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Treasures in Trusted Hand
Negotiating the future of colonial cultural objects

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Preface

Thirty years ago I met a poetess. Me’aza made poems about her dream - self-determination for her country and the whole of Africa. She knew them by heart, had never written down a single line and made new verses on the spot. People loved Me’aza. I met her in the eroded mountains of Northeast Africa, her hamlet under control of rebels. We had walked all night, as it had been too cold to lie down and sleep. The double local whiskey that she offered us at six in the morning was in more than one sense heart-warming. I estimated her age between 60 and 70. When I asked how old she was, Me’aza answered that she was four! Four? Yes, four! How come? ‘Four years ago I really started my life. I became aware of what was going on in the world. I began to make poetry. So it was then, that I was born.’ At the age of four, one watches the world as something not-yet-known and to be conquered, threatening and thrilling. One is explorer, open-minded, self-confident and naive.

I am now of the same age as the poetess then and have a dream too. On top of a round table stands a cultural object, acquired in the European colonial era and far removed from its place of origin. Around it sit its major stakeholders. They talk about their involvement with the object and help to compose its biography. The exchange can be tough, but in the end they jointly decide about the object’s future and choose where the object should be in trusted hands.

Four years ago I began an academic project, picking up the subject of what to do with treasures that had left their country of origin for far-flung destinations during the European colonial era. Until then I had studied the illicit trade in art and antiques from vulnerable countries to art market regions and had begun to understand the mechanisms of the trade and its local variations. A lot of sad news came out of it. To focus on return would enable me to keep studying the same subject from a more constructive angle.

At the start, I did not realise how much the new research would turn upside down my insights into how one can deal with contested cultural heritage. I felt four years old, making a new world my own. Unlike the poetess, I have written down my lines. Nor have I been under control from rebels or anyone else. I am solely responsible for the contents of this book, but like Me’aza, I welcome you to take my lines to you. Hopefully they are heart-warming.
About this book

This study is the result of a fascination with the fate of the material cultural heritage of mostly vulnerable countries. The large-scale presence of cultural and historical objects in public and private collections in the countries of the former European colonisers raises serious questions. I discovered that my own country, the Netherlands, returned a few colonial cultural objects to Indonesia in the 1970s, but after this nothing had happened, even though Indonesia and other former colonies had been outspoken about their longing for such objects.

Whether anything can and should be done to change the maldistribution is the subject of this study. It charts and analyses the disappearance of cultural objects from their places-of-origin during the European colonial era and the returns that have taken place in order to develop a model for negotiating the future of such objects.

The study consists of six parts.

Part I, Introduction, explains why the future of colonial cultural objects is a pertinent subject and introduces the three main questions of this book. The ‘how’ of the answers - research methodology, use of sources, etc. - is presented. Frequently used concepts are described. A typology of colonial cultural objects is offered.

Part II, Colonialism and cultural objects, aims at an overview of the disappearance of cultural objects during different periods of European colonialism. It defines decolonisation as an unresolved conflict and colonial cultural objects as a major, be it underexposed, element in this conflict.

Part III, Colonial cultural objects and the law, considers legal and protection measures taken in the colonial era and thereafter. It lists the first return claims by former colonies. A comparison is made with colonial human remains and Nazi-looted art. The 1998 Washington Conference Principles for Dealing with Nazi-looted art are translated into principles for dealing with colonial cultural and historical objects.

Part IV is a case-study of the Netherlands and Indonesia. It analyses in two steps the ambiguities in the negotiations in the 1970s between the two countries for new cultural relations and the return of objects. The first step is based on contemporary archives and documents. The second is a complement to the first with insights of recent research. Based on this, elements are sought that can become part of a model for negotiating the future of colonial cultural objects.

To map the one-way traffic of objects better and find more elements for the model, Part V offers case-studies of other negotiations for bilateral agreements in the 1970s and 1980s - that between Belgium and Congo, between Denmark and Iceland and Denmark and Greenland, and between Australia and Papua New Guinea. The on-going dialogue between
Nigeria and some Western museums about the Benin objects in their possession is also included. Part VI, New insights, a new approach, answers the three main questions and presents a model with seven phases and four general guidelines for negotiating the future of colonial cultural objects.

**Keywords** Australia, Belgium, booty, collecting, colonialism, objects, colonial human remains, conflict studies, cultural heritage, decolonisation, Denmark, DR Congo, Europe, gift, Greenland, history, Iceland, iconoclasm, Indonesia, legal studies, Nazi-looted art, the Netherlands, Papua New Guinea, restitution, return.
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I am also grateful to my children, my family and in-laws, my friends, neighbours and other people close by who gave moral support or showed interest into the topic. It has strengthened our bonds.

A special word of thanks is due to my supervisors. First of all chief supervisor, Prof. Dr. Susan Legêne. From the start you were enthusiastic about my topic. You helped me in the transition from research journalist into academic researcher and taught me what discipline means in academic terms and to enjoy this new acquirement. You were generous with advice and shared part of your own archives. You never forced your own opinions on me but helped me discover my own path and focus. Prof. Dr. Wouter Veraart, my second supervisor, with patience, precision and suggestions you helped me to better master principles of law and justice and their relevance for colonial cultural objects. You challenged me to keep focussing on the main argument in this book.

Finally, Louise Boelens, my partner who supported my undertaking from the beginning (as all other projects) and lovingly accepted all the time-consuming disquiet surrounding it. Thank you for this and for being a dear and valuable sparring partner for developing so many ideas in this book.

I dedicate this book to Louise and our sons, Olmo and Benji.

Utrecht, September 2016
Part I

Introduction

Chapter 1 explains how a growing awareness about the pillage and smuggling of cultural heritage from vulnerable countries, visits to sites and museums in former colonies, investigations in the port of Rotterdam and other experiences have inspired me to take up this research. For a description of the global context, a few far-reaching changes are mentioned, including some that impact on colonial cultural objects. The three main questions of this book are formulated, followed by a description of how they will be answered. Since return and colonial cultural object are key terms, Chapter 2 gives their definitions. Other concepts - provenance, violence, hard and soft law and others - are also described. The challenge comes at the end - a typology of colonial cultural objects, consisting of five categories. They are based mostly on the way in which they were acquired. This typology will be used throughout the research.
Chapter 1
A neglected issue in an evolving world

During negotiations about cultural relations in the 1970s the Netherlands and Indonesia did not solve the question of the whereabouts of a *kris* (dagger) of national hero Pangeran Diponegoro (Legêne & Postel-Coster 2000: note 359). This kris, which the Javanese rebel leader had to surrender to the Dutch in 1830, is crucial to Indonesia, but nobody knows where it is. Inquiries of museums in the Netherlands, Austria and Indonesia have helped only to discover where it most probably is not (Van Beurden, J. 2012).

In March 2013 the National Commission for Museums and Monuments of Nigeria, a representative of the Oba (traditional King) of Benin and curators of some European ethnological museums met in Benin City, Nigeria to discuss treasures in European and Nigerian museums seized during a violent British action in 1897. On the occasion of an exhibition in Vienna’s World Museum in 2007, the Oba had put forth the possibility of a return of some objects (Plankensteiner, Ed. 2007: 13), but the museum’s answer had been a decided negative as they were state property and thus inalienable. The uneasiness that this created led to the meeting in Benin City.

Why is it difficult to search for the kris and to conduct a dialogue about the future of the Benin treasures? Why has a Dutch-Indonesian commission not ended the uncertainty? Why did the Viennese World Museum respond so brusquely to the Oba’s modest request? What had happened before when these and many other objects changed hands in the European colonial era? Were the then European possessors allowed to take them? What makes these objects crucial for the countries-of-origin? What happens when these countries claim objects that went missing during the European colonial era? Do they have a basis for their claims?

1.1. Decisive experiences

From the early 1990s I have studied the current looting, smuggling and preservation of cultural heritage in Asia, Africa and Eastern Europe. Africa curator Rogier Bedaux of the National Museum of Ethnology - henceforward called the Museum Volkenkunde - in Leiden made me face facts about the one-way illicit traffic in cultural heritage from vulnerable countries. During a visit to Djenné in Mali I noticed how looters had damaged almost half of
the archaeological sites around the city. Malian National Museum director Samuel Sidibé impressed me by not blaming colonial powers exclusively for it. Both countries, including his own, and art market countries are part of the problem. The 1991 exhibition of ancient Tellem Textiles from the Bandiagara burial caves, held in the Netherlands and Mali, was an example of cooperation on an equal footing. Mali owned the textiles. Dutch scientists helped to clean and preserve them and, in exchange, Museum Volkenkunde could keep half of them on a long-term loan (Bedaux 1998: 18). The exhibition Treasures from the Niger Valley, from 1993 onwards travelling through Europe, the USA and West Africa, indicated the necessity for improved protection. Visiting Mali again in 1998, the looting of sites around Djenné had increased to two-thirds, but by then the country had entered into a bilateral Cultural Property Agreement with the United States, covering the illicit trade in objects from the Niger River Valley, the Tellem burial caves and Palaeolithic era sites.

In 1996 at the port of Rotterdam, I witnessed how a Dutch art dealer was caught smuggling two celestial nymphs from the Angkor region in Cambodia and thirteen bronze Buddha heads from Ayutthaya in Thailand. Both were World Heritage sites. Due to media coverage and outcries both from the public and in parliament the objects were returned. In the Netherlands it created sympathy for the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. For Cambodia it was the first time that a Western country helped to return stolen treasures. During a visit in 2004 the Cambodian authorities failed to show the two nymphs. At the time of their return in 1997, they explained, conditions in the country were chaotic, but with more cultural police and temple guards the Angkor Wat complex was now better protected. The National Museum in Phnom Penh showed other returned objects (Van Beurden, J. 2010).

These experiences made me advocate a dialogue between the different stakeholders and for more cultural self-determination for source countries (Van Beurden, J. 2001a: 102, 104). With like-minded professionals from cultural and enforcement agencies in Europe in 2002 a network for the preservation of cultural heritage was set up, and returns of illicitly acquired objects began to attract my attention.

In 2002 in the Declaration on the Importance and Value of Universal Museums some major Western museums asked for the recognition of the consideration that objects acquired in earlier times had to be viewed in the light of different sensitivities and values, and promised to act more ethically with new acquisitions. In the same period the People’s Republic of China, South Korea, Turkey, Greece, Egypt, Ethiopia and Peru listed objects and collections outside their territories to which they made claims to be returned. Italy challenged museums in the United States for illicit acquisitions and retrieved important treasures. Italy summoned the National Museum of Antiquities in Leiden to court because of the purchase of an Etruscan cuirass at the annual TEFAF art fair in Maastricht. Its return would be a first - the first contribution from Europe to an exhibition in Rome of illicit acquisitions, which otherwise had been retrieved from museums in the USA. When a Dutch

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judge rejected the claim due to lack of evidence, the Italians lost interest. Later on the Leiden museum let the Italian authorities know informally that it was willing to discuss the case. Italy never responded (Van Beurden, J. 2006b).

I discovered more returns of recent and colonial tainted acquisitions by the Dutch state and public institutions. Of thirty-four instances that I found, eleven concerned colonial cultural objects. Most returns had taken place in the 1970s and 1980s. Among the recipients were the former Dutch colonies of Indonesia, Australia, Suriname and Aruba (Van Beurden, J. 2012: 53, 56). Since then there have been scarcely any returns of colonial cultural objects.

Recent decades have witnessed increasing consensus on how to deal with human remains outside their place of origin and art works that disappeared during the Second World War. For both categories soft law instruments have been developed. The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property has opened avenues for tackling theft and smuggling of cultural heritage.

However, there is no consensus on what to do with objects and collections that were acquired in a contestable manner during the European colonial era. This challenged me. What sort of objects is meant? How were they acquired and how did they come to the Western world? Who were involved then, who are involved now? What was and is justice in this case? The choice of colonial cultural objects is also prompted by developments that have influenced the world since, say, the end of the Second World War.

1.2. Changes that matter

The risk of oversimplification makes it hard to describe changes in the world after the Second World War. The next lines focus on changes relevant for this study. An obvious one is the independence of colonies in Asia and Africa. In Asia the War had functioned as a ‘catalyst’ for independence. In African colonies it became more a ‘cause’ for it; their path to independence was longer (Shipway 2008: 233). Most South American colonies had already gained independence at the start of the 19th century.

Another change is globalisation. The increasing interconnectedness of humans and places is of all times. Early in the 17th century the silver-for-silk trade connected global players, the silver came from Spanish controlled South America, the silk from China, the two precious goods being exchanged in the Spanish trading post of Manila. The spread of agricultural products and diseases and the trade in enslaved Africans during the European colonial era were as much expressions of globalisation as the present dispersion of Chinese products in Africa and East Asian IT instruments throughout the globe. The present globalisation began in the 1960s. Thanks to computer networks, connections became faster, intellectual resources more available and mass media were boosted (Appadurai 1996: 3). Globalisation influences people differently - captains of industry more than female heads of remote households, port cities more than their hinterland, near things and events more than

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4 See chapter 5 on decolonisation.
distant ones (Ghemawat 2011: 55, 57). Terrorist attacks, the economic crisis and the refugee crisis are no longer isolated events but expressions of global imbalances with direct consequences for more and more people. Globalisation has given rise to an often populist nationalism and protectionism: whereas national borders ‘still matter a great deal […] so do flows across them’ (Ghemawat 2011: 17).

There is an unmistakable global power shift. In the mid-19th century European countries were ‘challenging the Chinese, pushing Persia out of its sphere of influence in the Caucasus, invading north Africa, forcing the Ottomans to open up their markets, promoting Christianity in Indo-China and eying a long-secluded Japan’. They could do so thanks to their ‘new technologies, superior information gathering and attractive trade terms’ and their ‘capacity to kill’ (Mishra 2012: 39 - 40). Europe’s domination became Western supremacy when the USA made territorial gains after the Mexican-American War (1846 - 1848) and in 1898 captured three Spanish colonies, Cuba, Puerto Rico and the Philippines (Burbank & Cooper 2010: 265, 321, 322). In the 1870s Japan joined the Western colonial powers when opening up Korea and China for free trade (Burbank & Cooper 2010: 302). In 1895 it defeated China and gained control over Taiwan and parts of Manchuria. In 1905 Japan won the Battle of Tsushima against Russia. After the Second World War, West European and East Asian countries passed their power to the USA and the Soviet Union. Nowadays the USA, China, Russia and some others dominate the world. Some scholars (Chakrabarti 2000; Maddison 2007; Mbembe 2015: 16) argue that the European colonial domination was an interruption of Asian, and particularly Chinese, domination and that Europe deserves a smaller place in the global order. For others (Gill & Raiser 2012), Europe’s power remains considerable.

At the moment three global changes have direct consequences for colonial cultural objects: (1) cultural globalisation and cultural localisation, (2) more supranational legal measures and (3) a renewed discussion about restitution.

Globalisation has two seemingly opposite dimensions. Globally, a transnational business elite is emerging. Popular cultures and an intellectual culture are being created. Transnational social movements are arising. There is ample evidence of business elites in former colonies that collect and repatriate (colonial) cultural heritage and start new museums. This is seen most strongly in the People’s Republic of China, where the art market is growing rapidly and cultural heritage activities abroad expand (McAndrew 2013:

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Russia and the United Arab Emirates excel in numbers of wealthy collectors. Governments of Gulf countries support new museums and other cultural infrastructure (Kluijver 2012: 75). In Africa, the increase of wealthy art collectors has remained largely unnoticed because of the focus on European and American collectors of African art. In source countries civil society organisations have become active; they operate because of the absence of government efforts, or to complement these.

The other dimension is an ‘increasing emphasis on cultural difference’, a cultural localisation. People use their cultural heritage ‘creatively in finding their own path through the modern world’ (Geschiere 2009: 156, 157). It can have both positive and negative developments. The positive leads to a stronger self, without antagonising the external world or preaching down other cultures. The rise of regional and local museums and cultural festivals in numerous places expresses this tendency. A negative expression is increased antagonism towards the external world. In the material cultural heritage field this can lead to iconoclasm.

Something should be said about the wilful, intentional and humiliating destruction of other people’s religious and cultural images (Gamboni 1997; Noyes 2016). Noyes emphasises its political nature and links iconoclasm with the construction of the modern state and the extension of one’s sphere of influence at the cost of others. When aimed at one’s own religion or denomination, iconoclasm is also purifying (Gamboni 1997: 246; Noyes 2016: 92). The concept has long been applied in a European-Christian centred way, covering three waves - in the Byzantine church in the 8th and 9th century, in Christian North-western Europe in the 16th and 17th century and in the aftermath of the 1789 French Revolution. Noyes expands the spotlight to include iconoclasm in the Arab world (Noyes 2016: 166 ff). Recently there have been iconoclastic eruptions against other religions and cultures as well. UNESCO names them ‘cultural cleansing’, which is a war crime. Cultural cleansing also encompasses the immaterial heritage of the community involved. Gamboni, Noyes and most others do not mention one of the most extensive waves of iconoclasm - the wilful destruction and confiscation by foreign missionaries of ritual objects from other religions and cultures in the colonial period. This is dealt with elsewhere (2.3.4.).

The second change affecting colonial cultural objects is an increase in global and regional institutions and legal instruments to promote global justice and human rights (Stuurman 2010: 472). General expressions of this can be found in the era of human rights that began in reaction to the horrors of the Second World War (Stuurman 2010: 436) and the on-going discussion about the impact of the slave trade in the colonial era (Mbembe...
An example of the latter is the 2014 Declaration of Latin American and Caribbean countries for reparations for slavery and the genocide of native peoples. UNESCO Conventions and other hard law instruments for the protection of cultural heritage and the adoption of non-binding principles for dealing with Nazi-looted treasures are more particular expressions. The appearance in September 2015 of an alleged fundamentalist before the International Criminal Court in The Hague to account for the destruction of nine mausoleums and one mosque in Timbuktu in 2012 had been impossible before.

The argument often heard in former colonies that these instruments for global justice are white Western inventions is debatable. On the one hand, such ideas were to be found everywhere. Indian Emperor Ashoka (3rd century BCE) argued against intolerance and in favour of understanding (Sen 2009: 75). Moghul Emperor Akbar (16th century CE) studied social and political values and legal and cultural practices (Sen 2009: 37). Representatives of former colonies played key roles in the formulation of the 1948 UN Declaration of Human Rights (Stuurman 2010: 447 - 449). Countries in South America were prominent in setting up the 1970 UNESCO Convention (Prott 2009: 12). On the other hand, former colonies rarely used these instruments to support claims to colonial cultural objects (Moyn 2010: 85). This second change is later elaborated (6.2.1.; 6.2.2.).

The third change is a renewed restitution discussion. After the fall of the Berlin Wall in 1989 and the disintegration of Eastern Europe, the past of this continent had to be redefined and restitution became a key element in his redefinition (Vrodljak 2011: 200). Initially it was about the restitution of confiscated estates, factories and other economic properties to their former owners (Barkan 2000: 112, 113), but soon it also covered cultural objects confiscated after the 1917 Russian Revolution or during the breaking up of Germany after the Second World War. It opened up the possibility of objects in public collections being returned to private collections. Among these objects were also colonial cultural objects. One example was the Great Zimbabwe Bird, which the Soviet Union handed over to Germany after 1989, while in 2004 Germany transferred it to Zimbabwe (see Box: Incidental returns of colonial cultural objects). Another concerned Benin objects in the University of Leipzig. Between 1900 and 1930 these had been acquired by professional collector Hans Meyer. After 1989 his descendants claimed the objects. The museum argued that restitution ‘would be almost as tragic as the original removal of the objects of the Oba’s palace nearly a century ago’. At present, the treasures are still in the museum.

18 Drafting Committee: Charles Malik (Lebanon), Alexandre Bogomolov (USSR), Peng-chun Chang (China), René Cassin (France), Eleanor Roosevelt (US), Charles Dukes (United Kingdom), William Hodgson (Australia), Hernan Santa Cruz (Chile), and John P. Humphrey (Canada), http://www.un.org/en/documents/udhr/drafters.shtml (May 23, 2013). Chang was the intellect behind the Declaration; Malik and Roosevelt were the political motor, Twiss, Sumner B. 2008. Confucian Ethics, Concept-Clusters, and Human Rights, in: Littlejohn & Chandler [Eds.], Polishing the Chinese Mirror: Essays in Honor of Henry Rosemont, Jr. ACPA Series of Chinese and Comparative Philosophy, Global Scholarly Publications, New York: 61.
During the last decades cultural objects have been transferred incidentally to their countries-of-origin. They make the diversity in motivation behind such transfers visible - a gift because of a country’s independence, a donation to gain a lucrative industrial contract, restitution based on a Treaty obligation, a voluntary return by a non-state owner or a long-term or easily renewable loan. The list below (Box: *Incidental returns of colonial cultural objects*) is chronological and without pretention to completeness.

**Box: Incidental returns of colonial cultural objects**

*UK to Ghana*  In 1985 the family of Captain Jackson donated an Ashanti stool, which he had appropriated during the British ransacking of the royal palace in Kumasi in 1874 (Greenfield 2007: 122; Opoku 2011b: 9).

*USA to Malawi*  In 1989, on the occasion of Malawi’s silver jubilee of Independence, the Whatcom Museum in Bellingham City, WA, sent the Cox Brothers’ Collection of 91 Malawian artefacts to Malawi’s National Museum.  

*UK to Australia*  When approving in 1900 the merge of six British colonies in Australia into a Commonwealth with its own constitution, the British Parliament kept one folio of vellum of the Constitution Act. Although its return was resisted in the UK as ‘it would break an unbroken series of archives stretching back to the thirteenth century’ (Magnusson, in Greenfield 2007: 8), the folio went back in 1990 as a ‘gift of inestimable value’. Australia saw the object that had ‘always been Australian’ not as a gift but as a restitution.

*France to Algeria*  To promote reconciliation, in 2003 French President Jacques Chirac gave the seal of Husseyn Pacha, ceded after his surrender in 1830 to the French colonial authorities, to Algeria (Leturcq 2008: 85 - 86).

*Germany/South Africa to Zimbabwe*  In 2004, the Prussian Cultural Heritage Foundation repatriated the lower half of its Great Zimbabwe Bird. In 1889 a South African trader had taken the sacred object from the ruined city Great Zimbabwe to Germany, thereby neglecting protests of local Shona people. After the Second World War it was brought to the Soviet Union and after the collapse of that regime it was sent back to the Prussian Foundation. The upper part had always remained in Zimbabwe. When the two were reunited in an exhibition in the Royal Museum for Central Africa in Tervuren in 1997, Zimbabwe’s President Mugabe asked for the lower half’s restitution. The Prussian Foundation only agreed when the transfer was not defined as restitution but as permanent loan. In 1981, the South African Museum in Cape Town had already returned some carved birds from Great Zimbabwe (Greenfield 2007: 374).

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Japan to South Korea  In 1709, Koreans erected Bukgwandaechopbi, a stone monument to commemorate the 1593 victory of Korea’s general Jeong Mun-bu over Japanese invaders. Japanese forces had taken it during the 1905 Russo-Japanese War and offered it to the Japanese Emperor. One hundred years later North and South Korean Buddhist monks mediated its return to North Korea, where it was reinstalled on its original pedestal (Scott, G.R. 2008: 845).

Italy to Ethiopia  Based on Article 37 of the 1947 Peace Treaty, in 2005 Italy restituted to Ethiopia an obelisk, carried off by Italian soldiers in 1937, the fourth object restituted. In 1972 a throne of Emperor Haile Selassie, a chair of Empress Menen and a statue of the Lion of Juda were sent back. The throne and chair are now in Ethiopia’s National Museum. The Lion of Juda stands in front of the Railway Station of Ethiopia’s capital. Italy had postponed the restitution of the obelisk as long as possible and did not hand over the numerous other objects covered by the Peace Treaty (Campbell 2014: 228).

Italy to Libya  The same 1947 Peace Treaty obliged Italy to return a headless marble statue, the Venus of Cyrene. Italian troops had found it by chance in 1913, a few years after conquering Libya. In 1989 the authorities in Tripoli requested its return. In August 2008, Libya welcomed the Venus, its restitution being an Italian effort to normalise economic and political relations with its former colony (Chechi ea. 2012: 5).

Netherlands to Indonesia  In the 1980s the Order of the Capuchins in the city of Tilburg began to consider the return of textiles, ritual and other objects gathered in the colonial era to their place-of-origin - Kalimantan and Sumatra in Indonesia. ‘It was difficult to store them, and after all, they are theirs’, said mission procurator Huub Boelaars (Van Beurden, J. 2012: 38). With the help of the Amsterdam Tropenmuseum in 2009 the Order sent objects to two regional museums, complemented by some objects of the museum.

France/ Japan to South Korea  In 2010, 297 manuscripts of the Joseon Dynasty from between 1600 and 1900 were returned by the Bibliothèque Nationale in Paris to South Korea (4.1.). French soldiers had confiscated them in a raid in 1866. As they were part of French national heritage and therefore inalienable, the transfer was defined as a renewable loan. No one has the illusion that South Korea will ever return them. The books had been digitally recorded in 2005. A curious detail is that the French government, when it was seeking a contract for the construction of a high speed train in South Korea in 1993, had already handed over one manuscript (Hershkovitch & Rykner 2011: 72, 73).

In 1966, Japan returned 1,431 objects and in 2011, over twelve hundred ancient manuscripts, 167 of these from the Joseon Dynasty. In 1922 the Japanese colonial governor who had...
taken them donated them to Japan’s emperor (Scott, G.R. 2008: 846). Japan wanted to improve relations with government and people of South Korea, an unresolved issue being former Korean comfort women working for Japanese military. The Japanese gesture was a return, which enabled South Korea to designate the manuscripts as national cultural heritage.

**US to Costa Rica** In 2011 the Brooklyn Museum in New York sent 4,500 pre-Columbian ceramic and stone objects to the National Museum of Costa Rica. American railroad magnate and United Fruit Company founder, Minor Keith, had exported them to the USA around 1900 and donated them in 1934 to the Brooklyn Museum. Their return was part of the culling of the Brooklyn Museum’s collection. The objects fill a vacuum in the history of indigenous societies in Costa Rica.

**UK to Nigeria** In 2012 a grandson of British Captain H.S. and Josephine Walker brought back a bronze bird, a bronze bell and part of his grandfather’s diary in which he wrote about the 1897 raid (Layiwola 2014).

**France to China** In 2013, France announced the return of a rat and a rabbit, part of a set of twelve zodiac symbols looted by British and French soldiers in 1866 from Beijing’s Old Summer Palace. In 2009 commotion had arisen when the widower of owner and fashion-designer Yves Saint Laurent wanted to auction them in Paris. A French court rejected the Chinese request to stop the auction. A Chinese won the bid, but refused to pay. Finally, the French industrial Pinault family, owner of Christie’s auction house, offered to pay. It helped to open up a Christie’s in China (Opoku 2013e; Liu 2016).

**The Netherlands to Indonesia** In 2015, descendants of Dutch Governor-General, J.C. Baud (1833 - 1836), returned an ancient pilgrim’s staff that had belonged to Indonesia’s national hero Diponegoro to the National Museum in Jakarta (Stevens 2015: 158 - 163).

### 1.3. Main questions and approaches

In the 1970s and 1980s the Netherlands returned a number of colonial cultural objects to its former colonial possessions in the East and the West (none to South Africa) (Van Beurden, J. 2012: 53). Since then there have scarcely been any others. This hiatus does not differ greatly from the situation in other former colonial powers and colonies, as shown further on in the book. Former colonies are longing for the return of important cultural and historical objects and, as also explained later, have their own reasons not to pursue them. The legal path offers no solution, but the maldistribution of cultural and historical treasures that resulted from the European colonial era raises questions about historical injustice and whether this

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31 [http://www.nytimes.com/2011/01/01/arts/design/01costa.html?_r=0](http://www.nytimes.com/2011/01/01/arts/design/01costa.html?_r=0) (April 17, 2016);
should and can be undone. As the box above makes evident, there have been returns, but only incidentally. They are fragmented experiences.

Can the discussion about the future of colonial cultural objects be raised above the incidental and fragmented? The question seems to be timely. In the global village, former colonisers and former colonised are becoming more equal. The uncovering of what happened in the colonial past and the lasting impact of colonialism and slave trade raise new discussions. Possibly the dynamics of the repatriation of colonial human remains can offer lessons in dealing with colonial cultural objects. Some European heritage institutions continue to keep the remains; others increasingly give priority to the groups of origin above academic research and de-accession them. This is also the case in the restitution of Nazi-looted art. Restitution committees for Nazi-looted art in European countries and the USA apply lenient policies in restitution matters. For both categories guidelines and principles for how to deal with them are being formulated.

This leads to the following main questions for this book:

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

Answering these questions requires an interdisciplinary approach. The input of history is needed for a periodisation of the European colonial era and for mapping the loss of cultural and historical objects from colonial possessions in each period. History and legal studies help to uncover the formal 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. The discipline of conflict studies is used for developing the model.

Many authors have influenced me. Their books rarely fit on the shelf of only one discipline. With *The return of cultural treasures*, Greenfield has inspired me to look for cases of the disappearance of colonial cultural objects, claims to them and their return. I adopt her choice to define Iceland as a former Danish colony and treat the return of manuscripts to Iceland as one of colonial objects. I prefer the use of the term Parthenon Marbles above her use of Elgin Marbles, as it is *usance* in the UNESCO (Greenfield 2007: 41). In *International Law, Museums and the Return of Cultural Objects* (2007) Vrdoljak focuses mainly on restitution claims from minorities and other victims of internal colonialism. My focus is on claims from victims of external colonialism. I add some points of difference and build on her human rights perspective for return issues. Prott’s *Witnesses to history: Documents and writings on the return of cultural objects* (2009) has helped to chart the disappearance and return of objects. To the three instances of bilateral negotiations on the return of colonial cultural objects that she mentions, I add two more. In *Contested Cultural Property: The return of Nazi-spoiled art and human remains from public collections* (2009a) Lubina sees few chances for the return of colonial cultural objects. I lift part of the dividing line between

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33 There is internal colonialism when the dominant group subjugates, exploits and/or looks down upon one or more minority groups inside the same state. When subjugation, exploitation and looking down on groups occur outside a state, there is external colonialism, [http://www.sociologyguide.com/references.php](http://www.sociologyguide.com/references.php) (April 19, 2016).
the categories of Nazi-looted art and colonial cultural objects and uncover some more chances. I elaborate Amartya Sen’s ideas from *The idea of justice* (2010) for colonial cultural objects. Galtung (1990) has helped to define the multi-layered violent nature of colonialism: I adjust it slightly. In *Contemporary Conflict Resolution* by Ramsbotham, Woodhouse and Miall (2011), other introductions into conflict studies and Galtung’s texts, I miss profound references to conflicts concerning colonial issues - as things of a distant past - and to conflict resolution methods from outside Europe and North America. I include the latter and expand their work by defining decolonisation as an unresolved conflict and the fate of many cultural objects as an aspect of it. I am indebted to Burbank and Cooper’s (2010) *Empires in world history - Power and the politics of difference*, Prashad’s (2007) *The darker nations - A people’s history of the Third World*, and Mishra’s (2012) *From the ruins of empire - The revolt against the West and the remaking of Asia* for insights into the place of European colonialism in the history of our era. I complement their studies with insights into the loss of cultural and historical treasures during colonialism.

For two issues sources were rare. One is the question whether colonialism was a European phenomenon or one which European nations experienced simultaneously; and connected to this is the question whether the discussion about the future of colonial cultural objects should acquire a European dimension. Legêne (2007) offers some clues, on which I build my own answer to this question. The other is cultural diplomacy and framing return as a means in it. As will be shown, cultural diplomacy runs through many studies about bilateral return negotiations but is rarely made explicit. I make an effort to do so.

The 1975 agreement between the Netherlands and Indonesia is thoroughly researched. A description of comparable agreements between Belgium and Congo, Australia and Papua New Guinea, Denmark and Iceland and Denmark and Greenland and of the ongoing dialogue between Western museums and Nigeria is added. Such a comparison is relatively new and helps to find more elements for the model. In each case-study relevant literature is discussed.

Through the years I have found that dealing with a subject as sensitive as the future of colonial cultural objects requires considerable effort. It burdens me with an ‘ethical imperative’ (Neuman 2012: 62). I have to pursue systematically the ‘not-yet-known’ (Appadurai 2013: 271), to scrutinise carefully each finding, to dare to doubt and to challenge my own preconceived ideas. I consider the outcome as work-in-progress and offer it for discussion and greater depth. How I dealt with the subject is explained below.

Qualitative research
Most research for this book has been done through qualitative methods. There is a long-standing debate about the use of quantitative and qualitative methods (George & Bennet 2005: 3; Neuman 2012: 10). The nature of the subject and the observation that each return differs considerably from others makes the application of qualitative methods necessary.

Primary sources
Primary research was done in the National Archive of the Netherlands and in archives of museums such as Museum Volkenkunde in Leiden. Field research (Neuman 2012: 264 ff.) consists of formal and informal interviews with cultural authorities, traders, collectors, and experts, of visits to monuments deprived of statues, looted burial hills, museum exhibitions,
antique shops and fairs, and of observing the course of business at art fairs, in auction houses, in art and antique shops, and more and more on the internet.

**Secondary sources**
Secondary sources have been used extensively - academic books, articles and blogs, newspaper clippings, relevant websites, incidentally a novel. This raises dilemmas. Sources coming from the former colonisers easily dominate; therefore wherever possible, valuable voices from the former colonies have been involved. As evidence of several examples of acquisitions, claims and returns, only newspaper clippings or an ancient drawing were available. No academic research finding supported them. For these I have looked for confirmation/denial in other media sources or contacted experts by mail. Sometimes the evidence was too meagre.

If a published source is used several times, it is mentioned in *Sources* at the end of the book. Sparsely used sources are mentioned in footnotes.

**Case-study/micro-history**
The use of case-studies comes more from social sciences and that of micro-histories from history (History News Network 2006; Levy 2009; Flyvbjerg 2011). This book has case-studies/micro-histories of bilateral return negotiations to illustrate return issues. They are examples of thick description, in which reportage and explanation are followed by analysis and evaluation (Geertz 1973: § II; Murdock 1997: 183), and combine the advantage of offering an in-depth analysis and context with the disadvantage that their conclusions cannot necessarily be generalised. The many annotated examples in this book of claims and returns can be considered as small case-studies/micro-histories or thin description.

**Boxes and appendices**
Most boxes in this book list acquisitions and returns of, and claims to colonial cultural objects. Some offer a helicopter view (of e.g. protection measures) or a historical development (such as the evolution of conflict studies as a discipline). Two appendices have been added that allow official texts to be checked.

**Linguistic dilemmas**
A regular dilemma that emerges is how to name historical events. Was what happened in 1894 in Lombok or in 1897 in Benin City a punitive action, or was it looting and arson? Is the violence in Indonesia between 1945 and 1949 best covered by the term police actions, or by war of independence, national revolution or Dutch aggression? Did Constantinople fall in 1453, or was Istanbul captured? In the book these dilemmas are mentioned.

For reasons of convenience the present names of geographical areas have been used. *Papua* for instance, is the name of an Indonesian province, which Western seafarers earlier called *Irian*, while the Dutch colonial administration spoke about *New Guinea*. *European* in European colonial era also covers the USA and Japan, which joined the colonisers at a late stage, and their names are mentioned when relevant.

Unless otherwise mentioned, the translation of quotations from other languages into English is mine.

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34 A 17th century book-illustration shows the gift in 1655 of the head of a Moluccan prince by his subjects to a VOC-commander, thus trying to prevent a bloodbath (Vanvugt 2010: 54); no other source confirms this gift.
Chapter 2
On colonial cultural objects

In the literature one finds many terms that cover the physical, cross-border handover of valued objects that came from colonised places to the Western world - return, restitution, redress, transfer or repatriation. They can have legal implications; focus on an action by the possessing state or by the claiming state. They presuppose two states as stakeholders or offer room to non-state actors. Which one is most suitable for this study? And what exactly is the meaning of a colonial cultural object?

2.1. Return

A common choice is return, a ‘fairly neutral’, ‘catch-all concept’ meant for when the removal of a cultural object did not violate a legal obligation (Prott 2009: XXI; Lubina 2009a: 44, 42). Even then, as we shall see, Western states object to it for fear of being accused that objects claimed were acquired in a manner open to dispute (Greenfield 2007: 367; Van Beurden, J. 2012: 74). For undoing the wrongful act of disputable acquisitions restitution is used. The distinction between return and restitution has been codified since the 1976 report of the Venice Committee of Experts, convened by UNESCO (Lubina 2009a: 127). Institutions that advise European governments about the allotment of Nazi-spoliated art are called restitution committees.

Several terms are close to restitution. Redress is meant to correct or compensate a wrong. It is a way of reparatory justice. Nigerian Nobel laureate Wole Soyinka (1999: 85) and Latin American and Caribbean countries (1.2.) ask for reparation to undo the injustice of colonialism and slave trade; sending back colonial acquisitions can be part of it. In expressions such as recovery, retrieval and recuperation the focus is on the requesting party (Prott 2009: XXI; Kowalski 2005). Repatriation indicates that an object or collection has a patria or fatherland - a state or an indigenous people or other actor inside a state (Vrdoljak 2008) - and has often concerned human remains. It is interconnected with waiting for objects and echoes of ‘kinship, language and history’ (Prott 2009: XVII) and shared identity.

Transfer has a broader meaning of moving, carrying or transporting something - be it in real life, virtually or in psychological terms - from one surface, body or person to another.

In this study, it is a change in governance and control with legal implications - the moment at which property changes hands. Possessing states use it, as it carries less risk of association with past wrongs than return.

In this study the open term return is mostly used. It can be given more layers and refer to restoration (Greenfield 2007: XIII), reconciliation (Soyinka 1999: 85), repair of the integrity of a source country (Liu 2016: 164) or a means in cultural diplomacy.

Cultural diplomacy is as old as humanity, but a relatively new topic in academic research. The Soviet Union and France were the first to consider ‘the human side of foreign policy’, followed by Great Britain and the USA. For American authors, who dominate the older literature on the subject, cultural diplomacy or ‘peacetime psychological warfare’ consisted of Cold War propaganda programmes with scholarships, tours, exhibitions and information services. Cultural institutes set up by powerful countries in former colonies and elsewhere, operated between propaganda programmes and genuine exchange.

The Institute for Cultural Diplomacy - initiated by the USA and based in Berlin - defines the present cultural diplomacy as ‘a course of actions, which are based on and utilize the exchange of ideas, values, traditions and other aspects of culture or identity, whether to strengthen relationships, enhance socio-cultural cooperation or promote national interests’. It can be practiced by ‘the public sector, private sector or civil society’. The Netherlands Foreign Ministry sees cultural diplomacy as ‘putting in art and culture for the Dutch foreign relations’, others as ‘the deployment of a state’s culture in support of its foreign policy goals or diplomacy, a government’s communication with foreign audiences in order to positively influence them’.

Diplomacy is the art and ability of a country or other entity to arrange, covertly or openly, its foreign policy goals and get things from other countries or entities. It has sub-sets such as peace and disarmament negotiations, economic diplomacy and cultural diplomacy. Cultural diplomacy helps to pursue one’s foreign policy goals by cultural means. Its potential is often underestimated or remains underexposed. One of its means is the return of a colonial cultural object. Not every return falls under cultural diplomacy.

2.2. Cultural objects

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An object is a tangible thing, it has a shape that one can feel, touch, see and smell. It can have a certain use and social potential and be a source of information (Appadurai & Kopytoff 1996). Objects are alienable or inalienable. Their inalienability can be perceived in a legal sense; a country’s law forbids their sale. It can also be cultural. Objects become inalienable through their ‘exclusive and cumulative identity with a particular series of owners through time’ and are ‘to be guarded against all the exigencies that might force their loss’ (Weiner 1992: 65, 33). Both types can be ‘essential connectors with the past’, although their stories are rarely ‘unambiguous’ (Legêne 2010: 25, 34). That objects are primary sources in historical research is not self-evident (Legêne 1998: 395; 2010: 228). Until a few decades ago historians had ‘little or no engagement’ with them.43 Engagement with (disputed) objects is normal in legal studies and in conflict studies.

A cultural object is made of wood, stone, silver, gold, any other material or natural resource. Its value can be practical (e.g. carved household utensils), magic (e.g. voodoo objects), spiritual (e.g. prayer chair), symbolic (e.g. royal crown), aesthetic (e.g. a still life painting), commercial (after becoming a commodity) or a mix of these (Kopytoff 1996: 64). Cultural objects are social. They can cause passion or fear, evoke a memory and bring people together. Their biography tells at best about their context, their makers and subsequent possessors, their uses and values, and minimally about the present holder.

Objects have a nominal and an expressive authenticity. Nominal authenticity is about an object’s origins, creator and provenance. This information is fixed and, if available, relatively easy to agree upon. Expressive authenticity is less in the object and has more to do with an object’s ‘character as a true expression of an individual’s or society’s values and beliefs’.44 For villagers or monks in Papua New Guinea, DR Congo or Southeast Asia, out-of-use ritual masks or damaged Buddha statues no longer have a ritual value. They have lost their expressive authenticity and are to be replaced with new masks or statues, but the laws of the countries-of-origin usually protect such out-of-use masks and statues. Traders and collectors acquire(d) them, often to resell them as authentic.

There are transcending, expressively authentic copies. They are popular in fashion, jewellery, design, tattoos and also in art. Chinese artist Ai Weiwei has created a bronze and a gold gilded bronze Circle of Animals/Zodiac Heads, copies of the zodiac with twelve bronze animal heads that French and British soldiers took from the Old Summer Palace in Beijing in 1860. With their oversized scale, he ‘focuses attention on questions of looting and repatriation, while extending his ongoing exploration of the ‘fake’ and the copy in relation to the original.’45 The zodiac has been shown in North and South America, Asia and Europe.46 Peju Laywiola, granddaughter of Oba Akenzua II and daughter of a sculptress, creates art works that resemble ancient Benin treasures as a ‘cultural action for freedom’ through which ‘the past seems to be indicting the present... They who once enjoyed the splendour of the palace are now trapped behind glass in foreign lands’.47 In 2010, at the occasion of 50 years of independence in Nigeria, her work was shown in Nigeria.

44 http://denisdutton.com/authenticity.htm (February 18, 2013)
Expressive authenticity impacts on the answer to the question of why and when objects are part of a country’s cultural heritage. Whether they are, is laid down in national legislation and in treaties to which countries have acceded. However, what cultural heritage is, is also a ‘social process of meaning making’, as it cannot ‘unproblematically be identified as “old”, grand, monumental and aesthetically pleasing sites, buildings, places and artefacts’ (Smith 2009: 276, 11). Its meaning can change through time. A problem is that the discourse about this meaning is usually controlled by some, usually powerful, actors. It is an ‘authorised heritage discourse’. The self-appointed universal museums try to dominate it. So do the compilers of the World Heritage List, which is pretended to be ‘all-embracing’, while for a long time it was largely compiled on ‘European aesthetic notions’ (Smith 2009: 98). Recently listed properties indicate that UNESCO is overtaking this backlog. An authorised heritage discourse also takes place inside a country (Sudarmadi 2014: 90). The definitions of cultural objects in the national legislation can be too narrow or exclusive for regional populations. Indigenous peoples have been ‘the most strident and vocal groups’ to criticise authorised heritage discourses (Smith 2009: 277). Going beyond it can offer surprises, as two examples of suitcases show.

Upon the arrival of Holocaust victims in concentration camps, the Nazis took all their belongings - combs, glasses, suitcases and so on. The Auschwitz Birkenau State Museum in Oswiecim has them in large showcases, the suitcases often with the owner’s name legible. In 2004, it loaned Pierre Lévi’s suitcase (who had lived in Paris) to the Shoah Memorial Museum in the French capital. When the museum wanted to send it back, Lévi’s heirs protested, as they did not want the suitcase to make the same journey as during the War. In 2009 a judge ruled that the suitcase would remain on loan in the Paris museum (Bandle 2012). Barack 1B of the Camp Vught National Memorial in the Netherlands shows suitcases of Moluccan soldiers and their families who had departed from Indonesia, where they had served in the Dutch coloniser’s army. These suitcases, perhaps worth a few pence at a flea-market, are symbols of their forced journey and fate as a minority.

Cultural objects are easily linked to identity. Without them a community, people or state suffers identity damage. It can be an argument in support of a return claim, argues Vrdoljak (2011: 202). She discusses this for victims of internal colonialism and external colonialism alike. Differences between cultures of internally colonised communities and those of externally colonised communities make this problematic. Those of internally colonised people have often remained the same since time immemorial; the disappearance of their cultural heritage damages their identity and history. The cultures of many externally colonised possessions were often succeeded by new ones; they became more part of their history than of their identity. When objects claimed date from an old and different cultural period their link with identity can become a straightjacket, as two examples illustrate.

Opponents of a German return of the Nefertiti bust to Egypt argue that a Muslim majority in Egypt no longer adheres to, even abhors, the religion and customs of Pharaoh Akhenaton and his Great Royal Wife Nefertiti (Urice 2006: 153; Cuno 2008: 9). Although many Egyptians might not consider the bust as part of their identity, it is part of their history. Somaliland has over one hundred rock art sites, some thousands of years old. According to

48 http://www.unesco.org/culture/natlaws/ (June 24, 2013). This UNESCO database shows relevant legislation, contact details and official websites. Their number differs per country from one to eighty-five.
former Director of the Department of Antiquities of Somaliland, Sada Mire, for many inhabitants archaeological objects were pre-Islamic ‘things that you hand over to the white man, be it a scientist, an NGO worker or a looter. They do not link them with their heritage, due to their myth of origin, i.e. an Arab origin, and links with the prophet Mohamed’s Quraysh people. At first they gave them free of charge. After 1990 they discovered that they could ask money for it.’ Telling them that the rock drawings were part of their identity made them feel uneasy, but when her Department explained that the drawings are part of their history and showed their ancestors’ ‘survival mechanisms, which were similar to their own’, they became willing to help in protecting them.51

The term colonial cultural object is imprecise. In this book it is used for reasons of convenience. It is an object of cultural or historical importance acquired without just compensation or involuntarily lost during the European colonial era. It is an umbrella term that, as turns out later, is used e.g. in bilateral agreements between former colonisers and colonised and by UNESCO Director-general M’Bow’s (1978). That the objects were acquired without just compensation or were involuntarily lost refers to the unequal colonial situation and the violent collecting. The expression involuntarily lost is used in disputes about e.g. Nazi-looted objects. In practice, colonial cultural treasures that are claimed are often known objects. They derive fame from their presence in Western collections and/or are missed in their community of origin. With unknown objects there is less chance that they are claimed. Custom officials in the port of Rotterdam for instance, stored endless quantities of Chinese porcelain smuggled into the Netherlands, as the Chinese embassy in The Hague did not show any interest in these ancient mass-produced, un-known objects (Van Beurden, J. 2001: 47).

In China known colonial cultural objects are named ‘lost cultural relics’ (Liu 2016: 145). Admittedly, China and also Ethiopia were never colonised. In 1920 China was among the founding members of the League of Nations: Ethiopia joined in 1923,52 but both countries suffered extensive losses of material cultural heritage during European colonialism. In this study therefore, objects such as those lost during the 1860 looting of the Summer Palace and the emptying of the Dunhuang caves in China around 1900, and those looted in 1869 from Emperor Tewodros’ palace and churches are called colonial cultural objects.

Some colonial cultural objects also fit in the category of Nazi-looted art works or perhaps better, Fascist-looted art (Box: Fascist-looted and colonial cultural objects, 6.2.2.). Treasures that Italian officials and military took between 1935 and 1941 from Emperor Haile Selassie’s palaces and from churches and monasteries of the Ethiopian Orthodox Church (Campbell 2013), and that Japanese personnel captured between 1937 and 1945 from China (Liu 2016: 11) can be categorised as both. Generally the Second World War is said to have begun with Germany’s invasion of Poland in 1939. For Ethiopia however, its beginning was Italy’s 1935 invasion (Campbell 2013: 21) and for China the Second Sino-Japanese War that started in 1937 (Burbank & Cooper 2010: 402; Liu 2016: 11). Later on the term Fascist-looted art is discussed further and refined (6.2.).

Several other concepts, such as provenance, violence, hard and soft law, also deserve a further explanation.

51 Mire, S., Locals and their heritage, conference The Heritage Heist, Leiden University, May 18, 2015.
52 http://www.indiana.edu/~league/nationalmember.htm (June 1, 2016)
Provenance/biography
Influenced by Kopytoff (1986: 64 - 67), I would say that provenance is the history of an object in terms of context in which it was made and who made it, of its use value and exchange value through time, of the ways in which it has passed from the maker to subsequent possessors. Provenance is also called an object’s biography.

Country-of-origin
Country-of-origin is a common term for identifying mass products in commerce. In this book it indicates the present day state of the country where an object was made and whence it came. It is a part of an object’s provenance; the term source country is also used.

Violence
Galtung (1990) defines violence as avoidable insults to basic human needs. Threats of violence are also violence. There are four classes of basic human needs - (1) survival needs, (2) well-being needs, (3) identity or meaning needs and (4) freedom needs. Basic human needs are location and time specific. Galtung distinguishes three sub-types - direct violence, structural violence and ideological violence. Direct violence is an event or act that threatens people in their survival needs e.g. through killing, war, genocide, maiming or rape. In this study, direct violence insults people’s needs to foster their own identity and history, such as expropriation of cultural objects during wars or through confiscation. There is structural violence in a setting where direct violence becomes systematic, e.g. in the form of unnecessary poverty, underdevelopment, exploitation, alienation, identity damage, abuse and other forms of ingrained injustices. Structural violence can cover colonial policies that lead to expropriation of cultural objects or iconoclasm. Galtung has been criticised for a too broad definition of structural violence, based on a malleability vision. Galtung’s third subtype, cultural violence, serves to justify, play down or deny direct and structural violence. It is a constant that changes ‘the moral colour of an act from red/wrong to green/right or at least to yellow/acceptable’ (Galtung 1990). In my view, the term is confusing, and not only because this book is about cultural objects. In his own explanation (1990: 294), Galtung mentions justification and legitimisation. Therefore I prefer the term ideological violence. Conflict researchers have rarely linked ideological violence with Said’s Orientalism (Said [1978] 2003) and Culture and Imperialism (1994) or with Mbembe’s Critique de la raison nègre (2015: 117, 118). One does not have to embrace all Said’s and Mbembe’s thoughts to understand that they have helped to understand the depth of the ideological violence committed in the European colonial era and that descendants of former colonisers have difficulty in decolonising their minds.

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54 My master thesis was titled Economic Structural Violence, Utrecht University (May 1971; unpubl.).
56 I quote from the 2015 Dutch translation Kritiek van de zwarte rede.
57 This is the scope of Gloria Wekker’s White innocence: Paradoxes of colonialism and race, Duke University Press, Durham and London, 2016.
Legal obligations

The law of war is part of international public law, which sets rules for engaging in war and the conduct during war; it covers dealing with disputes about cultural heritage in case of destruction and looting. Laws in times of peace set rules for dealing with disputes about the theft and smuggling of cultural heritage in other times. Relevant for this study are both hard law and soft law. Hard laws are binding legal instruments, laws, treaties and UN Security Council Resolutions; a claim based on these is enforceable in court. Soft laws are non-binding instruments, such as a UN Resolutions or Declarations, Principles for dealing with restitution of e.g. Nazi-looted art, Codes of Conduct, etc. They are often vaguely formulated.

Dialogue

In a dialogue, two or more stakeholders try to come to a common decision and are willing to adjust their own insights. They can engage a third party to help them. A debate, in contrast, is a competition with three participants. Two try to convince each other about their own position and the other’s wrong, while the third decides who has won. Debaters do not necessarily have the intention to problematise their own points of view.

2.3. Typology of colonial cultural objects

Museums have typologies of their objects and collections. Understandably they adjust these to their own needs. Going through their typologies uncovers the different entries for it. One is that of the maker or first possessor. With respect to colonial cultural objects, however, their names are rarely known. Nor do we know much about motivation, skills and the context of creation. Another is that of the acquirer in the colonial period. To know whether he was a state or a non-state owner is relevant, as the return of a state owned object requires government approval, while missionary orders, private collectors and traders can decide for themselves. The non-material value is a third entry, thereby keeping in mind a broad definition of cultural heritage and a focus on inalienable objects ‘which represent best their culture, ...are the most vital and whose absence causes them the greatest anguish’ (M’Bow 1978). There is the entry of how objects were acquired. Did the acquirers consult its makers, original owners or their descendants? Was the transfer voluntary or was pressure exerted and was it an involuntary loss? How (un)equal were the stakeholders? In this study the emphasis is on the how, the degree of equality among the stakeholders and the colonial actor who acquired the object.

Three ways of acquisition are distinguished:

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59 This definition is based on what I learnt from courses on debate and dialogue that I followed and on my experience as a facilitator of public and closed sessions.
1. Acquisition by normal purchase or barter, at equal level;
2. Acquisition in accordance with the laws of the time, but at unequal level;
3. Acquisition in violation of the laws of the time and at unequal level.

Five categories of colonial cultural objects have surfaced:
1. Gifts to colonial administrators and institutions;
2. Objects acquired during private expeditions;
3. Objects acquired during military expeditions;
4. Missionary collecting;
5. Archives.

2.3.1. Gifts to colonial administrators and institutions

Gifts without any expected reciprocity are exceptional (Weiner 1992: 25). Mostly they are a means in cultural diplomacy. Gift exchange by colonial administrators, local rulers and commanders was part of a system of services in which obligation and liberty intermingled, and honour, rivalry and reciprocity dominated (Mauss [1950] 2000: 65). A gift can consist of an alienable or an inalienable object. In many languages ‘give’ and ‘forgive’ are connected (Derrida 2001: 22). To give is linked to the present, to forgive to a past thing. One can reinforce a request for forgiving with a gift of a precious object. Prott (2009: 417, 418) mentions several examples. Such gifts can be a hidden acknowledgement of a past injustice, and get close to restitution. In return agreements gifts can be made in order to keep other objects; it is ‘giving in order to keep’ (Gabriel 2010: 111).

Examples of gifts are those by rulers on Java and Bali to Dutch colonial administrators (Brinkgreve 2005: 122; Trigganga ea. 2006: 82). They were an expression of subjugation. Some rulers were criticised for exaggerated generosity (Legêne 1998: 273). Others gave alienable objects and kept the inalienable ones in hiding (Brinkgreve & Van Hout 2005: 104).

2.3.2. Objects acquired during private expeditions

The 19th and early 20th centuries witnessed a peak in scientific and commercial collecting expeditions. They were initiated by governments with close contacts with scientists or by enterprises and collectors with contacts in the museum world, such as the German New Guinea Company (Buschmann 2000: 61). Collectors uncovered the economic potential, flora and fauna of colonial possessions and collected antiquities and ethnographic objects. With some exceptions (e.g. Leiris [1934] 1981), they left few notes about how they had acquired objects. Mention of whether they met with difficulties at customs upon leaving the country-of-origin or entering the mother country, is exceptional (Hollander 2007: 63).

Generally, scientists and also missionaries and charitable institutions met few restrictions in colonial possessions of other European countries. Art. 6 of the General Act of the 1885 Berlin Conference on West Africa61 called upon the participating countries to ‘protect and favour all religious, scientific or charitable institutions or undertakings’ aimed at

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61 The 1884 - 1885 Berlin Conference is also known as Berlin Congo Conference or the Berlin Conference on West Africa (Pakenham 1991: 239 ff). For convenience reasons, the term Berlin Conference is used in this book.
‘instructing the natives and bringing home to them the blessings of civilisation’.

As a result, objects were easily spread over public and private collections in Europe.

For colonial administrators collecting was a side activity. Charles Stuart (ca. 1758 - 1828) opposed missionary efforts to convert Hindus to Christianity and acquired one hundred statues, each representing a Hindu deity. After his death his collection was shipped from Kolkata to London, sold and resold to end up in the British Museum (Cohn 1996: 101; MacGregor 2012: 376, 377). In British New Guinea between 1888 and 1897 Lieutenant-Governor William MacGregor (1846 - 1919) purchased objects or exchanged these for such things as iron utensils. Hubert Murray (1861 - 1940), active in different colonial functions, did this between 1904 and 1940 (Quinnell 2000: 83).

Colonial soldiers, officials and others, or their descendants, donated their antiquities and ethnographic objects to metropolitan cultural institutions. By not testing how they had been acquired, these institutions released themselves implicitly from the duty to do provenance research and discover unpleasant truths (Wastiau 2000b; Van Beurden, S. 2009; Drieënhuizen 2012). The statement in the 1979 magazine Museum of UNESCO (Van Geluwe 1979: 33) that all objects from Congo in the Tervuren Museum were ‘procured through the regular channels’ and that none were obtained ‘through extortion, spoliation or theft’ is proof of it and untenable nowadays. We know now that when the Tervuren Museum opened in 1898, 3,008 objects - almost forty percent of the total - were war trophies (Couttenier, in: Wastiau 2010: 7).

People in the colonies viewed expeditions differently, varying from inimical invasions (e.g. Leiris [1934] 1981: 450; Marangou 2000: 12; Van Broekhoven 2003: 36) to profitable opportunities. Many fruits of expeditions resulted from normal trade with local craftsmen and dealers who produced some artefacts solely for foreign visitors (Gosden 2000: 228; Willink 2006: 19; Ter Keurs 2007: 1). In expedition reports about Papua from around 1850 one reads about ‘the enthusiasm of Kamoro traders’ in their contact with outsiders (Jacobs 2011: 41, 214). Museum professionals point to the poor condition of ancient monuments from which objects have come and to the disinterest of the local population. Older Hindu and Buddhist stone statues in the Rijksmuseum in Amsterdam were not deliberatively removed but taken from abandoned monuments in the Indonesian archipelago (Southworth 2013a: 27), so we are assured. The same institution suffers however, from incidental blindness.

2.3.3. Objects acquired during military expeditions

Reference books about French and Dutch trade companies in the East and West Indies focus on military confrontations, the weapons used (Knaap ea. 2015: 236 - 239), the indigenisation of the colonial army (Knaap ea. 2015: 194 - 195) and the acquisition of exotic products

62 http://africanhistory.about.com/od/eracolonialism/l/bl-BerlinAct1885.htm (January 14, 2015). Participating countries: Great Britain, Austria-Hungary, Belgium, Denmark, France, Germany, Italy, the Netherlands, Portugal, Russia, Spain, Sweden and Norway, Turkey and the United States of America.

63 The Rijksmuseum never reacted to information that its late 11th or early 12th century Hindu stone statue of a Durga killing a Buffalo demon, was most probably smuggled out of Bangladesh via the diplomatic bag, as mentioned in a 1980 ICOM report (Van Beurden J. 2012: 67; https://www.rijksmuseum.nl/nl/zoeken/objecten?q=durga+&p=1&ps=12&ii=3#/AK-RAK-1992-1,3 (January 18, 2016); visit to Rijksmuseum January 13, 2016.)
(Estienne ea. 2013: 228, 234). They deal only marginally with the impact of the loss of war booty on the local population.\footnote{E.g. Knaap 2015: 162. Lequin (2005: 97 ff.) describes the income through smuggling but not through plunder.} From details in these reference books and from monographs that give more prominence to plunder and provenance (Cohn 1996; Wickramasinghe 2003; Stevens 2011, 2015; etc.), one learns that colonial generals and soldiers obtained cultural objects in wars and raids. Their confiscation was ordered from above or occurred at the initiative of military personnel (Carrington 2003; Layiwola 2007; Knaap ea. 2015; etc.). Commanders offered a bonus to soldiers who had captured a flag or standard.\footnote{Pool, Mariska [undated]. Vergeten vlaggen: De trofeeën van het eskader – Van Braam in de Indische archipel, 1784, \url{http://collectie.legermuseum.nl/sites/strategion/contents/i004530/arma36%20vergeten%20vlaggen.pdf} (January 14, 2016).} In 1765 VOC soldiers looted, against an explicit ban by their commanders, the palace, main temple and city of Kandy in Sri Lanka; a silver and gold holder of a tooth of the Buddha was returned on the spot.\footnote{Raven - Hart, R. 1964. The Dutch Wars in Kandy, Government Publications Bureau, Colombo, in: \url{http://www.defonseka.com/ref_dutch_wars02.htm} (January 7, 2016).} By formally capitulating, defeated rulers could limit the plunder, or they hid precious objects. A \textit{ punitive expedition was a justifiable method to crush resistance. For victims it was usually loot, arson, humiliation or destruction by a foreign power (Coombes 1994; Layiwola 2007; Liu 2016).}

Military confrontations were countless in the Dutch East Indies (Stevens 2015: 57) and other colonial empires. British victories were ‘\textit{brought home in the form of its relics and trophies}’ to be displayed in the museum of the East India Company or in the Tower of London (Cohn 1996: 104). Such flags and personal weapons were unique, inalienable objects. Of only few their long and complicated journeys have ended at their place-of-origin. The British Museum justifies its possession of e.g. Ethiopian war booty with the argument that it stimulates ‘\textit{a worldwide interest in the archaeology, history and culture of Ethiopia which has continued to this day}.’\footnote{http://www.britishmuseum.org/explore/highlights/article_index/m/the_maqdala_collection.aspx (February 3, 2015).} (Legal aspects of war booty are dealt with in 6.2.2.). Western museums use similar justifications in relation to war booty from Benin City (12.2.).

\subsection{Missionary collecting}

There is ample evidence that missionaries intentionally and massively confiscated and destroyed traditional religious objects and that countless objects were sent to Europe.\footnote{Wastiau 2010 (DR Congo); Leyten 2015 (West and Central Africa); etc.} According to Soyinka (1999: 48, 52) Europeans denied and had no respect for Africa’s ‘\textit{own spirituality... The Euro-Christian armies of conquest, fast on the heels of missionaries and early adventurers, plundered and looted ancient African civilisations, burnt and smashed priceless carvings, which, from their point of view, were nothing but manifestations of idolatry and satanism’}. Soyinka (1999: 42, 44) blames the Islam for the same: ‘\textit{the cultural and spiritual savaging of the continent... was not by the Christian-European axis alone. The}
Arab-Islamic dimension preceded it, and was every bit as devastating’. Such disrespect was also observed in South America. It was less in colonised Hindu and Buddhist communities in Asia.

John Williams, one of the London Missionary Society’s early 19th century ‘more talented... missionaries’ in the South Sea Islands (Mayer 2015: 132), described the how of their collecting. He approached village chiefs to urge them to accept Christianity and to win over their fellow villagers, claiming that these chiefs never ‘employed coercion to induce their subjects to embrace it’. Instead, not infrequently they had to ‘defend themselves against the fury of... their own subjects, by whom they were so fiercely attacked’ (Williams, J. 1838: 192). In one instance women ‘inflicted gashes on their heads’ and cried ‘in tones of the deepest melancholy to oppose their chiefs’ transition to the new religion’ (Williams, J. 1838: 179). When villagers blamed the traditional gods for a relative’s death, Williams gave ‘fish-hooks... pigs and goats... or showed iron that they had never seen and proved that two pieces could be welded together’ (Williams, J. 1838: 65, 70, 149). Williams did not speak for the natives but ‘allowed them to speak for themselves’, i.e. converts. They could be more fanatic than he himself in burning the old gods (Williams, J. 1838: 108, 177). He saved such religious objects for himself, his family and friends and for institutions such as the London Missionary Society (Williams, J. 1838: 63, 109; Mayer 2015: 132).

From the start of colonialism, tens of thousands of European missionaries travelled to the colonies. Their contact with colonial administrators differed. In King Leopold II’s Congo Free State the contact was very close (Derix 2009: 555). In German colonial possessions it varied ‘from outright anti-imperialism and criticism of colonial rule to complicity and cooperation’. Their ‘abstinence from violence, their theological anthropology, ... often mediating role in conflicts, and ... organisational autonomy set them apart from political empire’ (Gissibl 2011: 174, 173). Many translated the bible and preached in local languages (Casalis 1889: 292) and passed the knowledge of vernacular languages of the colonised thus acquired to the colonial administration (Wastiau 2000b: 21). From around 1900 some missionaries in West Africa questioned forced conversions and confiscation of ritual objects (Leyten 2015: 90, 285). In China missionaries met with tough resistance from rulers and population and evidence of destruction and confiscation of religious objects is rare (Chang 2013; Liu 2016).

Many missionaries justified their iconoclasm with the salvage paradigm, their intention to save people from paganism, bring civilisation, save the material symbols of customs and religion and replace these with their own. It is difficult to assess to what

69 Maddison (2007: 188) charted the impact of the Islamic expansion on Africa between 650 and 1400 and of that of Portugal and other European colonial powers from 1500 until far in the 20th century and supports Soyinka’s position, as does Membre (2015: 141).


extent converts renounced traditional religious objects and altars voluntarily. Seduction tactics were applied. There was longing for modernisation. Conversion to Christianity could be an expression of ‘autonomous local developments with missionaries as… bystanders’. The latter thus obtained objects that represented the old religion (Corbey & Weener 2015: 13). Many converts were ‘far from naïve and passive recipients of the gospel’, while many missionaries had ‘naively entered a world of immense political complexity, becoming pawns as much as players’ (Mills 2015: 37).

The missionary orders put confiscated objects up in display cases at home for the instruction of new missionaries or fundraising exhibitions. Missionary museums were set up, exhibitions organised. Since the 1960s the increasing secularisation, the diminishing number of religious vocations and the competition with secular organisations in developing countries have forced some missionary museums to close their doors. They sent back their collections to the headquarters of their orders, offered them to other museums, some were sold to dealers or ended in the dustbin. They rarely sent them back to the places-of-origin (Van Beurden, J. 2012: 37).

2.3.5. Archives

Archives have a factual and sometimes symbolic meaning and an aesthetic value. They are decisive in ‘how the future will remember the past’ (Karabinos 2013). Possession of archives and power are connected, as there ‘is no political power without control of the archives’ (Derrida in: Karabinos 2013). Their power was a drive behind the first European ban on looting cultural property in times of war in the 1648 Treaty of Westphalia (Lubina 2009a: 51). During the decolonisation the control of archives became important. Colonial powers wanted to keep archives with economic information or destroy those with incriminating information. Archives are not objects and are not surrounded with the emotions that objects can evoke. They were part of the 1975 agreement between the Netherlands and Indonesia, but not of agreements of Belgium and Portugal with their former colonies, as I found. The 2010 return of archives by the Netherlands to Suriname was based on an old agreement (Box: Archives back to Suriname).

Box: Archives back to Suriname
In 1913 the administration in Paramaribo and the government in The Hague agreed to ship archives from the colony to safer places in the Netherlands. The colony had a lack of storage facilities. Its humid climate damaged paper materials. It was stipulated that the archives remained ‘property of the colony Suriname’. When in 2010, thirty-five years after its independence, Suriname opened its own archival buildings with trained personnel, the Dutch

72 Van Pesch & Campbell (1992) researched the collections of 29 Roman-catholic missionary museums.
Keeper of Public Records handed over the first hundred running metres of baptism, marriage and funeral records, notarial archives and the 1921 population census. The repatriation is to be completed in 2016.

In conclusion, those who lost colonial cultural objects and those who acquired them, look differently at their continued presence outside the countries-of-origin. The act of return of such objects has many names and behind each are a reason and an interest. In this study the term return is preferred because of its open, neutral meaning and multi-layering, which makes it acceptable for many and more nuanced than others like restitution, repatriation or reparation. Based mostly on how they were acquired, five types of colonial cultural objects have been distinguished. Some were acquired under relatively equal circumstances; in the acquisition of many others inequality and the violence triangle of direct, structural and ideological violence played a major role. The confiscation of objects by missionaries has been interpreted as iconoclasm. I argue that the distinction between identity and history in relation to cultural objects can unburden the discussion about their future.

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76 Interview Frans Van Dijk, National Archive of the Netherlands, January 25, 2011; Van Beurden, J. 2012: 36.
Part II

Colonialism and cultural objects

Part II focuses on the massive one-way traffic of cultural and historical objects from colonised societies to Europe. It criss-crosses continents and shows a wide variety of acquisitions. The starting point is the five types of acquisition of colonial cultural objects identified in Part I. They are applied within a periodisation of colonialism that distinguishes between the early colonial trade and territorial expansion, settler and exploitation colonialism and finally decolonisation. These are three overlapping periods and types of colonialism. The decolonisation, which began years or decades before the actual transfer of sovereignty, in many cases is still an unresolved conflict. Disputes over colonial cultural objects are an expression of this conflict. Part II closes with a discussion on whether conflict studies offer a methodology to bring such unresolved issues to an end.
Chapter 3
Colonial expansion

Ethiopia’s victory over Italy in 1896 near Adowa was the ‘beginning of the decline of Europe as the centre of world politics’ (Abraham 2012: 93) and the ‘symbol of a new era’ in world-history (Rainero 1989: 189). Met with disbelief in Europe, in Africa it became ‘a meaningful prelude and stimulus to a budding’ anti-colonial struggle (Abraham 2012: 48, 49). In 1905, Japan’s defeat of Russia in the Battle of Tsushima inspired M.K. Gandhi, Jawaharlal Nehru, Sun Yat-sen, Mustafa Kemal and African-American leader W.E.B. Du Bois. The defeat of a white empire by a non-white power ‘accelerated an irreversible process of intellectual, if not political, decolonisation’ (Mishra 2012: 7). It also led to demonstrations against Tokyo’s imperial aspirations in China, which had been forcibly opened up by Japan and where Japan had helped Western powers to crush the 1900 anti-foreign Boxer Rebellion, and in Korea, which Japan had colonised (Burbank & Cooper 2010: 302; Chang 2014: 452, 453). According to Italian historian Rainero (1989: 189) the Battle of Adowa had more impact than the Battle of Tsushima. Ethiopian historian Abraham does not mention the Battle of Tsushima. With his focus on Asia, Indian scholar Mishra’s omits the Battle of Adowa. Burbank & Cooper (2010: 302, 315) pay considerably more attention to the Japanese than the Ethiopian victory.

Diverging views on historical events also exist in relation to the periodisation of European colonialism. Although here an obvious one is followed - that of colonial trade and territorial expansion, settler and exploitation colonialism and decolonisation, problems emerge in its elaboration. The ‘almost unstoppable….Europeanisation of the globe’ (Mackenzie 2011: 1, 2) started in different places at different moments and was then a ‘creeping colonisation’ (Burbank & Cooper 2010: 241). Europe had many different colonialisms. Small or newly-formed European nations such as Portugal, the Netherlands and Denmark and later Belgium, Germany and Italy needed colonies to strengthen their unity and identity.

A difference between the European and other colonial expansion had to do with distance. While the Chinese, Roman, Aztec, Ottoman and Russian empires conquered bordering states and peoples, ‘the Ottomans’ lock on the eastern Mediterranean’ and ‘the Muslim-controlled gold trade across the Sahara’ forced European colonisers to practice long-distance expansion (Burbank & Cooper 2010: 149, 154). In combination with the typical European ‘propagation of Christian missions’ (MacKenzie 2011: 7) distance aggravated the ideological violence against unknown peoples. Also typical for Europe’s colonialism was that each period had independent minds criticising it (Vanvugt 2010: 13); some critics occur throughout the book.
In common with the other empires were the wide-spread slave trade and the colonial taxes on land and its products resulting in bonded labour. In British India (Lequin 2005: 196) and West Africa European traders built on pre-colonial slave trade or bonded labour systems. In most places slaves and servants made the traders’ efforts pay (Burbank & Cooper 2010: 178 ff.). Early sources indicate that the European colonial powers from the start applied a combination of direct, structural and ideological violence. In the early 16th century, only one out of ten Mexicans survived the Spanish conquistadores’ slaughter and extermination of the Aztec empire (Longhina 1998: 79). VOC commanders were notorious for their violence (Schulte Nordholt 2002: 36, 37). Founder of the Dutch empire in Asia, Governor-General Jan Pieterszoon Coen (1587 - 1629), created a bloodbath on the Banda Islands, in which fourteen thousand of the fifteen thousand Bandanese were killed, driven away or sold. King Leopold’s assistants ‘frivolously’ applied direct violence in Congo (Van Reybrouck 2010: 105). The ‘deliberate forgetting’ of the ‘holocaust in Central Africa’, resulting from his run on rubber, combined ideological violence with direct and structural violence (Hochschild 2000: 295, 226).

The ideological violence towards indigenous peoples in Latin America and Africa was more serious than that in parts of Asia. Columbus reported ‘one-eyed men, and others, with the snout of dogs, who ate men’, although he had never seen one. Dutch slave owners in Suriname disdained their ‘cursed blacks, covered with rags’ intensely (De Kom [1934] 2009: 49). Mbembe (2015: 117, 118) pinpoints to ‘the forced break with the self’ ...’expropriation’ and ‘humiliation’, resulting from European colonialism. They continue to affect Africans and other colonised peoples up to today.

### 3.1. Early migration of objects to Europe

In this period the interest for cultural objects diverged. Although impressed by the ancient Aztec, Maya, Inca and other cultures’ temple buildings, the conquistadores despised indigenous religions (e.g. Longhena & Alva 1999: 164 ff.). They burned mummies, destroyed

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81 [http://voc-kenniscentrum.nl/vocbegin.html](http://voc-kenniscentrum.nl/vocbegin.html) (01 November 2013). In 1893 a statue of Coen was erected in the Dutch city of Hoorn and later one in Jakarta. After the arrival of the Japanese in the Dutch East Indies in 1942, that in Jakarta was removed. A Dutch citizens’ initiative asked in 2011 for the removal of that in Hoorn. After a public debate the statue remained but with an adjusted text panel (Vanvugt 1996; De Jong 2000: 51, 52; Stevens 2015: 23).

ritual objects and ancient codices or melted down the silver and gold. They took stone statues and objects made of precious metals to Europe (Van Broekhoven 2003: 36) and built administrative complexes and churches on top of destroyed temple complexes (Pasztory 1998: 7, 8). In Asia Europeans were mainly interested in botany for medicinal reasons, in coffee, indigo, cane sugar and other cash crops for economic reasons, and in maps and atlases for their military operations. Yet the conclusion that material culture remained ‘a stepchild’ (Groot 2009: 26, 28) is only partially valid. From here and elsewhere, where Europe’s trade flow reached, curiosities were collected (Van Gelder 1992a: 27), first as ‘souvenirs of contact’ (Jacobs 2011: 21) or as ‘trophy’. Trophies were a ‘tangible means of showing penetration, conquest and domination’ (Schildkrout & Keim 1998: 21). In Europe they found eager customers - the names of many are still known - and received a ‘prominent place’ in curiosities cabinets (Van Gelder 1992a: 30).83

Gifts to colonial administrators and institutions
In the literature one finds several references to gifts. Since Emperor Montezuma II saw Hernán Cortés and the conquistadores initially as divine beings, he welcomed them in accordance with Aztec customs with gifts (Longhina 1998: 79). The Sinhala monarch Bhuvanoka Bahu VII donated two exquisitely carved, gem-studded ivory caskets to the Portuguese King Don Juan III in 1542; they are now in Munich (Da Silva 1979: 22). In 1595 the Islamic princes in the Indonesian archipelago offered a kris and a lance to Dutch commanders and accepted letters and presents from the Dutch Prince Maurits (Wassing - Visser 1995: 164). Soon however, gifts by indigenous rulers to the European visitors became signifiers of subjugation.

Objects acquired during private expeditions
From South and Central America objects were confiscated; they are now in museums in Europe and the USA.84 Their biographies uncover little about their makers. The Spanish Crown declared graves of kings and nobles legally equal to geological gold veins because of their gold and silver treasures (Van Broekhoven 2003: 37). In Africa and Asia, objects were purchased, exchanged or taken away (Wastiau 2010; Jacobs 2011). British Royal Navy captain James Cook (1728 - 1779) was one of the first to collect objects in the Pacific and North America; some are in the British Museum and in Berlin’s Ethnological Museum (Corbey 2000; Jacobs 2011; MacGregor 2012).

Curiosities that came to Europe are visible on 17th and 18th century paintings, crockery and decorative bowls.85 Personnel of trade-companies bothered little about the people with whom they mingled. They were ‘adventurers’ looking for ‘accumulation of fortune’ (Lequin 2005; also: Leyten 2015).86 They felt disdain for ethnographic objects. In

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83 Bergvelt & Kistemaker (Eds. 1992) mention Dutch collectors from between the late 16th and late 18th centuries. Also: 8.1., Box: Evidence of migration of objects in the first period.
German colonial realms in the Pacific, objects were initially considered ‘firewood’ (Buschmann 2000: 58). Most information about the how of these acquisitions has been lost.

**Objects acquired during military expeditions**

European trade companies fought wars to expand and consolidate their power. The VOC did it in the Dutch East Indies, South Asia, the Persian Gulf, the Sea of Arabia, Southern Africa and the western Archipelago (Knaap ea. 2015: 106). Commanders and soldiers of trade companies and conquistadores acquired large-scale war booty. It ended up in museums in the metropolis and in the colony’s capital or disappeared into private collections. Some examples are given below (Box: *War booty during colonial expansion and its present whereabouts*).

**Box: War booty during colonial expansion and its present whereabouts**

1520 Mexico Spaniards looted the palace and parental house of Aztec Emperor Montezuma Xokoyotzim II (Van Zantwijk 1992: 98 - 102; Longhena 1998: 79, 80). It is unknown whether the imperial headdress of four-hundred bronze-green feathers of the rain-forest quetzal bird, mounted in gold with precious stones, was a gift or loot. Since the late 16th century it has been in Austria. Mexico has repeatedly asked for its return. While several political parties in Austria favour a return, its holder, the Vienna World Museum, disputes whether it belonged to the Aztec King and argues further that it is too fragile to be transported. The museum houses other precious Pre-Columbian or early colonial Mexican feather objects. In 1520, many ancient codices were burned or shipped to Europe, where their names-of-origin were changed into European names. This was an expression of ideological violence. Few remained *in loco*.

1533- Peru Spaniards confiscated golden and silver objects from the Inca Sun temple in Cuzco (Longhena & Alva 1999: 71, 126). Since they melted ‘*almost all gold and silver... down into bars*’, many objects disappeared (Pasztory 1998: 8), while others ended up in Western and North-American museums (Van Broekhoven 2003: 36).

1550 - 1570 Iceland Expelling Roman Catholic churches and priests, Danish Lutherans took shipments of medieval calices, fonts and other religious silver objects to the Royal Palace in Copenhagen to be melted down. Among the newly made products were three silver lions, which are among the masterpieces of Rosenborg Slot.

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89 Jansen and Pérez Jiménez suggest undoing this ideological violence and renaming the codices in conformity with the Mesoamerican culture. E.g. the Codex Borbonicus in the Library of the National Assembly in Paris, presently named after the Palais Bourbon in France, would become the Codex Cihuacoatl, named after a goddess, in: *Ancient Mesoamerica*, Cambridge University Press, 15/02, July 2004.
90 Helgason, H. in: *Die Welt*, Berlin, http://www.welt.de/kultur/literarischwelt/article154159974/Warum-ist-ausgerechnet-Island-so-korrump.html (June 06, 2016). Steinunn Kristjánsdóttir, University of Iceland, discovered the origins of the silver lions (email June 22, 2016). Peter Kristiansen, Rosenborg Slot: melting was a *normal*
1691 India VOC soldiers fighting the Malabar-rulers in Kerala seized 16 bronze Hindu statues from a temple. In 1687 they had found five others in a nearby fort. They ended up in the collection of the Amsterdam mayor and VOC governor, Nicolaes Witsen, who had them auctioned in 1728. It is unknown where they went. 91

1765 Sri Lanka Against the instruction of their commander, VOC soldiers plundered the Palace of the King and the city of Kandy. There is no precise ‘list of the Kandy booty’ but it contained ‘linen, fine furniture and curiosities, with some minted and unminted silver’92 and a canon with the King’s symbols (sun, half-moon and Singhalese lion), later was given to Stadholder William V in The Hague and nowadays is in the Rijksmuseum in Amsterdam. 93 A silver and gold reliquary for a tooth of the Buddha, seized during the plunder of the city’s main temple, was returned on the spot (Kaag ea. 2015: 142).

1776 Indonesia VOC soldiers captured manuscripts, seals, a staff and a glass of local princes of the Macassars at Sulawesi. They are now in the National Museum, Jakarta (Groot 2009: 133).

1784 Indonesia/Malaysia In the fourth Anglo-Dutch war, Dutch commander J.P. van Braam captured 27 flags and two elephants in Telok Ketapang (Knaap ea. 2015: 162). 94 In the Netherlands the flags were shown together with trophies from wars against Spain and England. Due to neglect and poor restoration work some have been lost. 95 The remaining 15 are in the National Military Museum in Soesterberg. 96 The Amsterdam Scheepvaartmuseum has a drawing of the flags dating from 1784. 97

Missionary collecting
In response to the 1453 fall of Constantinople/conquest of Istanbul and the increasing Islamisation of Northern Africa, the pope ordered Portuguese explorers to Christianise areas on the African coasts and to consider them ‘as their lawful possession’ (Derix 2009: 48). Ships of trade companies had missionaries on board for the welfare of the crew and the establishment of missions posts. In the early period destruction of indigenous cultural heritage possibly outweighed confiscation by far. In 1531, the first bishop of Mexico reported the destruction of five hundred temples, twenty thousand images and the hieroglyphs of the Aztec library of Texcoco (Derix 2009: 63). A few decades later the Spanish missionary Diego de Landa burnt tens of Maya codices and thousands of Maya religious habit’ at the time, as there was no use for these objects anymore, and ‘the Crown could always use money’ (email June 06, 2016). http://www.kongernessamling.dk/en/rosenborg/object/silver-lions/ (June 06, 2016).

93 https://www.rijksmuseum.nl/nl/zoeken/objen?q=kanon+kandy&p=1&ps=12&ii=0#/NG-NM-1015,0 (November 11, 2010).
94 http://resources.huygens.knaw.nl/bwn1780-1830/lemmata/data/Braam (January 8, 2016).
objects, admitting that this made the Maya very sad. De Landa was famous for his knowledge of the Maya culture and language.\textsuperscript{98}

\textit{Archives}

Little evidence was found of the collecting of archives in this early period.

\subsection*{3.2. Meagre protection}

In this first period the issue of war law and booty was raised incidentally. In 1625 Hugo Grotius wrote in \textit{De Jure belli ac pacis} that ‘\textit{things, taken in an unjust war, are to be restored, not only by those, who have taken them, but by others also into whose hands they may have by any means fallen}’ (in: Campfens 2015: 13). The principle in the 1648 \textit{Treaty of Westphalia} of universal restitution of private property is often seen as ‘\textit{the first sign of an emerging ban}’ on looting cultural property (Kowalski 2005: 87), although it focussed on archival materials needed for the administration of states and cannot be interpreted ‘\textit{as providing for the restitution of cultural property as such}’ (Lubina 2009a: 51, 52).\textsuperscript{99} In his 1698 Second Treatise on Civil Government, John Locke (1632 - 1704) accepted the victor’s full right to take an enemy’s life but not his property (in: Kowalski 2005: 87). Emeric de Vattel (1714 - 1767) argued that a conqueror had to respect private property, but was allowed to take public property, except for cultural properties such as temples, tombs and other buildings that did not contribute to an enemy’s strength (Cohan 2004: 27; Vrdoljak 2008: 64, 65). In discussions after the defeat of Napoleon that led to the \textit{Second Treaty of Paris} of November 20, 1815, ‘\textit{stolen art was a major topic}’. France was pressured to return spoils of war, be it not to the countries-of-origin such as Egypt, but to victorious European countries and the Vatican. For some authors, the 1815 treaty contained the basis for later repatriations (Kowalski 2005: 87) (6.2.1.).\textsuperscript{100}

However, principles for dealing with war booty applied only to intra-European state relations and not to those with distant colonial possessions/indigenous entities. The dominating legal discourse did not recognise them as an international legal person. This discourse is questionable as it is unclear why kingdoms in the Indian sub-continent, sultanates on Java and Bali,\textsuperscript{101} and empires along the Niger River in West Africa were less states than the \textit{\textbf{\textit{different and non-equivalent forms}}} of strong monarchies, merchant republics and confederations in Europe (Burbank & Cooper 2010: 183). The European colonisers recognised this \textit{\textbf{\textit{de facto}}} by entering into agreements with rulers of states in South America, Africa and Asia, which they would later fully occupy (Lubina 2009a: 136, 138). After

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\textsuperscript{98} Sources: information collected at the exhibition ‘Maja’s – Heersers van het Regenwoud’, Drents Museum, Assen (August 31, 2016) and http://epicworldhistory.blogspot.nl/2012/06/diego-de-landa.html (September 05, 2016).

\textsuperscript{99} In accordance with the Treaty of Westphalia, Sweden returned Bohemian archival records and manuscripts to what was then Austro-Hungary (Prott 2009: 2).


\textsuperscript{101} The Nagarakertaggama palm-leaf (7.2.) mentions kingdoms explicitly. \textit{Het oud-Javaansche Lofdicht Nagarakertaggama van Prapatje (1365 A.D.)}, Drukkerij Volkslectuur – Weltevreden 1922: 5 ff.
their independence, many returned as internationally recognised states, all be it with ‘continuity and rupture’ (Vrdoljak 2008: 200) and often in new formations. If they are deservedly accepted as states, ‘one must qualify the violent contentions with the European powers during the process of colonisation as armed conflict’ (Lubina 2009a: 138), which would make them fall under the regime of war law.

There were critics in Europe of the colonial violence. In 1522 Roman Catholic bishop Bartolomé de las Casas brought into the open the horrible bloodbaths and other cruelties, committed by his fellow countrymen on the Indians in the Americas. He proposed to import enslaved Africans (De Kom [1934] 2009: 23). Legal experts in the Iberian empire such as Francisco de Vitoria (1483 - 1546) expressed doubts about Spain’s behaviour in the Americas and deplored the spoliation of goods from indigenous people (Prott 2009: 2). In 1623 Dutch poet Joost van den Vondel criticised undue force and greed:

Feel free to travel far lands in foreign places,
But act in righteousness in deed, and in your words,
Neither mark by undue force your Christian greed,
But chase the rightful goal.

In conclusion, European powers began their colonial expansion at different moments. Trade companies with strong links to the metropolis played a major role. They applied large-scale direct, structural and ideological violence. The ideological violence in relation to cultural objects was most extreme in South America and Africa. Although the information about collecting activities of European colonials is scarce, there is evidence that collecting started in an unsystematic way and then increased. It was done through purchase or exchange, force, coercion and conversion. The latter occurred during wars and violent actions, which yielded war booty, and through missionary collecting, whereby destruction outweighed confiscation. There is scarcely evidence of legal protection of indigenous cultural heritage in this early period. Although colonisers recognised de facto the rulers of indigenous states by concluding commercial treaties with them, they did not treat these territories as states, as meant in international law, but as extensions of their own interests. In Europe there was moral indignation about the creeping colonisation and forced removals of cultural objects.

102 Vanvugt (1996) found critics in the first period of Dutch colonialism: L. Reael († 1637), N. de Graaff († 1688), W. van Haren († 1768), W. van Hogendorp († 1784), and his son D. van Hogendorp († 1822).
104 Copied in this translation from panel about VOC attitudes, Museum Bronbeek, Arnhem (March 24, 2014).
Chapter 4
Settler and exploitation colonialism

Settler colonialism was aimed at the establishment of a branch of the metropole with its own administrative structures. To some Europeans it offered an alternative to unemployment or failed ambitions (Burbank & Cooper 2010: 319). The goal of exploitation colonialism was narrower and aimed at getting the maximum out of other peoples’ natural resources and workforce. It enabled Europeans to enrich themselves quickly. The speed of the transition to either form differed per continent, coloniser and colony. To impose their will, colonial powers fought ferocious wars, making numerous victims and confiscating extensive war booty.

In South America the Spaniards soon regularised settlement patterns, organised the collection of tribute, rounded up labour for gold and silver mines and introduced forced agricultural production, especially of sugar. They saw the indigenous people as ‘infidels and inferiors’ (Burbank & Cooper 2010: 162). The colonialism occurred with massive direct, structural and ideological violence. Aztec sources mentioned massacres (Van Zantwijk 1992: 79, 81, 82 and passim).

In Asia the transition took years. By 1800 a colonial administration had replaced the bankrupt VOC in the Dutch East Indies. It was not until 1920 that the archipelago was fully under control. The British were the dominant colonial power. To practice exploitation colonialism they expelled or exterminated much of the indigenous population in North America and Australia. In other possessions they set up minority rule with oppressive administrative structures. France’s creeping colonisation passed in the second half of the 19th century into protectorates in Laos, Cambodia and parts of Vietnam, and later also in Tunisia and Morocco.

From the opening of the Suez Canal in 1867 and the 1884 - 1885 Berlin Conference colonial powers began to occupy Africa’s interior and to exploit its natural resources. Belgium, Italy, Germany, France and Great Britain established administrative structures in their African possessions, and some did this also in the Pacific. Sweden and Denmark had given up most tropical trade posts and trade companies in the 17th century. They practiced settler colonialism in the Nordic areas (Naum & Nordin 2013; Lucas & Parigoris 2013).

4.1. Peak in migration of objects
In addition to private collections and influenced by the Enlightenment, museums were established in Europe. They showed the conquest and profitability of the colonial possessions. Each collecting institution or individual had his own (mix of) motives, varying from the salvage paradigm and scholarly curiosity to greed and disdain for local people. European collectors sometimes showed more interest in ancient monuments than local people. They rediscovered the Angkor Wat and the Borobudur temple complexes in Asia, the ancient caravan oasis and city of thousand columns of Palmyra in the Middle East, and the religious, ceremonial, astronomical and agricultural Machu Picchu centre in Peru.105 All are now listed as World Heritage sites, some also on UNESCO’s List of World Heritage in Danger.106 Their violated walls tell stories of neglect, conquest and objects forcibly removed, also in the European colonial period.

Little is known about acquisitions from South America from this second period. There were expeditions, but most that are known took place after the independence of countries (5.1.). European visitors of Asia neglected Islamic and local cultural heritage (Sudarmadi 2014: 75, 91; Shatanawi 2015: 31). Hindu and Buddhist objects migrated extensively from Asia to Europe and there is some provenance information about them. In Africa, the dominance of disdain over admiration for indigenous cultures made ‘that the process of documentation has not been properly carried out’ (Musonda 1996: 168). The objects’ biographies are greatly curtailed (Wastiau 2000b: 13).

Gifts to colonial administrators and institutions
Most evidence about gifts in this period is from Asia, both about those from local rulers to colonial administrators and between colonial officials. Princes from Java and Bali confirmed their submission to Dutch colonial administrators with e.g. a weapon-rack. It is now in the Rijksmuseum in Amsterdam.107 Other such gifts can be found in Dutch ethnographic museums and in the National Museum in Jakarta (Brinkgreve 2005: 122; Trigganga ea. 2006: 82). During the British interregnum in the Dutch East Indies (1811 – 1816), British colonial officials donated two ancient stones with inscriptions to colleagues in South Asia. The Indonesian government wants both returned (Box: Ancient Indonesian gifts dispersed).

Box: Ancient Indonesian gifts dispersed
In 1812 Colonel Colin Mackenzie of the British-Indian forces in Java collected the *Pucangan Stone*. It was shipped to the colonial administration in India and is currently in a storeroom of the Indian Museum in Kolkata. Through the years, the clarity of the inscription on ‘the sole known documentary source’ about the reign of King Airlangga (1019 - 1049), has been damaged.

In the same period, Mackenzie collected the 10th century East-Javanese *Sangguran* stone, also with a rare inscription. Lieutenant-Governor T.S. Raffles donated it to the Governor-General of India, Lord Minto. Upon his departure, Minto took ‘the last known recorded


document issued by the Sailendra rulers of ancient Mataram in Central Java (8th - 10th century)’ to his estate in Scotland, where heavy winds and rain erased the inscription of what has become now a ‘garden ornament’. The Minto family wants a high sum as compensation, which Indonesia is unwilling to pay.  

*Objects acquired during private expeditions*

Colonial officials and military, private entrepreneurs and collectors gathered antiquities and ethnographic objects during expeditions. For the German New Guinea Company and other German enterprises in the Pacific and Africa it was a lucrative side activity. Norway, a country without tropical colonies, had sea captains and traders in the Pacific, Africa and the Americas who purchased or exchanged objects for European goods, took them away with coercion, not shunning ‘the most brutal atrocities’ (Bouquet 1996: 74, 77). In West-Central-Africa traders and collectors vied with each other. European museums competed for the best objects (Willink 2006: 170). Cecil Rhodes, founder of the British South Africa Company, enabled employees of the Ancient Ruins Company Ltd. to exploit all two hundred Rhodesian ruins, of which Great Zimbabwe was the biggest. They took ‘gold and everything of value, tearing down structures and throwing away whatever was not valuable to them (pottery shards, pots, clay figurines)’.  

Since most learned societies in Dutch, British, French and German possessions began as private initiative of officials of trade companies and colonial administrations, their acquisition approaches are put here under the heading *Objects acquired during private expeditions*. Often they gained organisational and financial support from the colonial administrations.  

In 1778 VOC officials established the Batavian Society for Arts and Sciences in Batavia (nowadays Jakarta); it soon had a museum and collections. Several Indonesian authors recognise the role of the Society (Sumadio 1992; Sutaarga 2002; Djojonegoro 2006). It ‘functioned as a major force or “watchdog” to protect and preserve Indonesia’s cultural heritage’, its museum offering ‘a unique and valuable starting point’ for Indonesia’s National Museum in Jakarta (Djojonegoro 2006:49, 64).  

In 1784 a British East India Company official started the Asiatic Society in Kolkata with museum and library. It acquired a branch in Colombo with the Government Oriental Library for ancient palm leaf manuscripts (Sweet 2014: 228). The Asiatic Society operated more independently of the colonial administration than the Batavian Society, while its members were more research oriented (Groot 2009: 151, 152).  

The tens of thousands of objects that came to Europe overloaded colonial museums. One museum director feared that they would ‘start rotting’ and his storage space would become a ‘rubbish heap’ (Staal & De Rijk 2003: 34, 35). Their creators, use and first  

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possessors are rarely known. The origin of the hundreds of objects that Dutch female
explorer Alexine Tinne and German zoologist Theodor von Heuglin collected along the White
Nile in South Sudan in 1863 and 1864 is shrouded in obscurity. They purchased objects in
situ and in Khartoum and only noted the ethnic group who had produced them. Most of
their objects ended in the storerooms of fifteen European museums, the curators scarcely
aware of their existence and provenance (Willink 2011: 305 - 308).

Possessors or their descendants donated or sold objects to museums in the colony
and in the metropolis. The receiving institutions rarely investigated their provenance. It was
the time of the ‘imperial blind-eye to opportunistic collecting’ in the British (Sweet 2014:
230), the Belgian (Van Beurden S. 2009: 137) and other European empires. The museums, in
their turn, dominated the attribution of objects. In 1830 Governor Robert Brownrigg of Sri
Lanka gave the 8th or 9th century, gilt bronze statue of Tārā to the British Museum. Sri Lanka
has repeatedly asked for the return of this, the only one of its kind found in the country.
While Sri Lanka claims it was war booty (Greenfield 2007: 133, 134), the British Museum
informs its visitors that ‘nothing is known about how and when the statue was found nor
how it came... in the possession’ of the museum (MacGregor 2012: 298).

In some collection activities the salvage paradigm echoed, especially when the lack of
storage facilities, absence of experts and other local circumstances made preservation near
to impossible. Two British colonial officials in Papua New Guinea gained fame for it (Box:
Relocating to preserve better: From Papua New Guinea to Australia).

Box: Relocating to preserve better: from Papua New Guinea to Australia
Two British Lieutenant-Governors of Papua New Guinea, William MacGregor (1888 - 1897)
and Hubert Murray (1904 - 1940) did much for the preservation of cultural heritage.

MacGregor set rules for collecting- reciprocity, no robberies or taking away without
the owners’ consent, and confiscation of improperly acquired objects. His visits to Papua
New Guinea’s coasts were often the first European contact with indigenous people. He
exchanged iron articles and coloured cloth for hard-to-find stone axes and other
ethnographic objects (Quinnell 2000: 84). In 1889, he agreed with the Queensland Museum
in Brisbane about what had become the official British New Guinean collection of 10,800
objects from 178 different places. The Brisbane museum confirmed the custodian agreement
(Quinnell 2000: 91; Busse 2010: 6). Part of the collection has been repatriated (11.2.).

Hubert Murray began to build a museum in Port Moresby and drafted the Papuan
Antiquities Ordinance for the protection of relics (Craig 1996: 112). In 1915 he made a
custodian agreement with the Australian Museum in Sydney and had 3,200 objects shipped
to Australia. In later archival documents their temporary stay in Australia is confirmed (Craig
1996: 206). The Murray collection remains in Australia in full (11.2.). Both men had agreed
with the safe-haven museum that it could keep a representative proportion for its own use.

A well-known controversial expedition example is that of Lord Elgin’s acquisition of the 75
meter long, 5th century frieze that adorned the Parthenon and is now in the British Museum
(Stamatoudi 1997112; Merryman 2006; Greenfield 2007; MacGregor 2012; etc.). The poet
Lord Byron and archaeologist Richard Payne Knight criticised Elgin for it. An 1816
Parliamentary Committee that had to decide about the purchase by Britain of the Marbles

112 http://www.parthenon.newmentor.net/legal.htm (November 27, 2015)
was confused over the question whether Elgin had had the right to take them. In this book, the term ‘Elgin Marbles’ is avoided for the same reason people object to naming Aztec codices after the Europeans who confiscated or purchased them. In UNESCO documents they are called Parthenon Marbles. Elginism has become synonymous with the pillage of precious works of art in subjugated countries (Greenfield 2007: 54). For decades, the Greek Government has been asking UNESCO’s Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries-of-origin or its Restitution in case of Illicit Appropriation to facilitate mediation (6.1.). In 2009, a special museum for the Marbles was opened in Athens. The British Museum rejects mediation, arguing that the Intergovernmental Committee mediates between states and the British Museum is ‘not a government body’.113 In May 2015 the Greek government made ‘an unexpected move’ by rejecting a suggestion of British lawyers to formally request repatriation and, in case of a rejection, to take the British Museum to the International Court of Justice in The Hague. Overwhelmed by financial problems, unwilling to make enemies in Europe and not convinced that the International Court would solve the dispute, it dropped ‘legal action’ to recover the Parthenon Marbles, for fear it would lose the case, and opted for ‘diplomatic and political channels’.114 Some other expeditions also stand out in this consolidating phase of European colonialism. One consisted of over one hundred and fifty expeditions around 1900 in the Dun Huang area, in China, led by collectors from six European countries, the USA and Japan (Huang quoted in: Liu 2016: 13 ff.). The other began around 1870 in Cyprus and consisted of three waves. American Consul in Cyprus, Di Cesnola, was responsible for the first, the British Museum for the second and Turkish invaders for the third (Box: Cyprus and Dung Huang expeditions).

Box: Cyprus and Dung Huang expeditions

Invasions of Cyprus

Cyprus became independent in 1960 and is a member state of the European Union, the Council of Europe and the Organisation for Security and Co-operation in Europe.115 From 1571 it had been part of the Ottoman Empire. In 1865 Luigi Palma di Cesnola became American consul. Until his departure in 1877 this amateur antiquarian collected 35,573 archaeological objects from all over the island, dating from 300 BCE onwards. He did it in a crude manner. When shipping them away, five thousand were lost at sea. The overall majority became the basis of the Metropolitan Museum of Art in New York, of which Di Cesnola became the first director in 1879 (Marangou 2000: 118; Waxman 2008: 181). Other objects are in museums in Europe and Turkey. The expression Cesnola tradition means that no major cultural object ‘ever crosses a national frontier without at least two laws being broken’ (Meyer 1977: 68).

In 1878 the British took over control over Cyprus. Again archaeological objects were excavated and exported on a massive scale. Most are now in the British Museum. The British overruled regulations set by the Cyprus Legislative Council, which gave the supervision of excavations and exports to the Cyprus Museum authorities. The indignation that the British created among heritage officials and the public in Cyprus (Marangou 2000: 357, 359), continues today. Cyprus has made no formal restitution claims, as it is wary of having little or no chance of success.116

The loss of antiquities reached a new peak in 1974 after the Turkish invasion of the northern part of the island. This time Christian treasures also disappeared (Maas 2005).

Aurel Stein, Paul Pelliot and other explorers

Around 1900 Austrian-British archaeological explorer, Aurel Stein tricked out thousands of manuscripts, paintings, embroideries and other objects from caves in Dun Huang in north-central China (Liu 2016: 15). They ended up in the British Library, the British Museum and the National Museum in New Delhi. In 1930, Stein was named an insatiable ‘thief’ in China. A year after him, French sinologist Paul Pelliot took thousands of items from the same caves; they are in France’s Bibliothèque Nationale. He cannot expect sympathy in China either (Liu 2016: 16). All treasures are on a lengthy list of objects that China wants to recover. Western authors complain about the ‘criminalisation’ of Stein117 by China and use derogatory terms as ‘scoundrel’ for the local guide, who had swindled Stein and not for the European explorer himself (Hopkirk 1991: 121). They omit the on-going discussion about the provenance of collections from the Silk Road (MacGregor 2012: 272). Liu (2016: 110, 111) wonders, whether civil litigation against e.g. the United Kingdom is an effective way for China to retrieve Dun Huang treasures. Her conclusion is negative, as the limitation rules of the three legal systems are inconsistent. Liu does not discuss whether the International Dunhuang Project, initiated by the British Library in 1994, in which libraries in the UK, China, Japan, South Korea, Germany and France make manuscripts and other objects virtually accessible, serves to replace their return (Liu 2016: 17).118

Objects acquired during military expeditions

During numerous punitive actions, raids and wars, colonial rulers deprived local power-holders of inalienable regalia, and thereby of dignity and legitimacy (Drieënhuizen 2012: 18). Booty also ended up in the hands of private officials and military. Such military expeditions continued until far in the 20th century.

A major looting, The rape of the Nile (Fagan 1977), was set in motion by General Napoleon Bonaparte. In 1798 he sailed with 167 scientists and Constantin Volney’s book Voyage en Égypte et en Syrie to Egypt, starting a ‘campaign of looting conducted in the name of diplomacy and cultural inquiry, which soon degenerated into an orgy of destruction, greed, and outright profiteering’ (Fagan 1977: 361). Although soon defeated by the British, Napoleon’s campaign had a lasting impact and moreover, was continued by the British. Both took treasures of the temples in Luxor and Karnak, the Rosetta Stone, sarcophagus, obelisks and wagon-loads of other treasures. Most of these are now in the Louvre (former Musée

116 Personal communication official of the National Museum of Cyprus, August 2009.
118 http://idp.bl.uk/ (November 27, 2015).
Napoleon), the British Museum and other Western museums. Some decorate public squares. European diplomats, amateur archaeologists, visitors and others profited as well. Because of the involvement of scientists and the salvage paradigm as a motive, one can categorise this loot under expeditions. It can be defined as war booty because of the involvement of the French army and because the British captured many treasures from the French, thus turning them definitely into war booty (Cohan 2004: 17, 18). The entire collection was ‘simply shipped to Europe without any recourse or reference to the Egyptian government at all’ (Fagan 1977: 81). Neither France nor Britain ever considered returning artefacts to Egypt.

There is war booty from numerous other battles - a precious Inca textile (Longhena & Alva 1999: 117), religious objects from Benin (Effiboley 2015: 47) and weapons, flags and other dignity symbols of Indonesian rulers. Some museums were offered too many flags ‘to provide a clue to the probable provenance’ of each (Stevens 2015: 57). Descendants have often asked for their return (Box: War booty during settler- and exploitation-colonialism). The absence of these objects means unhealed scars, incomplete pages of history, insults to ancestors, missing unique objects, or injustice that has to be undone. While admittedly some returns have been made, the current possessors have difficulty in honouring return requests. Although the looting of the Benin Court in 1897 evoked in Great Britain moral indignation about looting as standard practice in colonial warfare, it did not diminish the extent of the looting.119

Box: War booty during settler and exploitation colonialism

India During the three Anglo-Maratha wars (1775 - 1818) Britain captured ‘swords, shields, daggers and other weapons’ (Cohn 1996: 104).

Egypt In 1798 French scientists confiscated the Rosetta Stone, which was subsequently captured by British soldiers and is presently in the British Museum. The museum has turned down Egypt’s request for its return on legal grounds and because of the larger audience that it attracts in its present location (Greenfield 2007: 119).

Indonesia In 1812 British Lieutenant-Governor T.S. Raffles looted the palace of the Sultan of Yogyakarta and caused him and his followers to give up their kris and gold ornaments. While he slept guards took the Sultan’s diamond buttons from his dress jacket. Raffles sent sword and dagger to Lord Minto in Kolkata as a symbol of the Sultan’s submission (Carey 2008: 341).

Indonesia In 1830 Indonesia’s national hero, Prince Diponegoro, handed over his kris to Dutch colonial officers (Kartiwa 1992: 160; Stevens 2015: 37). It should have been returned on the basis of a 1975 agreement between the Netherlands and Indonesia. It’s absence is still felt in Indonesia (Kartiwa 1992: 160).

Algeria In 1833 French soldiers took a 17th century bronze canon, once employed by Algeria’s rulers against European forces and pirates. Nowadays it is in the French city of Brest. In 1962, on the eve of Algeria’s independence, France took numerous archives with maps of sewers, gas pipes and electricity lines. On the 50th anniversary of independence Algeria’s National Archive and civil society groups asked for the return of

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canon and archives. France transferred only some Ottoman era documents. It allows Algeria to have copies of other archives.  

Indonesia  
After Dutch soldiers had occupied Baros on Sumatra’s north-western coast in 1839/40, they captured the flag of Al-Izamander, the leader of the Aceh troops, who had come to help. It is in the Amsterdam Rijksmuseum (Stevens 2015: 57).  

India  
The Second Anglo-Sikh War resulted in the British annexation of Punjab in 1849 and subjugation of the Sikhs. The major war trophies, the golden throne of Ranjit Singh and the Koh-i-Noor diamond, were shown at the Great Exhibition in 1851 in London. The throne nowadays is in the Victoria & Albert museum. The diamond became a major jewel in the British crown (Cohn 1996: 104).  

South Asia  
After defeating in Lucknow the Sepoy Mutiny (British viewpoint) in 1857 or the ending of the First Independence War (Indian viewpoint) British soldiers ransacked palaces and looted daggers and other treasures. Some are now in the National Army Museum in London. For an Indian visitor in 1862 ‘it was painful to see the State chair of gold of the late lion of the Punjab’ (Cohn 1996: 105).  

China  
In 1860, at the end of the Second Opium War, in retaliation for the torturing to death of some Westerners, Anglo-French forces pillaged the Yuanmingyuan or Old Summer Palace complex of Beijing. In ‘one of the most extreme acts of destruction of the 19th century’ (Tythacott 2015: 469), they pulverised vases and mirrors, damaged paintings, scrolls and the empress’s robes, and stuffed their pockets full of rubies, sapphires, pearls and pieces of rock crystal. Gold and silver treasures, secret records and sacred genealogical tablets of the empire were taken. By now, ten thousand have been identified in collections in the United Kingdom, France and the United States, among them twelve animal heads representing the Chinese zodiac (Liu 2016: 9, note 40). As fire ruined all documentation of the relics, it is unknown precisely how many disappeared. For Chinese this ‘orgy of plunder’ (Liu 2016: 10) remains an ‘unhealed scar, still bleeding and aching’. Some animals of the zodiac have been returned, but most Western public and private collectors remain reluctant to acknowledge to Chinese claims (Chang 2014; Liu 2016).  

Indonesia  
Between 1862 and 1865 Dutch officials took ornaments and dignity symbols of the Sultan of Bandjamarsin, southern Borneo, and of the Sultan of Bantan, West Java, to the Royal Batavian Society. A high-ranking colonial military figure denounced taking a kris and a lance of the Bandjamarsin Sultan (Groot 2009: 481, 482).  

Korea  
In retaliation for a massacre of Christian missionaries, in 1866 French troops plundered the archives of the Joseon Dynasty in Korea (also 1.2.), seizing almost three
hundred manuscripts, while fire destroyed six thousand others (Prott 2009: 301). Since a Korean researcher discovered the manuscripts in 1975 in the Bibliothéque Nationale in Paris, South Korea asked for their return. As they had become part of the French cultural heritage and were thus inalienable according to French law, requests were turned down. In 1993 however, France returned one of them in order to obtain a contract for the construction of a high-speed railway-line in Korea. In 2011, the remaining manuscripts were transferred to South Korea on a renewable long-term loan (Hershkovitch & Rykner 2011: 72).

Ethiopia In 1868 in retaliation for imprisoning a British consul and some European missionaries British and British-Indian soldiers confiscated at least 468 items of regalia, religious objects and ancient manuscripts from Emperor Tewodros’ palace and some nearby churches in Maqdala. During an auction, organised to cover the costs of the raid, a special agent of the British Museum succeeded in outbidding ‘the gathering of civilins and officers, all eager for souvenirs in this surreal scene on an East African plain with ample funds’. Four years later British Prime Minister, William Gladstone, said he was ‘deeply regretting’ their removal and suggested the artefacts be returned (Opoku 2010b). Most are now in the British Museum, the Victoria & Albert Museum, the British Library and the Royal Collection. British soldiers kept some for themselves.125 The Jesuit Société des Bollandistes in Brussels, the Chester Beatty Library in Dublin and the Auckland Free Library possess some manuscripts.126 Almost unnoticed are the precious crosses in a Pakistani army regiment at the Malakand Pass in Pakistan.127 In 2008, Ethiopia asked for the return of the Maqdala treasures in the United Kingdom. ‘Ethiopians have long grieved at the loss of this part of their national heritage…. This act of appropriation had no justification in international law.’128 So far ten objects have been returned.129 In 1985, the National Museum of Kenya returned a shield of elephant skin decorated with silver, two swords, four knives and a bayonet.130

Ghana To liberate non-British Europeans and other Ghanaians from a prison in Kumasi, in 1874 British soldiers attacked the Ashanti court and confiscated the king’s sword, gold masks and other precious objects. They are in museums in Great Britain. In 1894 British troops returned to punish the Ashanti Court for not paying the indemnities imposed after the 1874 invasion. During the centenary of the invasion in 1974, the Asante King asked for their return. The proposal of a member of the House of Lords to do so was turned down by the British government and the British Museum. Ghanaians have also asked for their return (Greenfield 2007: 119 – 121; Opoku 2011b).

Angola In 1875, F. Hanken, a representative of the African Trade Society, took two Chokwe statues from a village, left by its inhabitants after a Dutch raid (Willink

127 Aid expert Frans Werter (email May 25, 2015) discovered the crosses in the early 1990s in a display case of the Pakistani regiment at Malakand Pass; the commander had explained how they had come there from Ethiopia.
129 Returned were a royal cap and silver seal from Queen Elisabeth II’s collection (1965); two objects donated by private owners, one by an Edinburgh church, two were purchased by supporters of the return of Maqdala treasures, The Art Newspaper, October 13, 2004; http://www.afromet.org/ (June 21, 2011).
2006: 206, 353). After the same raid, another representative of this trade society, F.G. Hanken, took a Yombe statue with power. Presently it is with an Amsterdam art dealer.  

Indonesia  Early in 1876 Acehnese fighters attacked Fort Lembu on Sumatra. Eight of them were killed. First Lieutenant W.D.C. Regensburg and three others Dutch also died. Among the loot was a shield, presently in the Rijksmuseum (Stevens 2015: 87).  

Myanmar  In 1885 the British army confiscated the Mandalay Regalia as indemnity after the third Anglo-Burmes war. They were placed in the Victoria and Albert Museum in London. In 1964, after four years of discussions, the museum returned the treasures. In appreciation of the museum’s safekeeping, Myanmar gave a gold and jewelled container in the form of a karaweik (mythical bird) that symbolises longevity and had belonged to the last Burmese king, Thibaw, (1878 - 1885) (Greenfield 2007: 371).  

Mali  After defeating the rebellious Sékou Amadou and his Islamic Tukolor Empire in 1890, French troops confiscated golden jewellery and manuscripts. After much wandering, they have ended up in the Musée du quai Branly in Paris. For Mali their absence is a ‘most burning question’ (Sidibé 2010).  

Benin  In 1892 France dethroned King Béhanzin of Benin. French soldiers seized a throne, royal sceptres, sacred doors and other treasures. These were moved to France and most have come via legacies and donations to the Musée du quai Branly. The West-African state has repeatedly asked for their return. Since 2005 French MP Christiane Taubira has supported the claim. In 2006 for the centenary of Behanzin’s death, the Paris museum loaned thirty objects to Benin; they attracted over a quarter million visitors (Hershkovitch & Rykner 2011: 77, 78). The Benin government is said to have opened negotiations with France and UNESCO in 2016 about the return of this war booty, but despite pressure from civil society groups, Cotonou has not confirmed the formal request for which France is asking.  

Indonesia  The Dutch colonial army in 1894 seized what is known as the Lombok treasure (7.4.). Many objects remained in the museum of the Batavian Society. In 1977 half of the treasures that were kept in the Netherlands were transferred to Indonesia. The other half remains in Dutch museum collections (Vanvugt 1994; Ernawati 2005).  

East Timor  To break the resistance of local kingdoms and to revenge the murder of Portuguese military in 1895, Portuguese regular soldiers, Timorese irregulars and others...

131 Initially Willink stated that the two are the same as two Chokwe statues in the Amsterdam Tropenmuseum. He withdrew this after the museum had come with new evidence. Email Willink to Schenk, October 01, 2008.  
135 Also: http://www.lemonde.fr/afrique/article/2016/08/01/tresors-pilles-la-france-doit-repondre-positivement-a-la-demande-du-benin_4977095_3212.html#vzgEp5BlwHrCycD.99 (August 25, 2016). By the way, the Le Monde article at the beginning shows a picture with objects from Benin City, an unfortunate confusion.
plundered and destroyed the mountain-village of Dato-Tolo. The skulls resulting from their action remain in the Coimbra Museum.137

Nigeria/Benin City In 1897 British soldiers ransacked the palace of the Oba of Benin and took thousands of ancient bronzes, brasses and ivories. These were dispersed over Europe and North America. There have been repeated requests for their return. In the second half of the 20th century more of such requests were honoured than at the start of the 21st century (12.1.).

China During the 1900 Boxer Uprisings, soldiers of the Eight-Nation Alliance (Austria-Hungary, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States) seized gold and silver treasures and money from palaces and Chinese residences. This ‘carnival of loot’ was comparable with that of the ransacking of the Summer Palace in 1860, although fewer items taken in 1900 have surfaced in public collections or at auctions. The Imperial Library burned down; it is unknown who set the fire, British or Boxer soldiers (Chang 2013: 378; Liu 2016: 10).

Nigeria The Aro in Eastern Nigeria, known for their strong judicial and administrative system, kept resisting the British coloniser. In the Anglo-Aro war (1901 – 1902) the British blew up the precious Ibini Ukpabi shrine.138

China/Tibet During a 1903/4 expedition officers and soldiers of the British-Indian Army killed thousands of Tibetans and looted, against instructions from above, so many manuscripts and other objects from monasteries that hundreds of mules were needed to carry them to India. Loot also ended up in private luggage (Carrington 2003: 102, 104).139

Indonesia After the violent subjugation of the Gajo and Alas in Aceh in North Sumatra in 1904 (‘over a quarter of the population’ killed), Dutch military collected ‘jewellery, clothing, ceremonial weapons’, etc. It is unknown whether they followed the instructions to act properly, to pay for objects and ‘not to rob the bodies of the dead’. Nowadays the objects are in museums in the Netherlands, Germany and Indonesia and with the descendants of Lieutenant-Colonel Van Daalen (Stevens 2005: 77, 80, 83; 2015: 91).

Missionary collecting

Although the 1789 French Revolution forced some missionary orders to temporarily close down and interrupt their overseas activities (Derix 2009: 147), colonial administration and Christian orders mostly worked closely together. Missionaries amassed objects on a large-scale. Their collecting had strong European features, as missionaries from one European nation moved freely through the colonial possessions of another nation. It reached a peak in the second half of the 19th century.140 They sent objects to newly erected missionary and

140 Van Pesch & Campbell 1992; Corbey 2000; Budiarti 2005; Derix 2009; Gissibl 2011; Jacobs 2011; etc.
other museums. As remarked earlier (2.3.4.), depending upon the help of local actors, in some instances missionaries were more active than in others.

In some instances, as that of the German Rhenish Missionary Society in Namibia, the cross prepared the ground for the sword (Gissibl 2011: 173). In Congo, King Leopold II trusted initially only Belgium-based missionary congregations, but later one of every four missionary workers was a non-Belgian European (Derix 2009: 734). This was in line with Art. 6 of the General Act of the 1885 Berlin Conference (2.3.2.). Scandinavian missionaries collected thirty thousand objects from Congo (Tygesen & Waehle 2003: 5), among these the ten thousand masks, ancestral sculptures, jewellery and other objects in the ethnographic museums of Stockholm and Gothenburg, gathered by the Swedish Missionary Society (Gustafsson Reinius 2011: 81). In colonised regions elsewhere there were similar freedom to garner objects (e.g. Van Pesch & Campbell 1992; Derix 2009: 149, 150). The Society of Foreign Missions of Paris was active in ten countries in South and Southeast Asia.

Archives
Both archives of the colonial administration and precious local archives and manuscripts were increasingly shipped to the metropoles in Europe in the second period. The Icelandic manuscripts, shipped en masse in 1720 to Copenhagen, were a special case; part of it was repatriated (10.3.). The manuscripts that French soldiers took in 1866 from Korea have been mentioned above (Box: War booty during settler- and exploitation-colonialism).

4.2. Protection and preservation measures

People have always searched for general values, virtues and rights. In Europe such rights were formulated in the 1789 Déclaration des Droits de l’Homme et du Citoyen. Men are born free and equal in rights (Art. 1). Liberty, property, safety and resistance to oppression are fundamental rights (Art. 2). Liberty is doing anything that does not harm others (Art. 4). These rights were restricted to Europeans and excluded others. European states also excluded other entities in the 1815 Congress of Vienna, which led to measures for the protection of the cultural property taken by Napoleon’s armies. Following the emperor’s defeat, such property had to be returned. This meant a ‘greater emphasis on the (territorial) link between a cultural object and its country-of-origin’ (Cohan 2004: 20; Vrdoljak 2008: 23; Lubina 2009a: 55, 56). Objects from Egypt such as the Rosetta Stone were not returned to that country, but remained in France or were passed to the United Kingdom.

European powers easily considered implicitly those territories not ruled by Christians as terra nullius, no man’s land, entitling them to conquer these lands and to take over the

141 Gustafsson Reinius 2011: 81; 2013: 39; email V. Baeke, Royal Museum for Central Africa, Belgium, December 19, 2015. Extensive Congolese collections are in Belgium, France, Germany, Switzerland, Great Britain, the Netherlands, Sweden and the USA.
143 In Skatte/Treasures (2003), the Royal Library in Copenhagen shows a great many.
144 http://www.assemblee-nationale.fr/connaissance/constitution.asp#declaration (December 1, 2015).
sovereignty by concluding treaties with non-Christian rulers. In the General Act of the Berlin Conference of 26 February 1885 they agreed to notify each other of effective occupations,\textsuperscript{146} which other European powers then respected (Cohan 2004: 26). It was a small step from a \textit{terra nullius} to a \textit{res nullius}, a no man’s object. Cultural objects, including those collected by missionaries and collectors, were res nullius and could be taken without difficulty.

Occupying powers introduced legislation on indigenous cultural heritage to protect it against attempts of European scientists, collectors, colonial officials and soldiers to get hold of it. From 1840 onwards the authorities in the Dutch East Indies formulated rules that declared temples, statues and other antiquities on the government’s territory public property.\textsuperscript{147} The export of antiquities required the Governor-General’s permission. From 1844 onwards, lists of monuments were made (7.1.).

In Asia and Africa, European powers set up museums (Gaugue 1999). The Museum of the Asiatic Society in Kolkata opened in 1814. In its collection were paintings, manuscripts, sculptures, bronzes, coins and inscriptions.\textsuperscript{148} The museum of the Batavian Society for Arts and Sciences had a budget for purchasing ‘objects of essential cultural importance’. It sent less essential objects to other institutions, e.g. the Museum Volkenkunde in Leiden.\textsuperscript{149} France centralised materials collected in West-African colonies in Dakar, Senegal, and also supported museums in each colony (Effiboley 2015: 30). King Leopold II ordered systematic collecting of material cultural objects in Congo Free State. They were shipped to a new museum in Tervuren, which became the central authority in the collecting, studying and preservation of ‘all objects relating to … history and not being used by any particular body’ (in: Couttenier 2014: 80). After 1908, when Congo became a colony of the Belgian State, the Tervuren Museum decided which objects it kept, allocated to other museums in Belgium or sent back to Kinshasa or a regional museum in Congo (Wastiau 2010: 3). The National Museum in Copenhagen had a similar function in regard to Danish colonial objects (10.2.). Many national museums in former colonies are continuations of colonial museums (MacKenzie 2010).

Some European voices criticised the vast amassing of colonial cultural objects. The controversy surrounding the Parthenon Marbles has been mentioned (4.1.). The destruction of the early 18\textsuperscript{th} century Summer Palace complex in Beijing in 1860 met with severe criticism by French writer Victor Hugo (Tythacot 2015: 469; Liu 2016: 8)\textsuperscript{150} and Lieutenant-colonel Garnet Wolseley, who had participated in the looting and had noticed that soldiers ‘\textit{in body and soul... were absorbed in one pursuit, which was plunder, plunder}’ (in: Chang 2013: 51).


\textsuperscript{147} The occasion was a request by French researchers to get permission for a trip to Java and Borneo.


\textsuperscript{150} At the 150th anniversary of the looting, a statue of Victor Hugo was unveiled (‘\textit{Un jour, deux bandits sont entrés dans le Palais d’été. L’un a pillé, l’autre a incendié}.’ - One day two thieves entered the Summer Palace, the one looted, the other burned), China Daily, October 18, 2010, http://www.chinadaily.com.cn?china/2010-10/18/content_11425824.htm (March 27, 2013).
In conclusion, the one-way traffic of cultural objects to Europe reached a peak during the consolidation of European colonialism. There were admittedly normal barter and exchange. Some colonial officials arranged for the preservation of collected objects. Many objects would not now have been preserved, had they not been taken. Colonial administrators began to set up a museum infrastructure. Yet the overall evidence of collecting through scientific expeditions, missionary iconoclasm, war booty and smuggling by private people and institutions shows that within the context of European colonialism cultural heritage was in danger and that all three types of violence - direct, structural and ideological - were extensively applied.

Those acquiring cultural objects showed little consideration for the needs of local possessors. The more ideological violence was involved, the less we know about the biographies of objects. Especially in the provenance of objects from ancient African kingdoms and South American empires, the histories of colonial acquirers and their successors dominate. There is more information about those from Hindu and Buddhist temple complexes in Asia. In addition to well-known major violent confrontations between colonial armies and local rulers, there have been numerous smaller, lesser researched raids, in which war booty was captured. Missionaries destroyed many religious objects and confiscated a few, to be used for instruction or collected out of curiosity. Part of the ideological violence was the denial of the nature of colonial possessions as occupied states and the subsequent justification by colonial powers of taking of cultural objects by implicitly regarding them as *res nullius*, no man’s objects.

The first measures to protect indigenous cultural heritage were taken, even if not to the advantage of the indigenous population but to that of the empire and museums in the metropolis. As in the previous period, that of colonial trade and territorial expansion, there were civil society critics of colonialism and some acquisition of cultural objects.
Chapter 5
Decolonisation, the first claims and the ongoing seepage of objects

History is called ‘a wonder of continuity as well as an orgy of discontinuity’.\(^{151}\) The years prior to the transfer of sovereignty in colonies were ‘often violent’ and an ‘intermittently intense period of crisis’ (Shipway 2008: 1). Decolonisation swings to discontinuity. In South Asia the period led to Partition in 1947 and extreme violence, ‘a human tragedy at the very moment of triumph over colonialism’, which continues to reverberate in the Kashmir conflict (Burbank & Cooper 2010: 419). In Algeria it included fierce fighting against France between 1954 and independence in 1962. In Indonesia the struggle lasted from 1945 until 1949 (Frederick 2012). Yet independence movements had sprung up much earlier. They made decolonisation part ‘of some bigger picture’ (Shipway 2008: 2), including the dissolution of European colonial empires.

In South America two factors set this longer process in motion. One was the Haitian Revolution (1791 - 1804). This slave revolt was inspired by the French Revolution but directed against the French colonial administration and the creoles.\(^{152}\) It ended with independence in 1804 and made a deep impression in South America and Europe (Burbank & Cooper 2010: 228; Mbembe 2015: 29). The other was the decline of the Spanish empire, Napoleon’s occupation of Spain in 1808 and a revolt by creoles against the Spanish, the French and the British domination (Burbank & Cooper 2010: 245). Factors in Africa and Asia were the battles of Adowa (1896) and Tsushima (1905) mentioned earlier and the emergence of an educated class and anti-colonial movements.

The outcome of the 1914 - 1918 Great War made Europe’s decline inevitable. Post-war treaties downgraded Germany. By taking its colonial possessions in Africa and the Pacific the winners forced Germany back into the position of an imperial power without colonies, but they denied self-determination to these territories and the mandatory territories that had been part of the dissolved Ottoman Empire (Wesseling 2004: 231, 233; Gissibl 2014: 162). Europe continued to consider these colonies and mandatory areas as backward (Vrdoljak 2008: 84). The League of Nations, set up in 1920, helped the Western powers maintain peace in Europe and keep their global power, thus obstructing the aspirations of the colonies and of China and Ethiopia (Prashad 2007: 21; Mishra 2012: 205).

In reaction, socialist, communist and nationalist movements in colonies and in 1927 began their own *League against Imperialism*, with headquarters in Brussels (Prashad 2007: 12, 21). Anti-colonial pamphlets were published. In 1913 Indonesia’s education pioneer Soewardi Soerjaningrat criticised the colonial administration for double standards, when it

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\(^{152}\) Creoles are descendants of Europeans in colonial settings in Latin America.
celebrated the centenary of the independence of the Netherlands from France but denied its colony the same right.\textsuperscript{153} Anti-colonial forces felt strengthened by US President Woodrow Wilson’s idea of self-determination.\textsuperscript{154}

The Second World War had consequences for the political status of colonies. In Asia it functioned as a ‘catalyst’ for rapid independence. In African colonies it became a ‘cause’ for it.\textsuperscript{155} Their path to independence was longer (Shipway 2008: 233). During the War Italy had been deprived of its colonial possessions, Libya, Eritrea, and Italian Somalia. After the War Japan lost Indonesia and other possessions in Asia. The British, the French and the Dutch saw their empires crumble - the British Empire breaking up into sixty-four countries. Their economies were shattered and they became dependent upon loans from the USA.

The world entered the bipolar Cold War. The former colonial powers did not want their former possessions to shift to the communist side and minimalised the chances of new countries to set up their own Third World project (Prashad 2007: XVIII). To extend their hold and safeguard their interests, either formally or informally, they applied extreme violence. Portugal did so in its African colonies, the Netherlands in Indonesia and France in Algeria.\textsuperscript{156} Belgium, Britain and France showed no respect for Congo’s newly gained independence in 1960 by supporting the secession of the province of Katanga, which was extremely rich in raw materials. The legitimate Kinshasa government saw no other way than to ask the Soviet Union for military assistance, which in turn appalled the USA (Williams, S. 2013: 36). France went to great lengths to continue to control Algeria’s oil; Britain did the same in tin and rubber rich Malaysia. The high costs of settler colonialism in e.g. South Asia, combined with the increasing resistance, became a reason to grant independence. Especially the Belgium - Congo case shows the intertwining of minerals and return negotiations (9.2.).

5.1. Whimsicalities in collecting

Since discontinuity dominated the third period of the European colonial era, it is hard to offer a bird’s eye view of the collecting of colonial cultural objects in this period. Generally, the peak in collecting of the previous period continued, since there were still wars and raids, and as expeditions were on a large scale, but now missionaries in West Africa began to question the destruction and confiscation of ritual and other objects and their opposition to indigenous religions.

Gifts to colonial administrators and institutions

There is evidence of initial continuity in the passing of gifts by local rulers to colonial administrators (e.g. Wassing-Visser 1995: 94 ff.; Brinkgreve 2005: 124, 125). This changed in

\textsuperscript{153} Soerjaningrat, R.M. Soewardi 1913. \textit{Als ik eens een Nederlander,…} Vlugschrift No. 1, Inlandsch Comité tot Herdenking van Neêrlands Honderdjarige Vrijheid, Bandoeng.

\textsuperscript{154} \url{https://www.mtholyoke.edu/acad/intrel/doc31.htm} (December 5, 2015).

\textsuperscript{155} \url{http://www.activehistory.co.uk/ib-history/extended-essay-history-samples/empire.pdf} (December 5, 2015).

the run up to the independence of colonies. From then on, gifts became means of cultural diplomacy between heads of state.

**Objects acquired during private expeditions**

Expeditions to well-known areas and to unknown ethnic groups and economic potential continued. German scholars shipped, under dubious circumstances, the bust of the 14th century BCE Queen Nefertiti, which is now at Berlin’s Egyptian Museum. In 2010 Egypt asked Germany to hand over the bust (Siehr 2006a; Urice 2006).\(^{157}\) In 1929 British geologist E.J. Wayland sent from Uganda the 17 cm high, terracotta Luzira Head, the country’s most important pre-colonial item (Iron Age 1000 BCE - 800 AD), to Britain for study. Since 1931, the object has been in the British Museum, which claims it was ‘donated’ by Wayland. Requests for its return have remained unsuccessful and the Uganda Museum has to do with a cast.\(^{158}\) Expeditions ‘crisscrossed’ the Dutch East Indies to return with ‘tools, weapons, articles of clothing and jewellery, which were distributed among Dutch ethnographic museums’ (Van Duuren 2011: 97, 99). The trade and exchange in objects, smuggling, broken promises and confiscation do not differ from previous periods.

The fact that countries in South America had gained their independence at the beginning of the 19th century and had set up their own museums and scientific societies did not prevent foreign collectors from smuggling thousands of archaeological objects, justifying it with the salvage paradigm. It caused a ‘redistribution and relocation of antiquities from Peru and Chile to North America and Europe… where the large collecting museums absorbed’ them.\(^{159}\) The acquisition of the Bingham collection that was moved from Peru to the United States of America long remained hidden. The objects were taken under the pretext of having to study them. Indecent methods were also applied during the 1931 - 1933 Dakar-Djibouti expedition, about which expedition-member, Michel Leiris, reported (Box: Two contestable expeditions).

**Box: Two contestable expeditions**

**Dakar - Djibouti expedition**

Around 1930 the French government ordered the gathering of (ethnographic) information and mapping of Britain’s growing influence in Africa. In its wake, the 1931 - 1933 Dakar-Djibouti Expedition brought three thousand objects to Paris. In his travel journal Michel Leiris described how expedition colleagues stole objects and smuggled out masks and fibre objects in Mali (Leiris [1934] 1986: 156 - 158) and how, against the will of local religious leaders, they took 18th century paintings from a


\(^{159}\) Gänger, S. 2014. Relics of the past: The collecting and study of pre-Columbian antiquities in Peru and Chile, 1837 - 1911, Oxford University Press: 12.
church near the city of Gondar in Ethiopia (Leiris [1934] 1986: 450). Some are in the Musée du quai Branly, which admits 'the brutal nature' of these seizures.160

**Bingham expeditions**

Between 1912 and 1916, Hiram Bingham, took over four thousand artefacts for study from the Machhu Pichu in Peru to Yale University in the USA. The condition was that he would send them back, whenever Peru asked for them.161 Formal Peruvian requests for restitution in 1918 and 1920 were neglected. In 2001, Peru and Yale University resumed negotiations. In 2007 they almost reached an agreement. With the ad hoc mediation of a US senator and pressure by Peruvian President Alain Garcia, the Bingham collection was returned in 2011.162

The Second World War and subsequent independence struggles stopped expeditions and private collecting activities.163 Newly independent countries adopted the existing colonial legislation to ban the illicit trade in and smuggling of cultural heritage: but it was not their priority. Later they enacted new legislation, while some acceded to UNESCO Conventions. In those decades lack of capacity and funds, inequality, poverty, corruption and other factors caused painful peaks in illicit trade and smuggling (Van Beurden J. 2001a). ICOM’s Red Lists, meant to stop the one-way traffic, offer an indication of the losses.164

**Objects acquired during military expeditions**

Whereas European powers had finished their wars to consolidate their power, Japan was keen to expand and consolidate its empire. During the continuing subjugation of China, Taiwan and Korea, it captured war booty on a massive scale (Liu 2016). During its occupation of Ethiopia, Italy seized an Axum obelisk, ancient manuscripts, ritual objects from churches and monasteries and objects of the imperial family (Box: *Examples of loot and arson/punitive expeditions during decolonisation*) (Campbell 2013).

Although the discussion about the restitution of Nazi-looted art works had an early start, it lasted until the second half of the 1990s, before the rightful owners were fully considered (Campfens 2015: 16, 30). This discussion has received wider attention than that about the seizure of colonial cultural objects.

**Box: Examples of loot and arson/punitive expeditions during decolonisation**

160 [http://www.quai branly.fr/fr/afficher-tous-les-parcours/afficher-un-parcours/?tx_mqbparcours_pi3%5Bparcours%5D=11&tx_mqbparcours_pi3%5Baction%5D=show&tx_mqbparcours_pi3%5Bcontroller%5D=Parcours](December 13, 2015); [http://www.quai branly.fr/en/supporting-the-museum/you-are-a-private-individual/donate-a-work/jean-michel-huguenin/](December 10, 2015)


163 Corbey (2000: 31) mentions many 19th century and early 20th century missionary and scientific collectors, and only one for the 1950s.

South Korea

In 1922, a Japanese governor gave over fourteen hundred objects and over one thousand ancient manuscripts to Japan’s emperor. Of these, 167 came from the Joseon Dynasty. During Japan’s colonisation of Korea (1905 - 1945), colonial officials amassed large collections of cultural objects, amongst these numerous objects of celadon, bronze Buddhas, a gold crown, works of calligraphy and ancient books. Most have remained in Japan; a few were returned in 2006 (Scott, G.R. 2008: 845 - 847).

China

According to the Chinese Committee on the Clearing up of Relics Lost in War Time, 3.6 million objects and 1,870 cartons with provenanced cultural objects were devastated or looted during fighting between 1937 and 1945 with Japan. Except for 106 cases of rare books sent back in 1947, none have been returned, (Liu 2016: 12).

Taiwan

The country claims cultural relics and other precious objects taken to Japan during the Second World War. Other than six batches of looted relics, returned between 1950 and 1956, none have been returned (Liu 2016: 12).

Ethiopia

During the 1935 - 1941 occupation, Italy shipped an ancient Axum obelisk, two imperial thrones and several other historical items to Rome. The Derbre Libanos Monastery was ransacked (Campbell 2013). Based on the 1947 Paris Peace Treaty, some have been returned. The 319 ancient manuscripts, which Vice-Governor-General Enrico Ceruli of Italian East Africa appropriated, are still in the Apostolic Library of the Vatican. A coalition of Ethiopians in the diaspora is asking for their return. 165

Missionary collecting

Missionary collecting continued, diminished in some places and intensified in others. Because of the close links between the cross and the sword in South America - i.e. between Spanish conquistadores, Portuguese colonisers, colonial administrators, slave owners and church dignitaries - secularisation started early. 166 In China many Protestant and Roman Catholic missionaries were killed, e.g. in Tianjin in 1870 and during the anti-imperialist 1900 Boxer Uprising, but the freedom of religion introduced in 1912 led to a fresh influx of missionaries. Although they fought local traditions and images vigorously (Derix 2009: 301, 508), I found no evidence of confiscation or destruction of objects (Chang 2013; Liu 2016). Africa became a continent where missionaries competed to get converts (Derix 2009: 542). In the Dutch East Indies missionaries shifted their focus from the Europeans in the colony to converting the local population. They sent back ‘thousands of ethnographical objects’ to the Netherlands (Corbey & Weener 2015: 11). Their orders kept the objects for instruction and exhibition purposes and for raising public support. Between 1920 and 1970 some 250 missionary exhibitions were held in the Netherlands (2.3.4.). 167

In the second half of the 20th century the European missionary changed from a ‘heroic adventurer’ into a ‘sober hard-working pragmatist’. Local churches were established

and destruction and confiscation of religious objects diminished (Leyten 2015: 140, 142). Due to the secularisation in Europe from the 1960s onwards, the decrease in the number of vocations and financial resources, several missionary museums had to close down. They sent back their collections to the headquarters of their congregations or passed them over to nearby regional or national museums, private collectors, the attic or the dustbin.  

**Archives**

In this period, the political nature of holding certain archives became more visible. They contained strategic or incriminating information. King Leopold II ordered the burning of all archives, as he thought it nobody’s business to see what he had done in Congo Free State; it took his assistants eight days. In the 1950s and 1960s the British government organised ‘hundreds’ of operations in ‘at least 23 countries and territories’ to let documents that ‘might embarrass members of the police, military forces, public servants’ in colonial service literally go up in smoke. As shown later, the Netherlands and Indonesia quarrelled about the possession of archives with incriminating information about the violent 1945 - 1949 period, but finally came to an agreement.

In the negotiations about postcolonial cultural relations between Belgium and Congo, the ownership of archives with information about mineral resources played a crucial role, be it at the background. In 1962, on the eve of Algeria’s independence, France took archives about Algeria’s infrastructure and has ignored so far return requests of Algeria’s National Archive and civil society groups.

### 5.2. Early calls for return

Long before transfers of sovereignty came into sight, politicians, educated elites and religious leaders in colonies had begun to claim lost cultural heritage. In the 1830s the bishop of Iceland asked Denmark to repatriate ancient manuscripts. Between 1907 and 1938 the Icelandic Parliament called five times for their return (Greenfield 2007: 19 - 21). Greenlandic poet and catechist Josva Kleist requested the repatriation of archaeological material from Denmark.

The 1919 Treaty of Versailles stipulated that ‘Germany will hand over to His Britannic Majesty’s Government the skull of the Sultan Mkwawa which was removed from the Protectorate of German East Africa and taken to Germany’ (Art. 246). In 1898, a German...
soldier had taken the skull of Mkwawa, who had helped the British to fight the Germans in what nowadays is Tanzania: but nobody knew where it was. In 1954, seven years before Tanzania’s independence, the Überseemuseum in Bremen transferred a skull, said to be Mkwawa’s, to a museum in Mkwawa’s village, where it remains to this day.

The 1947 Treaty of Peace with Italy forced Italy to ‘restore all works of art, religious objects, archives and objects of historical value belonging to Ethiopia or its nationals and removed from Ethiopia to Italy since October 3, 1935’ (Art. 37). Italy delayed the return of two imperial thrones and a major statue of Emperor Haile Selassie until 1972. The Axum obelisk that Mussolini’s soldiers had confiscated in 1937 was flown back in 2009. Its arrival attracted thousands of enthusiastic Ethiopians. There is no evidence of more returns by Italy to Ethiopia.

There were returns at the occasion of a country’s independence and instances of colonial rulers and nationalist leaders who searched together for the emblems for the future state. In most instances, traced in this research (there might be many others), the British government, a British museum or a British subject was involved (Box: (Pre-)independence returns). Their erstwhile flexibility contrasts with the rigidity in return matters that characterise many British heritage institutions nowadays.

**Box: (Pre-)independence returns**

**The Netherlands to Indonesia** The loot from the South Celebes Expedition for subjugating the Bone, Gowa and Luwu kingdoms (1905 - 1906) went to the museum of the Batavian Society in Jakarta and the Museum Volkenkunde in Leiden. After a special exhibition in 1907, the Leiden museum returned the Gowa treasures. In 1938 the Batavian Society returned various collections from Gowa to the kingdom (Budiarti 2005: 168, 170).

**United Kingdom to Sri Lanka** In 1934 the UK returned a throne and footstool of the last kings of Kandy and the crown of King Sri Vikrama Raja Simha. His sceptre, ceremonial sword and cross belt followed in 1936. In this same period a British private citizen sent back an 18th century Kandyan Kastâne sword, acquired by her husband around 1930 (Da Silva 1979: 23). Shortly after the country’s independence (February 1948), the cranium of Keppetipola, a leader of the 1818 Great Rebellion of the Kandyan people, was returned and put on display in what was then called Colombo and now National Museum (Wickramasinghe 2003: 146; Greenfield 2007: 371). Since 1954 the skull has been kept in an underground glass box in a tomb. The returns did little to satisfy all Sri Lanka’s wishes (Da Silva 1979: 22).

**United Kingdom to India** In 1939 the Victoria & Albert Museum in London acceded the requests of Buddhist worshippers from India and Sri Lanka, who were concerned

172 In 1933 the answer to a question in the British House of Commons about the whereabouts of the skull was, that it had not yet been traced, [http://hansard.millbanksystems.com/commons/1933/may/24/treaty-of-versailles-sultan-mkwawas-skull](http://hansard.millbanksystems.com/commons/1933/may/24/treaty-of-versailles-sultan-mkwawas-skull) (March 05, 2015).


176 Other early returns by the Netherlands to Indonesia are dealt with in 7.2.

about the exhibiting of the relics of two disciples of the Buddha. Interrupted by the Second World War, the relics were returned in 1947, two years before India’s independence. A few years later, the British Museum returned another set of relics.  

United Kingdom to Nigeria/Benin City In 1938 a British citizen returned regalia of Oba Ovonramwen (sent into exile in 1897) to his grandson Oba Akenzua II. In the 1950s the British Museum sold thirteen Benin bronze and brass plaques to Nigeria to raise money for the purchase of other African and American ethnographic objects. In 1957 Josephine Walker, widow of Captain Herbert Sutherland Walker (involved in the capture of Benin), donated a six foot tall Benin ivory tusk to the museum in the city of Jos, Nigeria (Layiwola 2007: 88, 89).

France to Laos In 1950 France and the semi-autonomous Laos (independence in 1953) agreed on the restitution of Laotian art objects (unspecified) (Greenfield 2007: 371).

United Kingdom to Uganda In 1908 the Reverend John Roscoe had donated the umbilical cord, part of his skin, and a leather case with part of the genital organs (decorated with cowries and glass beads) of Kibuka, the War God of the Baganda, to the Museum of Archaeology and Anthropology at Cambridge University. Shortly before its 1962 independence, Uganda received the relics from the museum. Nowadays such a return would meet with more obstacles, the museum says.

United Kingdom to Ghana At the occasion of Ghana’s independence in 1957 the UK donated an ancient Ashanti stool (Van Beurden, S. 2009: 166).

France to Algeria In 1962, after its independence, Algeria asked France to repatriate 300 paintings and drawings, mostly made by French artists. The colonial authorities had taken the art-works from the Musée National des Beaux Arts in Algiers to protect them against the French dissident OAS that wanted to keep Algeria for France. Their repatriation took place in 1969 (Leturq 2008: 82).

5.3. Drain of cultural objects before and after independence

After 1945 the erstwhile ‘Europeanisation of the globe’ (MacKenzie 2011: 1) turned irreversibly into Europe’s ‘provincializing’ (Chakrabarti 2000; Mbembe 2015). The USA and the USSR took over the initiative, followed after 1989 by the BRICS countries (Brazil, Russia, India, China, and South Africa), four of which had been affected by European colonialism. They felt strengthened by the increase in global and regional institutions and legal


Inv. Nos. 112078, 112079 and 112080. According to Rachel Hand of the Cambridge Museum (email February 7, 2014) academics in the 1960s likely ‘did not value material culture as much as today’.

instruments for global justice, human rights and cultural heritage protection and utilised their position inside the United Nations family.

There was continuity through re-colonisation and informal empires (Gallagher & Robinson 1953). Uruguayan writer Galeano (1976: 300, 266) noticed, that the ‘godess of technology does not speak Spanish’ and wondered ‘which flags wave above our machines?’ New countries with mineral resources, such as DR Congo, evaded initially the underdog role in the informal empires, but not for long. A few years after the nationalisation of the copper and cobalt mines in Katanga (Van Bilsen 1993: 209; Van Beurden, S. 2009: 136), the boom in the economy diminished and Congo became dependent upon international moneylenders (Van Reybrouck 2010: 397). New countries without oil or other mineral wealth, such as Indonesia, were forced to accept donor led aid consortia.

There was also continuity in the one-way movement of historical and cultural treasures, all be it with some changes. Like the independence of most colonies in South America at the beginning of the 19th century, the independence of colonies in Asia and Africa after 1945 led to new national borders that restricted the movement of objects from within European empires to that within the now independent parts of them. The successor states set their own rules, initially building on the colonial legislation, as ‘the total renunciation of colonial law was not conceivable’ (Shyllon ea. 2009), and gradually developed national legislation for the protection and preservation of cultural heritage. However, the rise of informal empires in the art and antiquities trade created continuity with the colonial period (Van Beurden J. 2001a). New states in Africa and Asia were confronted with sometimes rapidly increasing pillage and smuggling of cultural heritage to the art markets in Europe, North America and Japan, while they were, and often still are, inadequately equipped to protect and preserve this heritage. A change was that Western art and antiquity dealers and their collaborators in the former colonies replaced colonial administrators, missionaries and traders.

Several stakeholders and authors separate the tainted flow of objects in colonial times from the post-independence one. Universality and collection history are invoked as arguments. The 2002 Declaration on the Importance and Value of Universal Museums mentioned earlier, intended to end discussion about objects acquired before 1970 as they would have become an inalienable part of their museum’s own history, is an example. Leyten’s (2015: 11) suggestion is that two Yoruba masks that had left Nigeria after twenty years and subsequently spent another eighty years in a Dutch or missionary context, do not necessarily qualify for return. The suggestion raises the question as to who is to decide about this. Renfrew (2006: 246), like Leyten an outspoken opponent of the on-going illicit trade, wishes to ‘separate’ the return of recently looted or smuggled antiquities from those that left their country-of-origin ‘more than thirty to fifty years ago’, thus including colonial appropriations.

For the new states there is a serious continuity between the pre- and post-independence flow. I agree with Specht (1988: 5) that in the ‘neo-colonial relationship the world’s art market has assumed the right to treat the culturally significant artefacts of other people as commercial goods to be traded for profit’, with Appiah (2007: 116, 117) that ‘the modern market… in art from much of the global south, is often a dispiriting sequel to … earlier imperial expropriations’, and with Opoku (2008) that such a dividing line is to the

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detriment of the countries of origin, where the unjust nature of the then flow is ‘still intensively felt today’. Source countries were never consulted about this separation.

Some source countries have been victims of substantial involuntary losses of cultural heritage during the European colonial era and, at the same time, rob other countries, subjugated by them. Examples are Turkey and China. Both are outspoken about their claims but usually turn a blind eye to claims of others concerning objects in their possession (Box: *Turkey and tainted objects*; Box: *China and tainted objects*).

**Box: Turkey and tainted objects**

Turkey is pressuring major museums in Europe and the USA to return certain objects. Since 2001 Turkey has asked the Prussian Cultural Heritage Foundation for the return of the 2nd century BCE Pergamon Altar.\(^{182}\) In 2011, after a Turkish threat of a ban on German archaeologists, the same Prussian Foundation returned the 3,500 years old stone Boğazköy Sphinx; it was the final phase in the return of Boğazköy objects (6.1.). Also in 2011, Turkey claimed ancient tiles, exhibited in the new Islamic Arts wing of the Louvre; the French museum maintains that it acquired these legally. In 2012, the University of Pennsylvania handed back the golden jewellery of the ancient city of Troy; it was said to have been stolen from Turkey around 1870.

Turkey harbours comparable tainted objects but takes a tough attitude towards claimants. In 1968 it was unwilling to return to Tunisia the ashes of Punic-Carthaginian commander Hannibal (247 - 183 BCE) who had fought the Roman Empire and died in Anatolia (Leturcq 2008: para 7). Turkey did not prevent the plunder of cultural heritage of Cyprus after its invasion of 1974 (Marangou 2000; Jansen 2005). It is unwilling to discuss the future of objects acquired in the days of the Ottoman Empire and to return to Egypt an obelisk, once commissioned by Pharaoh Tutmose III (Halman 2006: 41). The Archaeological Museum in Istanbul resembles Western universal museums by not questioning its possession of Alexander the Great’s sarcophagus, taken in 1887 by Osman Hamid Bey from a necropolis near Sidon in Lebanon, or the Siloam inscription in the Hezekiah water-tunnel in East-Jerusalem (Pasdinli 2012).

**Box: China and tainted objects**

China wants three groups of objects - those looted by French and British soldiers in 1860 during the Second Opium War, those, taken by soldiers of the Western Eight Nation Alliance around 1900 after the Boxer Uprising and those objects – ‘at least ten million’ while only 18 of the ‘37 large museums in China...survived the war’ - that Japanese soldiers took during the Second World War (Liu 2016). It has listed one million objects, distributed over two hundred museums in 47 countries that it wants to retrieve. Until a few years ago it followed a buy back policy. Wealthy Chinese, with close links to the State, purchased treasures. In 2013 French businessman François-Henri Pinault, chief executive of Kering, the luxury goods company that owns Christie’s auction house, donated a rat head and a rabbit head, after Chinese indignation at efforts to auction these. In 2014 the Kode Art Museum in Bergen, Norway, deposited on a long-term basis at Beijing University seven marble columns taken from the Imperial Summer Palace in 1860. The two institutions signed a cooperation agreement.

\(^{182}\) [http://old.theartnewspaper.com/articles/Turkey-turns-up-the-heat-on-foreign-museums/26607](http://old.theartnewspaper.com/articles/Turkey-turns-up-the-heat-on-foreign-museums/26607) (July 12, 2016)
agreement. Chinese real estate developer Huang Nubo donated $1.63 million to the Norwegian museum.

Liu (2016: 20) mentions ‘the destructive Cultural Revolution’ (1966 – 1976) during which many objects disappeared, but omits to report the 20th century disappearance of treasures from Tibetan monasteries.\(^{183}\) In 1982 some were sent back to Tibet. Numerous others made of gold or silver were melted down and/or disappeared.

5.4. Decolonisation an unresolved conflict

Although discontinuity dominated the third period, there has also been much continuity. The decolonisation continues to impact on the present. African leaders stated in the 1993 Abuja Declaration that ‘the damage sustained by the African peoples is not a “thing of the past” but is painfully manifest in the damaged lives of contemporary Africans’ and ‘in the damaged economies of the Black World.’\(^{184}\) In 2014 fifteen Caribbean nations unveiled a plan for demanding reparations from former colonial powers for the enduring suffering inflicted by the Atlantic slave trade. They were ‘not exclusively concerned with financial transactions, we are concerned more with justice for the people who continue to suffer harm at so many levels of social life’.\(^{185}\)

The massive disappearance of cultural and historical treasures echoes in former colonies, among heads of state, heritage professionals and ordinary inhabitants. A recent echo comes from Benin, which is said to be negotiating with France about the return of war booty and other objects acquired by France in the European colonial era (4.1). These and other cultural and historical objects that ended up en masse in curiosity cabinets, museums and private collections in colonial empires represent a painful past in the present of former colonies. Considering the many unanswered calls for the return of colonial cultural objects and the lack of preparedness of many Western museums and private owners to study how the objects left their countries-of-origin and ended up in their possession, one can conclude that the decolonisation has remained an unresolved conflict. Decolonisation is a lengthy process and some of the steps in it concern cultural objects.

In conflict research studies (Galtung 1968, 1991; Briggs 2008; Kriesberg 2009; Bercovitch 2009; Politorbis 2010; Ramsbotham ea. 2011; Santa Barbara ea. 2012) I have found no references to this unresolved conflict and the cultural and historical objects that are part of it (Box: Five generations of conflict researchers, a critical review). Some omit consciously everything that has to do with culture (Junne & Verkoren [Eds.] 2005: 11), arguing that it is too difficult and that culture changes too slowly, is too specific to a region or population, and covers too much. Researchers of fragile states do not touch this


unresolved conflict either. Afghan president and economist Ashraf Ghani (Ghani & Lockart 2008) omits the potential of the large-scale destruction and disappearance of his country’s treasures for peace and development. A frequently mentioned example of this potential was the reconstruction of the bridge of the city of Mostar in Bosnia-Herzegovina.

Box: Five generations of conflict researchers, a critical review

The discipline of conflict studies emerged after the 1914 - 1918 Great War. The first generation (1918 - 1945) of researchers was motivated by the horrors of this war and linked to peace movements. They developed a multidisciplinary science of peace and influenced governments to set up the League of Nations (Kriesberg 2009: 18). When with the economic crisis of the late 1920s, conflicts in the labour market increased, they also studied these. American pioneer, Mary Parker Follett appealed to all stakeholders in a conflict to show leadership and serve the common purpose, which was to be the ‘invisible leader’ in the solution. She distinguished three ways of dealing with conflicts - (1) domination, (2) compromise and (3) integration. Integration is the most sustainable solution and has as a basis the bringing of ‘differences into the open’ (Metcalf & Ulrick 1963: 36).

Parker Follett’s three ways of dealing with conflicts

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<td>Domination</td>
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<td>Compromise</td>
<td>Parties agree, but remain unsatisfied</td>
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<td>Integration</td>
<td>Desires of both parties find a place in solution</td>
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The second generation (1946 - 1970) set up own institutions and spread the discipline (Briggs 2008: 9; Kriesberg 2009: 22; Ramsbotham ea. 2011: 50). Norwegian scholar Johan Galtung (1968; 1991) defined violence as avoidable violations of basic needs and subdivided these violations into direct, structural and ideological violence (2.2.). The generation was influenced by the Second World War, the Cold War and the continuous arms race. Trying to recruit leaders of new states in their camp, the Soviet Bloc and the West allowed these leaders to develop dictatorial traits. Peace research focussed on the prevention of nuclear war, better through negotiations (compromise) than deterrence (domination) (Ramsbotham ea. 2011: 42).

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186 In e.g. Fixing Fragile States: A New Paradigm for Development, S. Kaplan (2008 Praeger, Santa Barbara) mentions social cohesion as recipe to mend failing states but ignores the social cohesion potential of material cultural heritage.


189 In the Netherlands, Bert Röhling, judge in the International Military Tribunal for the Far East after the Second World War, belonged to this generation (I was his student). He founded the Polemological Institute in Groningen (polemos = war [ancient Greek]). In De rechter die geen ontzag had - Bert Röling en het Tokiotribunaal (2014. Wereldbibliotheek, Amsterdam: 225, 363), son Hugo confirms his father’s preoccupation with nuclear war.
The *third generation* (1970 - 1989) witnessed rapprochement between the USA and China and the Perestroika in the Soviet Union, and also the emergence of the women’s movement, civil rights and students organisations, and the anti-Vietnam war movement (Kriesberg 2009: 21). Its researchers expanded their scope to domestic politics, family conciliation, and labour and community mediation (Ramsbotham ea. 2011: 43). Galtung elaborated conflict as a triangle with (1) a *contradiction*, an underlying conflict situation or (perceived) incompatibility of goals, (2) an *attitude* or the parties’ (mis)perceptions of each other and of themselves, and (3) a *behaviour* that can involve cooperation, coercion or gestures signifying conciliation or hostility (Ramsbotham 2011: 10). The *Harvard Program on Negotiation*190 was launched. It is based on four guidelines - (1) Separate the people from the problem; (2) focus on interests and not on positions; (3) look together for fair and creative options; and (4) use objective standards (Fisher & Ury 2011).

With the breakdown of the Soviet Union and the East Bloc, several states disintegrated (Soviet Union, Yugoslavia) or experienced regime-change (Ethiopia, DR Congo, and Cambodia). The *fourth generation* (1989 - 2001) helped to define the new order and the rapidly increasing intra-state and regional conflicts in Central America, Southeast Asia, the Horn of Africa and the Great Lakes Region in Africa. It prioritised ‘*the local and indigenous in the peace-building model*’ (Ramsbotham ea. 2011: 236) and created space for transnational and non-governmental organisations (Bercovitch ea. 2009: 3). It emphasised ‘*the communicative and dialogic aspect of conflict resolution*’ (Ramsbotham ea. 2011: 57, 376), which is akin to Parker Follet’s integration. This approach impacts on the model for negotiating colonial cultural objects (chapter 14).

After the 2001 attacks on the Twin Towers in New York and the Pentagon in Washington DC, Western governments lost their interest in conflict studies, feeling them to be too soft and irrelevant (Ramsbotham ea. 2011: 55). A *fifth generation* (2001 - present) has set itself the task of developing a ‘cosmopolitan conflict resolution... that is not situated within any particular state, society or established site of power, but rather promotes constructive means of handling conflict at local through global levels in the interest of humanity’ (Ramsbotham ea. 2011: 265). The model presented later (chapter 14) must also be cosmopolitan.

Although this last generation is aware of the ‘*deep logic*’ of ‘full engagement with emerging non-western and non-northern practices and norms’ (Ramsbotham ea. 2011: 267), they pay mostly lip-service to it. Their handbooks mention the names of other approaches or simply leave them out. The African *Ubuntu* is mentioned but not integrated (Ramsbotham ea. 2012: 425, 426). One becomes a person through other persons. Ubuntu replaces the Western (Descartes) *I think, therefore I am* with *I am, because we are*. African conflict resolution theories emphasise reconciliation and restoring social harmony and have little ‘*obsession with the punishment of the guilty*’.

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party’ (Malan 2010). In others, such as in Deep Democracy the need to face contradictions is prioritised.\textsuperscript{191} ‘Rather than avoiding or trying to transcend conflict, we steer our craft directly into the issues at the heart of it’ (Lewis 2008: 73). It uses the ‘wisdom of the minority’ to strengthen majority’s solutions (Lewis 2008: 42). Muslim scholars are re-examining ‘Islamic belief-systems’ and ‘identifying a rich tradition of non-violent conflict management ideas and practices’ (Mohammad Abu Nimer, in: Ramsbotham 2011: 243). The Indonesian Musyawarah-mufakat, which negotiates until a unanimous consensus has been reached, is not mentioned. It is practiced in villages and the national parliament. Children learn about it at primary school.\textsuperscript{192}

All in all, a wide range of approaches exists and each dispute requires its own approach. This is why the model for negotiating the future of cultural objects has to be open and broad. As shown later, the five generations offer several elements for this (14.1.; 14.2.).

In conclusion, by defining three overlapping periods in the European colonial era and applying the typology of colonial cultural objects of Part I, Part II has offered the start of an overview of the massive one-way traffic of cultural and historical objects from colonial possessions to Europe in the colonial era. It shows that during the second period of settler and exploitation colonialism the first legal measures to protect material cultural heritage in colonial possessions were taken, but these were more to the advantage of the colonial empire and its museums than to that of local rulers and people, whose heritage needed protection. Decolonisation, defined as a longer period that started with the first signs of the crumbling of the traditional European empires and the increasing calls for self-determination in colonies, is a period that, in most instances, is not over. There are both continuity and discontinuity. The chaos and instability of this third period is reflected in the colonial collecting of the time. The educated elite in colonies began to issue calls for returns. Missionaries and others began to question their views on indigenous religions and collecting methods. Two European powers, Germany and Italy, were forced to relinquish objects that finally went back to Africa. After their independence most new states were confronted with a continuing drain of cultural and historical treasure, in which only the actors had changed, with traders and collectors in the lead. This conclusion impacts on the discussion about colonial cultural objects and asks conflict researchers’ attention for this unresolved conflict and colonial cultural objects.

Part III  Colonial cultural objects and the law

Throughout the three periods of the European colonialism legal protection measures for colonial cultural objects increased, as shown in Part II. Today this erstwhile empire-based protection has become a major obstacle on a legal route for national claimants of colonial cultural objects. Objects have big gaps in their provenance information, their biographies are incomplete and claims are time barren. Part III inventories the contents and the history of the creation of existing hard and soft law instruments available to negotiate the future of colonial cultural objects. It charts what a human rights and a justice perspective can contribute. Soft law instruments related to other categories of contested heritage - think of colonial human remains and Nazi-looted art - might also be relevant to disputes about colonial cultural objects, as might be the case with the 1998 Washington Conference Principles for Dealing with Nazi-looted Art. This part investigates whether these principles can be translated for application to colonial cultural objects.
Chapter 6
Increasing protection?

It requires big leaps from the 1648 and the 1815 legal limitations on the looting of cultural property during war-time to 1899 and the 1907 *Hague Conventions on the Laws and Customs of War on Land* and the 1954 *Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict* and its *Protocols* (1954 and 1999) (Vrdoljak 2008: 66; Prott 2009: 180; Lubina 2009a: 138, 139). Since they are agreements between states, and colonial possessions were never recognised as states, and since they are not retro-active, the measures taken until early in the 20th century have little relevance for former colonies and, as far as I know, no former colony has ever invoked them. Further on in this chapter the non-state status of former colonial states is discussed. First there is a consideration of whether there are hard law instruments that are relevant for a discussion of the future of colonial cultural objects.

6.1. Hard law international instruments

This relevance is investigated for two conventions - 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* - henceforward the 1970 UNESCO Convention and the 1995 UNIDROIT Convention. The two offer no legal remedy for disputes. Many present possessors have pedigrees of their objects and made their acquisitions in good faith. The time to claim such objects has been barred, so their relevance is limited. For two reasons one should look further. One is the history of their making, which shows the urge among former colonies to claim 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. The other is that both conventions mention the option of bilateral agreements on return of cultural objects removed *before* the convention came into force of thus in principle covering colonial cultural objects (Box: *The relevance of two conventions*).

Box: *The relevance of two conventions*
The 1970 UNESCO Convention

Former Spanish colonies Mexico and Peru played a decisive role in the creation of the 1970 Convention. That the proposal of China and some other states to include ‘in the interest of international goodwill’ a retroactive clause that covered colonial cultural objects was unacceptable for art market countries (Vrdoljak 2008: 207; O’Keefe 2007: 9; Lubina 2009a: 124; Kono & Wrbka 2010: 35, 36), raises the question whether almost five decades later and given the present global power relations China’s proposal would have met a different fate now. Art. 15 opens up the possibility for bilateral agreements on the return of cultural objects removed before the convention came into force of. Many bilateral agreements have been concluded, but none covers the return of colonial cultural objects.

According to a 2012 report, the Convention led to few court cases but enabled police and customs officials to act more decisively in case of suspicion of import of contestable cultural objects. The year of its acceptance, 1970, has become the standard for many in the heritage sector as the year from when one has to apply due diligence in the acquisition of objects (Prott 2012: 3, 4). The report has regional chapters, written by regional experts.

Only half of the African countries have acceded to the 1970 Convention. Many countries have developed national legislation but have no faith that international regulations can help. They are anxious about the costs and duration of pursuing cases in foreign courts or have negative experiences with it. Tanzania and the Musée Barbier-Müller in Geneva needed years before a Makonde Mask was handed back. Rapporteur Shyllon calls upon the continent to ‘put her house in order’ and to join the Convention.

Asia offers a better picture, with the remarkable exception of vulnerable countries in Southeast Asia. The spectacular growth of the art market in China and other countries has serious consequences for the vulnerability of art and antiques. For Asian countries, writes Keun-Gwan Lee, the Convention has remained something between ‘a clarion call’ and ‘a set of common rules accepted and implemented in good faith’. China for instance, rarely uses multilateral channels and relies on itself.

Although fourteen of the seventeen states in the Arab world are state party, their flourishing art market and large private collections, as well as their weak national legislation, obstruct effective protection of cultural heritage and control of the trade, reports Ridha Fraoua.

According to Kevin Farmer, the Caribbean region - with exceptions such as the Bahamas, Trinidad, Jamaica and Barbados - has done little to enforce concepts contained in the Convention. There was no report about Central and South American countries; most of these are state party though.
The United States of America and Canada were among the first Western market countries to join the Convention, writes Patty Gerstenblith. According to her, it has led to significant changes in import laws for cultural objects, closer cooperation between state parties through bilateral agreements and ‘potential reforms in acquisition practices by private institutions’.200

Most European states have joined the Convention, but ‘very few have adopted incorporation laws’, concludes Marie Cornu. Some states focus on legal aspects, while others highlight operational features and the need for more cooperation in combating the illicit trade.201

**The 1995 UNIDROIT Convention**

Many former colonies that participated in the making of the Convention faced large-scale losses of cultural heritage, both in the past and in the present. The treaty was the private international law answer to loopholes in the 1970 UNESCO Convention. It arranged the status of the good faith or bona fide private acquirer and the issue of time limitations of claims (O’Keefe & Prott 2011: 110). Art. 4.4. requires the possessor to prove his due diligence, if he wants to be compensated. Art. 9.1. mentions the possibility of bilateral agreements about the return of cultural property - thus including colonial cultural objects - removed from the country-of-origin before its implementation. Art. 10.3 states that the absence of a retroactivity provision does not mean that previous theft and smuggling are whitewashed and offers the option of retroactivity. O’Keefe & Prott (2011: 112) consider this ‘a favourable evolution’ and the maximum achievable. Next to Scandinavian and East European countries, state parties to the Convention are former colonies thirty-seven in number.202 The convention ‘needs time to show... effects’ (Kono & Wrbka 2010: 70). It only offers a chance to former colonies if more major colonial powers become State party and are willing to conclude bilateral agreements.

**UNESCO Intergovernmental Committee for return and restitution (ICPRCP)**

Any convention has an executive committee with a rotating membership. It was not until 1978 that UNESCO installed the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries-of-origin or its Restitution in case of Illicit Appropriation - henceforward the ICPRCP. One of its tasks was to fill the vacuum created by the absence of a retroactivity clause in the Convention. The ICPRCP discusses objects of fundamental significance, lost as a result of colonial or foreign occupation or as a result of illicit appropriation. Return or restitution of colonial cultural objects was a central task (Prott 2009: 16).203

Doubts exist about the ICPRCP’s effectiveness. Given ‘the ideological gulf between participants of opposed political persuasions’204, its mandate remained soft and became a ‘forum for the amicable resolution’ (Vivien-Milburn ea. 2013: 1). In its nineteen sessions so

far, it has formally advised in about five cases and informally helped as a facilitator between member states and public and private stakeholders (Box: Cases dealt with by ICRCP).

Discussions about colonial treasures have largely disappeared and been replaced by disputes about cases of recent theft and smuggling. Former colonies scarcely use the ICRCP road, although enough opportunities seem to present themselves. This surprises some authors (Prott 2012: 5) and upsets others (Opoku 2013c). Shyllon (2007: 7) criticises Nigeria for never formally requesting the return of the Benin treasures, when it was selected in the ICRCP committee.

Box: Cases dealt with by the ICRCP

Parthenon Marbles
Earlier (4.1.), the Parthenon Marbles case was explained. The ICRCP has done much to get Greece and the United Kingdom together to solve their dispute about these. So far there is no solution and, as mentioned, prospects for it are meagre.

Boğazköy sphinx
The ICRCP helped to solve the dispute about two sphinxes and ten thousand four hundred cuneiform tablets, taken from Boğazköy excavations in Anatolia, Turkey to Germany for restoration and study in the early 20th century (5.3.). Between the 1920s and the 1930s, one sphinx and three thousand tablets were returned. In 1987 the then German Democratic Republic returned the remaining 7,400 cuneiform tablets. In 2010, the ICRCP advised to return the other sphinx. In 2011 it was handed over to the Turkish authorities.

Makonde mask
Together with ICOM (International Council of Museums), the ICRCP mediated in 2010 the transfer of a Makonde mask by the Barbier-Müller museum in Geneva to the Republic of Tanzania. It was one of seventeen artefacts stolen from the National Museum of Tanzania in 1984. For a long time both parties had claimed to be its rightful and bona fide owner. Finally, the two agreed that the Geneva museum would donate the mask to Tanzania. The


207 In 2013, Peru (67), Guatemala (13), Mexico (51) and Costa Rica (number unknown) claimed individually tens of objects, illegally exported from their territories, acquired by the Barbier-Müller museum since the 1920s and prepared for auction by Sotheby’s in Paris, [https://chasingaphrodite.com/2013/03/19/red-flags-in-paris-half-of-sothebys-barbier-muller-pre-colombian-sale-lacks-provenance/](https://chasingaphrodite.com/2013/03/19/red-flags-in-paris-half-of-sothebys-barbier-muller-pre-colombian-sale-lacks-provenance/) (June 8, 2016). They never submitted a formal request to ICRPC.


209 Parthenon Marbles is used in UNESCO documents. The term Elgin Marbles is here avoided, as it is uncommon to name a contested object after the one who took it away.

whereabouts of the other sixteen artefacts remain unknown.\textsuperscript{211} The Barbier-Müller museum does not have an unambiguously impeccable reputation.\textsuperscript{212}

\textit{Kneeling Khmer attendants}

The ICPRPCP informally facilitated discussions between Cambodia and the Metropolitan Museum of Art in New York about two 10\textsuperscript{th} century Koh Ker stone statues of kneeling attendants, looted from Prasat Chen, Koh Ker around the time of the country’s civil war in the 1970s. They were donated to the museum in four pieces as separate gifts between 1987 and 1992. The intervention led to their return in 2013.\textsuperscript{213}

\textit{Khurvin treasure}

Iran accused the widow of the physician of the Shah of having smuggled out 349 clay and bronze archaeological objects from the necropolis of Khurvin via the Belgian diplomatic bag in 1965 (Prott 2009: 40, 407). The ICPRPCP suspended the preparation of an advice, as litigation was pending. In a Belgian court, the possessor argued that she did not want the objects to end in the ‘hands of the ayatollahs’.\textsuperscript{214} At the end of 2014, the Court of Appeal in the Belgian city of Liege ruled in favour of Iran; the widow’s daughter had to pay the costs of sequestering the objects in Belgium during the long period. A few days later, the objects were flown home from a university museum in Brussels.\textsuperscript{215}

Over three decades after the establishment of the ICPRPCP, in 2011, the International Commission of Museums ICOM launched, in cooperation with the Arbitration and Mediation Centre of the World Intellectual Property Organisation (WIPO), its \textit{Art and Cultural Heritage Mediation}. It differs from ICPRPCP (Urbinati 2014: 113) in that the UNESCO Committee offers procedures for mediation and conciliation, whereas ICOM-WIPO offers only mediation. The ICPRPCP focuses on return and restitution of cultural objects; ICOM-WIPO includes issues of insurance of art works, loans, and even misappropriation of traditional cultural expressions.\textsuperscript{216} The ICPRPCP operates at intergovernmental level. ICOM-WIPO goes further; private parties can apply for mediation. So far, ICOM-WIPO offered its services in one case, that of the transfer of a Makonde Mask from the Barbier-Müller Museum of Geneva to the

\textsuperscript{211} Personal communication with Caroline Mchome, Ministry of Natural Resources and Tourism, Tanzania, June 21, 2015.

\textsuperscript{212} In March 2013, Peru claimed 67 pre-Columbian objects that the Barbier - Müller wanted to auction via Sotheby, as they had been exported in violation of an 1822 law. Mexico and Costa Rico also claimed objects. It was in vain. All in all, three hundred objects were auctioned for over €10 million. http://www.sothebys.com/en/auctions/2013/collection-barbier-mueller-pf1340.html (August 25, 2016).


http://whc.unesco.org/en/news/1029 (July 6, 2015);
http://www.nytimes.com/2013/05/04/arts/design/the-met-to-return-statues-to-cambodia.html?_r=0 (July 12, 2016).

http://archives.lesoir.be/tribunal-civil-de-bruxelles_t-19881004-2010L0.html (August 21, 2013)

http://www.iran-daily.com/News/57999.html (June 28, 2015);

Experts disagree whether international customary law can help former colonies. Kowalski (2005: 86, 87) claims that the development of the principle of unconditional restitution of cultural property looted in war was completed in 1815, and that restitution and a ban on looting have become ‘generally accepted international customs’. Lubina (2009a: 134, 140) admits that there have been returns of colonial cultural objects, but this ‘does not mean that one can speak of state practise as is required for the existence of customary rules’. There are no accepted state practices with sufficient duration, uniformity and spread. International public law and customary rights therefore do not ‘provide a basis for claims for the restitution of cultural objects removed during the colonial era’. According to Campfens (2015: 13) developments are so rapid that ‘the obligation to return cultural property looted in war’ and its ‘counterpart… the prohibition of pillage… today have acquired the status of international customary law’. The disagreement makes it doubtful whether international customary law can effectively be invoked in cases of involuntary losses of colonial cultural objects.

6.2. Soft law international instruments

Among soft law instruments that are relevant to colonial cultural objects are UN resolutions and declarations, codes of conduct and guiding principles. Some are meant for dealing directly with colonial cultural objects, others for the repatriation of (colonial) human remains and disputes about Nazi-looted art.

Initially former colonies felt encouraged by the 1970 UNESCO Convention in their claims for colonial cultural objects (e.g. Quinnell 2000: 95). In December 1973, DR Congo submitted General Assembly Resolution 3187 (XXVIII) on the Restitution of works of art to countries victims of expropriation, which referred to the 1970 Convention and was a means to alleviate the absence of a retroactivity clause in the Convention. The Assembly explicitly deplored ‘the wholesale removal, virtually without payment, of objets d’art from one country to another, frequently as a result of colonial or foreign occupation’ and affirmed ‘that the prompt restitution’ of them, ‘without charge, is calculated to strengthen international cooperation inasmuch as it constitutes just reparation for damage done’. The resolution recognised ‘the special obligations’ of former colonial powers. In 1975, DR Congo submitted a watered down Resolution 3391 (with the same title as the one of 1973): instead of covering ‘all objects’ it was limited to ‘small representative collections, where such did not exist’ (Prott 2009: 14). Comparable resolutions have been accepted in the following years. The item has been kept on the UN agenda but has produced little effect.

6.2.1. Instruments for the repatriation of human remains

Especially from the second half of the 19th century onwards, human remains - skulls, foetuses, pelvis, bones, hair and blood samples - were collected on a massive scale from battlefields, hospitals and other places in colonial possession (Sysling 2015: 25, 26). The same occurred in internally colonised areas. In some places, for instance Dutch controlled Papua, collecting continued until after 1945 (Sysling 2015: 42). Collected remains was not always confined to one and the same colonial empire, but could be spread throughout Europe (Sysling 2015: 29), another indication of the European nature of colonialism.

From the 1930s onwards indigenous groups and civil society organisations in the USA, Canada and Australia have claimed ancestral lands, human remains and funerary objects (Vrdoljak 2008). They have shifted the balance in the control over these from universities, museums, scientists and heritage professionals to source communities. Because of the horror of the Nazi racial policies, such policies were also brought into question for colonies, and this would lead to a shift in e.g. West-Africa (Leyten 2015: 342). Hard and soft law instruments came into being for dealing with human remains.

The 1990 Native American Graves Protection and Repatriation Act (NAGPRA) stands out here as a hard law instrument. It enables native groups in the USA to recover human remains and funerary objects from federal agencies and federally funded museums. These institutions have to inventory and repatriate remains and objects, acquired before 1990. It criminalises the trafficking of remains and objects and provides guidelines for their excavation. NAGPRA has made the debate about human remains ‘truly international’ (Lubina 2009a: 194). It shows the importance of legislative measures and has strengthened the right of native groups to reclaim objects and human remains.

Soft law instruments can be found in UN documents such as the 2007 UN Declaration on the Rights of Indigenous Peoples, in which Art. 12 recognises their right ‘to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains’.

Thinking in former European colonial powers is in transition. Most institutions allow the return of human remains, but none requires mandatory returns, as provided in NAGPRA (UK Department for Culture, Media and Sport 2003b: 123 - 125). Yet in 2003 the British working group on human remains (2003b: 116) argued against the non-retroactivity of many regulations by calling that retention can be ‘a continuing wrong’ for individuals and groups. In 2013 the German Museum Association (2013: 60; 48) issued Recommendations for the Care of Human Remains in Museums and Collections, favouring a proactive and reactive return of human remains.

In the Netherlands the discussion began relatively late (Sysling 2010: 56). In 2002, the Amsterdam Tropenmuseum retrieved colonial human remains, acquired between 1906 and 1969 and given on loan to the Medical Faculty of the University of Amsterdam, and began to de-accession this rather ‘disparate accumulation... of human remains’ of limited scientific value (Van Duuren [Ed.] 2007: 38- 41; Van Beurden J. 2012: 26). In 2009, the Netherlands was pressured into returning the remains of King Badu Bonsu II to Ghana (Box: Incidental returns of human remains). The Code of Conduct of ethnological museums in the Netherlands requires them to provide information to the communities concerned and to deal ‘in an open and balanced way’ with restitution requests. Museums have to actively

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register and document existing collections of human remains and to equip their staff with sufficient expertise.

So far returns of colonial human remains by European countries and heritage institutions have been fragmented. There have also been refusals (Box: Some return-refusals for colonial human remains). While for instance Uganda, got back from Great Britain the human remains of a national hero, Zambian requests for an ancient skull that went only for study to the same country, were turned down. France returned the remains of Saartjie Baartman to South Africa, but not the remnants of King Sihalebé to Senegal. That many European countries have returned tattooed Maori heads to the former British colonial possession New Zealand, results from a concerted effort on the side of the source community (Box: Successful repatriation of Maori heads).

**Box: Incidental returns of colonial human remains**

**Germany/Great Britain to Tanzania** After the death of the anti-colonial Sultan Mkwawa in 1898, a German soldier took his skull. The 1919 Treaty of Versailles that made Tanzania part of the British Empire, stipulated that Germany passed it to the United Kingdom. In 1954 the Überseemuseum (Overseas museum) in Bremen transferred a skull, said to have been Mkwawa’s, to Tanzania, then still British. Since then it has been kept in a museum in Mkwawa’s village.

**Great Britain to Kenya** In 1981 the Natural History Museum in London returned the skull of the *Proconsul Africanus*, an ape over fourteen million years old, which Mary Leaky had discovered in 1948, and taken to London for detailed study (ICOM 1995: 79).

**France to South Africa** In 1810 a British businessman smuggled Khoikhoi woman *Saartjie Baartman* aboard a ship to Europe. This female slave of Dutch farmers had been captured in a raid in which her other family members were killed. The businessman exhibited her at fairs in London and Paris as the ‘Hottentot-Venus’. In 1815 she died of an infectious disease. Her remains ended up in the Museum of Natural History in Paris. From the 1940s onwards there had been claims for her repatriation. After a formal request by President Nelson Mandela in 1994, it took another eight years of debates in the French National Assembly and a special Act to let Saartjie cease to be part of a French public collection (inalienability lifted). She was buried in her native area (Prott 2009: 288/9; Hershkovitch & Rykner 2011: 99/100; Rassool 2015: 134 ff.).

**The Netherlands to Ghana** In 1838, *King Badu Bonsu II* killed two Dutch emissaries. His subjects handed this apparently not so popular ruler to Dutch traders, who hanged him and took his head to the Netherlands. Informed by Dutch novelist Arthur Japin, Ghana formally requested the King’s repatriation. In 2009, this request was honoured by the Dutch government, as the head no longer had any scientific or cultural value for the Netherlands (Van Beurden, J. 2012: 26).

**France to New Zealand** The re-opening of the municipal museum of Rouen in 2006 led to a discussion about a decorated Maori head, in Rouen since 1875. While the deputy mayor favoured repatriation for ethical reasons, the museum and the French Ministry of Culture and Communication referred to its inalienability as part of the national collection.
It took several court cases and a special Act in the French Parliament, before this (and other decorated Maori heads) was returned in 2010 (Hershkovitch & Rykner 2011: 96 - 98).

Austria to South Africa Austrian anthropologist Rudolf Pöch collected colonial human remains for museums in Vienna. From 1907 to 1909 he sought San remains, among these those of Klaas and Trooi Pienaar. Later research damaged his charisma because of the ‘systematic grave robbery and of clandestine deals for newly dead corpses’ (Rassool 2015: 151). The Pienaar couple had been exhumed three or four months after their death. From 2008 onwards efforts to bring them back to South Africa resulted in their reburial in Kuruman, South Africa in 2012. Earlier the Natural History Museum of Vienna had returned Aboriginal remains to Australia (Rassool 2015).

Australia to Papua New Guinea In 2012 the Maclea Museum of Sydney University repatriated five skulls, originating from communities in the Sepik River, the Western Province and the Gulf Province and said to be more than a hundred years old. Acquired before Papua New Guinea’s 1975 independence, they were part of a private Australian collection. After the owner’s death some years ago they were offered for sale, but the Australian authorities prevented this. As it is difficult to establish the place-of-origin of the skulls, the National Museum and Art Gallery in Port Moresby has giving them a permanent home.

France to New Caledonia Part of the 1998 Nouméa Accord on self-determination between France and New Caledonian political parties was the repatriation of the head of Kanak chief Atai, the leader of an anti-colonial insurrection in 1878 that left two hundred Europeans and one thousand Kanaks dead. Atai’s head had been cut off and taken to the National Museum of Natural History in France. The repatriation took place in August 2014.

Box: Return-refusals for colonial human remains

Great Britain to Zambia In 1921 workers of the Broken Hill Mines in Northern Rhodesia found the skull of the Homo Rhodensiensis. The General Manager gave it to the British Museum, ‘contrary to the existing regulations’ that ‘prohibited export of Bushman relics without a permit’ (ICOM 1995: 193). From around 1975 Zambia has pursued its restitution. The 125,000 years old, almost complete skull and accompanying bones remain ‘the most single important hominin find' in Zambia (Musonda 2013). Zambians consider its smuggling as a past wrong that deserves correction. ‘At the local level, there is great demand for the skull by museum visitors, who consider its absence a real loss’ (Musonda 2013). On its website, the Natural History Museum in London does not mention the skull’s disputed provenance.

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In 1877 Italian explorer Luigi D’Albertis met the Boazi ethnic group in the Little Fly region of Papua New Guinea. Fearing they were cannibals, D’Albertis killed headman Kasikanawa, had his head sawn off, put it in a glass with alcohol and took it to Italy. When British traveller-writer Redmond O’Hanlon visited the descendants of the headman in 2014, Kasikanawa’s successor asked for the head’s whereabouts. He wanted it to be returned. O’Hanlon discovered it in the attic of the Natural History Museum of Florence, which was reluctant to put it on display for fear of a return-claim.224

Senegal has been asking France for the repatriation of the remains of Sihaalebé, the last King of the Casamance (Senegalese region south of the Gambia), who had died in starvation in 1903. France continues to hesitate as long as the people of the Casamance fight for independence.225

**Box: Successful repatriation of Maori heads**

In 2003 the Museum of New Zealand Te Papa Tongarewa began a campaign to repatriate tattooed ancestral Maori heads and other remains. In addition to the fifty-four that it had already, over seventy heads have been repatriated, coming from (university) museums and collections in Great Britain, Scandinavia, Switzerland, France, Germany, Ireland, the Netherlands, the USA, Canada, Australia, Hawaii and Argentina. An estimated one hundred are still thought to be overseas. In 2015 the Swedish Karolinka Institute promised to return several heads. The Viennese World Museum returned the remains of a child.229

The success of the campaign is due to a firm commitment of Maori communities, the museum and the government of New Zealand and new views in the Western heritage institutions. ‘These items being stolen or traded is an example of historical practices we’re now deeply ashamed of’, said an expert of the University of Birmingham. ‘To keep them would be wrong’. Roseanna Maxwell of New Zealand expressed her gratitude: ‘This shows others… how to take a look in their own closets and repatriate to culturally affiliated tribes’. The Museum Volkenkunde in Leiden applied two principles to justify the return of a mummified, painted and tattooed Maori head. For dealing with human remains ‘the current practice in countries-of-origin’ is determinative, and the ‘title of direct descendants’ outweighs ‘the formal property rights of the State of the Netherlands’.231

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226 It took court cases and a special Act before this and other decorated Maori heads in public collections were repatriated (Hershkovitch & Rykner 2011: 96 - 98; The Guardian Weekly, November 3, 2014).
On their homecoming, remains are ceremonially welcomed and go into quarantine. The Te Papa Tongarewa museum takes care of them, until they can be returned to their kith and kin.²³²

6.2.2. Instruments for the restitution of Nazi-looted art

Several soft law instruments exist for dealing with disputes about Nazi-looted art - the 1998 Washington Conference Principles on Nazi Confiscated Art, the 1999 Resolution No. 1205 concerning Looted Jewish Cultural Property of the Parliamentary Assembly of the Council of Europe, the Vilnius Principles, accepted in 2000 and the 2009 Terezin Declaration on Holocaust Era Assets and Related Issues (Box: Four soft law instruments for dealing with Nazi-looted art). Most handle a concept of cultural heritage that goes ‘beyond a concentration on high-profile objects of significant monetary value’ (O’Keefe 2009: 158). The instruments encourage governments and stakeholders to do ‘active provenance research’ and publish the results (Campfens 2015: 38). The instruments favour alternative dispute resolution mechanisms. The 1999 Council of Europe Resolution suggests the removal of ‘restrictions on the inalienability of cultural objects’ (Campfens 2015: 31).

Box: Four soft-law instruments for dealing with Nazi-looted art

In 1998 forty-four countries adopted the Washington Conference Principles on Nazi Confiscated Art. Relevant are the stipulations that consideration should be given to ‘unavoidable gaps or ambiguities in the provenance’ of confiscated objects and that steps should be taken ‘to achieve a just and fair solution’, depending upon each case (VIII). ‘Alternative dispute resolution mechanisms’ are recommended (XI).

In 1999, the Parliamentary Assembly of the Council of Europe issued Resolution No. 1205 concerning Looted Jewish Cultural Property about the most significant ‘private and communal Jewish property’(2). Relevant is that restitution should enable ‘the reconstitution of Jewish culture in Europe’ (8), in other words it promotes a cultural revival for victims. It should be facilitated by ‘removing restrictions on alienability’ (13.II). It favours also out-of-court approaches (16).

In 2000 during the Vilnius International Forum on Holocaust-Era Looted Cultural Assets thirty-eight governments adopted the Vilnius Principles. Relevant is that governments are to maximise efforts ‘to achieve the restitution of cultural assets looted during the Holocaust era’ (1). They also ask ‘governments, museums, the art trade and other relevant agencies to provide all necessary information’ (2).

In 2009, forty-seven countries adopted the Terezin Declaration on Holocaust Era Assets and Related Issues. Relevant is that it not only talks about confiscations, but also about ‘forced sales and sales under duress of property’ and applies a broad concept of cultural property, including ‘sacred rolls, synagogue and ceremonial objects as well as the libraries, manuscripts, archives and records of Jewish communities’. Worried about the slow progress, it favours ‘intensified systematic provenance research’ and ‘the establishments of mechanisms to assist claimants and others in their efforts’. ²³² http://www.tepapa.govt.nz/SiteCollectionDocuments/Media/2014/questions-and-answers.pdf (May 28, 2015).
The four instruments offer inspiration for dealing with colonial cultural objects. Few Western museums and private owners do active provenance research to identify contestable colonial cultural objects, while such research might yield much. Inalienability of objects is often presented as argument against return - think of the Austrian refusal to consider the return of Benin objects (12.2.) - while it can also hide the reluctance of possessing states to consider a return. As was argued at a 2012 conference of Restitution Committees, the emphasis on confiscation, forced sale and sale under duress (Campfens 2015: 37) and of involuntary loss is relevant for retrieving colonial cultural treasures. The instruments provide inspiration to develop the following idea.

Throughout the research the possibility of a ‘translation’ of the 1998 Washington Conference Principles into principles for dealing with colonial cultural objects has puzzled me. Although the 1998 Principles are non-binding, they have strengthened the position of claimants and influenced dealing with disputes about Nazi-looted art in Germany and in countries that belonged to the Allied Forces in the Second World War.

One can think of serious arguments against such a translation. The differences between Nazi-looted art and contestable colonial cultural acquisitions are substantial. The looting by the Nazi’s was part of a systematic extermination policy of peoples during a clearly defined, relatively brief period in history. Nazi-looted art covers any category of objects, including colonial cultural objects. Looting is broadly defined and ranges from ‘destruction and seizure of monuments and public collections, systematic expropriation of property belonging to Jews and other persecuted groups and forced sales – in occupied territories and in Germany itself’ (Campfens 2015: 15). Former owners or their descendants are usually identifiable individuals, often sufficiently organised to hire specialised lawyers (Barkan 2000: 9). The Dutch Restitution Committee, which advises the Netherlands Government about Nazi-looted art, has shifted the burden of proof to the current possessor by considering all sales of art objects by private Jewish individuals during the German invasion as ‘forced sales’, unless ‘clear evidence’ is found ‘to the contrary’ (Ekkart Committee 2006: 28). ‘The heirs of previous Jewish owners would no longer have to prove that the sale was involuntary’ (Ekkart Committee 2006: 29). The fear that such a lenient policy and focus on involuntary sales would open the floodgates, never materialised. In only slightly over half of the cases for which the Dutch Restitution Committee’s advice was asked, did it fully endorse the wishes of the claimants.

The category of contestable colonial cultural acquisitions is harder to define. It covers objects of cultural or historical importance, acquired without just compensation or involuntarily lost either inside or coming from European colonial possessions during the European colonial era. This era lasted five centuries and covered an extensive, capricious geographical area, from which objects disappeared. Because of the time span and the scarcely known circumstances under which objects disappeared, it is difficult to discover their provenance and it can even be hard to identify who in a former colony is entitled to an

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234 Of its 118 advices to the Dutch Government until early 2015, 62 were to the advantage of the claimants, 39 fully rejected, while the outcome of the remaining 17 was mixed. [http://www.restitutiecommissie.nl/sites/default/files/RES_JV2014_NL_web_nieuw.pdf](http://www.restitutiecommissie.nl/sites/default/files/RES_JV2014_NL_web_nieuw.pdf): 19 (December 22, 2015).
object, the national government, the national museum, a regional museum, the descendants of a former local prince or a certain community.

Why then, should the Washington Principles be translated? One argument in favour is that both categories represent acts of historical injustice and that there are not many reasons to omit options for colonial cultural objects that exist for Nazi-looted art. Another is that such principles can help to break the impasse in the discussion about colonial cultural objects. The Washington Conference Principles have been accepted by countries and their inhabitants, who themselves possess contested art works. Their acceptance has contributed to the foundation of national restitution committees in Europe and North America.\textsuperscript{235} These committees have advised on numerous disputes and made it possible to come to decisions about who is entitled to hold an object, and under what conditions.

As mentioned above, more declarations with principles for dealing with Nazi-confiscated art-works have been adopted. I argue that together they offer the base material for the formulation of non-binding principles for dealing with colonial cultural objects. Before explaining the choices in formulation, nine principles are mentioned, most of these adopted from the Washington Principles (Box: \textit{Principles for dealing with colonial cultural and historical objects}):

\textbf{Box: Principles for dealing with colonial cultural and historical objects}

In developing a consensus on non-binding principles to assist in resolving issues relating to objects of cultural or historical importance taken in the European colonial era without just compensation or involuntarily lost in the European colonial era, it is recognised that among participating nations, there are differing legal systems and that countries act within the context of their own laws.

1. Objects of cultural or historical importance taken in the European colonial era without just compensation or involuntarily lost in a territory controlled by European, American or Asian colonial powers and not subsequently returned should be identified.

2. Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.

3. Resources and personnel should be made available to facilitate the identification of all objects of cultural or historical importance taken without just compensation or involuntarily lost in the European colonial era and not subsequently returned.

4. In establishing that an object of cultural or historical importance was taken without just compensation or was lost involuntarily in the European colonial era and not subsequently returned, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the European colonial era.

5. Every effort should be made to publicise objects of cultural or historical importance that are found to have been taken without just compensation or were lost involuntarily during the European colonial era and not subsequently returned in order to locate its rightful claimants. Efforts should be made to establish public registries of such information on a bilateral basis.

6. Rightful parties should be encouraged to come forward and make known their claims to objects that were taken without just compensation or lost involuntarily in the European colonial era and not subsequently returned.

7. If the rightful claimants can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognising this might vary according to the facts and circumstances surrounding a specific case.

8. Committees established to identify objects of cultural or historical importance that are found to have been taken without just compensation or to have been lost involuntarily in the European colonial era and to assist in addressing return issues should have a balanced membership.

9. Nations, including the minorities and indigenous peoples in these nations, are encouraged to develop national and international processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.

After discussing the translation with experts,236 I have paid attention to the definition of the objects concerned, the nature of the acquisitions and of the recipients of objects to be returned. One expert warned of the risk that such principles might lead to endless court cases, while dealing with colonial cultural objects is better done via alternative dispute resolution means.

The first principle gives the definition of colonial cultural objects. Earlier (2.2.) they have been defined as objects of cultural or historical importance acquired without just compensation or involuntarily lost during the European colonial era. Objects of cultural or historical importance is broader than the art works, covered by the Washington Conference Principles, and follows other sets of principles that handle a concept of cultural heritage that goes ‘beyond a concentration on high-profile objects of significant monetary value’ (O’Keefe 2009: 158).

The use of the terms confiscation or looting, as in principles for dealing with Nazi-looted objects, creates problems. The colonies from which they were taken were part of a colonial power’s empire and an empire is entitled to confiscate objects inside its own territory. Acquired is therefore a more suitable term, if the proviso is added that these objects were involuntarily lost or taken without just compensation. They were acquired in unequal and often violent circumstances (Part II). The addition distinguishes these from objects that were purchased, exchanged or taken in relatively equal circumstances.

The term ‘pre-War owners’, used in principles on Nazi-looted objects, is unsuitable. What is the colonial pendant of pre-War? The War lasted at most a decade, the European

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colonial era five centuries. Rightful owners of Nazi-looted objects are usually identifiable individuals or families, while those of colonial cultural objects are more difficult to identify. Therefore the term ‘rightful claimants’ is more appropriate - ‘rightful’ not in a strictly legal sense but in terms of morality and justice. They can be states and state related institutions, communities, descendants of former local rulers, etc. That they live under differing legal systems and that countries act within the context of their own laws, has to be taken into account.

Heritage institutions should open their records and archives, actively stimulate provenance research to fill gaps and ambiguities in provenances, and make the outcomes accessible. This pro-active duty accords with most sets of principles for dealing with Nazi-looted objects and colonial human remains. The Washington Principles ask for a central register with contested objects. Considering the volume of contestable colonial cultural objects and the half a millennium during which they have migrated to Europe, such a central register seems to be too overwhelming and unpractical. Creative ways should be developed to set up registers that are accessible for everyone in other forms. The Benin Plan of Action for dealing with British war booty from Benin City for example, asks for virtual exchange of information about Benin objects between the stakeholders (12.4.).

Since gatherings about the future of colonial cultural objects should have a balanced membership, they should involve multiple stakeholders from both sides that are to be found in the biographies of the objects. There should be room for state and non-state stakeholders.

The last Principle mentions alternative dispute resolution mechanisms. Although these have long been an accepted way of dealing with disputes in other sectors, including the art trade (Van Beurden, J. 2014: 177), they are rarely invoked by heritage institutions. The 2004 ICOM Code of Ethics does not mention them. However, in 2011 ICOM in cooperation with the Arbitration and Mediation Centre of the World Intellectual Property Organisation (WIPO) launched its Art and Cultural Heritage Mediation (6.1.).

ICOM has been sparing in its attention for colonial cultural objects, possibly because it has to keep the richly endowed, self-declared universal museums and museums in former colonies with poor collections together. Art. 6.2. and Art. 6.3. of its Code of Ethics mention return and restitution; this can cover colonial cultural objects. They are similar to Art. 4.4. of the 1986 first Code. In both versions, museums - ‘if they are legally free to do so’ - are asked to initiate dialogues about return and restitution in an ‘open-minded attitude’ (1986) or in an ‘impartial manner’ (2004), based ‘on scientific and professional principles’ (1986) and also ‘humanitarian principles’ (2004). As to human remains, the 1986 version does not mention the return option, while in 2001 an amendment was added (Lubina 2009a: 212) that the return of ‘human remains and material of sacred significance’ must be addressed ‘expeditiously with respect and sensitivity… Museums policies should clearly define the process for responding to such requests’. The amendment has been adopted in Art. 4.4. of the 2004 version.

The two following cases - cultural and historical treasures confiscated by the Italian army in Ethiopia between 1935 and 1941 and by the Japanese army in China between 1937 and 1945

Overlap Second World War-looted and colonial cultural objects - raise a question. Italy, Japan and Germany were allies in the Second World War. Are cultural objects confiscated at that time under their responsibility not better covered by one and the same term, e.g. Fascist-looted objects? An argument against this term is that Italian and Japanese fascism did not intend to exterminate a people, while Nazi-Germany committed genocide. For Italy and Japan all Fascist-looted art works came from abroad, whereas Nazi-looted art covered works from within and without Germany. What Italy did in Ethiopia and Japan in Korea was part of colonial expansion.

Arguments pro are that the three countries were on the same side in history and that the losses of China and Ethiopia have been relatively neglected in restitution discussions. Owners of art works looted by Nazi-Germany were more successful in their claims. China, which is nowadays very active claiming back objects that were lost during foreign military interventions, could use the ways in which disputes about Nazi-looted art works are dealt with.

Ethiopia has another option. It can invoke a hard-law instrument, Art. 37 of the 1947 Peace Treaty, which stipulates that Italy restitutes all cultural, religious and historical objects belonging to the State of Ethiopia or its nationals within eighteen months from the time the Treaty comes into force. Italy fulfilled this obligation for a few objects, but far from all. During the Treaty negotiations Ethiopia had pressed for restitution but before the signing of the Treaty many treasures had disappeared from view (Campbell 2013: 237). Moreover, Ethiopian attempts to invoke Art. 37 met with ‘procedural obstructions’ by the British government and other allied forces which did not want to put their relationship with the new Italian government at risk (Campbell 2013: 242). That internal European interests outweighed justice in Africa shows that the strength of hard law instruments is relative.

Box: Overlap Second World War-looted and colonial cultural objects

Italy from Ethiopia

In 1935 Italy invaded Ethiopia. Although both countries were member of the League of Nations, the League failed to act, thus revealing ‘that respect for the sovereignty of an aggressive European empire overrode respect for an African kingdom’ (Burbank & Cooper 2010: 387, 388). There was a continuum between the defeat near Adowa in 1896 and the 1935 invasion, and between Mussolini’s failure to expand in Europe and his colonial adventure in Africa (Campbell 2013: 20). After the attempted assassination of the Italian Viceroy Graziani in 1937, the Italian army attacked and ransacked the monastery of Debre Libanos, where they suspected the assassination had been planned. According to Ian Campbell’s (2013: 228) well-documented description of the raid, around two thousands priests, deacons and others were killed, while numerous objects from the monastery and its churches and from the people killed disappeared. Since the Italian action was aimed at the ‘wizards and soothsayers’ of the Ethiopian Orthodox Church (Campbell 2013: 44), it became


an act of iconoclasm. When Mussolini tried to flee Italy in April 1945 but was caught, five imperial crowns of the Debre Libanos Monastery were found in his personal possession (Campbell 2013: 234). The present Ethiopian government has not taken steps to trace the artefacts, but civil society does (Campbell 2013: 238).

**Japan from China**

China suffered three rounds of large-scale pillage of cultural relics during periods of war. After the 1860 sacking of the Old Summer Palace by French and British soldiers and the 1900 plunder of Beijing by Japan, the third round occurred during the Second Sino-Japanese War. In 1937 Japan invaded China, the cause being Korea, ‘which both countries sought to dominate’ (Mishra 2012: 132). Japanese soldiers pillaged ‘public museums, libraries, and private houses’ (Liu 2016: 11, 12). Half of the major museums did not survive the war. The Summer Palace and the Forbidden City in Beijing were robbed again. Over 14,000 of ancient books and almost 1,400 treasures were looted from the Peking History Museum. Many cultural relics remain in Japan up to today. All in all, China registered over 3.6 million items and 1,870 cartons with cultural objects that were devastated or looted. Recovering objects that disappeared in the three rounds ‘has become a national project in 21st century China’ (Liu 2016: 20), but the Chinese government’s ‘waiver of right to undefined war compensation’ has not been favourable to restitution claims (Liu 2016: 170).

A last remark about the disappearance of treasures during the Second World War concerns the discovery in 2012 of over 1,400 artworks by Chagall, Matisse, Munch, Picasso, Klee and others in Munich, Germany, kept by Hildebrandt Gurlitt. It brought up the issue of Nazi-looted art-works in private possession. In its Annual Report on 2013 the Dutch Restitutions Committee noted that the restitution problem is only fully solved if private owners are involved. There is a parallel here with tainted colonial objects, since there are many in private possession or transferred by private owners to museums without passing on provenance information.

### 6.2.3. A human rights and a justice perspective

Can human rights help to further the discussion about the future of colonial cultural objects? Earlier (1.2.) it has been argued that many in the former colonies consider the UN and human rights to be white, Western inventions. Although this was put into perspective, one cannot deny a discrepancy between human rights and decolonisation matters (Moyn 2010: 85). Colonies rarely used human rights to support their independence claims. They associated these with *individual* self-determination, while colonies were familiar with the idea of *collective* self-determination (Moyn 2010: 118). Moreover, the 1944 Dumbarton Oaks Conference that led to the establishment of the United Nations had been aimed more at consolidating Western power than at decolonisation (Moyn 2010: 93, 86). However, in the early 1960s the UN became a force in support of decolonisation (Williams, S. 2013: 35) and the aversion to human rights dwindled further in the 1970s, when these rights emerged ‘seemingly from nowhere’ to fill the vacuum that arose when the two main ideologies - capitalism and communism - began to lose their lustre (Moyn 2010: 3).

Arguments in favour of a human rights perspective for dealing with colonial cultural objects can be found in UN declarations and academic sources. They centre on the human
right to self-determination and development, and the right to belong to an organised community.

The 1960 Declaration on the Granting of Independence of Colonial Countries and Peoples provides that ‘All people have the right to self-determination; ... they freely determine their political status and freely pursue their economic, social and cultural development’.\(^{242}\) Although the self-determination right ‘was firmly tied to the control of natural resources’ it can be linked to cultural matters (Chamberlain & Vrdoljak 2014).

In the 1980’s Dorothee Schulze elaborated a ‘right to development’, including a right to restitution. Unwillingness to return can infringe on development chances.\(^{243}\) The objective of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions is ‘to create the conditions for cultures to flourish’, and ‘to reaffirm the importance of the link between culture and development [...] particularly for developing countries’ (Art. 1). Art. 4 is about the principle of international solidarity and co-operation, and the enablement of especially developing countries to create and strengthen their means of cultural expression. Art. 7 asks for ‘equitable access to a rich and diversified range of cultural expressions’.\(^{244}\) It echoes in Opoku’s (2016) plea for the countries-of-origin’s ‘fundamental human right to keep their cultural artefacts for the development of their culture in their own way and at their own pace.’ A right to development conflicts with the systematic exploitation and underdevelopment practiced during European colonialism.

With the increasing statelessness, lack of rights and systematic extermination of the unwanted resulting from the 1914 - 1918 War and the 1939 - 1945 War in mind, Hannah Arendt (1968: 267) advocated ‘a right to have rights’ and a right ‘to belong to an organised community’ as the most fundamental human right (1968: 295, 296). This ‘right of every human individual to belong to humanity’ (Arendt 1968: 298) resounds in several declarations and conventions. The 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities declares in Art 2.1. that persons belonging to minorities ‘have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination’.\(^{245}\) The 2007 UN Declaration on the Rights of Indigenous People establishes a framework with minimum standards for the survival, dignity, well-being and rights of the world’s indigenous communities. Art. 11.2 opens the option of restitution: ‘States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs’.\(^{246}\) This is usually about treasures ‘taken during colonial times or periods when indigenous peoples were subject to the rule of a dominant Power’. O’Keefe and Prott (2011: 335) warn that having this principle work in practice ‘is a very different matter’.


An obvious argument against a human rights perspective is that they are mostly non-binding and rarely retroactive, which makes them irrelevant for dealing with disputes about colonial cultural objects along a strictly juridical path. Yet I continue to mention it, especially to the human right to belong to an organised community with its own culture. Taking away cultural objects against their will diminishes the deprived peoples’ possibilities to be a complete human or community.

There is another perspective, which is harder to get around - justice.

Discussing justice raises several interrelated issues - equality, capabilities to realise justice and trust. First I will consider justice. Authors like Sen (2010: VII) argue that it so hard to define justice that they shift their focus to the identification of redressable injustice, injustice than can be undone. From childhood onward humans are aware when a grave injustice has taken place. Sen himself, Mbembe, Said, Soyinka, Galeano and other writers who have been mentioned through these pages, show that they are fully aware of the injustices of the European colonial era. The theme of injustice resounded in the words of Mali’s Minister of Culture, Aminata Traoré at the occasion of the opening of the Musée du quai Branly in France in 2006. She was touched by the contrast between the beauty of the building and its objects as proof of Africa’s orchestrated decline under the French colonial yoke. The objects belong to the people of Mali, Benin, Guinea, Niger and other African countries, ‘Vous nous manquez terriblement - We miss you terribly’, she said.247

Aristotle or Aristu in Arabic - he was important for the Western/Christian, and the Arabic/Islamic world248 - did define justice. In his Nicomachean Ethics (Book V) he describes it as one of many virtues, a condition of character that enables people to act justly and to choose the just. Justice makes people law-abiding and enables them to promote equality. The ancient Greek philosopher’s remarks were about (in)justice in the polis or city-state, a clearly demarcated area, where inhabitants were divided into free citizens and enslaved people. This division also existed in the European colonial era. Aristotle distinguished between distributive justice and corrective justice. The first is about the proportional distribution of goods and wealth inside the city-state. Corrective justice restores the unequal distribution of gain and loss and involves involuntary transactions of goods or money. It is aimed at undoing injustice; both goods and the way of acquiring them are relevant (Veraart 2005: 34).

Aristotle’s city-state has had many successors - nation-states, colonial empires and the global village. Are his concepts of distributive and corrective justice for the polis of his time applicable to its scaled-up successor, today’s global village? I think they are. Although many objects were collected in a law-abiding way, their maldistribution reached such heights that an institution such as the Tervuren Museum has 120,000 ancient ethnographic objects from DR Congo, Rwanda and Burundi,249 while these three countries themselves have considerably less.250 Public museums in the West-African state of Benin together own less than 4,500 objects, while the Musée du quai Branly alone has more than 5,500 ancient

(June 10, 2016)
248 http://www.muslimphilosophy.com/ip/rep/H002 (June 14, 2013)
ones (Effiboley 2015: 48). This maldistribution is certainly felt in Benin, which is said to claim from France thousands of objects taken in the European colonial era (4.1.; Box: War booty during settler and exploitation colonialism). Considering the dubious provenance of many objects in Western heritage institutions, this is a problem of corrective justice.

Aristotle links justice with equality, as does Sen (2010: 232). Equality is also hard to define. One can use the term in two ways. It can be used in a descriptive form, in which case it points to a fact or an observation or in prescriptive form when it gives a normative connotation and becomes ‘a constitutive feature’ of justice. 251 How equal are parties with a relationship to a colonial cultural object? The one is possessor, the other a claimant. The one belongs to a former coloniser, the other to a former colonised. The one is better equipped and has stronger capabilities to realise justice than the other, provided that the two sides can agree on what justice is in a particular context.

Sen (2010) and Martha Nussbaum (2011) have written about justice and equality, Sen in the context of international cooperation, Nussbaum in that of gender. They argue that, if one side - e.g. the recipient country vs. an aid consortium, women vs. men - lacks the capabilities to realise justice, discussing justice then is of little use. To counter this, the two developed a ‘justice and capabilities approach’. Capabilities are about what a person wants to do, what he or she is able to do and what he or she is enabled to do; to realise justice requires an enabling environment (Sen 2010: 235; Nussbaum 2011: 20). This raises new questions - who decides, and how, about the weight of differences in capabilities between stakeholders, and if and how they are to be handled? The answer differs with each case. As to colonial cultural objects, both sides might have to strengthen capabilities. The party that claims an object is easily considered the weaker one that does not have certain capabilities, but the possessing party often lacks the capability to open up for injustice committed in the past and for dialogue and mediation.

An essential element of this discussion is trust. Trust is needed when two sides discuss the future of colonial cultural objects and want to come to an agreement that satisfies both sides. Trust has to do with a balance between what one gives and expects to receive, with willingness to give up part of one’s control over actions, with confidence that the other will not harm one’s interests. Influenced by thoughts of Jack Barbalet252, one can argue that in exchange for dependency and vulnerability, a stakeholder gains the prospect of a better outcome. Trusting the other stakeholder includes the risk of his unreliability; part of the trust is one’s own capability to assess the reliability of the other. The unequal treaties and treatment, the underdevelopment and other direct, structural and ideological violence of the European colonial era have eroded the trust of former colonies in former colonisers (Mbembe 2015).

In conclusion, European colonialism resulted in an unbalanced division of cultural heritage over the globe, whereby the countries-of-origin are poorly endowed. Moreover, many more objects in public and private possession are tainted than has long been accepted. These are

historical injustices. There are no hard law instruments to deal with claims to tainted colonial cultural objects. They are time barren. The relevant conventions are non-retroactive. The history of the making of some conventions shows the longing of former colonies to retrieve cultural heritage. For different reasons - trust being an important one - these countries have hardly used the ICRPCP. Former colonies can gain inspiration from the human right to belong to an organised community or the human right to development and from the concepts of distributive and corrective justice to strengthen their return claims. One can argue that this right, although non-binding, has become international customary right. Soft law instruments for (colonial) human remains and Nazi-looted art offer several lessons for discussing the future of colonial objects. Like the return of colonial cultural objects, that of human remains has remained a fragmented, piecemeal experience. What can be learnt from them is the need for heritage institutions in the West to do active provenance research and the primacy of source communities above outside scientists and collectors, and above property of the state. The translation of the 1998 Washington Conference Principles for dealing with Nazi-looted Art into principles for dealing with colonial cultural objects is a step to raise this discussion to a higher level. They offer a form of embedding. If endorsed, they require commitment. They urge stakeholders to avoid the legal path and to look for non-judicial alternative dispute resolution mechanisms. In Part VI the Principles come back as part of the model for negotiating the future of colonial cultural objects.
Part IV: Ambiguities between the Netherlands and Indonesia

Part IV, a case-study of the negotiations between Indonesia and the Netherlands about new cultural relations and the return of objects (1949 - 1975), builds strongly on the previous Parts. The investigation offers clues to what disappeared from the Dutch East Indies - based on the typology of objects (Part I) and the periodisation of the European colonial era (Part II) - and how and why the Netherlands returned objects after Indonesia’s independence. It provides elements for a model for negotiating the future of colonial cultural objects. The history of the negotiations is described twice, first in a historical reconstruction, based on archival sources of the time and literature needed to explain the context at that time, and is then followed by a revisit on the basis of more recent research findings. The differences in outcome are clearly marked.
Chapter 7
The 1975 Joint Recommendations

The Netherlands preserved and protected Indonesia’s cultural heritage relatively well. The Government wrote this convincingly in a 1975 confidential Annex of a Memorandum on Indonesian Cultural Objects.\textsuperscript{253} The VOC (Dutch East India Company) already did so in the 17\textsuperscript{th} and 18\textsuperscript{th} century. In the 19\textsuperscript{th} and early 20\textsuperscript{th} century, the colonial administration created a framework of protective laws and enabled the Batavian Society for Arts and Science to preserve objects.\textsuperscript{254} Admittedly in the chaos during and after the Second World War some disappeared. In 1975, Indonesia submitted a wish-list for returns with ten thousand objects.\textsuperscript{255}

7.1. Cultural heritage policy until 1949

Since the foundation of the VOC in 1602, says the Annex, there had been an ‘absolute ban’ on the transfer of objects not officially ordered from the Netherlands.\textsuperscript{256} VOC officials had little regard for local material culture (Groot 2009: 26, 28) and were more interested in botany, agricultural products, maps and atlases. This was still so in 1778, when they founded the Batavian Society for Arts and Science (Djojonegoro 2006: 39, 45; Groot 2009: 135). From the early 19\textsuperscript{th} century onwards, antiquities from Java, Sumatra and Dutch settlements in Sri Lanka and Dejima in Japan arrived in the museum of the Society (Groot 2009: 129; Sudarmadi 2014: 66), the superfluous ones being forwarded to institutions in the Netherlands (Groot 2009: 137, 215). The King of the Netherlands appointed the director and

\textsuperscript{253} Archives Dutch Ministry of Foreign Affairs 1975 - 1984, Inv. No. 10266. Given its place in the file, the Annex was submitted end May/beginning June, 1975. No author is mentioned.

\textsuperscript{254} Bataviaasch Genootschap van Kunsten en Wetenschappen. Batavia is nowadays Jakarta. The museum is the present National Museum in Jakarta.

\textsuperscript{255} Memorandum Head of Culture and Public Education of the Foreign Affairs Ministry to Minister for Culture, Recreation and Social Affairs, October 22, 1974, DCV/CS-243378-4084GS ‘Historische voorwerpen uit het voormalige Nederlands-Oost-Indië afkomstig’, in: Dutch National Archive, Inv. No.2.27.19, file 4193.

\textsuperscript{256} Obviously excluded were objects from China, Japan and South Asia, modelled to European tastes and produced for export to Europe: porcelain, textiles, lacquer, objects of precious metals, etc., Van Campen & Hartkamp-Jonxis 2011. Aziatische Weelde - VOC-kunst in het Rijksmuseum, Walburg Pers, Zutphen: 12, 24, 74.
gave financial support (Groot 2009: 62). Many colonial administrators, army personnel, private entrepreneurs and missionaries, who all became members, were more driven by the need for social status and contacts than by cultural curiosity (Lequin 2005: 183; Drieënhuizen 2012: 6). From 1826 Indonesians could join the Society (Groot 2009: 95).

As a safeguard against Indonesian claims, the Dutch Government summed up the rules and the measures it had prepared to protect the archipelago’s heritage. The first rule came in 1840, when French researchers requested permission for a scientific trip to Java and Borneo. Temples, statues and other antiquities located on Government’s territory were declared public property. Local authorities were responsible for them and were ordered to keep an inventory of antiquities in their region. Export of antiquities required the Governor-General’s signature. The Society soon asked for lists of antiquities in the residences of colonial administrators and selected a number to be purchased (Lunsing-Scheurleer 2007: 90). In 1844 a list of monuments was made. Throughout the colonial period, it was refined and more stringently formulated. An 1855 Law of Treasure Trove stipulated that archaeological finds were reported to the Government (Djojonegoro 2006: 53). The 1975 confidential Annex mentions an 1858 Regulation that made the Batavian Society responsible for objects and collections of the colonial administration. It included tokens of homage and gifts such as krisses (daggers), lances and clothing from native rulers to the Governor-General, which he did not want to keep for himself (Brinkgreve & Van Hout 2005: 101).

Ordinance no. 146 of 1878 decentralised responsibilities to regional administrators. People had to report antiquity finds to them and they were to forward the information to the Batavian Society. The Society had a budget for purchasing ‘objects of essential cultural importance’ for its own museum. It complemented public collections in the Netherlands with less essential ones. Museum Volkenkunde in Leiden, founded in 1837, benefitted most from this.

In 1923 2,600 archaeological sites had been registered. Ordinance No. 238 of 1931 stipulated that pre-Islamic antiquities must be registered, including those in private ownership. Their export was forbidden. During the final years, regional museums were established in Yogyakarta, Denpasar, Surabaya, Surakarta and Banda Aceh.

Between the start of the Japanese occupation of Indonesia in 1942 and the transfer of sovereignty in 1949, instability and lawlessness reigned. The authorities no longer controlled the export of objects by individuals and families who left the country. From the Annex and other sources is known that private Dutch citizens, Japanese and Indonesians inflicted damage, looted and smuggled out cultural objects. In Yogyakarta, the capital of the Republic, Dutch troops seized archives at ministries and at the home of Mohammed Hatta and other leaders. Later, papers of Sukarno and Abdoel Gaffar Pringgodigdo (Minister of Justice in 1950) emerged in the National Archive of the Netherlands. With these Yogya archives the Dutch substantiated accusations that the independence war was funded with illicit opium sales and linked the leaders of the Republic to communists in neighbouring

258 Email L. Zweers, March 10, 2014.
259 Undated note, I. Heidebrink, National Archive of the Netherlands.
Malaysia, but the accusations did not bring the international community to their side (Karabinos 2013: 287).

7.2. Negotiations between 1949 and 1974

After the unilateral declaration of independence in 1945, Indonesia was eager to cut ties with its coloniser. In President Sukarno’s vision, the ‘dark colonial period’ was sandwiched between the glorious past of the Črivijaya kingdom on Sumatra and the Majapáhit kingdom on Java and a promising future for all (Sudarmadi 2014: 78). Shattered by the Second World War, the Netherlands wanted to restore the pre-war situation. Fresh troops, including soldiers from the Moluccas who were promised autonomy for their islands, carried out large-scale military interventions. In the Netherlands they were called police actions, in Indonesia aggression against the struggle for independence. During a period of four years both sides committed extreme direct and ideological violence at various times and at specific locations; suffering was immense (Frederick 2012; Wahid 2014). Those Dutch who could, left for the Netherlands or for Papua, which remained under Dutch control (Vlasblom 2004: 187). The formal transfer of sovereignty finally took place on December 27, 1949.

The talks about future relations were difficult. While in Indonesia he was the father of the nation, in the Netherlands Sukarno was associated with Japan and Nazi-Germany. Dutch Prime Minister Willem Drees admitted later to have underestimated the ‘major role in the relationship’ of Sukarno’s popularity and the anti-Dutch sentiment in Indonesia. For the new Republic the return of cultural objects had priority. The Dutch, haunted by UN Security Council Resolution 67 (1949) to cancel the Dutch ‘occupation’ of Indonesia and to release political prisoners, wanted to polish its damaged image, to ensure the survival of the Dutch culture and language in Indonesia and to keep the cultural treasures it had acquired.

Some voices in the Netherlands favoured returns. In May 1949 a citizen suggested to the Government that, on the occasion of the transfer of sovereignty, they give back crown jewels taken during military confrontations in Lombok, Bali and Java. Within two weeks Minister J.H. van Maarseveen for Overseas Territories replied that the suggestion was ‘worth

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261 Possibly due to this friction, President Sukarno’s role in claiming back colonial cultural objects remained less visible than that of his successor, President Suharto, although both leaders were persistent in their return claims (Scott, C. 2014: 109). Sukarno collected paintings by Indonesian and European artists. His plan for a new national museum never materialised (Zweers 2014: 7; email Zweers March 10, 2014).
considering’, but it was not the ‘appropriate moment’. Two days later the Council of Ministers decided ‘to consider a return in the final phase of the constitutional reforms in Indonesia’. The Minister informed the Dutch High Representative in Indonesia, Tony Lovink, that if a return were to take place, it had to occur ‘spontaneously’ creating the impression of a ‘generous gesture’ and not in reply to suggestions from political or press circles.

Lovink supported an ‘unsolicited giving back to Indonesia’ as proof of ‘the Dutch desire to establish the relationship... on a new basis of friendship’. It should occur ‘at short notice’ so that it could not be viewed as ‘a remorseful restitution of illicitly acquired colonial loot’.²⁶⁴ He suggested first making an inventory of Indonesian crown jewels in state owned collections and proposed to return them to the familiar National Museum in Jakarta and not to the Sukarno Government or the offspring of traditional regional rulers. Returning objects to traditional rulers went against the new Government’s efforts to centralise the administration.

When the Minister again raised the issue in the Council of Ministers on August 23, 1949, he met with opposition. The Government wanted the inventory first. The outcome of this was that there were few contestable jewels, since most had been acquired ‘by purchase or as a gift’. Therefore they could not be claimed. That the number was small was due to art protection officer, Dr J.L.A. Brandes, who had accompanied the 1894 Lombok punitive expedition to prevent looting. Such careful dealing was ‘not an isolated incident’ but had also occurred during military expeditions to Bali, Sumatra and Celebes.²⁶⁵ ‘In this way the truly valuable cultural treasures remained in Indonesia and did not go to the Netherlands or fall into the hands of dealers, who might have acquired articles from individual soldiers which the latter had taken as loot, and put them on the market.’²⁶⁶ Crown jewels from the Gowa and Bene Kingdoms in Bali had been sent back in 1913. The result was that the citizen’s return suggestions faded away. Other suggestions met with the same fate.²⁶⁷

While continued fighting made the Netherlands even consider a third military intervention,²⁶⁸ that same August 23, 1949, a UN sponsored Round Table Conference (RTC) between the two countries began. A sub-committee drafted a Cultural Agreement. Art. 19 stipulated that cultural objects of Indonesian origin in the hands of the Dutch or former Dutch East Indies authorities ‘by means other than as specified in private law for the acquisition of property’ - an explicit reference to tainted objects - were to be handed over to the Indonesian Government (Legêne & Postel-Coster 2000: 272). The article provided for a possible ‘exchange of objects of cultural or historical values’, which a ‘mixed commission’ was to prepare. For the Netherlands the provision opened the possibility of the return of

²⁶⁵ In 1847 for instance, assistant-librarian R. H. Th. Friedrich was sent along with the military to Bali to collect manuscripts (Lunsingh Scheurleer 2007: 91).
²⁶⁷ Mrs. H.A.M. Wurth, city of Brouwershaven, suggested in a letter to the Foreign Ministry (September 8, 1963) the return of Javanese stone statues during a planned visit of Indonesia’s President, in: National Archive, Inv. No.2.27.19, file 4194.
VOC archives. The RTC led to the formal transfer of sovereignty to Indonesia. Fearing a continuing Dutch economic dominance, the young country did not dare pursue the return issue (De Jong 2000: 611). The Dutch RTC delegation had three Papua observers (Vlasblom 2004: 177). According to one, Nicolaas Jouwe, the observers were only there to impress the Indonesian delegation but ‘not allowed to attend the meetings... and read, mostly afterwards, what had been discussed and decided.’ 269 The continuing Dutch control over Papua irritated the former colony. Three times, in 1954, 1956 and 1957, it had the Papua issue scheduled for the UN General Assembly, but it never gained sufficient support (Vlasblom 2004: 181, 265).

After the quiet death of 1949 draft Cultural Agreement (Legêne & Postel-Coster 2000: 273) every now and then the talks were reopened, all be it with little effect. In February 1952, the two governments agreed to deal with return matters in ad hoc committees and to exchange letters about them. They never did.270 In 1954 Indonesia suggested the maintaining of Art. 19 of the 1949 draft Cultural Agreement. The Dutch Ambassador in Jakarta was in favour and suggested to link Dutch willingness to return certain treasures to the Indonesian willingness to pay for a new Dutch chancellery in Jakarta.271 The proposal led to nothing. Indonesia waited in vain in 1956 for a reply to its complaint that no information had been received about objects of art historical value in the Netherlands (Legêne & Postel-Coster 2000: 274).

Relations remained tense. Indonesia stopped radio broadcasting in the Dutch language in 1954. To pressure the Dutch to give in on Papua, in 1957 it ordered Dutch nationals to repatriate and nationalised Dutch companies (Vlasblom 2004: 266; Sudarmadi 2014: 88). The Netherlands tried all means to keep Papua but had to give in. In the New York Agreement between the Republic of Indonesia and the Kingdom of the Netherlands concerning West New Guinea (West Irian), signed in 1962,273 it handed over the sovereignty to the United Nations, which would pass it to Indonesia. In five years the Papuans would decide in an Act of Free Choice about their relationship with Indonesia. On their departure, the Dutch shipped a collection of cultural objects meant for a new museum in Papua to the Netherlands (Box: Papua culture in safety).

Box: Papua culture in safety
Due to increasing interest in the Papua culture and the fear that, after a Dutch departure, cultural objects would disappear, Pieter Pott, director of Museum Volkenkunde in Leiden, proposed in 1959 that the Dutch Government should ‘try and arrange to introduce some system of control of the export of objects of major cultural value and importance... as well as

269 Interview N. Jouwe, Jakarta, November 24, 2014.
270 Dutch National Archive, Inv. No.2.27.19, file 4193, Letter of Prime Minister to Minister of Foreign Affairs (number U 18940) dd. November 6, 1968.
272 When Michael Rockefeller, son of New York’s governor Nelson Rockefeller, disappeared during an art collecting expedition in 1961, the Dutch Government purposely hid information that he had been killed in revenge for the killing of Asmat leaders by a Dutch man in 1958. To show their ‘control’ of Papua, it provided the Rockefeller family facilities to look for their relative. It did not change Washington’s position. Michael’s objects, found after his death, are in the Metropolitan Museum of Art in New York (Derix 2009: 693; Hoffman 2014: 173, 223).
the planning of a regional museum’ in Papua. Colonial officers, researchers and private persons brought together objects. Civil servant G.W. Grootenhuis in turn was worried that ‘Dutch civil and marine servants took everything with them’, as they could thereby earn big money. When he left at the end of 1962, he took three-hundred and eighty objects, mostly ethnographic, all labelled with information, and in July 1963 he deposited them in the museum in Leiden.

In October 1974, the Indonesian Embassy in The Hague informed the Dutch Government that, as ‘part of the Indonesian Government’s efforts to develop museums as important educational institutions’, the capital of Papua, Jayapura, had a museum and that there were no obstacles for the transfer of the objects. When handing them over in July 1975, Pott said that the objects ‘could not be accepted to form part of the collection of the museum, while at the same time their return could not be effected due to the then prevailing circumstances. The only possibility was to keep the objects in custody and to return them, when the situation had been cleared up and a safe return of the objects could be arranged.’

The signing away of Papua created room for negotiations about cultural relations between Indonesia and the Netherlands. Indonesia remained explicit about its interest in the return of cultural objects and archives and its dislike of the Dutch emphasis on the strengthening of museum and archival infrastructure. On July 14, 1963, Deputy Minister for People’s Welfare, Muljadi Djojomartono, ventilated his views via the Indonesian news agency Antara that manuscripts and books ‘that are historically important for Indonesia’ were better returned. Dutch officials had studied them during colonialism, but they ‘now no longer had any practical value for the Dutch’. Their return ‘would certainly be of good influence on the development of friendly relations’. A Dutch diplomat in Jakarta supported the suggestion. Although not a formal request, the Dutch Coordination Group Cultural Relations with Indonesia discussed the Indonesian suggestion on August 19, 1963. It distinguished between manuscripts that were Indonesian cultural achievements and those

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274 Archive Museum Volkenkunde, Correspondence Archive 1975, Box number 61, Cover 118, No. 887.
276 Curator S. Kooijman mentions the help of Papua-leader N. Jouwe (Report over the 3rd quarter of 1976 in: Archief P. Pott - Kwartaal + Jaarverslag 1975 - A 17, 2). Pott omits Jouwe’s contribution in the 1975 annual report of the museum. Interviewed on November 24 in Jakarta, 2014, Jouwe said he had been involved in collecting Papua’s cultural heritage but did not remember a shipment to the Netherlands. He had collected for the Michael Rockefeller Foundation, which was willing to finance a Papua museum.
278 Indonesian Ambassador Sutopo Yuwono at the occasion of the transfer. Museum Volkenkunde, Correspondence Archive, Box No. 61, Cover 118, No. 877.
279 Letter of October 4, 1974 by Mr. Soemarmo, c/o Indonesian Embassy – Cultural Department, The Hague.
282 A brother of Dutch Prime Minister De Quai and teacher at the Gadjah Mada University in Yogyakarta had tipped off Minister Djojomartono, Letter to Dutch Foreign Minister by Temporary Chargé d’Affaires, C.D. Barkman, of July 20, 1963, No. 1324/141. Letter is in the Dutch National Archive, Inv. No. 2.27.19, file 4193.
related to Dutch and Dutch East Indian authorities and it favoured ‘an inventory and a gradual exchange’. In September 1963 Indro Soegondo of the Department of Cultural Affairs of Indonesia’s Ministry of Education and Culture argued before the Agence France de Presse, that the Netherlands should return authentic antiquities, ‘of which there was no second specimen and many of which were very valuable’. To Antara he said that ‘the Indonesian cultural articles now kept in Holland are not many in number but they consist of the choicest and authentic ones that have no doubles.... As a matter of fact, some ... items in our museums are only duplicates of those in the Netherlands.... Indonesia has the full and detailed list of the Indonesian cultural items now still kept in the Netherlands’.

The Dutch Government ordered civil servants to undertake some tracking work. Within half a year they felt sure that there were no grounds for a claim, nor had they found a list of contestable objects. The Netherlands did not feel bound by Art. 19 of the 1949 Cultural Agreement on return, as Indonesia had declared the Agreement void in 1956. It felt in a strong position as it had handed over with the transfer of sovereignty, all possessions of the Batavian Society to the newly established National Museum in Jakarta (Legêne & Postel-Coster 2000: 274). In 1964 there was some rapprochement between the two countries when they signed an agreement for Technical Cooperation based on the principle of reciprocity but without any reference to return issues (Legêne & Postel-Coster 2000: 275). The reciprocity principle would play a role, as shown later, also in the return negotiations.

However, new tensions blocked progress. The Netherlands was worried about the hundreds of thousands suspected of membership of the communist PKI who were killed or imprisoned in the aftermath of a 1965 coup d’état and the way, in which President Sukarno was marginalised and General Suharto became the country’s new leader. The Jakarta Government was upset by Moluccans in the Netherlands, who kept hammering on self-determination for their islands. Nevertheless, in the Cold War, Suharto’s Indonesia opted for the Western camp, and when in 1966 it was in great need of foreign funding, the Dutch Government reacted immediately. In exchange for Indonesia’s repayment of DFL 600 million (€ 272 million) as compensation for Dutch properties, nationalised and confiscated in the 1950s, in 1967 it invited bilateral donors to join the IGGI (Inter-Governmental Group on

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283 A report of the meeting is in the Dutch National Archive, Inv. No.2.27.19, file 4193.
285 Dutch National Archive, Inv. No. 2.27.19, file 4193: (1) Letter of Foreign Affairs Minister (DBI/PL-133098) to Minister of Education, Arts and Sciences, October 3, 1963, in which the latter is asked whether he knows of such a claim. (2) Memorandum to both Ministers by the Deputy Chief of Department of International Cultural (ICB 63078), December 17, 1963, that the tracking has not yielded anything. (3) Letter by the same to Foreign Minister (ICB 61739), March 12, 1964.
286 Letter Prime Minister to Minister of Foreign Affairs (number U 18940), November 6, 1968, in: Dutch National Archive, Inv. No. 2.27.19, file 4193.
Indonesia disliked the IGGI yoke and especially the lead country’s criticisms on human rights violations during and after 1965. The issue of Papua again caused frictions, but now on the Dutch side. When the Indonesian Government began to make people from Java migrate to Papua, Papuans feared to be marginalised. Indonesia manipulated the Act of Free Choice. Papuans in the Netherlands were allowed to continue their anti-Indonesian protests (Vlasblom 2004: 447, 448). After the 1974 Carnation Revolution, Portugal abandoned East Timor. A civil war broke out and in November 1975 the progressive East Timorese Fretelin unilaterally declared independence. One week later Indonesian troops invaded and annexed the new country. The Netherlands offered Portugal its services to represent its interests in Jakarta. Indonesian human rights violations in East Timor were widely discussed in the Dutch media, Parliament, trade unions and civil society organisations. Indonesia’s occupation lasted until 2002.

Despite the tensions, on July 7, 1968, Indonesia and the Netherlands signed a Cultural Agreement on sciences, culture and arts. It resulted in intensified archival cooperation and the setting up of a Dutch cultural centre, Erasmus House, in Jakarta. The Agreement stipulated that ‘the question of cultural objects of Indonesian origin remaining in the Netherlands’ had to become topic of consultation between the two states. The improved relations made visits from both sides easier. Dutch development aid became available for cultural programmes.

The Agreement fitted in Indonesia’s policy for strengthening national unity and identity, and the Dutch were willing to support this goal with the return of some treasures. Chairman of the Dutch House, Frans-Jozef van Thiel, halfway through 1969 wrote to Dutch Prime Minister, Piet de Jong, that during a Dutch parliamentarian visit he had spoken privately with Suharto. The Indonesian President had urged the return of documents and manuscripts from the Library of the University of Leiden, confiscated during the Lombok expedition (1894) and Aceh Wars (1873-1914). The Dutch embassy in Jakarta suggested returning the late 14th century Hindu-Javanese manuscript Nagarakertagama. It was a most precious palm-leaf manuscript seized in Lombok that was interpreted as proof that Indonesia, including Papua and Timor, had been a pre-colonial entity. As to other manuscripts, Indonesia accepted that, because of its weak archival infrastructure, it was better off with microfilms. De Jong answered the House Chairman confidentially to support the exchange of archives, as it enabled the Netherlands to regain the VOC archive from Indonesia’s Arsip Nasional and that he waited for the right moment to hand over the

\[\text{http://erasmushuis.nlmission.org/erasmus-huis (July 11, 2014).}\]
\[\text{Letter Chairman of the House to Prime Minister d.d. May 21, 1969, number 67843, in: Dutch National Archive, Inv. No. 2.27.19, file 4193. In these years, Th. Pigeaud (1967 - 1970) prepared an extensive overview of manuscripts in Leiden and elsewhere in the Netherlands.}\]
\[\text{Het oud-Javaansche Lofdicht Nagarakertaggama van Prapatje (1365 A.D.), Drukkerij Volkslectuur – Weltevreden 1922: 12.}\]

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Nagarakertagama. However, his ‘principled willingness’ was ‘at the basis of reciprocity’. He was averse to any ‘obligation to transfer’ objects, based on claims from a rather distant past and favoured ‘maintaining the status quo’. Otherwise ‘the unity of a collection’ in the Netherlands could be impaired.²⁹⁶

In June 1970, President Suharto again asked the visiting Dutch Minister of Culture, Recreation and Social Welfare, Mrs. Marga Klompe, for the manuscripts and included the option of sending microfilms instead of original copies.²⁹⁷ The Dutch Government estimated that ten thousand original documents were ‘traceable’ amidst other documents.²⁹⁸ It repeated that Indonesian cultural objects and archives in the Netherlands could be ‘complementary’ to ‘the much bigger volume of authentic cultural goods’, which had remained inside Indonesia.²⁹⁹ The Netherlands was willing to help fill the gaps.³⁰⁰

During this time a new view seeped through of the recent years in the archipelago and the dealing with cultural objects. Former Dutch conscripts began to talk about the extreme violence.³⁰¹ The Dutch weekly Nieuwe Revue questioned the right of the Netherlands to hold colonial objects. In 1974 the Dutch national daily Nieuwe Rotterdamsche Courant³⁰² and again the weekly Nieuwe Revue³⁰³ published reports about Indonesian claims and wondered whether the Netherlands had a legal or moral restitution duty. A researcher suggested that ‘an objective Dutch - Indonesian commission investigates which Indonesian art-treasures... qualify for return to the country-of-origin’.³⁰⁴ Dutch museum officials accused these voices of insufficient understanding and played down the importance of their colonial collections. Dutch collectors had gathered only objects of minor quality.³⁰⁵ An Indo-Dutch journalist criticised Suharto and his generals for appropriating public art works for private use.³⁰⁶

²⁹⁶ Letter Prime Minister to Chairman of the House Van Thiel, July 9, 1969, number 184244, in: Dutch National Archive, Inv. No. 2.27.19, file 4193.
²⁹⁷ Report Minister of visit to Indonesia, June 14 – 25, 1970, in: Dutch National Archive, Inv. No. 2.27.19, file 4193. From the report it was clear that Mrs. Sumartini, Director of Indonesia’s Arsip Nasional, actively endorsed President Suharto’s proposal.
In 1970 the nine member states of the European Community - all former colonial powers, except Greece and Ireland - set up the European Political Co-operation.\(^{307}\) In July 1973 they agreed to ‘consult each other on all important foreign policy questions’ if ‘the purpose of the consultation is to seek common policies on practical problems’ and the subject dealt with concerned ‘European interests whether in Europe itself or elsewhere where the adoption of a common position is necessary or desirable’.\(^{308}\) Keeping colonial cultural objects was such an interest. Fearing claims from DR Congo and Greece (Parthenon Marbles), Belgium and the United Kingdom refused to ratify the 1970 UNESCO Convention. European countries brought constitutional and legislative obstacles forward against it, especially the insufficient protection of private property and complications for customs officers. Their opposition was based on the supposed retroactivity of the Convention.\(^{309}\) In the European view, ratification required ‘far-reaching adjustments’, while it was ‘wholly unrealistic to establish precise and systematic guidelines to cope with each and every case in point’ (Van Gulik 1989: 50).

That European countries acted jointly to minimise return claims became also visible in years thereafter. In a ‘speaking note’\(^{310}\) for an 1981 intergovernmental meeting, the British representative asked the Netherlands how it proposed ‘to reply to the Sri Lankan claim’ in a report with detailed descriptions, including inventory numbers, of ‘significant cultural objects’ in the United Kingdom, France, the Federal Republic of German, the Netherlands and Belgium. A Dutch delegation to a UN consultation about restitution had ‘consistently avoided recognising a generally applicable origin and property principle, but limited itself to recommendations related to specific objects or categories’\(^{311}\).

The return issue created frictions inside the Dutch Council of Ministers. One was mentioned: in 1949, some Cabinet members successfully stalled a return of crown jewels. Another occurred in 1964, when Minister T.H. Bot of Education, Arts and Sciences opposed any return to Indonesia with the so-called floodgate-argument: ‘There is no telling where it will end if such a precedent is created’ (in: Legêne & Postel-Coster 2000: 275). Dutch Labour Party Parliamentarian, Jan Pronk (1971 - 1973), remembers the frictions. The return issue and the accession to the 1970 Convention were raised several times in the Parliament. ‘The Foreign Ministry was in favour of accession, whereas other ministries were against and high-ranking officials often delayed and came up with pretexts not to do it’.\(^{312}\) Archival evidence confirms this. In May 1972 the Deputy Director-General for Cultural Affairs warned his Minister that a Dutch accession might offer Indonesia and the Dutch Antilles - which had also


\(^{310}\) National Archive of the Netherlands, Archive of the Ministry of Culture, Recreation and Social Work (1910) 1965 - 1982 (1990), Archive bloc number XII, Inv. No. 2051.


\(^{312}\) Interview Jan Pronk, The Hague, October 13, 2014.
raised the restitution issue - a handle, and ‘*then the quarrel starts again*’. In February 1974, an official at the same Ministry wrote to his minister that Indonesia could point to Art. 15 of the 1970 Convention, which states that nothing prevents States Parties ‘*from concluding special agreements… regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned*’.

The false suggestion of retroactivity and the possibility that Indonesia could call the colonial era ‘*occupation*’ and invoke war time agreements for the protection of cultural property to give restitution-claims a legal basis were quickly set aside by colleagues. A Comment on UN Resolution 3187 (XXVIII) *Restitution of works of art to countries victims of expropriation* for Minister Harry van Doorn for Cultural, Recreation and Social Work warned that it covered in principle all objects that had been transferred to the metropole. They would have to be returned. Some civil servants favoured returns, if these would help to repair the premature rupture of the late 1940s (Scott, C. 2014: 133).

Although internationally the silence about colonial cultural treasures ‘*was slowly being broken*’ (Vrdoljak 2008: 197) and the atmosphere was becoming more ‘*return friendly*’ (Lubina 2009a: 478), the Dutch Government did not change its policy. It remained pro-active in the exchange of archives and other documents, based on reciprocity, and increasingly reluctant to return cultural objects, unless Indonesia came up with concrete requests.

Two developments helped to reach a breakthrough. One was the taking office of a centre-left cabinet (1973 - 1976) in the Netherlands. It caused not ‘*a break*’ in the cultural relations with Indonesia, but ‘*raised delays*’ in their improvement, remembers Jan Pronk, the Minister for Development Cooperation at that time. There was ‘*no change in the attitude towards the UNESCO Convention*’, but an agreement with Indonesia about cultural relations and transfer of objects ‘*was not a bone of contention*’ in the cabinet. Pronk and his fellow party-member, Minister of Foreign Affairs Max van der Stoel, clashed about Indonesia. Pronk openly criticised the Suharto Government for human rights violations and imposed conditions on development aid, while Van der Stoel favoured silent diplomacy and a rapprochement. Public calls to suspend aid supported Pronk after Indonesia’s invasion of East Timor. In hindsight, argues Pronk, his (Pronk’s) position had not ‘*hindered an agreement on cultural affairs*’.

The second development consisted of Indonesian surprise searches for missing treasures. In 1970 the Indonesian Embassy’s Military Attaché visited incognito the Royal Home for Soldiers in Bronbeek and the Armies and Weapons Museum in Leiden and looked

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for military objects that qualified for return. On August 2, 1970, the acting head of the Yogyakarta Inspection Office for Cultural Affairs, Dahlan Maksam, told a journalist that ‘during the last war’ (1945 - 1949) members of the Dutch army had taken ‘cultural valuables’ from the ‘Yogyakarta Museum Sana Budaja and other museums’. The Dutch Defence Minister, responsible for military museums, ordered a search. In a confidential note of August 6, 1970 to his Foreign Affairs colleague he concluded that no such objects or documents had been traced and promised a more thorough investigation, if Mr. Maksam could hand over a list of missing objects, also those in non-army museums. Probably feeling uneasy about it, he did not exclude the possibility that individually committed thefts had evaded his observation and on August 8, 1970, urged Museum Bronbeek to report immediately to his Secretary-General, in case of ‘direct requests from Indonesian side’.

In October 1974, under a technical cooperation agreement between the Jakarta and Amsterdam municipalities, former mayor Sudiro of Jakarta and two other representatives of the Historic Buildings Foundation (Yayasan Gedung Bersejarah) came to the Netherlands ‘to examine, study and collect Indonesian historic items’ to be used in some historic buildings in Jakarta. The Ministry of Internal Affairs let them dig into secret documents and to photograph authentic messages of Mohamed Hatta, who, together with Sukarno, had proclaimed Indonesia’s independence in 1945. After visiting twenty-one institutions, speaking to thirty-eight dignitaries and loaded with photocopies, reproductions and photographs the delegation was ‘impressed that the Netherlands feels obliged to return historic objects, which are unlawfully in its possession, to Indonesia.’ The outcome of their surprise searches was a list of ten thousand claimable objects, including objects from a museum in Aceh, the Lombok treasure, ornaments of the Luwu court, the equipment of Indonesia’s national heroes Pangeran Diponegoro and Pattimura and the Wadjak skull. The archives offer no evidence why director Pott of the Leiden museum, who knew from Mohamed Amir Sutaarga of the National Museum in Jakarta beforehand about this visit, had not mentioned it to his contacts in the Government.

Irritated by the visit and the long list (Van Straaten 1985: 31), the Foreign Ministry ordered a charting of the history of Dutch acquisitions. It was discovered that some Dutch dignitaries had in their residencies Javanese antiquities coming from the Buddhist Borobudur or the Hindu Javanese Prambanan temple complexes (Van Beurden 2012: 32). To the Nieuwe Rotterdamse Courant Indonesia’s Foreign Minister, Adam Malik said that ‘Indonesia wants everything back’, but added that ‘we should not think that it comes now’. A spokesperson of the Indonesian Embassy in The Hague claimed four Hindu-Javanese stone sculptures in Museum Volkenkunde in Leiden from the temple complex in Singasari in Java. They are the

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321 Letter of the Minister for Defence to the Minister for Foreign Affairs, August 6, 1970, DCV/CS-148316-30760CS.
322 Confidential note of Secretary-General of the Ministry of Defence, G.H.J.M. Peijnenburg, to the Chairman of the Advice and Assistance Committee for Bronbeek, August 8, 1970, 347373.
323 Memorandum Head of Culture and Public Education of the Foreign Affairs Ministry to Minister for Culture, Recreation and Social Affairs, October 22, 1974, DCV/CS-243378-4084GS ‘Historische voorwerpen uit het voormalige Nederlands-Oost-Indië afkomstig’, in: Dutch National Archive, Inv. No. 2.27.19, file 4193. The memo was a reaction on a telex message of the Dutch Ambassador in Jakarta, October 16, 1974.
324 Archives Museum Volkenkunde, Klapper op Agenda 1974 (436), 1399.
property of the whole world, ‘so there is no objection if copies are made. But the originals belong in Indonesia.’

That same year 1974, Minister Van der Stoel discussed an Indonesian memorandum about return matters in Jakarta. Indonesia wanted to educate its youth in cultural and historical matters. The hiatuses in museums and archives had been caused by what the Dutch had taken to the Netherlands. Back home, he reported that return was a hot subject in Indonesia and that he had assured his hosts of the Dutch willingness to exchange documentation and knowledge. He considered an immediate solution necessary in order not to damage the relationship. Through the years, there were fears in Government circles that Indonesia would lose interest in the return issue.

Early in 1975 the Dutch Government declared that it was ready to intensify the cooperation to build up archives and museums in Indonesia. In reply, the Indonesian Government proposed that both sides set up a team of experts to work on cultural relations and the return of objects. This the Dutch accepted. The brief that was prepared for the Dutch team of experts showed small cracks in sturdiness of the assertion about the Dutch good care and the return of Indonesia’s cultural heritage. ‘The statement... that individual Dutchmen “rifled” Indonesia... is not based on research or knowledge of the facts...’ and ‘important objects or collections were not brought to the Netherlands, although there were, of course, exceptions.’ Yet it was admitted that museums had acquired ‘the really valuable objects from the better sort of collections but since this happened throughout the world, returning any of these objects seems out of the question. This would mean depriving museums of their collections in a completely arbitrary way, and making any museum policy impossible.’

Before the two teams met, some transfers of objects of cultural or historical importance, as a form of cultural diplomacy, helped to diminish tensions between the two countries (Box: Early returns to Indonesia).

Box: Early returns to Indonesia

Two paintings by Raden Saleh

During a short visit in 1970 President Suharto offered Queen Juliana a golden evening-bag and Prince Consort Bernard a smoking

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325 Despite protests by the newspaper and pressure by the Dutch Government, the Leiden museum refused to pass on pictures of the Singasari sculptures. The article showed therefore an empty spot. NRC-Handelsblad, November 8, 1974, in: Dutch National Archive, Inv. No. 2.27.19, file 4193.

326 Dutch National Archive, Inv. No. 2.27.19, file 4193, Nota inzake de zich in Nederlandse rijksinstellingen bevindende etnografica, kunstvoorwerpen, handschriften en archiefonderdelen van Indonesische oorsprong.


set of Yogya silver.\textsuperscript{330} The Dutch Royal couple gave him two paintings of the Javanese artist Raden Saleh Sjarif Bastaman (1811 - 1880). This artist had been entrusted at young age, to the Belgian landscape-painter Anton Payen. In 1829 he had come to the Netherlands, where King William I had supported his study and painting. In appreciation of his two decades in the Netherlands and other European countries, Raden Saleh donated four paintings to the Royal family (Wassing-Visser 1995: 86). The oldest one (1848) showed a fighting lion, a lioness and a buffalo. It was exhibited in the Dutch pavilion of the 1931 World colonial exhibition in Vincennes near Paris, and there destroyed by fire. The second one (1851) depicted a buffalo hunt. The third (1857) showed the arrest of Prince Diponegoro on March 28, 1830; it would be returned later. The subject of the fourth one (1870) was a fight between a man and a lion. The second and fourth were given to President Suharto. As they had come from the Queen’s own collection and went to the President’s collection, these were gifts by a private person to a private person.

Nagarakertgama manuscript On behalf of the Dutch Government, Queen Juliana offered this 14th century palm-leaf manuscript during a 1973 state visit. It came from the library of the University of Leiden and had been part of the 1894 Lombok treasure. It is now in the Indonesia’s National Library.

Ethnographic collections from Papua On July 13, 1975, Museum Volkenkunde in Leiden handed over 380 ethnographic objects from Papua, which it had kept since early 1963 (above: Box: Papua culture in safety).\textsuperscript{331}

Archival cooperation Since the 1968 Cultural Agreement Indonesia’s Arsip Nasional and the Netherlands National Archive have exchanged and duplicated archives and documents.\textsuperscript{332}

\section*{7.3. Towards an agreement}

The first meeting of the teams of experts took place in Indonesia and consisted of formal declarations, defining competences, presentation of Indonesian wishes and Dutch intentions, visits to Indonesian sites, monuments and museums and, unexpectedly, an agreement upon recommendations. It lasted two weeks. Both teams were headed by the Director General for Culture of the Ministry of Education and Culture (Indonesia) and of the Ministry of Culture, Recreation and Social Work (the Netherlands).

In his opening address on November 10, 1975 in the National Museum in Jakarta, Indonesian delegation-leader, Prof. Mantra - who refused to speak Dutch and kept his distance from the Dutch team\textsuperscript{333} - expressed his country’s appreciation of the Dutch ‘warm response… on our request for returning some of our works such as Nagarakertagama, the

\textsuperscript{330} Marie-Odette Scalliet, Leiden University Library, email May 2, 2014.

\textsuperscript{331} Efforts to verify their present whereabouts have been in vain.


\textsuperscript{333} Kalmeijer 1975: 1.
paintings of Raden Saleh and... the archives and cultural objects of Irian Jaya’. In a Statement of the Indonesian Delegation on the Return of Cultural Objects\(^\text{334}\) he put Indonesia’s claim in a context of cultural development, strengthening national identity and improving the ‘overall economic, political and social condition of the country... which enables the Government of Indonesia to pay more attention to... cultural development’. Indonesia needed objects to improve existing museums and establish new ones. Mantra praised the Netherlands for its cooperation in the archival field. The preservation of philological materials had been better ‘than would have been the case if these manuscripts and inscriptions had remained in their land of origin’.

The transfer of a considerable number of objects under colonial rule to the Netherlands and other foreign countries had made them inaccessible to nearly all Indonesians, whereas they should be their principle beneficiaries. The Statement, read by Mantra, did not ask for all objects: ‘It is... understood that not all Indonesian cultural objects located in foreign countries ought to be returned.... Many... are, perhaps, specimens which are comparable, or similar, to specimens already available in Indonesia.... It is desirable to have collections of Indonesian cultural objects which are accessible to interested individuals in certain foreign countries.’ Indonesia asked for objects, which were ‘unique’, a ‘source of national pride’ and a ‘fundamental contribution to the development of national consciousness of the very diverse population of the Indonesian archipelago’. The Indonesian Statement listed three categories:

1. **Cultural objects**, regarded as significant creations of Indonesian thinkers and artists and as tangible manifestations of Indonesian people’s cultural heritage;
2. **Historical objects** as evidence of momentous or memorable historical events in the past of the Indonesian peoples;
3. **Objects of aesthetic value** or with a special appeal to the aesthetic feelings of Indonesians.

A lengthy description of the desired archaeological objects, manuscripts and inscriptions, ethnographical materials and all public records mentioned explicitly the ‘Ganesh, Durga, Nandicwara and Mbakala statues’ (the ones removed in 1804 from the Singasari temple) and the Prajñaparamita statue from the same region, all in the Leiden museum.

Delegation-leader Rob Hotke reiterated the Dutch willingness ‘to make available to Indonesian researchers material from Dutch archives and museums... of cultural and historical importance’, but made the restriction that, as ‘our common history and the relations between our countries are cultural facts which cannot be denied nor erased..., it is essential that there should be a certain distribution of cultural objects throughout the world.’

He pointed to UNESCO, which never demanded ‘that all countries should return artistic treasures to their land of origin’ but ‘simply recommended that any particular wishes should be dealt with in bilateral discussions’.\(^\text{335}\) According to team member and director of the Leiden Museum, Pieter Pott, Hotke had given ‘the clear warning not to expect that all its wishes could be met’ and emphasised the limited ability of the State of the Netherlands to hand over objects of non-state owners (Pott 1975: 1, 2). Working with the list of ten


One thousand objects, created by the Indonesian surprise delegation in 1974, would cause endless difficulties and it was better to look for solutions for concrete problems.  

The many objects that were considered during the first day’s discussions were in both state owned and non-state owned collections in the Netherlands, or it was unclear where they were. In its reaction to Indonesia’s Statement the Dutch delegation mentioned a state owned crown and other Lombok treasures, the ancient Prajñaparamita statue, manuscripts of specific historical value such as Nagarakertagama, and the Yogya-archives (taken during the last days from the Yogyakarta and other museums to the Netherlands). It did not refer to the four Singasari statues in the Leiden museum. In an article published for the 125th anniversary of the museum in 1962, Pott had written that, although there were many such statues, the ones in the museum belonged to the finest. In a 1969 note, he had put these and the Prajñaparamita ‘on a par with the Elgin Marbles in the British Museum and the Mona Lisa in the Louvre’ and neither these marbles nor this painting would be returned either to their country-of-origin.

Of non-state owned objects, in their reaction the Dutch mentioned objects that had belonged to Diponegoro, the sword of Pattimura, and the insignia of the state of Luwu in Sulawesi, taken at the beginning of the 20th century. If Indonesia could provide information about their location, the Netherlands was willing to establish contact with their holders. As to collections with unclear provenance, the Dutch mentioned extensive prehistoric materials as the Wadjak skull, collected by Dutch military physician and palaeo-anthropologist Eugene Dubois, and objects from the army museum collection from Aceh. They needed further research, as Pott wrote in his report of the meeting.

During visits to many cultural places, the Indonesian hosts confronted the Dutch delegation members with what had gone missing in e.g. Singasari in the colonial era. In contrast to some others in the delegation, this visit was not the first for Miss Ans Kalmeijer of the international cultural relations desk at the Ministry of Culture, Recreation and Social Welfare. As two Indonesian delegations had searched the Netherlands for missing objects in 1970 and 1974, she had visited Indonesia in June 1974 to get to know it better, not as a government employee but as member of the Commission International Relations of the Netherlands Association of Housewives. The experience gained then was useful.

When the Indonesian team did not move from its long list to one acceptable to the Dutch, the Dutch team elaborated a proposal and presented this at the end of their visit. In internal notes both Kalmeijer (1975) and Pott (1975) mention a visit on the last day to Minister for Education and Culture, Sjarif Thayeb, which was probably decisive in the Indonesian delegation accepting this proposal. The Minister ‘to the annoyance of some and the surprise of all, pronounced as his opinion, that he was not in any need to retrieve “all”, as he did not know where he could leave it and what he could do with it’ (Kalmeijer 1975: 8).

338 Pott 1969.
340 P. Pott 1975, November 16 and 23.
341 Personal archive A.M. Kalmeijer 1975 (via S. Legêne). Kalmeijer told Legêne about the visit (June 27, 2014).
Pott (1975: 15) found it ‘striking’. Pushing for large quantities of objects had stood no chance from the start, especially not ‘as long as Indonesia misses a decent museums’ infrastructure’ (Kalmeijer 1975: 2). Pott (1975: 12) also felt annoyed by the fact that ‘on the one hand collections are being claimed, while on the other large collections are being put together and exported almost unchecked’ to the National Museum of Ethnology in Osaka in Japan. At the time, Indonesia’s relationship with Japan differed from that with Pott’s own country.

On November 22, 1975 the teams of experts agreed upon ‘Joint Recommendations by the Dutch and Indonesian Team of Experts, Concerning Cultural Cooperation in the Field of Museums and Archives Including Transfer of Objects’\(^{343}\) (in: Annex at end of the chapter). The Council of Ministers of the Netherlands approved them on August 20, 1976 and informed the Indonesian Government about it on December 9, 1976.\(^{344}\) Most probably the Indonesian Government had done so earlier.

In the context of the argument developed in Parts I, II and III, several elements in the Joint Recommendations stand out. In the Introduction the delegations declared their willingness to make ‘cultural objects such as ethnographical and archival material available for exhibition and study in the other country in order to fill the gaps in the already existing collections of cultural objects in both countries to promote mutual understanding and appreciation of each other’s cultural heritage and history’. The wording implies that the two countries treated each other on an equal footing and that there would be no large-scale remigration of objects.

The first recommendation of paragraph II on Museums and Archaeology about return issues requires some comment. One is about a transfer in stages. It implied that the return would be implemented in several stages, and that only the first stage was elaborated. According to Recommendation II.2, it ‘consists of the transfer of state-owned objects’, among them the Prajñaparamita and Lombok treasures. The Conclusion states that the implementation of the Recommendations would take five years.

A second comment is that the word return was no longer used and was replaced by transfer. In a 1980 retrospective Indonesia’s Cultural Attaché, Koesnadi Hardjasoemantri (1980: 8), also adopts transfer (penyerahan in Bahasa). Whereas the starting point for the Indonesian delegation had been (1) the return of (2) thousands of cultural objects, the Dutch team had focussed all the time on (1) the transfer of (2) a limited number. Return was only used in relation to the Luwu insignia, captured by the Dutch army during raids in 1905 and 1906 on South Celebes (nowadays Sulawesi) (Box: Luwu insignia). If these could be located in the Netherlands, the Dutch Government was prepared ‘to establish contact with their holders and to further arrangements for their return’.

**Box: Luwu insignia**

The South Celebes Expedition (1905 - 1906) was to subjugate the local kingdoms of Bone, Gowa and Luwu (Budiarti 2005: 168). The loot of these kingdoms was divided between the museum of the Batavian Society in Batavia (Jakarta) and Museum Volkenkunde in Leiden.

\(^{343}\) The Joint Recommendations were written in English.

1907 the latter organised a special exhibition to show jewellery and weapons. Soon after the Gowa treasures were returned at the request of the eldest son of Gowa’s king who had died in battle, for ‘reasons of fairness’. In 1938 the Batavian Society returned various collections from Gowa to the former kingdom (Budiarti 2005: 170), but the Luwu insignia remained missing. Indonesia asked again for their return in 1978, showing the official minutes of their seizure in 1946 and pointing to slides of the insignia, which someone had seen in the Netherlands. However, the slides were said to have been made from a 1923 publication, so long before their seizure. The regalia remained untraceable. When members of the two teams of experts visited the treasury of the ruler of Luwu in the town of Palopo, it was empty. Possibly members of the royal family kept them in their homes.345 The Netherlands Government was convinced that these treasures were lost in the period 1945 – 1950.346

A third comment is that the category of objects, proposed by the Indonesians, ‘of aesthetic value or with a special appeal to the aesthetic feelings of Indonesians’ remained unmentioned. The Netherlands had objected to it. Eligible for transfer were only objects ‘directly linked with persons of major historical and cultural importance or with crucial historical events in Indonesia’.

In Joint Recommendation II.3, the Dutch Government expressed its willingness to render assistance ‘within the limits of its competence’ in establishing contacts with non-state owners of Indonesian objects. Among them were lower governmental bodies, institutions such as the Royal Tropical Institute in Amsterdam, the Dutch royal family and private individuals. The Dutch Government promised to contact holders of objects discovered afterwards, and, in cooperation with Indonesian experts, to investigate their provenance. The addition ‘within the limits of its competence’ seriously weakened Indonesian wishes, as it discharged the Netherlands from the obligation to search intensively after objects in private possession (Kalmeijer 1975: 8). As a consequence, the Netherlands Government never went after Buddha heads from the Borobudur temple,347 which it considered as ‘very scattered’ and ‘mostly privately owned’,348 although they admittedly belonged to the ‘categories of controversial objects... exported in clear transgression of the law, particularly of the Monuments Ordinance, and ... now in private ownership’. But there was ‘no documentation available’ on them, ‘nor has the Dutch Government any power to enforce the return of such objects; the only possibility would be for the present owners to return them voluntarily.’349

Acknowledging the Borobudur’s importance, the Dutch royal couple had visited the site in 1971, while Prince Consort Bernard was patron of the Dutch Saving Borobudur Foundation.

345 Kalmeijer 1978: 2, 3.
347 Of 504 Borobudur stone heads, 90 have disappeared. Of the eight in the Tropenmuseum linked to the temple, only one certainly comes from there. Email Ben Meulenbeld, November 14, 2011. Even if a stone head was returned, it would be hard to find the torso on which it fitted, in: Letter Saving Borobudur Foundation to HRH Prince Bernard dd. November 29, 1973, in: RMV - Seriearchief (NL - LdnRMV) 2364 – 2.
To sugar the pill, the Netherlands offered financial and technical support to save the Borobudur from further damage.  

The Netherlands declared itself to be willing to find ways of transferring military objects ‘of historical-emotional value... such as those belonging to Diponegoro’ (II.4). The demand for the unconditional return of the saddle and other ‘emotionally loaded objects’ of Diponegoro in Museum Bronbeek was turned into a softer formulation about the Dutch Government’s willingness to find ways of transferring them to Indonesia (Kalméijer 1975: 8). The text did not limit these to those of Diponegoro, but to ‘such as those’ belonging to Diponegoro. The Lombok treasures to be transferred were ‘to be selected together’ (II.2). Pott had downplayed the importance of Lombok objects in the Netherlands in a 1949 document. The Museum in Jakarta had most ‘golden jewellery’ and ‘a much richer collection’ than the Dutch National Museum of Ethnology. The Leiden museum had received its golden and silver jewellery either through the Batavian Society, as gifts, from the collection of the Dutch royal family or by purchase. Some ‘are very fine objects’, but none ‘of exceptional importance’.  

Each team of experts had a sub-team for archives. The Indonesian team noted that the presence of manuscripts and inscriptions in the Netherlands made it ‘rather difficult for interested Indonesians to study them’. In spite of the Dutch effort to get VOC archives to the Netherlands, the two sub-teams agreed that those in the Indonesian National Archive would remain in Jakarta and those in the Dutch National Archive in the Netherlands (V.1.). Both sides would make microfilms available. If what are known as the Yogya archives were to be found however, they would be transferred to Indonesia.  

Concerning Indonesia’s request for four hundred ‘manuscripts with historiographical information, such as the various babads (chronicles) of Java, Madura, Bali and Lombok, various historical accounts of other regions of the country, and manuscripts on customs’, the Dutch delegation continually pointed out on the weak archival infrastructure. Finally, Indonesia contented itself with the transfer of only one original, the Nagarakertagama - already transferred in 1973 - and with duplicates or microfilms of others. Their request for the return of some manuscripts ‘because of their special aesthetical qualities’ remained unfulfilled. The delegations agreed about reproducing and exchanging archival material and continued cooperation between their archives (Annex, Joint Recommendation V.4 and V.7).

7.4. Dynamics of the agreement’s implementation

353 - ibidem - p. 7.
354 - ibidem - p. 7.
With the Joint Recommendations the first meeting became the most decisive. In June 1977 the teams of experts met in the Netherlands to implement the first stage of transfers. The third meeting, one year later in Indonesia, coincided with the 200th anniversary of the National Museum in Jakarta. On this occasion the Prajñaparamita was handed over and the teams agreed on a five year plan for cultural cooperation.\(^{355}\) A closer look at the transferred objects can help uncover the dynamics of acquisition and return.

**Lombok treasure**

The island of Lombok was an attractive colonial target because of its rice export to Australia, the Philippines and China (Ernawati 2005: 151). The Lombok treasure was the result of what colonisers named a *punitive action*. The Dutch administration disagreed with King Anak Agung Gde Ngurah Karangasem of Mataram-Cakranegara about the rule of his kingdom. When in skirmishes during a first expedition in July and August 1894, a Dutch army general and some soldiers were killed, the Governor General ordered five thousand troops to move to Lombok and attack the king’s palace. In battles in October and November 1894, several thousand Indonesians were killed, as opposed to casualties of one hundred and seventy five Dutch colonial military. Plundering the palace, Dutch soldiers took more than one thousand krisses, betel sets and other golden objects, 230 kilograms in gold money and 7,199 kilograms of silver coins. They also took 400 Javanese manuscripts, including the Nagarakertagama. From another captured palace rings, spearheads, golden tobacco-boxes and opium-pipes and headdresses were taken.

The Batavian Society, which had sent art protection officer Dr Brandes to safeguard the war booty, kept most objects in its museum in the colony and prepared 75 boxes with other objects for shipment to the Netherlands. Most were delivered to the National Bank in Amsterdam. Simple objects and duplicates were sold to cover the cost of the expedition and to support widows of Dutch soldiers killed (Ernawati 2005: 155). The Dutch royal family and some dignitaries saw the treasures. Twenty-three thousand visitors came to the Amsterdam Rijksmuseum to gaze at them. In July 1898 some of them were sent back to the Batavian Society. In 1937 the Rijksmuseum handed most of its Lombok treasures to Museum Volkenkunde in Leiden and more in 1977, while keeping some.\(^{356}\) Other objects looted at Lombok but lacking a clear provenance, ended up in private collections or in other museums in the Netherlands (Vanvugt 1994: 99; Drieënhuizen 2012: 207).

During the second meeting the teams of experts asked Md. Amin Sutaarga and Pieter Pott to jointly select 243 Lombok treasures, among them the Crown of Lombok, a dancer’s head-dress set with rubies. Museum Volkenkunde in Leiden delivered 122 objects;\(^ {357}\) the other 121 objects were from the Rijksmuseum’s shipment to Leiden.\(^ {358}\) All in all, they formed about half of the Lombok treasures in the Netherlands. Sutaarga and Pott signed the minutes of the transfer on July 1st 1977 in Museum Volkenkunde. The latter handed them over on September 12, 1977 to cultural attaché Hadjasoemantir of the Indonesian Embassy in The Hague.\(^ {359}\) Their departure was said to mean a loss for the Leiden museum and a

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\(^{355}\) Koesnadi, oc., 1978.

\(^{356}\) [https://www.rijksmuseum.nl/nl/zoeken?v=&s=chronologic&q=lombok%20schat&ii=0&p=1](https://www.rijksmuseum.nl/nl/zoeken?v=&s=chronologic&q=lombok%20schat&ii=0&p=1) (July 17, 2013)

\(^{357}\) Part of Series 2364, consisting of 411 objects of the Leiden museum.

\(^{358}\) Part of Series 4905, consisting of 150 objects of the Rijksmuseum. See: [Archive Museum Volkenkunde, Leiden, Series Archive [NL-LdnRMV] 2364-1](https://www.rijksmuseum.nl/nl/zoeken?v=&s=chronologic&q=lombok%20schat&ii=0&p=1) \(\text{(July 17, 2013)}\)

'substantial interference' in the setting-up in its treasure-room, but - as that year’s Annual Report noted -, pieces of comparable quality of most types had remained.\textsuperscript{360}

\textit{Prajñaparamita}

The Indonesian team considered the 13\textsuperscript{th} century stone statue of the goddess of the highest wisdom, Prajñaparamita, \textit{‘one of the most beautiful cultural remains of the cultural heritage created by Indonesian artists in the ancient past’} and was explicit about its wish to retain it.\textsuperscript{361} It became \textit{‘the most important transfer’} (Pott & Sutaarga 1979: 42). Assistant-administrator of Malang, D. Monnereau had found it in 1818 in ruins near Singasari, transferred it to his residence and then handed it over to the Batavian Society in 1822. The Society had it shipped to the Netherlands, where it arrived in 1824 (Pott 1969: 3).

Pott, who had compared the statue with the Parthenon Marble and the Mona Lisa, now wrote about \textit{‘comparable pieces’} in the museum in Jakarta. He saw no legal grounds for a claim, as the acquisition had not been based on theft. A claim could only rest on an \textit{‘emotional background of a possible identification’} with the wife of the founder of the Singasari dynasty. The Dutch Secretary of State for Culture praised Pott’s generosity in relinquishing his \textit{‘favourite daughter’} and one of the \textit{‘most costly possessions’} of the museum.\textsuperscript{362} Before its departure, Pott had four plasters casts made,\textsuperscript{363} later on called \textit{‘the tears of Pott’}.\textsuperscript{364} The transfer of the original on the occasion of the 200\textsuperscript{th} birthday of the National Museum in Jakarta created press coverage and enthusiasm there.\textsuperscript{365}

\textit{Equipment of Prince Diponegoro}

Javanese nobleman Diponegoro instigated a rebellion against the Dutch, known in history books as the Java War (1825 - 1830). In 1829, a Dutch major captured his saddle and lance. They were sent to the Dutch King William I, as war trophies and ended up in Museum Bronbeek in Arnhem. The museum claims that the red saddle with stirrups and the bridle had been donated by Mr. A. Ver Huell - who had most probably inherited it from his father\textsuperscript{366} - and the lance in 1869 by Major General W.A. Roest, who had been present at Diponegoro’s arrest.\textsuperscript{367} The donor of Diponegoro’s \textit{pajong} (umbrella) sometime before 1881, is unknown.\textsuperscript{368}

In 1830, Dutch army commander De Kock invited Diponegoro for negotiations under a flag of truce, but instead of discussing peace, De Kock had the Javanese rebel arrested.


\textsuperscript{362} Letter dd. June 8, 1978 of G.C. Wallis de Vries, State Secretary of Culture, Recreation and Social Work to P.H. Pott, Correspondence Archive, Box No. 73, Cover 142, No. 894.

\textsuperscript{363} Ministerie van Cultuur, Recreatie en Maatschappelijk Werk 1979 Nederlandse Rijksmusea 1977, Staatsuitgeverij, Den Haag, Deel XCIX: 300.

\textsuperscript{364} They remain in the museum’s storerooms. Interview S. Engelsman, Museum Volkenkunde, Leiden, March 22, 2011; Annual Report 2005: 9.

\textsuperscript{365} Indonesian Observer, April 25, 1978; interview with prof. Edi Sedyawati (Universitas Indonesia), Jakarta, November 24, 2014.

\textsuperscript{366} Museum Bronbeek, Inv. No. 1865/05/13-1-1.

\textsuperscript{367} Museum Bronbeek Inv. No. 1869/02-4-2.

\textsuperscript{368} Without inventory number. Email P. Verhoeven, director Bronbeek Museum, May 30, 2011.
Many in the Netherlands considered it a cunning stratagem, but not all. Prince Hendrik, son of the Prince of Orange (the later King William II), visited Prince Diponegoro in Fort Rotterdam at Celebes, where the prisoner welcomed him warmly. In his personal diary and in a letter to his father (in: Wassing-Visser 1995: 70, 71), the Prince was critical about the arrest - a ‘disgrace’ to Diponegoro’s loyalty and a breach in the relations with Javanese chiefs. However, he was not allowed to say this in public.

On October 7, 1977, the Dutch State-inspector for Moveable Monuments handed over the red saddle with stirrups, the bridle, the pajong and a spear of Diponegoro to Indonesia’s Ambassador in The Hague. Museum Bronbeek had tried in vain to keep the objects until the end of the five years implementation of the Joint Recommendations. The whereabouts of the kris that Diponegoro had to hand over upon his arrest remain unknown and the Netherlands never made any great effort to find it.

**Archives**

The sub-teams for archives discussed two types of materials. The first was the Yogya archives mentioned earlier, captured by the Dutch from leaders as Sukarno and Mohamed Hatta between 1945 and 1949. They were war booty with fragmentary information about the violent behaviour of both Indonesians and Dutch in the period 1945 - 1949 (Frederick 2012: 360). Their transfer had been set in motion years before the first meeting in 1975 and would last until 1987. The Netherlands considered it as a ‘unique gesture’, since transfer of original archival materials was ‘certainly uncommon in the international archival world’, and expected that the Indonesian authorities ‘would appreciate this gesture on its merits’. The Dutch retained photocopies of some originals (Karabinos 2013: 281).

The second and most bulky were archives of the VOC and the colonial administration. Sailors kept journals of their trips. Businessmen exchanged letters about their work. Afraid to lose these, they sent them on different ships to the Netherlands (Lidwina 2012: 11, 12, 14). The colonial archives contained archipelago-wide, regional and local information. These records had been shipped to the metropole until 1880 (Lidwina 2012: 69) when the colonial administration set up a Landsarchief (nowadays Arsip Nasional) in Batavia. In Joint Recommendation IV.1., the teams accepted the general principle that archives were to be kept by the administration that had originated them. Consequently, archival material produced by the Dutch Colonial Administration, the Japanese Military Government and the National Government and regional administrations of Indonesia, but located in the Netherlands, was to be returned to the successor state, Indonesia. The Dutch National Archive in The Hague and the National Archive in Jakarta were to arrange their transfer.

In practice often the territory principle dominated: archives became the property of the state on whose territory they were. It meant that all archives that had been shipped to the Netherlands until 1880, remained in the Netherlands, and that, after 1949 some 10,000 meter of colonial records, including those of the VOC and Dutch colonial administrators, remained in Indonesia. The national archives of both countries began busily to exchange

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370 Letter J. van der Leer to P. Rodenhuis, Chairman Assistance and Advise Committee for Bronbeek, January 28, 197, in: Dossier Diponegoro, Museum Bronbeek.

microfiches. There were some exchanges of records, among these documents of the Netherlands and other allied forces from immediately after the Japanese occupation.  

In conclusion, following independence Indonesia was outspoken about the urgency of retrieving cultural and historical treasures from the Netherlands. It made lists and prepared negotiations, but instability and excessive violence between 1945 and 1949, anti-colonial sentiments in Indonesia, mounting tensions regarding the future of Papua, disappointment in the Netherlands and criticism of the violence applied by Indonesian military and militia hindered an early agreement. The Dutch Government was reluctant to acquiesce in much, while some Dutch officials and citizens favoured a generous return policy. A proposed return of crown jewels did not materialise. Although Indonesia had cancelled the 1949 Cultural Agreement with the Netherlands, it wanted to maintain Art. 19 about the transfer of cultural objects, but the Netherlands did not feel obliged to honour it. After the Dutch departure from Papua and a regime change in Indonesia, a new round could begin. Indonesia joining of the Western camp paved the way for foreign funding and new relations and dependences. Frictions were smoothed in the Cold War ideology.

The Netherlands was rather complacent about its protection and preservation of Indonesia’s cultural heritage. In the negotiations the Netherlands broadened the focus from returns to strengthening Indonesia’s museum infrastructure. It made benevolent offers of aid for this. It would enable them to continue their presence in Indonesia. The 1979 issue of UNESCO’s magazine Museum considered the Joint Recommendations, which Indonesia and the Netherlands had agreed on in 1975, as one of three successful bilateral return agreements in the post-independence era, the others being those between Belgium and DR Congo, and between Australia and Papua New Guinea.

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Appendix373.

JOINT RECOMMENDATIONS BY THE DUTCH AND INDONESIAN TEAM OF EXPERTS, CONCERNING CULTURAL COOPERATION IN THE FIELD OF MUSEUMS AND ARCHIVES INCLUDING TRANSFER OF OBJECTS

INTRODUCTION
In view of the mutual desire to promote cultural cooperation in the field of museums and archives between the Kingdom of the Netherlands and the Republic of Indonesia, a series of meetings between a Dutch Delegation, consisting of Mr. R. Hotke (Chairman), Miss A.M. Kalmeijer, Mr. P.W.A.G. Cort van der Linden, Prof. dr. P.H. Pott, Mr. A.E.M. Ribberink and Mr. A.L. Schneiders, and an Indonesian Delegation, consisting of Prof. dr. I.B. Mantra (Chairman), Haraja W. Bachtier, PhD., Prof. dr. Koentjaraningrat, Mrs. Rudjiati Muljadi, Mr. Noegroho Notosoesanto, Prof. dr. Haryati Soebadio, Mr. P.J. Soejono, Mr. Soemarmo, Miss Soemartini, Mr. Ilen Surianegara and Mr. Amir Sutaarga, were held in Jakarta between November 10 and November 22, 1975.

The two delegations recognize that specific objects and specimens which are directly linked with persons of major historical and cultural importance or with crucial historical events in Indonesia should be transferred to the country-of-origin.

The two delegations also recognize the desirability to make cultural objects such as ethnographical and archival material available for exhibition and study in the other country in order to fill the gaps in the already existing collections of cultural objects in both countries to promote mutual understanding and appreciation of each other’s cultural heritage and history.

The two delegations also express the wish that a programme of visual documentation be established in mutual cooperation to the direct benefit of museums of ethnology and archaeology of both countries.

It is within this general framework that the two delegations reached the following conclusions:

II. Museums and Archaeology
Both delegations recommend that:
1. Concerning the transfer of historical and archaeological objects a programme should be implemented in stages;
2. The first stage consists of the transfer of state owned objects which are directly linked with persons of major historical and cultural importance or with crucial historical events in Indonesia. The transfer should be executed as early as possible. These objects comprise in the first instance the Prajnaparamitra statue, the crown of Lombok and other specimens, the transfer of which should be selected together.
3. As far as objects are involved which are directly linked with persons of major historical and cultural importance or with crucial historical events in Indonesia and

373 English text in: Dutch National Archive, Archive of the Ministry of Foreign Affairs 1975 – 1984, Inv. No.10266. Copies were found in other archives as well. The text has been retyped literatim.
which are not state owned, the Dutch Government render assistance within the limits of its competence in establishing the necessary contacts.

4. With regard to the objects kept in Museum Bronbeek at Velp of historical emotional value, such as those belonging to Diponegoro, the Dutch Government be willing to find the ways for their transfer to Indonesia.

5. In the case that the Luwu insignia could be located in the Netherlands the Dutch Government be prepared to establish contact with their holders and to further arrangements for their return to Indonesia.

6. Investigation toward the ownership of particular specimens like the Dubois collection (comprising the Pithecanthropus skull and femurs from Trinil the two skulls from Wadjak, the army museum collection from Aceh and other specimens of possibly unclear ownership, will be performed by experts of both parties.

III. Visual documentation
1. Both parties recommend that a programme of visual documentation be established in mutual cooperation about specific subjects to be selected in consultation by experts from both sides, which should be fruitful for museums of ethnology and archaeology in both countries.

2. Both parties further recommend that the programme mentioned above should not be restricted to objects, but it should consider in particular the ways in which the objects are (were) made, how they are (were) used and how they were evaluated within the cultural group they belong to, in order that in the course of such an activity of visual documentation the results are likely to show that a number of objects kept in collections in one country, for their proper use in study, research and display, could be transferred to the other country.

3. Both parties recommend that cooperation in scientific documentation, which includes photographic and descriptive activities of archaeological objects, should be established.

IV. Archivology
1. It is acknowledged that it should be the general principle that archives ought to be kept by the administration that originated them. Consequently original archival material produced by the functionaries of the Government of the Netherlands Indies, the Japanese Military Government in Indonesia during World War II, the Government of the Republic of Indonesia, the Governments of the various member states and the territories of the United States of Indonesia and the Governments of the United States of Indonesia and currently located in the Netherlands should be returned to the Republic of Indonesia in accordance with the Netherlands legislation concerning archives. The Algemeen Rijksarchief in The Hague and the National Archives in Jakarta assume the task of arranging for the transfer of such material to the rightful parties.

2. Both parties recommend to continue and develop the cooperation already existing in the field of archives between the Algemeen Rijksarchief and the Arsip Nasional R.I.

3. It is the opinion of both parties that the documents on the so-called “overgebrachte brieven”\textsuperscript{374} - the archives of the “Procureur-Generaal” and the “Algemeene

\textsuperscript{374} Transferred letters
Secretarie375 concerning Dutch individuals and groups be left with the Algemeen Rijksarchief and documents originated by Indonesian organizations and Government institutions in Indonesia be transferred to Indonesia.

4. Both parties recommend to facilitate the reproduction in microform of archival material as might be needed by the other party and to arrange for the transmission of the resulting microforms to the other country.

5. It is understood that this exchange of microfilm shall cover archives of the Dutch East Indies Company as deposited in the Algemeen Rijksarchief and the Arsip Nasional R.I.

6. The Netherlands Delegation will recommend that the Dutch Government render all possible assistance to the Indonesian side in its endeavour to obtain copies of visual records, documentary photographs and motion pictures, particularly but not exclusively material of historical value.

7. Both parties support the cooperation between the Algemeen Rijksarchief and the Arsip Nasional R.I. with regard to the exchange of specialists and to the training programmes as already agreed upon, the details of which are to be elaborated in direct contact between the two national archives concerned.

V. Manuscripts

Apart from programmes of exchange regarding the content of manuscripts and inscriptions in the form of reproduced material, such as microfilms and microfiches, both delegations recommend that manuscripts and inscriptions which are directly linked to persons of major historical and cultural importance or with crucial historical events in Indonesia be transferred to the country of origin.

VI. Conclusion

Both delegations are of the opinion that in order to achieve the aforementioned aims, a time-schedule should be followed lasting for the next five years.

In the next meeting of the delegations to be held within one year, a programme shall be outlined to meet the time-schedule.

Signed in Jakarta on November 22, 1975.

For the Indonesian Delegation: For the Dutch Delegation:

Prof. Dr. I.B. Mantra Mr. R. Hotke

375 Attorney General and General Secretariat of the colonial administration.
Chapter 8
New insights into the Joint Recommendations

After signing the Joint Recommendations and the transference of objects, Dutch officials breathed a sigh of relief: ‘This phase in the relationship, the transfer of important objects, has been practically finished’ and ‘all wishes of Indonesia have been met. This operation is over…. New wishes can come up, which then have to be considered in mutual agreement’. The Introduction to the Joint Recommendations provided that, if certain cultural or historical objects were better in place in the one country than in the other, with mutual consent, they would be transferred to that country. This provision also could lead to a ‘transfer to the Netherlands’. The idea of reciprocity and transfers to the Netherlands emerged more often.

Until far in the 1980s post-independence issues such as the return of objects concerned mostly academics in the Netherlands. Other than some media coverage and individual initiatives (7.2.), there was little public debate. With the generation that had been active in colonial Indonesia still alive, there was a sentiment that emphasised the colonial assets - the unity of Indonesia, the religious tolerance, the promotion of science, culture and arts, infrastructural works, primary education and health care (e.g. Van Gorkom 2009: 200).

8.1. New research findings

In the last quarter century research into the biographies of colonial cultural objects has expanded greatly and much more is known about the migration of the sort of state owned

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objects that were reviewed during the 1975 deliberations - crown jewels, Hindu-Javanese and Buddhist stone and bronze statues, ancient manuscripts and so on, and also of non-state or privately owned objects, which were donated, sold or lent to state owned institutions. Most researchers are Dutch, some are Indonesian.

_Treasure Hunting? Collectors and Collections of Indonesian Artefacts_ (Schefold & Vermeulen [Eds.] 2002: 4) focuses on collectors, who made their acquisitions for a _public_ goal and who _‘used not only their powers of persuasion and glass beads, but also trickery and sometimes even violence’_ to appropriate objects. Several findings contradict the positive briefing for the Dutch team of experts. Between 2,500 and 3,000 of the 36,000 Indonesian objects that Museum Volkenkunde in Leiden possessed around 1910, resulted from military interventions in areas as Aceh, Bali, Bone and Lombok (Van Wengen 2002b: 100). The setting up of regional museums in the archipelago was motivated by the need _‘to prevent the drain of cultural objects and to provide training in arts and handicrafts’_ (Sutaarga 2002: 283, 284; Schefold & Vermeulen 2002: 16). Confronted with photographs of _‘magnificent carvings from a chief’s house’_ on the island of Nias, appropriated in the 1920s by a Danish doctor and now in Copenhagen, villagers rejected these pieces of paper and asked for the house to be returned (Schefold 2002: 1, 2). Inequality plays a role in the destination of collections. Around the year 1900 F.W. Stammeshaus, colonial official and private collector, lent 1,350 objects to the museum in Banda Aceh, of which he was curator. When upon his return to the Netherlands, the museum had no funds, Stammeshaus sold all to the then Colonial Museum (nowadays: Tropenmuseum) in Amsterdam, which subsequently employed him (Van Brakel 2002: 175). His descendants are presently considering whether to return the collection.381 _Treasure Hunting_ deals mildly with Sir Thomas Raffles, British Governor-general of the Dutch East Indies from 1811 until 1816. Carey (2008) offers more about Raffles’ role in passing Indonesian war booty and other objects to the British Museum and the Indian Museum in Calcutta (Box: _Thomas Raffles, the Dutch and Indonesia’s cultural heritage_).

**Box:** _Thomas Raffles and Indonesia’s heritage_

In 1812 Raffles looted the large kraton (palace) of the Sultan of Yogyakarta (Carey 2007: 334). The Sultan and his relatives had to hand over their krisses, other weapons and gold ornaments. Guards cut off the diamond buttons of the Sultan’s dress jacket, while _‘he lay asleep’_ (Carey 2007: 341). Raffles collected numerous antiquities. Two Borobudur Buddha heads, fragments from Borobudur and some Hindu and Islamic works of art from the Raffles Collection are in the British Museum. In their description director MacGregor (2011, chapter 59) does not dwell on their problematic origin but adopts Raffles’ description of the poor condition of monuments at Java. _‘Neighbouring peasants’_ used lost stones and fragments _‘to their own purposes’_ (Raffles [1817] 1978: Vol. II, 7). The 1999 exhibition _‘Adventures, travels and collecting in Southeast Asia’_ portrayed Raffles _‘as a progressive colonial reformer’_.382 Under Raffles’ supervision two ancient stones with rare inscriptions disappeared to Kolkata and Scotland (4.1.). Raffles did not have a high opinion of the Dutch; he considered them narrow-minded and criticised their divide-and-rule approach in the colony.383

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381 Personal communication with grandson, Fred Stammeshaus, October 2, 2014.
383 ‘By corrupting and bribing the chiefs, and sowing disunion among them’ they had _‘dismembered an empire’_ already shaken by _‘wars which attended the establishment of Mahometanism’_ (Raffles [1817] 1978: Vol. I, 297).
Raffles acquired ancient books and manuscripts and made natural history drawings. In 1824, on his way home, his ship, the *Fame*, caught fire and two and a half thousands of these and his research notes were lost. He immediately began to make new drawings. In 2007, the British Library purchased over one hundred fifty natural history and topographical drawings from Indonesia and Malaysia from the Raffles Family Collection.

In *The Discovery of the Past* (Hardiati & Ter Keurs 2005), a catalogue for an exhibition in Jakarta and Amsterdam with ‘the two largest and most beautiful collections in the world of the Indonesian legacy’, Dutch and Indonesian contributors offer information about the tainted origin of objects in state owned collections in the Netherlands. Yet they avoid the return issue by redirecting their ‘concerns with unfinished business of the colonial past, into more present-oriented ones’ of cooperation (Scott, C. 2012: 3).

*Colonial Collections Revisited* (Ter Keurs [Ed.] 2007) has insights into collecting after punitive actions (Brinkgreve & Stuart-Fox 2007; Ernawati 2007). Without offering extensive evidence, Ter Keurs (2007: 1) states that the number of objects thus acquired ‘was considerably smaller than in many other colonial collecting contexts’. Collecting for colonial exhibitions was a ‘balanced activity. Objects were specially ordered and paid for’. Lunsingh Scheurleer (2007: 89) emphasises that the Dutch laws on the archipelago’s cultural heritage were motivated by the need to protect it against deplorable ways in which Europeans collected and preserved statues and other archaeological objects for themselves in their gardens, brought them home or sold them.

*Icons of Art - National Museum of Jakarta* (Sitowati & Miksic [Eds.] 2006) has many provenance details. Djojonegoro offers the history of the Batavian Society and the National Museum. Triangga e.a. study the museum’s acquisitions; many findings coincide with the ones in this study. Budiarti expands the concept of cultural heritage in the country beyond the Hindu and Buddhist scope.

Other authors deal with specific subjects. In *De schatten van Lombok* Vanvugt (1994), spares neither side, criticises Dutch museums for their unwillingness to communicate about this war booty (Vanvugt 1994: 116) and the National Museum in Jakarta for poor preservation after their return. His surprise visits in Jakarta (Vanvugt 1994: 108) might look unacademic; possibly he had no other choice. Since the renovation and expansion of the museum many objects are safely shown, possibly also those that he had wished to see.

Hollander (2007) emphasises the role of professional collector, Carel Groenevelt (1899 - 1973). A focus on activities of private collectors is much needed to map a bigger part of the flow of objects. Driven by a mix of the salvage paradigm and self-interest, Groenevelt...
provided the Tropenmuseum in Amsterdam and the World Museum in Rotterdam with ethnographic objects (Hollander 2007: 66, 99; Jacobs 2011: 68). Incidentally he was caught for bypassing export laws (Hollander 2007: 62, 63).

In his 2009 study of the Batavian Society, Groot reveals contestable acquisitions. The Society used euphemisms, noting that regalia had been ‘found’, when in fact they had been captured. There were internal thefts, e.g. of regalia and atlases, taken during the conquest of Goa in 1780 and given to the Batavian Society in 1781. The line between administration and private property often remained unclear (Groot 2009: 133).

Effert (2011: 164, 163, 153) demonstrated the importance of colonial cultural objects for the Dutch national identity in his study about the Royal Dutch Cabinet of Curiosities and Museum Volkenkunde in Leiden. Collecting was not neutral but an expression of a unified kingdom, with heroes, commercial successes and an emphasis on ‘the superiority of the Western civilisation’ combined with ‘a genuine curiosity regarding foreign cultures’.

According to Jacobs (2011: 21), the discovery of new regions and people on the southwest coast of Papua led to collecting curiosities as concrete proof of conquest and domination. She rightly emphasises the interest of coastal people in selling artefacts to Western visitors (Jacobs 2011: 42).

In her study of four elite families in the Dutch East Indies, Drieënhuizen argues that much collecting by the Dutch was ‘purposely’ meant to rob, buy or trick out pusaka (heirlooms) with a ritual value from local rulers, and which had passed from generation to generation, thereby taking away their identity, ancestors and history. ‘It was a political act, in which appropriation, spiritual subjugation and oppression of the population were central’ (Drieënhuizen 2012: 18), the aim being a ‘double surrender’ (Drieënhuizen 2012: 305). In the families’ collections she found ‘numerous objects... acquired in war circumstances’ - batiks from Sumatra, textile and paintings from Bali, flags, weapons, Korans from Aceh and treasures from Lombok (Drieënhuizen 2012: 50 - 55, 135, 156, 207, 239). Many ended up in museums without proper provenance information. Another researcher investigated the provenance of twenty krisses in the collection of the Dutch Royal Family and discovered that more were colonial loot than gifts.387

Rijksmuseum historian Stevens has written extensively about violence in collecting in the colonial period and the contestable origin of objects. With others (Stevens ea. 2010: 8, 143), he published documents about the last King of the Batak, killed in 1907; his kris was donated to the Batavian Society. In a recent publication about the Rijksmuseum’s Indonesia collection (Stevens 2015: 19, 37, 57) he uncovers the provenance of arms, flags and other war booty and adds a chapter to objects in the Netherlands that had belonged to Diponegoro - his pilgrim’s staff. Descendants of a former Dutch elite family decided to return it to the National Museum in Jakarta (Stevens 2015: 157 ff.) (Box: Return of Diponegoro’s pilgrim’s staff to Indonesia).

Cynthia Scott’s (2014) Negotiating the colonial past in the age of European decolonization: Cultural property return between the Netherlands and Indonesia comes close to my analysis in this Part.388 She focuses on the role of Dutch officials in the negotiations. It was important, although their differing views made them often act differently. The focus in


388 I read Scott’s study after finishing an advanced draft of this Part.
this study is on the process of the negotiations, and this from different sides and the views of stakeholders. Scott sees the return of the Lombok treasures as the most prominent transfer (Scott, C. 2014: 183, 232), while I follow Pott and Sutaarga who mention that of the Prajñāparamitā statue as the one with the most impact. We share the conclusion that in the 1975 Joint Recommendations one country minimalised returns and the other maximised them and that one wanted to forget a painful past and enlarge its goodwill as a country that acted ‘liberally’ and ‘generously’ and as ‘an example’ for other countries, while the newcomer needed self-esteem and cultural objects to strengthen its national unity and identity (Scott, C. 2014: 192). Though such concepts as ‘diplomatic model’ and ‘expression of goodwill’ (Scott, C. 2014: 232, 236) regularly echo or are used, she does not frame the return negotiations explicitly as a means of the cultural diplomacy for both countries.

Box: Return of Diponegoro’s pilgrim’s staff

The 1.4 metre long wooden staff with silver and metal elements and paper with a text was possibly two hundred years old, when Diponegoro acquired it. He used it on pilgrimage to holy places. Governor-General J.C. Baron Baud acquired the staff in 1834.

In 1959, one of his great-grandsons asked the Rijksmuseum and the National Museum of Ethnology, in which of the two the staff and some other objects that had belonged to Diponegoro would fit best. It is unknown whether he received a reply. In 1964 a curator of the Amsterdam museum inquired of him what had happened to the staff. Nothing happened and further correspondence fell into oblivion.

In 2014 Baud’s descendants decided to return the staff to Indonesia and contacted history curator Stevens of the Rijksmuseum. Stevens approached Peter Carey in Indonesia, who was preparing the exhibition A Prince for all Seasons: Diponegoro in the Memory of the Nation, from Raden Saleh to the Present, to be held in the refurbished National Gallery in Jakarta early in 2015. The Bauds visited both the National Museum in Jakarta and the Diponegoro Museum in Magelang. That the staff did not end up in the latter had to do with its poorer infrastructure and lower number of visitors.

During the handover ‘to the Indonesian people’ the descendants said: ‘The staff was given to our forefather in 1834 and has been in the possession of our family ever since. Nevertheless, over time and between the different generations the real significance of the staff was lost…. As heirs of J.C. Baud, who, in a very different historical era, played such an important role in what was then a Dutch colony, we realised the importance of this finding and the responsibility it bestowed upon us. We discussed its significance and the context in which it was given to our forefather. Quickly the possibility of giving the staff back to the Indonesian people emerged. The decision was taken and this exhibition dedicated to the life and memory of Prince Diponegoro seemed a most appropriate moment to hand the heirloom over.’

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391 http://www.parlement.com/id/vg09lkrbnwk/j_ch_baud (October 15, 2014)
392 Email Erica Baud, June 21, 2015.
The research of the last quarter century offers several insights. To begin with, during the colonial expansion there was more collecting than was thought earlier. Compared to botany, agricultural crops and minerals, culture might have been a stepchild but, as shown below (Box: Evidence of migration of objects in the first period), it was less than assumed.

**Box: Evidence of migration of objects in the first period**

Paludanus of the city of Enkhuizen collected ethnographics from China, Japan and the East Indies (1596).393

The Library of Leiden University acquired an ancient manuscript from the Southeast Asian islands (1597).394

Rembrandt was one of the many artists who collected objects from all corners of the world.395 In 1628 he depicted a Javanese kris on his painting of Samson and Delilah (presently in Gemäldegalerie, Berlin) and made drawings of royal persons based on Indian miniatures (some are in the Amsterdam Rijksmuseum).396

Rijklof van Goens, 17th century VOC-merchant, collected golden jewellery from Islamic graves and Hindu-Buddhist temple sites (Lunsingh Scheurleer 2007: 76).

Nicolaes Witsen, a mayor of Amsterdam and VOC governor, acquired bronze Hindu statues from a temple in Malabar, India, captured by VOC soldiers in 1691. He had them auctioned in 1728. It is unknown where they went.397

VOC-director in Bengal, Jan Albert Sichterman (1692 - 1764), needed two ships to transport all his treasures from Asia to the Netherlands (Lequin [1982] 2005: 185).

The government archives rarely give the circumstances of the second period of settler and exploitation colonialism that necessitated the curbing of the smuggling of ancient objects. Yet there was large-scale appropriation of war booty and many more colonial cultural objects were tainted because of their provenance history reaching further back than was realised in 1975. This raises new questions. Why did the Netherlands never consider a return of the Ganesh, Durga, Nandi dwara and Mbakala statues from the Singasari temple complex, 393 Van Gelder, R. 1992b: 263 – 266; Swan, C. 2005. Collecting naturalia in the shadow of early modern Dutch trade, in: L. Schiebinger, L. & Swan, C. (Eds.), Colonial botany: science, commerce, and politics in the early modern world, University of Pennsylvania Press, Philadelphia: 224.
394 http://media.leidenuniv.nl/legacy/omslag-2010-3-lage-res.pdf (April 7, 2015)
396 http://www.smb-digital.de/emuseumPlus?service=direct/1/ResultLightboxView/result.t1.collection_lightbox.$sp$TitleImageLink$link$sp=10$&sp=5collection$&sp=5fieldValue$&sp=0$&sp=2$&sp=3$&sp=5lightbox_3x4$&sp=24$&sp=5detail$&sp=0$&sp=F$&sp=T$&sp=32 (April 7, 2015);
which Indonesia repeatedly requested? The 2013 book of Museum Volkenkunde about its masterpieces does not mention the 1975 Indonesian claim to these.\textsuperscript{398} Why did the Netherlands not do more to encourage non-state owners to reconsider their possession of contestable objects? Why did it not enquire after the whereabouts of the kris of Diponegoro (Box: \textit{The missing kris of Diponegoro})? These questions are evidence that decolonisation is an unresolved conflict.

\textbf{Box: The missing kris of Diponegoro}

Streets in Indonesia and a university are named after him. His statue is near the country’s National Monument. He has a museum in Central Java. Indonesia attaches importance to him and his disappeared kris.\textsuperscript{399} The archives of the 1970s and 1980s offer not a single hint about the kris that Diponegoro’s surrendered in 1830 to General De Kock.

In 1983, Dutch ambassador Lodewijk van Gorkom in Jakarta informed the Dutch Foreign Ministry in a ‘confidential code message’ to have received information from a Dutch source that the dagger was in the cellar of the Rijksmuseum in Amsterdam. It made little sense to keep it in the Netherlands, as it had a much more value for Indonesia. He suggested to ‘consider a transfer of the kris to Indonesia’\textsuperscript{400} on the occasion of the coming visit of Minister Nugroho Notosusanto of Education and Culture (Van Gorkom 2009: 214). Nothing was done with the message.

Frans van Dongen, Van Gorkom’s successor as ambassador, also thought that the kris was in the Netherlands. On the occasion of the 40\textsuperscript{th} anniversary of the Republic Indonesia in 1985 and aware of Indonesian sensitivities, he ‘wrote to Director Pieter Pott of the National Museum of Ethnology…. and also suggested the Foreign Ministry in The Hague should make a large gesture and to return Diponegoro’s kris. It would have a symbolic meaning for the whole of Indonesia and a special meaning for its President. But Pott sent me a note that a return was undesirable. I know for sure from my correspondence with Pott that at that moment the kris was in the Museum in Leiden.’ (Van Beurden, J. 2012: 61).\textsuperscript{401}

Museum Volkenkunde in Leiden has looked for the kris but found no trace of it.\textsuperscript{402} Earlier it declared that it was willing to join an international enquiry and to open its archives and depots. Inquiries at Museum Bronbeek in Arnhem and the World Museum in Vienna did not help either (Van Beurden, J. 2012: 59, 61).

\textbf{8.2. The 1975 agreement: lessons for other bilateral negotiations}

In studies about the return of colonial objects (Van Beurden, S. 2009; Scott, C. 2014) concepts as goodwill, return to repair a rupture and cultural politics continuously echo or are used, but their authors make no explicit mention of them as a means of cultural diplomacy. This case study has made clear however, that return, to a great extent, was part of both

\textsuperscript{399} Kartiwa 1992: 160; interview with C.P. Kubontubuh, BPPI Indonesian Heritage Trust, June 22, 2011.
\textsuperscript{400} Dutch National Archive, Archive Ministry of Foreign Affairs 1975 – 1984, Inv. No. 10268.
\textsuperscript{401} Van Dongen does not refer to it in his 2009 memoirs, \textit{Van Timor naar Jakarta: Bestuursambtewaar in diplomatieke dienst}, Boom, Amsterdam.
\textsuperscript{402} Personal communication with F. Brinkgreve, Leiden museum, November 15, 2015.
countries’ cultural diplomacy. The negotiations certainly were about objects, but also about other, more covert, interests and other foreign policy aims. The Netherlands used the transfer of art objects to resume its relationship with Indonesia and to improve its image internationally. Indonesia used the negotiations to present itself as a country that could stand up to its former coloniser and was entitled to and able to retrieve important cultural and historical objects (also: Scott, C. 2014: 192). Some early returns - state owned or from the private collection of the Dutch royal family - facilitated the take-off of the talks. Both countries entrenched themselves beforehand in order to have to acquiesce as little as possible. Indonesia did so with its long list of tainted objects in Dutch museums, the Netherlands with its continuing prioritising of strengthening its former colony’s museum infrastructure.

With its emphasis on equality between the countries and the need for reciprocity, the Netherlands showed little awareness of the direct, structural and ideological violence committed in its name in the colonial era, of what it had meant to Indonesians for instance, that ‘Even the bodies of those killed in the attack were stripped of their valuables’ (Ernawati 2005: 154). Reciprocity was observed in the exchange of archival materials and in the stipulation in the Joint Recommendations that if either country needed an object from the other, they would talk about it. The outcome was a package deal in which Indonesia’s demands were partially met and the Netherlands lost little. The museums that held the Prajñaparamita statue and Diponegoro’s equipment felt some pain releasing them. By accepting the transfer of half of all Lombok treasures from Dutch museums, the possession of the other half was cleared. Indonesia’s persistent return claims had confronted the Dutch unpleasantly with discrepancies with their self-image of ‘ethical colonialists, enlightened scholars and stewards of Indonesian material culture’ (Scott, C. 2014: 122).

What does a closer examination of the process that led to the Joint Recommendations contribute to a model for negotiating the future of colonial cultural objects? How can five generations of conflict researchers contribute to this examination (Box: Five generations of conflict researchers, a critical view, 5.4.)? Their input has to do with ways of dealing with conflicts (compromise or integration), the area of contestation in a conflict (colonial cultural objects), the stakeholders (state and non-state), their commitment, underlying interests and issues of (in)equality.

The Netherlands and Indonesia negotiated in a period in which other countries did so, and in which an anti-colonial wind was blowing. As a member of the Non-Aligned Movement, Indonesia participated in a process that ‘enabled the powerless to hold a dialogue with the powerful and to try to hold them accountable’ (Prashad 2007: XVIII, XIX). The Dutch were aware of negotiations between Belgium and DR Congo and Greek claims for the Parthenon Marbles from Great Britain. They felt encouraged by other European Community members not to give in too much to demands of former colonies.

The contested area was known: the possession of cultural and historical objects in Dutch state collections, acquired in a dubious manner during the colonial era. There is little archival evidence of the extent to which the two parties included provenance discussions in the negotiations. The Dutch tried to play down or deny the number of contestable acquisitions in state collections. With more provenance research, the number of contested or tainted objects that left Indonesia might further increase (Legêne 2010: 226).
Lengthiness

What is striking is the length of the negotiations (1949 - 1975). The quarter century can be split up into three rounds. The first began with the 1949 Round Table Conference and an agreement with a return provision, which was never implemented. A time of estrangement followed until in the 1960s. The second round started with the 1968 Cultural Agreement, which mentioned the need to discuss new cultural relations, including the transfer of objects. Again, not much happened. In 1975, two teams of experts began a third round. Factors that caused the lengthiness were the widespread violence between 1945 and 1949, the stiff relationship between President Sukarno and the Dutch authorities, tensions around Papua, the economic interconnectedness of the two countries and the difficulty of return negotiations. Negotiating about political and economic issues was much more familiar than about cultural objects.

Compromise

The negotiations were aimed at a compromise - the parties reached an agreement, without being satisfied - and not at integration with more merging of the desires of both stakeholders in the final outcome. The informal talks and extensive socialising during the 1975 and later negotiations, 'were essential to learn and understand ideas, arguments and general feelings, and to try and find a basis where both delegations could meet', commented two participants (Pott & Sutaarga 1979: 40). Pictures found in the personal archive of Dutch team member, Miss Ans Kalmeijer do not give a decisive answer to what sort of atmosphere prevailed. Socialising, if focussed on integration, serves to create trust. If focussed on compromise, it is part of a lobby and aimed at convincing the other party. The consultations could be tense and the delegations occasionally behaved as ‘quarrellers’ (Van der Straaten 1985: 33). Was the downsizing of the Indonesian list from ten thousand to a few hundred ‘selected cultural objects’ that had to be made ‘accessible to the Indonesian public’ a calculated loss and negotiating tactic to emphasise Dutch misbehaviour in the colonial period, or was it the result of poorer negotiating capabilities? The Dutch Team remained pro-active in its efforts to set up an exchange of archives and passive in relation to the return of cultural objects. It wanted to give away as little as possible. Was the Dutch hammering on the weakness of the museum and archival infrastructure of Indonesia genuine or meant to evade the return issue (Scott, C. 2014: 157)? Worries about the infrastructure were often genuine and a disincentive to discuss large-scale returns, but also helped the Netherlands to resume the relationship with Indonesia and to avoid the r-word.

The outcome of the negotiations was presented as the final word on all claims of the former colony to treasures present in the former metropole. In upper Dutch heritage echelons it is still considered as such. The warm reactions to the recent return by a private Dutch family of a Diponegoro attribute and other developments reveal different longings in Indonesia.

Stakeholders

403 To ‘convince’ comes from the Latin ‘convincere’, which is winning or conquering and supposes a winner/conqueror and a loser/conquered.
405 Interview with S. Engelsman, then Museum Volkenkunde in Leiden, March 23, 2011.
Only two stakeholders - both of them states - participated in the negotiations. Indonesia had excluded princes, regional rulers and other non-state actors in its Team of Experts. Although the Netherlands had close relations with some traditional rulers, they accepted the exclusion and turned down repeated requests of, for example the descendants of King Singamangaraja XI on Sumatra for the return of the King’s regalia. The stakeholders thus simplified the question to whom the objects should be returned. The Dutch state transferred them not to a traditional prince or other non-state stakeholder, but to the state of Indonesia - war booty from Java and Lombok, a painting from a Javanese artist and a precious Javanese statue.

With more stakeholders involved, the outcome might have been different. For many Indonesians, cultural heritage embraced more than the dominant discourse allowed. This discourse offered little room for prehistoric and proto-historic cultures, Islamic culture, regional and local cultures, and modern, living cultures (Sudarmadi 2014: 92). Megaliths in Flores are ‘important symbols of group identity, sharing collective memory, validating indigenous descent’ and ‘territorial marker’ and legitimating ‘access to and use of land’ (Sudarmadi 2014: 340). Why are these not official cultural heritage? In the USA, Australia, and Canada claims of minorities for this sort of cultural heritage are dealt with in legislation (Vrdoljak 2008: 302).

The exclusion of non-state stakeholders from the Teams did not mean that there were no internal frictions. The head of the Dutch team of experts, Rob Hotke, had to persuade Pieter Pott, who wanted to minimise returns, ‘to be more reasonable’. Indonesia’s Minister of Education and Culture brushed aside his team’s extensive return claims. Dynamics, caused by internal frictions in one stakeholder, are normal (Fisher & Ury 2011: 49), as team-members have divergent backgrounds and interests. Such frictions are often productive in finding solutions.

There were also the media. In Indonesia they had served as channel for government officials to voice return claims and to prepare the ground for formal negotiations. In the Netherlands they had also helped to clear the way for this by questioning the presence of colonial cultural objects.

(In)equality

Indonesia and the Netherlands were internationally recognised states. They had the same rights and duties. In the negotiations the Dutch emphasised this equality. But did it exist de facto? Did the two have equal chances and comparable capabilities to run the negotiations? Was their commitment sufficient and of comparable level? The one was the possessor of objects, the other claiming them; the one was an experienced international negotiator, the other a relative new-comer. The unresolved conflict that they had to discuss was asymmetric. There is no evidence that this asymmetry was considered.

In retrospect, Sutaarga and Pott (1979: 40) emphasised that some experts in the two teams ‘had already known their “counterparts” from the delegation of the other country for

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407 An indication is that only 470 (or 1.2 percent) of the 39.300 items from Indonesia in the Tropenmuseum are associated with the Islam (Shatanawi 2014: 216).

408 Ans Kalmeijer in a 2005 interview with S. Legêne.
a long time’ (Pott & Sutaarga 1979: 40). Sutaarga, who had studied in the Netherlands under Pott at Leiden University, was ‘certainly not opposed to cooperation with the Dutch’ (Scott, C. 2014: 115). From their correspondence they emerge as friends.\textsuperscript{409} Indonesian and Dutch colleagues who had known both, explain that Pott was rather ‘standoffish’ and ‘focused on his own interests’, while Sutaarga was ‘more modest’.\textsuperscript{410} Did their relationship influence the outcome of the negotiations or the selection of Lombok treasures to be returned? The archives do not offer a clue, but the question about a hidden hierarchy remains.

Equality is a sensitive issue. How does one weigh it? Questioning (in)equality carries a risk of paternalism and abuse. If there is much inequality between stakeholders, what should one do? Earlier (6.2.2.) it was suggested considering the justice and capabilities approach developed by Sen (1999; 2010) and Nussbaum (2011).

\textit{Underlying interests}
In conflict studies underlying interests are those that stakeholders do not openly share. They remain hidden but influence the negotiations. Stakeholders can be unaware of them (Lewis 2008: 27), while it is essential to know the hidden interests of the other side.

While open about its longing for aesthetic, historical and cultural objects needed for more national unity and identity, Indonesia was less open about other interests. One was to be seen as equal to the Netherlands. It explains Indonesia’s difficulty with the Dutch being patronising about the strengthening of its museum and archival infrastructure. Indonesia’s interest in the transfer of Lombok gold and silver treasures was not that it did not have any, or that gaps had to be filled in existing collections - a large number had remained in the country or had come back earlier - but their high financial value and splendour and the implicit recognition of injustice committed by the Netherlands.

The Netherlands hid its fear of losing many objects, collections and archives and made concessions to serve another interest, that of doing away the damage to its reputation during the decolonisation. Therefore it presented itself as a liberal and generous giver of colonial cultural objects.\textsuperscript{411} The transfer of the Prajñaparamita - the Grand Prize of the negotiating process - enabled Museum Volkenkunde in Leiden to keep four other Hindu-Javanese statues that had been high on Indonesia’s wish list.\textsuperscript{412} The Dutch acquiesced in order to keep. A Dutch interest in the transfer of Lombok treasures was that the issue of war booty would not be raised again and that the remaining treasures could stay in the Netherlands.

It is difficult to envision the Netherlands’ underlying interest in doing so little to discover the kris and other parts of Diponegoro’s equipment, although its diplomats gave hints where the kris could be found. What were underlying interests behind the minimising of pressure on elite families and other possessors of Borobudur Buddha heads and other objects that had left Indonesia in violation of the colonial laws? Why did the Netherlands do

\textsuperscript{409} Archives Museum Volkenkunde, Leiden, Box number 222, Covers 1975 - 1978, Cover on Agenda 1978, No. 440; Cover on Agenda 1980, No. 442; and Cover on Agenda 1981, No. 443.

\textsuperscript{410} Personal communication with insiders Museum Volkenkunde (February 28, 2014).

\textsuperscript{411} The Netherlands even feared that Indonesia would lose all interest in it, Coded message Embassy Jakarta to Minister for Foreign Affairs, July 12, 1982, Ref. nr. 15198 / 72; Memorandum of DOA/IN to ACS M.J.J. Van Loosdrecht, April 26, 1983, No. 66/83. Both in: National Archive, Archives Ministry of Foreign Affairs 1975 - 1984 - Inv. No. 10146.

\textsuperscript{412} Museum Volkenkunde, Leiden, Inv. No. 1403-1681.
so little to establish contacts with non-state possessors of objects, as Joint Recommendation II.3 stipulated? As stated earlier (7.3.), in Dutch law the protection of private property has priority and it would be hard and costly to trace such objects. To this can be added that many of those who would have to implement the search and the possessors of the contested objects belonged to the same elite. As written before (6.2.2.), the Dutch Restitution Committee for Nazi-looted art (Annual Report 2013: 5, 6) has raised the issue of Nazi-looted objects in private possession. Only if private owners of such works are willing to think in a constructive manner about the future of these works, ‘*the end of the restitution issues comes into view*’. The return by the Baud family of Diponegoro’s pilgrim’s staff to Indonesia shows that returns of colonial cultural objects by non-state actors can be very welcome.

Two more underlying interests are discussed - that behind the use of the term *transfer* and that behind *gifts*, such as made by the Dutch royal family to Indonesia’s presidential couple.

*Transfer*

Indonesia employed, initially, the term *restitution*, which implied that wrongful acts had to be undone. It shifted during the 1975 deliberations to the neutral *return*. Both terms appear in the Netherlands Government archives\(^{413}\) only to say that they were not supposed to be used.\(^{414}\) *The Netherlands delegation has always opposed such vocabulary, because “return” implied unlawful acquisition of property, at least suppos[es it]*.\(^{415}\) That is why the Dutch team pushed for the neutral ‘*transfer*’ as dominating term in the final document.\(^{416}\)

There is little archival evidence of awareness on the Dutch Government side of the forced inequality and colonial injustices and the need to redress it. Some Cabinet ministers showed more sensitivity than others, but none expressed explicitly that the Joint Recommendations served to rectify injustice. There is evidence of efforts to hide or deny the colonial past with euphemisms (Groot 2009: 133). Colonial officials who knowingly removed or robbed statues from temple sites had rarely been reprimanded (Lunsigh Scheurleer 2007: 86, 89). The Dutch team was instructed to give in to Indonesian demands, if necessary, and not to challenge the relationship with the Government of Indonesia. The Indonesian team was ‘*aware that cooperation should not only benefit one party*’ and hoped that the transfer of objects ‘*to Indonesia would increase and strengthen the cultural cooperation between the*...

\(^{413}\) Two exceptions have been found. In July 1975, Pieter Pott of the Leiden museum used ‘*return*’, when speaking at the occasion of the transfer to Indonesia of the Papua treasures kept in the museum since early 1963; it was a slip of the tongue as the museum had never considered the objects as its property: Archive Museum Volkenkunde, Leiden, Box number 61, Cover 118, Agenda 1975, numbers 764, 765, 766. In the 1975 Joint Recommendation II.5, the Dutch Government is asked to find the whereabouts of the Luwu insignia and to ‘return’ them to Indonesia.

\(^{414}\) E.g. Kalmeijer 1975: 2.


two countries’. This echoes the spirit of Musyawarah-mufakat, the habit to continue negotiations until consensus has been reached.

**Gifts**

The Dutch royal family gave to Indonesia paintings that it had received from painter Raden Saleh in appreciation of their support for his stay and study in the Netherlands and Europe (Wassing - Visser 1995: 86 - 93). There was no obligation behind it. What can have motivated the Royal Family? The Netherlands had never welcomed Indonesia’s first president, Sukarno. The visit of his successor, Suharto, in 1970 had been intended to normalise relations. In the preparations for the visit, the head of the household division of Suharto’s palace and experienced diplomat, Dutchman Joop Ave, had asked after the wishes of Queen Juliana and Prince Consort Bernhard and informed the Dutch ambassador that the Indonesian presidential couple would be delighted to accept the Raden Saleh’s paintings.

In the Dutch royal family at that time two slightly jaded archetypes in the Dutch self-image came together - that of the trader and of the preacher. It is popular in the international development sector, though not only there. Queen Juliana was known for her pacifism and urge to diminish the gap between the rich and the poor in the world. Prince Consort Bernard was close to Dutch multinational companies. His visits to heads of state as President Mobutu and Emperor Haile Selassie were also meant to pave the way for Dutch commercial interests. He and Suharto were personal friends. They played golf together. Linking giving with forgiving, one cannot exclude the possibility of an implicit request for forgiveness played a role in the Queen’s motivation, and that the Prince was motivated by the thought that such a gift would bring economic profit in return.

In conclusion, the number of colonial cultural objects handed back (Box: *Returns to Indonesia 1949 - 1978*) and the way the Netherlands did this, do not justify a generous returner label. The Dutch did not meet all Indonesia’s wishes by any means. The return of objects was not so much relevant in itself but served, on both sides, other aims. This Part also shows that much more provenance research is needed to uncover the nature of the acquisition of colonial cultural objects.

The lengthiness of the negotiations makes clear that there are ups and downs in these and that one should not give up quickly. The choice for a compromise created difficulties at the time and later. Although understandably only two stakeholders were involved, today the engagement of more stakeholders is preferable and makes solutions more sustainable. In two recent instances - the hand-over of a pilgrim’s staff of Diponegoro

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by a Dutch private possessor and the failed transfer of part of the Nusantara museum collection - the Indonesian stakeholder was the National Museum in Jakarta. With the increasing voice given to minorities and indigenous peoples, non-state stakeholders such as these and regional and local authorities should be more involved. Internal disagreements in one stakeholder can be used to further the process. Inequality in asymmetric conflicts is an issue that has to be faced.

The formulation in the Joint Recommendations of the transfer of objects as ‘a programme’ to be ‘implemented by stages’ in my view offers the possibility of additional deliberations about:

(1) Joint search for the missing equipment of national heroes such as Diponegoro, especially Diponegoro’s kris.
(2) The future of four stone statues in the Museum Volkenkunde in Leiden - a Ganesh⁴²³ (located in the museum’s entrance), a Durga⁴²⁴, a Nandiswara gatekeeper⁴²⁵, and a Mahakala gatekeeper⁴²⁶ from Singasari.⁴²⁷
(3) Dutch Government efforts to locate cultural objects in non-state owned collections.

**Box: Returns to Indonesia 1949 - 1978**

*Two paintings of Raden Saleh* Gift by Dutch Royal Family to President Suharto during his visit to the Netherlands in 1970.

*Nagarakertagama palm-leaf manuscript* Transferred by Library Leiden University to the Government of Indonesia before the first meeting in 1975; presently in the National Library, Jakarta.


*Painting Capture of Pangeran Diponegoro by Raden Saleh* Donated on behalf of the Dutch royal family by Museum Bronbeek to the Government of Indonesia in 1977; presently in the National Palace in Jakarta.

*Equipment of Diponegoro* Objects transferred by the Minister of Defence from Museum Bronbeek to the Government of Indonesia in 1977; now in National Museum, Jakarta.

*Prajñaparamita statue* Transferred by the Minister of Education, Arts and Sciences from the Museum Volkenkunde to the Government of Indonesia in 1978, at the occasion of the 200th anniversary of the National Museum in Jakarta, where it is presently held.

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⁴²³ National Museum for Ethnology, catalogue number 1403-1681.
⁴²⁴ Inv. No. 1403 - 1622.
⁴²⁵ Inv. No. 1403 - 1624.
⁴²⁶ Inv. No. 1403 - 1623.
⁴²⁷ In an interview (Leiden, April 16, 2014), archaeology professor Inajati Adrisijanti remembered that she exclaimed upon the return of the Prajñaparamita ‘Thank God, it has come back home. But what about the others?’ She thought it ‘inappropriate’ that they had remained in the Netherlands.
Lombok treasure  
Transferred by the Minister of Education, Arts and Sciences from Museum Volkenkunde to the Government of Indonesia in 1977; now in National Museum, Jakarta.

Archives and documents  
Several exchanges from 1968 onwards, mostly authorised by the Minister of Education, Arts and Sciences, e.g.:
- The 25 million pages long archives of the Dutch East India Company remained where they were, either in Jakarta or in The Hague; they have been included in the UNESCO Memory of the World Register in 2004.
- A large number of the Yogya-archives were returned to Indonesia. This continued until 1987.
- In 1983, the transfer of a Bahasa Indonesia copy of the 1946/7 Linggadjati Agreement between the Netherlands administration and the unilaterally declared Republic of Indonesia took place, on condition that it would be sent back, if Indonesia retrieved its own copy.
- The national archives of both countries have continued to cooperate through the years.

Other questions remain. Why did Indonesia never claim more objects? How eager was and is it to retrieve colonial treasures? What is the position of these treasures in the Indonesian cultural heritage field? Indonesia, like any country, has creators and preservers of art and heritage, and the socially and politically committed among them have several subjects that inspire them. The colonial past is one. The 1965 coup d’état and the role Islamic fundamentalism are two others. The country has an on-going dispute with Malaysia about shared heritage and emotions can mount high about the performance of temple-dances or shadow-puppet theatre in Malaysia, which Indonesia claims to be Indonesian.

The Government, regional and local authorities and civil organisations show increased interest for cultural heritage, including monuments from the colonial period and traditional weapons as krisses, batik textiles and musical instruments (Tarekat 2012). Local and community based museums and non-traditional museum spaces and heritage societies (Tarekat 2012) are a departure from the traditional Western museum or the type set up in the colonial period. This trend is broader and noticeable in the whole of East and Southeast Asia. In the post-Suharto era national unity and identity are emphasised less and people show more attention to regional and local history, identity and interests.

The country has inscribed the Borobudur Temple Compounds and the Prambanan Temple Compounds (since 1991), the Sangigran Early Man Site (since 1996), the Cultural

432 Conclusion from the conference ‘Museum of our own – In search of local museology in Asia’, Gadjah Mada University, Yogyakarta, November 18 - 20, 2014.
Landscape of Bali Province (since 2012) and some national parks in UNESCO’s World Heritage List and put eighteen cultural and natural sites on the tentative list. A 2010 law for cultural heritage protection increases rewards for finders of art works and punishment of illicit trade and smuggling. Local authorities get a bigger role in registration and preservation of cultural heritage.

This is sufficient evidence to show that there certainly is an interest in colonial cultural objects and that an urge exists to retrieve them. Officials of the Ministry of Culture and the National Museum and academics in the heritage sector were and are open about their desire to see certain authentic objects return to Indonesia.


*Personal communications with museum officials and academics in Yogyakarta and Jakarta, November 2014.*
V Approaches in other bilateral agreements

To continue charting the one-way flow of cultural and historical objects and find elements for a model for negotiating the future of colonial cultural objects, Part V describes four comparable bilateral agreements - that between Belgium and DR Congo, those between Denmark and Iceland and Greenland, and that between Australia and Papua New Guinea. They raise questions about the existence of a Nordic and a Melanesian model and about the influence of geographical and cultural distance between stakeholders on negotiations. As the dialogue between Western museums and Nigeria on the future of Benin objects is the only such larger-scale event at the moment and Benin objects have long featured in return discussions, this is also studied. First the agreement between Belgium and DR Congo is discussed. From 1815 until 1830, the Netherlands and Belgium were part of the same Kingdom. Their colonial practices had similarities and important differences. The Dutch colonial expansion started early and took two centuries. Belgium was a late-comer and quickly entered the period of settler and exploitation colonialism.
Chapter 9
The 1970 agreement between Belgium and Congo

For his part in the defeat of French Emperor Napoleon Bonaparte in 1815, Prince William (1792 - 1849), the later King William II of the Netherlands, was rewarded with a summer palace in Tervuren, Brussels. Its location was a result of the decision of the 1815 Vienna Congress to merge the Low Countries - Belgium, the Netherlands and Luxemburg - into the United Kingdom of the Netherlands as buffer against a French revenge. The United Kingdom never worked. In 1830 the Belgians broke away and established their own state. Prince William left the palace. In 1898 Belgium’s King Leopold II (1835 - 1909) built on its ruins, the Royal Museum for Central Africa, henceforward the Tervuren Museum. It was a follow-up of the 1897 Brussels International Exhibition about economic potential, ethnographic objects and stuffed animals from Congo Free State, which had attracted over one million visitors.

Leopold had carefully guided the decision of the 1884 - 1885 Berlin Conference that allotted him territory in Africa - Congo Free State. In 1876 British explorer Verney Cameron had made public information about abundant minerals in the Congo area, especially the south-eastern plateau of Katanga. Other European players had neglected it at the time (Pakenham 1991: 12; 399). Soon after the Conference, however, Cecil Rhodes obtained concessions for mining rights from local rulers in areas adjacent to Katanga. Britain and Belgium supported each other in their colonial adventures until after the independence of their colonies (Williams, S. 2013: 57). For over two decades Congo Free State remained King Leopold’s private initiative. The run on rubber that he organised caused an immense burden of direct, structural and ideological violence, the ‘worst bloodshed’, a ‘holocaust in Central Africa’, with death, disease, malnourishment and a sharply declining birth-rate (Hochschild 2000: 227). Upon his death in 1909, the Belgian State adopted Congo Free State as Belgian Congo. After the 1914 - 1918 Great War, Belgium was allocated the nearby German colonies, Rwanda and Burundi as mandated territories.

In recent decades the interest in Belgium’s colonial past and the violence following the decolonisation has increased. Scholarly and popular writers enhance the debate (Hochschild 2000; Van Reybrouyc 2010; Williams, S. 2013) and detect new backgrounds (Goddeeris & Kiangu 2011: 64). As in the case of the Netherlands and Indonesia, few deal with colonial cultural policies and there are more Belgian and non-Congolese writers than Congolese. To relate the latter especially to ‘the poor situation of historical research’ in DR

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Congo (Goddeeris & Kiangu 2011: 67) might be insufficient. Possibly Congolese and Indonesian researchers have other priorities, whereas writers in Europe need to come to terms with colonialism.

The statement in the 1979 issue of UNESCO’s *Museum* (Van Geluwe 1979: 33) that objects in the Tervuren Museum were ‘procured through the regular channels’ and not ‘through extortion, spoliation or theft’ is untenable. Schil德krot and Keim (1998) have produced evidence of pillaging cultural heritage in Central Africa and the coercion during expeditions at the start of the 20th century. Former Tervuren curator Wastiau (2010) has found substantiation of coercion in the acquisition of many objects. Director of the Institute of the National Museums of Congo at that time, Shaje’a Tshiluila (1995), writes about Congo’s problems in preserving its heritage. Maarten Couttenier (2014) describes the role division between the Tervuren museum and other museums in Belgium and Congo. Most useful has been Sarah van Beurden’s (2009; no relation) ‘Authentically African: African arts and postcolonial cultural politics in transnational perspective (Congo [DRC], Belgium and the USA, 1955 – 1980’. There are many parallels between her analysis of the Belgian - Congolese negotiations and my findings and those of Cynthia Scott (2014) about the Dutch - Indonesian negotiations. I explicate the link between return and commercial interests. Placide Mumbembele of the University of Kinshasa points to the fate of 199 Congolese objects that Congo had requested in the 1960s but - as in the case of Diponegoro’s kris - nobody knows where they are. They are not known to have left Belgium.436

9.1. Cultural policies up to independence

In 1876 Congo did not exist as a nation state nor was there ‘Congolese’ art. Both were King Leopold’s invention. He had cultural objects systematically collected to underline mineral and natural prospects in the colony. In the beginning traders and collectors gathered haphazardly ‘souvenirs of contact’. After 1885 a period of ‘trophy collecting’ followed - weapons, other artefacts, animal skins, horns and tusks. They were the ‘tangible means of showing penetration, conquest and domination’ that the Berlin Conference had asked for, and were displayed ‘as propaganda for continuing the campaigns’ (Schil德krot & Keim 1998: 21). In 1898, when the Tervuren Museum opened, 3,008 objects, almost forty percent of a total of 7,598, were related to military campaigns (Couttenier, in: Wastiau 2010: 7).

A 1910 Royal Decree made the museum the central authority in collecting, studying and preserving of ‘all objects from Belgian Congo relating to ... history and not being used by any particular body’ (Couttenier 2014: 80). It researched new finds and determined which ones to hold and which ones to allocate to other museums in Belgium or send back to Kinshasa and regional museums in Congo (Wastiau 2010: 3). That museums in the colony were denied a scientific function, led to frictions and to diminished supply for Tervuren of objects with scientific value (Couttenier 2014: 90, 92). In 1911 this led to a short-lived discussion about ‘the possibility of returning collections to Congo’ after being documented and analysed in Tervuren (Couttenier 2014: 79).

436 Mumbembele, email May 5 and 7, 2014 and April 1, 2015.
Tervuren director Lucien Cahen separated collecting in the period of Congo Free State from that under supervision of the Belgian State and named acquisitions from Leopold’s period as ‘gift’ from the Congo Free State to the Belgian state (Van Beurden, S. 2009: 141, 142), thus exempting himself from research into their provenance. His handwritten notes show that he was unaware of irregularities committed by his own institute: ‘all the objects acquired by the Museum of Tervuren were [done] so according to the regulations, and plundering and theft is out of the question’ (Van Beurden, S. 2009: 137). Instead, he blamed inhabitants of Leopoldville (Kinshasa) for selling museum objects and UN soldiers for looting the Museum of Elizabethville (Lubumbashi) in 1961.437 Blaming the blue helmets should be seen in the context of contradictions between, on the one hand, Belgium and other European colonial powers that supported - to safeguard their mineral interests - an independent Katanga, and, on the other, the government in Kinshasa that wanted, with the support of the United Nations, to keep the country united (Williams S. 2013: 34).

The collecting activities have filled storerooms and showcases of the Tervuren Museum with over one hundred thousand shields, spears, masks, musical instruments and other, mostly Congolese objects.438 Although Wastiau (2010: 3) found little evidence of acquisition practices in 1,200 files, he rejects the conclusion of Cahen and the 1979 issue of UNESCO’s Museum about the museum’s collecting practices. It is impossible ‘to establish what level of coercion’ there was in collecting, but much direct, structural and ideological violence was applied. The context was unbalanced, with educated whites in uniforms, in cassocks or plain clothes facing the local population (Wastiau 2010: 20). The confiscation of objects such as circumcision masks or fetishes remains sometimes unmentioned, but can be understood from the context (Wastiau 2010: 22).

Missionaries were major suppliers of objects. They converted Congolese people in great numbers, asked them to renounce their religious objects and practices and carried out large-scale iconoclasm. Objects that were not destroyed went to Europe (Wastiau 2010: 2). Congo was a ‘textbook example’ of the triangle of colonial administration, private companies and missionary orders. The Belgian government gave these the ‘monopoly in the field of education’ (Derix 2009: 555). In 1939 over forty missionary orders with two thousand priests, brothers and nuns from all over Europe worked among the two million Roman Catholic converts (Derix 2009: 556, 734). The European dimension of colonialism was expressed in their presence and that of non-Belgian European collectors and traders (Derix 2009: 734). As a result, Congo collections can be found in many European countries.439

Of strategic importance was the data about minerals and natural wealth in the Tervuren archives.440 An inventory of two hundred and eighty private archives from officials,
working in Congo between 1858 and 1960, offers information about the colonial police, military and administrators, about veterinary and medical affairs, about trade, mining and rubber, but scarcely anything about local material cultural heritage.\footnote{http://www.africamuseum.be/collections/museum/collections/docs/memoiredesbelges.pdf: 93 (January 2, 15). An exception was J. Thiriar, who worked in Congo between 1920 and 1935 and wrote about Congolese art for the Bulletin du Palais des Beaux-Arts de Bruxelles.} At the moment the museum still receives ‘at least twice per month requests’ for the consultation of these archives.\footnote{Director Guido Gryseels, email February 26, 2015.} In 1910 the first exposition in Congo was not held in the colony’s capital Leopoldville (Kinshasa), but in Elisabethville (Lubumbashi) in Katanga, the centre of the copper, cobalt and uranium mining industry, with the Union Minière de Haut Katanga as co-financer (Couttenier 2014: 77). Congo was promoted at the 1931 Colonial World Fair in Vincennes and other events to ‘convince both Belgian and South African industrialists and consumers of Congo’s economic potential’ (Couttenier 2014: 73).

The combination of two types of collecting - economic data and material culture - is reflected in Tervuren’s leaders, Frans Olbrechts (1947 - 1958) and Lucien Cahen, the first an ethnologist-anthropologist\footnote{http://www.olbrechtsgenootschap.be/wie.html (April 1, 2015).} and ‘very influential in the organization of the department of ethnography’ (Van Beurden, S. 2009: 86), the second a civil engineer (Box: Lucien Cahen, director with two hats).

\begin{boxedtext}
**Box: Lucien Cahen, director with two hats**
After his technical studies and military service, Cahen (1912 - 1982) joined the Geological and Geographic Service in Katanga. Between 1937 and 1941 he made maps of the province. When he was mobilised for the Force Publique of Congo, he continued geological research in his leisure time. In 1946 he was employed as researcher at the Tervuren Museum. The Mining Research Union of Lower and Middle Congo (BAMOCO) and the Société Forminière in Kasai province profited from his findings and collection of geological materials. He soon became curator for Geology, Mineralogy and Palaeontology and was director of the Tervuren Museum from 1958 until 1977. He produced 186 publications and geological maps, mostly on Congo, Burundi and Rwanda. To guarantee the continuation of research, he helped to set up a museum in Congo and became its first director, spending three months per year in Kinshasa, and nine in Tervuren (Van Beurden, S. 2015: 16, note 32). Some sources omit his directorship in Kinshasa.\footnote{http://www2.academieroyale.be/academie/documents/FichierPDFNouvelleBiographieNational2104.pdf#page=69 (December 31, 2014); http://www.bestor.be/wiki_nl/index.php/Cahen,_Lucien_Simon_%281912-1982%29 (December 31, 2014); this source omits his Kinshasa-work.}
\end{boxedtext}

9.2. **Deliberations and transfer of objects**

A Belgian entrepreneur welcomed, financed and advised the Congolese delegation for the Round Table Conference in Brussels at the eve of independence (Van Bilsen 1993: 141). The friendship treaty that Brussels offered ‘as some sort of an independence-present’ (Van Bilsen...
1993: 191), was rejected by Congo, as it feared Belgian neo-colonialism. When Belgium transferred the sovereignty on June 30, 1960, Joseph Kasavubu became Congo’s first president and Patrice Lumumba its first prime minister. The relations were tense. Like Britain in the adjacent area, Belgium wanted to continue its economic hold at any cost, especially in the province of Katanga and supported efforts in Katanga to secede from Congo (Williams, S. 2013: 34). In the chaotic and sudden transition, many of the thirteen museums set up in colonial times, ‘were looted’ (Van Geluwe 1979: 34).

Soon Lumumba and Kasavubu presented restitution claims, on which Mobutu Sese Seko would later build.445 In 1961, the periodical Notre Congo (Our Congo) questioned, very interestingly, the legality of the Belgian ownership of the Tervuren Museum and its collections. Did the museum, despite its location on Belgian ground, now not also belong to the Congolese state (Van Beurden, S. 2009: 89)? Its building had been paid for with Belgian and Congolese money and its collections had been exported without the original owners’ consent (Van Beurden, S. 2009: 135). When Belgian publications took up the question, the Government in Brussels admitted that Congo had a share in the collections of the museum. This acknowledgement was supported by ‘many in the government’, for whom the ownership of the Tervuren-objects was less important than the co-ownership of the mining company UMHK (Union Minière de Haut Katanga) (Van Beurden, S. 2009: 136).

Like Pott of the Leiden Museum Volkenkunde in the case of Indonesia, Cahen developed a strategy to minimise losses of objects in the colonial era. Apart from emphasising their proper acquisition, he summed up what museums in Congo themselves had and pointed to the many outstanding Congo collections elsewhere in Europe and North America. His museum was not ‘a unique and rich centre of Congolese ethnography’ and could ‘not be held accountable to fill a national museum’ in Congo (Van Beurden, S. 2009: 137 - 142). To accommodate restitution claims, the Belgian Foreign Office recognised ‘the partial merit of the Congolese positions’ and proposed to send some of the non-exhibited reserves in Tervuren ‘as a gift’ and to help set up a national museum (Van Beurden, S. 2009: 146). This early agreement is mentioned in correspondence but not in any official document (Van Beurden, S. 2009: 148).

With Mobutu Sese Seko as the new strongman (1965 - 1997), the tension increased. Although in the end he gained little appreciation for his presidency, he became a champion of the restitution of colonial cultural objects throughout Africa (Tshiluila 1995: 184).446 He expressed his anger when the Tervuren Museum made two hundred highly insured objects available for a travelling exhibition in the USA (1967 - 1969). The exclusion of Congo illustrated the alleged inability of former colonies to present their cultural heritage abroad (Van Beurden, S. 2009: 143).

Cahen initiated talks in 1969 that would lead to a breakthrough. As director with two hats and close contacts with Congolese officials, he came up with a phased proposal, combining a transfer of objects with collecting in Congo itself, cultural cooperation and strengthening the country’s museum infrastructure. The two governments accepted it in 1970 (Van Geluwe 1979: 33; Tshiluila 1995: 184); again any official document remains untraceable (Van Beurden, S. 2009: 148). In the first phase, financed by the Belgian overseas aid and implemented by the IMNZ (Institut des Musées Nationaux de Zaïre), 30,000 objects

445 Mumbembele, email April 1, 2015.
446 Nigeria was another one (Greenfield 2007: 122).
447 Mumbembele, email May 5, 2014.
from all corners of the country were collected. In the second phase, specified objects were collected that were defined as Congolese national heritage. The third phase consisted of repatriations and gifts from Belgium. Congo continued to press Belgium to return the two hundred objects of the travelling exhibition in the USA.

The 1970 agreement with Belgium and the UNESCO Convention, adopted that same year and of which DR Congo would become state party in 1974, inspired Mobutu at a conference of the *International association of Art Criticism* in Kinshasa in September 1973, to call for the return of part of Africa’s traditional art to their countries-of-origin. In Congo the speech marked the beginning of what is known as *zairisation*, Mobutu’s campaign for authenticity and a pre-colonial past, the restitution of cultural treasures and nationalisation of foreign assets (Van Beurden, S. 2009: 149). Mobutu announced the restitution resolution, mentioned earlier (6.2.), for the 28th meeting of UN General Assembly in October 1973. After extensive discussions, a large majority of member states voted in favour of Resolution 3187 (XXVIII) 1973 on the Restitution of Works of Art to Countries Victim of Expropriation. Most former colonial powers were against it. The Resolution deplored the involuntary loss of many art objects, ‘frequently as a result of colonial or foreign occupation’ and asked member states for their ‘prompt restitution’ (Prott 2009: 27, 28).

After Mobutu’s speech, the Belgian government, as part of the third phase, expressed its intention to donate artefacts from Tervuren (Van Beurden, S. 2009: 150), but soon Mobutu’s policy of nationalisation of Belgian interests caused a delay. After a slight reversion of the policy in 1975 and 1976 and the reinstatement of some former European owners into their enterprises, the relationship eased and the third phase could be implemented. From the various enumerations of transfers (Tshilulila, Wastiau, Van Beurden, S., and Mumbembele) the following list has been compiled (Box: *Repatriations and gifts to Congo*).

**Box: Repatriations and gifts to Congo:**

*Repatriations*

- 31 Objects of the *Musée de la vie indigène* in Kinshasa (1977), shipped to Brussels in 1958 for the World’s Fair and then in Germany and Austria until August 1960; they had remained in Belgium because of the instability in Congo.
- Over one hundred objects of the former *Institut de Recherche Scientifiques de l’Afrique Centrale* (IRSAC) (1978), which had been in Belgium from before independence.
- Six hundred other objects from IRSAC Rwanda.

*Gifts*

- Wooden statue, representing a Kuba King (1976).
- 114 special objects from the storerooms of the Tervuren Museum meant to fill the gaps in the new museums set up. The last shipment of 54 objects arrived in Congo in 1982.

The first transfer, on March 29, 1976, concerned a valuable royal Kuba statue, the only one of the two hundred objects of the travelling exhibition that was ever returned (Wastiau

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449 The year, in which these were returned, was not found.
That Belgium ‘did not keep its promise’ and never handed over the other 199, was ‘unfair play’ and led to a painful and so far unresolved dispute. As with Diponegoro’s kris, nobody knows where the objects are, and Congo has never claimed them again. The value of 114 other objects that Belgium came up with was said ‘to be considerably lower’. The 114 were explicitly defined as gifts, not as restitution or being returned. As the Netherlands, Belgium wanted to prevent accusations of illicit appropriation. Later on, the IMNZ was plundered and most of these objects were stolen (ICOM 1994/1997: 81, 82).

Less than ten percent of all objects transferred came from the Tervuren depots. The others came from Rwanda or from custodianships in Belgium, comparable with the ethnographic objects from Papua in Museum Volkenkunde in Leiden, repatriated in 1975. According to Belgian government sources, a formal exchange of archives or any archival cooperation, as was agreed in the Dutch - Indonesian case, was never envisioned by Brussels and Kinshasa; there have been only incidental and informal exchanges of information.

Nowadays, cultural cooperation between Belgium and DR Congo continues, but is low on the Kinshasa government’s priorities list.

In conclusion, the case study reveals that DR Congo lost a great many cultural and historical treasures in the colonial era, whereby direct, structural and ideological violence characterised collecting. Not only Belgians were involved in it, but also nationals from other European countries. The case study further emphasises the relevance of acknowledging underlying interests. As in the Dutch - Indonesian case, the return of colonial cultural objects was not about objects but was intended as a means in Belgium’s foreign policy and cultural diplomacy. While for the Netherlands the return helped to improve its international reputation, for Belgium it served to safeguard major economic interests. Like the Netherlands, Belgium was not a generous returner. DR Congo was particularly after recognition of being equal to its former coloniser and of its ability to take responsibility itself for its cultural heritage. As in the Dutch - Indonesian case, media played a role in advancing the return discussion.

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450 Mumbembele, email May 7, 2014.
451 Mumbembele, email April 1, 2015.
Chapter 10  
Nordic model for Denmark, Iceland and Greenland?

As in the Dutch - Indonesian and the Belgian - Congolese cases, there has been an increase in research publications about Scandinavian colonialism. They challenge the view that distant possessions were only something of non-Scandinavian European powers and break with the downplaying of Scandinavia’s colonial past. Not only were Denmark and Sweden colonial powers, all be it smaller and shorter-lived than the Dutch, the British and the French, but also Scandinavians did play an active role in the colonialism of other European powers. Scandinavian countries have always portrayed themselves as good colonisers and supporters of the UN decolonisation’s efforts, but extensive collections of colonial cultural objects in their museums reveal another aspect, an aspect scarcely dealt with in the new publications. Some returns by Denmark offer an opportunity to explore it.

10.1. Scandinavian colonialism

Sweden had colonial possessions in the Baltic provinces and trade companies elsewhere: the East India Company, the West India Company and an African Company. Until today it likes to present itself as ‘a nation without a colonial past, but with a long history of international trade’. The colonial context, however, was ‘a necessary condition’ for the colonial trade (Lundahl 2006: 5). Sweden tried in vain to colonise Madagascar, but succeeded in establishing a colony in North America, New Sweden, close to Dutch New Amsterdam. Around 1660 it had to give up its interests in Africa and North America to the much stronger Dutch (Naum & Nordin 2013: 6). That Sweden did not have its own colonies ‘was due to a failure to obtain them rather than a result of having higher moral standards than other European countries.’ Sweden and Swedes never ‘actively choose not to participate in the colonial venture in far-away territories’ (Lundahl 2006: 6).

The Danish Crown established trading posts in Asia and Africa. In the 17th century a Danish East India company operated in South Asia. It was ‘reasonably successful’ in the spices and textiles trade (Wesseling 2004: 7, 94, 96) but on an incomparably smaller scale in ship movements and trade volume than the Dutch and British trade companies. It resembled

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more the smaller private mercantile enterprises of the time (Rasmussen 1996). Denmark held some trading posts in Asia for over two hundred years, before selling them to other European powers. In Africa, it set up trading posts and forts on the Western coast and participated in the slave trade between the Danish Gold Coast and the Danish West Indies. Around 1750 enslaved Africans constituted ninety percent of the population in the Danish West Indies, with ‘hardly any restrictions’ on their mistreatment. Around 1700 Denmark acquired islands in the Caribbean, known for sugar cultivation. In 1916 it sold them to the USA, which renamed them the Virgin Islands.

Denmark had its most extensive possessions in Nordic areas. Thanks to a 1380 royal marriage, Norway became part of a personal union with Denmark, along with ‘the so-called secondary countries of Iceland, the Faroe Islands, Orkney and Greenland’. When in the aftermath of Napoleon’s defeat in 1815 this union fell apart and Norway was ceded to Sweden, the colonial possessions remained under Danish rule (Lucas & Parigoris 2013; Naum & Nordin 2013). Denmark established trade stations ‘to cope with the competition from Dutch whalers and tradesmen’ (Petersen 1995). Not land, only water separated these possessions from the metropole. It made the commercial, geographical and cultural distance smaller than those between the British and continental colonial empires and their distant possessions (Burbank & Cooper 2010: 149).

Sweden, Norway, Denmark and Finland had indigenous minorities that were colonised. The biggest group were the Sámi (English: Lapps), who lived spread over Norway, Sweden, Finland and the Kola Peninsula of Russia.

Greenland was undisputedly a Danish colony. That the colonisation proceeded with less direct violence than elsewhere, was due to the fact that Greenlanders were only organised at the household level. The Danish structural and ideological violence were comparable with that in distant possessions. Danish officials and arctic explorers marginalised the family based production in favour of the export of whales, fish, seal blubber, baleen, skin and narwhale tooth to Europe and later of the mineral cryolite (Petersen 1995: 3; Toft & Seiding 2013: 108) and established trade posts and factories. The ‘hordes of European - mostly Dutch, Spanish and Portuguese - whalers and sealers’ (Gabriel 2010: 78, 79), which the waters around Greenland attracted, worried the Danish King and brought him, from 1721 onwards, to finance missionaries to convert the Greenlanders and abolish their traditional faith, rituals and ritual objects (Toft & Seiding 2013: 107, 108).

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455 Also https://www.academia.edu/2312688/Indian_textiles_in_17th_and_18th_century_Denmark:_Colonialism_and_the_rise_of_a_global_consumer_culture (July 3, 2014)


458 The Danish National Archives and other Danish institutions hold extensive archival material concerning the history of the islands, http://www.virgin-islands-history.dk/eng/a_other.asp (February 9, 2016).
Danish were contemptuous of Greenlanders, whom they considered to be ‘at the bottom’ of the ‘hierarchy of civilisation’ (Lucas & Parigoris 2013: 98). Greenland would have a colonial status until 1953.

To define Denmark’s historical relationship with Iceland is more complicated. The economic, political and cultural facets do ‘not necessarily paint the same picture’ (Lucas & Parigoris 2013: 92). In the late 9th century Vikings from Norway and the British Isles arrived in Iceland. In 1262 it was united with Norway and lost its independence. After the merging of the Norwegian and Danish crowns, it became part of the Danish Kingdom. In the 16th century, the Danish King imposed Lutheranism, had the Roman Catholic bishop decapitated and silver crosses, chalices and other religious objects were shipped to Denmark, where they were melted down (3.1.). In 1602 - the same year the VOC was established - Denmark imposed a trade monopoly, which was ‘a clear example of Danish oppression’ and ‘colonial arrangements’ (Lucas & Parigoris 2013: 93).

The ‘entanglement of colonialism and nationalism’ sharpened contradictions between the Danish ‘self’ and the Icelandic ‘other’ (Lucas & Parigoris 2013: 94). Denmark considered Iceland ‘backward and simple’, this to ‘the great distress of the more educated Icelanders’ (Loftsdóttir & Pálson, 2013: 38) and at the 1900 World Fair in Paris presented its culture as ‘primitive’ and itself as a country with a civilising mission. Danish academics rarely deal with this ideological violence. At the same time, Iceland surprised scholars all over Europe as ‘the cradle of... a democratic society of brave, free people and the creation and cultivation for centuries of a classic literary heritage of the Sagas’. (Loftsdóttir & Pálson 2013: 37). It had always kept a certain autonomy through its Althing, Europe’s oldest running parliament (dating from 930 AD). The language of the law courts and the church remained Icelandic. Impressed by the Icelandic sagas, the Danish took responsibility for their preservation. High-ranking officials in the Danish administration could be of Icelandic origin, a well-known example being Árni Magnússon (1663 - 1730), secretary of the Royal Archives and first Danish Antiquities professor at Copenhagen University. He played a pivotal role in moving Icelandic manuscripts to Copenhagen, which would become the main issue in the return negotiations. Iceland ‘resembled the core of the Danish monarchy through the Christian religion yet not those aspects of modernity so as to be equated with the other civilised nations’ (Lucas and Parigoris 2013: 98).

In 1918 Iceland became an independent sovereign state but remained connected to Denmark in a personal union under the Danish King. In twenty-five years a national referendum on the island’s future would be held. Between 1924 and 1927 Denmark and Iceland exchanged a number of administrative documents and archives, including four ancient Icelandic manuscripts. A Danish request ‘that no further demands would be made’ was rejected by Iceland (Greenfield 2007: 20). In the Second World War the two countries started as neutral, but soon Germany occupied Denmark and Britain invaded Iceland. This encouraged the Althing to hold the promised plebiscite. Based on the outcome it severed its ties with the Danish monarchy in 1944.

The discussion about the return of manuscripts shows the different views on the Danish - Icelandic relationship. Greenlander Peterson (1995), outsider Greenfield (2007) and Icelander Magnusson (in: Greenfield 2007: 2, 4) allot the country a ‘colonial status’, in which the Danish ‘colonial masters’ caused ‘unbelievable penury and misery’. In the trilogy Iceland’s

Bell about the country’s history, ancient manuscripts and Árni Magnússon, Nobel Prize-winner Halldór Laxness views his country a Danish colony too. Danish Royal Library director Nielsen (2002: 5) rejects a ‘colonial status’. Iceland was a dependency and the transfer of ancient manuscripts, discussed below, ‘was a normal practice’, that had also occurred after the partition of Sweden in 1658, after 1814 in relation to Norway, and so from 1971 onwards in relation to Iceland. All three transfers had been a ‘purely internal political matter resulting from the dissolution of the state and later political union between Denmark and Iceland’. The transfer to Iceland does not feature in the 1979 issue of UNESCO’s Museum on good practices or in Prott’s (2009) list of bilateral agreements between former colonisers and colonised.

All in all, Nordic colonialism was a reality. Denmark and Sweden had the explicit intention of establishing colonies and the naval power to control them. Iceland was one of them and in varying degrees politically dominated, economically exploited and culturally subjugated by Denmark. The controversy over the Danish - Icelandic relationship makes clear that ‘simplistic oppositions of colonisers and colonised do not always apply’ (Loftsdóttir & Pálson 2013: 38). Denmark’s colonial empire, in comparison with other European powers, was modest. The direct, structural and ideological violence applied by Denmark in tropical colonies was comparable with what other European powers did and could differ in Denmark’s Nordic, cold colonies. Denmark and Iceland sharing the same religion diminished the gap and the ideological violence.

10.2. Danish colonial collecting

Nordic countries acquired large collections of cultural objects from their own cold and tropical colonial possessions and from those of other European powers. Nordic missionaries, traders, collectors, explorers and scientists moved freely to collect, and there is abundant evidence of Nordic museums being thankful recipients. Today, some 38,000 objects, collected around 1900 in DR Congo, are in Nordic museums and private collections (Waehle 2014) (Box: Cultural objects from non-Scandinavian colonies). A finding like this emphasises the European dimension of the colonial era.

**Box: Cultural objects from non-Scandinavian colonies**

Sweden Most of the ten thousand masks, ancestral sculptures, jewellery and other objects from DR Congo in the ethnographic museums of Stockholm and Gothenburg were collected by members of the Swedish Missionary Society (Tygesen & Waehle 2006: 75 ff; Gustafsson Reinius 2011: 81). The Museum of Ethnography in Stockholm received its largest donation of Benin objects form German scholar and collector Hans Meyer (Stockholm Museum of Ethnography 2010: 28).

Finland The Persian carpets, ritual objects from DR Congo, and tools and weapons from South America, Papua New Guinea and Alaska, displayed in the Museum of Cultures in
Helsinki were ‘all fetched from afar by earlier generations of Finnish explorers and traders’ (Symonds 2013: 307).

Norway The Oslo University Ethnographic Museum received ritual objects from DR Congo, the Pacific and the Americas through Norwegian sea captains, a sea pilot and a medical doctor, ethnographic objects from Santal areas in North India from an Ebenezer missionary, cult objects from southern India through the Norwegian wife of a British judge; and Thai and Burmese Buddhist statues through a Norwegian explorer (Bouquet 1996: 77, 82, 86, 88). Its Congo collection comprises eleven percent of the total collection (Waehle 2014).

Denmark The Royal Library received ancient manuscripts from Dunhuang, China, seized by a Danish explorer, and an Inca chronicle about the vices of colonialism, taken by a Danish diplomat from Spain around 1660 (Hvidt & Jansson 2003: 12, 32).

Earlier (3.1.) mention was made of how, between 1550 and 1570, the Danish Lutheran King expelled Roman Catholicism from Iceland and how medieval Icelandic religious silver objects were massively melted down, one result being three silver lions in Slot Rosenborg in Denmark. Direct, structural and ideological violence came together in the forceful confiscation of treasured objects, damage to the Icelandic identity and Danish contempt of another religion. They contrasted with the more peaceful arrival of Christianity in Iceland around the year 1000 ‘resulting from both direct missionary activities and the Vikings’ indirect relationship with Christian people in Europe’.

The history behind the migration of ancient Icelandic manuscripts to Copenhagen is even more remarkable. Icelandic bishops had sent the Flateyjarbók, the Codex Regius and other manuscripts to the King of Denmark, who had them preserved in the Royal Library. Around 1700, Árni Magnússon came with Danish and Swedish emissaries to Iceland to collect more ancient parchments and paper manuscripts. He was ‘begging, borrowing or buying wherever he went, at almost any price’ to enlarge his private collection (Greenfield 2007: 13). In 1720 they shipped them to Copenhagen in fifty-five crates. When, on October 20, 1728, a fire in Copenhagen reached the university-quarter where Magnússon kept his collection, he and his helpers saved the most precious manuscripts, but others and the copies he had made in Iceland disappeared in the flames. Magnússon never recovered from this tragedy. On his deathbed, fifteen months later, he bequeathed his private collection to the University of Copenhagen and his savings for the study and publication of the ancient manuscripts (Magnusson in: Greenfield 2007: 3).

Collecting in Greenland occurred as it did in tropical colonies. Employees of the Royal Greenland Trading Company, clerics and explorers between the 17th and the early 20th century brought archaeological and ethnographic objects, water-colour paintings, archival material from pre-historic sites, oral materials, drum songs and remains of 1,641 persons to museums in Denmark (Grønnow & Lund Jensen 2008: 180; Rosing Jakobsen 2010: 76). Greenlander poet and catechist Josva Kleist (in: Gabriel 2010: 106) complained in 1913 about

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461 Magnússon even took pieces used as ‘an insole for a shoe’ or as ‘pattern for the back of a waistcoat’ (Magnusson in: Greenfield 2007: 3).
'the comprehensive grave lootings conducted by Danes and other foreigners especially in southern Greenland'. Greenlanders had 'no other history than found in his graves', especially 'weapons and tools that were used'. They were 'totally stripped of old finds and similar items of national value'.

The Danish National Museum functioned in a way similar to the Tervuren Museum in Belgium. Objects of scientific value ‘always had to be sent to and remain’ there (Gabriel 2010: 108). It was responsible for study and public dissemination, and for the administration of cultural heritage sites and monuments in Greenland (Grønnow & Lund Jensen 2008: 181). The Greenlandic museum was a provincial museum. The National Museum thus obtained the largest ‘archaeological collections relating to palaeo- and neo-Eskimo cultures as well as the Norse people..., ethnographic objects from the late 19th-early 20th centuries, water colour paintings from the middle of the 19th century, archival information on prehistoric sites in Greenland and collections of oral material’ (Thorleifsen 2008: 9; also: Grønnow & Lund Jensen 2013: 181).

Both Iceland and Greenland attached major importance to the return of cultural heritage that had disappeared. To show the extent of the public support for it, the next lines describe briefly the public welcome of Iceland’s most precious manuscripts.

### 10.3. Ancient sagas back to Iceland

On April 21, 1971 shops and schools in Iceland remained closed. People listened to the radio or watched television. In Reykjavík 15,000 people were astir to watch the arrival of a ship with three carefully wrapped boxes that contained the country’s most valuable manuscripts - the two-volume *Flateyjarbók* and the one-piece *Codex Regius*.462 The country’s largest manuscript contained two hundred and twenty-five written and illustrated vellum leaves with late 14th century sagas. The late 13th century Codex Regius counted 45 pages with poems (Magnusson, in: Greenfield 2007: 1-4; Greenfield 2007: 13 ff.). Their importance was comparable with that of the Nagarakertagama palm-leaf for Indonesia.

Their arrival was the start of the repatriation of two thousand manuscripts about local history and peasant life created by Icelandic priests. Fifteen hundred manuscripts that did not cover exclusively Icelandic matters but the Scandinavian monarchies, or were religious writings, translations from Latin and fragments were kept in Copenhagen (Nielsen 2002: 5). On Thursday June 19, 1997 the last of them were handed over (Greenfield 2007: 37, 38). Again they came by boat, and again upon arrival were met ‘by large numbers of Reykjavik citizens in circumstances similar to those’ of April 21, 1971 (Nielsen 2002: 2).

In the 1830s, the bishop of Iceland had formally asked for their repatriation. Between 1907 and 1938 the Althing had issued five calls for their return. Although there had been some modest returns between 1924 and 1927, Denmark’s uncooperative attitude influenced the 1944 Althing’s decision to break away from the Danish Monarchy. It made the sagas ‘a burning issue’ in Denmark. In 1947, the government installed a study commission with politicians and scholars. Danish Folk High School principals submitted a petition Give Iceland

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462 For images: [http://handrit.is/en](http://handrit.is/en) (July 07, 2014)
her treasures back, while university teachers publicly opposed restitution. In its 1951 report the study commission appeared divided. Some members favoured a return on historical and moral grounds, following Icelandic politicians, who were aware that they ‘had no absolute judicial right’ to the manuscripts but ‘a moral obligation’ to return them. Others considered the manuscripts as Old Nordic, pan-Scandinavian heritage and Iceland as technically and scholarly unequipped to preserve them, and were against returning them (Greenfield 2007: 19 - 21).

In 1959 a new round began. The electoral victory of the pro-return Danish Social-Democrats and Radicals over the anti-return Conservatives paved the way for negotiations. It was comparable with the impact of a progressive government taking office in the Netherlands in 1973. Most authors agree on the three steps that followed and which made a solution possible - legal interventions, the role of scholars on both sides and Iceland’s position of not claiming any ‘absolute judicial right’ to the manuscripts (Greenfield 2007: 21).

In February 1961 the new Danish Government asked Iceland for a wish list. After it had been submitted the two countries did some ‘hard horse-trading behind the scenes’ and then agreed upon a final version (Greenfield 2007: 21). The next hurdle was legal: most manuscripts would have to come from the private collection of Árnu Magnússon’s descendants, and according to the Danish parliamentarian opposition and academic circles, their removal would be ‘tantamount to an illegal expropriation of private property’ (Greenfield 2007: 22) and even require compensation (Prott: 2009: 343). The Danish Government solved the inalienability hurdle by submitting a bill to change Magnússon’s will. His collection was divided into two so that manuscripts and documents ‘that were seen as being part of Iceland’s cultural heritage’ could be handed over to the University of Iceland (Nielsen 2002: 4). The bill was passed in May 1965. The Danish High Court rejected an appeal to declare the law invalid, arguing that the public interest and Denmark’s relationship with Iceland outweighed the protection of private property principle (Prott 2009: 344; Nielsen 2002: 4). The verdict paved the way for a return treaty.

On April 1, 1971 the two countries ratified it.463 In Art. 1, the division of Magnússon’s private collection into two was adopted from the 1965 law, and one part was ‘to be transferred to Iceland’. Art. 2 stipulated that Iceland was to be a good guardian and to set up its own specialised Árni Magnússon Institute in Reykjavik. Art. 6 stipulated that the arrangement was ‘to be recognised as a complete and final resolution of all Icelandic wishes concerning the transfer of national Icelandic heritage items of any kind, residing in Denmark’. A committee of two Icelandic and two Danish scholars made the final selection of manuscripts to be transferred. Before their departure, they were restored and copied on microfilm.

The transfer has been marked as unique and ‘without any legal precedence in international law whatsoever’ (Nielsen 2002: 5). For Prott (2009: 343) the High Court decision and prioritising the public above someone’s private interest were crucial. Greenfield (2007: 38) emphasises the reasonableness of the stakeholders. The parties negotiated firmly but were never at daggers drawn, and Iceland, although tough in 1944 when it unilaterally declared itself independent, never initiated legal action against the former colonial power. The outcome was one ‘of astonishing goodwill….The greater part of the manuscripts covered

463 The Articles (English version) are quoted from Greenfield 2007: 35. The italics are mine.
Icelandic matters and they were written by and for Icelandic people. It was Icelanders who for the greatest length of time concerned themselves with the manuscripts’, explained Greenfield to the British Select Committee on Culture, Media and Sport. ‘These manuscripts mean to Icelanders what Shakespearean literature means to the English.’ She wonders why Iceland never asked other institutional possessors of ancient manuscripts to return these.\footnote{http://www.publications.parliament.uk/pa/cm199900/cmselect/cmcumeds/371/371ap20.htm (July 04, 2014). She mentions the Royal Library in Stockholm (300 manuscripts), British Museum (250), Bodleian Library in Oxford (150), National Library of Scotland in Edinburgh (100), Uppsala University Library (50) and Harvard University Library (45).}

Lessons from this ‘conflictual’ process with Iceland (Eilertsen 2012: 153) helped Denmark to act more smoothly in repatriations to the Faroe Islands (see Box Repatriation by Denmark to Faroe Islands) and to Greenland (10.4.).

Box: Repatriation by Denmark to Faroe Islands

After repeated requests and an agreement in 1977, Denmark repatriated two pew ends and some chair gables to the Faroe Islands in 2002 (Eilertsen 2012: 158 - 161). The Faroe Islands, between Norway and Iceland, were Christianised around 1000. St. Olav’s Church in Kirkjubøur is the oldest church still in use on the Faroe Islands. During restoration works in 1875, a well-carved medieval church interior with remarkable pew ends was removed and shipped to the National Museum in Copenhagen. Between 1901 and 1938 proponents of Faroese independence repeatedly claimed their return. That only half of the Faroese population were pro-independence allowed Denmark to ignore the claim. Discussions from 1955 onwards were without progress. A new request was made during a visit of the Danish prime minister in 1958. Finally Denmark agreed to repatriate the pew ends, all be it on condition that a proper museum was built. A positive side effect of the negotiations was that much information was found about the provenance of the objects (Eilertsen 2012: 161). The Faroese National Museum was finished in 1995. Seven years later the treasures went back.\footnote{http://www.savn.fo/00647/ (August 6, 2014).}

10.4. Peculiar agreement with Greenland

The first Greenlandic return request in 1913 (Gabriel 2010: 105 ff.) was followed by several others. Greenland also wanted museums. From 1953 onwards it climbed on the political ladder and became a full part of the Danish Kingdom. In this period colonies became independent and former colonisers and colonised had to redefine their relations, as occurred between the Netherlands and Suriname and the Dutch Antilles.\footnote{State-budget 1954, Chapter XIII, November 9, 1953, No. 9, http://resourcessgd.kb.nl/SGD/19531954/PDF/SGD_19531954_0000636.pdf (February 9, 2016).} However, all this time nothing was returned. In the capital Nuuk the Grønlands Landsmuseum was set up and finds from excavations were to be curated there. It enabled the museum to build up a collection, while it continued its cooperation with Denmark’s National Museum.

In the late 1970s the global acceptance of decolonisation and further emancipation of indigenous peoples influenced the ethnographic department of Denmark’s National
Museum (Grønnow & Lund Jensen 2008: 189; Gabriel 2010: 67). The new head and later director of the museum, Torben Lundbaek, ‘played a central role in developing... new museum standards’. The museum should transfer collections to Greenland, when museum conditions there had improved (Gabriel 2010: 67). He differed from Pieter Pott in the Netherlands and Lucien Cahen in Belgium, who had used the prioritising of better museum facilities in former colonies to minimise returns. Greenland’s director of the National Museum and Archives, Daniel Thorleifsen (2008: 9), avoided confrontations. He had ‘chosen to believe’ that the Danish colonial empire had taken Inuit ethnographical objects, artefacts and human remains, ‘among other reasons, in the name of science’ and that this ‘was done in good faith, obviously with a wish to save a dying Inuit cultural heritage from oblivion’.

The attitude of the two main players and the pressure of young Greenlanders for self-government and recognition of them as a people with their own history and unique culture (Grønnow & Lund Jensen 2008: 181) led to negotiations between Nuuk and Copenhagen. In 1979 this resulted in Home Rule for Greenland. Greenland’s government and national museum thus became, as of 1 January 1981, responsible for its own museums and monuments, and decolonisation supporter Denmark could no longer evade the return issue.

In 1982, thousand years after the arrival of the first Norse people in Greenland, the Danish Queen Margrethe II handed over two hundred and four watercolour paintings by Greenlandic hunters Aron of Kangeq (1822 - 1869) and Jens Kreutzmann (1828 -1899). They had once been acquired by a colonial official. His widow had more paintings, but had separated those with conflict motifs from the paintings with Greenlandic life and folklore. She had sold these latter for a symbolic price to the Danish National Museum. None of Aron’s returned pictures are exhibited in the museum in Nuuk, but they are found on postcards, posters and stamps (Eilertsen 2012: 162). The contested paintings ended up in the storerooms of the Museum of Cultural History in Oslo.467

In 1983 the directors of the two national museums signed an agreement for the repatriation of thirty-five thousand archaeological and ethnographic items and the further strengthening of the Nuuk museum and staff (Grønnow & Jensen 2008: 183). The legal problem that the Danish National Museum was formally responsible for, and owner of Greenland’s cultural heritage, and this would mean that Danish property had to be alienated, was solved by the Danish minister for Culture and the Parliament. He asked Greenland to pay a symbolic amount.

Danish and Greenlandic experts selected the objects. They were repatriated in nine phases, each encompassing a region or type of material (Gabriel 2010: 113). One hundred thousand items remained in Copenhagen. This might look ‘an uneven share’ but Greenland’s holding and curating of archaeological finds from 1966 onwards, meant that ‘the two national museums today hold collections of equal importance’ (Gabriel 2010: 112). The clause that makes the provision that if one of them wishes the return of specific finds or objects, such a wish shall be respected, was also part of the 1975 Joint Recommendations between the Netherlands and Indonesia. All items were to be registered in a database. Those that were returned ought to be cleaned and preserved before departure (Grønnow & Jensen 2008: 184). Thanks to a Danish subsidy, the Arctic research centre SILA at the National Museum of Denmark could be founded.

467 https://www.duo.uio.no/handle/10852/26508 (August 7, 2014)
While the agreement received ample attention in Denmark and Greenland and from UNESCO, it was as good as overlooked elsewhere. Greenfield (2007: 424) mentions it only as a smooth return after the Danish experience with the return to Iceland. Prott (2009: 418) does not include it in her list of bilateral agreements. There are voices that this return ‘with appropriate modifications ….. might be applicable to certain minority groups and to other countries’ that need cultural treasures from ‘the custody of their former overlords’.

The approach has a ‘spirit of reconciliation and equitable exchange’ (Gabriel & Dahl 2008: 13) and ‘overlapping values’ with little or no ‘colliding perspectives’ (Gabriel 2010: 116). With, as remarked, a key-role for the former colonial power, which did not see ‘Greenlandic wishes as a problem or a threat to its collections’ (Grønnow & Jensen 2008: 190).

Greenland also made a remarkable agreement with Denmark on the remains of 1,641 persons. For the time being, they stay in Denmark, which is better equipped to preserve them, but they are under Greenland’s authority (Gabriel 2010: 115). Greenland’s National Museum received objects from the Netherlands (‘one of the oldest kayaks in the world’), Norway (archaeological collection) and the United States (human remains). The museum faces a new challenge, one that is also felt in e.g. Indonesia and touches the relation between a national museum and regional museums. Greenland’s sixteen regional museums are asking the National Museum in Nuuk for objects from their region but the capacity of some to preserve and make objects accessible of them is disputed.

In conclusion, in the colonial era both Iceland and Greenland faced massive migration of cultural heritage to Denmark. The nature and the extent of the violence with which it was accompanied differed in the two colonies. Greenland was confronted more with Denmark’s ideological violence. Both former colonies were eager to retrieve their heritage. This case study emphasises the relevance of geographical and cultural distance in return negotiations. Although Denmark had imposed its religion on Iceland, it helped that the two countries had the same religion for centuries. There was much respect in Denmark (and elsewhere in Europe) for the Icelandic sagas. Thanks to the Danish upbringing of Greenlandic elite, Denmark and Greenland had overlapping values. No indications have been found, that Denmark and Sweden have been more generous towards tropical colonies with return requests than other European colonial powers. So if a Danish or Nordic model for return exists, it has worked for Denmark’s dealing with nearby cold colonial possessions, thus in the Northern hemisphere. That such a model has limitations is proven by the many years that both Iceland and Greenland spent in the Danish waiting-room, by the sometimes harsh nature of the negotiations and the Danish application of ‘giving-in-order-to-keep’. Denmark took care of itself.

469 Overlapping values are diminishing. Students have their own Greenlandic university and orient themselves at institutions in Canada and the USA, where they meet students from other indigenous communities and become part of an international community, interview Mille Gabriel, National Museum, Copenhagen, August 24, 2015.
471 Interview Mille Gabriel, Copenhagen, August 25, 2015.
The case study further shows how one can deal with the inalienability of privately owned objects. Denmark made a special law to overcome the inalienability of Árni Magnússon’s private collection. It is significant that Denmark’s highest judge motivated his decision on an appeal against this law with the argument that Denmark’s public interest and its relationship with Iceland outweighed the interests of private owners.
Chapter 11
Melanesian model for Australia and Papua New Guinea?

People have been living in New Guinea for over forty thousand years. Divided over more than one thousand groups, they have preserved much of their collective living, languages and customs. Contacts with Europeans date from the 16th century when a Spanish explorer arrived and, without consulting them, named the island after a similarly looking Spanish possession in West Africa - New Guinea. In the course of time the European powers divided the island into two. From the early 17th century, the western part came under Dutch control. In 1824 the British agreed that it became formal part of the Dutch East Indies. In 1962 it joined Indonesia. It has over 3.5 million people, spread over more than three hundred language groups.

This chapter deals with the eastern part that has over seven million inhabitants, representing eight hundred languages, and was colonised in the 1880s. The British took the south-west. After a brief rule by the British Crown Colony of Queensland, London annexed it in 1888. German companies such as the German New Guinea Company took the north-east plus nearby island groups. They explored the new possession, developed copra and rubber plantations and set up trading posts (Buschmann 2000). Later Germany installed a colonial administration (Gosden 2000: 232).

In 1901 Great Britain united Queensland and five other colonial possessions into the Commonwealth of Australia. In 1905 it transferred its part of New Guinea to Australia. During the 1914 - 1918 Great War, Australia took over the German part. In 1921 the League of Nations granted this to Australia as a mandatory area. Australia’s domination of the western part of the island would last until 1975, when Papua New Guinea gained independence. In the same period the last Dutch colonies, the nearby East Timor and other Portuguese colonies became independent too; East Timor was soon invaded by Indonesia (7.2.). The frontier between Australia and Papua New Guinea is water. Torres Strait has a minimum width of 150 kilometres. The distance between the capital Port Moresby and Cairns in North Queensland is less than one thousand kilometre.

Australia’s Aboriginal peoples had lived undisturbed until the arrival in 1606 of the Duyfken (little dove). The VOC in Batavia had sent out this ship to explore the southern coast of New Guinea for spices, but it ended up on Australia’s coast. Other VOC ships followed. The Dutch called the area New Holland - as in 1625 they would name the present New York New Amsterdam. In 1788, Captain James Cook arrived at the eastern side and

occupied the *terra australis incognita* (unknown southern country) as *terra nullius* for Britain (Barkan 2000: 232). The British set up settlements and a penal colony. Initially, Aboriginals and newcomers were unaware of each other’s existence. When the latter penetrated the interior, they pushed back the Aboriginals. They showed scarcely respect for their spiritual traditions and artistic skills and took human remains and ritual objects. As a result, ‘*many living cultures and languages vanished*’.  

### 11.1. Colonial collecting in Papua New Guinea

More curators than historians have published about colonial collecting and returns by Australia to Papua New Guinea and nearby islands. Two of them, Port Moresby museum director Dirk Smidt and curator Jim Specht of the Australian Museum in Sydney, were pivotal in Australia’s returns to Papua New Guinea.  As in other colonies, collectors in the late 19th and first half of the 20th century were driven by a mix of salvage paradigm, curiosity and greed (Gosden 2000: 237). British officials and German enterprises sometimes played opposing roles in collecting. Collections have been spread over Australia, New Zealand, Europe, North and Central America. Australia’s role in return matters is widely praised. No evidence was found of German institutions returning objects.

*Collecting in the German colonial period*

Residential traders and plantation owners, colonial officials, scientists and missionaries had a ‘*golden age of collecting*’ during the brief period of German control (Knowles & Gosden 2004: 66). For most it was a profitable side activity that helped to show the colony’s economic potential (Gosden 2000: 229). They showed little respect for indigenous cultures and scarcely documented findings. German enterprises regularly quarrelled about prices and quality with museums and collectors in Europe and the USA (Buschmann 2000: 57). The German New Guinea Company, set up by Berlin entrepreneurs, was averse to research and used artefacts for ‘*company propaganda*’ to attract ‘*prospective German settlers*’. Later on, it offered objects for sale e.g. to the newly erected Museum of Ethnography of Berlin (Buschmann 2000: 61). When this failed, it considered the possibility of setting up its own colonial museum (Buschmann 2000: 65). Only the Goddefroy Company hired a trained curator to describe items. It published a cultural magazine (Buschmann 2000: 59).

When, in 1914, Australian troops took over German New Guinea, German expatriates returned to Europe. Some left their collections behind. 484 ethnographic objects ended up

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476 The Australian Museum in Sydney is considered ‘*a world leader in the return of cultural property to its country-of-origin*’, in which Specht ‘*made the difference*’, Attenbrow, V. & Fullagar 2004: 5, 6.
in the Australian War Museum in Melbourne. Later it loaned them to the National Museum of Victoria, where they remain until today (Craig 2007: 174; Busse 2010: 6).

Collecting in the British and Australian colonial periods

Because of its proximity, missionaries, scientists and explorers easily crossed over from Queensland to British New Guinea. Preachers persuaded local villagers to destroy religious objects and burn down longhouses where they held ceremonies. The intruders kept many objects for themselves or their institutions and orders (Specht 1988: 21, 24). There is evidence of travellers cheating villagers and stealing ritual objects from longhouses, and of explorers taking human remains. While collecting for the Australian Museum in the 1920s, Australian photographer Frank Hurley and curator Allan McCulloch uttered threatening language to get seventeen ritual bullroarers exchanged for tobacco and rice and pilfered eighteen others. Coastal villagers profited from the exchange of artefacts for European metal tools (Specht 1988; Quinell 2000) and eagerly produced new artefacts. Such objects for outsiders were also produced in the Dutch controlled part of the island (Jacobs 2011: 42).

Papua New Guinea’s first Prime Minister and former chairman of the Board of Trustees of the National Museum in Port Moresby, Michael Somare has praised two British officials for their share in the preservation of the country’s heritage - William MacGregor, who worked from 1888 until 1897 in British New Guinea, and Hubert Murray, working there between 1904 and 1940 (in: Foreword to Craig 2010) (4.1.Box: Relocating to preserve better: From Papua New Guinea to Australia).

When Lieutenant-governor MacGregor found out that ancient stone axes became rare, he began to collect these and other materials. During inspection visits - often the first western contact with indigenous New Guineans, some lasted no longer than half an hour - he exchanged iron articles and coloured clothes for ethnographic objects. The primary aim of his visits was ‘the spreading of government influence and exploration’. Collecting new flora and fauna was secondary. Finding ethnographic objects came third (Quinnell 2000: 83 - 85). MacGregor set rules for collecting and had improperly acquired collections confiscated.

For lack of a safe place, in 1889 he agreed with the Queensland Museum in Brisbane that it should take in 10,800 objects from 178 different places, collected over ten years. The Brisbane museum labelled 2,550 as ‘duplicates’ and passed them to other museums in Australia and to the British Museum. MacGregor agreed with the Queensland Museum to return the other objects to the colony, once it had its own proper museum.

Hubert Murray, Acting Administrator of the Territory of Papua (Quinnell 2000: 91; Busse 2010: 6), was an ardent collector too. He began to construct a museum in Port Moresby and developed legislation for the protection of cultural heritage (Craig 1996: 112). In 1915 he agreed with the Australian Museum in Sydney for temporary housing of the collections he had gathered, accepting that the museum would keep a small representative

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477 R. O’Hanlon discovered in a museum in Florence, Italy, the head of a headman in Papua New Guinea. Italian explorer Luigi D’Albertis (1841 - 1901) had the head sawn off around 1877, put it in a glass jar with alcohol and taken it home. The headman’s descendants invoked O’Hanlon’s help for the head’s return. Until 2012 nothing was done (2012 TV documentary, broadcasted by Dutch TV station VPRO, http://historiek.net/redmond-ohanlon-ontdekt-lang-verdwenen-kannibalenhooft/39723/ (January 19, 2014)

478 http://www.themonthly.com.au/issue/2008/june/1276830104/anna-cater/such-desirable-objects (August 8, 2014). The pilfered bullroarers were among eight hundred objects that ended up in Australia’s National Museum, which is unable to identify them.

proportion for its own use. In archival documents of the decades thereafter this temporary stay in Australia is confirmed (Craig 1996: 206). Between 1915 and 1930, Murray shipped 3,200 objects to Sydney. When the Australian Museum had no more storage space, it selected four hundred objects for itself and sent the rest to the Australian Institute of Anatomy in Canberra. After the closure of the Canberra Institute in 1984, the collection went back to the Australian Museum in Sydney.

Upon its independence in 1975 it was estimated that a quarter million objects were in Western museums, while the National Museum and Art Gallery in Port Moresby was left with 30,000 pieces, ranging in size from small body decoration items to ocean-going canoes (Box: Papua New Guinean objects in foreign museums).  

**Box: Papua New Guinean objects in foreign museums**

- Australia: 80,000
- New Zealand: 16,000
- UK and Ireland: 40,000
- USA and Canada: 70,000.  

Ethnological Museum, Berlin: 65,000 objects from the South Seas (unclear how many from German New Guinea).  

Ethnological Museum in Hamburg: large collections from Bismarck Islands (part of Papua New Guinea).  


Specht (1988: 5) links the flow of colonial treasures to the post-independence one-way traffic of artefacts. Whereas in colonial times colonial administrators, military, missionaries, explorers and traders had dominated it, ‘in a neo-colonial relationship the world’s art-market has assumed the right to treat the culturally significant artefacts of other people as commercial goods to be traded for profit.’

The way Australia dealt with archival records from the German, British and Australian periods echoes MacGregor’s and Murray’s custodian principle. On two occasions, Australia evacuated records from Papua New Guinea - in 1937, following a volcanic eruption and in 1942 when Japan invaded Papua New Guinea, thus keeping fairly complete records of the British New Guinean administration over the period 1884 to 1942 and around 1,500 files with records of the former German New Guinea, hand-written in the German language. Most are about road and plantation development, exploration and health. From 1963 onwards, twelve years before Papua New Guinea’s independence, the two administrations began to make plans to microfilm archival records for the National Archives in Canberra and

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return the originals to Papua New Guinea. In 1968 the first phase of microfilming was completed and the originals were sent back to Port Moresby. In 1997 all had been microfilmed and returned. It coincided with Dutch and Indonesian dealings with archival matters (7.2.).

11.2. The process of return

Prime Minister Somare was moderate about the impact of colonialism in his own country: ‘Our late colonisation has protected us from many atrocities... committed against indigenous peoples all over the world. Many of our cultures and traditions are still alive because contact with the outside world was so recent.’ (in: Foreword, Craig 2010: VII). As the new country faced the challenge of keeping hundreds of ethnic groups together, it began to search for representative heritage. In 1974 Somare asked Western museums ‘to co-operate with us in returning our ancestral spirits and souls to their homes in Papua New Guinea... It is not right that they should be stored in New York, Paris, Bonn or elsewhere. You cannot make a fish live on land. It does not belong there. There is a burning desire among our people that our ancient values, wisdoms and unique forms of artistic expression should be preserved...’ (Smidt 1974, Appendix b). However, the Western museums did not cooperate. They wanted at best to exchange or loan objects (Smidt 1974: 34).

Australia was divided on return issues. In the same year, 1972, in which the national museums of Papua New Guinea and Australia began a constructive discussion about returns, the Commonwealth Arts Advisory Board of Australia sponsored, without consulting or informing the museum in Port Moresby, an expedition to Papua New Guinea (Specht 1979: 28). It wanted to remove as much cultural property as possible before the country’s independence, fearing that return requests would empty Australian museums. To underpin its position, it referred to a blanket demand of the Solomon Islands’ National Museum for cultural heritage materials in Australian museums. Australia itself also twice retrieved colonial cultural objects. In 1972, it agreed with the Netherlands that all rights to four Dutch shipwrecks, discovered off the West Australian coast, went to Australia. New finds - bricks, lead ingots, pipes, skulls, elephant tusks, cannonballs, navigational instruments and coins - were to be divided between both countries. From the 1980’s on all objects remained de facto in Australia (Van Beurden, J. 2012: 49, 50). In 2006 it was agreed that the Dutch part of the collection would be reunited with the collection in Australia. This was implemented in 2010. The United Kingdom gave a vellum copy of the Commonwealth of Australia Constitution Act of 1901, until then kept in the British Parliament in London (1.2.).

486 New Zealander Raymond Firth, who had collected on the island of Tikopia in 1928 and 1929 and again in 1956, supported the blanket claim but suggested leaving some objects in Australia. Australia turned down the demand. The thus threatening deadlock was broken by offering the Solomon Islands’ National Museum the opportunity to select two items to celebrate the opening of a new building in Honiara. In return the museum donated, as a typically Melanesian gesture, two items to Australia’s National Museum (Bonshek 2004: 38).

Several developments influenced the return debate in Australia. From the early 1960s a civil rights movement among Aboriginal peoples claimed land and self-determination, including the restitution of ancestral remains and ritual objects (Barkan 2000: 239). It fitted in ‘the growth of the human rights movement in other democracies’, especially in the USA, and the increased attention for ‘the human rights of indigenous people in the international arena’ (Barkan 2000: 233). Aboriginal efforts to show their culture as a living one, as part of Australia’s identity and as ‘essential for the Australian national patrimony’ had effect. While they had never been asked to play a role and be part of the Australian nation, Australian museums ‘could no longer unilaterally determine how indigenous cultures represented in their collections were preserved and displayed’ (Vrdoljak 2008: 221, 223). It lasted until 2006 before the Australian Government admitted that the Aborigines had lost thousands of human remains to museums and scientific institutions in Australia and Europe during the late 19th and early 20th centuries. Australian institutions possessed nearly twenty-five thousand secret and sacred ethnographic objects from different Aboriginal and Torres Strait Islander cultures. Renegotiating their relations with Aboriginal communities (Vrdoljak 2008: 252), they repatriated over one-thousand human remains and three-hundred and sixty ethnographic objects and began to involve Aboriginals in the making of exhibitions.

From the late 1970s onwards, the Australian government shifted its focus ‘away from (colonial) British ties to the Asia Pacific region’ (Vrdoljak 2008: 221) and emphasised its connectedness with Aboriginals, Papua New Guinea and other nearby (new) states (Vrdoljak 2008: 220). A practical result was the return by Australia’s National Museum of two canoe-prow carvings to the Solomon Islands in 1978 on the occasion of its independence (Specht 1979: 28) and, in 1988, of some items underrepresented in the national museums of Papua New Guinea, the Solomon Islands and Vanuatu (Prott 2009: 418).

The adoption of the 1970 UNESCO Convention encouraged new states in the Pacific renewing their relationship with Australia. It led to intense debates about past and present acquisition policies of Australian museums and increased Australia’s generosity towards Papua New Guinea (Quinnell 2000: 95; Vrdoljak 2008: 224). The new states felt encouraged to claim cultural objects. They did so in spite of the fact that Papua New Guinea, Vanuatu and Solomon Islands were (and still are) not state parties to the Convention - too small states for the big legal implications - while Australia acceded in 1989.

In 1972 a Labour Government took office, which had an effect comparable with that of the coming of progressive Governments in Denmark (1959) and the Netherlands (1973). It saw cultural heritage as having intrinsic value - for itself, for other countries and for Aboriginal peoples and did not oppose return negotiations (Barkan 2000: 233; Vrdoljak 2008: 221).

Papua New Guinea’s poor museum infrastructure was a topic in the return negotiations. Objects were held in an old metal-roofed building without environmental control but with periodical flooding. Among the staff were few Papua New Guineans. Change began in 1972.

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488 http://www.environment.gov.au/node/22561 (August 11, 2014);
The museum attracted new trustees - Michael Somare and four other local experts (Busse 2010: 10). Dirk Smidt, the museum’s first director and a white Dutchman, asked the Australian Council of Museum Directors for the repatriation of Papua New Guinean collections, especially those of MacGregor and Murray. The Council replied that it was willing to send ‘representative cultural material’, but it would do so as a gift, thereby denying the nature of the custodianship that MacGregor and Murray had stipulated. It was the first time the Australian heritage sector made such a commitment. Smidt had made sure of the support of pro-return curators, organised in the Conference of Museum Anthropologists, CoMA, who took care that the Council kept its promise. The campaign with police and customs officials against the on-going smuggling of cultural objects and the seizing in June 1972 of seventeen cases with objects from known dealers, ready to be flown out of the country to New York and Honolulu, increased Papua New Guinea’s credibility. Although no dealer was ever prosecuted (Craig 1996: 163, 164), the authorities later showed over one hundred of the objects (Smidt 1975; Busse 2010: 11), probably the first post-1970 exhibition of stolen and smuggled objects. In 1973, the planning of a new national museum began and in a few years the construction was well under way (Busse 2010: 12). In 1974 a cultural heritage law was adopted, protecting objects manufactured prior to 31st December 1960 (Craig 1996: 199).

That the museum officials involved were scarcely bothered by formal, diplomatic hassles eased the negotiations. Possibly hidden hierarchies played a minor role - with a western chief-negotiator and the inspired and inspiring Michael Somare at the Papua New Guinea side. Specht (1979: 30) wrote that ‘the close relationship with the museums... permitted honest discussions even though initially they were occasionally hard-hitting and heated’. The Australians were unaware of similar negotiations, except of those between Indonesia and the Netherlands, but, as an Australian insider wrote, their sympathy for the Indonesian claims dwindled after the killing of five Australian journalists and Indonesia’s 1975 invasion of East Timor.

At the opening in 1977 of new buildings of the National Museum and Art Gallery in Port Moresby, seventeen artefacts were handed over. Australia’s National Museum Trust had selected them from its collection, bearing in mind the gaps and weaknesses of existing collections in Papua New Guinea. It presented them as a gift.

In those years, a major part of the MacGregor collection was also transferred. It became ‘a foundation icon for the Papua New Guinea National Museum’ (Quinnell: 2000: 98). In 1969 the Australian Administration had declared the MacGregor collection the property of the Queensland Government. If the colony wanted it back, it had to submit a formal request. In 1970 museum officials of both countries recommended that a representative selection was to be returned (Quinnell 2000: 95). There followed some legal wrangling, in which the Port Moresby museum claimed a moral and legal right to the whole collection, and the museum in Brisbane a right to the share that had been agreed upon in 1897. In 1973 the Queensland Museum offered a selection that would be transferred when facilities in the museum in Port Moresby had become adequate.

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491 CoMA was an informal, independent network for more collaboration between museums and indigenous minorities inside and outside Australia, email Jim Specht, May 13, 2015.
492 Email exchange May 13, 2015.
In 1979, the two parties achieved a typically Melanesian consensus. First the Queensland Museum repatriated an early Gogodala drum to Papua New Guinea. In return, the museum in Port Moresby announced that it no longer laid claim to the entire MacGregor collection. The two parties then agreed that the collection ‘would have two homes’. Unique items and best examples would be returned. The remainder would be divided, taking the holdings in the two museums into consideration. After a laborious selection process, 3,297 items of the MacGregor collection were returned, while 2,675 remained in Queensland. Another 2,277 items await selection (Quinnell 2000: 97).

In 2015 the Hubert Murray collection was still in the National Museum of Australia. No steps have been taken to discuss repatriation.493 No evidence was found of (requests for) repatriation made by Papua New Guinea to museums in Germany, the UK and other former European colonial powers.

Box: Returns to Papua New Guinea494

Australian Museum, Sydney:
- 17 objects (1977)
- 140 objects of F.K.G. Mulleried’s stone-axe-adze collection (ca. 1998)

Queensland Museum, Brisbane:
- Gogodala drum (1979)
- 3,297 items of MacGregor collection (1979 - 1992)

Macleay Museum, Sydney:
- 37 objects (year unknown)

National Archives of Australia:
- Original materials returned (1968 - 1997)

In conclusion, the maldistribution of cultural and historical treasures inside and outside Papua New Guinea and the instances of inappropriate acquisitions show that the country suffered considerable losses during the European colonial era.

This case study highlights the relevance of distance and the role of committed heritage professionals. More than in the case study of Denmark, Iceland and Greenland, the small geographical and cultural distance made the negotiations go smoothly. It helped that Australia had been a colony itself, had internally colonised the Aboriginal peoples, who have emancipated themselves, and had owned an external colony, all be it briefly.

Committed heritage professionals played a role in Australia’s 1977 gift of seventeen artefacts to the National Museum and Art Gallery of Papua New Guinea (Specht 1979; Prott 2009: 372). It shows the weight of extensive research on the part of heritage officials in institutions of the former coloniser. Papua New Guinea showed commitment by tackling the illicit trade.

Australia’s generosity however, should be put in perspective. The country had a strong anti-return lobby and returns have remained limited. Stakeholders are still quarrelling about the Murray collection and part of the MacGregor collection. Nothing ever happened with the 484 objects left behind by Germans in 1914 and appropriated by Australian

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493 Barry Craig, email May 19, 2015; Busse 2010: 14.
museums. Australian museums were more willing to help curb the illicit trade than negotiate returns. They preferred returns of skeletal remains to those of cultural objects.

As in the previous case studies, Australia and Papua New Guinea agreed on a package-deal consisting of returns, strengthening museum infrastructure in the former colony financed by the former coloniser, and forms of collaboration. In my view, less than other former colonisers, Australia used this package-deal to create negotiation space to minimise or evade returns.

The case-study raises the question of a Melanesian model for dealing with disputes about colonial cultural objects. The transfer of the MacGregor collection has been described as ‘a typically Melanesian consensus’ and ‘a very Melanesian act of reciprocity’ (Quinnell 2000: 96, 98). If a Melanesian country wants objects back, it offers something in return. This occurred between Australia and the Solomon Islands, and between New Zealand and Papua New Guinea. In 1975 the National Museum in Wellington handed over the valuable Lockyer Collection (prehistoric stone mortars and pestle, and a rare wickerwork figure), after which the National Museum in Port Moresby offered four objects in return (Craig 1996: 199). Sometimes the Melanesian model has been applied, but not always.
Chapter 12
The Benin Dialogue (2010 - ....)

After ransacking and burning the palace of the King of Edo in Benin City in 1897, British soldiers discovered peculiar objects. They did not understand that a brass head represented a royal person, nobleman or warrior and that a plaque told the Kingdom’s long history, or why objects were kept on altars. These were expressions of ‘decay, deterioration and degradation’ (Coombes 1994: 11). What for the British was a punitive action, for the Beninese was invasion, plundering and arson (Layiwola 2007: 83). Nigerian, African and Western authors have described in ‘conflicting interpretations’ the journey that the objects then began (Plankensteiner 2016: 134).

In the late 19th century European colonial powers tried to strengthen their hold on the coasts of Africa. When early in January 1897 a conflict arose between the British and the Oba (traditional King) of Benin about exclusive trading rights for the British, the Oba’s soldiers happened to kill the British Consul-General and some of his men. A few weeks later over one thousand British soldiers arrived.

As the Oba and other members of the royal family had been killed or sent into exile, local people could give ‘little or no account’ of the technically well-made objects and ‘the expedition was as usual unaccompanied by any scientific explorer’ (Pitt Rivers 1900: IV), European researchers wondered whether they had been produced with outside help - Egyptian, Portuguese? Soon studies appeared about the objects, their clumsy acquisition, their makers, Benin’s history, its ritual of human sacrifices and their dispersal - a Benin object became a must-have. Within a year, many museums acquired their first (Duchâteau 1990; Ivanov & Plankensteiner 2008) and displayed their makers, the kings and people as the ‘other’, as inferior. ‘Power relationships were unmistakable’ (Bedorf & Östberg 2010: 42). Felix von Luschan of the Ethnological Museum in Berlin was an exception and understood their value. He compared the Benin casting technique with the best in Europe and amassed a large collection (Ivanov & Plankensteiner 2008: 10, 12).

495 In 1485-6, Portugal was the first European power to reach the Benin Court. Beninese craftsmen included images of the Portuguese on plaques and other objects (Eisenhofer, St. 2007, Olokun’s Messengers - The Portuguese and the Kingdom of Benin, in: Plankensteiner [Ed.]: 55).
12.1. Dispersal over Europe and North America

Confiscated items - estimates vary from 2,400 to over 4,000\(^{496}\) - entered Europe along three channels (Duchâteau 1990: 137; Plankensteiner 2007: 34; Plankensteiner 2016: 138). One was the Foreign Office in London, which had many auctioned to cover the expedition’s costs. Purchasers were British and European museums and collectors. German trading companies in West Africa were the second channel. They re-sold to museums and collectors in Europe. Private soldiers were the third. They took many objects, kept, re-sold, donated or loaned them to museums, traders and collectors. After a few decades American collectors and museums joined the competition for Benin objects (Dark 1962: 17; Ezra 1992: 25; Plankensteiner 2007: 36).

There is confusion about the quantity and quality of Benin Kingdom objects that have remained in Nigeria. Some Western experts assert that there are plenty. Östberg (2010: 67, 56) of Stockholm’s Ethnological Museum says ’more than a thousand’ and confirms the Glasgow Museums’ director’s assertion that Nigerian museums have ‘one of the world’s finest representations of this great culture and our collections would not add significantly to this’. Plankensteiner (2016: 138, 141) points to collections acquired by museums in Nigeria before the country’s independence in 1960, while especially in the aftermath of the Biafra War (1967 - 1971) numerous objects disappeared to Western museums and private collections. Ekpo Eyo (1979: 21) writes about only ‘few unimportant objects’ and the need for his country to ask for returns and to purchase objects from the British Museum. As shown later, Nigeria actually did this. In 2013 in Nigeria Dutch Africa curator, Annette Schmidt, confirms Eyo’s argument: ’The quality and the quantity of the objects is less than that of the major European collections’.\(^{497}\) Some are fakes. The number of objects that Nigeria lent for the 2007/8 exhibition Benin Kings and Rituals - Court Arts from Nigeria in Vienna, Berlin, Paris and Chicago was 19 out of 275 exhibited items, or seven percent.

The literature for this chapter uncovers several efforts to list Benin collections in European and North American museums and private collections (e.g. Opoku 2012a). Although the outcomes differ, the British Museum comes first, followed by the Ethnological Museum in Berlin. In the United Kingdom, the Pitt-Rivers Museum in Oxford, the Pitt-Rivers country residence in Rushmore in Farnham/Dorset and the Glasgow Museums have considerable collections. In Germany they can be found in museums in Berlin, Cologne, Hamburg, Dresden, Leipzig, Stuttgart, Munich and Mannheim. The World Museum in Vienna is a major possessor. Not many are found in France. The Musée du quai Branly in Paris has a few. In the USA collections can be found in museums e.g. New York, Washington, Boston and Chicago. Many objects have shifted from private hands to museums\(^{498}\) or occur in the

\(^{496}\) The Benin Court mentions three thousand, but admits that it is ’not possible to say exactly how many items were removed’ (in: Opoku 2011a; Plankensteiner 2007: 39).


\(^{498}\) Pitt Rivers’ collection went to the museum named after him in Oxford (Pitt Rivers 1900). A.W.F. Fuller donated his to the Chicago Natural History Museum (Dark 1962). The 160 items of the Perls collection and the Rockefeller collection of the exceptional ivory pendant mask and two dozen of other sculptures are in the Metropolitan Museum of Art in New York (Ezra 1992: VI). In 2014, the R.O. Lehman collection went to the Museum of Fine Arts in Boston. ([https://www.mfa.org/give/gifts-art/Lehman-Collection](https://www.mfa.org/give/gifts-art/Lehman-Collection) [August 16, 2014])]
That their chaotic dispersion has made them ‘a fragmented experience’ (Layiwola 2007: 87) is evident from their dispersion in the Netherlands. While Museum Volkenkunde in Leiden has an extensive collection, other museums house only a few. Private owners, auction houses and art fairs play a role (Box: Benin treasures in the Netherlands).

Box: Benin treasures in the Netherlands

Museum Volkenkunde, Leiden
Twenty, purchased shortly after 1897; seventy purchased between 1900 and 1902 (from dealers in Hamburg and London); later were thirty added, amongst these a 19th century bronze head from the Tropenmuseum in Amsterdam (Bedaux 1990: 159; Macquart 1913).

A. Schwartz, collector in Amsterdam
Eighteen bronze and brass and six ivory objects, auctioned in 1980.500

World Museum, Rotterdam
Bronze bell, belt plate and staff.501

Museum Klok & Peel in Asten
Bronze bell, belonging to a dignitary.502

Tropenmuseum in Amsterdam
Brass plaque of a Benin titleholder with calabash-type musical instrument (collection German Jewish banker, George Tillmann).503

Afrika Museum in Berg en Dal
Brass head from between 1380 and 1530, most probably a gift of the Oba to a subordinate ruler (provenance: collection Holy Spirit Fathers, who founded the museum in 1954).504

Museum Fundatie in Zwolle
Brass plaque with catfish (symbol of wealth, peace and fertility), 16th or 17th century (gift from museum-director Dirk Hannema, who purchased it in 1937 for between € 180 and €225 from Amsterdam art-dealer Carel van Lier, who had purchased it in 1935 from Charles Ratton in Paris.505

TEFAF, Maastricht


503 Before fleeing to the USA in 1939, Tillmann loaned his collection of two thousand (mostly Indonesian) items to the museum. After his death (1941) the collection remained there. In 1994 his descendants donated it to the museum (Van Brakel ea. 1996: 7; Van Brakel ea. 1996: 56, 57; Faber ea. 2011: 132, 133).


505 Email information, provided by museum, August 21, 2014. Inv. No. 557.
Art-gallery Entwistle offered in 2014 a 15th - 17th century Benin ivory bracelet and a rare bronze plaque for sale.506

Private collections

No evidence was found of Benin objects in private collections in the Netherlands. This does not mean there are none.

12.2. Prelude to the dialogue

At the opening in Vienna of the exhibition Benin Kings and Rituals - Court Arts from Nigeria Oba Erediauwa of Benin prayed ‘that the people and the government of Austria will show humaneness and magnanimity and return to us some of these objects which found their way to your country’.507 The answer of the World Museum in Vienna (167 Benin treasures) was a flat no, as ‘state-property’ could not be alienated (chapter 1).508 It had the support of the three other organising museums, all signatories of the 2002 Declaration on the Importance and Value of the Universal Museum. Their introduction in the catalogue echoed the declaration: it was their merit to have brought ‘these works of art to far broader attention. They are now forever on the map of world art’ and they trusted ‘that this exhibition contributes to an ongoing dialogue between the past and the present, and between Africa and Europe and North America’ (in: Plankensteiner 2007: 17). The ‘ongoing dialogue’ was about cooperation between the NCMM (Nigerian Commission for Museums and Monuments), the Benin Court and some European museums.

Such dealing between Nigeria and Europe was not new. There have been many return requests, coming from the Nigerian Government, the Benin Court, a Nigerian cultural specialist and a British MP (Box: Return requests between 1977 and 2008). In the wake of the 1997 Great Benin Centenary, the Oba of Benin himself became an active claimant of objects (Plankensteiner 2016: 142). There have been few actual returns; some were the result of sales by the British Museum, others were handed over by private possessors (Box: Returns between 1938 and 2014).

Box: Return requests between 1972 and 2008509

*1972: Nigeria sends a letter to the Austrian embassy in Lagos asking for help in securing the release of Nigerian antiquities from international museums. Austria rejects the request. Two visits of Ekpo Eyo, then director of the National Museum in Lagos, announced for 1973 and 1975, never took place.

*1977: Upon a request of the National Museum of Nigeria to loan the popular Queen Idia ivory pectoral mask the British Museum asked an insurance bond of two million pounds sterling (which Nigeria was unable/unwilling to pay). It declared the mask later too fragile to move and, later, that it never had intended to loan it.

507 In: Plankensteiner (Ed.) 2007: 13
**Early 1980s**: Bilateral negotiations with various countries and the purchase of a number of objects with no result.

*1991*: The Oba of Benin petitioned for the return of Benin treasures with no result.

*1996*: British MP Bernie Grant, supported by the Oba of Benin, submitted a return request to the Director of the Glasgow Museums; this was rejected.

*2000*: Testimony was given by two members of the Benin Court to the House of Commons in London with no result.

*2001*: Nigerian cultural property specialist, Folaryn Shyllon, claimed the objects at a UNESCO conference in London; there were no consequence.

*2002*: Nigerian Parliament passed unanimously a motion, urging the President of the country to request the repatriation of the Benin treasures with no result.

*2007*: Request for the Queen Idia mask was repeated, but nothing happened.

*2007*: The Oba’s request in the catalogue *Benin - Kings and Rituals - Court Art from Nigeria* was turned down.

*2008*: Letter with return request by the Oba to museum in Chicago had no result.

**Box: Returns between 1937 and 2014**

*1937*: Private return by G.M. Miller, son of a member of the Benin expedition, to Akenzua II, Oba at that time, of two coral bead crowns and a coral bead tunic of Oba Ovonramwen, who was arrested in 1897.

*1950s*: Nigeria purchased thirteen out of twenty bronze and brass plaques that the British Museum sold to raise money for the purchase of other African and American objects.

*1957*: Josephine Walker, widow of Captain Herbert Sutherland Walker, who was involved in the capture of Benin, donated a six foot tall Benin ivory tusk to the museum in Jos, Nigeria.

*1972*: British Museum sold a plaque with a mudfish and one with a crocodile to Nigeria.

*2014*: Descendants of Captain H.S. and Mrs. J. Walker bring back a bronze bird and a bronze bell.

*2014*: Museum of Fine Arts, Boston transferred to Nigeria illicitly acquired antiquities, including an early 20th century Benin bronze altar figure stolen from the Benin Palace in 1976.

Shyllon (2007: 7) and Opoku (2013d) warn of exaggerations and untruths in enumerations of return requests and actual returns spread by return-lobby groups. They criticise Nigerian Governments for not seeking the help of UNESCO’s ICRPCP (6.1.), set up to deal with return and restitution and in which Nigeria twice had a seat. Plankensteiner (2016: 150) is surprised that Nigeria recently allowed the export of unique and ancient photographic archives, ‘because no provisions are made by national institutions to preserve it’.

Adrian Mark Walker’s motivation in 2014 to bring back a bird, a bell and part of his grandfather’s diary deserves attention. He was a grandson of Captain and Josephine Walker. In 1937 his grandmother had donated a Benin ivory tusk to the museum in Jos in central Nigeria. According to Walker, his grandfather had been ‘ahead of his time in the civil manner he referred to Benin natives... as gentlemen’. His reason to return the objects was that he realised ‘that if they meant a lot to me because of their connection with my grandfather,

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they must mean a lot more to the people of the place from where they had come’ (in: Layiwola 2014). It is reminiscent of the motivation of the descendants of Dutch Governor-general J.C. Baud, who returned Diponegoro’s ancient pilgrim’s staff to Indonesia (8.1.).

12.3. The dialogue

Barbara Plankensteiner, initiator of the Dialogue at the European side when chief curator of the World Museum in Vienna513, defines the Benin Dialogue as ‘a long-term project’ that began with ‘joint conversations about the aims, needs and fears’ and building ‘trust’.514 When in 2002 the Vienna museum started preparations for the Benin Kings and Rituals exhibition, she met Omotosho Eluyemi, Director-General of Nigeria’s NCMM (National Commission for Museums and Monuments). He ‘was open minded and supported collaboration. The NCMM was willing to loan us objects.’ Her subsequent visit to Nigeria was the first by a Viennese curator. In the years following, a longer-term contact between Western museums and the NCMM was discussed.

In 2006 delegations of the Viennese museum and the ethnological museum in Berlin visited the Benin Court. The two museums and the NCMM agreed that the Vienna museum ‘would invite four delegates from the Oba and give them a podium to express their opinion and pronounce a message from the Oba.’ In 2007 Oba Erediauwa wrote his modest return request in the Preface of the exhibition-catalogue. At the opening his brother warned that their presence was ‘a royal gesture’ that ‘should not be mistaken for the King’s approval or legitimisation of the forceful removal of the items from his palace.... The accent is to keep his demand for the repatriation of this Benin cultural property on World conscience’.515 The removal had been a ‘rape on the colonised people’. Plankensteiner praises the ‘crucial and positive’ role of Eluyemi’s successor, Yusuf Abdallah Usman, and points to the difficult context of Nigeria’s cultural sector: ‘The museum system in Nigeria is hierarchically organized.... Security of the collections and fear for thefts are a major issue. That also has to do with the many disappearances of objects from museums in the 1990s.’

After the exhibition the Vienna museum and NCMM initiated ‘an open dialogue on the accessibility of the art treasures of the Benin Kingdom for the Nigerian public’. This led in 2010 to the signing of a Memorandum of Understanding about mutual support, transfer of knowledge and a commitment to advance the dialogue. Workshops and conferences were held in Vienna, Lagos and Benin City on issues as conservation, restoration and exhibition

512 Sources for the Benin dialogue are interviews with Barbara Plankensteiner (World Museum, Vienna) and Annette Schmidt (National Museum of Ethnology, Leiden), speeches by a representative of the Benin Court and reactions by Nigerian and African critics.
design. A discussion platform was set up. The two parties organised a joint exhibition and research project on African lace in Vienna (2010) and Lagos (2011).

In December 2010 the two-day workshop in Vienna, *New Cultures of Collaboration. Sharing of Collections and Quests for Restitution: the Benin Case* became the real result of the dialogue. Participants were the NCMM, the Benin Court, the ethnological museums of Vienna, Berlin and Stockholm and the British Museum (with the Berlin museum supporter of the 2002 Declaration on the Importance and Value of Universal Museums). Nigerian and Austrian legal experts joined. During the conference Usman tried to convince his European counterparts of Nigeria’s ability to preserve Benin objects, admitting that corruption had to be further attacked. The Lagos museum would get sufficient storage facilities; security personnel would be trained and better equipped. The participants decided to exchange overviews of their Benin collections and to involve more European museums in the dialogue.

During the second workshop, *New Cultures of Collaboration. Sharing of Collections*, also held behind closed doors in October 2011 in Berlin, German programmes for research and scholarships were presented and the Benin collections of the participating museums became virtually accessible. Thanks to an intervention of Nigerian legal expert Folarin Shyllon Nigeria accepted that there was no juridical basis or hard law instrument to support a restitution claim. The Europeans suggested the Nigerian stakeholders should organise the next meeting. It would enable them to study the situation in Nigeria and they wanted to be sure of Nigeria’s interest in the dialogue.

During the third meeting, in February 2013 in Benin City, the NCMM’s Director-General and representatives of the Vienna and Berlin museums presented a *Benin Plan of Action* (Appendix: *Benin Plan of Action*) with measures for better cooperation and for a stronger NCMM. It had no paragraph on return. The NCMM Director-General is keeping the return door open, stating that ‘the return of the Benin treasures is actually an integral part of the dialogue but under a mutual collaborative engagement’. Curators from museums in Stockholm, Dresden, Berlin, Vienna and Leiden, present at the meeting, signed the Plan. The British Museum was not present, as its representative had not received a visa in time. It promised to host the next meeting.

According to Plankensteiner, there were never ‘serious fights or contradictions’. While it was agreed from the start to keep the dialogue ‘on an internal basis’, the third meeting started with a public event with politicians and journalists (Plankensteiner 2016: 147). The Dialogue turned out to be ‘a very political issue in Nigeria.’ The representatives of European museums were said to have misappropriated the Benin objects. Annette Schmidt of the Leiden museum was ‘not prepared for such a press conference and did not say anything at that moment’ but wondered later ‘whether this would be the tone of their input, since in that case a conversation would be useless’.

The Plan of Action evoked sharp reactions in Africa. Nigerian artist/blogger Tajudeen Sowole argued that ‘for the first time’ a claimant country was using the means of dialogue and ‘hosted representatives of possessor museums’ or the ‘keepers of Nigeria’s looted cultural objects’. He considered the dialogue as a ‘fresh strategy’ in the restitution game and compared it with the conference *International Cooperation for the Protection and

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518 Email NCMM DG Yusuf Abdallah Usman, November 14, 2014.
Repatriation of Cultural Heritage in April 2010 in Cairo, organised by Zawi Hawass, who was then the vociferous head of Egypt’s Supreme Council of Antiquities. Nigeria was one of twenty-two participating countries. These ‘agitator countries’, Sowole wrote, had ‘called for a collective approach for restitution’.\(^{519}\) NCMM Director-General Usman admits the difference with the Cairo conference, which ‘was “demanding” for return, whereas the Benin Dialogue ‘is “requesting” return through collaboration and sharing’.\(^{520}\) After careful reading of the Cairo Communiqué\(^{521}\) one finds more focus on reducing the ongoing illicit trade and on new dispute settlement mechanisms than on restitution of colonial cultural objects.

Opoku (2013b; 2013c) criticises the Plan for avoiding the return issue. Its goal ‘is to lead to the display of the objects in Nigeria’ but display is not equal to restitution. Nor are ‘training, internship and scholarships’ a substitute ‘for the precious artefacts that are part of Nigeria’s national treasures’ (Opoku 2013b). He notes that that Westerners do not show ‘regret or remorse for what their predecessors did in violently dispossessing Africans of their cultural artefacts’ (Opoku 2013c) and demands who need the Benin objects more, the people of Benin or the museums in Europe?

Up to the summer of 2016, the British Museum has not announced a fourth meeting. Changes in staff and leadership on several sides seemed to be the cause. Does it mean that the Benin Dialogue has come to a standstill? Plankensteiner admits that ‘at the moment there is a little bit quietness’.\(^{522}\)

12.4. Elements for the model

A relevant issue raised by the Benin Dialogue in relation to a model for negotiating the future of colonial cultural objects is related to its standstill. How should one handle this - as an interruption, or as indication of a silent death? Even if the British Museum will not organise a fourth workshop, the Benin objects will keep their chair at the return table. The lengthiness of the Dutch - Indonesian negotiations in the 1970s shows that such a process has its ups and downs and that one should not give up quickly (8.2.). It is no different here.

A second issue is the absence of a return paragraph in the Plan. It distinguishes the Dialogue from the post-independence bilateral negotiations of the 1970s and 1980s in which returns were an explicit goal. There is agreement about the maldistribution of Benin objects and that the way the objects were acquired would be unacceptable today. It is clear that feelings have been hurt, that a past injustice has not yet been undone and that Western curators feel uneasy about it. To deal with the return issue requires more exchange and trust between stakeholders, a framework for dealing with it and a context with political and public support.

Unlike the negotiations in the 1970s and 1980s, more stakeholders are involved in the Dialogue. That is a third issue. Among the Nigerian stakeholders exists a hierarchy, with

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\(^{520}\) Email NCMM DG Yusuf Abdallah Usman, November 14, 2014.


\(^{522}\) Personal communication with B. Plankensteiner, Hannover, June 22, 2015.
the NCMM in the lead, and the Benin Court second. European stakeholders are museum curators (some can be compared with Australian and Danish colleagues in the 1970s and 1980s), but the commitment of their directors and of the governments of their countries is uncertain.

A fourth point is related to the cooperation between European stakeholders. There is no hierarchy, and it is unclear how to end the impasse after the third meeting. For this and other difficult issues in the dialogue, observes Plankensteiner, there is ‘no adequate framework’. The issue is so complex that ‘it is not solved by individual museums, but depends on a much larger political and legal framework affecting the colonial period’ (Plankensteiner 2016: 151). In the final chapter, such a framework or model is presented. The involvement of museums from all over Europe makes the European potential in return negotiations visible. This raises the question whether scope should be created for a Europe-wide commitment towards the issue of contestable colonial cultural objects.

A fifth and last issue has to do with arguments pro and con return and underlying interests. Some arguments are obvious, others less self-evident or opportunistic. They have to do with legal issues and justice, connectedness with Benin objects and Nigeria’s capacity to preserve cultural heritage. It is also important that Benin is business.

Possessors bring in legal arguments against a return. The Vienna museum cannot return inalienable state property. The Glasgow museums cannot return objects to a private institution like the Benin Kingdom (in: Shyllon 2007: 7). Stockholm curator Östberg’s (2010: 58) reasoned that only after the Hague conferences of 1899 and 1907 - so after the British raid - spoils of war were no longer considered the legitimate property of the victor. How strong are the arguments and what can be behind them? In the case studies of transfers by Denmark to Iceland and Greenland, the inalienability issue was solved through extra legislation. At the 1815 Congress of Vienna the restitution of war booty was dealt with, but the Edo Kingdom was not recognised as a state in the European dominated international law discourse. Legal arguments of possessors can be a hurdle but also seem slightly opportunistic. They are not insoluble and can hide unwillingness to relinquish objects.

Most legal arguments in favour of returns are related to justice and equality. In 2007 in Vienna Prince Edun Akuenza wondered why the royal items could not be returned on the same grounds as those on which Italy had returned the Axum obelisk to Ethiopia and Nazi-looted art had been returned to rightful owners (Annex II, in: Opoku 2012d). The argument that the seizure of the objects had been a great injustice and sign of disrespect towards the Benin rulers and their culture is brought forward by many, including possessors (Jegede 1996; Östberg 2010; Opoku 2012, 2013; Layiwola 2013; NCMM 2014, etc.). Legal arguments in favour can help prepare the ground for returns, but they lack a hard law basis.

Both opponents and proponents of return bring in their connectedness with Benin objects. European museums have a long history with them and have taken care of them. If the Glasgow Museums were to let their items go, it argues, they would limit three million visitors’ understanding of the Beninese culture, British imperialism and the world. The Stockholm Museum of Ethnography cannot miss Benin objects, as these ‘confer status,... attract visitors and are truly magical portals, opening peoples’ eyes to African history’

523 Personal communication with B. Plankensteiner, June 22, 2015.
These arguments echo the 2002 Declaration on the Importance and Value of Universal Museums. That Benin objects are business, is a scarcely hidden interest.

For Beninese, the objects are ‘records of our soul’, produced and cared for by Beninese themselves (Layiwola 2007: 87), a form of ‘pictorial writing’ in a society without written history (Agbontaen-Eghafona 2010: 22), ‘like pages torn of a book’ (Prince Akuenza). In a 2000 memorandum to the British Parliament (in: Opoku 2011a), the Benin royal family stressed their religious and historical importance. A few exceptional Benin treasures - such as the Queen-mother Idia mask, withdrawn from auction by Sotheby in 2010 - have become Pan-African symbols, but are they really so important for Beninese? Östberg (2010: 59) of the Stockholm Museum argues that ‘many of the people of Benin City are critical of the monarchy, which they consider passé, authoritarian, heathen’. Evangelical Christian church members ‘have done away with their family altars and have sold or even burned the loathsome objects on them’. One can contest that the royal Benin treasures were and are part of all Beninese or Nigerian people’s identity, but they do belong to their history. Östberg (2010: 58) compares the Benin loot withvaluably ancient illuminated manuscripts, sculptures of Adriaen de Vries and works by Titian, Michelangelo and Dürer that the Swedish army took from Prague in 1648. He wonders why no one ‘is urging the return of the works stolen from Prague’, and why it is self-evident ‘that the objects from Benin are returned to Benin... is colonialism a phenomenon that is decisively different from other forms of conquest?’ It is a broader question, to which I will return (13.1.).

Western museums doubt Nigeria’s ability to preserve the Benin treasures. Nigerians themselves are uncertain about it too. Does the country have the mentality, the facilities and the personnel to preserve them and to keep them accessible for researchers and public. Ekpo Eyo (1979) recognises this bottleneck implicitly, when listing how his country lost ‘more than half’ of its cultural property - the systematic imposing of foreign religions, gifts either ‘as a mark of hospitality or in exchange of knick-knacks or gewgaws’, sheer plunder, as in the case of the 1897 Benin massacre and via research workers. With ‘gifts’ he also meant the bronze head that Nigeria’s President, General Yakubu Gowon, at the eve of a state-visit in 1973 to Great Britain unexpectedly took from the National Museum in Lagos. He wanted to thank Queen Elizabeth for the British support during the 1967 - 1971 Biafra War. When Eyo, then director of the museum, heard about the President’s plan, he quickly hid some of the most unique items in store. That is more than four decades ago. The NCMM and police point to poverty-stricken and ignorant people and greedy and selfish opportunists (in: ICOM 1995: 142). Nigerian-American art historian Dele Jegede (1996: 135, 137) writes that Nigeria’s National Museum in Lagos still leaks, its personnel is involved in the disappearance of objects and the country is a cultural sieve. He asks African nations to tackle the disorder in their own houses (Jegede 1996: 139). Plankensteiner of the Vienna museum argues that often ‘the neglect of the cultural heritage... by the political elites’ plays a role. The NCMM makes returns and even loans harder by openly accepting that Nigeria respects the international standards for loans of objects that it sets for foreign institutions. Discussing a country’s capability to preserve cultural heritage is sensitive but is to be included in the model presented later (chapter 14). To do it in a balanced way and not to abuse it to hide

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526 Interview B. Plankensteiner (July 21, 2014).
unwillingness to consider returns requires professionalism, trust and commitment from all stakeholders.

Can one get a glimpse now from the willingness of European museums whether in the end they are willing to return some Benin objects? Östberg (2010: 62) is willing to do so and used a loaded expression: ‘We should not return everything’, as museums ‘are not willing to undertake such an “ethnic cleansing” of their collections’ (Östberg 2010: 68). Director Steven Engelsman of the World Museum in Vienna told me in 2011 (as director of the National Ethnological Museum in Leiden) to be ‘reactive’ in return requests and to only undertake action if a formal return request is submitted. Moreover, the British Museum should be ‘the first to move. It counts that at the time they took everything’.  

In conclusion, this case-study offers abundant evidence that the one-way traffic of colonial cultural objects, in this case of Benin objects, was massive and that their confiscation in 1897 was an act of direct violence (burning, looting, and acquisition by force), structural violence (identity damage, destruction of historical sources) and ideological violence (disbelief that Benin artisans were their creators, and that these could be the products of a degenerate culture and race). The early and on-going study of these objects, their visibility in public collections and Nigerian efforts to retrieve them have made some Benin objects iconic in the Africa return debate. That return is not an explicit agenda point in the Benin Dialogue confirms the impasse in the discussion about the future of colonial cultural objects. Except for a few, Western museums and private owners have done little to undo this historical injustice. Naming the return of Benin objects a form of ethnic cleansing of one’s own Western museum or waiting for the British Museum - well-known for its unwillingness to return - as the first to act are not conducive to this. This case study of the Benin Dialogue confirms the need for a framework or model for negotiating the future of colonial cultural objects.

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528 Interview S. Engelsman, March 22, 2011.
Appendix: Benin Plan of Action

Museum professionals in Europe with holdings of Benin art collections* and the National Commission for Museums and Monuments of Nigeria**, a scholar on copyright law*** and representatives of the court of Benin*, met in Benin, Nigeria on the 19th and 20th of February 2013, in continuation of previous meetings in Vienna, Austria and Berlin, Germany and proposed that a Memorandum of Understanding be made between the collaborating institutions on the following issues:

1. Developing a data bank by the collaborating institutions on Benin art collections in their holdings in the form of a digital archive of electronic and hard copies. This data will be submitted and made available to the general public.
2. That all collaborating institutions, upon request, shall have right of producing free of charge photographs of Benin art objects in the collection of collaborating institutions particularly for scholarly purposes.
3. That staff of the collaborating institutions shall have access to Benin Collections in their holdings in accordance with the existing procedures of the institutions.
4. That the National Commission for Museums and Monuments shall improve the university education of its staff working on the collections and on this basis collaborating institutions will assist in securing support for internship and scholarship for postgraduate studies on the Benin collections.
5. That collaborating institutions assist with expertise in the establishment of a conservation laboratory in Nigeria.
6. That collaborating institutions shall assist the National Commission for Museums and Monuments in developing its library and archive facilities.
7. That the National Commission for Museums and Monuments and collaborating museums shall create an enabling environment for an increased exchange of touring/travelling exhibitions for the Benin art objects and other art traditions where the European and Nigerian museum experts will work together in the planning and execution of such exhibitions.
8. That these individual steps are part of the dialogue which goal is to lead to the display of the objects in Nigeria.

The meeting resolved that there is a need at the next meeting to discuss:
The issue of fake Benin art objects on the international art markets and its consequences for museums,
The 1970 UNESCO Convention,
The publication of their inventories.

Yusuf Abdallah Usman
Director-General, National Commission for Museums and Monuments, Nigeria

* to wit: Dr. Michael Barrett and Dr. Lotten Gustafsson-Reinius representing the National Museum of Ethnography of the Museums of World Culture Stockholm, Sweden, Dipl. Ethn. Silvia Dolz representing Museum für Völkerkunde Dresden, Staatliche Ethnographische Sammlungen Sachsen of the Staatliche Kunstsammlungen Dresden, Germany, Dr. Peter Junge representing Ethnologisches Museum-Staatliche Museen zu Berlin, Germany, Dr. Barbara Plankensteiner representing Museum für Völkerkunde, Vienna, Austria, Dr. Annette Schmidt representing the National Museum of Ethnology of the Netherlands

** to wit Yusuf Abdallah Usman, Rosemary Bodam, Peter Odeh and Babatunde Adebiyi

Source: Barbara Plankensteiner, email October 9, 2014.
*** Prof. Folarin Shyllon
**** Prince Edun Egharese Akenzua MFR - Enogie of Obazuwa, Chief Stanley Obamwonyi - Esere of Benin
Part VI  New insights, a new approach

Thanks to several soft law instruments created during recent decades there is more agreement on how to handle colonial human remains and art works that disappeared in the Nazi-period. For these categories the option of repatriation or restitution has become accepted. The 1970 UNESCO Convention has changed how disputes about stolen or smuggled objects can be handled. There is much less agreement about what should be done with objects and collections acquired during the European colonial era. Political, economic and cultural changes in the world, research findings about the contestable nature of colonial acquisitions and the unremitting quest of former colonies for their vanished objects ask for an approach of this neglected aspect of European colonialism. This study therefore has raised three questions:

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?

This Part deduces and elaborates the answers to these questions from the earlier Parts about colonialism and colonial cultural objects, legal aspects, case studies of bilateral negotiations on post-independence returns and successful and failed return examples. First chapter 13 charts the loss of treasures and draws lessons from the way in which other contested categories are being handled. Then the final chapter 14 presents a model of seven phases and four general guidelines for negotiating the future of colonial cultural objects.
Chapter 13
The neglected effect of colonialism

Having started in the 15th century, European colonialism is still having an impact on states and people. As is clear from earlier chapters, this is experienced differently in former colonial possessions than in former metropoles. The first suffered from the severe violence committed by the second. To depict the impact, Galtung’s definition of violence as avoidable insults to basic human needs has been instrumental. So has been his division into direct, structural and cultural violence, whereby I have replaced the last term by ideological violence. Ideological violence serves to justify direct and structural violence (2.2.). The colonialism practised by the powers of the continent where I grew up and learnt to interpret the world, and later also by the United States of America and Japan was full of excessive avoidable insults. In order to expand and strengthen their own position, they subjugated, exploited, enslaved, degraded and dehumanised other powers and peoples. Writers as Anton de Kom, Edward Said, Amartya Sen and Achille Mbembe have helped to better understand how ideological avoidable insults continue to work. Distance, which distinguishes European colonialism from other colonialisms, has worsened ideological violence and ‘othering’, more so in Africa and South America than in Asia and the Northern Atlantic.

13.1. Towards an overview of the colonial one-way traffic

To map the one-way traffic of objects, three steps have been taken - a division in periods of the European colonial era (Part II), a definition of colonial cultural objects (Part I) and a typology of such objects (Part I). The era has been split into three periods - colonial expansion, settler and exploitation colonialism and decolonisation. The periods often overlap each other. The start, length and end of each differ per coloniser and colony. A division in three is not unusual. While decolonisation usually covers the years of the independence struggle and negotiations up to the independence, it has been defined here as the period from the rise of anti-colonial groups and the signs of the disintegration of the European colonial empires often to the present day. As it continues to have an impact, decolonisation is an unresolved conflict, and contestable colonial cultural objects and the need for both the ex-colonised and ex-colonisers to further decolonise their minds are part of this conflict. Moreover, there is continuity between the one-sided flow of objects before
and after the independence of former colonies, only the actors have changed. Conflict researchers have neglected this conflict (5.4.).

The definition of a colonial cultural object as an object of cultural or historical importance acquired without just compensation or involuntarily lost during the European colonial era has been helpful (2.2.). It excludes objects that were exchanged for money or European goods or were specifically produced for European visitors. The definition has created several discussions. One has emerged in the case-study about the Dutch - Indonesian negotiations (Part IV). The Indonesian team of experts had defined three categories of objects that it wanted to retrieve - cultural objects, historical objects and objects of aesthetic value. The definition does not cover the third category. Why? One reason is that aesthetically important objects have rarely figured separately in other negotiations or examples. A second reason is that a discussion about the inclusion of aesthetic objects can be overcome by defining a desired object of great aesthetic value as culturally or historically important.

A second discussion is whether the definition covers objects from countries that were never colonised but suffered under the European colonial yoke of unequal treaties and invasions (2.2.). China and Ethiopia were such countries. Both were confronted by European raids, China in 1860, Ethiopia in 1868, in which they lost cultural and historical relics. It happened again to China around 1900, and both countries faced losses during the 1935 - 1945 World War. Certainly the last ones can also be named Fascist-looted art, an extension of Nazi-looted art. Ethiopia could invoke a hard law instrument, the 1947 Peace Treaty, which stipulated that Italy was to return all treasures taken from the emperor, the church or private persons. While this might enhance the chances of retrieving treasures, I have defined these Chinese and Ethiopian losses also as events during the European colonial era.

A third discussion is how long a colonial cultural object can be claimed? One can still almost touch Nazi- and Fascist-looted art with one’s fingers. Colonial cultural objects are more remote in time. By way of comparison, the art works that the Netherland lost in its independence war against Spain (1568 - 1648), are even farther away. So what does one do, when e.g. the Keeper of the records of Deventer asks Spain to return ancient drawings of this Dutch city that Spanish soldiers took then (Van Beurden, J. 2012: 11), when Belgium approaches France, as it did recently, about two hundred works of mostly Flemish painters, which French revolutionaries took in 1794-1805, or when the Czech government asks Sweden for the return of treasures, lost in 1648? The definition of colonial cultural objects helps. If such an object still has cultural or historical importance, if it is still known, if the descendants of those who lost it miss it, a return claim might receive more understanding than in other cases. In the 1990s the Chinese authorities never came to take up precious porcelain objects, seized from smugglers by the customs of the Port of Rotterdam. Apparently, their cultural and historical value did not appeal sufficiently to them (Van Beurden, J. 2001: 47). The same authorities have outspoken policies for retrieving cultural relics lost between 1860 and 1945.

From the start of the research, examples of objects disappearing have been collected and mostly put in boxes throughout the book. As they quickly increased in number, they have been divided into five categories - gifts to colonial administrators and institutions, objects acquired during private expeditions, objects acquired during military expeditions, missionary

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530 Belgian national daily De Standaard, January 22, 2016; Dutch national daily Trouw, January 25, 2016.
collecting, and archives (2.3.). In naming them, an eye has been kept on the ‘how’ of their acquisition, on whether colonial actors acquired objects by purchase or barter, in accordance with the laws of the time, but at an unequal level, or in violation of contemporary laws. A distinction has also been made between public institutions that acquired on behalf of the colonial authorities and private persons or institutions.

Gifts to colonial administrators and institutions
For many local rulers presenting gifts to foreign visitors was part of their culture. European traders like those of the VOC often carried gifts with them for local rulers. Some colonial administrators were also known for making gifts. At the beginning of the first period - colonial expansion - the exchange of gifts could occur at fairly equal level. From the moment colonial powers wanted to dominate and impose their will on local rulers, gifts from these rulers became an expression of subjugation, and those from colonial administrators were rewards for loyalty. Offering of gifts by local rulers reached a peak in the second period, that of settler and exploitation colonialism (4.1.). Evidence of gifts is rarer in the first part of the decolonisation period. After independence, gifts became a means of cultural diplomacy between two states.

Objects acquired during private expeditions
When the demand of private collectors and newly erected museums increased, collecting became more profitable and special expeditions were organised. In places like Central America, Congo Free State and the Dutch East Indies, their organisers had to respect regulations of the colonial administrators. In places like Papua New Guinea in the phase of colonial expansion, German enterprises collected autonomously. In South America the drain of colonial cultural objects through expeditions continued after the independence of colonies.

In many expeditions pillage and cheating, justified by ideological violence, were the dominant acquisition mode; sometimes the local inhabitants were involved in or benefitted from exchanges. Expedition leaders are said to be have been driven by the salvage paradigm, but greed and profit were important motives too. They brought tens of thousands of objects to Europe and the USA. Sometimes museums received so many that they did not know how to handle them (4.1.). Most objects are still in those museums, although the history of their forceful acquisition is known. The acquisition of objects from West Africa and Ethiopia during the 1931 - 1933 Dakar - Djibouti Expedition is an example (5.1.). The freedom of movement for collectors and the many expeditions in the Dun Huang area in China around 1900 by collectors from six powerful countries are evidence of a European dimension of colonial collecting.

The term private expeditions raises dilemmas. An expedition is usually understood to be a journey by a group of people with a clear purpose. It is a joint, focussed effort. In the early colonial period, collecting by individual colonial officials, army men and merchants occurred mostly on a small and scattered scale; it was not planned. Yet, to keep the categorisation uncluttered, a special category of ‘objects acquired by individuals’ has not been included. The other dilemma is that expeditions took place in certain cooperation with state museums in the metropole; they were examples of public-private cooperation - think of the expeditions on Cyprus and in Dun Huang (4.1.), the Dakar - Djibouti Expedition (5.1.), German expeditions in German New Guinea (11.1.) or Groenevelt’s acquisitions in Papua
The cooperation could vary from rather direct, when an expedition collected exclusively for one museum, to rather loose, when expeditions members approached several museums with their finds afterwards.

**Objects acquired during military expeditions**

Violent conflicts to expand territory, to subjugate local rulers or keep them subjugated occurred massively in all three periods. Victory in a conflict often meant confiscation of the symbols of the defeated ruler - his flag, weapons, treasures - and pillaging his palace grounds. This resulted in vast quantities of war booty. Relatively young colonial powers like Italy and Japan halfway through the 20th century collected war booty, even from states that were member of the League of Nations. As the Boxes about war booty in each period show (3.1.; 4.1.; 5.1.), many objects can be found in public and private collections in the countries of the former colonisers. Some are showpieces in museums; others linger in dusty depots.

New findings about provenance research have led to the insight that many more objects arrived in collections as war booty than their possessors were aware of or wanted to admit. Throughout the book several examples of this were found, e.g. in collections of Dutch elite families (8.1.) and in the British Museum (4.1.).

**Missionary collecting**

Collecting by missionaries was extensive. They committed large-scale iconoclasm. Not infrequently local headmen offered a helping hand in the destruction of objects; they had their own interest in turning to Christianity. The missionaries’ freedom of movement and the distribution of confiscated objects throughout Europe increased the European dimension of colonial collecting. In the first period of colonialism the destruction of indigenous religious objects must have outweighed their confiscation, examples being the destruction of five hundred Aztec temples and twenty thousand objects and of thousands of Maya religious objects and tens of codices in the 16th century (3.1.). In one instance - that of the confiscation of Roman Catholic objects by Danish Lutherans in Iceland between 1550 and 1570 - Christian missionaries attacked other Christians (10.2.). In most other instances non-Christian religions were the targets. In the second half of the 19th century, in the period of settler and exploitation colonialism, collecting by missionary orders reached its peak. They needed the objects for educating their own missionaries and raising funds at home for their work. The Swedish Missionary Society for instance, gathered ten thousand objects from DR Congo that can be seen in museums in Stockholm and Gothenburg (9.1.). Collecting diminished during the decolonisation.

**Archives**

Little evidence was found of explicit claims of former colonies of archival materials. Archives could haunt the background during negotiations, a clear example being archival materials in the Tervuren Museum on precious minerals in DR Congo (9.2.). Only between the Netherlands on the one hand, and Indonesia and Suriname on the other did archives play an explicit role and agreements were reached on them (7.3.; 2.3.5.). In spite of their minor role, the economic and political weight of certain archives and the incriminating information they could contain (reason for the British to order the destruction of archives in over twenty colonial possessions) have made their inclusion in the typology necessary.
The overview has yielded more findings. One is that ideological violence led to more rough and random confiscation of objects in South America and Africa than in Asia. Colonial actors were eager to acquire objects associated with Buddhism and Hinduism but despised religious objects belonging to indigenous religions in Africa and South America. In the latter continent they were more interested in the precious metals - gold and silver - of many objects than in their meaning for subjugated people.

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 return of colonial cultural objects. Their role deserves to be taken out of oblivion and shows that return issues ought to be part of their professional ethics.

The third finding has to do with Europe. While most studies focus on bilateral, one-country or one object category issues, it was found that the acquisition of many colonial cultural objects and the position, taken by colonisers in return negotiations have European traits. European countries worked together to obstruct the working of the 1970 UNESCO Convention and the return of colonial cultural objects. These European traits deserve more research and make one wonder whether there should be a Europe-wide commitment or guideline on how to approach matters of colonial cultural objects.

13.2. Overview of returns so far

In the course of time, colonial cultural objects have been going back to their place of origin. For this movement the umbrella term return has been used here. Although internationally accepted as open and neutral, the term worried former colonial powers for fear of being associated with guilt and inappropriate acquisitions. These powers pressed for the term transfer in agreements. I have stuck to return as it opens avenues for solutions in negotiations that serve deeper goals and can help promote restoration of relations, reconciliation and healing, or a source-country’s integrity (2.1.).

Most literature mentions three sets of negotiations for the redefinition of post-independence cultural relations and the return of objects - those between the Netherlands and Indonesia (chapter 7 and 8), Belgium and DR Congo (chapter 9) and Australia and Papua New Guinea (chapter 11). In all a demonstrable gap remained between the longing of former colonies for their cultural and historical treasures and the willingness of former colonisers to meet this longing. Both the Netherlands and Belgium in the 1970s claimed to have been generous returners, but their return practice was meagre (8.2.; 9.2.). The Netherlands did not keep its promise in the 1975 Joint Recommendations to contact private possessors of cultural and historical treasures to return these objects and search for objects such as those that had belonged to Prince Diponegoro. The Museum Volkenkunde in Leiden minimised the number of items it had to hand over. The number of objects that Belgium selected in the Tervuren Museum differed greatly from what DR Congo had asked for. Australia showed its internal dissension on return issues by returning generously some objects and collections to Papua New Guinea, while keeping the big Murray collection and part of the MacGregor collection. Yet it is public knowledge that these two colonial officials had stipulated that
Australia would offer their collections some sort of a safe haven as long as this did not exist in Port Moresby and to return them if Papua New Guinea had sufficient facilities (11.1).

Two more sets of bilateral negotiations have been added: one between Denmark and Iceland, the other between Denmark and Greenland (chapter 10). In these the gap between the longings of the two former colonies and Denmark's willingness was somewhat smaller. The two agreements deserve to be more generally known. The hand-over to Iceland is instructive in a double sense. Since part of the ancient Icelandic manuscripts was private property, the Danish government prepared special legislation to expropriate them. The principle of inalienability is more often put forward against claims on cultural objects, also because objects are covered by a country's legislation on national cultural heritage. It was not the only instance of solving the inalienability issue. The return by the Netherlands of a Maori head was made possible by declaring the title of the community-of-origin of more weight than the Dutch property title (6.2.1.). The Danish-Icelandic agreement was also instructive, as it shows the impact of distance: geographical and cultural distance played a smaller role than in many other cases. Distance in the 15th and following centuries differs however, from what it is today in the global village.

Whereas, with the exception of the Benin Dialogue (chapter 12), there have been no new bilateral negotiations about cultural relations and the return of objects after the 1980s, incidental returns of colonial cultural objects have always occurred. Throughout the book dozens of them have been mentioned (1.2.; 2.3.5.; 3.1.; 5.2.; all case study chapters). Their returners were driven by a wide variety of motives. One instance of a return-on-the-spot was found - that of the silver and gold reliquary of a tooth of the Buddha from Kandy's main temple, confiscated by Dutch soldiers in 1765 (3.1.). There might have been more such instances. There are examples of descendants of colonial officials and military who had kept war booty from Ghana and Nigeria or regalia from Indonesia for themselves, who felt that the objects were better at home in the country-of-origin than in their own houses. It has occurred that a colonial power, one of its museums or nationals gave a present on the occasion of a colony's independence. Not infrequently incidental returns were motivated by economic interests. France excelled in this, with returns of Ottoman era documents to Algeria, ancient manuscripts to South Korea and a rat and a rabbit of Summer Palace zodiac to China. A longing to undo injustice played a role, when Germany handed over its part of the Great Zimbabwe Bird (1.2). One instance was found of a missionary order handing over objects to regional museums on the Indonesian islands, whence they came, as it became too difficult to store them, and because 'after all, they are theirs' (Van Beurden, J. 2012: 38). Here chances are being missed, as more orders wonder what to do with colonial collections, while there is an upsurge of regional museums in former colonies that have no older objects. In 1939 South-Asian Buddhist immigrants successfully pressured for the return of relics by museums in London. Sometimes a heritage institution wanted to get rid of a superfluous collection. The Brooklyn Museum in New York returning archaeological artefacts to Costa Rica (1.2.), and the Nusantara Museum in Delft, the Netherlands, which in vain offered remnants of its collection to Indonesia, are examples. Below two examples are presented of former Dutch colonies that rejected a Dutch return offer, one was rejected by Suriname, the other by Indonesia. They illustrate old and new sensitivities that can cause a refusal (Box: Two return-offers rejected).
Box: Two return offers rejected

Marron in Suriname refuse ceremonial chair
Johannes King (1830 - 1898) and his half-brother Noah Adrai were Maroons of Suriname.\textsuperscript{531} Noah was a headman who adhered to Maroon cults. Johannes was a Moravian missionary. When Noah died, Johannes was to be the new headman. When he renounced the position, a headman’s chair and some other objects from his legacy ended up with a company in Paramaribo run by the Moravian Church. Some of these were passed to the museum of the church in Herrnhut near Dresden, Germany. Upon Maroon requests, in 2006 the museum sent a copy of the chair to a descendant of the Maroon headman in Suriname. When this descendant soon died, his relatives blamed the chair for being cursed and did not want to keep it. The Maroon diaspora in the city of Tilburg in the Netherlands is less bothered by the curse and has set up a Foundation that can preserve the chair.\textsuperscript{532}

Indonesia rejects return offer
After the closure of the Museum Nusantara in Delft, the Netherlands in 2013, a Dutch committee prepared the de-accession of its largely Indonesian collection. Although the Netherlands Museum Association’s rules required that the committee checked all Dutch museums for their interest, in this case permission was granted to approach ethnological museums only. These selected and kept several thousands. For the remaining fourteen thousand objects, the committee asked the National Museum in Jakarta to distribute them inside Indonesia. The committee did not approach regional museums in the archipelago, as it considered this paternalistic in regard to the National Museum. It put pressure on the de-accessioning, since the Delft municipality subsidised the storage of the collection for only one year.\textsuperscript{533}

Initially the Director-general of Culture of Indonesia’s Culture and Elementary and Secondary Education Ministry reacted positively and the return of the fourteen thousand objects was planned for April 2016. The Jakarta Post suggested preserving them in a new warehouse in the Indonesian capital. A reader suggested transferring objects connected to the history of Yogyakarta to the Sultan’s museum there.\textsuperscript{534} With the appointment of a new Director-general in Jakarta however, the situation changed. He informed the Dutch that they did not wish to accept the objects.\textsuperscript{535} Although the June 2016 press release of the Dutch committee does not mention the reasons for Indonesia’s refusal, it is possible that Indonesia had difficulty accepting that museums in the Netherlands were allowed to select the best items, whereas the National Museum in Jakarta had to accept the remaining ones, and this also en bloc.\textsuperscript{536} The time pressure might have impeded making the necessary preparations.

\textsuperscript{531} Surinamese Maroons are descendants of Central and West-African enslaved who escaped from Dutch slave owners, set up communities in remote areas and in the 1760s concluded peace agreements with the Dutch.
\textsuperscript{535} http://nusantara-delft.weebly.com/ (July 13, 2016)
\textsuperscript{536} Personal communication with two Dutch insiders (July 06, 2016).
All in all, the many incidental returns do not amount to more than a dripping tap and it is hard to discover patterns in them. They have helped to improve relations between the stakeholders involved. Often they were a means in the cultural diplomacy of former colonisers.

This overview of returns has yielded information about the attitude towards return issues of stakeholders involved in colonial cultural objects. The following can be distinguished:

   The European and North American signatories avoid discussions about objects earlier acquired, including colonial ones, but promise to act ethically in the acquisition of new ones. Through the years some signatories to the Declaration have become less outspoken.537

2. Museums and private institutions and collectors in Europe, the USA and Japan with more understanding for the position and the interests of former colonies.
   My impression is that this understanding is stronger among curators, who cooperate with their colleagues in former colonies, than among directors of museums and institutions. To chart this change precisely requires academic research. There is no clarity about the position that private collectors take. Few openly show understanding for the position and interests of former colonies and return objects. Most stick to what they regard as their responsibility for their collection and do not question their property rights. Much more provenance research is needed. Heritage authorities and institutions can point private possessors to the return option.

3. Museums, heritage professionals and civil society organisations in former colonies.
   Some do not bother or they argue that colonial cultural objects are better off where they are now. Others ask the present possessors to openly recognise a common paternity of objects that they acquired under dubious, colonial circumstances.538 Others have given up the hope that they will get back objects.539

4. Private collectors in former colonies and China.
   As they are prepared to buy colonial cultural objects, they play an increasingly important role.

13.3. Returns and other categories of contested objects

Dealing with other categories of contested objects, notably Nazi and Fascist-looted art and colonial human remains, contributes to discussing colonial cultural objects (6.2.). Of the differences between these categories that were mentioned, one is emphasised here - their relationship with history. Nazi and Fascist-looted art works are defined by history and concern all art works confiscated by the Nazi’s and Fascists during a certain number of years.

537 The Rijksmuseum in Amsterdam declared in 2011 to remain against general rules for return but did not exclude the possibility of a return of e.g. a Borobudur Buddha head (Van Beurden J. 2012: 58).
538 Email Silvie Memel Kassi, Musée des Civilisations, Abidjan, December 8, 2015.
539 Off-the-record communication with some museum directors in Africa and Asia.
Such works could be any art work, including colonial cultural objects. Content did not matter, only provenance. For objects of cultural and historical importance taken without just compensation or involuntarily lost in the European colonial era, contents matters much. Most objects concerned are expressions of certain religions and cultures. Colonial human remains are a better comparison with colonial cultural objects. They were removed in the same era. Doubts about and protests against collecting human remains began as early as the beginning of the 20th century, and quickly intensified after the Nazi racial policies had become known.

A similarity between the three categories of contested objects is that many nowadays consider their collecting an act of injustice. Two examples have been uncovered of contestable objects that can be defined both as colonial cultural objects and as Nazi/Fascist-looted objects - those confiscated by Italy and Italians from the Debre Libanos monastery in Ethiopia in 1937 and by Japanese from several places in China between 1937 and 1945 (6.2.2.). In my view, stakeholders in claims for colonial cultural objects can learn from the standards set for dealing with Nazi-looted art works.

The translation of the 1998 Washington Conference Principles on Nazi-looted art (6.2.2.; 14.2) into principles for dealing with colonial cultural and historical objects offers the sort of embedding that is lacking in the Benin Dialogue. They ask for commitment and understanding that evidence is a major problem, and help to avoid the legal path and to look for non-judicial alternative dispute resolution mechanisms. So far, these are rarely used in disputes about colonial cultural objects. The final chapter will elaborate this.

All in all, the conclusion is that there has been a massive one-way flow and maldistribution of cultural and historical objects in the European colonial area from the colonial possessions to Europe. This book does not offer much more than the beginning of an overview. To make it more complete, more provenance research is needed. Compared to what is now known about this amount, few colonial cultural objects have been returned. Four colonial powers agreed upon return matters after the independence of their colonies, but their generosity was rather different. In my view, the returns by Denmark to Iceland and to Greenland, those by descendants of former colonial officials and military and the one by a missionary order deserve to be followed by others. There have been many incidental returns of objects, but it is hard to discover general lines in them. What strikes one in most returns is that they are not about the objects, but they are a means in the cultural diplomacy of the returning country, and sometimes also in that of the recipient country. The ways of dealing with other categories of contested objects offer lessons for dealing with colonial cultural objects. These lessons are elaborated in the next and final chapter.
Chapter 14
Model for negotiating the future of colonial cultural objects

As long as there have been human beings, there have been conflicts and ways to deal with them. At best conflicts strengthen a relationship; at worst they cause distance and destruction. In the case studies and examples of successful and failed returns I have not found systematic approaches of the conflicts about the colonial cultural objects concerned. Some stakeholders, such as those in the Benin Dialogue, showed more sensitivity and positive intentions in dealing with such disputes than others (12.3.). The Dutch - Indonesian case study was concluded with a quest for elements for a model for other such bilateral negotiations (8.2.). One of these elements was the time that it takes to come to a solution. Socialising between stakeholders and insight into the internal dynamics of each stakeholder was another. Were stakeholders after a compromise or consensus, in which the needs of all were taken into account? From this and the other examples it has become evident that a minimum commitment is required from all stakeholders. (In)equality and hidden interests have to be considered. This book has shown that provenance issues, stakeholders, the contested or disputed objects, and the context differ per case, and that therefore for each a specific, thought out approach is required.

With the maturing of the discipline of conflict studies and the Internet revolution, the number of conflict resolution models has become vertiginous (5.4.). This book does not add another model. The one presented here is based upon other scholars and practitioners’ findings and upon findings in the case studies in Part IV and V. From Parker-Follett the integration of the wishes of both parties into the final solution as the aim of the model is adopted. Adopted are Lewis’ plea for the inclusion of the wisdom of the minority into the majority’s decision and Malan and Zeleke’s emphasis on reconciliation and sustainability of the community in conflict resolution. Some guidelines are adopted from the Harvard Program on Negotiation, notably that of focussing on underlying interests. Ramsbotham et.al.’s cosmopolitan conflict resolution with both state and non-state stakeholders is used. The model presented below remains fairly open and offers room for case-specific circumstances. It proposes to split the process into seven phases and four general guidelines.

14.1. The seven phases

None of the phases that define a negotiation process is new, except perhaps Phase 0. It has been included to establish context and preconditions, under which negotiations have a chance to succeed. The others are about the formal start, the definition of the conflict, the
number of stakeholders, the need to include discussions of unspoken assumptions, including harmed feelings, and the option of more rounds.

**Phase 0: Facilitating factors**

In most case studies varying factors were identified that helped to create an atmosphere conducive to negotiations. One was the anti-colonial wind. Although the 1970 UNESCO Convention had no retroactivity clause, UN Resolutions supported return claims. From 1978 onwards, the help could be invoked of the ICPRCP (Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries-of-origin or its Restitution in case of Illicit Appropriation). The longing for returns was not restricted to the leadership of the countries but had broader public and media support. Such support influences negotiators. In most instances return requests had been voiced long before the start of negotiations.

The wind was strengthened by heritage officials, the media, groups and others in all countries of the former colonisers. In the Netherlands and Belgium the media questioned the presence of colonial cultural objects in these countries. Heritage officials in Denmark and Australia gave former colonies a helping hand. Media in Indonesia and Nigeria voice(d) return claims.

In several instances, governments and the royalty of a country returned objects prior to the start of negotiations. The Netherlands Government returned a palm-leaf manuscript and the Dutch royal family donated two paintings to Indonesia. The Danish Queen handed back 19th century watercolour paintings to Greenland. The Queensland museum handed over a drum to Papua New Guinea.

That Denmark and Australia had to come to terms with their internal colonialism influenced their dealing with objects, acquired during external colonialism. Denmark had to do with one independent country (Iceland) and two autonomous countries (Greenland and Faroe Islands). Its experience with the transfer to Iceland paved the way for smooth negotiations with Greenland. Australia had been colonised by Great Britain and itself twice retrieved colonial cultural objects (11.2.). It had internally colonised Aboriginal peoples and been external coloniser of Papua New Guinea. Aboriginal peoples and Papua New Guinea’s original inhabitants have common ancestors.

The taking office of progressive governments in Denmark, the Netherlands and Australia helped to bring about a breakthrough in negotiations with former colonies. Denmark supported independence movements in tropical colonies of other European colonial powers.

What stimulated the Benin Dialogue of the 2010s was an increasingly shared insight that the 1897 seizure of the Benin treasures and the chaos in their distribution over public and private collections in the Western world would be unacceptable today. A factor that influenced returns to Indonesia and to the Benin Court in Nigeria by non-state owners was the realisation that the former colony needed them more than they themselves.

Factors that help create an atmosphere conducive for negotiations rarely figure in conflict resolution models. That is why they have been called Phase 0: Facilitating factors.

**Phase 1: Inviting the Other Party**

To lift negotiations to a formal level, one stakeholder has to take the initiative and formally invite the other. The other can ignore claims expressed via the media, but not if they come via official channels. Usually it was the claiming party - Indonesia, Congo, Iceland - that made
the invitation. Papua New Guinea, Greenland and Nigeria were helped by the encouragement of heritage officials from the possessor’s side. In Australia an informal network of critical museum officials helped Papua New Guinea. The head of the Ethnographic Department of Denmark’s National Museum surprised Greenlandic colleagues with the suggestion to make return claims. The proposal for the Benin Dialogue came from a curator of a Western museum and the NCMM Director-General.

Phase 2: Preparation by the Two Parties

Stakeholders have to define the contestation that lies at the basis of their dispute about a colonial cultural object or a specific collection and to decide about procedures, places to meet, language, etc.

Questions in each case study were - what is the conflict about, and which objects are at stake? Most inviting parties knew what they wanted and which objects they were after. Indonesia’s team of experts had a list of ten thousand objects in Dutch public museums. Congo asked for the return of two hundred highly-valued objects of a travelling exhibition. Iceland wanted ancient manuscripts once taken to Copenhagen. For Greenland and Denmark the list of archaeological and other materials to be negotiated was no major bottleneck. Papua New Guinea asked for the repatriation of the MacGregor and Murray collections. Return was not defined as an explicit goal of the Benin Dialogue.

Although most negotiations were a government-to-government affair, delegations were composed of officials with different backgrounds. Those of the Dutch team of experts had divergent interests. One of them, the director of the museum that had to relinquish the most objects, showed a stronger anti-return attitude than other members. On the Indonesian side, the Minister of Education and Culture brushed aside his team’s extensive return claims. The willingness of Belgian ministers to return objects fluctuated, while the director of the Tervuren Museum operated the brake.

In the Benin Dialogue, stakeholders on the Nigerian side are the state and a private one, the Benin Court. The European stakeholders are a semi-open group of museum curators in several countries with different commitments. For crucial decisions they have to consult their directors and get their approval, and in the case of a return, the approval of their government authorities. The Dialogue gives negotiations about the future of colonial cultural objects a European dimension and raises the question whether a European level initiative is needed to deal with the issue of contestable colonial cultural acquisitions.

The explicit or implicit sharing of values can help negotiations. Denmark and its two colonies had certain values in common, although the commonality with Greenland had resulted from isolating the colony and educating Greenlandic experts in Denmark. Below the commonality was a hidden hierarchy. The participants of the Benin Dialogue were driven by the common conviction that a confiscation of objects, as had occurred in 1897 in Benin City, would be unacceptable nowadays.

Phase 3: Approach of the Other Stakeholders

In the case studies of the 1970s and 1980s the only stakeholders were states. There was no room for non-state outsiders such as representatives of traditional courts or certain minorities. Thus they saw their loyalty to the colonial administration unrewarded. By being the only stakeholder, a central government demonstrated itself to be a state with a capable administration, equal to the former coloniser.
The biographies of most objects show a multiplicity of institutions and people with a strong relationship to them - their makers, the first and subsequent local and trans-ocean possessors, the people and institutions that have taken care of them, and their descendants and successors. Nowadays the increasing space for regional and local initiatives in many former colonies offers the possibility of including other stakeholders. From the beginning representatives of the Benin Court have been a stakeholder in the Benin Dialogue. Their attitude has been critical and constructive. A British private citizen did not return Benin objects inherited from his grandfather to the Nigerian state, but to the Benin Court.

Involving more stakeholders can strengthen the dynamics in negotiations and help to bring a solution within reach. It can also obstruct progress. On the European side in the Benin Dialogue, the slowest of the participating museums decides the speed of the process.

In the Benin Dialogue legal experts are involved. They attend meetings and offer advice. A Nigerian legal expert played an important role by making his countrymen accept that there is no legal base for restitution of the Benin treasures. Experts are not stakeholders. They should guard their independence and abstain from a role in the decision-making phase of the negotiations.

Phase 4: First Round of Decision-making
The case studies offer clues to the demarcation of rounds in negotiations. In the quarter century that the Netherlands and Indonesia needed, three rounds have been distinguished. For Belgium and Congo the years 1960 - 1969, from the independence until the eve of the negotiations, can be defined as the first round. For Greenland and Denmark the first round started in 1981, when Greenland got Home Rule. It was concluded in 1983 when the two sides agreed. Papua New Guinea and Australia began their first round in 1972. It lasted until 1977 with the transfer of seventeen objects. It would not come as a surprise, if later the first three Benin Dialogue meetings are defined as round one, with the Benin Plan of Action as the outcome.

All in all, if one round of talks is insufficient, one should not despair that a solution is off the map.

Phase 5: Deepening
That more rounds are needed can be due to assumptions about the other stakeholder - mistrust, capability to take care of objects - (hidden) economic interests, the need for critical provenance research and other factors. They are often emotionally loaded and related to harm or lack of recognition. Bringing these factors from the unspoken into the open and discussing them can occur in this phase. Since the unspoken can be varied and hard to grasp, it has to be handled with care. Often the help of a specialist can be better invoked to encourage the deepening.

Deepening often occurs in an unorganised manner and in practice is not restricted to one phase. In several instances it occurred in Phase 0 (Facilitating factors) or in the first round. In the Dutch - Indonesian and Belgian - Congolese cases deepening went on all the time, though not systematically. In the Danish - Icelandic negotiations, deepening occurred especially inside one stakeholder, Denmark, when it went through an internal process of becoming adjusted to the idea of a transfer. There was little need for deepening during the negotiations between Australia and Papua New Guinea, and Denmark and Greenland. Deepening in the Benin Dialogue occurred in the statements of representatives of the Benin
Court in Vienna in 2007, so before the Dialogue’s start and also during the three meetings. Because of its spontaneous character, some stakeholders felt taken by surprise. (The unspoken will be dealt with further in general guideline 4.)

Phase 6: Second and Subsequent Rounds of Decision-making

One or more additional rounds of decision-making can be necessary, certainly if stakeholders have a complicated history and strongly opposed interests, as was the case in the Dutch - Indonesian and Belgian - Congolese negotiations. It was also the case for Denmark and Iceland when it took ten years before the contours of an agreement began to emerge. The Benin Dialogue is still young and probably in need of a framework or general guidelines.

14.2. The four general guidelines

Four guidelines have surfaced. Dealing with disputes about colonial cultural objects is deliberative and time-consuming. The commitment of stakeholders is a basic premise; it is needed to overcome any sabotage of the process and achieve results. The asymmetry of colonialism and the disputes at stake require that issues of (in)equality are faced. Focussing on and knowledge of hidden, underlying interests is crucial.

1. Take your time
The Dutch - Indonesian (1949 - 1975) and the Danish - Icelandic (1947 - 1971) negotiations lasted long. The Netherlands and Indonesia began in 1949 and started the third and final round in 1975, when Joint Recommendations could be agreed. The lengthiness resulted from the stiff relationship between President Sukarno and the Dutch authorities, the widespread atrocities during the last years, irritations about the holding of Papua and the Dutch anger about human rights violations in Indonesia. Denmark and Iceland had been in different camps in the Second World War. With the installation of a Danish commission to study returns to Iceland in 1947, the first round began. With the coming of a new government in Copenhagen in 1959, which asked Iceland for a wish list, the second round started. The process was finalised in 1971, when an agreement was signed. The negotiations between Belgium and Congo took a decade. They started in 1960 after the transfer of sovereignty. With the foundation of Greenland’s National Museum in 1966, the return issue came up, but until 1984 Greenland was kept in the Danish waiting room. Talks between Papua New Guinea and Australia began in 1972, three years before independence. Because of their proximity and the attitude of Australian museum curators, a deal was made within five years. The warming up for the Benin Dialogue began in 2002 and the three meetings and 2013 Benin Plan of Action are not necessarily the end. More time is needed. Trust-building and communication remain key issues.

That return negotiations are not a quick-fix has been shown by Indonesia’s refusal to accept the remaining part of the collection of the defunct Nusantara Museum in Delft (8.2.). That such negotiations are deliberative is perhaps more accepted in Asia and Africa than in Europe. Part of Indonesia’s concept of musyawarah-mufakat and of Africa’s Ubuntu idea is
talking until stakeholders reach consensus. To prevent negotiations lasting an unnecessarily long time another guideline is needed.

2. **Show commitment**

The claiming stakeholders in the case studies and the possessors Denmark (in its negotiations with Greenland) and Australia were eager to start negotiations. For the Netherlands, Belgium and Denmark (in the case of the negotiations with Iceland) they had become unavoidable. The commitment among Western museums in the Benin Dialogue is serious but limited, as no Western museum directors are involved. Information exchange and capacity strengthening of Nigeria’s heritage infrastructure outweigh return options. A framework for how to deal with a Dialogue like this one is lacking.

Negotiating the future of colonial cultural objects requires from all stakeholders the commitment to bring it to a positive conclusion. Earlier (6.2.2.) nine Principles for dealing with colonial and cultural objects, an adaptation of the 1998 Washington Conference Principles for Dealing with Nazi-Looted art was given. The nine Principles help to define commitment.

3. **Address (in)equality**

The stakeholders in the case studies of the 1970s and 1980s were internationally recognised states with equal positions. Did this equality also exist *de facto*? Did they have equal chances and equal capabilities? The one state was a possessor of objects, the other claiming them. The one was an experienced international negotiator, the other a relative new-comer. Their unresolved conflict was asymmetric. Between key players there could be a hidden hierarchy.

Indonesia’s team of experts began with a restitution claim of ten thousand objects. Congo filed a claim with Belgium for the co-ownership of the Tervuren Museum and the return of two hundred objects of a travelling exhibition. Few Congolese had been educated for manning the cultural heritage sector. High cultural positions in DR Congo, also after independence, were filled by Belgians, Tervuren Museum-director Lucien Cahen being one of them. It brought him close to Congolese voices, but his main job was in the Tervuren Museum. Both Cahen and his Leiden colleague Pott left a strong mark on the negotiations and provided arguments for not meeting the wishes of the former colonies.

Did equality increase in cases where the geographical and cultural distance was smaller? One can doubt this in the case of Greenland, which Denmark placed on the lowest rung of the civilisation ladder in the colonial era (10.1.). There was more equality between Denmark and Iceland because of their shared religion and the Danish respect for Iceland’s ancient sagas. In the delegation that negotiated with Australia in the early 1970s, there were no Papua New Guinean nationals. The Australian National Trust selected the objects to be repatriated, although this was endorsed by its Papuan counterparts.

In the Benin Dialogue stakeholders intend to discuss frankly and openly, but while the European curators are well-educated specialists, who keep developing their skills, their colleagues in Nigeria face more bureaucracy and there staff changes every few years. All this creates inequality.

Equality and inequality are delicate. One can invoke the capabilities approach of Sen and Nussbaum to handle it (6.2.2.). This approach, as remarked earlier, can also be used to strengthen the capabilities of possessing stakeholders to un-dramatise their possession of objects.
4. Address underlying interests

Hidden or underlying interests influence stakeholders sometimes more than open and obvious ones. It is therefore crucial to understand what one’s own agendas and interests and those of the others are. By their nature it is difficult to put a finger on them. Part IV and V offered several examples that influenced bilateral return negotiations. Former colonies wanted to be seen as equal to the former coloniser. This was behind Indonesia’s dislike of the Dutch patronising of the strengthening of its museum and archival infrastructure and behind Congo’s effort to retrieve all two hundred objects that had travelled through the USA. Congo accepted the meagre and almost symbolic return agreement with Belgium, as it proved for both a local and an international audience that the country had the ability to claim objects.

Behind a claim for war booty can be a former colony’s longing to point to injustice and to be seen as rightful owner. Indonesia had an extensive collection of Lombok treasures, as many had remained in the museum of the Batavian Society or had been sent back earlier, but their transfer in 1978 portrayed the Netherlands as a country that had committed injustice and recognised Indonesia as owner of this gold and silver. A Dutch hidden interest in the transfer was that the remaining treasures would be ‘cleared’ and become undisputed.

As former colonisers wanted to minimise returns, they practiced giving in order to keep, the giving occurred openly, the keeping was a hidden agenda. The transfer of the ancient Prajñāparamita stone statue enabled Museum Volkenkunde in Leiden to keep four other important Hindu-Javanese statues. The return of 35,000 archaeological objects to Greenland and of 1,800 ancient manuscripts to Iceland, paved the way for keeping extensive Greenlandic and Icelandic collections in Denmark.

Returns function as part of a country’s cultural diplomacy. Cultural diplomacy can be a bundle of hidden interests and agendas. Belgium used objects to diminish the chance of a loss of mining companies in Katanga. The discussion with Congo about the ownership of the Tervuren Museum was prompted more by the fight for the archives and documentation of Congolese mineral resources than by the possession of cultural objects. The Netherlands acceded to certain returns to nullify damage to its reputation and to renew and safeguard the cooperation with Indonesia’s heritage sector.

Western participants in the Benin Dialogue want to be seen as enlightened members of the world community and remove the embarrassment about the unequal distribution of Benin treasures. Because of the publicity about thefts in Nigerian museums, the NCMM has joined Nigeria’s war against inefficiency and corruption\textsuperscript{540} and does not want to lose face opposite the European stakeholders in the Dialogue.

Underlying interests play a role in the selection of the term for return - transfer and gift. As shown in the case studies, transfer enabled a country to avoid unpleasant discussions about past wrongs. Gifts can be linked to a longing for being forgiven a past wrong and therefore they can replace restitution.

All in all, underlying interests can be of material and immaterial nature. Possessors often were more interested in damage control for their economic interests and international reputation, claimants more concerned with undoing injustice by recovering objects or being recognised as entitled to them and capable of preserving them.

The model, its seven phases and four general guidelines are summarised below:

**Box:** Phases and General guidelines for negotiating the future of colonial cultural objects

**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

In conclusion, the model for negotiating the future of colonial cultural objects has been developed within the limits of existing conflict resolution models. The special nature of the contention - colonial cultural objects - has given it extra characteristics. A striking one is the definition of the general guideline of commitment, including principles for dealing with colonial cultural and historical objects. In the application of the model the help of a facilitator or mediator is recommended. UNESCO’s Intergovernmental Committee, ICOM or other institutions can be approached.

The model is meant for dealing with conflicts about objects that qualify for corrective justice (6.2.2.); one can think of war booty, objects confiscated by missionaries and objects taken by private persons and institutions in violation of the laws of the time. It can also 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 to discuss objects that are more needed in a former colony than in a museum or in a private house in a Western country – think of returns by descendants of colonial officials and army members to the Benin Court and Indonesia. It can even help to discuss objects that have been acquired by purchase or barter in a win-win situation but that might fit better in their country-of-origin. The model has a built-in guarantee that all stakeholders are respected and painful questions can be raised and are addressed.

During the research many scholars have impressed me, their names have been mentioned explicitly (1.3.) and I am grateful to them. In the Benin Dialogue Folaryn Shyllon convinced his compatriots to give up the illusion of a legal basis for a claim of Benin treasures. He openly criticised his country, Nigeria, for not using the opportunities, which UNESCO and its Intergovernmental Committee for Return and Restitution offers to get back Benin treasures.
He called upon African countries to accede more to conventions such as the 1970 UNESCO Convention and the 1995 UNIDROIT Convention. These countries should put Africa’s house on order.

I would like to adopt his constructive criticism for Europe. What I have learnt most is that it is time for Europe, for the former colonisers, to put their house in order, to face this greatly neglected effect of 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.

In the Preface I wrote about a dream of a round table. It had a colonial cultural object on top of it and its major stakeholders were sitting around it. They were telling each other about their involvement with the object and jointly choosing the best place for it. Harsh words were uttered, but in the end a consensus was reached on where and how the object would end up in trusted hands. Hopefully this book has helped to make the table steadier and less wobbly.
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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 conducts. 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.

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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.
Samenvatting

‘Treasures in Trusted Hands - Negotiating the future of colonial cultural objects’ gaat over culturele en historische voorwerpen, die de Europese koloniale machten, hun onderdanen en instellingen in de loop van vijf eeuwen hebben meegenomen uit hun koloniale bezittingen en die onder hun hoede zijn gebleven. Terwijl er voldoende bewijs is voor het eenrichtingsverkeer van deze voorwerpen in de Europese koloniale periode en hun ongelijke verspreiding, bestaat er geen consensus over hoe moet worden omgegaan met de vele open en verborgen geschillen erover. In november 1975 diende Indonesië bij Nederland een wensenlijst in met tien duizend voorwerpen, die in de koloniale periode waren verdwenen; Nederland gaf uiteindelijk slechts enkele honderden terug. In juli 2016 vroeg de regering van Benin Frankrijk om de teruggave van vijf duizend culturele en historische voorwerpen, meegenomen uit het West Afrikaanse land in de Europese koloniale periode. Dergelijke grote open claims zijn uitzonderlijk. Meestal vragen landen van oorsprong om de teruggave van betrekkelijke kleine aantallen voorwerpen. In de praktijk zijn voormalige kolonisatoren en hun museums terughoudend in het honoreren van de verzoeken en hebben voormalige kolonies het idee opgegeven dat hun verloren voorwerpen nog ooit thuiskomen.


Waarom is het zo moeilijk om openlijk de toekomst te bediscussiëren van betwistbare culturele en historische schatten meegenomen in de Europese koloniale periode? Hoe omvangrijk was het eenrichtingsverkeer? Wat maakt deze voorwerpen cruciaal voor de herkomstlanden? Wat weten we over de manieren, waarop deze voorwerpen werden verworven? Mochten de toenmalige Europese bezitters ze meenemen? Hebben herkomstlanden een basis om op te staan, wanneer ze voorwerpen terugeisen? Hoe beïnvloeden de politieke, economische en culturele veranderingen in de 21ste eeuw de antwoorden op deze vragen?

Deze studie heeft deze vragen in drie hoofdvragen gegroepeerd:
1. Hoe kan het verlies van culturele en historische schatten in de Europese koloniale periode in kaart worden gebracht?
2. Welke lessen kunnen worden geleerd van de manier waarop met andere betwiste categorieën voorwerpen wordt omgegaan?
3. Hoe een model te ontwerpen voor het onderhandelen over de toekomst van culturele voorwerpen, verworven in de koloniale tijden, inclusief de optie van hun teruggave?

Om deze vragen te beantwoorden is een historisch methodische aanpak gebruikt om het verlies van culturele en historische schatten in kaart te brengen en meer over de herkomstgeschiedenis van deze voorwerpen te ontdekken. Jeannette Greenfield, Lyndel Prott en vele anderen hebben mij geïnspireerd voorbeelden van (mislukte) teruggaven van koloniale culturele objecten op te sporen en aan de hunne toe te voegen. Met een historische en juridische blik heb ik de bescherming van cultureel erfgoed in de koloniale periode bestudeerd en de effectiviteit van harde en zachte juridische instrumenten voor het omgaan met geschillen over koloniale culturele objecten. Hierbij bouwde ik voort op boeken van Lyndel Prott (juridische aspecten van teruggave kwesties), Ana Vrdoljak (restitutie eisen na intern kolonialisme), Katja Lubina (Nazi roofkunst) en anderen. Hun ideeën heb ik voor koloniale culturele objecten uitgewerkt. Bij het onderzoek naar hoe objecten verdwenen uit herkomstlanden bleek het concept van ‘geweld’ van conflictonderzoeker Johan Galtung’s goed bruikbaar. Hij maakt onderscheid tussen direct, structureel en ideologisch geweld; het laatste rechtvaardigt de gewelddadige daden en gewelddadige processen van de eerste twee. Galtung en andere conflictonderzoekers hebben geschillen over koloniale culturele en historische voorwerpen verwaarloosd. Om meer dialoog over deze voorwerpen op gang te brengen, heb ik een model ontworpen voor het onderhandelen over de toekomst van koloniale culturele voorwerpen, gebaseerd op de inbreng van conflictonderzoekers en op de justice & capabilities approach van Amartya Sen en Martha Nussbaum.

Eenrichtingsverkeer

Om het eenrichtingsverkeer van voorwerpen in kaart te brengen is de Europese koloniale periode in drie deels overlappende periodes ingedeeld – koloniale expansie, kolonisten en exploitatie kolonialisme, en dekolonisatie. De dekolonisatie is niet gedefinieerd als de paar jaar rond de onafhankelijkheid van een kolonie maar als de periode die begint met de opkomst van antikoloniale groepen en tekenen van desintegratie van Europese koloniale machten tot aan vandaag. De dekolonisatie is in feite een onopgelost conflict, en betwiste koloniale culturele voorwerpen vormen er onderdeel van. Er worden vijf categorieën koloniale culturele voorwerpen onderscheiden:


(2) Voorwerpen verworven tijdens particuliere expedities. In veel wetenschappelijke en verzamelexpedities overheersten plundering en bedrog; in sommige andere profiteerden lokale bewoners van de uitwisselingen.

(4) Verzamelen door missie en zending. Missionarissen en zendelingen begingen grootschalig iconoclasme, waarbij zij niet zelden werden geholpen door lokale hoofdmannen, die hun eigen motivering hadden voor hun bekering tot het christendom. De bewegingsvrijheid van zendelingen, missionarissen, wetenschappers en verzamelaars in Europese koloniale bezittingen en de verdeling van voorwerpen in Europese landen vergrootte de Europese dimensie van koloniaal verzamelen.


Teruggaven

Door de jaren heen zijn er veel teruggaven geweest. Dit boek vergelijkt vijf reeksen onderhandelingen tussen voormalige kolonies en voormalige kolonisatoren uit de jaren 70 en 80 van de vorige eeuw, inclusief de teruggave van voorwerpen: die tussen Indonesië en Nederland, tussen DR Congo en België, tussen IJsland en Denemarken, tussen Groenland en Denemarken, en tussen Papua Nieuw Guinea en Australië. Op basis hiervan worden elementen voorgelegd voor een model voor het onderhandelen over de toekomst van koloniale culturele voorwerpen. De teruggaven waren zelden ruimhartig en in de meeste gevallen een middel in de culturele diplomatie van een land om andere doelen van de buitenlandse politiek te promoten. De Dialoog, die Nigeriaanse culturele autoriteiten en enkele Westerse musea in 2010 begonnen over de toekomst van Benin voorwerpen (door Britse soldaten in 1897 in beslag genomen) wordt ook beschreven en bediscussieerd. De wisselvalligheden daarin tonen de behoefte aan een 21ste eeuws model voor het omgaan met dit soort geschillen.

Het boek heeft Boxes met tientallen incidentele, zowel geslaagde als mislukte teruggaven. Het is moeilijk daarin algemene lijnen te ontdekken maar zij bieden inzicht in de verhoudingen tussen voormalige kolonies en voormalige kolonisatoren. 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) heeft heel weinig teruggave-geschillen opgelost.

Alles bij elkaar, is de stroom van (1) incidentele teruggaven, (2) teruggaven gefaciliteerd door ICPRCP en (3) teruggaven voortkomen uit bilaterale onderhandelingen, een druppelende kraan, zeker in vergelijking met de volumineuze eenrichtingsstroom in de Europese koloniale periode. Zij hebben de ernstige wanverdeling van cultureel erfgoed uit koloniale bezittingen niet veranderd.

Koloniale menselijke resten en Nazi roofkunst

Er bestaan geen harde instrumenten ten behoeve van een juridische oplossing voor geschillen over koloniale culturele voorwerpen. De eerder genoemde UNESCO Convention van 1970 en de UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects van 1995 hebben geen terugwerkende kracht. Maar beide melden de mogelijkheid van bilaterale overeenkomsten over de teruggave van culturele voorwerpen vóór de inwerkingtreding van de conventie, die in principe dus ook koloniale culturele voorwerpen beslaat. Veel huidige bezitters hebben een pedigree/stamboom van hun voorwerpen en verwierven hun aanwinsten te goeder trouw. De termijn om ze te claimen is verjaard. De juridische relevante van deze conventies beperkt dus is, maar hun totstandkoming laat wel de urgentie onder voormalige kolonies zien om schatten, geplunderd of op andere wijze verdwenen in de koloniale periode, terug te krijgen. China probeerde een clausule voor terugwerkende kracht opgenomen te laten worden maar slaagde daar niet in vanwege het verzet van voormalige koloniale machten.

Valt er iets te leren uit hoe wordt omgegaan met geschillen over koloniale menselijke resten en Nazi roofkunst? Slechts een voormalige koloniale macht, de Verenigde Staten, heeft wetgeving voor het omgaan met geschillen over menselijke resten van zijn binnenlandse gekoloniseerde inwoners: de Native American Graves Protection and Repatriation Act (NAGPRA) van 1990. Die stelt inheemse groepen in de VS in staat om menselijke resten en grafvoorwerpen terug te krijgen van federale instellingen en federaal gefinancierde musea. Er bestaan echter verschillende zacht juridische instrumenten. Om over de toekomst van koloniale menselijke resten te onderhandelen hebben museumverenigingen gedragscodes uitgegeven. Die helpen, maar teruggaven door Europese musea van dergelijke resten vinden alleen versnipperd plaats.

Model voor het onderhandelen over de toekomst van koloniale culturele en historische voorwerpen

Op basis van (1) de studie van bilaterale onderhandelingen tussen voormalige kolonisatoren en voormalige kolonies, (2) incidentele teruggaven van koloniale culturele objecten en (3) inzichten uit conflict studies presenteert dit boek een model voor het onderhandelen over de toekomst van koloniale culturele en historische voorwerpen. Aangezien veel conflictoplossingsmodellen beschikbaar zijn, is niet geprobeerd een nieuw uit te vinden. Het gepresenteerde model is op andere gebaseerd en aangepast aan het omgaan met koloniale culturele objecten. Het bestaat uit zeven fasen en vier algemene richtlijnen.

**Fasen**
0. Faciliterende factoren
1. Uitnodigen van de andere partij
2. Voorbereiding door de Twee Partijen
3. Benadering van de Andere Belanghebbenden
4. Eerste Ronde van Besluitvorming
5. Verdieping
6. Tweede en Volgende Rondes van Besluitvorming.

**Algemene richtlijnen**
1. Neem de tijd
2. Toon inzet
3. Heb het over (on)gelijkheid
4. Bespreek Onderliggende Belangen

Het model benadrukt dat onderhandelingen over koloniale objecten lang kunnen duren en uit verschillende rondes kunnen bestaan. Terwijl bij de bilaterale onderhandelingen uit de jaren 70 en 80 van de vorige eeuw slechts twee belanghebbenden - twee staten - betrokken waren, zou er in de 21ste eeuw ook ruimte gevraagd kunnen worden voor niet-staat belanghebbenden. Belanghebbenden dienen zich bewust te zijn van onbewezen aannames en verborgen belangen van anderen en henzelf. De negen Principes voor het omgaan met koloniale culturele en historische voorwerpen zijn een cruciaal onderdeel van de tweede algemene richtlijn ‘Toon inzet’. (On)gelijkheid is een grote kwestie en moeilijk te hanteren.

Het model is relevant voor het omgaan met geschillen over betwistbare objecten; men kan denken aan oorlogsbuit, door missie en zending in beslag genomen voorwerpen en voorwerpen, door particuliere personen en instellingen meegenomen in strijd met de toenmalige wetgeving. Het kan gebruikt worden om de wanverdeling van oude voorwerpen te veranderen over de uitgebreide collecties in het Westen en de vaak schrale verzamelingen in de herkomstlanden. Het kan helpen om het over voorwerpen te hebben die harder nodig zijn in een voormalige kolonie dan in een museum of particulier huis in een westers land. Het model heeft een ingebouwde garantie dat alle belanghebbenden worden gerespecteerd en pijnlijke vragen gesteld en behandeld kunnen worden.

Dit boek concludeert dat het tijd is voor Europa, voor de voormalige kolonisatoren, hun huis op orde te brengen, een verwaarloosd aspect van hun kolonialisme onder ogen te zien, meer
proactief herkomstonderzoek naar verwervingen uit de koloniale periode, zowel in publieke instellingen als particuliere collecties, en oprecht ruimhartig te worden in het aanvaarden van de consequenties daarvan. Nieuw teruggavebeleid deint ontwikkeld te worden, niet om als middel in culturele diplomatie te dienen en andere doelen in het buitenlandbeleid te promoten maar ter wille van rechtvaardigheid en de koloniale culturele en historische voorwerpen zelf. Deze schatten verdienen een plek in betrouwbare handen.