Summary

‘Treasures in Trusted Hands - Negotiating the future of colonial cultural objects’ is about cultural and historical objects that the European colonial powers, their subjects and institutions in the course of five centuries took from their colonised possessions and that have remained in their custody. While there is sufficient evidence of the one-way flow of these objects in the European colonial era and of their unequal distribution, there is no consensus on how to deal with the many open and hidden disputes about this. In November 1975 Indonesia submitted to the Netherlands a wish list of ten thousand objects that had disappeared in the colonial period; the Netherlands finally returned only several hundred. In July 2016, the Government of Benin asked France for the return of five thousand cultural and historical objects taken from the West African state in the European colonial era. Such large open claims are exceptional. In most instances, countries-of-origin are asking for the return of relatively small quantities of objects. In practice, former colonisers and their museums are reluctant to honour the requests and many former colonies have given up the idea that their lost objects will ever come home.

During recent decades new insights have emerged and new instruments for dealing with other categories of contestable objects have been adopted. In disputes about colonial human remains space has been created for communities of origin to reclaim ancestral remains and funerary objects. For disputes about Nazi-looted art, the 1998 Washington Conference Principles and other principles have been widely accepted. Although they are non-binding, they have helped people to reclaim art works involuntarily lost during the Nazi-regime. The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and bilateral agreements following from the Convention have changed how disputes about recently stolen or smuggled objects can be handled. For these three categories the option of return has become more accepted.

Why is it so difficult to discuss openly the future of contestable cultural and historical treasures taken in the European colonial era? How massive was the one-way traffic? What makes these objects crucial for the countries-of-origin? What do we know about the ways, in which such objects were acquired? Were the European possessors of the time allowed to take them? Do the countries-of-origin have a basis for their claim to objects? How do the political, economic and cultural changes in the 21st century global village impact on the answers to these questions?

This study has grouped these questions into three major ones:

1. How can the loss of cultural and historical treasures during the European colonial era be charted?
2. What lessons can be drawn from the way other contested categories of such treasures have been handled?
3. How to devise a model for negotiating the future of cultural objects acquired in colonial times, including the option of their return?

To answer these questions, a historical methodological approach has been applied for charting the loss of cultural and historical objects from colonial possessions and to discover
more about these objects’ provenances. Jeannette Greenfield, Lyndel Prott and many others have inspired me to search for examples of (failed) returns of colonial cultural objects and add these to theirs. History and legal studies have helped to uncover the legal protection of cultural heritage in the colonial era and the effectiveness of hard law and soft law instruments for dealing with disputes about colonial cultural objects. I have built on books by Lyndel Prott (legal aspects of return issues), Ana Vrdoljak (restitution claims after internal colonialism), Katja Lubina (Nazi-looted art) and others, and elaborated their ideas for colonial cultural objects. To uncover how objects disappeared from their countries of origin, conflict researcher Johan Galtung’s concept of violence has been relevant. He distinguishes direct, structural and ideological violence; the latter justifies the violent acts and violent processes of the first two. Galtung and other conflict researchers have neglected disputes about colonial cultural and historical objects. To trigger more dialogue about the future of these objects, I have developed a model for negotiating the future of colonial cultural objects, based on the input of conflict researchers and upon the justice and capabilities approach of Amartya Sen and Martha Nussbaum.

One-way traffic

To chart the one-way traffic of objects, the European colonial era has been split into three, sometimes overlapping, periods - colonial expansion, settler and exploitation colonialism and decolonisation. The decolonisation has not been defined as the few years around a colony’s independence but as the period beginning with the rise of anti-colonial groups and the signs of the disintegration of the European colonial empires to the present day. Decolonisation in fact is an unresolved conflict, and contested colonial cultural objects are part of it. Five categories of colonial cultural objects have been distinguished:

1. Gifts to colonial administrators and institutions. The study goes into the deeper layers under a gift. Gifts by local rulers to colonial administrators for instance, were often a sign of subjugation. They reached a peak in the second period.
2. Objects acquired during private expeditions. In many scientific and collecting expeditions pillage and cheating were the dominant acquisition methods; in some others, local inhabitants benefitted from exchanges.
3. Objects acquired during military expeditions. Victory often meant confiscation of the symbols of the defeated ruler and other booty. The Lombok treasures, taken by Dutch soldiers in 1894, and Benin objects, captured by British soldiers in 1897, are iconic cases. Italy confiscated war booty from Ethiopia, and Japan from China and Korea halfway through the 20th century. From new research findings one learns that many more objects were acquired as war booty than had been previously thought.
4. Missionary collecting. Missionaries committed large-scale iconoclasm, not infrequently helped by local headmen, who had their own rationale for turning to Christianity. The freedom of movement of missionaries, scientists and collectors in European colonial possessions and the distribution of objects in European countries increased the European dimension of colonial collecting.
5. Archives. Archives are often connected with political power. If they contained incriminating or commercial information, colonisers sometimes had them destroyed or took them to the metropole upon their departure.
The ideological violence, practiced by the colonisers led to more rough and random confiscation of objects in South America and Africa than in Asia. Colonial actors despised religious objects belonging to indigenous religions in Africa and South America but were eager to acquire objects associated with Buddhism and Hinduism. Another finding is that several colonial officials, missionaries and scientists, as well as contemporary heritage officials, from former colonial powers have been crucial in the protection and sometimes the return of colonial cultural objects. Their role shows that return issues ought to be part of their professional ethics.

Returns

Through the years, there have been many returns. This book compares five sets of negotiations between former colonies and former colonisers that took place in the 1970s and 1980s, including the return of objects - those between Indonesia and the Netherlands, between DR Congo and Belgium, between Iceland and Denmark, between Greenland and Denmark, and between Papua New Guinea and Australia. The outcome yields elements for a model for negotiating the future of colonial cultural objects. The returns were rarely generous, and in most instances they were a means in the cultural diplomacy of a country to promote other foreign policy goals. The Dialogue that Nigerian cultural authorities and some Western museums began in 2010 about the future of Benin objects (confiscated by British soldiers in 1897) is also described and discussed. Its vicissitudes show the need for a 21st century model for dealing with this sort of disputes.

The book has Boxes with dozens of incidental, both successful and failed, returns. It is hard to discover general lines in these, but they offer insight into the relations between former colonies and former colonisers. UNESCO’s ICPRCP (Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries-of-origin or its Restitution in case of Illicit Appropriation) has solved very few return-disputes.

All in all, (1) incidental returns, (2) returns facilitated by the ICPRCP and (3) returns resulting from bilateral negotiations are a dripping tap, certainly if compared to the voluminous one-way flow of objects in the European colonial era. They have not changed the serious maldistribution of cultural heritage from colonial possessions.

Colonial human remains and Nazi-looted art

There are no hard law instruments that offer a legal remedy for dealing with disputes about colonial cultural objects. The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects are not retroactive. However, both mention the possibility of bilateral agreements on return of cultural objects removed before the entry into force of the convention, thus, in principle, covering colonial cultural objects. Many present possessors have pedigrees of their objects and made their acquisitions in good faith. The time to claim these has been barred. The legal relevance of these conventions is limited, but their making showed the urge among former colonies to retrieve treasures looted or otherwise removed in the colonial era. China tried to include a retroactivity clause but failed due to the resistance of former colonising powers.
Can one learn anything from dealings with disputes about colonial human remains and Nazi-looted art works? Only one former colonial power, the USA, has legislation for dealing with human remains of its *internally* colonised inhabitants - the 1990 Native American Graves Protection and Repatriation Act (NAGPRA). It enables native groups in the USA to recover human remains and funerary objects from federal agencies and federally funded museums. There are several soft law instruments, however. For negotiating the future of colonial human remains museum associations have issued codes of conduct. They are helpful, but returns by European museums of such remains are fragmented.

For Nazi-looted art works several declarations of principles have been accepted. This book discusses similarities and differences between Nazi-looted art works and contestable colonial cultural objects. It also translates the 1998 Washington Conference Principles into nine Principles for dealing with colonial cultural and historical objects. They have to do with pro-active research and more openness about the provenance of colonial cultural objects. The nine principles can help to strengthen the commitment of former colonisers and their museums to discuss the presence of such objects in their collections.

Model for negotiating the future of colonial cultural and historical objects

Based on (1) the study of bilateral negotiations between former colonisers and former colonies, (2) incidental returns of colonial cultural objects and (3) insights from conflict studies, the book presents a model for negotiating the future of colonial cultural and historical objects. Since many conflict resolution models are available, the invention of a new has not been attempted. The model presented is based on these others and adjusted to dealing with colonial cultural objects. It consists of seven phases and four guidelines.

**Phases**
0: Facilitating factors
1: Inviting the Other Party
2: Preparation by the Two Parties:
3: Approach of the Other Stakeholders
4: First round of Decision-making
5: Deepening
6: Second and Subsequent Rounds of Decision-making

**General guidelines**
1. Take your time
2. Show commitment
3. Address (in)equality
4. Address underlying interests

The model emphasises that negotiations about colonial objects can be lengthy and consist of several rounds. While in the bilateral negotiations of the 1970’s and 1980s only two stakeholders - two states - were involved, the 21st century might require room for non-state stakeholders as well. Stakeholders should be aware of unproven assumptions and hidden interests of others and themselves. The nine Principles for dealing with colonial cultural and historical objects are a crucial part of the second guideline, ‘Show commitment’. Equality is a major issue and difficult to handle.
The model is meant for dealing with disputes about contestable objects; one can think of war booty, objects confiscated by missionaries and objects taken by private persons and institutions in violation of the then laws. It can be used to change the maldistribution of ancient objects between the extensive collections in the West and the often meagre collections in countries-of-origin. It can help in discussing objects that are needed more in a former colony than in a museum or in a private house in a Western country. The model has a built-in guarantee that all stakeholders are respected and painful questions can be raised and are addressed.

The book concludes that it is time for Europe, for the former colonisers, to put their house in order, to face a neglected aspect of their colonialism, to do more pro-active provenance research into the acquisitions from the colonial era, both in public institutions and private collections, and to become genuinely generous in taking the consequences of it. New return policies should be developed, not to serve as a means of cultural diplomacy and to promote other foreign policy goals, but for the sake of justice and the colonial cultural and historical objects themselves. These treasures deserve to be in trusted hands.