

Guidance on the way
forward for colonial
collections

Advisory Committee on the
National Policy Framework
for Colonial Collections

Council for Culture

colonial collection a recognition of injustice

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Summary

The Netherlands had trading posts and colonies in Asia, Africa and North and South America from the beginning of the 17th century. The Dutch maintained a presence at many locations on these continents as traders, colonists and occupiers for more than four centuries. For the indigenous population this was a time marked by exploitation, violence, racism and oppression. It was also a time in which many cultural, historical and religious objects that can still be seen today in Dutch museums were brought to the Netherlands from these territories. These include cultural heritage objects that came into Dutch hands against the will of the owners, for example through theft or military action.

The Dutch colonial collections consist of a wide range of cultural heritage objects, including art objects, religious objects, historical objects, jewellery, natural history objects and utensils. In total there are hundreds of thousands of objects. In addition to museums that manage large and interesting colonial collections, such as the Nationaal Museum van Wereldculturen, Museum Bronbeek and the Rijksmuseum, many smaller museums also have colonial collections. A survey of Dutch museums conducted by the Committee and the Dutch Museums Association shows that much remains unknown about the way in which colonial cultural heritage objects came into Dutch possession. Some museums nevertheless state that they are managing objects which they know to have been acquired during the colonial period without the owner's consent.

The return of colonial cultural heritage objects by former colonial powers is not a recent phenomenon; the first examples of returns date from the colonial period itself. The Netherlands has hitherto mainly returned objects to Indonesia. The reasons for these returns were varied. In some cases objects were returned as a diplomatic gift, for example to mark a state visit. In some cases the returns were based on agreements between countries, such as the *joint recommendations* between the Netherlands and Indonesia in the mid-1970s. No return policy has yet been developed jointly with the source countries, however.

There are differences among the European colonizing countries in the way they deal with their colonial cultural heritage objects and requests to return them. There are countries that take a conservative attitude towards requests for return and others that are more open to such requests. There are countries in which the government keeps out of the debate and countries in which the government has adopted a clear position. Some countries confine themselves to permanent loans of objects to source countries, while other countries actually transfer ownership of cultural heritage objects. These differences reflect the variety of views among countries, but also have to do with differences in legislation that may impede the return of objects. There is nevertheless a growing urgency to tackle the issue in all countries.

This is not only because the source countries and representatives of diaspora communities are increasingly making their voices heard, but also, and chiefly, because the countries that previously had colonies consider it increasingly important to take responsibility for their colonial past.

The Committee's discussion partners in former colonized countries state that they consider it important that their museums can tell the colonial story, including by means of objects that are currently in the Netherlands.

The discussion partners in Suriname and the Caribbean consider that the museum infrastructure must be brought up to standard before objects are returned to them. The discussion partners would like regular museum-level cooperation with the Netherlands in the field of capacity development.

The Indonesian discussion partners emphasize the importance of joint academic provenance research. The discussion partners state that the return of cultural heritage objects is a matter to be agreed between states, but that communities to whose culture these objects belong must also benefit.

A number of aspects play a role when dealing with colonial cultural heritage objects and particularly requests for their return. The first is the way in which an object came into Dutch possession. A request for the return of a cultural heritage object that was looted, for example, requires a different approach than a request to return a cultural heritage object that was acquired legitimately by way of gift or purchase or whose provenance history cannot be determined. The importance of the cultural heritage object, both for the source country and for the Netherlands, must also be taken into consideration, together with the storage conditions and accessibility of the cultural heritage object after any return, as well as the availability of alternatives to a return. Finally, it is naturally important who the current owner is: central government, another government authority or a private individual.

The handling of requests to return cultural heritage objects is not so much a legal as an ethical question. This is due to the statute of limitations in Dutch law and the fact that international conventions relevant to colonial cultural heritage objects do not have retroactive effect. The standards and principles of international humanitarian law and the ethical codes of international social organizations can serve as a useful guide to the ethical handling of requests for return. They call for an accommodating response to requests for return, the guiding principle being that what was stolen must in principle be returned. Unlike a number of other European countries, Dutch law does not oppose the return of colonial cultural heritage objects by the State to source countries.

*Recommendations of the Committee to the Minister of Education,
Culture and Science*

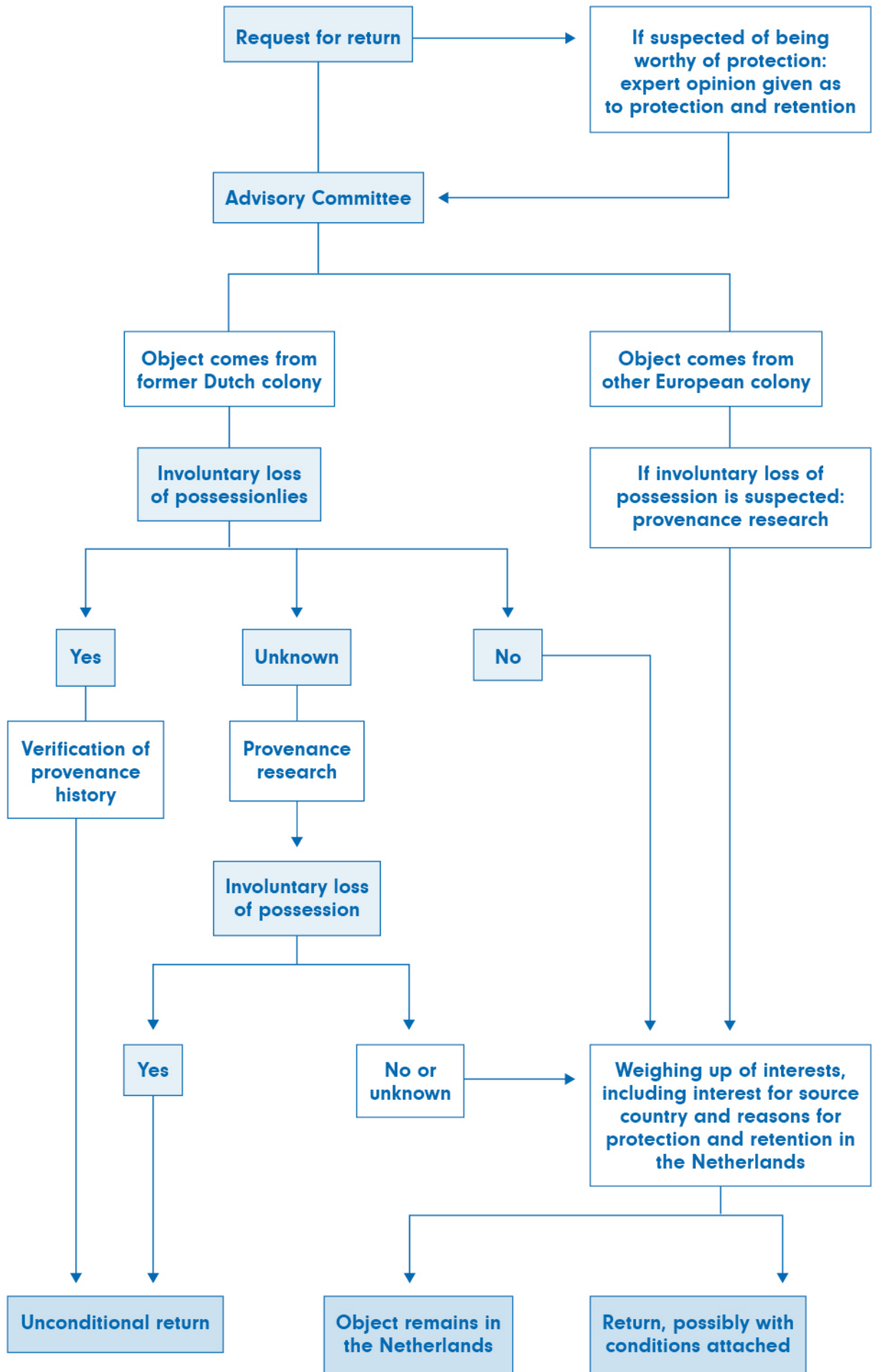
1. The Committee considers that the first step in developing a policy on dealing with colonial collections is the recognition that an injustice was done to the indigenous population of the colonial territories when cultural heritage objects were taken against their will.
2. The second step is expressing a readiness to rectify this *historical injustice*, which is still perceived as an injustice today, where possible and to make this readiness a key principle of the policy on dealing with colonial collections.
3. The Committee recommends adopting that policy after agreeing it with the countries where the Netherlands exercised colonial authority for a long period, including in any case Indonesia, Suriname and the Caribbean islands. These countries' views must be respected and accommodated, with a bespoke approach being taken to each country where possible. Only a shared policy on dealing with colonial cultural heritage objects can lead to satisfactory outcomes for all parties. In other words, care must be taken to avoid a neocolonial repetition of the past in which actions are driven primarily by the views, feelings, standards and values of the former colonizer.
4. To contribute to this joint policy development, the Committee recommends conveying to the countries in which the Netherlands exercised colonial authority a readiness to *return unconditionally* all cultural heritage objects in respect of which it can be demonstrated with a reasonable degree of certainty that the source countries did indeed lose them involuntarily and that they then came into the possession of the Dutch State. This should naturally apply to the extent that the source country also desires such return.
5. The readiness to return objects unconditionally means it is important that the redress of a historical injustice through a request for return is not weighed against other interests, however relevant these may be in themselves. In the Committee's opinion the redress of an injustice is not achieved only through an actual return but also particularly by making the acknowledgement and redress of this injustice a fundamental principle of the policy.
6. The Committee recommends informing the source countries in which the Netherlands exercised colonial authority that the Netherlands is also prepared to consider requests for return for state-owned cultural heritage objects whose provenance history cannot be determined or does not indicate involuntary loss of possession. This should apply in cases where these cultural heritage objects are of particular *cultural, historical or religious* importance for the source country. Unlike the case of cultural heritage objects that were lost involuntarily, the Committee considers that when such requests are assessed, the importance of a return for the source country should be weighed against other relevant interests on the basis of

reasonableness and fairness. After all, in the case of these requests the fundamental argument is not one of rectifying an injustice, but of honouring a particular interest of the source country. Examples of interests to be weighed are the importance of a cultural heritage object for the Netherlands, the storage conditions and accessibility after a possible return and the availability of alternatives to a return.

7. The Committee also recommends considering requests to return cultural heritage objects owned by the Dutch State from countries that were colonized by *other powers*. Since such requests may require wider consideration, the Committee recommends taking a decision on the basis of reasonableness and fairness and on the basis of a weighing of interests. Nevertheless, if the request concerns a cultural heritage object that was lost involuntarily, the Committee considers that here too the guiding principle must be the possibility of rectifying an injustice. This is because regardless of whether the Netherlands itself played a part in causing the injustice in these countries, as the current owner of the cultural heritage object it is the only party able to rectify that injustice.
8. In cases where a cultural heritage object is owned by the State, a decision on a request for return from the source country must be taken by the Minister of Education, Culture and Science. The Committee recommends that the Minister take a decision on such requests on the basis of a *public opinion of an independent advisory committee appointed for the purpose*. This means that the Minister's decisions are based on an expert judgement arrived at independently of the ownership interest.
9. The Committee recommends establishing an *Expertise Centre on the Provenance of colonial cultural heritage objects* with the tasks of verifying the provenance of cultural heritage objects in the event of requests for return, conducting or commissioning additional provenance research as necessary, establishing, managing and generally providing access to a database on the provenance of colonial cultural heritage objects in Dutch museums, and promoting expertise among museums.
10. A necessary prerequisite for the policy line recommended by the Committee is knowledge of the colonial cultural heritage objects held by Dutch museums and the means by which they were acquired. This knowledge is essential for source countries to be able to request the return of cultural heritage objects. The Committee recommends that the Minister draw museums' attention to their responsibility to research the provenance history of their colonial cultural heritage objects and make their knowledge of it accessible to the source countries.
11. The Committee's discussions with representatives of the source countries consistently showed that they were concerned not only about the return of cultural heritage objects. Support in establishing a museum infrastructure with good storage conditions, training of expert staff, the possibility for students to serve internships in Dutch museums, the conduct of joint research and exchange of knowledge were repeatedly cited as important matters by the source countries. These discussions brought the Committee

to the view that appropriate handling of requests for return was not an end in itself, but should be part of cooperation between the Netherlands and the source countries in which they work together to tell the story of the colonial period from different perspectives. The Committee therefore recommends that the Ministers of Education, Culture and Science, Foreign Affairs and Foreign Trade and Development Cooperation make museum-level cooperation between the Netherlands and the source countries a subject of their international cultural policy. The Committee also recommends that the Minister of Education, Culture and Science devote attention to such museum-based cooperation in the policy with regard to the BES islands.

12. Finally, other European former colonial powers are also currently considering how to deal with colonial cultural heritage objects. The Committee therefore recommends, possibly through Unesco, investing in the exchange of knowledge, ideas and views between these countries and seeking opportunities for more international cooperation and coordination with like-minded countries.



1. Introduction

Dutch museums possess a wealth of cultural treasures whose origins lie in the colonial period. These cultural treasures have very different provenance histories, ranging from gifts presented by the local populations to colonial administrators to items looted during wars and military expeditions.



The Banjarmasin Diamond from the Rijksmuseum collection is renowned. ^[1] The original uncut 70-carat diamond was owned by the Sultan of Banjarmasin. In 1859, following the death of the Sultan's successor, an uprising and a new unpopular Sultan chosen by the Dutch, the colonial government decided to intervene militarily. The sultanate in Banjarmasin was dissolved and the area came directly under Dutch authority. The diamond was sent to the Netherlands. At the end of the 19th century there were already doubts about the legitimacy of Dutch actions in Banjarmasin and today the diamond is seen primarily as an example of spoils of war. ^[2]



A silver ladle in the form of a calabash, from Curaçao. ^[3] In the 18th century, the Dutch West India Company (West-Indische Compagnie – WIC) commissioned this item from a local silversmith. This creole object is the product of indigenous as well as local African and European cultures and has no single path to cultural ownership. Moreover, unlike traditional ladles it is of silver and therefore rare. ^[4]



This banjo now in Museum Volkenkunde collection was collected in Suriname by John Gabriel Stedman between 1772 and 1777. Stedman was a Scottish-Dutch officer who served in a Scottish regiment of the State army. In his well-known publication ‘Narrative of a Five Years’ Expedition against the Revolted Negroes of Surinam’ he described the campaigns against Marron communities and the atrocities perpetrated by plantation owners against the enslaved population. Although it is not conclusively known that the objects collected by Stedman were taken under duress, they were undoubtedly acquired in a colonial context. ^[5]



Weapons were viewed as traditional power symbols in the Dutch East Indies. This spear rack from the Rijksmuseum collection was presented to Governor-General Jean Chrétien Baud in 1834 during an inspection tour of Java and Madura by ‘East Indian Notables’. Baud received a number of gifts from local rulers during this tour. ^[6] These objects may have been given voluntarily, but may also be evidence of the obligation to express loyalty to the Dutch government.



This stone statue is Ganesha, the elephant-headed son of Shiva and beloved Hindu god who can eliminate obstacles to success. This Ganesha comes from the eastern cella of Candi Singosari. This is the only temple of the Singhasari kingdom (1222 – 1292) that remains in Singosari (East Java).^[7] In 1803, Nicolaus Engelhard, governor of the north-eastern corner of Java, reputedly ‘discovered’ the temple which was overgrown. He subsequently placed three figures from the temple, including Ganesha, in his garden in Semarang. In 1819 this Ganesha statue was shipped to the Royal Institute for Sciences in Amsterdam. In 1841 the figure became part of the collections of the Rijksmuseum van Oudheden (National Museum of Antiquities), after which it was transferred to Museum Volkenkunde (National Museum of Ethnology) in Leiden in 1903.

A diamond, a silver ladle, a banjo, a lance rack, and a Ganesha figure, these are five examples of cultural heritage objects that illustrate the cultural wealth and diversity of present in former colonies. Each comes with its own historical, cultural or religious background. All five were acquired in territories colonized by the Netherlands, by way of gift, looting or by other means, as in the case when acquisition is described as a ‘found object’.

These holdings increasingly arouse a feeling of discomfort associated with changes in the way in which Dutch society views its colonial past. This change in perspective is also reflected in the debate surrounding Zwarte Piet, and the commemorative statues of colonists in Dutch squares and the streets, tunnels and schools carrying their names. More than ever, Dutch society is reassessing its colonial past. Racism, exploitation, violence and oppression are increasingly viewed as core characteristics of the colonial period. This reassessment is sometimes perceived as problematic and can give rise to fierce controversy as these characteristics are at odds with many people’s cherished image of the Netherlands as an anti-racist, tolerant and peace-loving

country in which human rights are held as paramount. In the Committee's opinion, however, an open-minded view of the Netherlands' colonial past ought not to threaten that identity nor promote a 'down with the Dutch' mentality. On the contrary, 'rethinking' Dutch history may make society as a whole, with more than a million inhabitants whose family history is partly colonial, that much stronger.

Thinking more critically and openly about the past also makes it appropriate to look more critically than before at colonial cultural heritage objects held in museums' collections. These objects have, over time, come to be viewed as more or less the museums' own possessions even as the importance for the source countries and the manner in which they were acquired may be acknowledged. Museums are increasingly recognizing this. For example, in 2019 the National Museum of World Cultures presented a list of principles the museum would apply to assess requests for the return of colonial objects.^[8] Last year also saw the launch of the PPROCE pilot project, conducted by the NIOD Institute for War, Holocaust and Genocide Studies, the Rijksmuseum and the National Museum of World Cultures. This project is gathering knowledge on methodologies for researching the provenance of colonial objects.

In other European countries questions of how to move forward with colonial cultural heritage objects is climbing up the social and political agenda. For example, the German Museums Association issued guidelines in 2018 on how museums should deal with objects collected during the colonial period and French President Emmanuel Macron spoke of a relaxation of conditions for the restitution of African cultural heritage in French possession. This was followed by the now famous report by Savoy and Sarr which galvanized discussion across Europe due to its outspoken views.^[9] In the United Kingdom the frequently more reticent view of directors of national museums regularly make the headlines. In Belgium the reopening of the AfricaMuseum in Tervuren ushered in a public debate about looted art. The debate on the handling of colonial collections in Europe is topical with countries returning cultural heritage objects – for example in March 2020 the Netherlands returned a kris linked to the Indonesian resistance hero Prince Diponegoro. However most European countries have not yet achieved a broad consensus on the ways forward for colonial heritage nor adopted a firm government policy on the subject.

1.1 The Minister's request for guidance

In her letter of 10 April 2019 the Minister of Education, Culture and Science, Ingrid van Engelshoven, informed the House of Representatives that she wished to adopt just such a policy direction for the Netherlands by the end of 2020.^[10] Although museums are custodians of colonial cultural heritage and have expertise and experience on how to manage it, they are ultimately not the collections' owners. In the vast majority of cases collections are owned by the State. But other authorities, universities, associations and foundations are also owners of colonial cultural heritage objects managed by museums. There are also many private collections that include colonial objects.

If the State is the owner, the Ministry of Education, Culture and Science decides how to deal with the colonial heritage and – more specifically – on whether or not to return objects.

In the above cited letter to the House of Representatives the Minister set out two ambitions. First, she wanted the colonial heritage in national collections to be accessible and to tell stories of connection from a variety of perspectives. Her aim is to promote the visibility of a past intertwined with the former colonial territories. The second ambition was to develop a national policy framework for moving forward with colonial collections. With regard to this second objective the Minister's aims were twofold: to develop a methodology for provenance research and to design a careful procedure for dealing with requests for return. Her wish was to give priority to cultural heritage objects from former Dutch colonies in cases where evidence strongly suggests that there was involuntary loss of possession.

To develop that national policy framework the Minister asked the Council for Culture to establish an advisory committee tasked with outlining a future framework for the handling of colonial heritage. In particular this committee would address international cooperation in this field and the handling of requests for returns. The Minister asked the Council to present its guidance by 1 October 2020. ^[11]

1.2 The Committee's composition and working method

The composition of the Advisory Committee on the National Policy Framework for Colonial Collections (hereinafter: the Committee) is broad and diverse, in terms of both expertise and discipline (lawyer, anthropologist, historian, curator, researcher, art dealer, museum director) and origin (Surinamese, Indonesian, Antillean, Indo-European, Dutch, British and French). The Committee is chaired by Lilian Gonçalves-Ho Kang You. Leo Balai, Brigitte Bloksma, Martine Gosselink, Henrietta Lidchi, Valika Smeulders, Hasti Tarekat Dipowijoyo and Joris Visser are also members of the Committee. Sander Bersee and Emma Keizer act as the Committee's secretariat.

The Committee undertook a literature review and held many discussions with academics, lawyers, museum directors, curators and others. Discussions were conducted with policymakers in Belgium, France, the United Kingdom and Germany, countries where the way forward for colonial collections remains a live issue. In addition the Committee canvassed opinions from parties in Indonesia, Suriname and the Caribbean islands to understand how to manage heritage originating from these territories. The Committee considers views of source countries to be especially important: the policy on the handling of colonial collections must not be one sided or reflect solely the views of a former colonial power, but must rely in equal measure on the views, wishes and expectations of the source countries. Finally, with the cooperation of the Dutch Museums Association, the Committee asked museums about the presence of colonial cultural heritage objects in their collections.

1.3 The guidance

This guidance focuses on cultural heritage objects and collections that were acquired in the period that began in the 17th century, when the first ships sailed from the Netherlands to Asia, and ended in 1975, the year in which Suriname became an independent republic. ^{[12][13]}

Archives beyond those present in museums which shed light on the collections themselves, are not specifically addressed by the guidance. Archives are significant for the documents they contain, for the information therein and specific access rights. For these reasons they require a specific approach and are considered to lie outside the scope of this guidance. Human remains also form a distinct category in museum collections. The principles and procedures included in this guidance with regard to the handling of requests for return may be applicable to human remains and objects containing human remains, but the issues regarding respectful treatment are broader than addressed here. The specific ethical considerations therefore also fall outside the scope of this guidance.

Although the Netherlands was active as a colonial power in many parts of the world, the guidance is focused on Indonesia, Suriname and the Caribbean islands, countries where the Netherlands exercised formal colonial authority for a longer period and where a substantial proportion of the Dutch population has roots. But it does not follow that the Committee's guidance is not then applicable to objects from other territories where the Netherlands, or other or other European countries, exercised colonial power.

The guidance is constituted as follows. This introduction is followed by an outline of the historical context: the Netherlands' colonial past and that of its former colonies. The third chapter then gives a brief overview of the colonial collections managed by Dutch museums. The fourth chapter addresses past returns of cultural heritage objects and the related agreements made between the Netherlands and its former colonies. In the fifth chapter the Committee discusses views on the handling of colonial heritage held in other European countries. Chapter 6 presents findings arising from discussions the Committee conducted with interested parties in source countries. In Chapter 7 the Committee then outlines the considerations relevant to identifying the way forward for colonial collections, after which it sets out the legal framework in Chapter 8. These are descriptive chapters. Chapter 9 draws together the guidance: the Committee's recommendations on the intended policy goals, the procedure for assessing requests for return, research into the provenance history of colonial objects and international cooperation. The guidance ends with brief comments by the Committee on its assignment.

A final remark: the Committee had less than a year to respond to the Minister's request for guidance. Given this short timeframe and given the complexity of the subject matter, the Committee had to impose certain restrictions on itself. For example, it was not possible to be comprehensive in the descriptions of colonial histories, the overview of former returns or the inventory of colonial cultural heritage objects held in Dutch museums.

These descriptions serve primarily to provide a pertinent and intelligible context for the Committee's policy recommendations.

A second observation is that in order to reflect views held in the source countries, the Committee would have liked to directly familiarize itself by conducting discussions in-country with representatives of government, museums, academia and cultural communities. These visits, however, proved impossible due to the travel restrictions resulting from the coronavirus crisis. The Committee did nevertheless conduct exploratory discussions online with a number of country representatives.

A third and final observation is that the Committee had to make choices in the terminology used to describe circumstances, persons and population groups. For example, the guidance uses the form 'enslaved persons' rather than 'slaves'. The Committee is conscious, however, that there are differing views on the appropriateness or inappropriateness of terminology or certain designations.

2. The Netherlands as a colonizer

The Netherlands had trading posts and colonies in Asia, Africa and North and South America from the beginning of the 17th century. The Dutch maintained a presence at many locations on these continents as traders, colonists and occupiers for more than four centuries. For the indigenous population this was a time marked by exploitation, violence, racism and oppression. It was also a time in which many cultural, historical and religious objects that can still be seen today in Dutch museums were brought to the Netherlands from these territories. These include cultural heritage objects that came into Dutch hands against the will of the owners, for example through theft or military action.

From the final decade of the 15th century European countries' drive to expand fundamentally changed the world order. These changes are still perceptible: in the uneven distribution of power and prosperity in the world and in the European languages that are spoken in Africa, Asia, Australia and the Americas. Countries such as the Netherlands, France and the United Kingdom became multicultural societies in part due to the migration of peoples from existing and former colonies. More than a million Dutch people have a fully or partly colonial family history. Former colonial territories also experience the complex legacies of colonial history up to the present day.

Violence, exploitation, oppression and racism are recurring elements, from whatever perspective colonial history is viewed. Peoples and cultures were eradicated in regions such as the Americas, Australia and New Zealand. In other regions rebellions were subdued by bloody military action, and millions of people from Asia and Africa were enslaved, put to work in the region or elsewhere in the world.

The colonial period brought many forms of inequality. This includes in the terrain covered by this guidance, namely the cultural expression of communities of formerly colonized countries and the ownership of and access to their cultural heritage. In the Americas, following the subjugation of the indigenous cultures, new societies came into being in which groups of people from Africa and subsequently Asia, were present. They too were restricted in their cultural and artistic expression.^[14] Many cultural heritage objects from communities colonized by European powers found their way into European museums. These include objects whose owners had to relinquish them involuntarily and objects which, regardless of the acquisition method, are missed in the source countries because they are recognized as important for identity and for telling their histories.

2.1 European expansion

The history of European colonialism is complex: it is characterized by conquest, racism, exploitation and violence, as well as by cooperation with local rulers.

European overseas expansion began in the final decade of the 15th century and was initially a Spanish and Portuguese endeavour. Searching for a new sea route from Europe to Asia, Columbus reached America in 1492. Vasco da Gama circumnavigated Africa barely five years later and reached India in 1498. Although the Treaty of Tordesillas in 1494 divided the non-European world into Spanish and Portuguese spheres of influence, Iberian dominance did not last long. At the end of the 16th century the Republic of the Netherlands began to fight against Spain and in the 17th century the Portuguese were driven from parts of Asia. The United East India Company (Verenigde Oost-Indische Compagnie – VOC) established a trading monopoly in the Republic for the area stretching from South Africa to Japan. France in turn occupied parts of North and South America, the Caribbean and India. But ultimately neither the Republic nor France could withstand the power of England, which at the end of the 17th century began its colonial rise to become a global power.

In comparison with the Americas, Asia and the Caribbean, Africa came relatively late into the ambit of imperial powers. North Africa was for a long time part the Ottoman Empire with few Europeans in East Africa. Furthermore, the interior of the African continent was largely inaccessible to Europeans. There was nevertheless a Dutch colonial settlement in South Africa and European forts and settlements on the West African coast used for the slave trade. However with the exception of the Cape Colony, European nations held little power.^[15] This changed at the end of the 19th century, when over a period of 20 years various European powers – including the imperial latecomers Belgium and Germany – ‘carved up’ and occupied the African continent.

In the 19th century the Netherlands established the Dutch East Indies in large parts of present-day Indonesia, Great Britain held British India (present-day India, Sri Lanka, Pakistan, Bangladesh and parts of Myanmar) and France were in Indochina (currently Vietnam, Laos and Cambodia). Europeans did not remain the only imperial powers in Asia: the United States acquired the Philippines from Spain, Japan conquered Taiwan and Korea from China and Russia’s expansion extended to the Pacific Ocean.

Tensions caused by colonial rivalry were resolved through negotiations and diplomacy. Violence was nevertheless relentless and wars were waged against colonized peoples to bring them under colonial authority and quell their resistance. Millions died as a result.

But the arrival of the Europeans was not resisted by the entirety of the local populations.^[16] In Indonesia, for example, European colonialism relied on the cooperation of the elite, particularly of local and traditional rulers.^[17]

It is revealing that in 1856 the government official Eduard Douwes Dekker denounced not the colonial system but the exploitation of the Javanese population by Javanese nobility collaborating with the Dutch. ^[18]

2.2 Dutch expansion

Privateering in the 16th century and the subsequent trade expeditions at the end of the century heralded the Dutch expansion overseas. Between the 16th and 20th centuries the Netherlands had trading posts for shorter or longer periods and colonies in Africa, Asia and the Americas: from Deshima in Japan to Essequibo in South America. ^[19]



The Dutch Empire. Source: Rex Germanus

The United East India Company

Dutch trade missions first went to the tropical regions of Asia, where lucrative commodities such as spices, porcelain, silk, satin, gold and precious stones could be obtained. In order to avoid competition among traders, the States General gave the VOC in 1602 the sole right to trade on behalf of the Republic, establish settlements, conclude treaties and wage war in the area to the east of the Cape of Good Hope. In 1610 the first VOC settlements were established in Pulicat and Sadras on the Coromandel Coast in south-east India. ^[20] This was followed by other military conquests, the construction of trading posts and forts and the establishment of plantations. Violence against the local population was frequently involved. Jan Pieterszoon Coen, for example, the fourth Governor-General of the VOC, drove out and murdered the local population around Batavia (now Jakarta) in 1619 to establish the Company's headquarters there. ^[21] The same fate befell the population of the Banda Islands, where the VOC established a trading monopoly in mace and nutmeg through military force. On the uninhabited islands Coen established plantations where colonists were in charge and the Moluccan population was put to work as enslaved people. A control system with harsh 'penal expeditions' was intended to ensure the population of the Moluccas did not sell any nutmeg, mace or cloves to competitors.

Trading posts were also established on other Indonesian islands. Sumatra was attractive mainly because of the pepper cultivated there. Malacca (Malaysia) was also occupied by the VOC in 1641 to secure trade in that commodity. The west coast of Sumatra was attractive to the VOC for the pepper and gold

and Borneo (Kalimantan) was important for trading in pepper, diamonds and gold. Ceylon (Sri Lanka), the country of cinnamon cultivation and elephant trading, was captured in 1640 with assistance from the King of Kandy after a 20-year conflict against the Portuguese.^[22] In 1765 the palace and city of Kandy were plundered by Dutch troops after uprisings. Part of the booty, including the famous cannon of Kandy, is now in the Rijksmuseum.^[23] Ceylon would remain a Dutch colony until 1796.

The Cape Colony was established by Jan van Riebeeck (1619 – 1677) in 1652 as a replenishment station for VOC ships sailing to and from Asia.^[24] A fairly large number of colonists soon settled with the consequence that the colony grew into a settlement colony. Around 1795, towards the end of the VOC period, there were estimated to be 26,000 enslaved persons working in the Cape, of both Asian and African descent, as well as 15,000 Europeans.^[25]

Partly as a result of a monopoly enforced by its own military, the VOC became the largest trading company in the world. At its height it employed around 40,000 men, excluding enslaved persons. Like the private individuals that had settled in the territories, it acquired many important objects from Indonesia, by way of gift, purchase, but equally looting. From 1778 these objects were largely sent to the Batavian Society of Arts and Sciences in Batavia, while others were shipped to the Netherlands for private individuals and later for museums.^[26] The first official who shipped Javanese cultural heritage objects to the Netherlands was Caspar Georg Carl Reinwardt (1773 – 1854). He focused initially on natural history although subsequently also on cultural heritage objects such as temple figures. He believed that taking such objects was only ‘reasonable’ given the long relationship that the Netherlands had with Java. Reinwardt sent a total of eight ships with cultural heritage objects from Batavia to the Netherlands. Only four of these ships arrived safely; the remainder, along with the art treasures they were carrying, were lost at sea.^[27]

At the end of the 18th century the VOC was losing money on trade in Asia. The decline of Dutch power, combined with corruption, fraud and careless accounting, led to the bankruptcy of the Company in 1795, after which the Batavian Republic acquired its remaining assets and liabilities.^[28] The fate of the colonized populations, and of the collections of the Batavian Society, thus came into the hands of the Dutch state.

The Dutch West India Company

In the Netherlands there were various organizations trading in the Atlantic region. The combination of these companies led to the foundation in 1621 of the Dutch West India Company (West-Indische Compagnie – WIC), with the aim of fighting the Spanish and Portuguese in the Atlantic region.^[29] The main objectives were privateering and colonization. However unlike the VOC, investors were initially not enthusiastic and it took a number of years before the WIC was able to start in earnest. The organization enjoyed brief success in North America with the establishment of New Netherland. In 1628 Piet Hein (1577 – 1629), who was employed by the WIC, captured the Spanish silver fleet in the Bay of Matanzas in Cuba. Two years later the Company captured the province of Pernambuco in north-eastern Brazil from

the Portuguese. From there the Portuguese forts of St George d' Elmina (known as Elmina) on the African Gold Coast and Fort Aardenburg in Luanda (Angola) were later captured on the orders of Johan Maurits van Nassau-Siegen. These conquests secured a supply of enslaved persons to Dutch Brazil.

Suriname became by far the most important Dutch colony in the Atlantic region. It was captured from the British in 1667 and remained in Dutch possession, albeit intermittently, up to 1975. During the conquest of the territory the indigenous Carib, Arawak, Trio, Wayana and Akurio peoples were driven into the rainforests or massacred. Enslaved Africans were then forced into hard labour on the cotton, sugar and coffee plantations.

On the Caribbean islands too, the Dutch settlement process was anything but peaceful. Curaçao was colonized in 1634 and the other islands – Aruba, Sint Maarten, Saba, Sint Eustatius and Bonaire – followed soon after.^[30] After a large part of the indigenous population had been murdered a century earlier during the period of Spanish rule, the remaining population was obliterated by a combination of murder and European diseases. The colonists established a new society in which the colonists and enslaved Africans were the main groups. That gave rise to an Afro-American or Caribbean 'culture of resistance', far from the home countries of these enslaved people. The coexistence of different cultural communities also gave rise to Creole culture. The Papiamentu and Sranan languages are examples of this, as is the ladle referred to in the introduction.^[31]

Unlike Suriname, the Caribbean islands were never fully fledged plantation colonies. They were too dry, small and mountainous.^[32] The importance of the islands for the Republic lay in their role in trading and smuggling between Europe and the 'New World', and between the islands themselves and with the American continent.^[33] Curaçao became a staging post for the temporary settlement of enslaved people sold by the WIC to the surrounding Spanish territories. When the Netherlands' position of power in the slave trade declined rapidly after 1713, Curaçao became less important to the Republic. Between 1721 and 1729 the WIC also used Sint Eustatius to distribute enslaved people. The island ultimately proved unprofitable for the Company, however, partly due to competition with the British.^[34]

The Dutch Atlantic empire reached its largest size around the mid-17th century, but in 1654 the Dutch were expelled from Dutch Brazil by the Portuguese and in the second Anglo-Dutch War (1665 – 1667) the WIC lost New Netherland to Great Britain. The Company went bankrupt in 1674 and the subsequently established second WIC was unable to trade profitably for the Republic. The WIC was dissolved and the management of the Atlantic colonies was passed to the Batavian government in 1795.^[35]

Slavery

Enslaved people were used as cheap labour in the settlements and colonies in both the West and the East. Between 1621 and 1866 an estimated 600,000 enslaved Africans were transported to the Dutch Atlantic territories in appalling conditions. Some were sold on, while others were put to work

in Dutch colonies.^[36] In the same period between 660,000 and 1,135,000 enslaved people were transported to the Dutch overseas territories in Asia, where they were traded as commodities or held as property of the Company and of private individuals.^[37]

Some Europeans opposed the slave trade and the use of enslaved people was opposed from the beginning. However in part due to the absence of a strong abolitionist movement as in Great Britain, the Netherlands was relatively late in abolishing slavery. Under pressure from the British, the Netherlands abolished slave trading in 1814, although the possession of enslaved people remained a generally accepted practice.^[38] And while other colonial powers abolished slavery from the 1820s, it was not until the mid-19th century that it was abolished in Netherlands' overseas territories.^[39]

Slavery had a major impact on the cultural development of the colonies, particularly those in the West. For many long-standing Asian communities the colonial period was part of a longer history in which they preserved their culture. But for people who were enslaved and transported to other parts of the world, particularly in the transatlantic context, the situation was different: they built new cultural forms in a world where cultural expression was severely restricted. Displacement and prohibition of language and religion was part of a deliberate strategy of subjugation.^[40]

2.3 The Netherlands as a colonial power

After the VOC went bankrupt in 1795, the colonies were administered by officials from the Central Secretaries Department and the General Court of Auditors.^[41] The colonial period was characterized by both cooperation with, and skirmishes between, rival colonial powers. This was particularly the case with military action against and exploitation of the local populations. Dutch authority in the Indonesian archipelago was established through wars and military expeditions.^[42] On Java Governor-General Herman Willem Daendels (1762 – 1818) used harsh methods to impose reforms of the colonial administration on the Javanese aristocracy.^[43] In that period Nicolaus Engelhard (1761 – 1831), the then Governor of Java's north-east coast, began collecting ancient Hindu-Buddhist figures. In 1803 he took three figures from the temple at Singosari (East Java), initially installed in his residential garden in Semarang. Dutch colonists had been taking figures, fragments and other items from the ruins of ancient temples to adorn their homes since the 18th century. Engelhard went a step further shipping three Singosari figures from his residential garden to the Netherlands with the result that there are now seven figures from the Singosari temple in the collection of Museum Volkenkunde.^[44]

After Daendels, the British Lieutenant-Governor Thomas Stamford Raffles (1781 – 1826) replaced the system of compulsory supplies with land rents – a system similarly characterized by exploitation of the Indonesian population.^[45] During the brief period of British rule (1811 – 1814) the British followed Engelhard's example and looted cultural heritage objects from the archipelago. Raffles sent two Buddha heads from Borobudur to England, which can now be seen in the Gallery of Indian Religions in the

British Museum.^[46] But the British also made efforts to conserve heritage in the archipelago. Raffles, for example, cleared vegetation from Borobudur in 1814 to restore access to the temple.^[47] By showing interest in Javanese history, customs and literature, Raffles was able to set up cooperative arrangements with the local aristocracy in the field of heritage and archaeology. With the ending of British rule on Java and the signing of the Treaty of London in 1814, the Dutch East Indies became a Dutch colony in 1816.^[48]

The Netherlands subsequently became actively engaged in archaeological management and the collection of cultural heritage objects. Heritage was made an official part of colonial policy.^[49] The cleaning, surveying and maintenance of various mainly Javanese archaeological sites made the heritage in the Dutch East Indies both visible and accessible.^[50] The Netherlands saw itself as a modern and refined colonial power, the guardian of an ancient civilization. As a result, the Dutch soon started to see the heritage in the colony as 'theirs'. To meet growing demand in the Netherlands, increasing numbers of cultural heritage objects were taken and sent for study and entertainment to European countries.^[51] Most objects were collected on Java, but other islands also lost valuable cultural heritage objects.^[52]

Many Sumatran objects from the early prehistoric era ended up in Batavia (Jakarta) and Amsterdam, for example.^[53] Missionaries who came to the Dutch East Indies at the start of the 19th century to bring Christianity to the local peoples, partly in support of the colonial authority, also collected objects which later found their way to the Netherlands.^[54]

From 1858 the Batavian Society, which was founded in 1778 partly to prevent Dutch government officials from sending heritage items to their official residences or to the Netherlands, was made officially responsible for collecting and maintaining the heritage of the Dutch East Indies. An exception applied in the case of those cultural heritage objects that they considered well looked after. Heritage that was not cared for by the local population was taken into national ownership.^[55] The Netherlands generally viewed non-Islamic heritage in the archipelago as heritage that was no longer of interest to the local population. They removed this type of cultural heritage to Batavia or the Netherlands, a strategy which they considered unobjectionable.^[56]

Islamic heritage, and particularly mosques and holy graves, were generally respected by the Dutch, an exception being the destruction of the mosque at Banda Aceh during the Aceh War.^[57] Writings by the Dutch military topographer F.C. Wilsen, for example, described the use of Borobudur by local Muslims as a place for sacrifices and festivities, which showed that non-Islamic heritage was also important to the local population.^[58] The British Lieutenant-General Alexander Adams (1772 – 1834) wrote that Engelhard's urge to collect items from at the temple at Singosari drove the local population to conceal the temple's cultural heritage objects in the jungle to prevent the Dutch looting them.^[59]

Tensions in the archipelago intensified as the 19th century unfolded. From 1825 to 1830 the Java War was waged, costing the lives of 200,000 Javanese and 15,000 Dutch and Indonesian auxiliary troops.^[60] After the capture of the uprising's leader, Prince Diponegoro (1785 – 1855), whose

equipment and belonging came into the hands of the Dutch in September 1829 during fighting near the River Progo, Governor-General Johannes van de Bosch (1780 – 1844) imposed calm in Java. ^[61] In 1830, under the motto ‘the colonies exist for the motherland; the motherland does not exist for the colonies’, he introduced the Cultivation System under which the farmer had to surrender part of their yield from their land. ^[62] The Cultivation System brought economic benefits for the government of the Dutch East Indies, but the Indonesian population still had to contend with poverty and famine. As a result, the Cultivation System slowly but surely came under pressure and in 1870. After 10 years of debate on colonial politics in parliament, it was abolished. ^[63]

There were other wars in which art treasures were frequently seized. From 1846 to 1849 a series of military actions took place on Bali, in which the Balinese were violently forced to submit to Dutch authority. ^[64] Palaces of Balinese rulers were looted and rulers who did submit presented gifts to Dutch colonial officials, often of great cultural value. These gifts were frequently tribute or symbols of submission. ^[65]

Between 1850 and 1854 battles were fought against Chinese gold prospectors and traders in the west of Borneo (Kalimantan) during the so-called Kongsj Wars. ^[66] The establishment of Dutch authority over northern Sumatra ultimately led to the Aceh War (1873 -1914), which cost the lives of more than 100,000 Aceh inhabitants. ^[67] On Lombok, in 1894, more than a thousand gold and silver objects were looted during a Dutch action led by Governor-General Carel Herman Aart van der Wijk from the palace of the local ruler. ^[68]

The list of Dutch military actions against the Indonesian population extends further. The colonial period in the Dutch East Indies was characterized by local resistance. This prompted repeated military interventions by the Royal Netherlands East Indies Army (Koninkrijk Nederlands-Indisch Leger – KNIL).

These military efforts and in particular the Java War, meant there were too few military forces to maintain Dutch authority in the archipelago, in part due to a lack of European volunteers. To compensate for this shortfall, from 1830 the Netherlands press-ganged Africans on the Gold Coast, a tacit form of enslavement. British protests had resulted in a discontinuation of the slave trade, however in 1855 it was resumed albeit on a smaller scale, with the handling of free men. Through this African military personnel came to the East Indies, who became known as *Belanda hitam* (black Dutch). ^[69]

The power of the Dutch on the Gold Coast was waning, however. Dutch African territories had ceased to be profitable for some time and the European presence was encountering growing resistance from different West African peoples. In 1869 a rebellion by different population groups was put down by Dutch military force. However, such attempts by the Netherlands to restore order cost the lives of hundreds of Africans. Under the Second Sumatra Treaty of 2 November 1871, the Dutch possessions in West Africa were ceded to the United Kingdom. In exchange, the Netherlands was given a free hand in Aceh and permission to use Indians under British rule as indentured labour in Suriname. ^[70]

Towards the end of the 19th century it became clear that government officials were unable to develop the economy in the Dutch East Indies further.^[71]

The Indonesian population was increasingly impoverished. To meet labour shortages, imported Asian workers were employed as wage slaves on Dutch plantations. In 1900 almost 90,000 of these ‘coolies’ worked in pitiful conditions for the Dutch.^[72] It was this forced labour who excavated the Java Man for the scientist Eugène Dubois (1858 – 1940) now one of the principal exhibits at Naturalis in Leiden.^[73] It would not be until the 20th century that the situation improved for these indentured labourers.^[74]

The West Indian colonies

In 1816 Commissioner-General Johannes van den Bosch divided the Dutch colonies in the West into three administrative areas: the government of Suriname, the government of Curaçao, Aruba and Bonaire and the government of Sint Eustatius, Sint Maarten and Saba. Efforts to make the economies in the West more profitable for the Netherlands were hampered by the political unrest that followed the ending of the Spanish and Portuguese colonial administration in the Atlantic region.^[75] In 1827 Curaçao was declared a free port in an attempt to turn the island into a goods exchange in the Caribbean region, but the island’s location proved too remote. In Suriname, the Netherlands found it difficult to make an economic profit after the abolition of slavery due to a shortage of labour and colonists.^[76]

In 1865 the Minister of the Colonies, Isaïc Dignus Fransen van de Putte (1822 – 1902), reformed the colonial administration in the West once again.^[77] Labour shortage in Suriname was first tackled using indentured workers from China and Madeira first on a trial basis and later on a permanent basis, with the forced migration of indentured workers from British India to Suriname. Ultimately over 34,000 Indian indentured workers settled permanently in the colony, together with around 33,000 Javanese indentured workers.^[78] The new labourers brought vibrant Hindustani and Javanese cultures which developed alongside the Marron culture.^[79] Nevertheless, despite its natural resources Suriname remained an impoverished country.^[80] The population were divided by internal tensions and remained poor.

In the former Antilles salt extraction proved lucrative for the colonial government.^[81] Due to the natural conditions and the small size of the population, there was little other economic potential in the region. Here too the population was diverse both in terms of ethnicity and culture. This diversity increased as a result of the influence of Latin American culture, while the elite adhered strongly to European cultural ideals.^[82]

From the late 19th century there was European interest in collecting objects from the West. In Suriname there was a particular ethnological interest in indigenous objects and those from Marron culture used as a means demonstrating the assumed hierarchy in cultures. In Curaçao collecting began midway through the 20th century with a focus on the Dutch colonial lifestyle, including photographs and objects showing the modernization brought to the islands from the Netherlands which in so doing provided a European view of the Afro-Curaçaoan people.^[83] Objects were also collected from archaeological excavations.

2.4 Modernization

The 20th century brought greater prosperity to the Dutch East Indies, but not everyone benefited. The agricultural information service was established and welfare was introduced for the population. Between 1910 and 1940 rice growing doubled, putting an end to famine. But Indonesian workers were exploited just as much with the burgeoning industrialization. A thriving batik and weaving industry was developed on Java and soap, paper and cigarette factories were built, but it was mainly the Europeans that benefited.^[84] Electricity, modern means of communication, mass media and cars also arrived, but again these were largely accessible only to Europeans. The European population grew rapidly and increasing numbers of European women came to the colony.^[85] Their arrival changed the relationships between Europeans, Indo-Europeans and Indonesians and widened the gap between Europeans and the local populations. Men with a European background were less inclined to start relationships with Indonesian women.

The beginning of the 20th century marked the era of the so-called Ethical Policy. This was based on the notion that the Netherlands had a 'debt of honour' or even a 'moral obligation' to 'raise' and bring prosperity to the Indonesian population.^[86] Alexander Idenburg (1861 – 1935), the Protestant Minister of the Colonies, argued in 1902 that in some cases war in the colonies was 'a supreme act of charity': in order to lift the local population it had first to be subjugated.^[87] Important to the Ethical Policy was the education of the local population.^[88]

From the 20th century a heightened sense of nationalism was evident among the Indonesian elite and among the new highly educated population.^[89] And although the local population gained a greater say in the colonial administration, particularly on Java, the unwillingness of the Dutch to share power led to resentment among nationalists. Strikes and boycotts against Dutch authority were quelled by heavy-handed action by the colonial government.^[90] In 1927 the Indonesian nationalist Sukarno (1901 – 1970) established his Partai Nasional Indonesia, with the aim of consciousness-raising among the Indonesian population to make them aware of their oppression and exploitation. The unrest in the Dutch East Indies increased, in response to which the Dutch government decided to dissolve the party in 1929 and to arrest Sukarno and other leaders.

The Netherlands was also trying to revitalize the economy on the other side of the world, in the Atlantic colonies. In Suriname these efforts were not successful.^[91] However on Curaçao, Aruba and Bonaire oil refineries were built, resulting in growing prosperity for the European population and modernization of the islands. At the same time tensions arose due the immigration of people from many countries who permanently settled there.

The Second World War

The Second World War brought a great deal of change to the colonies, albeit with differences between the East and the West. In March 1942 the Dutch East Indies fell into Japanese hands after the loss of the Battle of the Java Sea and the subsequent fall of Java. The Japanese offensive made a deep

impression on the Indonesian population, damaging colonial prestige and authority.^[92] Allied soldiers, with the exception of many Indonesian KNIL personnel, became prisoners of war. Part of the European population in the archipelago was interned in Japanese camps and millions of Indonesians were forced to serve as labourers or auxiliary soldiers to support the Japanese war effort.^[93] Indonesian nationalism received a significant boost during the Japanese occupation, partly due to the militarization of the Indonesian population.^[94] The Second World War in the Pacific came to an end on 15 August 1945 after the capitulation of Japan.

In the West the war led to rising prosperity. The bauxite from Suriname and fuel from the oil refineries of Aruba and Curaçao were very important for the allied war effort and were the subject of large-scale investments. The West contributed directly and indirectly to the liberation of the Netherlands by providing equipment as well as financial and military resources. The presence of US military personnel in the country during the Second World War led to the Americanization of Surinamese culture.^[95] Political and constitutional emancipation accelerated. Various political parties were established in Suriname as well as in the Dutch West Indies.^[96] These parties strived for greater independence.^[97]

2.5 Decolonization

Decolonization from European powers is characterized by both peaceful transfers of power and bloody wars. It can roughly be divided into four periods. The first, from the end of the 18th to the beginning of the 19th century, saw the United States fighting to gain independence from Great Britain and the dissolution of Spanish and Portuguese empires in South and Central America. The second period was the comparatively peaceful wave of decolonization from the mid-19th century, in which Canada, Australia and New Zealand gained ‘independence’, first as dominions and from the 20th century as independent states. The decolonization process in South Africa was an exception due to the violence used. The third wave of decolonization took place in Asia between 1946 and 1949, and the fourth and final wave was the decolonization in Africa. The final wave ran roughly from 1960 up to the liberation of Zimbabwe in 1980.

In the Indonesian archipelago, two days after the Japanese capitulation on 17 August 1945, the nationalists Sukarno and Mohammad Hatta (1902 – 1980) declared independence. This declaration of independence marked the start of another bloody war, in which the Netherlands used violence and diplomacy in an effort to reimpose its authority in the archipelago, which the Indonesians were able to prevent through both military and diplomatic means.^[98] While the Indonesians saw the return of the Dutch as an attempt to reassert colonial rule, in the Netherlands the period between 1945 and 1949 is still officially viewed as a period of decolonization.^[99] On 27 December 1949 the transfer of sovereignty brought an official end to the Netherlands’ colonial administration in the archipelago, with the exception of Netherlands New Guinea. The Netherlands held onto this final possession until 1962 finally yielding to pressure from the United Nations and the United States.^[100]

The colonial past had a long aftermath in the archipelago. KNIL military personnel who did not want to take Indonesian citizenship declared the Republic of Maluku Selatan (RMS, Republic of South Maluku) on 25 April 1950. Their Republic was swiftly occupied by the Indonesian army, after which in 1951 almost 4,000 former KNIL soldiers came to the Netherlands with their families. They intended to return when RMS became an independent state, which did not happen. In the period 1945 to 1968 over 300,000 Indonesian Dutch were ‘repatriated’ in part because they had not taken Indonesian citizenship and lived in an increasingly dangerous and hostile environment. Between 1957 and 1964 a further 25,000 so-called ‘penitents’ came to the Netherlands, who despite their Indonesian citizenship were discriminated against and were unsafe in Indonesia. Due to the major housing shortage in the Netherlands after the Second World War and unemployment up to the mid-1950s, these migrants did not receive a warm welcome. The Moluccans, who hoped to return to the RMS, were also deliberately excluded from Dutch society.

Unlike the Indonesian archipelago, Dutch colonies in the Atlantic generally had no strong desire for independence immediately after the Second World War.^[101] In view of the small size of the islands, their populations and the economies, they were heavily dependent on the Netherlands. In 1948 and from 1952 to 1954 two round-table conferences took place in The Hague, which led to the colonies being granted autonomy in domestic policy while remaining dependent on the Netherlands for a limited number of matters, including defence and foreign affairs. Suriname also became an autonomous country within the Kingdom of the Netherlands.^[102]

The statute by which all this was governed initially functioned well. From the end of the 1960s, however, racial conflicts, unemployment, Black Power influences from the United States and political instability led to strikes and uprisings in Suriname. On 30 May 1969 a popular uprising in Curaçao was suppressed by Dutch marines.^[103] The Dutch government began to see the overseas territories in the West mainly as burden, including economically, while their inhabitants seemingly did not want independence. In 1955 they persuaded the Netherlands to remove them from the United Nations list of non self-governing territories.^[104]

However in due course, particularly in Suriname, the desire for independence grew, although the population was sharply divided on the form that independence should take. On 25 November 1975 Suriname became independent, or – as it is sometimes viewed – was left to its fate as a highly polarized country.^[105] Around a third of Suriname’s population had migrated to the Netherlands before independence for political or economic reasons.^[106] Due to the tensions in the area, a large group of Antilleans also emigrated to the Netherlands.^[107] In view of the situation in Suriname, the Antillean islands were not convinced of the benefits of independence and instead worked to secure a right of self-determination within the Kingdom.^[108] Aruba was the first to feel the desire to separate from the Antilles, which in 1986 led to a *status aparte* as an autonomous country within the Kingdom.^[109] Curaçao and Sint Maarten then expressed a wish to have the same status. On 10 October 2010 the Netherlands Antilles ceased to exist as a country.

Curaçao and Sint Maarten have since then been independent countries within the Kingdom. Bonaire, Sint Eustatius and Saba became special Dutch communities under the name of Caribbean Netherlands. ^[110]

2.6 Conclusion

Decolonization brought a formal end to centuries of occupation marked by inequality, racism and violence. These are characteristics not entirely consistent with the Dutch self-image as country of tolerance, love of peace and respect for human rights.

The colonial past is viewed from a number of different perspectives in the Netherlands: perspectives in which the propaganda that glossed over colonial conduct is being reassessed and perspectives in which past actions are understood through the prism of guilt. For the Committee it is about a readiness to deal with the colonial past in an honest and unbiased way and to take responsibility for it, in part because such a history can never simply be consigned to the past and continues to leave its mark on the present day. Or as the Dutch historian Henk Wesseling says: ‘Decolonization does not want to be just history.’ ^[111]

The past is also reflected in the collections of present day museums with cultural, religious and historical objects from the former colonial territories. The Committee believes the Netherlands must take its responsibility for that part of the past. This is particularly the case in regard to those objects which were surrendered under duress, possessions lost involuntarily, and which for that reason are now uncomfortable possessions. The past cannot be undone, but a critical assessment must be made of the way in which the Netherlands will address those cultural treasures held in Dutch museums today.

3. Colonial collections

The Dutch colonial collections consist of a wide range of cultural heritage objects, including art objects, religious objects, historical objects, jewellery, natural history objects and utensils. In total there are hundreds of thousands of objects. In addition to museums that manage large and interesting colonial collections, such as the Nationaal Museum van Wereldculturen, Museum Bronbeek and the Rijksmuseum, many smaller museums also have colonial collections. A survey of Dutch museums conducted by the Committee and the Dutch Museums Association shows that much remains unknown about the way in which colonial cultural heritage objects came into Dutch possession. Some museums nevertheless state that they are managing objects which they know to have been acquired during the colonial period without the owner's consent.

In order to obtain a picture of the colonial collections in the Netherlands, the Committee worked with the Museums Association sending a survey to its 420 members.^[112] The Netherlands Cultural Heritage Agency was also surveyed. 115 respondents completed the survey, which represents a response rate of 27 percent.^[113] Although the number of respondents is relatively limited, they include leading museums with colonial collections. The Committee then obtained further information about these collections from the museums. The Committee believes it can thus give a sketch of the management of colonial heritage objects by Dutch museums. That applies in particular to those institutions that manage colonial cultural heritage objects owned by the State.^[114]

3.1 Colonial collections in the Netherlands

The survey shows that in addition to a number of larger museums, including the National Museum of World Cultures, Museum Bronbeek and the Rijksmuseum, which manage large and important colonial collections, many smaller museums have colonial collections. Apart from government bodies, the owners of these collections are frequently shown to be private individuals, including foundations, associations, businesses, individuals and families. Indonesia is the most prominently cited country whose cultural heritage objects are managed by museums. However Suriname, Curaçao, Aruba, Sint Maarten, the Caribbean Netherlands and other former colonial territories of the Netherlands and other European powers are as also identified as the source countries of colonial cultural objects collection.

Museums were asked about their knowledge of provenance: the way in which the colonial objects in their collection were acquired. Around 20 percent of museum responses stated that they manage colonial collection objects which they know to have been acquired without the owner's consent. In addition, almost 60 percent stated that they managed objects whose acquisition history

is unknown. One reason for the size of this response is that provenance history cannot always be ascertained and, as stated later in this chapter, not all museums are yet devoting the same amount of attention to provenance research. Nevertheless, approximately half of the museums with colonial cultural heritage objects report that the question of colonial heritage is a current concern for them; one-third stated that they maintained contacts with source countries. The fact that over three-quarters of the museums with colonial cultural heritage objects state in the survey that they would like support in dealing with these collections underlines the pertinence of the topic.

3.2 A closer look at the leading museums

A more detailed picture of colonial cultural heritage objects in Dutch museums can be obtained by looking more closely at a number of leading museums.

Museum Bronbeek

Museum Bronbeek is a military colonial museum and manages a large and diverse colonial collection owned by the State, including objects related to the KNIL. The collection includes cultural heritage objects from different former Dutch colonies, including Indonesia, Suriname and Curaçao. These were acquired in different ways. At the entrance to the museum is the ‘peperstuk’, for example, a 19-centimetre-calibre cannon decorated with a golden wreath of oak leaves.



The 17th-century peperstuk (object number 1875/04-1-2) at the entrance to Museum Bronbeek. Photo: Rob Gieling.

This is a cannon with a complex history. It was presented by the Turkish Empire as a gift to the Sultan of Aceh between 1631 and 1636 and was looted by the colonial army in the 19th century. In 1875 it was sent as a trophy of war to Museum Bronbeek, where it was bestowed with a golden wreath by King Willem III. The peperstuk has historical value not only for Turkey and Indonesia and due to the addition of the golden wreath also for the Netherlands. ^[115]

In addition to those objects involuntarily lost to their source country, the museum manages many cultural heritage objects which were presented as gifts to colonial administrators or private individuals or where there is a lack of clarity surrounding acquisition. An example of the latter is the ‘Slavendans’ diorama produced by the Surinamese artist Gerrit Schouten from 1817.

The diorama shows a Du a role play by enslaved people with music and dance performed on plantations. According to the museum catalogue, it is not known how this representation of Creole culture was acquired in Suriname. ^[116] The Rijksmuseum reports that the Schouten dioramas were often produced and purchased as souvenirs; Europeans in Suriname would have been enchanted by expressions of folklore in the colonial period. ^[117] Such pieces could have commissioned from Schouten.



Diorama 'Slavendans', produced by the artist Gerrit Schouten (object number 1999/00-113). Source: Museum Bronbeek

For the museum the way forward for dealing with colonial heritage is an important issue. Cultural heritage objects from the Museum Bronbeek collection have been returned to source countries in the past, including the belongings (saddle, bridle, parasol and spear) of Prince Diponegoro. This followed the agreements signed between the Netherlands and Indonesia in 1977. ^[118] Museum Bronbeek works closely with Indonesian cultural institutions. The museum states that it has never received a request for return. ^[119]

Nationaal Museum van Wereldculturen (NMVW)

The NMVW manages a large number of colonial cultural heritage objects, belonging both to the State and to the Municipality of Rotterdam. The Tropenmuseum, part of the NMVW, inherited the collection of the former Colonial Museum in Haarlem. Museum Volkenkunde, a constituent museum of NMVW, became the repository for the collections of the Royal Cabinet of Rarities formed from the early 19th century. During the colonial period Museum Volkenkunde received war loot and collections from the Netherlands' Ministry of Colonies. The museum also received military collections from private individuals and cultural heritage objects from academics and archaeologists. In 1903 it acquired the non-Western antique collection of the National Museum of Antiquities and in 1958 all collections from the Royal Military Academy in Breda. The NMVW's colonial collection is therefore extensive and diverse. The museum contains antiquarian

collections, military collections, commercial collections, missionary collections, colonial-administrative collections and family collections.

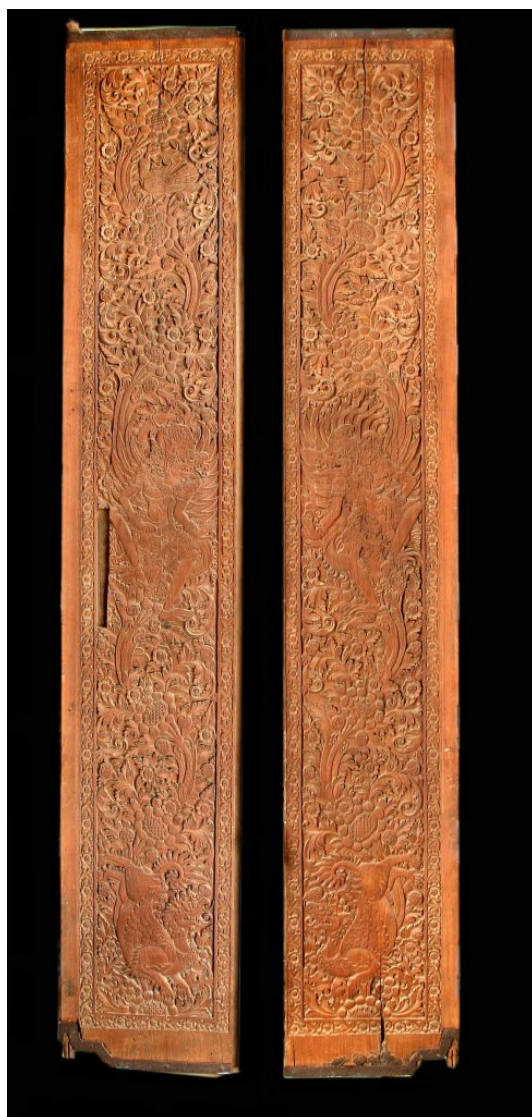
It is a custodian of cultural heritage objects whose original owners lost possession involuntarily, cultural heritage objects that were acquired with the consent of the former owner and cultural heritage objects whose provenance history remains unclear. The bulk of the colonial collection, comes from Indonesia with more than 100,000 objects coming in during the colonial period. The NMVW also manages cultural heritage objects from Suriname, Aruba, Curaçao, Sint Maarten, the Caribbean Netherlands and other former Dutch colonial territories, including from the former Ceylon (Sri Lanka). In addition, the museum manages cultural heritage objects from former colonies of other European colonial powers, including a number of notable Benin Bronzes from the Kingdom of Edo (Nigeria).



Golden pipe from 1837 (object number RV-360-5211). Source: NMVW

An example of NMVW masterpiece that came to the Netherlands as a gift is the golden pipe that was presented to King Willem I in 1837 by King Kwaku Dua of the Asante in Ghana. The pipe was received by Major General Verveer. Verveer struck an agreement with Kwaku Dua whereby the Dutch government would be able recruit a thousand men for the East Indian Army in the Asante Kingdom in exchange for payment. In recognition of the agreement, the Ghanaian king presented this golden pipe, a gift linked to a business transaction. The piece first entered the Royal Cabinet of Rarities and was subsequently transferred into Museum Volkenkunde in the 19th century. ^[120]

The Asante king sent his son and cousin to the Netherlands to receive a Western education, as author Arthur Japin depicted in his novel 'De zwarte met het witte hart'.



Balinese 19th-century palace doors
(object number RV-1586-31 Source: NMVW)

Another example of significant cultural heritage objects managed by NMVW are the 19th-century Balinese palace doors formerly belonging the palace of the ruler of Denpasar. The heavy wooden doors are ornamented with mythical animal, flower and leaf motifs. They were shipped to the Netherlands from Bali by the painter W.O.J. Nieuwenkamp as a consequence of his 'collection tour' undertaken for Museum Volkenkunde. He found the doors at the ruined palace of the ruler I Gusti Gede Ngurah in Badung, which was the target of a major Dutch military action on 20 September 1906. This ended in a *puputan* – a 'fight to the bitter end' – in which many hundreds of Balinese committed ritual suicide. The palace was completely destroyed and the majority of palace treasures were taken as war loot and sent to Batavia. According to Nieuwenkamp the doors were left behind, because they were too heavy and too large for the soldiers to carry. Nieuwenkamp sent the doors to the Netherlands by sea. ^[121]

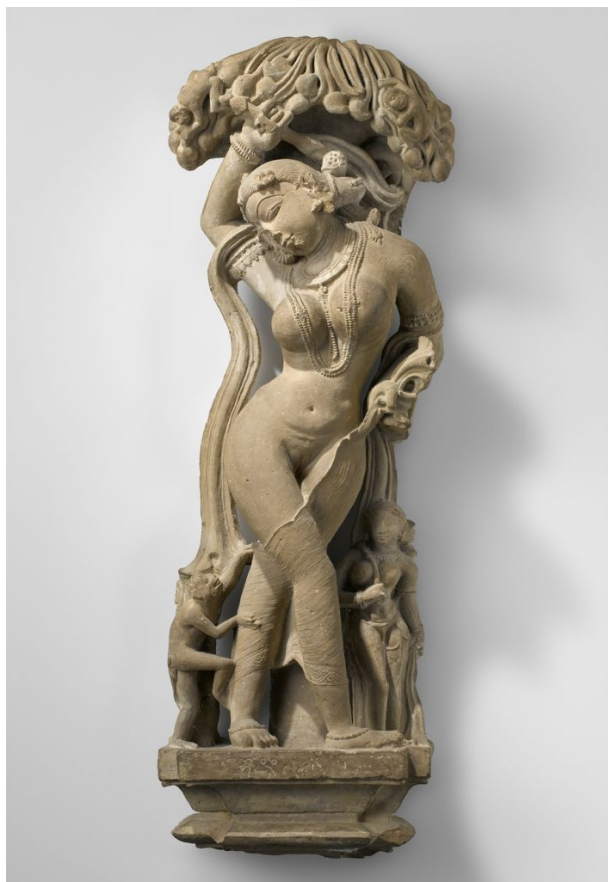
The NMVW is an active player in the Dutch museum world when it comes to establishing and maintaining contacts with source countries, conducting provenance research and developing a vision for the way forward with colonial cultural heritage objects. The museum published the previously cited report ‘Return of Cultural Objects in 2019: Principles and Process’, which sets out the procedure adopted by the museum for dealing with claims from source countries for the return of cultural heritage objects.

The Rijksmuseum

The Rijksmuseum also manages many cultural heritage objects originating from former Dutch colonial areas. Although most are in the possession of the State, the Rijksmuseum also manages many pieces belonging to private individuals. It manages the cultural heritage objects of the Royal Asian Art Society in the Netherlands (Koninklijke Vereniging van Vrienden voor Aziatische Kunst – KVVAK). The museum has cultural heritage objects from Indonesia, Sri Lanka, Suriname and the former Antilles. Some of these were acquired with the consent of the then owner, while others were acquired without consent, including the cannon of the King of Kandy. The cannon was captured on 19 February 1765 in Kandy (Sri Lanka) by the troops of G.G. Lubbert Jan Baron van Eck, in contravention of a plundering ban imposed on these troops. In that same year Van Eck sent the cannon to the Netherlands, where it entered the Royal Cabinet of Rarities of Stadhouder Willem V in 1769. Soon afterwards it came to be known as the cannon of Michiel de Ruyter. When French forces invaded the Netherlands in 1795 they presented this cannon and a number of other pieces of national interest from the former possessions of the stadhouder to the States General. Partly for this reason some historians see it as an object of importance for Dutch history. The canon ended up in the Rijksmuseum. ^[122]



The Cannon of Kandy (object number NG-NM-1015). Source: Rijksmuseum



'De Hemelse Schoonheid' (object number AK-MAK-185), from the Lakshmana temple (India). Source: Rijksmuseum

An example of a cultural heritage object from the Rijksmuseum whose provenance history is not precisely known is the Indian sandstone figure commonly called The Holy Beauty. The figure has been on loan to the Rijksmuseum from the KVVAK since 1972. The KVVAK purchased it in 1934 from Charles-Louis Fábri or through an intermediary and it is unclear how Fábri, or the intermediary on his behalf, acquired the figure. At the time of acquisition it was believed to come from Bhubaneswar in Orissa, India. Recent research by the Rijksmuseum, however, showed that the figure came from the Lakshmana temple in Khajuraho. The Rijksmuseum reports that the figure was most probably removed by a British official or a local person and found its way onto the open market when the temple fell into disrepair. ^[123]

Naturalis Biodiversity Center

Natural history museums also manage important objects with a colonial association. Naturalis Biodiversity Center, for example, manages hundreds of thousands of objects collected in former colonial territories.

The fossilized skullcap and the thighbone of 'Java Man' are significant colonial cultural heritage objects. These archaeological remains were brought to the Netherlands in the colonial period by the Dutch doctor and palaeontologist Eugène Dubois (1858 – 1940). The skullcap and thighbone were found to be the holotype of *homo erectus*, and therefore the evolutionary link between man and ape. ^[124]



Pithecanthropus erectus or 'the Java Man' in Naturalis Biodiversity Center (object number RGM.1332450). Photo: Peter Maas.

The fossils were excavated on behalf of Dubois in 1891 by 'coolies', indentured labour who were put to work in the Dutch East Indies by the colonial government. Java Man tells the history of humanity and the history of the Javanese civilization and in addition colonial history, in which Indonesian and Chinese workers were exploited by the colonial power. However, colonial collections are less of a focus of concerning the museum. The museum focuses mainly on the biogeographical and ethnobiological background of its cultural heritage objects and less on the colonial context in which they were acquired.

The National Museum of Antiquities

The National Museum of Antiquities manages more than 10,000 colonial cultural heritage objects, all of them owned by the State. The museum only possesses cultural heritage objects originating in former colonies of other powers. It has many cultural heritage objects acquired in Greek, Egyptian, Assyrian or Phoenician colonies, for example. As far as is known, these objects were acquired with the consent of the former owner. It appears that some certificates of purchase for the cultural heritage objects nevertheless appear to be forgeries. These objects may therefore have found their way illegally into the open market. In these circumstances the provenance of cultural heritage objects is often impossible or difficult to fully determine.

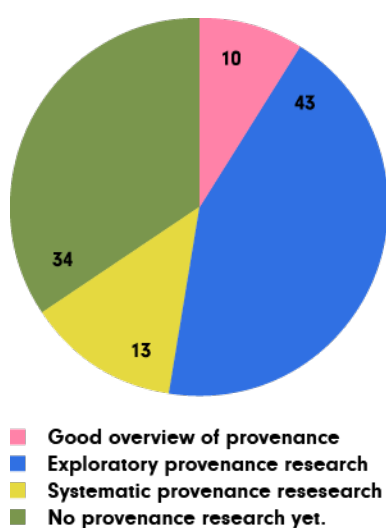
In the Committee's view the above information gives a good illustration of the diversity of colonial cultural heritage objects in Dutch possession. A precise estimate of the numbers involved is more difficult to achieve from this data, however it is likely that there are several hundreds of thousands of colonial cultural heritage objects. Those museums that did not complete the survey are likely, according to the Committee, to manage some colonial cultural heritage objects. Equally, not all museums have properly surveyed the nature and extent of their holdings of colonial objects. In the survey 28 percent of museums with colonial cultural heritage objects stated they had no proper overview of the colonial cultural heritage objects in their collections,

39 percent said that they were in process of obtaining one, with 33 percent responding that they did have an overview.

3.3 Provenance research by museums

Of the museums with colonial cultural heritage objects that completed the survey, only 10 percent already have a good overview of the provenance of their collections. 43 percent carry out exploratory research into the provenance of their collections. 13 percent carry out systematic research and 34 percent do not yet have provenance research fully on their agenda.

Status of provenance research
(in percentages)



Two Dutch museums, the NMVW and the Rijksmuseum, are experienced in provenance research. The NMVW has been active in this field since the 1990s. In view of the varied nature of the collections and the large volume of colonial cultural heritage objects, this remains work in progress. The NMVW made a number of new hires in June 2019 specifically to conduct provenance research and to identify those cultural heritage objects in the NMVW collection which require further detailed research. Priority is being given to cultural heritage objects known to be of sensitive or disputed provenance. The provenance research is carried out in close cooperation with national and international experts and other museums. An active dialogue is maintained with museums in Germany, France, Switzerland, Belgium and the United Kingdom. The NMVW hosted the Benin Dialogue Group in 2018 and is a member of the Benin Steering Group, together with state museums from Berlin, London and Nigeria. The quality of the research is monitored by a curatorial committee within the NMVW.

In 2018 the Rijksmuseum set up a working group to research the provenance of their collections, partly with the aim of detecting unlawfully acquired cultural heritage objects. The working group undertook a pilot project in which ten cultural heritage objects were selected different in terms of their acquisition and source country for closer investigation. The pilot

demonstrated how complex the history of colonial cultural heritage objects often is and how complicated and time-consuming it can be to discover this history. In some cases the provenance of the colonial cultural heritage objects has therefore remained unclear. The research by the Rijksmuseum has not as yet resulted in any returns, but has generated requests for return.

In order to combine strength and expertise, the NMVW and the Rijksmuseum started a pilot project in 2018 with the Provenance Research Expertise Centre of the NIOD (Netherlands Institute for War, Holocaust and Genocide Studies). This project, which began formally in 2019 as the ‘Pilot Provenance Research on Objects of the Colonial Era’ (PPOCE), is subsidized by the Ministry of Education, Culture and Science and aims to develop a methodology for the conduct of provenance research. The focus is on objects from Indonesia.

3.4 Acquisition method

Just as the colonial cultural heritage objects in Dutch collections are diverse, so are the ways in which they were acquired. Some were looted and some came to the Netherlands as spoils of war or were taken from temples and other holy places; others were given to Dutch people as gifts, purchased or acquired during collecting expeditions. In the case of gifts, purchases and bartering, it must be kept in mind that in the colonial period there were unequal power relationships between colonizer and colonized. This can mean that in certain cases commercial transactions or gifts were not made with full consent: cultural heritage objects may have been sold or given away out of fear, to placate a ruling party, for political reasons or because poverty meant there was no other way to provide the necessities of life. In the colonial context there was a thin line between obligation and freedom, and therefore between voluntary and involuntary loss of possession. In the case of the Dutch East Indies, for example, it is known that gifts were presented by local rulers as a token of subjugation.^[125]

Colonial cultural heritage objects were acquired by many different people and bodies: by private individuals, by scientists – for example during scientific expeditions such as those of Dubois – by government representatives, by soldiers during colonial army operations and expeditions or by missionaries. These cultural heritage objects came into Dutch collections in different ways. Private individuals donated or sold objects to museums. As stated elsewhere in this guidance, a considerable proportion of the Indonesian cultural heritage objects entered Dutch museum collections through the Batavian Society of Arts and Sciences. Other cultural heritage objects came to the Netherlands through the Dutch East Indies Archaeological Service (1913 – 1949) or through the Royal Cabinet of Rarities (1816 – 1883).^[126] The provenance history of cultural heritage objects should not be confused with the way in which they were acquired by museums. The fact that a museum legitimately purchased a cultural heritage object at auction does not imply, for example, that it could not have been looted during the colonial period. Similarly, the mere fact that a cultural heritage object was donated to a museum by the Ministry of Colonies does not automatically make it spoils of war.

4. Past returns

The return of colonial cultural heritage objects by former colonial powers is not a recent phenomenon; the first examples of returns date from the colonial period itself. The Netherlands has hitherto mainly returned objects to Indonesia. The reasons for these returns were varied. In some cases objects were returned as a diplomatic gift, for example to mark a state visit. In some cases the returns were based on agreements between countries, such as the joint recommendations between the Netherlands and Indonesia in the mid-1970s. No return policy has yet been developed jointly with the source countries, however.

Former colonial powers have for some time been considering the most appropriate means to address colonial cultural heritage. A key question being to whom does this colonial heritage belong. Prior to decolonization politicians, elites and religious leaders in former colonies territories made their own calls and demands for the restitution of lost cultural heritage. The Bishop of Iceland, for example, asked the Danes to return ancient manuscripts from his diocese in 1830, and in 1919 Tanzania asked the Germans to return the skull of their Sultan Mkawa under the Treaty of Versailles.^[127] Later examples are the throne and footstall of the last King of Kandy with the crown of King Sri Vikrama Raja Simha which the United Kingdom returned to Sri Lanka in 1934, and the more than 300 paintings and drawings from the colonial period which France returned to Algeria in 1969.^[128] But there are also more recent examples. In 2019 France returned the 19th-century sword of Omar Saidu Tall to Senegal – albeit on loan – and in 2020 Jesus College Cambridge made the decision to return a bronze cockerel, one of the renowned Benin Bronzes, to Nigeria.

Indonesia

In the Netherlands returns of objects were focused mainly on Indonesia. Remarkably, early returns to Indonesia came from Thailand: in 1927 the Ramayana reliefs from Prambanan were returned to the Dutch-Indonesian government by King Chulalongkorn of Siam. This was followed the criticism from Dutch archaeologists, curators in Siam and King Chulalongkorn's half-brother Prince Damrong that these and other important cultural heritage objects had been stolen from Javanese temples and given to the King of Siam. Not all items received as gifts by the king were returned. Heads and reliefs from Borobudur, for example, can still be seen in Thailand.^[129]

The first Dutch returns predate Indonesian independence. In 1907 and 1938 the Netherlands returned regalia to the Bone and Gowa sultanates. These had been victims of Dutch military actions in South Sulawesi in 1905 and 1906. These sultans stated that they needed these objects to rule and by returning the regalia the colonial government gave *de facto* recognition to the authority

of the sultanates.^[130] In 1937, for the same reason, two of the four looted royal krisses were returned to royal families in South Bali.^[131]

When it became clear that sovereignty would be transferred in the near term, negotiations began between the Netherlands, the Republic of Indonesia and the Federal Consultative Assembly (Bijeenkomst voor Federaal Overleg – BFO) on the Indonesian on the subject of cultural heritage in Dutch possession. Under discussion were the Bali and Lombok Treasures, the belongings of Prince Diponegoro, but also natural history objects such as Java Man.^[132] The Netherlands emphasized that during military actions in the Archipelago an ‘art protection officer’ has always been present who prevented the plundering of cultural heritage and ensured that all cultural heritage taken found its way into the collection of the Batavian Society. In consequence no significant treasures were technically consigned to the Netherlands or the world market. The reality was different: Dutch administrators, soldiers, businessmen, missionaries and scientists had indeed taken objects. These were often smuggled to the Netherlands and in some instances other countries as well.^{[133][134]}

The Netherlands did, however, see advantages in returning cultural heritage objects: the return could be viewed as a token of goodwill and be used to achieve other purposes.^[135]

Jointly with the Indisch Instituut in Amsterdam, the museums drew up a list of 1456 ‘valuables’ whose provenance should be investigated.^[136] For Indonesian parties the negotiations on the return of cultural heritage objects were important not only because these objects could tell the national story; a return was also seen as a gesture of respect from one nation to the other.^[137]

The roundtable conference on the transfer of sovereignty held from 23 August to 2 November 1949, had an agenda which included culture. This led to a draft cultural agreement, in which Article 19 related to restitution. The article specified that cultural heritage objects which were unlawfully acquired should be transferred to the Indonesian government.^[138] With the exception of this article the Republic of Indonesia was not satisfied with the agreement which it believed remained too dependent on the Netherlands. Ultimately the treaty was never ratified.^[139] The Batavian Society’s collection was nevertheless transferred to Indonesia with the handover of power in December 1949. This is the basis of the collection of the current Museum Nasional in Jakarta.

After independence the negotiations on the return of colonial cultural heritage objects continued intermittently and mainly on the initiative of Indonesia. Indonesia raised the issue at the first Africa-Asia conference in Bandung which, as far as is known, did not lead to restitution requests from any of the former colonies in attendance.^[140]

On some occasions Indonesia’s initiatives appeared to be paying off: for example, in February 1952 it was decided that there should be *ad hoc* committees to deal with restitution matters. But the Indonesian efforts had no tangible results and the *ad hoc* committees were never established.^[141]

Tensions on the future of Netherlands New Guinea, disappointment in the Netherlands on the Republic of Indonesia's unilateral dissolution of the Dutch-Indonesian Union and Dutch criticism of the human rights situation in Indonesia were obstacles to the return of heritage. ^[142] The establishment of a coordinating committee in 1963 to develop cultural relations with Indonesia, also did not result in returns. The committee's negotiations mainly concerned archival documents and not cultural heritage objects. ^[143] It is possible that Indonesia presented a detailed list of Indonesian cultural heritage objects held in the Netherlands prior to these negotiations, but no further details are at present known as to the details of this list or its role in the negotiations. ^[144]

It was only in July 1968, after President Sukarno had been deposed and President Suharto came to power and cultural relations between the Netherlands and Indonesia gradually grew stronger, that there was an agreement also covering cultural heritage objects. ^[145] A number of returns then took place. During a state visit by Suharto to the Netherlands in 1970, two paintings by the Javanese artist Raden Saleh Sjarif Bastaman (1811 – 1880) were returned. ^[146] In 1973 Queen Juliana returned the Nagarakretagama manuscript to the Museum Nasional during a state visit. ^[147] The Netherlands generally took a conservative approach to returns of cultural heritage objects, unless Indonesia lodged specific requests. ^[148] The Netherlands was more accommodating with regard to archives, particularly if there was a corresponding return of Dutch archives in Indonesian possession. ^[149]

Meanwhile Indonesia was not waiting to be prompted. In 1970 and 1974 Indonesian experts travelled to the Netherlands to create an inventory of objects whose return could be requested from Dutch museums. In 1975 the Netherlands finally expressed a willingness to cooperate in supporting the building up of museums and archives in Indonesia. The Netherlands returned as a first gesture 380 ethnographic objects smuggled out in 1962, just before Netherlands New Guinea became Papua. All parties were in agreement that this had contravened international law.

Indonesia proposed that a team of Dutch and Indonesian experts should get to work together. The Indonesian side prioritized objects that could contribute to Indonesian national consciousness. Indonesia reportedly presented a list of 10,000 objects that they wished returned. ^[150]

Negotiations which took place in November 1975 at the Museum Nasional proved difficult. A report of the negotiations even states that the Netherlands believed it was pointless to discuss a transfer of objects until such time as Indonesia had a proper museum infrastructure. ^[151] The Netherlands consistently avoided the term 'return' used by Indonesia. Instead, it spoke of 'transfer', a term judged to be less risky in terms of legal implications. ^[152]

Nevertheless, the negotiations led to joint recommendations on cultural cooperation which covered the transfer of objects. ^[153] In June 1977 a second meeting was held to discuss an initial phase of restitutions, discussions which continued a year later. Various returns took place during those years, including: part of the belongings which Prince Diponegoro lost possession of

in 1829 when fighting the Dutch, the Prajñāpāramita figure from Singosari, approximately half of the Lombok Treasure – 243 objects originating from the raid on Lombok in 1894 – and the Raden Saleh painting of the capture of Diponegoro.^[154] During this period the Netherlands also maintained its position that, with the exception of the Lombok and Bali Treasures, all objects in Dutch possession had been purchased or received as gifts and the Batavian Society had left all other significant objects in Indonesia.^[155]

The topic was less prominently discussed at the end of the 20th century. The issue was not specifically raised during an agreement on cultural cooperation between the two countries in the period 1982-1983.^[156] Dutch public perception considered the case largely ‘settled’ with the returns of the 1970s. With the exception of private individuals, there were no official requests for returns on the Indonesian side. Increasing attention was devoted to the subject in academia, but this similarly did not result in returns.^[157] Around 1990 research was undertaken into the removal of cultural heritage items from the archipelago by missionaries during the 19th century. That research led to the return in 2008 – first on loan and later permanently – of 18 objects by the Friars Minor Capuchin of the Ordo Fratrum Minorum Capucinatorum for a new cultural centre in Sintang, West Kalimantan. The Tropenmuseum also returned four ethnographic objects that year to the same museum. In 2009 the Friars Minor Capuchin donated 33 objects from their ‘Sumatra Collection’ to the Museum Pusaka Nias in Gunungsitoli on Sumatra. In 2005 the Municipality of Rotterdam returned 185 wayang puppets to the Wayang Museum in Jakarta to help strengthen municipal links between Jakarta and Rotterdam.^[158] In 2014 descendants of Governor General Baud (1789 – 1859) returned the wooden pilgrim’s staff of Prince Diponegoro.^[159] A kris linked to Diponegoro from the collection of the National Museum van Wereldculturen was returned to Indonesia at the beginning of 2020.

A special case arose in January 2013 when the Museum Nusantara in Delft had to close and a new home was needed for the mostly ethnographic collections, including more than 18,000 Indonesian objects. More than 3,000 objects were designated as worthy of protection and retention for the Netherlands and transferred to the State collection. Once other Dutch museums had selected items of interest to them and a further 2,000 objects were subtracted from the collection because they did not meet museum standards, the remaining objects were offered to the Museum Nasional in Jakarta. Initially Indonesia appeared interested in accepting these objects, but subsequently declined the offer. The collection was then distributed among museums in Europe and other countries in Asia. At the end of 2016 the Museum Nasional renewed their interest in a selection of objects. On that basis 1,564 objects were conveyed to Indonesia in 2020.^[160] One item from the Nusantara Collection had already been returned: a Buginese kris which Prime Minister Rutte presented to President Joko Widodo during his state visit to Indonesia in 2016.^[161]

Suriname, Aruba, Curaçao, Sint Maarten and the Caribbean Netherlands

In comparison to Indonesia, those items that came to the Netherlands from Suriname and the former Netherlands Antilles are relatively few in number. The return of cultural heritage to these countries has also received considerably less attention. The Committee is aware of only two cases of returns to the former Atlantic colonies. The first was the return of archaeological objects to Aruba on its becoming an independent country within the Kingdom of the Netherlands. Aruba received 4,500 pre-Columbian fragments from the Museum Volkenkunde collection in Leiden.

The second return took place in 2006, when the Tropenmuseum returned 48 artworks to the Nationaal Museum in Suriname.^[162] All of them came from the Dutch STICUSA foundation, which from 1948 to 1991 had the role of promoting cultural cooperation between the Netherlands, Indonesia, Suriname and the Netherlands Antilles and stimulating cultural output in these countries. When the foundation was dissolved, most of the art made was sold. The Tropenmuseum purchased a selection with a Dutch government grant on condition that the artworks were returned to Suriname when the Nationaal Museum there was ready. That happened in 2006.^[163] It is not precisely clear when each of the 48 returned artworks was produced. It is possible that 27 of the returned paintings were produced during the colonial period.^[164]

Finally

As this brief overview shows, the reasons for returns in the past were quite varied. In some cases objects were returned as diplomatic gifts to mark special events, such as the opening of a cultural centre or a state visit. In some cases there was internal or external pressure to return objects or an agreement was in place between countries. In a few cases, where it was clear that certain cultural heritage objects had been removed from the source country illegally, these were returned to redress the injustice. However, as yet no return policy has been developed jointly with the source countries.

5. Developments in other European countries

There are differences among the European colonizing countries in the way they deal with their colonial cultural heritage objects and requests to return them. There are countries that take a conservative attitude towards requests for return and others that are more open to such requests. There are countries in which the government keeps out of the debate and countries in which the government has adopted a clear position. Some countries confine themselves to permanent loans of objects to source countries, while other countries actually transfer ownership of cultural heritage objects. These differences reflect the variety of views among countries, but also have to do with differences in legislation that may impede the return of objects. There is nevertheless a growing urgency to tackle the issue in all countries. This is not only because the source countries and representatives of diaspora communities are increasingly making their voices heard, but also, and chiefly, because the countries that previously had colonies consider it increasingly important to take responsibility for their colonial past.

The influence the colonial period has on today on cultural heritage of formerly colonized countries differs from country to country. In some countries the colonial power set up museums whose collections have been preserved after decolonization for the benefit of the country concerned. In other countries this was not the case, or to a lesser extent, so that the current citizens have had to rely on visits to European museums to access this history and culture heritage. But for almost all of the formerly colonized countries the return of cultural heritage objects over which they lost possession involuntarily during colonial times remains a live issue. In reflection of this, it has also become so for former European colonial powers. The Committee has focused its investigation on the countries that are currently devoting most attention to future handling of colonial cultural heritage objects: France, Germany, Belgium and the United Kingdom.

5.1 France

France had dominion over a large colonial empire. From the 17th century it had overseas colonies, protectorates and dominions in North America, the Caribbean and India. In the 18th and 19th centuries large parts of that empire were lost in wars with other major European powers, but the country was able to rebuild an empire in Africa, Asia and the Pacific. Many cultural heritage objects from these colonial territories, especially from the French colonies in Africa, found their way into various French museums, including the Louvre and Quai Branly in Paris.

President Emmanuel Macron can be credited with reviving the debate on of the future handling of colonial collections worldwide. In his famous speech of 28 November 2017 to students at the University of Ouagadougou, Burkina Faso, he stated that he was no longer prepared to see a large part of African cultural heritage languishing in French museums. His aim was to enable African heritage to be returned temporarily or permanently within five years.^[165] A few weeks later President Macron commissioned the Senegalese economist Felwine Sarr and the French art historian Bénédicte Savoy to examine ways in which this could be achieved. On 23 November 2018 Sarr and Savoy published their ‘Rapport sur la restitution du patrimoine culturel africain. Vers une nouvelle éthique relationnelle’. In the report they recommend returning cultural heritage objects that were obtained unlawfully or immorally from African colonies if a source country so requests it. An innovative aspect of the report is the recommendation to reverse the burden of proof: if a source country requests the return of an object, it should not have to prove that the object was unlawfully obtained. The museum should have to prove that the object was obtained lawfully. If they are unable, the object must be returned. Sarr and Savoy also identify an important obstacle to returns. Most colonial objects in France are owned by the State and under French law national cultural heritage objects must not be sold or transferred. Sarr and Savoy therefore recommend introducing a new procedure for restitutions, based on bilateral agreements. These agreements should prevail over the domestic principle of inalienability.^[166]

The report was widely seen as a radical move, even within France, particularly due to its adoption of the principle of the reverse burden of proof. However, it was not universally welcomed in France. After presenting the report Macron announced his willingness to return 26 objects stolen in 1892 by French soldiers from the palace of the King of Dahomey (the present-day Republic of Benin) and a sword looted during military action in Senegal.^[167] A law has been drafted specifically for these returns. There will not be an amendment to allow for general unconditional returns. France wants to be able to judge each return on its merits and does not wish to commit to an overarching policy.^[168]

In France discussion regarding returns take place at government level. Certain African countries state that they do not want any cultural heritage objects returned at present because no adequate museum infrastructure is as yet in place. There are diaspora communities in France who are, however, vociferous on this subject. For example, on 15 June 2020 a number of French-Congolese activists tried to seize African heritage items from the Musée du Quai Branly to return them to African countries, in part in response to the worldwide anti-racism protests.^[169]

5.2 Germany

Germany was in comparison a later colonial power. In the early modern period a number of German states established various overseas colonies, but these were soon lost due to competition from other European powers. It was not until 1884, when Germany had already been a unitary state for 13 years, that Chancellor Otto von Bismarck decided to accord state protection to

trading posts in overseas territories. At the end of the 19th century the empire under Kaiser Wilhelm II slowly but surely developed into a colonial empire, with German colonies in parts of Africa, Asia and Oceania. During the First World War all German colonies apart from those in East Africa were seized by other European powers and Germany lost the final territories in its colonial empire under the Treaty of Versailles in 1919.

Germany acquired extensive colonial collections through looting and purchase. Many of these ended up in German museums, such as those of the Staatliche Ethnographische Sammlungen Sachsen and the Humboldt Forum that is due to open in Berlin. And although Germany has so far received few requests for return, the country is tackling this issue very actively. In July 2018 the Deutscher Museumsbund (German Museums Association) issued guidelines on the handling of requests for return: the ‘Guidelines on Dealing with Collections from Colonial Contexts’. In 2019 the association issued an updated version of these guidelines, entitled ‘Guidelines for German Museums. Care of Collections from Colonial Contexts’, with more attention focused on non-European perspectives. The latest version of these guidelines will be presented in 2021. The guidelines are intended as a basis on which German museums can develop their own vision and as an encouragement to tackle this issue actively.

On 13 March 2019 the Staatsministerin des Bundes für Kultur und Medien, the Staatsministerin im Auswärtiges Amt für Internationale Kulturpolitik and the Kulturministerinnen und Kulturminister der Länder und der kommunalen Spitzenverbände agreed a general framework on dealing with colonial collections: the ‘Erste Eckpunkte zum Umgang mit Sammlungsgut aus kolonialen Kontexten’. The framework argues that it is important to create conditions for the return of objects from former colonies that were taken in a legally or morally indefensible manner. Such measures should include digitizing and supplying data, conducting provenance research and developing international cooperation. In this document the ministers adopt the principle that ‘identifying cultural heritage objects with a colonial context acquired in a way that is no longer legally and/or ethnically defensible and enabling them to be returned is a moral and ethical obligation and an important political task’.^[170]

Museum collections in Germany are generally not owned by the State, but are usually held by foundations such as the Stiftung Preußischer Kulturbesitz. Decisions with political or diplomatic connotations, however, are often taken in cooperation with the Minister of Culture and sometimes the Minister of Foreign Affairs. The Eckpunkte can therefore be construed as a message from politicians that defines museums’ room for manoeuvre.^[171] The museums welcomed this message. In the ‘Heidelberg Statement’ of 2019 ethnographic museums called for requests for the return of looted cultural heritage objects to be honoured. In addition they supported the possibility for cultural heritage objects to be returned on the basis of the strength of their significance to the communities of origin.^[172]

5.3 Belgium

Belgium also built up a colonial empire in the past. When the country gained independence from the Netherlands in 1830, it quickly sought to establish a colonial empire. After a number of failed attempts under King Leopold I in Africa and the Americas, King Leopold II was successful in laying claim to the Belgian Congo from the end of the 19th century, initially making it his own possession as the Congo Free State (1885 – 1908). Under his successors a number of other territories were subsequently conquered, including Rwanda-Burundi. As was the case in other European colonies, cultural heritage objects of significance were looted and sent to Belgium. King Leopold II ordered the systematic collecting of cultural heritage objects in the Congo Free State, which was accompanied by high levels of violence against the local population. The objects were sent to Belgium for a new AfricaMuseum in Tervuren, where a large part of these objects can still be seen today.^[173] In 1976, 114 objects looted from Kinshasa were transferred to the Institut des musées nationaux du Zaïre. This is an example of a return which in a short space of time a proportion found its way onto the art market, in this instance the Brussels art market.

The debate on colonial cultural heritage objects in Belgium was galvanized by the controversy surrounding the reopening of the AfricaMuseum in Tervuren. The museum was closed to allow for rebuilding work. During this extended period the museum and the building were to actively focus on decolonization. The planned reopening however led to calls from African diaspora communities, museum researchers, activists and academics for a more fundamental decolonization of the museum and the immediate return of stolen cultural heritage objects.^[174] Even a political working group from the United Nations criticized the museum and the presence of racist sculptures that remained in place despite the rebuilding work.^[175]

In a political response to this uproar the then Belgian Minister of Foreign Affairs Didier Reynders called for a dialogue with the diaspora and cooperation in dealing with restitution issues during a conference entitled ‘Sharing Past and Future: Strengthening African-European Connections’ in September 2018.^[176] At the reopening of the museum the then Deputy Prime Minister and Minister of Development Cooperation, Digital Agenda, Telecommunications and Post, Alexander Decroo, emphasized the importance of openness with regard to restitution.^[177] A number of initiatives were implemented to fulfil these declarations of intent, including by the Belgian Senate, although as yet they have yielded no results.^[178] At the end of April 2019 a new and broader revival of the debate surrounding Belgium’s colonial past led to the Brussels parliament adopting a resolution ‘concerning African cultural heritage objects and heritage objects and the return of human remains held on Brussels territory’.^[179]

The AfricaMuseum presented its views on the return of cultural heritage objects in January 2020. The museum acknowledged that it holds African cultural heritage items while the moral ownership lies source countries. The museum is therefore investing in provenance research and is endeavouring to make an online inventory of its collections available in

short order. The museum undertook to advise the competent minister on the possibility of physical returns of pieces. For the museum, a precondition for return is a formal restitution request from a recognized authority and thorough provenance research conducted by *ad hoc* working groups with academics, representatives from Africa and from the African diaspora in Belgium. There will be a particular focus on pieces of great symbolic value for the countries concerned.^[180]

On 17 July 2020 a Special Commission of the Belgian House of Representatives was established with the task of ascertaining the facts concerning the Congo Free State (1885 – 1908) and the Belgian colonial past in Congo (1908 – 1960), Rwanda and Burundi (1919 – 1962). This Commission was also asked to make recommendations on dealing with the colonial past in order to draw up reconciliation proposals.^[181] Returns are a complex matter in Belgium. Belgium has little or no national culture policy: both Flanders and Wallonia each conduct their own culture policy and a lot of museum policy is determined locally by the major cities. Belgian law also prohibits the sale of public cultural heritage objects.

5.4 United Kingdom

The British were the most prominent players in the colonial period from the beginning of the 18th century. The British Empire, which developed over 300 years, stretched all around the world. Some parts of the Empire had an opportunity to develop their own economies, while others were used solely as a source of raw materials for the British. The United Kingdom's relations with its former colonies therefore vary. Like other former colonial powers, the United Kingdom has many colonial collections. Many of them are exhibited in national museums such as the British Museum and the Victoria and Albert Museum, and in academic institutions such as the Pitt Rivers Museum and the Cambridge Museum of Archaeology and Anthropology.

The United Kingdom presents a mixed picture when it comes to the future handling of colonial collections. There are national museums, which are subsidized by the national authorities and whose collections are managed by trustees. These generally take a conservative view of issues surrounding returns. Under the museum acts governing their activities, these museums are in principle prohibited from disposing of any cultural heritage objects, with the exception of human remains and Nazi looted art. But there are also regional and university museums that manage their own collections, and which take a more progressive and proactive stance. Overall the museums' positions range from a view that colonial heritage from different parts of the world is best displayed together in 'universal museums' and that the debate on returns will fade over time, to the view that decolonizing collections is a moral duty that has the important positive effect for museums of improving relations with the source countries.

The British government has so far been fairly silent on this issue and indicates that it is a matter for the museums and their trustees. They, in turn, refer to laws that preclude returns, so there is currently little movement on this issue in the United Kingdom. There are nonetheless national museums that are

taking steps despite the legal restrictions. The Victoria and Albert Museum and the British Museum, for example, use long-term loans as a way of meeting restitution requests. These loans have no end-date or are renewed automatically.^[182]

The Arts Council, a non-departmental public body responsible for allocating grants, is expected to issue guidance for museums on dealing with restitution requests in the autumn of 2020. To what extent the Arts Council's guidelines will lead to changes remains to be seen and will depend partly on whether this body actively addresses issues surrounding the return of colonial cultural heritage objects as a condition of grants.

In June 2020 the African Foundation for Development (AFFORD) published a report on the restitution issue surrounding African cultural heritage objects in the United Kingdom. As well as recommendations for the British government, the report also has recommendations for museums, cultural institutions, financiers, the UK population and communities within it (including the African diaspora). These recommendations are mainly aimed at creating a climate in which it is possible to discuss and negotiate on returns. AFFORD calls for international collaboration to boost awareness of the issue among the UK population, in African countries and the diaspora, to take stock of objects that could be returned and to enable capacity building in source countries.^[183]

5.5 Other countries

The Netherlands, France, Germany, Belgium and the United Kingdom are not the only former colonial powers with colonial collections in their museums. Spain and Portugal, for example, were also major powers in the colonial period. In the 16th century they were even pioneers in the colonization of territories in Asia, Southern and Central America and Africa. But the debate in these countries appears considerably less vigorous, even though they also looted large numbers of cultural heritage objects from their colonies that are on display in their museums.

6. Views in the source countries

The Committee's discussion partners in former colonized countries state that they consider it important that their museums can tell the colonial story, including by means of objects that are currently in the Netherlands. The discussion partners in Suriname and the Caribbean believe the museum infrastructure must be brought up to standard before objects are returned to them. The discussion partners would like regular museum-level cooperation with the Netherlands in the field of capacity development. The Indonesian discussion partners emphasize the importance of joint academic provenance research. The discussion partners state that the return of cultural heritage objects is a matter to be agreed between states, but that communities to whose culture these objects belong must also benefit.

The Committee considers that policy on the future handling of colonial cultural heritage objects can only produce results if it is supported by both the Netherlands and by the countries in which the Netherlands has exercised colonial authority. When it comes to the consideration of return to source countries, it is important that the views, feelings, standards and values that dominate, are not those of the former colonizing power. For these reasons, the Committee intended to make working visits to Indonesia, Suriname and the Caribbean islands to understand better the wishes and opinions in those territories in detail. As a result of the coronavirus crisis, however, these visits were unable to go ahead. The Committee nevertheless conducted a number of exploratory online discussions with experts and government representatives in these countries. Despite the limitations of this kind of enquiry, the Committee considers that these discussions have provided a number of interesting ideas that are important for future policy development. The key points are set out briefly below.

First, all discussion partners say they consider it important to be able to tell their history and they see the period of history intertwined with the Netherlands as an important aspect of this. They say that an ability to tell this story well is necessary for the development and awareness of their own identity, particularly among young people. An account of the colonial period which credits the way in which these multi-ethnic societies came into being is also important to promote understanding and appreciation for the multiple ethnicities that constitute contemporary societies, particularly for countries in the Caribbean.

In order to tell this story, all countries believe it is important to have access to those cultural heritage objects currently held in the Netherlands. Some discussion partners stated they no longer had cultural heritage objects themselves with which to properly tell relevant stories. This is not only a question of physical return, but also digital access and loans. Countries noted that in telling such histories they would like the cooperation of Dutch

museums, so that the shared history with the Netherlands can be told from different perspectives and thus understood better.

The countries also stressed that apart from tangible heritage items, intangible heritage is very important for their communities in order to experience and appreciate their own identity. That applies particularly to countries that have little access to tangible heritage or limited scope to make that heritage readily accessible to their populations. It was raised that intangible heritage is viewed more positively by the population than tangible heritage, which often refers much more explicitly to the (slavery) past.

The discussion partners say they have a limited understanding of those communal cultural heritage objects held in the Netherlands. This also holds true for the ways in which those cultural heritage objects came into Dutch possession. In some cases they happen upon information on the internet. In consequence they do not feel sufficiently informed as to which cultural heritage objects could be of interest to them. A good database would be important in assisting as would cooperation with Dutch museums which could proactively tell them about objects that could be of interest to them.

An important point is that the discussion partners in the Caribbean islands and Suriname note that their own museum infrastructure is not yet, or any longer, appropriate for the responsible handling of cultural heritage objects. There is often a lack of museum policy, the management conditions are not always optimal and the collection inventories are often not sufficient, so it is not always clear what they hold and who the owner is. Museums also lack expertise and, especially, financial resources. These countries say that while the infrastructure remains insufficient, return is undesirable. There would be too great a risk of heritage items being lost. They also state it is difficult to bring this infrastructure up to standard with their own resources and they pin their hopes on cooperation with the Netherlands in this area. These countries see the field of capacity building as the beginning of the structural cooperation they desire with the Netherlands and the return of heritage as the final element of this cooperation.

The Indonesian discussion partners say they wish to intensify their collaborative work with the Netherlands and with Dutch museums in the field of provenance research. They refer explicitly to education and the development of expertise among young museum professionals. The discussion partners consider the return of objects to Indonesia of importance mainly in order to tell the entangled history and to repair and strengthen the relationship between the countries. They see return as a less important goal in itself.

The discussion partners in the countries with which the Committee has spoken take the view that agreements on the return of cultural heritage objects are matters to be agreed between states. The importance of this was emphasized by the official representatives from Indonesia and Suriname. Discussion partners also said it was important for each state to decide which returns would be requested from the Netherlands and which would not.

Representatives of indigenous communities in Suriname say it is important that they are part of the cooperation too and that they must also benefit from the return of cultural heritage objects.

7. Matters of relevance to the handling of colonial collections

A number of aspects play a role when dealing with colonial cultural heritage objects and particularly requests for their return. The first is the way in which an object came into Dutch possession. A request for the return of a cultural heritage object that was looted, for example, requires a different approach than a request to return a cultural heritage object that was acquired legitimately by way of gift or purchase or whose provenance history cannot be determined. The importance of the cultural heritage object, both for the source country and for the Netherlands, must also be taken into consideration, together with the storage conditions and accessibility of the cultural heritage object after any return, as well as the availability of alternatives to a return. Finally, it is naturally important who the current owner is: central government, another government authority or a private individual. These aspects are developed and explained in this chapter. They make up the ingredients of the policy framework formulated by the Committee in Chapter 9.

7.1 Method of acquiring colonial cultural heritage objects

The way in which a colonial cultural heritage object came into Dutch possession plays an important role in the future handling of colonial cultural heritage objects. That applies in the first place to the presentation of these objects in the museums. The object itself and the social, cultural or religious significance that it had at the time, and perhaps still does, are only part of the story. Information on how and when a cultural heritage object came into Dutch possession, and whether this involved duress, places the story in a historical context that is instructive for the visitor. This context, when viewed from different perspectives, can be of significance not only to the Dutch visitor but for visitors from source countries. Museums can thus contribute to a more widely shared understanding of the past and a greater awareness of the different perspectives from which this past can be viewed. Dutch people with roots in source countries are a significant resource in this regard for museums.

In the context of policy development an obvious consideration is the means by which colonial cultural heritage objects were acquired. If return is requested and it is clear that the cultural heritage objects were the subject of involuntary loss this requires a different weighing up of moral and ethical considerations than in cases where it can be shown that cultural heritage objects were obtained legitimately by way of gift or purchase, or in those instances where the precise provenance history cannot be determined. Section 3.4 of this guidance describes the various ways in which Dutch colonial cultural heritage objects were acquired.

For the policy framework for dealing with requests for return, the Committee distinguishes between three categories of colonial cultural heritage objects:

1. cultural heritage objects whose *owners suffered involuntary* loss and which therefore came into Dutch possession without the consent of the original owner, for example through theft, looting, extortion or seizure of cultural heritage objects as spoils of war. An example of such a cultural heritage object is the Diamond of Banjarmasin referred to earlier in this guidance;
2. cultural heritage objects which came into Dutch possession *with the consent of the owner* and which, for example, were presented as gifts or acquired by collectors or institutions at a fair price for collections, exhibitions etc. An example of such a cultural heritage object is the golden pipe presented as a gift to Willem I by the King of Ashanti as referred to in Chapter 4;
3. cultural heritage objects where it is *not clear* whether the transfer of ownership was voluntary or otherwise, either because the acquisition history can no longer be clearly determined or because the cultural heritage object did not have a clear owner at the time.

Since the provenance history of a cultural heritage object is a key aspect in assessing whether to honour requests for return, it is important to determine the method of acquisition of colonial cultural heritage objects in as full manner as possible. The Committee makes recommendations on this in Chapter 9. For some cultural heritage objects it will be possible (under current conditions of knowledge or by means of further research) to establish with reasonable certainty whether the transfer of ownership was voluntary or involuntary. In many cases, however, there will be a grey area because gifts and sales, for example, took place in contexts of power inequality. In those cases it will be necessary to rely on the available information to assess the degree to which the transfer of possession was voluntary. Finally, there is the category of cultural heritage objects where even detailed research on the provenance history is unlikely to show the degree to which the transfer of ownership was voluntary.

7.2 The cultural importance of a colonial cultural heritage object

The importance of cultural heritage objects lies in the values they embody and the social functions they fulfil. The aesthetic value of a cultural heritage object, for example a painting, a figure or an item of jewellery, can give the viewer a perception of beauty or even happiness. Cultural heritage objects can move, console, intrigue and surprise. They can also embody spiritual values and functions, as in the case of religious relics, or possess supposed magical powers. Cultural heritage objects can have a symbolic function, for example a crown as a symbol of power or the likeness of an elephant as a symbol of strength, patience and wisdom. Cultural heritage objects have a scientific function as carriers of information, for example of an historical event, such as the *Plakkaat van Verlatinghe* the declaration in which King Philip II was no longer recognized as the ruler of the Netherlands. Above all, cultural heritage objects have a social value and function: they connect people, refer to the shared aspects of the community – often a common past – and are thus the

bearers of national and religious traditions and the identity of a country, people or community. Finally, cultural heritage objects also have an economic and representative value: as a sought-after and often valuable item for dealers, collectors and investors and, displayed in museums (at home and abroad), as a symbol for a country and its culture and a driver of tourism.

The significance of a colonial cultural item in a Dutch museum will often be different for the Netherlands than for the source country. A certain cultural item, for example, can have a particularly informative and scientific value for the Netherlands because it is a unique representative of a particular time and place in history. For source countries the object's interest may lie in its social function of keeping a tradition alive. Dutch people with roots in source countries, with a plural sense of identity, also have interest in the presence of their heritage in Dutch museums. A policy framework for dealing with requests for return must have scope to take these interests into account when considering a request. In some cases interests in cultural heritage objects from the Netherlands and the source countries will overlap: cultural heritage objects have values that are not always tied to a particular physical place or owner. Furthermore, cultural heritage objects are not always made to remain in a particular physical location, and moving creates new dynamics for the objects and the perception of them.^[184] Some objects may have become politicized over the centuries and thus become emotionally charged items for one or more communities.^[185]

The source country itself will be able to state the importance that a cultural heritage object has for it in the reasons for the request to return. The benchmark for the importance of a cultural heritage object for the Netherlands can be found in Section 3.7 of the Heritage Act on the criteria for protection and retention of cultural heritage objects for the Netherlands. This article describes an object as worthy of protection when it is: 'a cultural heritage object which is of particular cultural historical or scientific importance or exceptional beauty and which should be considered irreplaceable or indispensable for Dutch cultural heritage'. An object is irreplaceable if there are no (or hardly any) equivalents or similar objects in good condition in the Netherlands. A cultural heritage object is indispensable according to the explanatory notes to the Heritage Act if it clearly recalls persons or events that are of compelling importance to Dutch history and/or of compelling significance to academic practice (including cultural history) in the Netherlands, and/or makes an essential contribution to research into, and knowledge of, other important cultural heritage objects.^[186]

7.3 Conditions after return

Expectations regarding the future role and location of object after it is returned may also be relevant when assessing requests for return. Of primary importance is that the object is put into 'safe hands' and is not, for example, at risk of being destroyed for internal political reasons. A judgement following a request for return may be different if the request concerns a cultural heritage object held in store in the Netherlands and which, upon return to the source country, will be on public display as opposed to a cultural heritage object removed from a public space in the Netherlands in order to be stored away

from view in the source country. The argument above is made in the acknowledgement that there are certain cultural heritage objects, whose ceremonial value to the source country or community, would mean that out of respect they are kept away from public view.

In addition to taking into consideration aspects of accessibility to the public, and particularly the members of the community to whose culture the object belongs, other considerations include the permanent availability of the cultural heritage object for scientific research, together with possibility of entering into cooperation agreements with the source country. The management conditions at the location in which the cultural heritage object would be kept after return may also play a role in the assessment of the request for return.

7.4 Other options in addition to return

From the contacts that museums have with source countries and the discussions which the Committee has conducted with representatives of source countries, it is clear that in certain instances source countries are not fully equipped to accommodate return of cultural heritage objects at the outset. *Recognizing* the fact that the cultural heritage object was acquired in contravention of the will of the original owner is important. From this might follow academic collaboration, providing support for the training of museum staff, exchanging knowledge on the history of certain cultural heritage objects, and include the possibility of loans, replicas and digital access to the collections and of giving joint presentations. Such collaborations are equally useful for Dutch museums. They might, in the fullness of time, make ownership less important and, for a variety of reasons, might ultimately be more attractive for source countries than a physical return. This may apply, for example, if the Netherlands has more research facilities, when the source country already has several similar types of cultural heritage objects or if the storage conditions in the Netherlands are preferable to those present at the time in the source country. The physical return of a cultural heritage object to a source country may also give rise to tensions, for example where contested claims to ownership arise, and where the source country prefers a solution other than return. In the contacts with the source countries on dealing with colonial cultural heritage objects, new forms of cooperation can be additional, and if desired, can also be an alternative to return.

7.5 Cultural heritage objects not owned by the State

The Minister of Education, Culture and Science has requested this guidance and its scope is therefore limited to the State's handling of colonial cultural heritage objects that it has in its own possession. But the State is not the only owner of colonial cultural heritage objects. Local authorities, provinces, universities, foundations and private individuals are also owners of these types of cultural heritage objects and these all have individual responsibility for the way in which they deal with them in future, including any requests for return. The Committee can foresee, however, that the policy line proposed in Chapter 9 and the arguments put forward could provide guidance for these other owners and that they could also use the proposed facilities to make an informed judgement upon request for return.

At this point the Committee notes that the Minister may wish to make financial provision to compensate private owners for the colonial cultural heritage objects which they acquired in good faith and which they return in accordance with the policy line proposed in this guidance.

8. The legal framework

The handling of requests to return cultural heritage objects is not so much a legal as an ethical question. This is due to the statute of limitations in Dutch law and the fact that international conventions relevant to colonial cultural heritage objects do not have retroactive effect. The standards and principles of international humanitarian law and the ethical codes of international social organizations can serve as a useful guide to the ethical handling of requests for return. They call for an accommodating response to requests for return, the guiding principle being that what was stolen must in principle be returned. Unlike a number of other European countries, Dutch law does not oppose the return of colonial cultural heritage objects by the State to source countries.

While the previous chapter described the substantive elements of a policy framework for dealing with requests to return colonial objects, this chapter addresses the question of whether there are national legal rules, international treaties and ethical codes drafted by organizations that provide guidance when dealing with requests for return of colonial cultural heritage objects where there was involuntary loss of possession.

8.1 The law in the colonial territories

The first route that the Committee explores here concerns the law applicable in the colonial territories at the time. The question is whether this law provides legal grounds to determine those cases in which property rights were unlawfully infringed at the moment of acquisition and therefore whether past illegalities can form the basis of return policy.

To answer these questions it is important in the first place to have sufficient knowledge of legal frameworks in former colonial territories at the time. It is then important that the current owner can still be held legally accountable for any violation and finally – and this is a more practical point – whether there are legal successors to the original owners who can submit a claim to the current owners for the item to be returned.

The Committee concludes that there are too many barriers to make this route viable. In the first place legal frameworks in colonial territories over the centuries during which the Netherlands exercised colonial authority changed constantly. The colonial regulations were adapted as the situation required almost entirely in the interests of the colonizer. And in spite of the so-called ‘concordance principle’, the law also differed from colony to colony and from area to area within a colony. Different rules and different levels of legal protection applied to different population groups. In addition, it was not always clear who belonged to which population group or who had which nationality. The local populations were considered in some areas and in some

periods to be Dutch nationals – sometimes having the same rights as Dutch people and sometimes not – whereas in other periods they were not seen as Dutch nationals. The wide range of rules makes it difficult to determine which legal provisions applied in specific cases and whether acquisitions were legal at the time. And in addition to this more practical barrier, there is the more fundamental question of whether legal rules made by colonial authorities which were based on a dualistic principle which kept the local populations in conditions of inequality should be the reference point for requests for return assessed today. Finally, there is the obstacle that a legal successor of the original owner is unable in principle to be successful in a claim for return due to a time-bar under Dutch law. In Dutch law it is the current owner rather than the original owner who is protected by legal principles such as acquisition in good faith and the statute of limitations. This is different to those countries where common law applies – countries such as the United Kingdom, Ireland, Australia and the United States. There the original owner has a stronger legal position.^[187] Even owners who acquire in bad faith are protected by Dutch law in the sense that they ultimately also obtain ownership rights due to the statute of limitations. Moreover the original owner's ability to lodge a claim against the current owner based on tort is also time-barred. However for the sake of completeness, it is important to note that the statute of limitations is not an absolute barrier. In the first place the current owner can waive the right to invoke it. This is what the Dutch State does with regard to cultural heritage objects lost involuntarily during the Second World War.^[188] In addition there are examples, in cases of excessive colonial violence, when the court has declared the statute of limitations to be inapplicable.^[189]

8.2 International law

The second route explored by the Committee is that of international law: does that law offer a possible legal grounds for a return policy?

From the middle of the last century a number of international conventions were signed on the protection of cultural heritage against destruction in the event of armed conflicts and the combating of illegal trade in cultural heritage objects. The two most important of these are the Unesco conventions of 1954 and 1970, which are discussed briefly below. But culture and cultural heritage were also the subject of international agreements before that time. During the Congress of Vienna in 1815, for example, after Napoleon had finally left the European battlefield, arrangements were made for the return of the objects looted under his regime. This did not concern the return by the colonial powers to the colonized territories, only return among European countries themselves. The Brussels Declaration of 1874, in which five European countries entered into agreements on the initiative of Tsar Alexander II on the laws and customs of war, also contained provisions on the protection of historic buildings and artworks against seizure and destruction.^[190]

Not all participating countries accepted these agreements as binding, nevertheless the Brussels Declaration did form an important basis for the Hague Conventions of 1899 and 1907 on the laws of war. These conventions contain provisions aimed at protecting culture and cultural heritage during warfare.^[191]

The first international convention that specifically addressed the protection of cultural heritage in armed conflict between countries was the Unesco Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict and the associated First Protocol, also known as the Hague Convention of 1954.^[192] This convention, implemented by the Netherlands in 2007, was drawn up by the international community in response to the destruction and looting of heritage in the Second World War. The Convention provides for preventive measures, calls on parties to spare heritage objects in armed conflicts, and contains provisions for the return of heritage objects exported illegally from occupied territories and for compensation of owners who gained possession of such objects in good faith.

The second important international treaty devoted to the protection of heritage is the Unesco Convention of 1970 on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.^[193] This convention, ratified by the Netherlands in 2009, was intended to halt the sharp rise in the trading of looted cultural heritage objects in the years following decolonization. It is particularly concerned with illicit trading of objects looted from museums and archaeological sites in former colonial territories which found eager buyers among museums and private collectors around the world. To this day, a number of countries are at a heightened risk of losing their cultural heritage. The convention seeks to halt this illicit trade in cultural heritage by means of preventive measures, international cooperation and the return of illegally imported goods to countries of origin.

To supplement the Unesco Convention of 1970, the Unidroit Convention was signed in 1995 with the aim of combating theft and illegal trading in art objects with a particular focus on the restitution of heritage.^[194]

These conventions are based on the principle that cultural heritage objects deserve special protection, that destruction or looting must be avoided, that illegal trading in cultural heritage objects must be combated, that illegally imported heritage must be restituted and that owners must be compensated in good faith. But they provide no directly applicable legal framework for dealing with or returning objects in cases of involuntary loss of possession. The laws of war as set out in the above Hague Conventions provides little guidance because colonial wars were mainly seen as domestic matters and not wars between individual states. And even if that had been the case, existing laws do not offer straightforward solutions.^[195] With regard to the two Unesco conventions of 1954 and 1970, it should be noted that neither Indonesia nor Suriname have acceded to these conventions, so they do not apply to cultural heritage originating from these countries. Another common feature is that these conventions cannot be enforced retroactively.^[196] Hence they do not apply to cultural heritage objects looted from the former colonies before the implementation of these conventions – for the Netherlands that means before the start of the 21st century. For clarity's sake, this does not mean that these conventions legalize acts and transactions that were illegal before they came into existence. What it mean is that these conventions cannot be invoked as a legal basis for requests for return.^[197]

8.3 Soft law

The above observation does not speak to the larger utility of these conventions. The question is not only whether they are applicable to objects originally acquired in the colonial territories. It is also about the principles that underpin these conventions, principles that reflect the way in which the international community currently thinks about the importance of respecting culture and cultural heritage and the importance of protecting ownership. Although these conventions may not offer a legal framework, they do provide an ethical framework for dealing with objects whose owners suffered involuntary loss of possession.^[198]

Such principles are also found in international humanitarian law and international declarations on cultural rights and communities' rights to access their heritage. Although not legally binding, these declarations also provide a framework for countries' handling of culture and respect of communities' cultural rights. The United Nations Declaration on the Rights of Indigenous Peoples of 2007 is important in this regard. This declaration is intended to protect the individual and collective rights of indigenous peoples in a wide range of areas, including culture. Article 11, for example, states that indigenous peoples have the right to protect the manifestations of their culture and calls on states to offer compensation for cultural property taken against their will, including by means of restitution. Article 12 of the declaration also calls on states to allow access to or the return of ceremonial objects and human remains.^[199] This declaration demonstrates the international community's endorsement of the importance of peoples' right to access to their own culture, including past manifestations of it.

In addition to the above named conventions and declarations, there are also codes and conventions drawn up by social organizations. The International Council of Museums' (ICOM) Code of Ethics for Museums, for example, states clearly that museums should be prepared to engage in a dialogue regarding the return of cultural heritage objects and that they should cooperate with a source country or community when requested to return cultural heritage which was acquired in breach of international or national provisions.^[200]

In line with the ethical code of ICOM, mention should be made of the Principles for Cooperation in the Mutual Protection and Transfer of Cultural Material of the International Law Association (ILA).^[201] These principles promote the ideas behind the Unesco 1970 and Unidroit 1995 conventions and encourage parties to work together on restitution matters in good faith through negotiation. They therefore provide guidelines, including for when parties cannot reach agreement. These non-binding principles also have an important effect in setting the standard for the handling of requests for return, since they are supported by an important and relevant community of lawyers working in international law.^[202]

In conclusion, neither property law nor conventions based on international law can provide a framework in which a claim for return can be made and/or honoured on the basis of strictly *legal grounds*.^[203] The principles underpinning these conventions, as well as the declarations on human rights and the ethical codes of social organizations, do nevertheless offer relevant principles for a *moral* assessment of requests for return. In the international community, and the legal literature this is referred to as ‘soft-law’ recognizing that these standards are set by authoritative international organizations. Unlike ‘hard law’, this does not constitute enforceable law. However it does serve as a guide for countries on dealing with requests for return. Due to the inadequacy of the ‘hard law’ noted above, the question of return of cultural heritage objects is increasingly approached from the perspective of ‘soft law’.^[204] This approach does not place the legal argument of the lawfulness or unlawfulness of acquisitions as a central concern. Instead it approaches the question by assessing whether the original circumstances of acquisition would be judged as acceptable on the basis of present-day views, standards, values and legal provisions. It presumes that depriving a community of access to objects essential to its culture is a violation of human rights and therefore constitutes an argument in favour of return. ‘Soft law’ calls for an accommodating approach to requests for return. It is based on the principle that what was stolen must be returned, and that decisions taken on these requests should not be by means of legal proceedings but through alternative extrajudicial procedures in which considerations of reasonableness and fairness have an important role.^{[205][206]} For some time, Unesco has had a procedure for supporting member states who are dealing with requests for return.^[207]

Comparison with Nazi-looted art

Here a comparison can be made with the handling of Nazi-looted art during the Second World War. The international guidelines are set out in the well-known ‘Washington Principles’, adopted in 1998 during the Washington Conference on Holocaust Era Assets.^[208] These principles similarly do not include enforceable rights and obligations, but are authoritative rules of conduct which are internationally accepted and by which countries agree to be bound. The handling of Nazi-looted art is therefore also based on ‘soft law’ and here too – in Principle 11 – countries are encouraged to set up ‘alternative dispute resolution mechanisms for ownership issues’.

The Committee comments that there are important differences between Nazi-looted art and cultural heritage objects acquired under duress in colonial territories. The looting of Jewish-owned art by the Nazis took place in a relatively short period – between 1933 and 1945 – as part of a genocide. In most cases original owners of the Nazi-looted art and their successors are known. Reconstructing the manner in which they lost possession is comparatively straightforward. The position regarding cultural heritage objects looted from colonial areas differs. Involuntary loss of possession took place through varied means, globally, over a period of more than 400 years. The original owners and their successors are often difficult to trace and the acquisition history is much more difficult to ascertain due to the long lapse of time and the often inadequate sources.^[209]

8.4 Legal impediments to returns

Whereas the question of whether an object qualifies for return is primarily an ethical matter, the question of whether an actual return can be effectuated is a legal matter. National regulations may impede such a return. In countries such as France, Belgium and the United Kingdom, for example, there are legal provisions whereby objects are not allowed to be alienated from public collections and therefore in principle cannot be subject to return.

In the Netherlands too, legal provisions apply to the alienation and disposal of objects in public ownership. These can be found in Section 4.2 of the Heritage Act. ^[210] Briefly, this section states that if the Minister of Education, Culture and Science, the Provincial Executive or the Municipal Executive plans to alienate a cultural heritage object, this must be publicly disclosed. The reasons for transferring it out of the collection must also be stated. If the intended new owner is a private (non-public) legal entity and it can also be reasonably assumed that the cultural heritage object has a special cultural-historical or scientific significance, and is assumed to be irreplaceable and indispensable part of Dutch cultural heritage, an independent expert committee must provide a judgement as to whether such assumptions are correct. This judgement can then be included in the final assessment of whether or not to proceed with plans for alienation. The public legal entity might not seek an opinion, however anyone can submit views to the legal entity concerned. The legal entity must then take these into account when assessing whether or not to proceed with alienation. Such views may be grounds to involve the independent expert committee in order to obtain a judgement on the importance of the cultural heritage object. However the public legal entity that owns the object is then free to disregard any views and the independent committee's guidance. In consequence, unlike in many other countries, the Netherlands has no legal provisions that impede the return of objects by the Dutch State to source countries.

9. Guidance submitted to the Minister on the handling of colonial collections

1. The Committee considers that the first step in developing a policy on dealing with colonial collections is the recognition that an injustice was done to the indigenous population of the colonial territories when cultural heritage objects were taken against their will.
2. The second step is expressing a readiness to rectify this *historical injustice*, which is still perceived as an injustice today, where possible and to make this readiness a key principle of the policy on dealing with colonial collections.
3. The Committee recommends adopting that policy after agreeing it with the countries where the Netherlands exercised colonial authority for a long period, including in any case Indonesia, Suriname and the Caribbean islands. These countries' views must be respected and accommodated, with a bespoke approach being taken to each country where possible. Only a shared policy on dealing with colonial cultural heritage objects can lead to satisfactory outcomes for all parties. In other words, care must be taken to avoid a neocolonial repetition of the past in which actions are driven primarily by the views, feelings, standards and values of the former colonizer.
4. To contribute to this joint policy development the Committee recommends conveying to the countries in which the Netherlands exercised colonial authority a readiness to *return unconditionally* all cultural heritage objects in respect of which it can be demonstrated with a reasonable degree of certainty that the source countries did indeed lose them involuntarily and that they then came into the possession of the Dutch State. This should naturally apply to the extent that the source country also desires such return.
5. The readiness to return objects unconditionally means it is important that the redress of a historical injustice through a request for return is not weighed against other interests, however relevant these may be in themselves. In the Committee's opinion the redress of an injustice is not achieved only through an actual return but also particularly by making the acknowledgement and redress of this injustice a fundamental principle of the policy.
6. The Committee recommends informing the source countries in which the Netherlands exercised colonial authority that the Netherlands is also prepared to consider requests for return for state-owned cultural heritage objects whose provenance history cannot be determined or does not indicate involuntary loss of possession. This should apply in cases where these cultural heritage objects are of particular *cultural, historical or religious*

importance for the source country. Unlike the case of cultural heritage objects that were lost involuntarily, the Committee considers that when such requests are assessed, the importance of a return for the source country should be weighed against other relevant interests on the basis of reasonableness and fairness. After all, in the case of these requests the fundamental argument is not one of rectifying an injustice, but of honouring a particular interest of the source country. Examples of interests to be weighed are the importance of a cultural heritage object for the Netherlands, the storage conditions and accessibility after a possible return and the availability of alternatives to a return.

7. The Committee also recommends considering requests to return cultural heritage objects owned by the Dutch State from countries that were colonized by *other powers*. Since such requests may require wider consideration, the Committee recommends taking a decision on the basis of reasonableness and fairness and on the basis of a weighing of interests. Nevertheless, if the request concerns a cultural heritage object that was lost involuntarily, the Committee considers that here too the guiding principle must be the possibility of rectifying an injustice. This is because regardless of whether the Netherlands itself played a part in causing the injustice in these countries, as the current owner of the cultural heritage object it is the only party able to rectify that injustice.
8. In cases where a cultural heritage object is owned by the State, a decision on a request for return from the source country must be taken by the Minister of Education, Culture and Science. The Committee recommends that the Minister take a decision on such requests on the basis of a *public opinion of an independent advisory committee appointed for the purpose*. This means that the Minister's decisions are based on an expert judgement arrived at independently of the ownership interest.
9. The Committee recommends establishing an *Expertise Centre on the Provenance of colonial cultural heritage objects* with the tasks of verifying the provenance of cultural heritage objects in the event of requests for return, conducting or commissioning additional provenance research as necessary, establishing, managing and generally providing access to a database on the provenance of colonial cultural heritage objects in Dutch museums, and promoting expertise among museums.
10. A necessary prerequisite for the policy line recommended by the Committee is knowledge of the colonial cultural heritage objects held by Dutch museums and the means by which they were acquired. This knowledge is essential for source countries to be able to request the return of cultural heritage objects. The Committee recommends that the Minister draw museums' attention to their responsibility to research the provenance history of their colonial cultural heritage objects and make their knowledge of it accessible to the source countries.

11. The Committee's discussions with representatives of the source countries consistently showed that they were concerned not only about the return of cultural heritage objects. Support in establishing a museum infrastructure with good storage conditions, training of expert staff, the possibility for students to serve internships in Dutch museums, the conduct of joint research and exchange of knowledge were repeatedly cited as important matters by the source countries. These discussions brought the Committee to the view that appropriate handling of requests for return was not an end in itself, but should be part of cooperation between the Netherlands and the source countries in which they work together to tell the story of the colonial period from different perspectives. The Committee therefore recommends that the Ministers of Education, Culture and Science, Foreign Affairs and Foreign Trade and Development Cooperation make museum-level cooperation between the Netherlands and the source countries a subject of their international cultural policy. The Committee also recommends that the Minister of Education, Culture and Science devote attention to such museum-based cooperation in the policy with regard to the BES islands.

12. Finally, other European former colonial powers are also currently considering how to deal with colonial cultural heritage objects. The Committee therefore recommends, possibly through Unesco, investing in the exchange of knowledge, ideas and views between these countries and seeking opportunities for more international cooperation and coordination with like-minded countries.

9.1 The policy framework

The Minister of Education, Culture and Science requested that the Council for Culture outline a future framework for ways forward with colonial heritage and international cooperation in this field. She further requested advice for a procedure for dealing with claims or requests for returns. The Committee notes that first it is important to enter into agreements with source countries on the future policy with regard to colonial cultural heritage objects. A policy can only produce satisfactory results if it takes into account the perspectives of both the Netherlands and the countries formerly colonized by the Netherlands. The following should therefore be read as guidance to the Minister with regard to the Dutch perspective that can be taken into account in the discussions with the source countries.

The Committee recommends drawing a distinction in the policy between colonial cultural heritage objects which are *sensitive as regards provenance* and cultural heritage objects which have *cultural, historical and/or religious sensitivities*.^[211] The Committee considers that cultural heritage objects which are sensitive as regard provenance are those in the acquisition categories referred to in Section 7.1: cultural heritage objects whose original owners suffered involuntary loss and which therefore came into Dutch possession without proper consent, for example due to theft, looting, extortion or seizure of cultural heritage objects as spoils of war. The Committee considers that objects with cultural, historical and/or religious sensitivities are objects held in Dutch collections and which, regardless of the way in which they came into

Dutch possession, hold especial value for the source country. To be clear: these categories are not mutually exclusive, cultural heritage objects can belong to both.

For reasons elaborated in Section 8.1, the Committee does not consider the colonial laws and views prevailing at the time of acquisition to be useful in assessing whether a cultural heritage object is sensitive as regards provenance. Such law is not readily knowable and – more importantly – did not offer local populations legal protection equivalent to that afforded to Dutch people. In the Committee's opinion, a law prevailing at a time of injustice cannot serve as a guide for assuming responsibility for the past. Assuming responsibility means measuring the action at the time in accordance with current standards, values, legal rules and internationally-held views and taking action on that basis. The Committee believes that also applies to the future handling of cultural heritage objects acquired during the colonial period. The Committee believes the basic principle must be whether loss of possession would be qualified as unlawful or unethical in the present day.

Return of objects with sensitive provenance

The Committee recommends that the Minister first focus her policy on the future handling of colonial collections primarily on those cultural heritage objects with sensitivity as regards provenance. In the Committee's view cultural heritage objects whose cultural role is vital in the past or in the present should not remain in Dutch museum collections if their return is sought by source countries who have involuntarily lost possession.

With such cultural heritage objects there should be a '*redress of historic injustice*'; a 'historic injustice' which to this day is still perceived as a 'living injustice'. The Committee is of the view that when it can be demonstrated with a reasonable degree of certainty, through provenance research, that the colonial cultural heritage objects came into Dutch possession against the owner's will, these must be returned to the source country, if that country so requests.

The Committee considers that the key principle of a future policy is that requests for return of cultural heritage that has sensitivity as regards provenance should be honoured unconditionally. This means, for example, that neither the object's cultural nor its scientific value for the Netherlands, nor the source country's future plans for the object should have influence on the assessment concerning the return. It is not the object, its cultural interest nor what the requesting party wishes to do with the object that is of paramount concern, but the principle of redress of a historic injustice and the potential restoration of a link involuntarily severed between the source country and its heritage. The Committee considers it inappropriate to invoke conditionality, i.e. the redress is not dependent on a balance of interests, however relevant these interests might be. Ultimately, the redress of historic injustice is not only achieved through return, but also, and most significantly by adopting a policy that recognizes this injustice and sees its redress as an unconditional principle.

When a request for return of a cultural heritage object with sensitive provenance is made, it follows that the object is of great importance to the requesting country who will therefore manage it appropriately. If the Netherlands believes retention for the national collection to be of great importance, due to the cultural heritage object being of exceptional importance to the Netherlands or necessary for academic research, a request may be made to the source country by the Netherlands to loan the object or to relinquish it for financial or other compensation. However it is the decision of the source country as to whether or not to accept such a proposal.

The Committee considers that a return must be based on a request made by the source country. The Committee does not expect such a wish to exist for all those objects that are subject to involuntary loss. Certain categories of objects may exist in large quantities in the source country and may be of better quality. The source country or community may also attach greater importance to the exchange of knowledge and scientific cooperation with regard to an object than to a return. This may apply in instances where there are inadequate museum facilities or collections management infrastructure. To date requests for return have been limited and made for specific items. The publication of the previously cited principles for return of the National Museum of World Cultures has not so far led to an official requests for return of cultural objects.

Crossing a threshold by actually making a request, with the possible risk of a negative result, may be one reason for the limited number of requests for return. Moreover as became clear from the Committee's discussions with representatives from source countries, it is not always clear to them where cultural heritage objects is housed and what the provenance history is.

The Committee is mindful of these concerns. They can be addressed by means of an independent and transparent return procedure (see Section 9.3) and by clarity at the outset on those cases which qualify for an unconditional return and those where balance of interests will be assessed. However in all cases a claim or request for return will be necessary, so that the source country identifies which objects are in Dutch possession against its will. If a request is not made, there are no grounds for return.

The Committee also acknowledges that accessible data on colonial objects held in Dutch museums and their provenance history are essential if source countries are to present substantiated requests. The Committee refers to Section 9.4 of this chapter for its recommendations on this point.

The Committee does not anticipate that a return policy along the lines that it recommends will jeopardize the survival of Dutch museums with colonial collections. It has formed this view given the history of requests for return up to the present day, and the discussions with representatives from source countries, while arguing for an independent and transparent return procedure and accessible data on the provenance of colonial cultural heritage objects.

The Committee wishes to make two further comments on its recommendation for unconditional return of objects with a sensitive provenance. In their report, Sarr and Savoy adopt the principle that the loss

of possession of colonial cultural heritage objects must be understood as involuntary, unless the opposite can be proven.^[212] The Committee considers that this ‘reversal of the burden of proof’, which argues that cultural heritage objects with unresolved provenance (the third acquisition category in Section 7.1) should also be returned unconditionally, is unworkable. Research into the provenance of colonial cultural heritage objects has too many limitations: sometimes the history of the transfer of possession is too remote to be properly traceable, and often the only sources still available are Dutch sources. A reversal of the burden of proof would therefore not do justice to the fact that many colonial cultural heritage objects were also acquired legitimately^[iii] even if this can no longer be evidenced.

It does not follow, however, that the only cultural heritage objects eligible for return are those where involuntary loss of possession can be ascertained *with certainty*, as with spoils of war. Since in many cases provenance research cannot definitively ascertain this, this would be an overly rigid interpretation in the context of wishing to redress a historic injustice. The Committee proposes that an object should be unconditionally returned if it can be demonstrated with a *reasonable degree of certainty* that involuntary loss of possession has taken place. That means that even if a lack of consent cannot be conclusively established, there must be sufficiently concrete and convincing indications that it occurred.^[213] It should also be borne in mind that the gifting and selling of objects during a period of fundamental inequality can also be an expression of subjugation and do not necessarily indicate voluntary transfer of ownership.

A second observation is that Dutch museums, as was demonstrated by the museum research, do not only hold cultural heritage objects acquired from Dutch colonies. Many cultural heritage objects from colonial territories of *other colonial powers* are held in Dutch museums and these include cultural heritage objects whose original owners relinquished them involuntarily. The Committee experiences a dilemma here. Regardless of whether the Netherlands was, or was not, jointly culpable for the involuntary loss of possession of a particular cultural heritage object, as the current owner it is the only entity that can actively redress the injustice. Nevertheless the multilateral context may give grounds for a broader assessment for this category of request. The Committee can therefore imagine that in the first instance the Minister would limit the policy of unconditional return to cultural heritage objects with sensitive provenance coming from former Dutch colonies. In her letter of 10 April 2019 to the House of Representatives, the Minister stated that in dealing with requests for return she wished to prioritize this category of objects and these countries.^[214] Decisions regarding those cultural heritage objects from territories that were not formerly under Dutch colonial rule, whose owners suffered involuntary loss of possession, should be made on the basis of reasonableness and fairness and on the basis of a weighing of interests. Nevertheless, the Committee considers that the weighing up of interests must here too be guided by the principle of redress.

Return of objects of particular cultural, historical and/or religious importance

Among those cultural heritage objects where there is no demonstrable involuntary loss of possession, are items of exceptional historical, cultural and/or religious importance to the source country. These may have been purchased or presented as gifts. The Committee recommends that consideration be given to any requests for return of such objects, regardless of whether the source country was a Dutch colony or a colony of another European power. The applicable principle in these cases is not the redress of historical injustice but recognition of the extraordinary importance that an object may have to the source country. It could, for example, refer to an important historical event, it may be a unique representation of the culture or could be vital to cultural or religious rituals.

Here the Committee does not believe that unconditional return is the obvious choice. In this instance, the paramount objective is that of responding to a significant interest in the source country not redressing an injustice.

The Committee considers it reasonable in all cases to weigh those interests against other interests involved, as described in Chapter 7, including the importance of retaining the object for the Dutch collection. This assessment could also include the storage conditions in the source country, the scope for academic research there and the way in which the object will be made publicly accessible.

With regard to the special cultural interest that could be served by retaining an object for the Netherlands, the Committee wishes to make the following comments. It is of course important that colonial history can continue to be told in Dutch museums through engaging objects, from the perspectives of both the former colonizer – colonial history is unquestionably an aspect of Dutch history – and those who were formerly colonized. It is therefore necessary to include the importance of retaining an object for the Netherlands in the assessment of requests for return. The Committee would also note that it does not share the view that cultural heritage objects from the former colonies are shown to their best advantage by being exhibited in settings alongside those from all other parts of the world. This is sometimes used as the grounds for a conservative return policy, sometimes expressed by European proponents in the idea of ‘universal museums’. The Committee’s view is that ‘universal museums’ are not always readily accessible to the population of countries whose key cultural heritage objects are there on display. Moreover, it cannot be assumed that an object will be shown to better advantage among objects from other cultures and periods than in the source country among objects which together amount to a comprehensive and historically meaningful presentation of its culture.^[215]

The Committee believes that the weighing of interests should be carried out by an advisory committee that is independent of the current owner (Dutch government) and the custodian (museum). This expert advisory committee would be expected to make a critical assessment of all the interests involved and to show an unbiased and open attitude in answering the question as to the country which would ultimately show the object to best advantage. It will then be up to the owner, and in the case of an item from the Dutch national collection that would be the Minister of Education, Culture and Science, to

take a decision based on the advisory committee's opinion. This might include whether to return the object and whether to attach conditions to such return.

9.2 To whom the return takes place

Much time has usually elapsed since cultural heritage objects have left their source countries. During that time national boundaries may have shifted, new states may have developed, communities may have moved, merged or disappeared, and the rights of the rulers may have passed to others. There may, therefore, be differences of view in source countries between the State on the one hand and communities or individuals on the other about who, generally or specifically, is entitled to request or receive a returned cultural heritage object. It is also possible that a request for the return of a cultural heritage object may support the unique cultural identity of a particular community and that this may be perceived as conflicting with initiatives to unify the State.

Nevertheless, the return of colonial cultural heritage objects and the submission of claims is normally a matter for agreement between governments. States may not have been the owners of the objects, however they have sovereignty with regard to cultural heritage items originating from their current territory.^[217] States are also party to international conventions on this subject and are the central actors in those conventions.^[218] The French report by Sarr and Savoy quoted earlier explicitly argues that it must be for states to consider procedures for the return of objects, with ownership being transferred from state to state.^[219] The Guidelines of the German Museums Association also raise the question of who the appropriate parties are in the source country and advise that in conditions of uncertainty, government representatives should always be involved so that return does not to become implicated in domestic disagreements in the source country.^[220]

In line with this, the Committee considers that with regard to cultural heritage objects owned by the State the return policy is, in principle, a matter to be agreed between states. In the case of returns of cultural heritage objects, the Dutch State's ownership passes to the State which has authority over the area from which the cultural heritage object originated. If the argument for a return is the redress of historic injustice, that redress is thus directed towards state representatives of the source country. The State is subsequently responsible for ensuring that the cultural heritage object reaches the appropriate place.

But here too the Committee experiences a dilemma. Colonial cultural heritage objects often belonged to a particular community within the source country. If a State or source country does not request the return of a community's cultural heritage object for particular reasons, or if it denies that community access to a cultural heritage object once it has been returned, the community concerned does not benefit, or does not benefit fully, from the intended redress of the injustice or the honouring of a particular interest. Nevertheless and without wishing to overlook potential grievances, the Committee considers that respecting the sovereignty of existing States in these matters is a *conditio sine qua non* for the basis of trust between countries necessary to a

successful return policy. Nonetheless, the Committee advises the Minister to take this point explicitly into account in agreements to be made with source countries. Discussion between the Committee and representatives of communities in source countries underlines the importance of ensuring this. As already stated in Section 7.3 where it concerns cases for return where interests must be weighed up, the importance of the accessibility of the cultural heritage object to the community to which it originally belonged will always be important.

The principle that return is a matter for agreement between States does not, of course, alter the fact it is very important for Dutch museums to enter into dialogue. Dialogue undertaken with other parties in the source countries and with the diaspora communities as regards the way in which objects came into Dutch possession and on the possibility of return. They are, after all, the parties who know about the location of colonial cultural heritage objects and the provenance history of those objects.

9.3 Assessment of requests for return

Where the object is owned by the State, a decision on whether to honour a request from the source country to return an object will be taken by the Minister of Education, Culture and Science. She has sole authority under the Heritage Act to conduct private legal acts with regard to museum-based cultural heritage objects owned by the State.^[221] The Committee recommends that the Minister take such decisions on the basis of independent and public advice, as currently occurs in the case of requests to return Nazi-looted art. The importance of such a procedure lies in the fact that the Minister's decisions are then based on expert judgement that is arrived at independently from the ownership interest and that all parties involved can be informed of the judgement.

Although there are important differences between Nazi-looted art and cultural heritage objects acquired in the colonial territories – these are set out in Section 8.3 of this guidance – the Committee considers that the procedure designed for the restitution of Nazi-looted art can be followed when dealing with requests for the return of colonial cultural heritage objects. The central players in that procedure are:

- an independent advisory committee who will advise on requests for return on the basis of the policy to be determined by the Minister;
- an expertise centre that will undertake an examination of the facts where necessary or desirable;
- the Expert Review Committee on Protection and Retention (Toetsingscommissie Beschermwaardigheid), which gives a judgement on the importance of a cultural heritage object to the Netherlands under the Heritage Act.

The Advisory Committee on Requests for the Return of colonial cultural heritage objects

The Committee advises the Minister of Education, Culture and Science to establish an independent Advisory Committee on Requests for the Return of colonial cultural heritage objects. The first task of this Advisory Committee is to advise the Minister as to whether to honour requests for the return cultural of heritage objects owned by the State and to specify any conditions attached to such a return. This advice must be based on the policy to be determined by the Minister on the basis of the present guidance for dealing with such requests. In the Committee's view, therefore, this policy should – in summary – honour unconditionally those requests for cultural heritage objects which have sensitive provenance from Dutch colonial territories, while in all other requests the interests should be weighed up on the basis of reasonableness and fairness, with the possibility that conditions may be attached to any return.

Requests that require a weighing of interests necessitate an initial assessment of what is known about the acquisition history. Where cultural heritage objects originate from Dutch colonies and it has not been ascertained with a reasonable degree of certainty that there was involuntary loss of possession, the assessment of the request for return may nevertheless include a consideration of the provenance history. When giving its opinion the Advisory Committee must also take into account any suspicions of involuntary loss of possession, for example in the case of gifts exchanged in an unequal power relationship, or in the case of uncertainty concerning the degree of consent because the provenance history can no longer be fully reconstructed.

In the case of cultural heritage objects from non-Dutch colonies too, the Committee considers that being able to redress of a historic injustice must be the starting point. The advice must aim for redress, unless other interests weigh more heavily.

Other interests which the Advisory Committee should take into account in its assessment and which are outlined in more detail in Chapter 7 of this guidance are: the cultural importance of an object to the Netherlands, the importance of the object to the source country, future storage conditions, public accessibility after the return, the scope for academic research in the source country and the readiness to cooperate at museum level with the Netherlands.

A judgement on the cultural importance of an object to the Netherlands will be made on request by the Expert Review Committee on protection and retention (Toetsingscommissie Beschermwaardigheid) considered later in this section. The source country can provide information that the Advisory Committee needs for its advice including: regard to the cultural, historical or religious importance of the object; the storage conditions, public accessibility after return, scope for academic research and the readiness to cooperate at museum level. To ensure support for its findings, it is important that, as far as possible, the Advisory Committee arrives at a joint view with representatives from the source country on these matters.

The Committee is aware that in weighing up interests the Advisory Committee will face difficult choices, partly because interests may be of a different nature. The Committee proposes that the principles of clarity, transparency and consistency should be leading and therefore the Advisory Committee should draw up an assessment framework for the weighing of interests, which will be adopted and published by the Minister.

The Advisory Committee will submit an advice to the Minister based on a reasonable and fair assessment of these interests. With the exception of cases for unconditional return, the opinion provided may include conditions for the return, for example in relation to storage conditions and accessibility, or the condition that the cultural heritage object must return to the original owner or community in the source country, or a rejection of the request. If the Expert Review Committee on protection and retention (Toetsingscommissie Beschermdwaardigheid) advises that a cultural heritage object with a sensitive provenance from a Dutch colony has a particular cultural-historical or scientific significance in the Netherlands, the Advisory Committee may recommend that the Minister try to reach an agreement with the source country on a possible loan or purchase by the Netherlands. It is, however, up to the source country to agree or decline.

As noted earlier in this guidance, local and provincial authorities, foundations and private individuals are free to deal with requests for return as they see fit and they can choose their own advisers. The Committee considers, however, that the ethical arguments applicable to the way forward with colonial cultural heritage objects owned by the State also apply to other owners. By extension, therefore, the policy line to be adopted by the Minister in these matters can also provide guidance for them.

The Committee recommends that the Advisory Committee on the Return of colonial cultural heritage objects should be accessible to owners other than the State, together with the requesting party. Both should be able to call on its assistance. However when the parties choose to do so, there is an obligation. This means that the requesting party and the current owner consent to the policy adopted by the Minister on the basis of which the Advisory Committee issues its opinion and that they accept that the opinion is binding on both parties. The Committee does note, however, that in the case of other government authorities and private individuals the State in the source countries will not always be the party who makes the request for return or the party who becomes the owner of the cultural heritage object once returned. That can also be another party, such as a museum, community or private individual.

The Advisory Committee's opinion must be binding not only on the parties concerned but also on the Minister, namely that she will not use the means at her disposal to impede its implementation. That means she will not annul a decision by the government authority or public law body concerned and will not designate the cultural heritage object as protected heritage under Section 3.7 or 3.8 of the Heritage Act. In the case of an opinion in favour of the return of a cultural heritage object that was already protected,

the Minister would be required to withdraw the protection in accordance with Section 3.12(1) of the Heritage Act.

Composition of Advisory Committee on Requests for the Return of colonial cultural heritage objects

The Committee proposes that the Advisory Committee on Requests for the Return of colonial cultural heritage objects should in all instances consist of a lawyer, an art historian, a colonial historian, a museum expert and an ethnologist. Specific experts can also be co-opted onto the Advisory Committee for the specific case under consideration. These may also be experts from the country from which the cultural heritage object originates, who may assist in gathering information to assist the advice of the Advisory Committee. The Minister will appoint a secretary to the Advisory Committee who is accountable solely to the Advisory Committee.

The Expertise Centre on the Provenance of colonial cultural heritage objects

A central element underpinning the Advisory Committee's opinion on a request is the provenance history of that object. When and by whom was it produced? What was the significance of the cultural heritage object at the time of its production and at the time when possession was lost? How did the cultural heritage object come into Dutch possession and – most importantly – how voluntary or involuntary was the loss of possession?

According to the Ethical Code for Museums in the Netherlands, which all members of the Museums Association and all museums registered with the Museum Register Foundation have endorsed, museums are required to document the context and provenance of their cultural heritage objects.^[222] As custodians, museums thus have primary responsibility for researching the provenance of the cultural heritage objects from the colonial territories. As the museum survey demonstrated, this responsibility is taken seriously by many museums, although significant progress remains to be made. Apart from the museums, the source countries and diaspora communities in the Netherlands will have knowledge and documentation pertaining to the cultural heritage objects held in Dutch museums which can be used to provide supportive evidence and which the Advisory Committee can include in its opinions.

Research into the provenance of colonial cultural heritage objects is complex and thus requires expertise that is not available to all museums. The Committee therefore recommends establishing an Expertise Centre on the Provenance of colonial cultural heritage objects. This Expertise Centre should be given two tasks. First, it would be responsible for developing and providing general knowledge on methods of provenance research and promotion of expertise among museum researchers. The centre's second task would be to conduct research into the provenance history of a specific cultural heritage object. Such research is required if neither the current owner nor the custodian of the cultural heritage object, nor the source country has sufficient information to provide a clear explanation of the provenance history or if there are grounds to have the available information assessed by independent experts and complemented where necessary. The request for such research, which would not discharge a museum from its obligation to

conduct its own research, could be made by the Advisory Committee, or by the source country and the current owner/custodian of the cultural heritage object.

Expert Review Committee on protection and retention

As set out in Chapter 7 of this guidance, in the case of disposal of cultural heritage objects under their ownership the State and other government authorities must comply with the provisions of Section 4.17 of the Heritage Act. This applies to requests for return. Section 4.17 of the Heritage Act states that if it can be reasonably assumed that the cultural heritage object requested has a particular cultural-historical or scientific significance and is irreplaceable or indispensable for Dutch cultural heritage, an independent expert committee must give a judgement as to whether this assumption can be upheld. The government authority must then consider that judgement in its decision upon a request for return.

As explained earlier, in the case of cultural heritage objects with sensitive provenance from the Dutch colonial territories that are currently in the State's possession, this judgement must not impede the return of the cultural heritage object. To the extent that other government authorities adhere to the policy line recommended here, the same will apply to cultural heritage objects of which they are the owners. The judgement of the Expert Committee may, however, be grounds for the Minister or directors of other government authorities, in consultation with the requesting source country, to assess whether, and under what conditions, the cultural heritage object can remain in the Netherlands on loan or can be purchased.

In all cases other than those involving cultural heritage from former Dutch colonial territories where there is evidence of involuntary loss of possession, the Expert Committee's judgement will be a factor in the Advisory Committee's weighing of interests and in the final decision by the authority concerned. The judgement of the Expert Committee thus constitutes an element in the weighing of interests and does not compete as an independent judgement with the result of this weighing of interests.

9.4 The assessment procedure

The procedure proposed by the Committee in the case of requests to return cultural heritage objects owned by the State has similarities and differences as compared to the procedure followed for cultural heritage objects owned by other authorities or private individuals. Both procedures are outlined here point by point.

Procedure in the case of requests to return cultural heritage objects owned by the State

- The State representative of the source country lodges a request with the Minister of Education, Culture and Science to return a cultural heritage object. It presents the reasons for the request (involuntary loss of possession in the colonial period and/or cultural, historical or religious interests) and provides all the information it holds on the cultural heritage object.

- The request is forwarded to the Advisory Committee.
- If the cultural heritage object is assumed to be worthy of protection within the meaning of the Heritage Act, the Expert Review Committee on protection and retention is requested to issue a judgement which is also forwarded to the Advisory Committee.
- The Advisory Committee asks the museum managing the cultural heritage object for all the information it has at its disposal on the provenance and the method of acquisition of the cultural heritage object.
- If the information supplied by the source country and the museum provide insufficient clarity on the provenance history and the acquisition method, the Advisory Committee can instruct the Expertise Centre to investigate it.
- The Advisory Committee provides an opinion to the Minister of Education, Culture and Science on the request. In the case of a cultural heritage object from the Dutch colonial area where it can be ascertained with a reasonable degree of certainty that the loss of possession was involuntary, the recommendation is to return the cultural heritage object unconditionally. In other cases the Advisory Committee gives an opinion based on reasonableness and fairness.
- The Minister of Education, Culture and Science then takes a decision on the request and announces any decision to alienate publicly in accordance with Section 4.17 of the Heritage Act. ^[223]

The Committee advises the Minister to also allow for the possibility that a source country can request the Expertise Centre on the Provenance of colonial cultural heritage objects to initiate research into the provenance history of a cultural heritage object outside of a request to return. On the basis of the results of that research, the source country may then decide whether to make a request for return.

Procedure in the case of requests to return cultural heritage objects owned by other parties

- The requesting party lodges a request to return with the owner of the cultural heritage object.
- If the parties fail to reach agreement on this request and wish to have an independent and binding recommendation, they can request the Minister to obtain an opinion from the Advisory Committee.
- Both parties give the Advisory Committee all available information on the cultural heritage object and the provenance history. The Advisory Committee can instruct the Expertise Centre to conduct a more detailed investigation.

- If the owner is a provincial or municipal authority or another public legal entity, and it suspects that the cultural heritage object is worthy of protection under the Heritage Act, the owner concerned may request the opinion of the Expert Review Committee on protection and retention and forwards it to the Advisory Committee.
- The Advisory Committee gives its opinion on the request. In the case of a cultural heritage object from the Dutch colonial area where it can be ascertained with a reasonable degree of certainty that the loss of possession was involuntary, the recommendation is to return the cultural heritage object unconditionally. In other cases the Advisory Committee gives an opinion based on reasonableness and fairness.
- The recommendation from the Advisory Committee is binding on all parties.
- If the owner is a provincial or municipal authority, it announces any decision to alienate publicly in accordance with Section 4.17 of the Heritage Act. ^[224]

9.5 Provenance research

A necessary prerequisite for the policy line recommended by the Committee is knowledge of the colonial cultural heritage objects held by Dutch museums and the way in which they were acquired. The question of whether a cultural heritage object was acquired with or without the consent of the original owner is particularly important in that regard. This knowledge is important for the source countries to arrive at a judgement on which objects they would like returned and on what grounds they can base a request for return. In the Committee's discussions with representatives from source countries there were repeated calls for greater clarity as to which objects are held in the Dutch collections and how they arrived there. This knowledge is also relevant to museums, to enable them to present visitors with all perspectives on the colonial story. This story is not only about the cultures of the communities in the previous colonial territories, but also about the role which the Netherlands played in those territories at the time. Indeed, it was that power imbalance that created the conditions for Dutch museums to acquire the wealth of colonial cultural heritage objects now on display there.

The museum survey shows that a number of museums are already carrying out proactive provenance research, but also that many still have a lot of work to do. Just under 10 percent of the museums with colonial collections already have a good picture of the provenance of their colonial cultural heritage objects. 13 percent state that they are systematically investigating their colonial collection to determine the method of acquisition. Just over half of the museums are carrying out exploratory research into the provenance of their colonial cultural heritage objects, while one-third do not, as yet, have plans for such research.

Provenance research is often a complex matter that requires specific expertise not available to all museums. For many museums, particularly those with extensive colonial collections originating from multiple territories and time periods. It is also an extensive task in which realistic priorities and expectations must be set against the amount of time such research will take. In the museum survey 20 percent of museums said they would like support with provenance research.

The Committee has already stated that provenance research and giving source countries access to information is the primary responsibility of museums themselves. The Committee believes it is important to support the museums with this provenance research by developing and promoting expertise in this area and, where possible, by making resources available.

The pilot being conducted by the National Museum of World Cultures, the Rijksmuseum and the NIOD with a subsidy from the Minister of Education, Culture and Science is an important first step, which in the Committee's view could be followed up with the establishment and financing of the Expertise Centre previously referred to in this chapter.

That Expertise Centre could also be entrusted with collecting and providing access to information on the provenance of colonial cultural heritage objects. An important prerequisite for open and transparent ways forward for colonial collections is that the data obtained from provenance research is also available without restriction to source countries and museums and communities there. The Committee recommends the creation of an easily accessible database. On the basis of this information the source countries can form a picture of what is held by Dutch collections from their country and the means by which it was acquired. The database documentation can also be supplemented with knowledge available in source countries on the objects concerned, for example memories and records of how they left. This database can thus become an important basis for future cooperation between museums in the Netherlands and those in the source countries. The Committee recommends that cooperation and support for source countries in terms of capacity-building in the field of provenance research becomes part of the Minister's international cultural policy.

9.6 International cooperation

In her request for guidance the Minister of Education, Culture and Science requested a specific focus on international cooperation. That is a pertinent request, since the future handling of colonial cultural heritage objects is an issue in almost all former colonial powers, as is referred to in previous chapters. The former colonized countries are also increasingly making their views and wishes heard. It is an issue which governments, museums, academics, opinion formers, international organizations and representatives of indigenous groups around the world are trying to navigate.

The Committee sees two particular international arenas where cooperation can take place. First, the cooperation between the Netherlands and the countries whose cultural heritage objects came into Dutch hands during the

colonial period. Policy development on future handling of colonial cultural heritage objects, particularly with regard to the question of return, cannot be a 'supply-driven' policy developed and adopted unquestioningly by the former colonial power. That would amount to neocolonial mimicry of what occurred during the colonial period, albeit in the reverse direction, but similarly channelling Western views, feelings, standards and values. The principles of the return must be developed as a common policy that is supported by both the Netherlands and the source countries. Furthermore it must be clear what different countries can expect from each other and what they have to offer each other. The Committee therefore recommends that the Minister include the policy principles proposed in this guidance in discussions with the most relevant source countries, in any event with Indonesia, Suriname and the Caribbean islands. These could lead to *memoranda of understanding*. Depending on the wishes and views of the source countries, these memoranda could also include agreements on:

- the procedures to be adopted by both countries when returns are requested;
- provenance research and possible cooperation in this field;
- provision of the results of the provenance research to the source country;
- scientific and museum cooperation between the Netherlands and the source country, including cooperation in training of museum staff.

These agreements may have a different emphasis depending on the source country. As noted earlier, the Committee would have liked to garner first-hand the views and opinions held in these countries, but that was not possible due to the coronavirus crisis. In the online discussions with representatives of the source countries the Committee did nonetheless gain a clear impression that the countries concerned would like to enter into agreements with the Netherlands.

The second arena for international cooperation is with countries where similar colonial cultural heritage issues are being debated due to their role as former colonial powers. As set out in Chapter 6, these countries differ in the way in which they address these issues. These differences can be attributed in part to differences in legislation within countries that allow or prevent returns, but also reflect cultural and historical particularities amongst them. There are countries where calls for 'a coming to terms with the past' prevail and those where taking responsibility for colonial heritage is viewed primarily in terms of managing it and making it visible in that country's own museums. There are countries in which the government is pro-active in the debate, whether for ethical or geopolitical reasons, and countries where the government maintains silence and it is mainly the voices of museums that are heard. There are countries whose former colonies and their diaspora populations are active participants in the debate and countries where that is less the case. There are countries that have good relations with their former colonial territories and others who have more contested relationships.

The Committee believes it is both interesting and instructive to bring these differences and similarities into the open. The Committee is aware that the Ministry of Education, Culture and Science has also taken steps in this

regard. In the Committee's judgement, hearing and learning from each other's views and methods, in part to reflect one's own ideas and standpoints, are the objectives that should be pursued in the short term. The Committee believes that Unesco is a natural host for such an exchange because it includes former colonized countries and also because for it, as an organization, this is a familiar topic.

At this stage the Committee does not consider likely that international cooperation will lead to unanimity of perception of the colonial past shared by all former colonial powers. It appears that a common ethical consensus with regard to the future handling of colonial cultural heritage objects is a not realistic ambition for this international cooperation in the short term. Nevertheless, the Netherlands and like-minded countries – the Committee cites Germany as an example – could take the lead in exploring the route towards more international cooperation and coordination on this matter.

10. Concluding remarks

The Committee has worked with great enthusiasm on a request for guidance from the Minister of Education, Culture and Science on this issue, which is so very pertinent at this time. The discussions within the Committee itself and those it was able to conduct with the many academics, authorities, officials and curators in the Netherlands, other European countries and the source countries were without exception candid and inspirational. These discussions also gave the Committee confidence that its guidance would find support both within and outside the Netherlands.

There is no possibility of undoing the historical injustices that took place during the colonial period. However a contribution can be made to redress injustices by taking responsibility for the legacy of that past when dealing with colonial cultural objects. The Committee trusts that on the basis of this guidance the Minister will be able to enter into productive agreements with source countries. That this will lead to a policy on return that emerges in dialogue with these countries and will result in effective return of cultural heritage objects to them.

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See Annex 2. In her request for opinion the Minister uses the term 'return'. In the literature the terms 'restitution' and 'repatriation' are used in addition to 'return', depending on the provenance history of the object (looted, illegally exported, legally acquired) and the recipient of the object (the State, a community, an individual). In the case of restitution, the definitions usually refer to an unlawful loss of possession combined with a specific requester, whereas return is more focused on the territory, while the term repatriation is often used in claims by indigenous communities. See for example: M. Cornu; M. Renold, 'New Developments in the Restitution of Cultural Property: Alternative Means of Dispute Resolution', *International Journal of Cultural Property* (2010) 17:1, 1-31, specifically 31.

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Gert Oostindie; Henk Schulte Nordholt, 'Nederland en zijn koloniale verleden. Moeizame overgang van dekolonisatie naar buitenlands beleid', *Internationale Spectator*, volume 60, no. 11 (November 2006), 573-577, specifically 573.

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Oostindie, *Het paradijs overzee*, 145-146.

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Idem, 155; Drooglever, 'Dekolonisatie van Oost- en West-Indië', 254.

103

Drooglever, 'Dekolonisatie van Oost- en West-Indië', 256; Oostindie; Schulte Nordholt, 'Nederland en zijn koloniale verleden', *Internationale Spectator*, Volume 60, no. 11 (November 2006), 573-577, specifically 575.

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Drooglever, 'Dekolonisatie van Oost- en West-Indië', 256;
Oostindie, *Het paradijs overzee*, 160-164; Oostindie,
Het paradijs overzee, 157-158

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Oostindie; Schulte Nordholt, 'Nederland en zijn koloniale verleden.
Moeizame overgang van dekolonisatie naar buitenlands beleid',
575 -576; Drooglever, 'Dekolonisatie van Oost- en West-Indië',
256; Buddingh', *De geschiedenis van Suriname*, 297-305.

106

Drooglever, 'Dekolonisatie van Oost- en West-Indië', 256;
Oostindie, *Het paradijs overzee*, 160-164.

107

Dalhuisen; Donk; Hoefte, *De geschiedenis van de Antillen*, 120-121;
132-133; 175.

108

Oostindie; Schulte Nordholt, 'Nederland en zijn koloniale verleden.
Moeizame overgang van dekolonisatie naar buitenlands beleid',
576.

109

Oostindie, *Het paradijs overzee*, 170-171.

110

Dalhuisen; Donk; Hoefte, *De geschiedenis van de Antillen*, 120-121;
132-133; 175.

111

Wesseling, *Indië verloren, rampspoed geboren*, 252.

112

See Annex '[Survey results](#)' for the results of the survey.

113

See Annex '[Survey results](#)' for the museums that completed
the survey.

114

The items most relevant to this opinion are the colonial cultural
heritage objects in the possession of the State because the policy
recommendations are focused particularly on them. Public-law
legal entities such as national universities and water authorities
as well as private individuals also own colonial cultural heritage
objects. These are not included in the survey if they are not
managed by museums.

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Susan Legêne, *De bagage van Blomhoff en Van Breugel – Japan, Java, Tripoli en Suriname in de negentiende-eeuwse Nederlandse cultuur van het imperialisme* (Amsterdam 1998), 273; Van Beurden, *Treasures in Trusted Hands*, 41.

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135

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142

Van Beurden, *Treasures in Trusted Hands*, 127-130.

143

Van Beurden, *The return of Cultural and Historical Treasures*, 32.

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Idem, 144-149; 170.
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Idem, 99; 137-144; Van Beurden, *The Return of Cultural and Historical Treasures*, 32.
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Legêne; Postel-Coster, 'Isn't it all culture?', 284.
- 157
Scott, *Cultural Diplomacy and the Heritage of Empire*, 170-171.
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Of the 48 artworks returned, at least 21 certainly date from the period in which Suriname was an independent country in the Kingdom, i.e. between 1954 and 1975. In addition, in the case of 26 paintings it is known only that they were produced before a certain date (ranging from 1968 to 1990) and hence not whether they were acquired in the colonial period. The production date of one painting is completely unknown. Only 27 of the 48 possible paintings can therefore have been produced in the colonial period. – Overview of Sticusa collection of the NMVW, obtained in e-mail from Maria op de Laak (Curator Information Officer of the Nationaal Museum van Wereldculturen) to Emma Keizer (Secretary of Advisory Committee on Colonial Collections) on 28 February 2020.
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The explanatory notes to the Heritage Act describe these criteria for indispensability and symbolism as the linking function and calibration function of a cultural heritage object.

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The Netherlands has not ratified this convention, but opted for the Unesco convention of 1970. Various reasons were put forward for this, but the main argument was the broad and vague definition of the term ‘cultural heritage object’. See Salomons; Van der Vlies (ed.), *Kunst, recht en beleid*, 130.

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E. Campfens, ‘The Banga Queen: Artifact or Heritage?’, *International Journal of Cultural Property* 26 (1) (2019) 75-110, specifically 95.

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Countries such as China and Peru did argue for that on the adoption of Unesco 1970, but to no avail.

197

It should be noted for the sake of completeness that EU regulations have also been introduced on the circulation of cultural heritage objects (EC Regulation 116/2009 and Directive 2014/60/EU). These regulations are disregarded here, since they do not provide a basis for the return of colonial objects to source countries. The aforementioned Regulation states that certain cultural heritage objects must not be removed from the customs area of the Community without a licence from the *member state* and the aforementioned Directive concerns the return of cultural heritage objects which have been removed unlawfully from the territory of a member state.

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See for example also section 103 of the Operational Guidelines for the Implementation of Unesco 1970: “For items of illegally removed or stolen property imported into another State Party before the entry into force of the Convention for any of the States Parties concerned, States Parties are encouraged to find a mutually acceptable agreement which is in accordance with the spirit and the principles of the Convention, taken into account all relevant circumstances.” – Unesco, ‘Operational Guidelines for the Implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property’ (Paris 1970), accessed via Unesco, <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/operational-guidelines> on 2 July 2020, 23.

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A. Taşdelen, *The return of Cultural Artefacts, Hard and Soft Law approaches* (Cham 2016), 184.

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The same conclusion is drawn, for example, by the German Museumsbund in its Guidelines. Deutscher Museumsbund, ‘Guidelines on Dealing with Collections from Colonial Contexts’ (July 2018), 71. See also: M. Cornu; M. Renold, ‘New Developments in the Restitution of Cultural Property: Alternative Means of Dispute Resolution’, *International Journal of Cultural Property* (2010) 17:1-31, 1-31, specifically 15.

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See inter alia Nafziger, ‘The Principles for Cooperation in the Mutual Protection and Transfer of Cultural Material’ & Campfens, ‘Restitution of Looted Art’.

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See for example Article 3 (1) of the UNIDROIT Convention. Unidroit, 'UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects' (Rome, 24 June 1995), accessed at <https://www.unidroit.org/instruments/cultural-property/1995-convention> (5 June 2014 version) on 2 July 2020.

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See for example Campfens, 'Restitution of Looted Art' & Conru; Renold, 'New Developments in the Restitution of Cultural Property'.

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Unesco, 'Statutes of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation', Unesco (28 November 1978).

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Department of State, 'Washington Conference Principles on Nazi-Confiscated Art' (3 December 1998), accessed at <https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art> on 5 March 2020.

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Jos van Beurden; K.M. Adams, P. Catteeuw, 'Teruggave ontrafeld, Reflecties over museumobjecten in tijden van repatriëring en restitutie', *Volkskunde. Tijdschrift over de cultuur van het dagelijks leven*, Volume 20, no. 3 (September 2019), 305-323, specifically 317-319.

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It does this by adopting a distinction similar to that used by the Deutscher Museumsbund in the 'Guidelines on dealing with colonial contexts' between historically sensitive and culturally sensitive objects. – Deutscher Museumsbund, 'Guidelines on Dealing with Collections from Colonial Contexts' (July 2018).

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Sarr; Savoy, 'Rapport sur la restitution du patrimoine culturel Africain.' (November 2018).

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Pieter ter Keurs, *Verzamelen*, Inaugural lecture given on acceptance of the post of Professor of Museums, Collections and Society at Leiden University (2 December 2019).

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See also the Guidelines of the Deutscher Museumsbund, which conclude that 'Due to the wide range of circumstances, however, it is not possible to make a general statement as to when a wrongful act has been committed which should result in repatriation'. – Deutscher Museumsbund, 'Guidelines on Dealing with Collections from Colonial Contexts' (July 2018), 95.

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Dutch Government, Letter from the Minister of Education, Culture and Science to the President of the Lower House of the States General (10 April 2019), Parliamentary Paper 32820, no. 282 (15 April 2019 version), accessed at <https://zoek.officielebekendmakingen.nl/kst-32820-282.html> on 12 April 2020.

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G. Robertson, *Who owns history? Elgin's Loot and the Case for Returning Plundered Treasure* (London 2019), 12.

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Cornu; Renold, 'New Developments in the Restitution of Cultural Property', 4.

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See for example the recitals of the Unesco Convention of 1970: Considering that the protection of cultural heritage can be effective only if organized both nationally and internationally among states working in close co-operation. – Unesco, 'Operational Guidelines for the Implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property' (Paris 1970), accessed at Unesco, <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/operational-guidelines> on 2 July 2020.

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Sarr; Savoy, 'Rapport sur la restitution du patrimoine culturel Africain', 83.

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If the request for return is honoured and no opinion was requested from the Expert Committee as part of the opinion procedure, any party can submit views under Section 4.18 on the protection worthiness of the cultural heritage object for a period of six weeks. Once any submitted views have been assessed and, if required, after the opinion of the Expert Committee has been sought, a final decision is taken. In the case of objects whose possession was lost involuntarily in Dutch colonial territories, that decision will be taken in accordance with the previously intended decision to return the cultural heritage object.

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On the understanding that the procedure prescribed in Section 4.18 of the Heritage Act will not lead to a different decision by the authority concerned than that recommended by the Advisory Committee. It is after all a binding opinion.

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Annexes

The Lower House of the States General

2

Parliamentary year 2018–2019

32 820

New vision for cultural policy

No. 282

LETTER FROM THE MINISTER OF EDUCATION, CULTURE AND SCIENCE

To the President of the Lower House of the States

General The Hague, 10 April 2019

I am sending you this letter in response to the request from the Committee for Education, Culture and Science of 14 March 2019 concerning a report in *Het Parool* of 7 March 2019 on looted art.

Heritage shows where we come from, how our society came into being and how we develop. Heritage tells stories from different perspectives that are not tied to the national boundaries of the Netherlands. Our colonial past has also left its mark on our institutions and in the public collections of cultural institutions. The handling of the Netherlands' colonial past, and cultural expressions from that time is a subject that directly affects many people.

On the basis of my responsibility for the national collection, I have two ambitions for the colonial heritage in that collection. I believe it is important that colonial collections are accessible and tell the associated stories from different perspectives; my aim is thus to promote the visibility of our shared past and the history associated with the colonial period. Secondly I wish to develop a national policy framework for the handling of colonial collections. This will involve developing a methodology for provenance research and the development of a careful procedure to deal with requests for returns. I wish to take a prudent and practical approach. Priority will be given to cultural heritage objects from the former Dutch colonies that are suspected of having been looted in the past.

I am therefore in discussion with Dutch museums to take advantage of their knowledge and practical experience, both nationally and internationally, in the development of this national framework. Careful handling of colonial collections primarily requires knowledge of, and insight into, the provenance of these collections. With that in mind, the Rijksmuseum and the Nationaal Museum van Wereldculturen, in cooperation

with the NIOD, are conducting a joint project to develop a methodology for provenance research for colonial collections. The focus is on objects from Indonesia. I am making resources available for this project. This research will also involve researchers from Indonesia as the source country, since historical information can also be found there. The Nationaal Museum van Wereldculturen is also beginning a pilot on the careful handling of requests for return by museums.

The handling of colonial collections is also an increasingly urgent matter of debate in the countries surrounding the Netherlands. Developments are taking place in both Germany and France on the handling of these collections and requests for returns. It is important to take account of these international developments when drawing up a Dutch national policy framework. The dialogue with source countries and their communities and experts will also be further developed, both among museums and at state level. Mutual development of knowledge and sharing of knowledge is therefore essential.

Practical experience from these pilots and international studies in our neighbouring countries and source countries will provide input for the creation of the national policy framework. I shall seek advice on the policy framework from the Council for Culture and to that end request the Council to establish an authoritative independent advisory committee in September 2019. This committee's first task will be to assess the historical, legal, international and moral aspects of the colonial collections. These results will be presented to me in September 2020, after which I will provide a response to the House during the autumn of that year.

The Minister of Education, Culture and Science,

I.K. van Engelshoven

The Minister's request for opinion
15 oktober 2019

Date 15 October 2019

Subject: Committee on the National Framework for Colonial Collections

Dear Members of the Council,

In my letter of 10 April 2019 (TK2018-2019, Parliamentary Paper 32820, no. 282) I said I believed it was important to promote the visibility of our shared past and the history associated with the colonial period. I also said I would develop a national policy framework for the the handling of collections with a colonial context. This will involve the development of a methodology for provenance research and a framework for dealing with requests for returns.

Careful handling of collections with a colonial context primarily necessitates insight into their provenance. I am supporting a collaborative project being led by the Rijksmuseum, the National Museum of World Cultures and the NIOD to develop a methodology for provenance research for collections with a colonial context. The initial focus will be on objects from Indonesia, due to the nature, size and provenance history of this collection. I expect this methodology will then contribute to the delivery of provenance research into colonial heritage from other parts of the world. In tandem the National Museum of World Cultures is conducting a pilot to develop a framework for the careful handling of requests for return.

The question of the proper way forward with collections from colonial contexts is an increasingly important subject of discussion in countries such as Germany, Belgium and France, as much for museums as governments. What was initially a purely legal approach to occasional requests is increasingly becoming an ethical policy approach to this issue. There is also an increasing intercultural dialogue with source countries and their communities and experts.

Practical experience from the pilots and developments in other European countries and the source countries are important for developing a national policy framework for the handling of colonial collections. With a view to developing this policy I request you to establish an advisory committee with the following tasks:

- to outline a future framework for dealing with colonial heritage in the broad sense, and with regard to international cooperation and returns in particular;
- to advise on a procedure for dealing with individual claims for objects from collections with a colonial context.

I request that the committee include the following aspects in its guidance on policy directions to be developed:

- consideration of historical periods, countries and collections involved;
- the state of conservation and management of these collections and the state of research into their provenance;
- the moral principles involved in the handling of collections with a colonial context;
- responsibility and division of administrative roles: central government (ministries), museums and other parties involved;
- means of conducting intercultural dialogue between the Netherlands and source countries;
- national and international frameworks, including legal frameworks (ICOM, UNESCO, Heritage Act, private law frameworks);
- the potential for international cooperation in the handling of colonial heritage including with Germany, Belgium and France.

I wish to receive your opinion on this matter before 1 October 2020, after which I will provide a response to the House in the autumn of 2020.

Yours sincerely,

the Minister of Education, Culture and Science,

Ingrid van Engelshoven

Overview of discussions undertaken by the Committee

Rose Mary Allen
anthropologist, Curaçao

Gala-Alexa Amagat
Policy officer, Embassy
of the French Republic

Fitra Arda
Director of Culture
Protection, Ministry of
Education and Culture of
the Republic of Indonesia

Anthony Begina
Minister Plenipotentiary
of Curaçao

Thomas Bersee
Historian

Besaril, Guilfred
Minister Plenipotentiary
of Aruba

Jos van Beurden
Researcher

Marieke Bloembergen
Professor of Archival and
Postcolonial Studies,
Leiden University, and
Senior Researcher at the
Royal Netherlands Institute
of Southeast Asian and
Caribbean Studies

Sara Blokland
Curator Caribbean area,
lecturer at HKU

Marieke van Bommel
Director of MAS Antwerp,
Belgium

Laura van Broekhoven
Director of Pitt Rivers
Museum, Oxford,
United Kingdom

Evelien Campfens
Scientific officer and
postdoctoral researcher,
Leiden University

Fikry Cassidy
chargé d'affaires, Embassy
of the Republic of Indonesia

Claire Chastanier
Policy Officer, Ministry
of Culture, France

Hélène Doub
Director of the Institut
Français des Pays-Bas

Ruby Eckmeyer
Culture Policy Officer, Aruba

Hilmar Farid
Director-General, Ministry
of Education and Culture
of the Republic of Indonesia

Hans Feys
Collection Coordinator for
the Flemish Community at
the Arts and Heritage Agency

Caroline Gaultier-Kurhan
Policy Officer, Ministry
of Culture, France

Pancho Geerman
Interim Director,
Archaeological Museum
of Aruba

Ellen Grabowsky
Coordinator of the Restitution
Expertise Centre, NIOD

Anne-Emmanuelle Grossi
Cultural Attaché, Embassy
of the French Republic

Guido Gryseels
Director of the AfrikaMuseum,
Tervuren, Belgium

I Gusti Agung Wesaka Puja
Former Ambassador of
the Republic of Indonesia

Edwin van Huis
Director of Naturalis
Biodiversity Center

Fery Iswandy
Adviser to the Minister,
Embassy of the Republic
of Indonesia

Carol Jack
Director of Social Affairs
on Sint Eustatius

Rosalyn Johnson
Community Development
Policy Adviser for the Public
Body of Saba

Koert Kerkhoff
Policy Officer and Culture
Adviser on Sint Maarten

Pieter ter Keurs
Professor of Museums,
Collections and Society,
Leiden University

Stanley Hubert Liauw-Angie
President of the Organization
of Indigenous People, Suriname

Jacques Lust
Expert in Federal
Science Policy

Jennifer Martis
Culture and Youth Adviser
on Bonaire

Irene Meulenberg
Head of the Archaeological
Service of the Republic
of Suriname

Evy Mulyani
Head of the Office of
Cooperation and Public
Relations, Ministry of
Education and Culture of
the Republic of Indonesia

Gert Oostindie
Professor of Colonial
and Postcolonial History,
Leiden University, and
Director of the Royal
Netherlands Institute of
Southeast Asian and
Caribbean Studies

Tico Onderwater
Historian

Robert Peters
Policy Officer, Ministry of
Foreign Affairs of the Federal
Republic of Germany

Elsa Peterson
Culture Policy Officer, Saba

Thomas Polimé
Researcher in Suriname affairs

Nasha Radjouki
Manager of the Department
of Culture, Sint Eustatius

Sanne Ravensbergen
Scientific Officer, researcher,
Leiden University

Clara Reyes
Head of Culture, Sint Maarten

Johan Roozer Policy Officer, Ministry of Education, Science and Culture of the Republic of Suriname	Wouter Veraart Professor of Jurisprudence, Legal Theory and Legal History, VU Amsterdam
Matthias van Rossum Senior Researcher at the International Institute of Social History	Pauljac Verhoeven Head of Museum Bronbeek, Arnhem
Lizette Sambo-Velder Head of the Department of Culture, Curaçao	Rene Violenus Minister Plenipotentiary of Sint Maarten
Morits Schmid-Drechsler Head of Press and Cultural Affairs, Embassy of the Federal Republic of Germany	Wim Weijland Director of National Museum of Antiquities, Leiden
Stijn Schoonderwoerd Director of Nationaal Museum van Wereldculturen	Inge van de Vlies Professor Emeritus of Constitutional and Administrative Law and Art and Law
Thomas Schroeder Colonial Collections Division, BMK, Germany	Frank van Vree Director of NIOD Institute for War, Holocaust and Genocide Studies
Jacques Schumacher Provenance Researcher, Victoria & Albert Museum, London, United Kingdom	Din Wahid Education and Culture Attaché, Embassy of the Republic of Indonesia
Linawati Sidarto Research journalist	Jonathan Williams Head of Collections and Deputy Director, British Museum, London, United Kingdom
Siswanto Director of National Museum Jakarta, Indonesia	Louis Zweers Historian, journalist
Paulette Smit Actress, author and Vice- Chairperson of Amsterdam Arts Council	
Fenneke Sysling university lecturer, Leiden University	
Nicholas Thomas Director of the Museum of Archeology and Anthropology, Cambridge, United Kingdom	
Bonnie Triyana Historian, curator, Indonesia	
Suzie Tucker Officer of Arts Council London, Head of Strategy and Communications at National Museum Directors' Council	

List of Dutch former colonies and trading posts

Colony or trading post	Current name	Period (if known)	What?
Aden	Aden (Yemen)	1614 – 1620	VOC trading post
Al Basra	Basra (Iraq)	1645 – 1646 1723 – 1752 (intermittently)	Various VOC trading stations
Anguilla	Anguilla (British overseas territory)	1631 – 1633	WIC fort
Arakan	Myanmar (Burma)	1625 – 1665	VOC office
Arguin	Arguin (Mauritania)	1633 – 1678 1722 – 1724 (intermittently)	VOC fort
Baai van Antongil	(North-east) Madagascar	1641 – 1646	VOC post
Bengal	West-Bengal (India) and Bangladesh	1627 – 1795	Various VOC trading posts
Burma	Myanmar	1625 – 1679	Various VOC trading posts
Cape Colony	(Southern) South Africa	1652 – 1795, 1803 – 1806	Refreshment station and later Dutch settlement colony
Caracas Bay	Venezuela	Onbekend	Various WIC forts and lookouts
Castro, Chiloé and Valdivia	Chile	Omstreeks 1642	Various WIC posts (for short period)
China	China	1728 – 1856	Various VOC trading posts
Comores	Comores (off West Africa)	1691 – 1790	VOC source for enslaved people (for the Cape Colony and India) and refreshment posts
Coromandel Coast	Coromandel Coast (India)	1605 – 1825 (intermittently)	VOC trading posts, forts and offices
Dejima	Dejima (Japan)	1641 – 1857	VOC trading post
Delagoa Coast	Maputo Bay (Mozambique)	1721 – 1730	VOC station and fort
Dutch Brazil	(North-east) Brazil	1630 – 1654	WIC settlements, forts and trading posts
Dutch Ceylon	Sri Lanka	1640 – 1797	VOC settlements, forts, etc.
Dutch East Indies	Indonesia	1602 – 1816 1816 – 1945/1949	WIC settlements, forts and trading posts, a Dutch colony from 1816
Dutch Gold Coast	(West coast of) Ghana	1598 – 1872	Various forts and trading posts
Dutch Virgin Islands	British Virgin Islands	1625 – 1680	WIC settlements
Dutch West Indies/ Netherlands Antilles	Aruba Curaçao Sint Maarten Caribbean Netherlands (Bonaire, Sint Eustatius, Saba)	1636 – 1806/ 1817 – 1986 1634 – 1954 1630/1644 – 1954 1620 – 1954	WIC trading establishments and later trading colonies

Colony or trading post	Current name	Period (if known)	What?
Faifo	Hôi An (Vietnam)	1636 – 1741	VOC trading post
Formosa	Taiwan	1624 – 1662	Various VOC trading posts, warehouses and stations
Guyana (Berbice, Demerara, Essequibo, Pomeroon)	Guyana	1616 – 1814	Various WIC forts and posts
Loango-Angola Coast	Boary (Congo)	1641 – 1726	WIC trading stations, settlements and trading posts
Malabar Coast (Dutch Malabar)	Malabar Coast (India)	1662 – 1790	VOC settlements
Malacca	Malaysia	1641 – 1825	VOC trading posts
Mauritius	Mauritius	1638 – 1658 1664 – 1710	VOC establishment with forts, trading stations, etc.
Mocha	Mocha (Yemen)	1620 – 1817	VOC trading stations, offices, etc.
Muscat	Muscat (Oman)	1672 – 1675	VOC trade office
Netherlands New Guinea	New Guinea (Indonesia)	1855 – 1962	Various trading posts and forts
New Holland (Arcadia)	Castine (Maine, United States) and Jemseg (New Brunswick, Canada)	1625 en 1659	WIC trading post WIC fort
New Netherland	United States (east coast)	1614 – 1678	Various WIC trading posts and settlements
Persia	Areas in Iran	1623 – 1750	Various VOC trading posts
Ponomping	Phnom Penh (Cambodia)	1602 – 1667 (intermittently)	VOC offices
Saint Helena	Saint Helena	1633 – 1659 (intermittently)	VOC refreshment station
San Juan	San Juan (Puerto Rico)	1625	WIC fort
Senegambia	Senegal	1617 – 1633 1664 – 1677	WIC trading stations
Siam	Thailand	1602 – 1767	Various VOC forts and posts
Sindh	Sindh (Pakistan)	1632 – 1757	VOC station
Slave Coast	Bay of Benin	1660 – 1760	WIC settlements
Surat	Surat (India)	1616 – 1795	VOC directorate
Suriname	Suriname	1667 – 1954	Plantation colony
Tasso Island	Tasso (Sierra Leone)	1664	Dutch fort
Tobago (Nieuw-Walcheren)	Trinidad and Tobago	1628 – 1677	WIC colony
Tonkin	(Tonkin) Vietnam	1636 – 1699	VOC trading post

The above list does not claim to be exhaustive.
The years shown here are approximate.
See also: www.atlasofmutualheritage.com

Survey results

- 115 museums completed the survey (fully or partly).
- 55 museums stated that they had colonial collections.

Name of institution	Colonial collections?
Amerongen Castle Foundation	Unknown
Amsterdam City Archives	No
Amsterdam Pipe Museum	Yes
Bevrijdingsmuseum Zeeland	Yes
Bonnefanten Maastricht	No
Centraal Museum	Unknown
Cultural Heritage Agency of the Netherlands, Art Collections department	Yes
Daf Museum	No
De Bastei	Yes
Dorestad Museum, Wijk bij Duurstede	No
Drents Museum	Yes
Dutch Artillery Museum	Yes
Eindhoven Museum	No
Eye Filmmuseum	Yes
Flipje en Streekmuseum Tiel	No
Freedom Museum	Yes
Gemeentemuseum Het Hannemahuis	No
Geologisch museum Hofland	No
Graafs Museum	No
Groningen University Library	Yes
Groninger Museum	Yes
Haarlemmermeermuseum De Cruquius	No
Heiligenbeeldenmuseum, Vorden-Kranenburg	No
Herinneringscentrum Kamp Westerbork	Yes
Het Nieuwe Instituut	Yes
Het Noordbrabants Museum	No
Het Spoorwegmuseum	Yes
Het Utrechts Archief	No

Name of institution	Colonial collections?	Name of institution	Colonial collections?
Hortus Botanicus Leiden, Leiden University	Yes	Museum Klooster Ter Apel	No
Humanity House	No	Museum Landgoed Verhildersum Leens	No
Kasteel Duivenvoorde	No	Museum Noordwijk	No
Kasteel Heeswijk	No	Museum Paleis Het Loo	Yes
Kijk en Luistermuseum	No	Museum Paul Tetar van Elven	Yes
Kunstmuseum The Hague	Yes	Museum Prinsenhof Delft	Yes
Leiden University Library, Special Collections department	Yes	Museum Schokland	No
Leudalmuseum Haelen	No	Museum Slager Den Bosch	No
Literary Museum/Children's Book Museum	No	Museum Sloten	No
Louwman Museum	No	Museum van Bommel van Dam	Yes
Marines Museum	Yes	Museum Veenendaal	Yes
Maritime Museum Rotterdam	Yes	Museum Villa Mondriaan	No
Marker Museum	No	Museumfederatie Fryslân	Yes
Missiemuseum Steyl	Yes	Nationaal Museum Klok & Peel, Asten	Yes
Museaal museum	Yes	Nationaal Museum van Wereldculturen	Yes
Museon	Yes	Nationaal Tinnen Figuren Museum	No
Museum Boijmans Van Beuningen	Yes	Nationaal Vlechtmuseum, Noordwolde	Yes
Museum Bredius	No	National Museum of Antiquities	Yes
Museum Bronbeek	Yes	National Museum of Education	Yes
Museum Collection Brands	Yes	National Prison Museum	Yes
Museum de Fundatie	Yes	Natural History Museum of Maastricht	Yes
Museum De Wieger	No	Naturalis Biodiversity Center	Yes
Museum Geelvinck (Geelvinck Hinlopen Huis Stichting)	No	Natuurmuseum Brabant	Yes
Museum Gouda	Yes	Navy Museum	Yes
Museum Helmond	Yes	Nederlands Fotomuseum	Yes
Museum het Bolwerk	No	Nederlands Stoommachinemuseum	No
Museum Het Pakhuis	No	Nederlands Tegelmuseum	No
Museum Het Valkhof, Nijmegen	Yes		

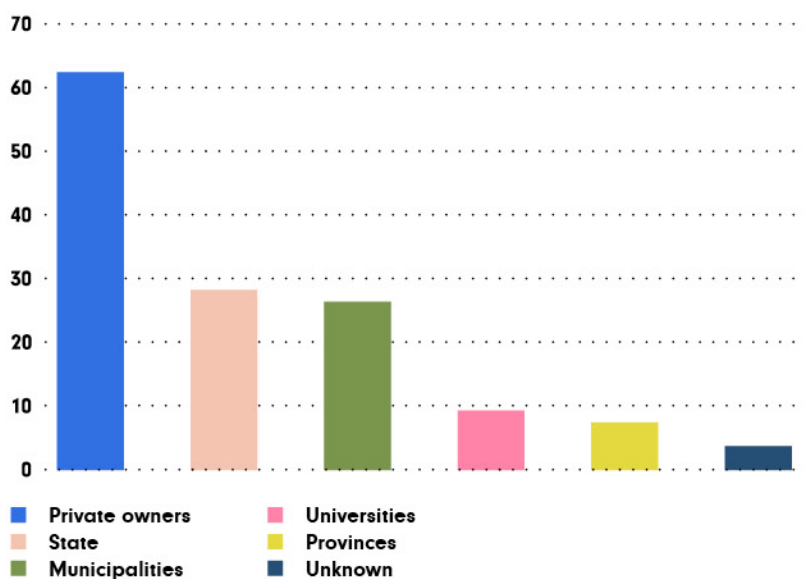
Name of institution	Colonial collections?	Name of institution	Colonial collections?
Nederlands Watermuseum	No	Veenkoloniaal Museum Veendam	Yes
Nederlands Zilvermuseum, Schoonhoven	No	Venrays Museum	No
Nest	No	Voerman Museum Hattem	Unknown
Netherlands Institute for Sound and Vision	Yes	Westlands Museum	No
Netherlands Open Air Museum	Yes	Zaans Museum	Unknown
Openluchtmuseum de Locht	No	Zeeuws Museum	Yes
Oudheidkundige Vereniging Warkums Erfskip	No	Zuiderzeemuseum	Yes
Rijksmuseum Amsterdam	Yes		
Rijksmuseum Boerhaave	Unknown		
Royal Picture Gallery Mauritshuis	No		
Speelgoed- en Carnavalsmuseum 'Op Stelten'	No		
Stedelijk Museum Zutphen	No		
Stichting Deventer Verhaal-Museum de Waag	Yes		
Stichting Huis Bergh	No		
Stichting Kasteel - Landgoed Duivenvoorde	No		
Stichting Katwijk's Museum and Genootschap Oud Katwijk	No		
Stichting Museum van Egmond	No		
Stichting Noordwijk Space Expo	No		
Streekmuseum Etten+Leur	No		
Streekmuseum Krimpenerwaard	No		
TextielMuseum	Yes		
Teylers Museum, Haarlem	No		
Utrecht University Botanic Gardens	Yes		
Utrecht University Library	Yes		
Van Abbemuseum	Unknown		

Museums with colonial cultural heritage objects

Half of the Dutch museums that completed the survey manage colonial cultural heritage objects. The other half state that they do not and a very small minority do not know. Just under half of the museums managing colonial cultural heritage objects report that the question of colonial heritage is a current concern for them. Over 37% of respondents state that they maintain contacts with cultural institutions in source countries. 14% of those museums that completed the survey stated that they had colonial cultural heritage objects whose provenance has sometimes been a matter of internal debate or received questions from visitors or the press.

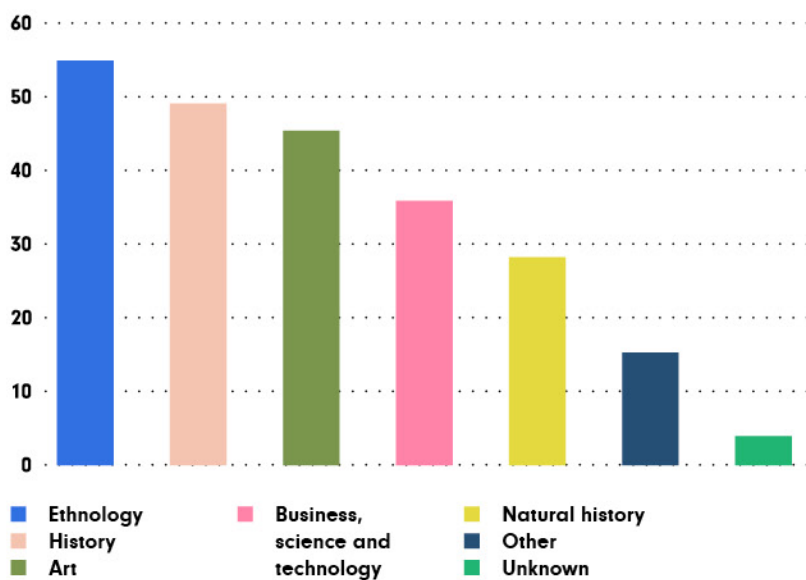
Owners of colonial cultural heritage objects

(in percentages)



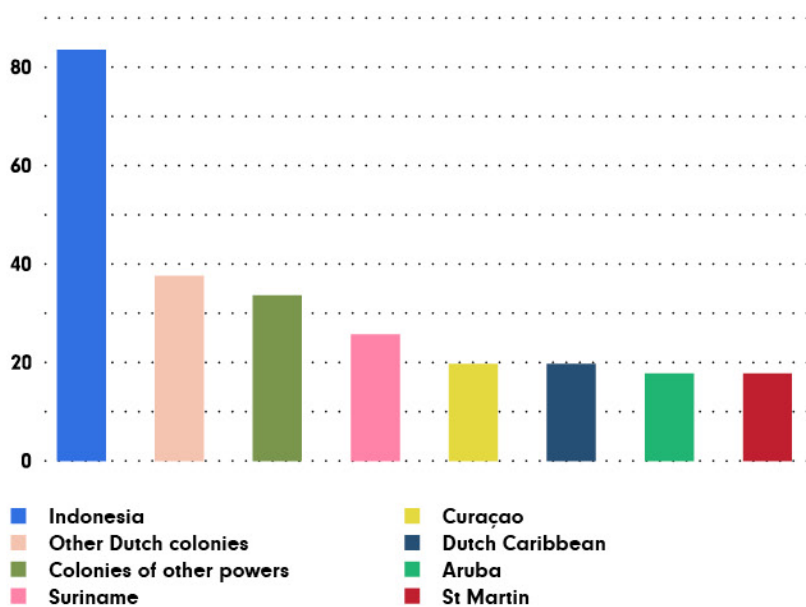
With regard to ownership, 62% of the museums with colonial cultural heritage objects state that they manage cultural heritage objects belonging to private entities such as foundations, associations, businesses, individuals and families. 28% state that they manage colonial cultural heritage objects that are owned by the State. 26%, 9% and 8% of the museums state that they manage objects that are owned by municipalities, universities and provinces, respectively.

Categories of colonial cultural heritage objects
(in percentages)



More than half of the museums with colonial cultural heritage objects manage ethnological cultural heritage objects. 49% manage historical cultural heritage objects and 45% manage colonial art objects. 28% of these museums have natural history objects in their colonial collection.

Source countries of colonial cultural heritage objects
(in percentages)

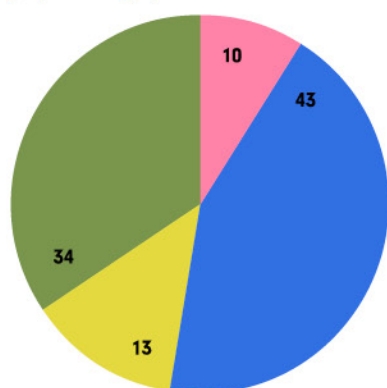


At 84%, Indonesia is the country from which the largest proportion of museums state that they have colonial cultural heritage objects. 26% of museums manage cultural heritage objects from Suriname, 20% from Curaçao, 18% from Aruba, 18% from Sint Maarten, 20% from the Caribbean Netherlands and 38% from other former Dutch colonies. 34% manage colonial cultural heritage objects from territories of other colonial powers.

Finally, 69% of the museums state that they manage colonial cultural heritage objects that acquired with the consent of the former owner. 59% of museums state that they manage cultural heritage objects whose method of acquisition is unknown. 18% of the museums state that they know that they are managing colonial cultural heritage objects acquired without the consent of the original owner.

A further finding is that not all museums have yet properly surveyed their colonial cultural heritage objects. In the survey 28% of the museums stated they did not have an overview of the colonial culture goods in their collections. 39% of museums said that they were engaged in creating such an overview and 33% said that they already had a full overview.

Status of provenance research
(in percentages)



- Good overview of provenance
- Exploratory provenance research
- Systematic provenance research
- No provenance research yet.

Of the museums with colonial cultural heritage objects that completed the survey, only 10% had a good overview of their provenance. 43% carry out exploratory research into the provenance of their collections, 13% carry out systematic research and 34% do not yet have provenance research fully on their agenda.

Historic returns of colonial cultural heritage objects

Date	Return	To whom?	By whom?	Reason for return?
1907	Regalia	Former Gowa sultanate (South Sulawesi)	Museum Volkenkunde	After an exhibition on the Bone, Gowa and Luwe sultanates. The return took place for 'reasons of fairness', on the basis of a request from the eldest son of the Sultan of Gowa, who died during the expedition of 1905 – 1906.
1913	Crown jewels	The Gowa and Bene Kingdoms in Bali	Unknown	Unknown
1927	3 Ramayana reliefs (from the Prambanan temple)	The Prambanan Shiva temple in Indonesia	The Netherlands in cooperation with the royal family in Siam	Due to criticism of the way in which these Prambanan temple cultural heritage objects were stolen and given away. Return was negotiated between Dutch archaeologists, curators from Siam and King Chulalongkorn's half-brother Prince Damrong.
1931	Regalia	The former Bone sultanate	Batavian Society	The Sultan stated that he was unable to rule without the regalia.
1937	2 krisses	Royal families in southern Bali	Dutch East Indies government	The Balinese kings stated that they were unable to rule without krisses.
1938	Regalia	Former Gowa sultanate	Batavian Society	The Sultan stated that was unable to rule without the regalia.
1970	2 Raden Saleh paintings – Painting of a buffalo hunt (1851) – Painting of a fight between a man and a lion (1870)	(The family of) President Suharto	The Dutch royal family	As a donation to the Suharto family during a state visit by Queen Juliana.
1973	The Nagarakretagama manuscript	Indonesian government	Leiden University Library (manager) and the Dutch government (owner)	In response to negotiations on a new cultural agreement in 1968. This manuscript has a great symbolic, almost sacred value, for Indonesia.
1975	380 ethnographic objects from Papua	Indonesian government, on behalf of Museum Jayapura	Museum Volkenkunde (beheerder) en het Rijk (eigenaar)	All parties were agreed that the shipping (or smuggling) of these objects to the Netherlands contravened the New York Agreement (1962).
1975	Palaeontological human remains: the Ngandong skulls	Teuku Jacob (private individual)	G.H.R. von Koenigswald (private individual)	Private agreements.
24 maart 1976	Fossil of a pygmy elephant and tortoise shell from Timor & Flores	Cultural attaché of the Indonesian embassy (Atdikbud) in The Hague	National Museum of Natural History (Leiden), by Dr D.A. Hooyer	Based on a meeting of experts in The Hague from 25 June to 7 July 1977.
1977	Painting of the capture of Diponegoro by Raden Saleh	Indonesian government	By the director of the archives of the Royal House and Prince Bernhard	In response to a special request by Adam Malik, the then Indonesian Minister of Foreign Affairs

Date	Return	To whom?	By whom?	Reason for return?
1977	Equipment of Prins Diponegoro - saddle - bridle - <i>Pajong</i> (parasol) - spear	Indonesian ambassador, on behalf of Museum Nasional Indonesia	Museum Bronbeek (manager) and the Dutch government (owner)	In response to the joint recommendations in 1975.
1977	Half of the Lombok Treasure, consisting of 243 objects	Indonesia	By the Minister of Education, Arts and Science, from Rijksmuseum Amsterdam (121 objects) and Museum Volkenkunde in Leiden (122 objects)	In response to the joint recommendations in 1975.
1978	Palaeontological human remains of <i>Homo modjokertensis</i>	Teuku Jacob (private individual)	G.H.R. von Koenigswald (private individual)	Private agreements.
1978	Prajñaparamita figure	Indonesian government, for Museum Nasional	By the Minister of Education, Arts and Science, from Museum Volkenkunde in Leiden	On the occasion of the 200th anniversary of Museum Nasional.
1985	4,500 pre-Columbian fragments	Aruba	Museum Volkenkunde in Leiden	Based on negotiations.
2003	Two antique Hindu statues	Indonesia	Dutch government institution	Unknown.
2005	17th century Smeerenburg collection, consisting of more than 17,000 objects from WIC ships	Norway	Rijksmuseum Amsterdam	Unknown.
2005	Wayang puppets	Jakarta (Wayang Museum)	Wereldmuseum Rotterdam (manager) and Municipality of Rotterdam (owner)	To strengthen the common bonds between Jakarta and Rotterdam.
2005	Toi moku heads	New Zealand	Museum Volkenkunde in Leiden	Unknown.
2006	45 'modern' artworks (produced in Suriname between 1948 and 1989), including paintings, sculptures, photographs and silk screen prints. Partly colonial.	Suriname, for Nationaal Museum	Tropenmuseum Amsterdam in cooperation with the Dutch government	The artworks were produced in the framework of the STICUSA foundation, which aimed to strengthen cultural cooperation between the Netherlands, Suriname and the Antilles. The Dutch government considered that Suriname was entitled to the works. Many works were traded when the foundation was dissolved in 1989. The Tropenmuseum received a budget from the Dutch government to buy back these works, on condition that they were returned to the Nationaal Museum. In 2006 the Nationaal Museum had put in place appropriate storage conditions for the artworks to be returned.

Date	Return	To whom?	By whom?	Reason for return?
2008	Shabti of Hener (approx. 1205 – 1186 BC)	Egypt	Dutch government institution	When a Dutch private individual wished to purchase the Shabti grave statue from a German private individual, he asked the National Museum of Antiquities to investigate its provenance. The investigation revealed that the statue had been stolen from Egypt. The Dutch and German private individuals then decided in consultation with the museum that the statue should be returned.
2008	18 ethnographic objects	Cultural centre in Sintang, West Kalimantan, Indonesia	Friars Minor Capuchin (Ordo Fratrum Minorum Capucinatorum), Tilburg	As a donation to mark the opening of the new cultural centre. The Tropenmuseum asked the Friars to make a contribution.
2008	4 porcelain items	Cultural centre in Sintang, West Kalimantan, Indonesia	Tropenmuseum Amsterdam	As a donation to mark the opening of the new cultural centre.
2009	Head of King Badu Bonsu II	Ghana	Leiden University Medical Center	Request for return.
2009	33 ethnographic objects	Museum Pusaka, Nias, Indonesia	Friars Minor Capuchin (Ordo Fratrum Minorum Capucinatorum), Tilburg	As a donation.
2009	69 clay tablets	National Museum, Iraq	Dutch government institution	Intercepted by Interpol and reported to the Dutch government, purchased illegally by Dutch nationals.
2010	1 clay tablet	National Museum, Iraq	Dutch government institution	Intercepted by Interpol and reported to the Dutch government, purchased illegally by Dutch nationals.
2010	ANCODS (Agreement between Australia and the Netherlands Concerning Old Dutch Shipwrecks) collection	Australia	Dutch government institution	To mark 400 years of Dutch-Australian relations.
2011	Part of the Parthenon/ Elgin Marbles	Greece	By National Museum of Antiquities, Leiden, on behalf a private owner	The item had unlawfully come into the possession of a private owner. This owner offered it as a donation to the National Museum of Antiquities. It was eventually decided that it should be returned to Greece.
2011	Ancient incense burner	China	Dutch embassy in Beijing (manager)	On the occasion of a working visit to China.
2015	Pilgrim's staff of Diponegoro	Museum Nasional, Jakarta, Indonesia	The Baud family, with assistance from the Rijksmuseum	The Baud family had acquired the pilgrim's staff from a rival of Diponegoro and decided to return it.
2020	Dagger (kris) linked to Diponegoro	Republic of Indonesia	Museum Volkenkunde (manager) and the Dutch government	In response to the joint recommendations in 1975.

The above list does not claim to be exhaustive.

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The Council provides recommendations regarding the cultural policy in the Netherlands, whether it is requested of them or not.

‘Colonial Collections and a Recognition of Injustice’ is a publication of the Raad voor Cultuur.

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Framework for Colonial Collections

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The Hague, January 2021