

Provenance Research between Politicized Truth Claims and Systemic Diversionary Tactics

1 Introduction

For my contribution to this volume, I use as a starting point several of my essays published in various newspapers between 2018 and 2023.¹ My objective was to argue against a sweeping condemnation of ethnographic collecting in colonial times, warn against an inconsiderate jumping on the bandwagon of restitution, and take a stand for careful differentiation.² From the perspective of anthropology, there is no such thing as “colonial collecting;” hence, one case varies from the next, and each one requires careful research. Likewise, I have argued against sweeping restitutions because, eventually,

1 *Alles aus Frankreich muss zurück nach Afrika.* In: *Neue Zürcher Zeitung*, Dec. 31, 2018, <https://www.nzz.ch/feuilleton/kulturelles-erbe-afrikas-in-frankreich-soll-restituiertwerden-aus-emmanuel-macrons-plaenen-wird-ein-politisches-manifest-ld.1444037>; *Wohin mit der Raubkunst?* In: *Frankfurter Allgemeine Zeitung*, Febr. 1, 2019, <https://www.faz.net/aktuell/feuilleton/kunst/debatte-ueber-restitution-wohin-mit-derraubkunst-16018402.html>; *Auch im alten Afrika ging es nicht gewaltfrei zu.* In: *Welt*, May 3, 2019, https://www.welt.de/print/die_welt/kultur/article192867205/Auchim-alten-Afrika-ging-es-nicht-gewaltfrei-zu.html (retrieved Oct. 1, 2019); *Gauguin und die fehlende Wiedergutmachung.* In: *Basler Zeitung*, June 17, 2019, <https://www.bazonline.ch/kultur/kunst/gauguin-und-die-fehlende-wiedergutmachung/story/30718323> (retrieved Sept. 30, 2019); *Danach fragt ein treuer Beamter.* In: *Frankfurter Allgemeine Zeitung*, Jan. 17, 2020, <https://www.faz.net/aktuell/feuilleton/debatten/raubkunstdebatte-am-beispiel-der-kultkrokodile-16584351.html> (retrieved July 22, 2020); *Dieses Blut gehört dem König.* In: *Frankfurter Allgemeine Zeitung*, March 16, 2021; *Die lange Blutspur der Benin-Bronzen.* In: *Neue Zürcher Zeitung am Sonntag*, Apr. 25, 2021; *Warum das Luf-Boot im Humboldt Forum bleiben kann.* In: *Zeit*, July 15, 2021; *Der vergessene Wissensspeicher.* In: *Frankfurter Allgemeine Zeitung*, Jan. 12, 2022; *Tausche Kultur gegen Energie. Die Rückgabe der Benin-Bronzen an Nigeria dient nicht zuletzt staatlichen Interessen.* In: *Frankfurter Allgemeine Zeitung*, Jan. 7, 2023. *Wie ein Weltkulturerbe verloren geht: die Benin-Bronzen.* In: *Frankfurter Allgemeine Zeitung*, Feb. 28, 2023.

2 See Karl-Heinz Kohl et al.: *Das Humboldt Forum und die Ethnologie.* Frankfurt on the Main 2019, pp. 35–52. I want to thank Karl-Heinz Kohl for reading and commenting on my contribution to the present volume.

the legitimacy of the claimants for restitution must be verified, especially if they are individuals. However, you find the public discussion dominated by a simple offender-victim scheme based on, as Kostner has pointed out, forced assignments of both the victims' and perpetrators' identities: on one side, the colonialists and their hereditary debt—the ethnological museums –, on the other side, the “source communities” or the “indigenous peoples.” The underlying assumption of this scheme is the notion that groups with homogeneous and egalitarian identities persist unchanging through time.³ In the public debate, apparently, vociferous pro-restitution protagonists propagate notions of “culprit and victim, guilt and innocence” seeking “purification” by employing ostentatious claims (for example, by demanding “the entirety of things must be returned to the countries of origin”) and thereby striving to regain their moral authority—since they assign themselves to the perpetrator group. Concurrently, the arguments in the restitution debate evolve against the backdrop of today's human rights concepts and regulations. However, contemporary conceptions of rights and wrongs are confined to colonial interactions. Contexts of injustice from which the cultural objects may have originated, even if they contained severe human rights violations, are ignored.⁴

My findings are based on my studies on cultural property conducted from 2009 to 2016 while I was part of the DFG research group “Cultural Property” at the University of Göttingen; one of my projects dealt with the illicit transfer of cultural property.⁵ The research group started from the fact that over the past decades, there has been an increasing tendency to turn *culture* into acquirable property featuring the assumption that even culture has an owner.

In this paper, I refer to the arguments Felwine Sarr and Bénédicte Savoy present in their report named “Rapport sur la restitution du patrimoine culturel africain. Vers une nouvelle éthique relationnelle” (“Restitution of African cultural heritage. Toward a new relational ethics”).⁶ I have chosen their report as a reference point because it contains almost all the arguments the pro-restitution protagonists refer to when making their case for unconditional restitution.

3 See Sandra Kostner (Ed.): *Identitätslinke Läuterungsagenda. Eine Debatte zu ihren Folgen für die Migrationsgesellschaften*. Stuttgart 2019, pp. 10–13.

4 Nonetheless, I would like to clarify my position: I do not want to trivialize what happened during colonial times, nor do I approve of how some ethnographic collections came about—by looting, pillaging, and massacres.

5 Brigitta Hauser-Schäublin, Lyndel V. Prott (Eds.): *Cultural Property and Contested Ownership. The Trafficking of Artefacts and the Quest for Restitution*. London 2017.

6 Felwine Sarr, Bénédicte Savoy: *Rapport sur la restitution du patrimoine culturel africain. Vers une nouvelle éthique relationnelle*. Paris 2018, http://restitution-report2018.com/sarr_savoy_fr.pdf (retrieved June 30, 2019).

Initially commissioned by French President Emmanuel Macron, the report also made waves in Germany, not least because Savoy had previously distinguished herself in Berlin as a fervent advocate for postcolonial provenance research and corresponding demands for restitution. Her resignation—with a bang—from the expert advisory board of the Humboldt Forum in Berlin is legendary.⁷

In this piece, at the outset, I will critically reflect on the current position—often referred to as “postcolonial”—that assesses colonial collecting in terms of total liability and indiscriminately condemns anybody who was an active collector during the colonial period. Then I will analyze, correspondingly discerning, the politicized terminology used in the public discussion. Finally, I will discuss *provenance research* as part of the (capitalist) market economy.

2 Qualms about the Legitimacy of Moral Superiority

I got involved in the *restitution debate* in 2017, when it became increasingly important at conferences and in the media. Since then, doubts didn’t stop nagging me about what objective such a debate about symbolic capital and the ownership of artifacts that were acquired in various ways in the colonies in the past could ultimately serve.⁸ French President Macron initially launched the issue in a speech at the university in Ouagadougou in 2017, promising to return African cultural property from French museums to African countries. Fueled by the media,⁹ the debate reached political circles in Germany—even those who have so far neither cared about the

7 She is said to have “shouted out” that the Humboldt Forum is “like Chornobyl” because it buries its malaises like “nuclear waste” under a blanket of lead. And Savoy is said to have continued that at the *Stiftung Preußischer Kulturbesitz* (i.e., Prussian Cultural Heritage Foundation) reigns “total sclerosis”; see *Süddeutsche Zeitung*, July 21, 2017, and *Frankfurter Allgemeine Zeitung*, July 27, 2017. See also the contribution by Viola König to this volume.

8 See Brigitta Hauser-Schäublin: *Ethnologische Provenienzforschung – warum heute?* In: Larissa Förster et al. (Eds.): *Provenienzforschung zu ethnografischen Sammlungen der Kolonialzeit. Positionen in der aktuellen Debatte. Elektronische Publikation zur Tagung “Provenienzforschung in ethnologischen Sammlungen der Kolonialzeit”. Museum Fünf Kontinente*, Munich, Apr. 7–8, 2017. Berlin 2018, pp. 327–333, <https://doi.org/10.18452/19029> (retrieved June 30, 2019).

9 Journalist Jörg Häntzschel (*Süddeutsche Zeitung*), one of the media opinion makers on the restitution of “looted colonial art,” researched restitution claims in Africa in early 2019 and tried to get some statements. He is quoted in an interview in Cameroon: “J’ai eu à interroger des personnes en Afrique mais elles ne m’ont jamais répondu. C’est très difficile d’avoir des avis là-dessus pourtant je vous assure que le sujet fait des vagues en Allemagne.” (i.e., “I have asked personalities in Africa, but they have never answered. It is very difficult to get views on this subject. But I

decades-long underfunded existence of ethnological museums or taken an interest in their collections, nor thought about the collections' origins.

Nonetheless, numerous German scholars and activist groups advocate for a historical reappraisal of colonial wrongs and making amends.¹⁰ As a matter of fact, research neglected key topics for far too long—like the acquisition circumstances regarding cultural objects during the colonial period and how they finally ended up in European museums. (Not to mention private collections, as for them, the lifting of the lid has not yet begun.) Indeed, the history of the acquisition has always been a part of ethnological research on artifacts.¹¹ However, with few exceptions, such historical analysis was not embedded in explicit postcolonial-political contexts.¹²

When it comes to this debate, brimming over with moral indignation and verve, I deeply miss any self-reflective approach—i.e., an explicit statement on the individual position from which the debate's participants criticize the colonial era, reprove those days' cultural goods' acquisitions, and assign blame.¹³ In Germany, the dominant protagonists of the pro-restitution faction seem to assume that the era of colonialism (character-

assure you: This is a topic that creates a stir in Germany.”) Voix du Koat: Vol de la mémoire: aidé par l'inertie des Africains, l'Allemagne refuse toute restitution, Febr. 24, 2019, <http://lavoixdukoat.com/vol-de-lamemoire-aide-par-linertie-des-africains-lallemagne-refuse-toute-restitution/> (retrieved July 15, 2019).

- 10 Ethnological museums in Germany began to search their collections for art looted in colonial days once research on art looted by the Nazis had brought relevant artworks to light. See Hauser-Schäublin (note 8), p. 89. Provenance research suddenly became mainstream. Meanwhile, almost every major ethnological museum in Germany conducts provenance research as one of its currently most urgent tasks. Several major research funding institutions have started similar programs endowed with considerable third-party funding. From 2017 on, Museums have seen an increase in new positions created for provenance research unparalleled for decades.
- 11 See Larissa Förster: *Eine Tagung zu postkolonialer Provenienzforschung. Zur Einführung*. In: Förster et al. (note 8), p. 16.
- 12 One of the few exceptions was the director of the Bremen *Überseemuseum*, Herbert Ganslmayer (1975–1990), who advocated the return of Ethnographica as early as the 1970s. See Herbert Ganslmayer: *Nofretete will nach Hause: Europa – Schatzhaus der "Dritten Welt"*. Munich 1984; see also on restitution Eike Haberland: *Überlegungen zum Problem der Restitution von Kulturgütern an die Dritte Welt aus der Sicht des Ethnologen*. In: *Das Museum und die Dritte Welt. Bericht über ein internationales Symposium vom 7–10. Mai 1979 am Bodensee*. Munich 1981, pp. 144–153.
- 13 Historians active in provenance research on Nazi plunder criticize former museum representatives, art collectors, and art dealers for not reflecting on their actions in writing. Hoffmann, for example, writes about Hildebrand Gurlitt that, in his case, “there is no hint of critical reflection on his role as an art dealer in the Third Reich. [...] In doing so, Gurlitt loaded a second debt onto himself.” Meike Hoffmann: *Eine kritische Betrachtung von Hildebrand Gurlitts Lebensweg*. In: *Bestandsaufnahme Gurlitt*. Munich 2018, p. 25. However, critical reflection upon their own bias is also lacking among researchers on Nazi plunder.

ized as “une ère de violence”¹⁴) is over—and everything is better today. The moral imperative of “decolonization” underpins this viewpoint’s present-day, self-righteous character and its implicit moral superiority. As is well known, the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict was signed only 69 years ago. In 1954, UNESCO and the contract-signing states created this convention under the impression of the destruction caused during two world wars¹⁵; it prohibits, among other things, wrecking, looting, and violently appropriating cultural property.¹⁶ Besides, two multilateral agreements have also had a significant influence on today’s values: the 1949 Geneva Convention (featuring a focus on protecting people—not objects—from “war crimes”) and the 1948 UN Declaration on Human Rights.¹⁷

After all, a glimpse behind the curtains reveals that the moralizing, complacent point of view relies on 20th-century historical achievements and criticizes earlier times as if these regulations had always been in force. Criticism from today’s point of view is, of course, legitimate. Still, first of all, at least from a critical theory’s point of view, the conditions and ruling conceptions of an era should be taken into account from the period in question before giving a judgment from today’s perspective. Many officials, collectors, and scientists active during the colonial period, whether directly or indirectly involved, were hardly aware of any wrong as ruled from today’s point of view, especially since a different understanding of the law and other moral standards prevailed at that time. In almost the same manner and despite knowing better, scholars, even today, seemingly are not prepared to acknowledge present-time relations of injustice and violence, mainly becoming manifest between the “Global South” and the industrialized countries of the North.

14 See Sarr, Savoy (note 6), pp. 9–11.

15 I do not discuss the precedent conventions dating back to the end of the 19th century here. The subsequent UNESCO conventions also build on this Hague Convention. All in all, these conventions anchored notions of significance and value regarding material cultural property in the broad public’s consciousness. See also the contributions by Lukas Meyer, Matthias Goldmann, and Beatriz von Loebenstein to this volume.

16 It is noteworthy that the convention does not stigmatize war as such. What’s more, it merely singles out a particular behavior that accompanies the acts of war, for example, the destruction of cultural assets and looting or “crimes against humanity” or the way prisoners of war and civilians are treated (as defined by the Geneva Convention of 1949 and its additional protocols). Recent war events show that such conventions have only limited effect. One cannot escape the impression that these conventions aim to humanize war by regulations—although war is the one crime against humanity par excellence.

17 In contrast to conventions like the European Convention on Human Rights, declarations are not legally binding.

3 A Blind Spot

The North's economic prosperity is built on this system of injustice. Indeed, its occurrence is not "solely" the consequence of colonialism but of a system emerging as early as 1492 in the wake of the European expansion, as Eric Wolf (1982) has convincingly shown.¹⁸ This worldwide process of mercantile and capitalist development has permeated and transformed the most diverse of local societies. Since the second half of the 20th century, this development increasingly escaped socio-political control in the process of intensifying "liberalization." Meanwhile, gaining momentum of its own accord, the phenomenon has long since ceased to emanate "solely" from the "West" or "North." Driven by the greed for profit maximization, the vicious spiral of production, marketing, and a constant stream of lulling advertisements aimed at potential consumers has visibly become more and more short-phased and steep. Meanwhile the production process often leans on underpaid resource extraction and production in countries that allow wage dumping and employment without social insurance. Less restrictive laws regarding environmental and health issues result in even more waste which in turn ends up in the countries of the South again. Most everyday commodities, from T-shirts to encapsulated coffee to cell phones, inherit their part of these processes. Worldwide the prosperity of the wealthy relies on the tacit acceptance of the suffering and death of millions of people.

The colonial period was undoubtedly a turning point. Still, it was only one epoch in an unfolding process, as Wolf has so aptly analyzed and demonstrated, nowadays gaining high-velocity momentum that surpasses any previous dynamics. Like many protagonists of the pro-restitution faction, Sarr and Savoy fail to address the present-day exploitation of Africa (and other countries of the South) by states and consortia (in forms of land grabbing, lending, plundering of mineral resources, customs and trade restrictions in favor of industrialized countries, etc.). Likewise, the looting and (intentional) destruction of cultural property in contexts of military actions remain unmentioned while they occur daily in war zones—in Afghanistan, the Middle East, or Africa due to ethnic, religious, and political fanaticism. (One example is the destruction of the world cultural heritage site in Timbuktu in 2012.) Beyond that, organized militaries, even originating from countries in the North, continue to torture civilians and prisoners—whether in Afghanistan, Iraq (Abu Ghraib), Guantanamo, or elsewhere. Simultaneously, industrialized countries produce and export

18 See Eric T. Wolf: *Europe and the People Without History*. Berkeley 1982.

weapons of war that find their way into conflict zones worldwide and provide the means to commit murder.

These processes happen in no way covertly. And the media coverage shows: they are causing casualties every day.

However, the systemic side of these processes, like subjugation and exploitation, remain almost invisible, for example, the substantial national debt of the countries of the South and the depletion of natural resources. Sociologist Jean Ziegler speaks of the “robber barons of globalized finance capital”¹⁹ when he pointedly indicates that the flow of capital from South to North is far greater than from North to South:

“The debts serve to strangle the impoverished countries. [...] The little money the African countries generate [...] goes straight back into the vaults of European and American creditor banks in the form of interest payments or repayments.”²⁰

One should add that by now, one of the largest and most potent lenders, especially to relatively small and impoverished countries, is China, respectively, its state-controlled central bank. If the impoverished countries cannot meet debt repayments, China is entitled to their infrastructure by way of a pledge.²¹

Investigative journalist Tom Burgis speaks of a “looting machine” that systematically plunders Africa’s rich natural resources. Nowadays, the looting machine operates across state borders:

“Where once treaties signed at gunpoint dispossessed Africa’s inhabitants of their land, gold and diamonds, today phalanxes of lawyers representing oil and mineral companies with annual revenues in the hundreds of billions of dollars impose miserly terms on African governments and employ tax dodges to bleed profit from destitute nations. In the place of the old empires are hidden networks of multinationals, middlemen and African potentates. These networks fuse state and corporate power. They are aligned to no nation and belong instead to the transnational elites that have flourished in the era of globalization. Above all, they serve their own enrichment.”²²

One could give many more examples, such as the European Union’s CO₂ emissions trading system.²³ All these “strangleholds,” as Jean Ziegler once

19 Jean Ziegler: *Was ist so schlimm am Kapitalismus?* Munich 2019, p. 57.

20 Ibid., pp. 82 sq.

21 See Sebastian Horn, Carmen Reinhart, and Christoph Trebesch: *China’s Overseas Lending* (Kiel Working Papers 2132). Kiel 2019.

22 Tom Burgis: *The Looting Machine. Warlords, Tycoons, Smugglers and Systematic Theft of Africa’s Wealth*. London 2015, p. 8.

23 See Tamara Gilbertson, Oscar Reyes: *Globaler Emissionshandel. Wie Luftverschmutzer belohnt werden*. Frankfurt on the Main 2010; see also Klaus Werner-Lobo, Hans Weiss: *Schwarzbuch Markenfirmen. Die Welt im Griff der Konzerne*. Berlin 2018.

called them, do not aim at symbolic capital but at economic capital; in short: at stake is the survival of broad segments of the population.

Against this backdrop—briefly depicted here—the elites in the countries of the North currently discuss questions regarding symbolic capital going back to the colonial era with (partial) elites from the countries of the South. What's more, they urge many who haven't yet demanded any "restitution" to make a move, so to speak, towards reclaiming and subsequent take-back—in the sense of "a moral compensation for suffered injustice."²⁴

Apparently, it is not tropical-helmeted whites or soldiers operating as the long arm of a regime of colonial masters, who massacre local groups some place outside Europe, plunder villages and drag rich booty home (to serve a common image of colonial times). Today, the murder of people (or at least the acceptance of their suffering and death) conforms to a much more subtle (or perfidious?) pattern. The killing happens indirectly and is set in motion far away from the scene of events but happens with active participation—via consumption—even of the pro-restitution protagonists.

If I had to couch that doubt in terms that doesn't stop nagging me when I follow the restitution debate in its breathlessness, loudness, and decisiveness, I would put it this way: To what extent does a discussion about giving back—predominantly elitist—cultural assets deposited in elitist institutions in Europe to the new (or old) elite in Africa serve to distract from the current socio-economic processes of exploitation and the everyday struggle of broad segments of the population for survival? Is it in the service of the capitalist system and its winners?

These questions also arise regarding the French president's Ouagadougou speech mentioned above. Addressing the political, educational, and economic elites, but above all, "the youth" (*la jeunesse*) of Africa, Macron took up the theme of a common history (*histoire commune*) that links France with Africa. He sees this shared history as the starting point for elaborating a future-oriented joint philosophy, a reciprocally shared world of imagination (*imaginaire commun*).²⁵ In his blueprint for the future, he named mutual friendship as the basis and culture as the most crucial remedy (in a healing and a creative capacity) for bringing about a conjoint world of imagination. And he promised to return the African states' "cultural heritage" (*patrimoine culturel*), deposited in French museums, temporarily or permanently within the next five years. As a second "remedy," he mentioned sports, and as a third, the shared French

²⁴ Kostner (note 3), p. 12.

²⁵ <https://www.elysee.fr/emmanuel-macron/2017/11/28/discours-demmanuel-macron-aluniversite-de-ouagadougou> (retrieved June 30, 2019).

language or francophonie, the adoption of the former colonial language by the former colonies. The concept of francophonie includes both the shared (colonially introduced) language and the spread of a shared culture. To put it pointedly: Macron invoked in an almost cynical way the successful completion of the civilizing mission (“*mission civilisatrice*”) that has served France as an argument to legitimize its colonial policy and is now supposed to open the way to a common future tailor-made to European notions.²⁶ Macron’s speech focused on Europe-centered symbolic (start-up) capital and ignored the survival problems of broad sections of the population in Africa and the systemic relations of exploitation responsible for these problems.

4 Political and Eurocentric Terms

4.1 Cultural Heritage Instead of Cultural Property

Many scholars involved in the restitution debate use concepts and terminology in their texts that originate primarily from political discussions and activist language. To begin with, Sarr and Savoy do not speak of “cultural property” (“*biens culturels*”), as does, for example, the UNESCO Convention on the Unlawful Transfer of Cultural Property, signed in 1970. They use the term “African cultural heritage” (“*patrimoine culturel africain*”). In its French version, the UNESCO Convention uses the term “*biens culturels*”; in the English version, you find the phrase “cultural property.” The equivalent legal term in German is “*Kulturgut*,” respectively the plural form “*Kulturgüter*.”²⁷ The UNESCO Convention defines cultural property as follows:

“The term ‘cultural property’ means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science.”²⁸

26 Esp. noticeable is here that he did not offer to make important European works from the Louvre, the Musée d’Orsay, or the Musée Picasso available to the “francophone” African states. Appiah had already made a similar demand; see Kwame Anthony Appiah: *Whose Culture Is It?* In: James Cuno: *Whose Culture? The Promise of Museums and the Debate over Antiquities*. Princeton 2009, pp. 71–86, esp. p. 84.

27 German is not one of the official languages of the United Nations (and its sub-organizations); accordingly, there is no official version of the Convention in German.

28 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970, <https://en.unesco.org/about-us/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and>, retrieved Jan. 2, 2023.

Even the *Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation* chose the term *cultural property* and not *cultural heritage* as part of its name. There are legal considerations behind this. As international law scholars Lyndel Prott and Patrick O’Keefe point out, the legal concept of *cultural property* deals primarily with the owner’s rights (and obligations). After all, this concept does not specify who the owner is or should be and how someone came into possession of the cultural property. In more recent conventions, the term *cultural heritage* has become increasingly used, for example, in the 1972 World Heritage Convention or the 2003 Convention for the Safeguarding of Intangible Cultural Heritage. In contrast to *cultural property*, the phrase *cultural heritage* is a policy term intended to ensure the protection of cultural heritage for the enjoyment of present and future generations.²⁹ Here, therefore, the present and future (co-)users and heirs are already defined: In principle, this is the world public, i.e., everyone.

Eventually, the notion implies, for example, that if UNESCO recognizes a local cultural asset as a “world heritage site,” it becomes a global public property.³⁰ Indeed, cultural assets always have an “audience.” However, each respective audience is culturally defined. An asset’s audience hardly ever encompasses a public as general as the one UNESCO addresses by its concept of heritage. From the perspective of international law, the idea of *world heritage* limits the rights of the owner (be it an individual, a legal entity, a community, or a state) to the effect that other groups of people gain access to the respective *world heritage*, too.³¹ The terms *cultural property* and *cultural heritage* both refer to notions of ownership and proprietary principles, albeit in very different ways.

From an anthropological perspective, *cultural heritage* is not an analytical but a normative term, as Prott and O’Keefe have already emphasized.

29 See Lyndel V. Prott, Patrick O’Keefe: ‘Cultural Heritage’ or ‘Cultural Property’? In: *International Journal of Cultural Property* 1 (1992) No. 2, p. 309; see also Brigitta Hauser-Schäublin, Lyndel V. Prott: Introduction: Changing Concepts of Ownership, Culture and Property. In: *Idem* (Eds.) (note 5), p. 10; see also Valdimar Hafstein: *Making Intangible Heritage*. Bloomington 2018, pp. 1–20. The UN Declaration of the Rights of Indigenous Peoples of 2007 is the declaration that most clearly expresses the policy goal linked to the concept of heritage. See the contribution by Judith Hackmack and Wolfgang Kaleck to this volume.

30 Melanie Wiber: *Cultural Property, Repatriation and Relative Publics: Which Public? Whose Culture?* In: Franz von Benda-Beckmann, Keebet von Benda-Beckmann, Melanie Wiber (Eds.): *The Properties of Property*. New York 2006, p. 332.

31 Markedly, this is most obvious in the case of the World Heritage Sites. When inscribed in the UNESCO list, even local sanctuaries such as temples, for example, must be made accessible to visitors from around the world. Such a requirement is not always met with enthusiasm by the local population, the original owners of the respective temple.

The word *inheritance* points to someone bequeathing the cultural assets and implies a specific relationship between people of different generations (defined by state law or by the respective kinship system) that regulates the passing on of rights/duties and property from the older to the younger generation.

However, the *cultural heritage* concept prevalent in the restitution debate does not reflect a legal concept but common sense. Likewise, Sarr and Savoy do not reason about or define their understanding of the concept. Such a common-sense approach to *cultural heritage* is inspired by biologicalist ideas and insinuates such a heritage, comparable to the genes, is handed down from one generation to another like in a bloodline. Eventually, *cultural heritage* has replaced the notion of *cultural property* in the restitution debates since the term draws attention to the emotional significance of assets and their importance for processes of identity formation. The underlying anticipation postulates an essentialist, quasi-biological, trans-generational affiliation of people and assets, whether they are material or intangible cultural goods. In this way, it is relatively easy to determine, as even Sarr and Savoy follow suit, who is the rightful owner of the heritage (*“propriétaire légitime”*)³²: the descendants of the former owner³³ in the cultural property’s “source community.”³⁴

4.2 Concepts of Property

Closely related to *cultural heritage* is the concept of *ownership* used in the restitution debates. And as it held true with *cultural heritage*, there is no assessment or explanation of the term’s exact meaning. Sarr and Savoy start from a Eurocentric-capitalist concept of property that recognizes only one right: that of a “rightful” owner. This property concept relies on the private and public spheres dichotomy. Introduced to the colonies by Europeans, it eventually found its way into the legal systems of the post-colonial states.

32 Sarr, Savoy (note 6), p. 25.

33 You’ll find hardly any differentiation made between *owner* and *possessor* in contributions to restitution debates. While it is relatively easy to identify the former *possessor* of a cultural asset (provided that corresponding oral or written information exists), the question of *who owns* the asset would be much more difficult to answer (see below). See also http://www.juramagazin.de/besitz_eigentum.html (retrieved July 19, 2019)

34 The phrase “source communities” gives off the impression of the immutability of social groups—as if contemporary societies were closed entities and still in the same conditions as they were a hundred or more years ago, despite demographic, social, economic, religious, and political change. For this reason, I use the term in scare quotes.

Obviously, the two authors use the term deliberately because they want to put von Benda-Beckmann's so-called "partisan political engagement" into practice.³⁵ However, their concept of ownership can't do justice to the complex artistic, spiritual, socio-political, and performative rights and multiple forms of participation in individual artifacts deriving from specific historical contexts. Property is part of a specially designed and signified web of social relations regarding objects of value and certain rights over them and the accountability that goes with them.³⁶ Benda-Beckmann, Benda-Beckmann, and Wiber understand property as embodying a whole "bundle of rights," pointing to the range of different roles and meanings that property rights can have.³⁷ For instance, one would have to differentiate between certain levels: the ideological one, that of (locally- and state-run) judicial systems, that of actual social relations, and that of social practices associated with the assets in question. And last but not least, one would have to consider the connections between these levels. Accordingly, they distinguish in their analysis between social entities (individuals, groups, cooperatives, and states) that have property rights and corresponding responsibilities and the construction of objects of value as property objects. On top are the different rights and obligations that these social units have with respect to such assets.

All these three dimensions are embedded in the dimensions of time and place. We have already touched on these complex relationships when discussing the example of cultural properties that have been declared world heritage. Suppose we apply this concept of ownership to non-European cultural objects that were acquired in the colonies and are now in store in Western museums. In that case, the diversity of these webs of relationships and value assignment clusters becomes apparent. Hence, to avoid identifying a "rightful owner" over-hastily, one would have to examine the relationships at the time from which the cultural objects originate, the epoch's actors (artists, patrons, owners, users, and *audiences*), and their rights and obligations. In addition, one should consider the exclusion and inclusion mechanisms at the time regarding the respective property, the manners of use and its users, and the practices of circulation, preservation, or destruction.

35 See Franz von Benda-Beckmann: Relative Publics and Property Rights. A Cross-Cultural Perspective. In: Charles Geisler, Gail Daneker (Eds.): Property and Values. Alternatives to Public and Private Ownership. Washington 2000, p. 152.

36 See Rosemary J. Coombe: Frontiers of Cultural Property in the Global South. In: Jane Anderson, Haidy Geismar (Eds.): The Routledge Companion to Cultural Property. London 2017, pp. 377 sq.

37 See Benda-Beckmann, Benda-Beckmann, Wiber (note 30), pp. 1–39.

The character of transactions during the colonial period naturally form an essential part of such an analysis. Provenance research has so far been limited to the latter period. However, without taking into account the present time: current social webs consisting of rights, relationships, claims or obligations, and the assets' significance for actors (individuals, groups, states) and institutions—in Germany and the countries of origin—as well as their relationships with each other. So far, studies also fail to address the current and planned use of the objects, including their *audience*. To do so would be a complex undertaking—and the results would be equally complex. It would be hardly possible to identify a single “legitimate” owner, all the more so, as cultural assets are not only of material quality, neither in the country of origin nor in Europe. Here, the concept of identity (whose identity, anyway?), both diffuse and simplistic, does not help either. Germany's recent (2022) legally substantiated transfer of ownership of 1,130 Benin bronzes kept in German museums to the Republic of Nigeria is such a rushed restitution that it did not take into account even one of these considerations.³⁸

Nationalized or ethnicized cultural assets, especially if declared *cultural heritage*, are tools of power and identity politics and serve the demarcation from others.

According to the credo of restitution protagonists, not one acquisition of a cultural asset by a European could have been legitimate during the colonial period. Due to the underlying reductionist view of a single “legitimate owner” and the capitalist concept of ownership, they a priori rule out that, in the course of their long presence in Europe, cultural assets of African (or any other) origin could become a cultural property (or “heritage”) of the hosting country. The material and non-material investments in preservation, documentation, research, and knowledge transfer (via exhibitions and publications) are expressions of the property-sharing network that has developed around such objects.³⁹ As mentioned above, Sarr and Savoy rule out multiple ownership. Yet it is precisely the multilateral connections of institutions and people inherent in artifacts that would offer the opportunity to make these connections and actors visible, to bring them together, and to encourage them to communicate with each other.

This brief sketch reveals that *concepts of property* used in the current restitution debate (in the sense of *cultural heritage* and *single ownership*)

38 Hauser-Schäublin 2023 (note 1).

39 European museums housing cultural objects from Africa (and elsewhere) have made non-European “art” known in the first place—and shaped the image of Africa in Europe.

are exceedingly restricted and Eurocentric in character: They serve primarily as political instruments.

4.3 Restitution

The same applies to the concept of restitution. For one thing, markedly, Sarr and Savoy use the term even in the title of their commissioned report. They point out that the expression often triggers a defensive attitude among museums. They instance the restitution of 27 French (!) paintings stolen by the Nazis, indirectly comparing “colonial collecting” with Nazi plunder. Helmut Kohl officially returned them to French President François Mitterrand in 1994. The authors base their report on the definition of restitution given by a dictionary: “*restituer*’ signifie rendre un bien à son propriétaire légitime [...]” (i.e. “restituting’ means returning property to its rightful owner.”)⁴⁰ They emphasize the moral obligation that goes with it. In their text, they use the term *restitution* consistently, occasionally replacing it with the word “*retour*” (i.e., redispach); however, they don’t clarify a distinction in meaning. In terms of international law, at least as far as UNESCO is concerned, the situation is different. The 1970 UNESCO Convention uses the term *restitution* in the context of the illicit transfer of cultural property (in Articles 13 and 15). The differentiation of terms is much clearer in the already mentioned statutes of the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property, created in 1976 and since in use as a supplement to the 1970 Convention.⁴¹ The Committee’s task is to assist countries that have lost cultural property of fundamental value and wish to recover it.⁴² The statutes refer to such property as *cultural heritage*.⁴³ The name of this Committee already marks the difference: *Returning* cultural property may

40 Sarr, Savoy (note 6), p. 25. In the English Version: “To ‘restitute’ literally means to return an item to its legitimate owner.” Then follows the authors’ interpretation regarding cultural assets: “[...] to restitute aims to re-institute the cultural item to the legitimate owner for his legal use and enjoyment, as well as all the other prerogatives that the item confers (usus, fructus, and abuses) [...]” Ibid., p. 29: https://restitutionreport2018.com/sarr_savoy_en.pdf (retrieved Oct. 1, 2019).

41 See UNESCO Convention 1970 (note 28) and Intergovernmental Committee: <http://www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/intergovernmental-committee/statutes-and-rules-of-procedure/> (both retrieved July 4, 2019).

42 See <http://www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/intergovernmental-committee/statutes-and-rules-of-procedure/> (retrieved July 4, 2019).

43 It is up to the country of origin (a state that has signed and ratified the UNESCO Convention) to decide whether an asset is labeled *cultural heritage* or not.

be a more or less voluntary process that can also come about due to insight or moral pressure. The term *restitution* applies when the appropriation of cultural property has been proven illicit.⁴⁴ The Intergovernmental Committee sees itself as a mediating and moderating institution; however, it also considers other options for resolving conflicts, such as the claimant filing a court action or opening arbitration proceedings. In any case, the Committee primarily encourages out-of-court procedures in compliance with the Operational Guidelines. The Committee underlines that several alternatives exist to the final return of a cultural asset, including a loan, temporary exchange of objects for study purposes and special exhibitions, and joint research and restoration projects.

Invariably, museums try to avoid having the stamp of *restitution* put on their proceedings for returning cultural objects, considering that *restitution* in UNESCO's sense of normative international law invokes an admission of guilt or comes near to a legally proven fact. Even in cases where the violation of the Convention was clear, U.S. and European institutions—and states—try to avoid this stigma and declare their acts of restitution as “voluntarily made” or “meant as a gift.”⁴⁵ France, for example, insisted in 2010 that the return of seventy-five 14th-century manuscript volumes originating from the royal library in (South) Korea, which French soldiers had looted in 1867 and taken to Paris, was not *restitution*⁴⁶ but a *return*—in the sense of a permanent loan.⁴⁷

Most of the protagonists of the restitution debate also use the term *restitution* indiscriminately. For them, the decisive component is the context of wrong—referring to the colonial period per se. Consequently, they decide on their own authority whether to label an act licit or illicit.

44 The Convention is not intended to take retroactive effect, i.e., it is not binding on the individual member states that have signed the Convention until after the date of ratification.

45 Brigitta Hauser-Schäublin: Entangled in Artefacts. Governing Diverging Claims to Rights to Cultural Objects at UNESCO. In: Birgit Müller (Eds.): The Gloss of Harmony. The Politics of Policy-Making in Multilateral Organizations. London 2013, pp. 154–174; see also Brigitta Hauser-Schäublin: Looted, Trafficked, Donated and Returned. The Twisted Tracks of Cambodian Antiquities. In: Hauser-Schäublin, Prott (note 5), pp. 64–81.

46 Sarr and Savoy refer concerning legal perspectives to contributions made at an “Atelier juridique” held at the Collège de France in June 2018; see Sarr, Savoy (note 6), pp. 119–123. However, the conference's subject was not the concept of *restitution* but modalities of *return* (“le retour”).

47 See Hauser-Schäublin (note 44), p. 162. Sarr and Savoy also mention a *return* to South Korea—of Korean manuscripts that had been stored in the Bibliothèque nationale de France. In this context, they avoid the term *restitution* and speak solely of “returning” (“rendre”).

5 The Art Market and Non-European “Art”

A closer look at the categories of cultural goods under consideration for restitution shows that most of them fall under the rubric that would fetch a high price on the international art market today.⁴⁸ It is an open secret that the art market follows the laws of the marketplace like any other market: the price is subject to the fundamental forces of supply and demand. Cultural goods become commodities. In any case, the art market’s interest focuses on objects identified as “originals” by experts, especially art historians. “Replicas” are “worthless.” Behind this is an understanding of things that differs from perceptions in most formerly non-capitalist societies. Copying and emulating—according to culturally specific aesthetic ideas and social criteria—have been and continue to be common practices in many societies. Even in those cases when descendants of “source communities” today have opted for—temporary—replacements for cultural objects housed in German museums, a very different understanding of replicas became evident. The preferred “copies” were much larger and more massive—aiming for a 1:1 scale and faithful attention to detail and material played a subordinate role.⁴⁹

The art market, too, knows only a single owner: for a start, the one who calls the cultural object his property and sells it, and finally, after the transaction’s completion, the buyer. Due to European museums’ distinguishing practice of preserving things over long periods—that is, following Appadurai, *enclaving* (in the sense of inclosing)—each of them has become a thing unique in its kind, precisely what the art market needs to function at its best.⁵⁰ If cultural objects were considered the embodiment or abode of ancestors or powerful otherworldly beings, most societies have ascribed a life to these objects. As long as the perception prevailed that the assets owned magical powers, they were carefully preserved. If they lost their

48 See Brigitta Hauser-Schäublin: *Es zählt allein das Argument der Moral*. In: *Neue Zürcher Zeitung*, Nov. 16, 2020, <https://www.nzz.ch/feuilleton/ns-entschaedigungs-forderungenund-das-argument-der-moral-ld.1583873> (retrieved Dec. 7, 2020).

49 See Anne Splettstößer: *Umstrittene Sammlungen. Vom Umgang mit kolonialem Erbe aus Kamerun in ethnologischen Museen. Die Fälle Tange/Schiffsschnabel und Ngonso/Schalenträgerfigur in Deutschland und Kamerun* (Goettingen Studies in Cultural Property, Vol. 15). Goettingen 2019, pp. 309–313. See also, for example, the controversy on a ship’s beak of the Cameroon royal family Bele Bele housed in the *Museum Fünf Kontinente* in Munich (<https://www.faz.net/aktuell/feuilleton/kunst/debatte-ueber-restitutionwohin-mit-der-raubkunst-16018402/objekt-der-begierde-der-16018434.html>) and the “copy” made by Prince Kum’a Ndume: <http://lavoixdukoat.com/vol-de-lamemoire-aide-par-linertie-des-africains-lallemagne-refuse-toute-restitution/conference-africavenir/#prettyPhoto/0/> (both retrieved Nov. 7, 2019).

50 See Arjun Appadurai (Ed.): *The Social Life of Things*. Cambridge 1986.

power, their life came to an end, and they were either destroyed or left to decay. However, they were replaced by newly made ones—hardly ever created in the European sense of faithful reproduction. In contrast, artifacts in collections and museums no longer bear their life in transience but feature an embedding in abstract timelessness.

On the art market, objects of utility, i.e., objects of everyday use such as clothing and jewelry, furnishings such as stools and mats, or tools and weapons, are irrelevant unless they display a distinct artistic design. Hence, there is hardly any talk of “unspectacular” cultural objects in the restitution debates. What remains unconsidered—or considered insignificant—is the diverse local knowledge developed primarily by local communities. Be it a society of hunters and gatherers, agriculturalists, or pastoralists: Craftsmen of various kinds, musicians and dancers, and those producing specialized goods in villages and towns—they have all developed and passed on local knowledge, techniques and skills over centuries, which have found their material expression in everyday objects. The diverse bodies of local knowledge represent intangible cultural heritage. Depicted solely in publications that are not accessible to readers in the countries of origin (due to the type of the publications—written in scientific and theory-loaded jargon—or the respective language), the intangible cultural property lies dormant in numerous archives in Europe. Yet, documents such as audiotapes, photographs, films, or texts containing knowledge and perceptions of the local populations are fragments of history and human experience, even more so than the material cultural objects, the art market’s highly coveted artifacts. Intangible cultural manifestations also provide snapshots of earlier times. They are testimonies to the knowledge and skills of men and women, and even more than the elitist art of the powerful, they deserve to be made available to broad segments of the population as a medium for identity development.

6 Elitist Cultural Documents—Identity-Establishing in Favor of Whom?

The restitution debate focuses, as should already have become apparent, on material objects that promise considerable profits in the art market. In the media and political debates, those participating constantly invoke “identity formation” when they speak of material cultural objects and their importance for the countries of origin or the descendants of the communities of origin.⁵¹

51 Everything related to “identity” is subsequently made taboo. Posing critical questions becomes equivalent to breaking a taboo.

In accordance, Sarr and Savoy emphasize the importance of symbolic objects paramount in stimulating identity formation. According to the authors, dispersed communities could rally around inherited objects (*“objets du patrimoine”*) even across borders because these material testimonies symbolize the communities’ unity.⁵² A closer look at quite a number of the artifacts listed as potential candidates for restitution today reveals that they qualify to a considerable extent as power insignia of autocratic rulers and male-dominated hierarchies when assessed against today’s concepts of human rights and democratic participation. That such artifacts, of all things, formerly instrumental for allegedly predetermined elites for ruling over their “people,” should serve the identity formation of the general populace and an indiscriminate number of communities in sub-Saharan Africa comes across as somewhat cynical.

According to Sarr and Savoy, such objects should enable individuals and communities to do memory work (*“travail de mémoire”*) and thereby help them to rediscover their identity.⁵³ The term *travail de mémoire*, nowadays politically charged, originates in a specific context: coming to terms with National Socialism. Now, by way of analogy, it is applied to the colonial era. The authors and other protagonists of the restitution debate limit the memory work in its application to the scheme of perpetrator and victim: the colonialists and the colonized. The basic tenor of their plea also sounds as if, in pre-colonial times, all African (and other non-European) societies were harmonious-egalitarian communities, free from violence and mechanisms of domination, and constituted by equal citizens. It’s a simple matter of reading between the lines to make out the image of the “noble savage” in such assumptions. Moreover, in public debates on restitution, it is considered taboo to take a critical look at pre-colonial social conditions.

In an interview with the *Süddeutsche Zeitung*, Savoy provocatively claims that she wants to know “how much blood is dripping from a work of art.” Yet the assertion shows that she is blind in one eye since she has merely the acquisition during the colonial period in mind.⁵⁴ You won’t find a single word about all the earlier murderous acts of violence committed with or for such a “piece of art” before the colonial acquisition. The perpetrator-victim schema becomes a firm binary grid featuring black-

52 See Sarr, Savoy (note 6), p. 28. The authors’ idealistic formulation ignores the fact that nation-building is still a challenge for many states.

53 See *ibid.*, p. 30.

54 Bénédicte Savoy: *Ein unlösbarer Widerspruch. “Das Humboldt-Forum ist wie Tschernobyl.”* (Interview by Jörg Häntzschel) In: *Süddeutsche Zeitung*, July 21, 2017, p. 9, https://www.kuk.tu-berlin.de/fileadmin/fg309/dokumente/Translocations/Interview_Humboldt_Forum_SZ_21072017.pdf (retrieved Sept. 21, 2019).

and-white thinking in which indigenous perpetrator-victim relationships have no place; hence, they would weaken the pro-restitutionists' main argument.

By way of example, many contributions to restitution debates refer to Benin's stolen objects. Particularly the famous Benin bronzes and ivory carvings that the British confiscated in the king's palace during a punitive expedition in 1897 seem to provide a prime example of colonial violence and artifacts looted during colonial rule. Besides, the course of warfare upon which the punitive expedition followed is rarely mentioned.⁵⁵ What's more, the objects' original local socio-religious and political context is completely ignored. One of the punitive expedition's senior officers, Reginald Bacon, describes in his book *Benin, the city of blood* that, in particular, the homestead of the king of Benin was found drenched in blood at the time of the military advance.⁵⁶ As an accomplice to this violent colonial conquest, Bacon may have exaggerated when using the expression "deluged in blood." However, his eyewitness account proves what earlier chroniclers had already recorded about the royal ancestor cult: people were martyred, mutilated, and killed in honor of the king's deified ancestors. The British found bronze heads and ivory attachments smeared with human blood.⁵⁷ Now, when a Nigerian professor says of these bronzes that they "represent the identity and history of our people,"⁵⁸ this may be true for the descendants of the royal family—especially if one leaves out the ritual embedding of these cultural objects in the bloodthirsty human sacrifice rituals. But what about the descendants of those population sections exposed to the despotism of an autocratic ruler who gave the command to seize victims among them? What if the bronzes, promoted by the European urge for restitution, are instrumental in glossing things over concerning their owners' history? Their return might bring the violent

55 See in marked contrast Barbara Plankensteiner: *The Benin Treasures. Difficult Legacy and Contested Heritage*. In: Hauser-Schäublin, Prott (note 5), pp. 133–155.

56 Reginald Bacon: *Benin. The City of Blood*. London 1897, p. 87. https://archive.org/details/bacon-reginald.-benin-the-city-of-blood-1897_202010/page/86/mode/2up (retrieved Sept. 25, 2020). The former kingdom of Benin is in what is now the state of Nigeria.

57 See Andreas Schlothauer: *Das Königreich Benin in deutschen Medien – Was fehlt?* In: *Kunst & Kontext* 15 (2018), pp. 60–79, http://www.andreasschlothauer.com/texte/kk15_restitutionsdebatte_benin_nigeria.pdf (retrieved Jan. 22, 2021).

58 *Müssen die berühmten Benin-Bronzen zurückgegeben werden?* In: *Frankfurter Allgemeine Zeitung*, May 12, 2019, <https://www.faz.net/aktuell/feuilleton/kunst/zurherkunft-der-umstrittenen-benin-bronzen-16182906.html> (retrieved July 10, 2019). See also the contribution by Osarhieme Osadolor to this volume.

appropriation by the British center stage, hushing up the cultural context from which they originate.⁵⁹

Similar considerations may apply to masks and other material artifacts of men's secret societies. Suppose one wants to take up the political-judgmental terminology common today in the restitution debate. In that case, one could say pointedly that people—especially boys and women—were terrorized and brutally abused with these objects.⁶⁰ Nevertheless, the restitution advocates, due to their idealized perception of the assets, recognize in these artifacts only the colonialists' evil deeds (i.e., the violent appropriation) and fail to see that these objects are symbols of violence dripping with blood.

The demand for restitution, as formulated by numerous protagonists of the restitution debate, mostly ignores the question of to whom and whereto the cultural property should be returned. Finally, hastily designating "heirs"—the descendants of the former owners—plays a central role in the reasoning, as was explained above. Sarr and Savoy mention, first and foremost, museums as possible recipients of the collections to be returned. As noted earlier, the idea of the museum is a European one. Colonial rulers also exported this idea to their colonies and established museums in almost all dominions.⁶¹

59 The rapporteurs of the graduate session "*Prozesse von Kulturerbekonstruktion, Nutzungen und Musealisierung von Vergangenheit*" (i.e., "Processes of Cultural Heritage Construction, Instrumentalization and Museification of the Past") (2018) in Porto Novo (until 1975: Dahomey), Benin, describe original objects in the Historical Museum of Dahomey (Abomey), housed in the former Palace of the Twelve Kings of Dahomey (UNESCO World Heritage Site since 1985). The report states that "the original European objects from the colonial context [experience] a devaluation. For example, gifts dedicated to the kings of Dahomey and originating from the era of the transatlantic slave trade (1721–1865) and the colonial period (1892–1960), such as crystal vases or brocade coats, are in poor condition. They are dusty now, so it became apparent to us that the original objects handed down from the transatlantic slave trade and colonial periods are not deemed worthy in Benin's current museological practice, regardless of their historical value per se. Thus, the European gifts also recall the period of the slave trade and the active participation of Dahomey's kings in it—a fact long tabooed and banned from mentioning." See Claudia Jürgens, Barpougouni Mardjoua: *Das Kulturerbe Benins auf dem Prüfstand der Zeit. Bericht der Doktorandenschule in Benin vom 14 bis 30. Juli 2018* in the blog: *Wie weiter mit Humboldts Erbe?*, <https://blog.uni-koeln.de/gssc-humboldt/das-kulturerbe-benins-auf-dem-pruefstand-der-zeit/> (retrieved July 22, 2019).

60 For example, a young man from Liberia applied for asylum in Great Britain. He gave the reason that his imminent future held in store for him to be forcibly initiated into the Poro secret society. In the process, he would have suffered severe mistreatment that could have led to his death. He had fled from this in 2010. See <https://tribunals-decisions.service.gov.uk/utiac/aa-10941-2014> (retrieved Sept. 24, 2019).

61 Africa's newest and most innovative museum opened in Dakar, Senegal, in 2019. It was designed in Beijing and financed and built by China.

Thus, the artifacts to be returned would move from one colonial institution in Europe to another institution of colonial origin in Africa. Moreover, members of formerly powerful chiefdoms or kingdoms do not necessarily want their former insignia of power to be in a national museum but rather to have them in their personal possession.⁶² The authors—obviously without giving it any further thought—consider, for example, the court of a “king” in Cameroon or even a museum in a sultan’s palace as suitable locations for collections to be returned. With scrutiny, one would have to monitor the individual case to what extent the return of collections—precisely: symbols of rule of the former elites—to palaces of former rulers would revive old feudal structures, at the expense of states struggling for democratization. Additionally, it would have to be assessed whether artifacts from different “source communities” get treated on par with each other in a palace museum inextricably linked to a particular ethnic group or elite.

7 Provenance Research—an Undertaking in the Service of the Free Market Economy

As I have demonstrated, the restitution debate shows a set of characteristics. In my closing words, I will not collate them; instead, I would like to shed some light on provenance research in a larger social context.

Provenance research is a concept in art history developed against the background of the needs of the unfolding Euro-American art market. Provenance research dates to the *Holbein controversy* at the beginning of the second half of the 19th century and the related Holbein exhibition in Dresden in 1871. The disputed question was which of the two pictures (the so-called Darmstadt Madonna and the Dresden Madonna, respectively) was “authentic” and could rate as a work of Holbein’s authorship.

The corresponding assessment concentrated, among other things, on tracing the history of the paintings in the sense of today’s provenance research. In addition, for the first time, criteria specific to the field of art history gained shape regarding concepts of “authenticity” and “original,” resulting concurrently in the devaluation of the “copy.”⁶³ The essential process had a considerable impact on the art market: “genuine” became a more important criterion than “beautiful,” and consequently, “copies”

62 As it happened in Nigeria when Germany promised to return the Benin Bronzes in 2021, see Hauser-Schäublin 2023 (note 1); see also Splettstößer (note 48).

63 See Lena Bader: *Bild-Prozesse im 19. Jahrhundert. Der Holbein-Streit und die Ursprünge der Kunstgeschichte*. Leiden 2019.

lost their economic value. As already mentioned, the art market is like any other: Supply and demand determine the price of a commodity. A supply shortage against the backdrop of effective demand results in advancing prices and steadily increasing profit margins. Limiting “originals” and “unique pieces” by definition produces scarcity. Only originals may bear the labels “genuine” and “authentic” that generate the respective increase in value (in the economic sense). “Replicas” are inferior. Replicas deliberately made for sale and passed off as “genuine” are considered “fakes,” and the activity is reckoned fraud. These assessments have also been applied to non-European “art,” and, notably, the restitution debate focuses on “originals” in the sense of definitions going back to the *Holbein controversy*.

Provenance research essentially assesses material cultural goods and identifies their cultural origins and owners’ succession.⁶⁴ Moreover, provenance research analyzes the forms of transactions on the global market against the background of national and international legal concepts and rules of licit cultural property transfer. The research scrutinizes how these goods—rendered commodities—entered the market and what circumstances led to further negotiations or retaining. At the heart of provenance research is the capitalist concept of ownership. The primary purpose of provenance research is to ensure that the owner of a cultural object has acquired it legally. The focus is on the market’s rules and its actors’ integrity. That acquisitions are lawful is indispensable to the efficient functioning of the market.

In Germany, in particular, a moral imperative has been introduced to anthropological provenance research; hence, the dreadfulness of Nazi plunder serves implicitly, or, as in the case of Sarr and Savoy, explicitly, as the background for assessing transactions made during the colonial period.⁶⁵ However, the moral imperative of provenance research is limited to the period of colonial interactions. Provenance research ignores everything that came before. Trapped in today’s perspective, the approach does not render an issue context of wrong from which cultural objects originated or questions about purposes they served. Equally, it ignores what comes “thereafter,” what happens next to returned things. In contrast to the ethnological approach of object biography in the sense of Appadurai’s social life of things, provenance research leaves the political

64 In the case of European art, provenance research includes the search for the creator of a work of art. With non-European “art,” it is “only” about the pre-colonial owner, who is assumed to be the proprietor. The question of authorship is not an issue.

65 Astonishingly, Sarr and Savoy do not say a single word about Napoleon’s looting of cultural property in Europe and Africa and the keeping of the assets in French museums.

and social contexts of cultural objects in the “source community” aside.⁶⁶ The underlying cause is that the art market, in its system-immanent logic, asks no moral questions and limits evaluations to the question of the licit transaction of cultural objects. To put it another way, anything that happens “before and after the fact” does not affect market functionality.

So far, as I have demonstrated, provenance research has primarily focused on objects featuring symbolic capital and therefore possess exchange value (and not use value). Basically, these are former elites’ political and religious insignia of rule. Everyday objects—things that had a practical value—play almost no role.⁶⁷ Ethnological collections pay minimal attention to material cultural objects that document the ways of life, knowledge, and skills of “ordinary” members of the respective societies. The restitution debates have hardly mentioned such things, nor the extensive body of knowledge and stock of skills enclosed as intangible cultural property in texts, audio recordings, photographs, and films accumulated in European archives and libraries. Provenance research in its current form is blind in one eye just because it is a child of the art market and focuses on potential prestige objects.⁶⁸

The consequences are devastating. As if that wasn’t enough, the limited focus is partly responsible for the ongoing moralizing restitution debate moving on without recognizing the current political and economic conditions that build its framework. Present-day provenance research does not address the geographical origins of consumer goods—neither in the case of today’s luxury items (which represent symbolic capital used as a marker for prestige) nor in the case of objects of everyday use. And it does not reveal the components the items are made of, or discloses the conditions under which they were produced, acquired, and resold.

These challenges call for anthropological provenance research, that is, research in provenance in the broadest sense. And it is imperative to free the efforts from the art market’s means to take the studies into its service. In the course of staffing the many newly created positions, one can only hope that museums will consider a reorientation of their research activities. It’s about time that scholars, politicians, and the media industry open both eyes and expand their notion of “provenance research”: to include object history—and from there on, decide the current and future

⁶⁶ See Appadurai (note 49).

⁶⁷ This also applies to Nazi plunder and lootings in general. Nonetheless, everyday objects used plenty of times can represent important personal mementos regarding people or phases of life. However, the art market rates them “worthless”; accordingly, there are no reparation payments for them.

⁶⁸ I have excluded the discussions about the repatriation of human remains on this occasion.

priorities. To avoid misunderstandings: there is no binary choice. Sound scholarship needs a sense of proportion and shouldn't suffer from tunnel vision. Provenance research's historical analysis should consider past and present injustices, as outlined in this article.