 3 TO										
(Com base em documentos oficiais arquivados)										
TO Ano	Angola			Moçambique			Guiné			Obs.
	Efectivo	Recrutamento Local	%	Efectivo	Recrutamento Local	%	Efectivo	Recrutamento Local	%	
1961	33 477	5 000	14,9	11 209	3 000	26,8	4 736	1 000	21,1	(a)
1962	44 925	11 165	24,9	11 852	3 000	25,3	5 070	1 000	19,7	(b)
1963	47 400	12 870	27,2	14 246	5 003	35,1	9 650	1 314	13,6	
1964	52 493	15 075	28,7	18 049	7 917	43,9	15 195	2 321	15,3	
1965	57 073	15 448	27,1	22 856	9 701	42,4	17 252	2 612	15,1	
1966	55 816	17 297	31,0	30 588	11 038	36,1	20 801	1 933	9,3	
1967	57 420	14 369	25,0	34 721	11 557	33,3	21 650	3 229	14,9	
1968	58 230	20 683	35,5	36 615	13 898	38,0	22 839	3 280	14,4	
1969	55 574	18 663	33,6	39 096	15 810	40,4	26 581	3 715	14,0	(c)
1970	55 233	19 059	34,5	38 712	16 079	41,5	26 775	4 268	16,0	
1971	62 060	25 933	41,8	44 505	22 710	51,0	29 210	5 808	19,9	(d)
1972	60 317	25 461	42,2	46 723	24 066	51,5	29 957	5 921	19,8	
1973	65 592	27 819	42,4	51 463	27 572	53,6	32 035	6 425	20,1	(e)

justice administration

- War Crimes;
- Crimes against humanity;
- Justice administration in war contexts/related to war crimes ;
- Transitional justice;
- Criminal justice procedure;
- Justice administration of international criminal courts;
- Obstacles to war criminalization;
- Veterans' presence in the criminal justice system;
- Etc..



procedures and discourses of justice administration are structured in a field of forces and tensions that go beyond the legal dimension.



Crimes/violence in Portuguese colonial war

- Massacres (e.g. Wiriyanu)
- Military crimes and crimes against the State (desertion, disobedient conduct, treason, etc.);
- Memory of crimes in postcolonial times.



Up to date, no research has investigated **common crimes** that may have been perpetrated by Portuguese Armed Forces (PAF) members **based on criminal proceedings** that took place within the scope of the Territorial Military Courts(TMCs) of Angola, Mozambique and Guinea.

Exploratory analysis - Military Historical Archive

Documentary research on criminal proceedings

Mixed methodology:

- Interpretative sociological analyses to capture discourses structural elements of procedural march documents;
- Descriptive and inferential statistical analysis to organize, synthesize, describe and compare the relevant aspects of the data set.

Complex sociopolitical context

- Portuguese Dictatorship (1926 – 1974);
- Colonial War in 3 different territories (Angola, Guiné, Mozambique);
- Colonialism (racialized hierarchical order)
- International context that defended the right of self-determination/independence of territories

Some presuppositions of the research

Criminal proceedings

- are understood as discourses that compose a structured space of power and strength relations between the different subjects and institutions participating in it and inscribe representations supported by the sociopolitical and legal order.
- express the State exercising its control of society,

Subjectivity of proceedings decisions.

Hypothesis

The decisions and procedures of the Military Courts of Angola, Mozambique, and Guinea on crimes presumably committed by PAF combatants reveal interpretative schemes, conditioned by legal and extra-legal factors, related to the legal and political framework committed to the Estado Novo regime interests and the colonial order maintenance in the particular war context.

General Objective

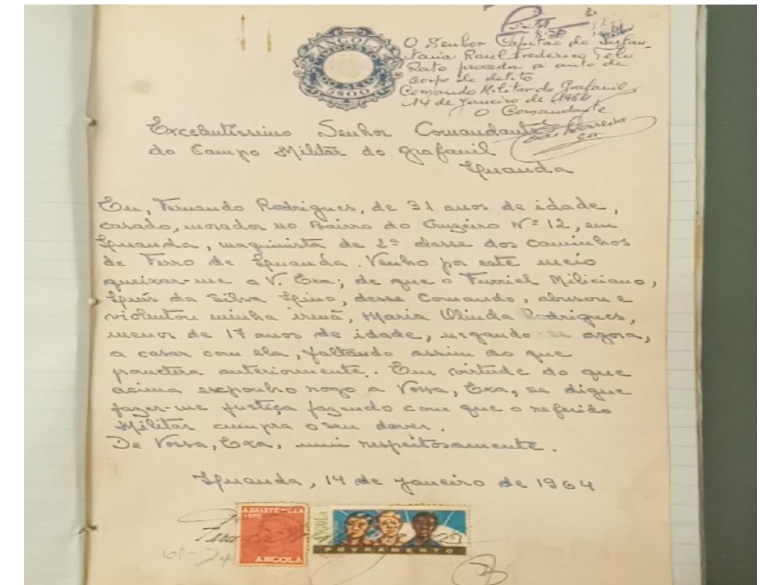
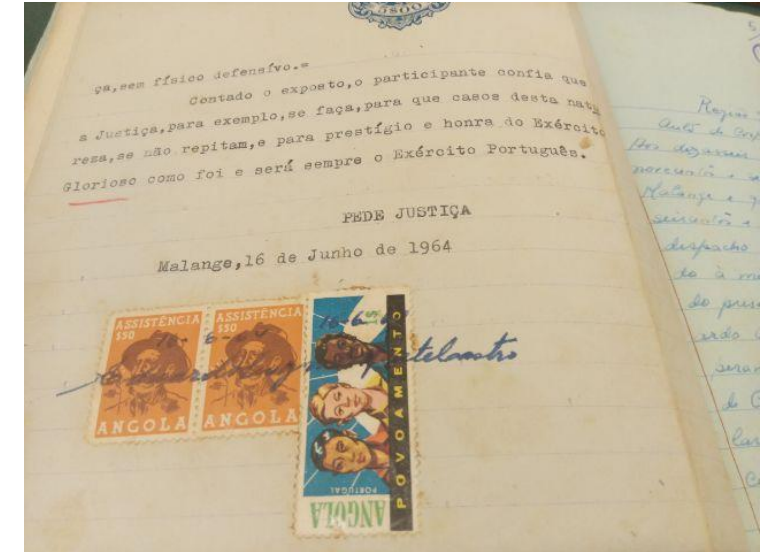
To identify the speech structuring factors of the justice administration on the decisions taken in the course of the criminal proceedings brought to combatants assigned to war scenarios in Africa

Distribution of criminal proceedings by territory and by year

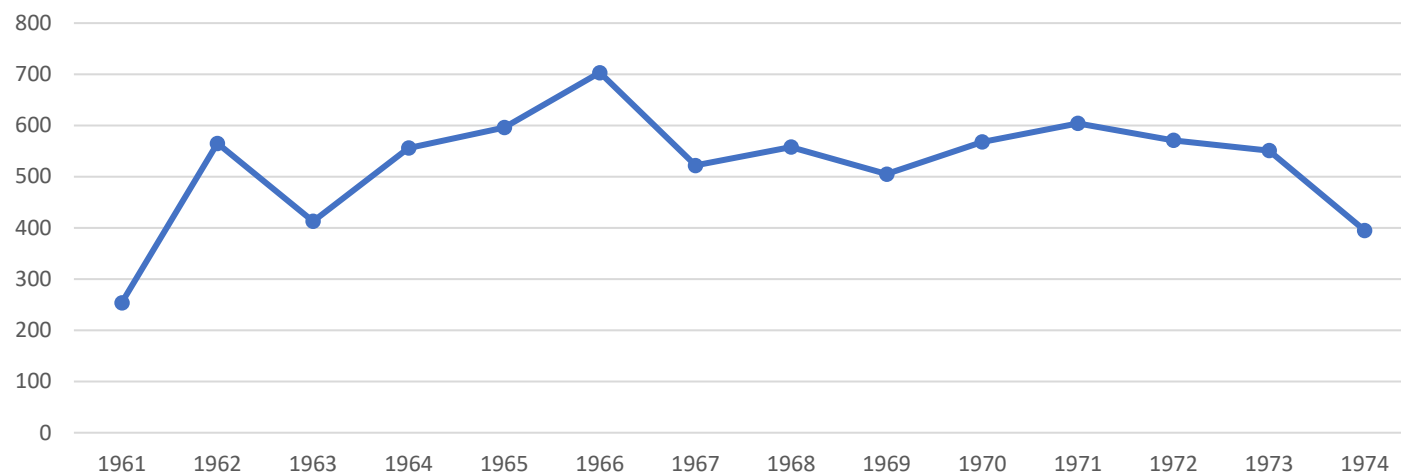
ANO	ANGOLA	GUINÉ	MOÇAMBIQUE	TOTAIS
1961	254	16	0	270
1962	565	21	0	586
1963	413	25	0	438
1964	556	31	0	587
1965	596	42	0	638
1966	703	91	5	799
1967	522	96	0	618
1968	558	82	0	640
1969	505	65	0	570
1970	568	132	12	712
1971	604	119	3	726
1972	571	124	9	704
1973	551	134	9	694
1974	395	31	6	432
Totais	7361	1009	44	8414
	87.5%	12.0%	0.5%	100.0%

INJUSTICE: WAR

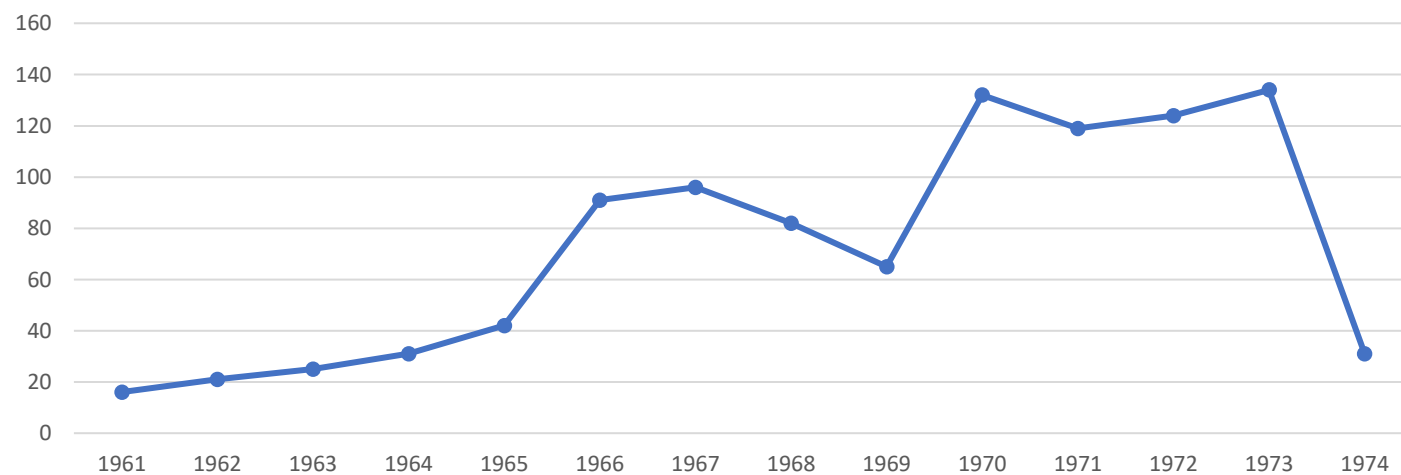
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ANGOLA



GUINÉ



Most frequent crimes

- Desertion;
- Theft;
- Robbery;
- Homicide (involuntary);
- Insubordination;
- Bodily harm;
- embezzlement;
- Rape.

Collecting data/Qualitative Analysis of criminal cases to:

- i) Describe and characterise the criminal facts, the defendants, the victims and the witnesses;
- ii) Identify the procedures and the decisions taken by the administration of justice throughout the process;
- iii) Identify legal and extra-legal factors related to the decisions taken.

Descriptive Statistical analyses:

- to offer a global view of the variation of the values obtained, and to organize and describe those data.

Inferential statistical analysis:

- to test statistical relationships between the characteristics of defendants, victims, witnesses, contexts and the type of decisions taken during the proceedings

What do we expect from the analysis?

**“Interpretative Schemes”
(Giddens, 1984) of the justice
administration**

How values and norms prevailing in a society shaped by war, dictatorial regimes, and colonial relations influence the decisions made by justice administrators throughout the conflict.



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Thank you.

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