

# *Open Dialog and Cooperation or Direct Return? Debates about Cultural Assets from Colonial Contexts Using the Example of China's Lost Objects*

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**Abstract:** On September 26, 2022, a special exhibition titled "Return in Full Bloom" opened in Shanghai, featuring 47 exceptional objects from the Poly Art Museum and the Beijing Yuanmingyuan Administration, all of which were returned from overseas. Since the Opium War in 1840, over 10 million Chinese cultural assets have been lost abroad due to looting, excavation, theft, and illegal trade. However, only a small fraction of these artifacts have been returned to China. This paper explores China's efforts to reclaim its lost cultural heritage and examines the ongoing debates surrounding the restitution of cultural property. It focuses on the research project "Traces of the 'Boxer War' in German Museum Collections," initiated by seven German museums in 2021, which aims to trace and investigate objects looted during the Boxer Rebellion. The study also compares China's approach to restitution with European perspectives, highlighting the key debates within colonial provenance research and postcolonial studies. Ultimately, the paper seeks to address whether there can be an open dialogue and collaboration or if direct return is the preferred solution for the restitution of cultural heritage.

## **1. Historical background**

China is one of the four ancient civilizations with a history of 3,600 years. However, from the invasion of the West to the fall of the Qing Dynasty and World War II, it can be said that China has experienced the most humiliating 100 years since the mid-19th century. It was also a time a huge number of Chinese cultural assets were taken abroad. The ways in which they were taken abroad can be summarized into three points: first, legally overseas namely by trading, gifting and taking by immigrants; second, by forcible looting in China as part of wars of aggression; and third, by intermediaries who collected, theft, excavation or illegal smuggling of cultural properties by foreign traders, either directly or in collaboration with Chinese lawbreakers. This work will deal exclusively with looted property that has been illegally expropriated.

### **2.1 War plundering**

At the end of the First Opium War (1839-1842), China or the Qing government was forced to conclude the unequal "Treaty of Nanjing" with Great Britain, in which the Chinese asked to open

five ports to British traders and to cede the island of Hong Kong. As the Qing government refused requests from Britain and France in 1854 for a treaty amendment and further opening for missionary activities, the two countries joined forces and waged the Second Opium War. In October 1860, British and French troops invaded Beijing and spent several days plundering the Yuanming Yuan, the most important residence of the Qing emperor, also known as the referred to as the "old summer palace". Almost all the art treasures that were easy to transport were looted. Those that were not easy to transport were mercilessly destroyed. Numerous jewels, paintings, porcelain, carpets, chandeliers and furniture were taken away. During the looting, the officers hundreds of the high-value items for the British and French royal families, which were sent back to Europe as official trophies for Queen Victoria, Emperor Napoleon III and Empress Eugenie. On October 18, 1856, the Yuanming Yuan was set on fire under the leadership of Lord Elgin, commander of the British troops, burning down almost all the wooden buildings.

Forty years later, in 1900, the capital Beijing was again attacked and plundered in the course of the Boxer Rebellion. To protect its embassies and compatriots in Beijing, the Eight-Nation Alliance went into China to put down the xenophobic Boxer Rebellion. After the conquest of Beijing, the city, or rather the inner city surrounded by the city wall, was divided up and occupied by the troops of various countries. Countless works of art throughout the city were looted as a result of the occupation and shipped back to Europe. Many of these objects found their way onto the art market and into auction houses soon after the war. As Susanne Knödel, the curator of the Department of Eastern and South Asia at the Hamburg Museum am Rothenbaum, it can be assumed that "after the suppression of the Boxer Movement [...] 80 percent of Beijing's cultural assets were no longer in their original location".

It is also worth mentioning that during the invasion of China in World War II, the Japanese troops did not stop looting various cultural relics and books from the fallen areas of China. Although the items looted during the wars do not for a large proportion of the cultural relics lost abroad, they are the finest and most valuable cultural relics in China, as they mainly belong to the royal collections.

## **1.2 Acquisition through intermediaries, theft, excavation and illegal smuggling**

Since Chinese artifacts were brought to Europe as spoils of war and entered the art market, the West has gradually begun to take an interest in these Far Eastern works of art. In order to acquire more cultural assets, many art dealers or museum brokers traveled to Europe under the pretext of "Expeditions" or "treasure hunts" to China. A typical example is the expeditions to the Mogao Grottoes.

In 1900, the Taoist monk Wang Yuanlu discovered the famous "Cave of Hidden Scriptures" in the Mogao Grottoes in Dunhuang in western China. The cave contained around 50,000 Buddhist scriptures and other ancient documents. The discovery aroused great interest among researchers and scholars from all over the world. The British archaeologist Marcus Aurelius Stein and the French sinologist Paul Pelliot made several trips to Dunhuang and bribed the monk to take numerous handwritten sutra scrolls and texts for cheap. The Cave of Scriptures lost over 40,000 of its 50,000 artifacts. Since then, the Buddha statues and murals in Mogao Grottoes have also been subject to excavation and theft by other "intermediaries" and "explorers".

The boom in the collection of Chinese cultural objects by brokers began at the beginning of the 20th century and ended in 1930 when the Chinese government passed its first law to protect cultural heritage - "The Law on the Preservation of Antiquities". However, this was followed by the illegal smuggling of cultural objects, which continues unabated to this day. The majority of cultural assets sold abroad are lost in this way.

## 2. "Provenance research" in China

"Provenance research" means the study of the origin and various ownership relationships of a cultural object. However, the concept was developed from a Western perspective for the study of cultural objects that originally came from other countries and regions and now belong to western museum collections. For the society of origin, provenance research is more about finding out where the lost objects are and investigating how to bring them home. This chapter will first attempt to summarize as comprehensively as possible China's strategies in relation to lost cultural property. The second part examines how China has recovered the lost cultural properties through various case studies.

### 2.1 China's handling of lost cultural assets

The massive loss of cultural assets after the Opium Wars raised awareness of the need to preserve cultural heritage in China. The Qing government began to protect antiquities and monuments by issuing the "Measures for the Promotion of the Protection of Antiquities". During the rule of the Nationalist government in Nanjing, the "Central Commission for the Preservation of Antiquities" was established, the first state institution for the protection of cultural properties in Chinese history. Subsequently, the Nationalist government issued the "Law on the Preservation of Antiquities" in 1930, the first Chinese formal and comprehensive law for the protection of cultural heritage. However, as China was filled with unrest in the first half of the 20th century due to wars and regime changes, the above-mentioned decrees and documents were not effectively implemented.

The founding of the People's Republic of China in 1949 can be seen as a turning point in the fate of China's cultural heritage. The new government in Beijing took a two-pronged approach to the protection of cultural properties, enacting a series of laws, regulations and documents on the management cultural properties to emphasize the state's ownership of the objects and prevent their further loss, while at the same time beginning to recover the lost cultural properties. China's goal is to recover as many of the lost objects as possible. Three main ways have been proposed for the recovery of cultural properties: state and private repurchases, donations from domestic and foreign owners (organizations or individuals) and restitution requests.

In the 1950s, when Hong Kong was one of the most important trading places for Chinese cultural properties in the world, the Chinese Ministry of Culture, under the leadership of Premier Zhou Enlai, established the "Hong Kong Secret Group for the Acquisition of Cultural Properties" to specialize in the repurchase of valuable cultural properties. The group successfully collected a number of high-quality calligraphy and painting works. Since 2002, the central government has provided 50 million yuan (approx. 5.5-7.1 million euros) annually for the acquisition and repurchase of important valuable lost cultural properties abroad, and the Ministry of Finance has issued special "Measures for the Use of Special Funds for the Acquisition of Important National Cultural Properties" for this purpose. There have also been many cases of private repurchases, the most famous of which are the twelve animal head bronze statues looted from the Yuan Mingyuan 1860. Since the late 1980s, the animal heads have appeared one after another in auction houses. The Chinese government and civil society organizations have repeatedly called on auction houses to them from circulation as looted cultural assets, to no avail. To prevent a national treasure that rarely appears on the market from remaining overseas, the Poly Museum of China and China's gambling tycoon Stanley Ho have privately bought back some of the animal heads at high prices. Ho's last private purchase in 2007 amounted to 8.9 million US dollars for the horse head, far exceeding the actual value of the object, which was greatly inflated by dealers because of the animal heads' symbolic significance. This has led China to realize that buybacks are not a sustainable method.

While repurchase is a common and important route for cultural properties lost in previous years, repurchase should not be the primary route for recovering unlawfully lost cultural properties. Not only would this lead to inflated prices and encourage the risk of theft and smuggling of cultural properties, but repurchase would also give the objective impression that the Chinese government is endorsing the legitimacy of the current status of illegally removed cultural properties, which would be detrimental to the future claim for restitution through proper channels. The Chinese government therefore urges everyone to buy with caution and check the provenance of cultural properties before purchasing.

Since the founding of the new China, the country has also received donations from cultural assets from home and abroad. Between 1951 and 1954, the former Soviet Union returned 64 volumes of the Yongle Encyclopedia to China in the form of donations. In 1995, the former East Germany also returned three volumes of the Yongle Encyclopedia and ten Boxer banners to China. During this period, some Chinese collectors and patriots also donated their collections of valuable cultural properties to the state. However, due to the lack of international agreements and legal support, the recovery of cultural property in China was mainly carried out by repurchase or donation until the 1990s, without a relatively well-developed recovery procedure.

In the late 1980s, China began to align itself with international standards by acceding to a number of international conventions: in 1989, it joined the "Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property" (hereinafter: the "1970 Convention"), which adopted by UNESCO in 1970. In 1997, it acceded to the "Convention on Stolen or Illegally Exported Cultural Property" (hereinafter referred to as the "1995 Convention"), which was drawn up by UNIDROIT in 1995. And in 2000, China acceded to the "Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict" (hereinafter referred to as the "1954 Hague Convention"), which was adopted by UNESCO in 1954. Under these international conventions, China has also signed bilateral agreements or memoranda of understanding with 26 countries, including Italy, Greece, Switzerland, Turkey, Egypt, Australia, India, Peru and the United States, on the prevention of theft, excavation and illegal import and export of cultural properties, in order to strengthen intergovernmental cooperation in protecting the safety of cultural properties and promoting the return of cultural properties.

However, in order to recover lost cultural assets, the most important thing, apart from legal support, is to get to the bottom of the (historical) background. Which objects were lost? How did they get overseas? And where are they now? As most and most important overseas collections of ancient Chinese cultural relics are housed in museums, the National Museum of China planned to publish a comprehensive book series *The Essence of Ancient Chinese Antiquities in Overseas Collections* in 2015 to provide a deeper insight into overseas museum collections. In collaboration with major museums around the world, four volumes have been published so far: the "Volume of Victoria and Albert Museum", the "Volume of Izumiya Museum in Japan", the "Volume of Philadelphia Museum of Art in the USA" and the "Volume of the British Museum in the United Kingdom". Not only the objects in the major museums were examined, but also the loss of cultural objects in foreign markets. An example of this is the book series *Investigation of the Scattered Cultural Properties from Yuan Mingyuan*, which divided into a French and a British volume - two books each - and contains a detailed account of the British and French allies' transportation of the Yuan Mingyuan treasures to London and Paris for auction. The investigation is an ongoing process. There are many more books and studies of this that attempt to determine the current status of lost objects. However, due to the huge number of lost cultural properties, it is still a big challenge for China.

In addition, with the development of digitalization, China has increasingly focused on information sharing and cooperation mechanisms in the field of cultural property recovery and

restitution. In 2010, the International Council of Museums (ICOM) and the China Museums Association jointly published the Red Catalog of Endangered Cultural Properties in China to help museums, collectors, dealers, customs and other law enforcement agencies identify illegally acquired cultural properties. In 2017, The National Cultural Heritage Administration of China (hereinafter: NCHA) and the Ministry of Public Security jointly published the "Stolen (Lost) Cultural Relics Information Publishing Platform of China" in English and Chinese and shared information on China's stolen cultural properties with countries around the world, Interpol and other international agencies.

## 2.2 Return claims

According to statistical analysis by Chinese researchers, since the 1990s, China's attempt to recover cultural property lost abroad has shifted from a simple approach of repurchasing and accepting donations to a combination of several recovery methods. These include international law enforcement cooperation, consultation and negotiation, and international civil litigation.

China's first successful case of international law enforcement cooperation occurred in 2001. In late February 2000, a Chinese scholar visiting the United States discovered Lot 209 in Christie's March auction catalog - a painted stone relief of a warrior that bore a striking resemblance to the style of the relief in the tomb of Wang Chuzhi, a senior military governor from the Five Dynasties. The tomb in Quyang, Hebei, was robbed in 1994 and excavated in 1995. The scholar immediately reported it to the NCHA. After identification by experts, it was determined that the relief was indeed from the tomb of Wang Chuzhi. On March 2 of the same year, the NCHA wrote the US embassy in China in the hope that the US side would suspend the auction of the relief at Christie's and sell it in accordance with international conventions - the "1970 Agreement", which had been ratified by both countries - would be returned to China. After a hearing of evidence by the Chinese side on March 21, the United States District Court for the Southern District of New York ordered Christie's to suspend the auction of the relief and to authorize Customs to seize it. In March 2001, after a year of proceedings, the court made a final decision on the return of the relief, and in May it was returned to China.

In the 21st century, thanks to joining international conventions and signing bilateral agreements with a number of countries, China has so far succeeded in recovering several illegally exported cultural properties through international law enforcement cooperation. Since then, China has mainly tried to recover cultural properties through this method. However, it is worth noting that most of the cultural properties recovered through international cooperation were looted or illegally smuggled out of China in the recent past. And in many of these cases, the cultural objects were first intercepted by the customs or law enforcement agencies of other countries and forwarded to the Chinese government before China undertook further recovery. In 2008, for example, Australia handed over a thousand paleontological fossils that had been confiscated by Australian police. And in 2019, the US returned 361 Chinese artifacts confiscated by the FBI in recent years to the Chinese government. Moreover, the Chinese government has yet to formally request the return of cultural objects that were lost much longer ago such as those looted from the Yuan Mingyuan during the war. The return of such art and cultural objects, such as the animal heads- bronze statues, is still limited to repurchases and donations.

The success of consultations and negotiations is often based on the moral affirmation and mutual understanding of both parties on the issue of provenance research and the restitution of cultural property. In 1976, a Bodhisattva statue was unearthed in Bo'xing County, Shandong Province, but was stolen in July 1994. This was reported domestically by the NCHA, but nothing more was heard of it in the following years. In late 1999, China was that the statue had been illegally taken out of

the country, where it entered the British cultural property market, where it was acquired at great expense by the Miho Museum in Japan in 1995. As Japan is not a party to the "1970 Convention" and the acquisition by the Miho Museum was unwittingly made in good faith, there was no legal obligation to return it to China. Therefore, China could only negotiate amicably with the Japanese side to get the statue back. In 2000, China's representatives traveled to Japan and presented the Chinese point of view. They explained that the Miho Museum was a bona fide owner and admitted that there had been gaps in the safekeeping and that China had not the theft to the international organizations in time. However, the representatives said that collecting stolen objects was an unattractive thing and did not conform to international museum ethics, so they hoped that the Japanese side could return the statue. The following year, after a second negotiation, both sides finally agreed that the Miho Museum would officially return the Bodhisattva statue to China without compensation and that China would loan the statue to the Miho Museum until 2007.

In comparison to the two aforementioned procedures, an international Civil litigation is not so straightforward. According to statistics, there are only two cases in which China has successfully recovered cultural properties through civil litigation. The reason for this can be attributed to the fact that, on the one hand, initiating civil litigation in a foreign country requires the plaintiff to have as much evidence as possible and to be familiar with the procedures and judicial standards of evidence of the country's courts; on the other hand, international civil litigation is inherently cumbersome, time-consuming and costly, and places high demands on human and material resources. As a result, the original owner of the cultural property is often forced to take other routes to recover the object. A recent case is the recovery of a stolen mummified Buddha statue from the Song Dynasty by villagers from the village of Yangchun in Fujian Province, China. The statue was exhibited at the Hungarian Museum of Natural Sciences in March 2015 and identified by Fujian cultural heritage authorities as the statue stolen from Yangchun village in 1995. The current owner of the statue is Dutch collector Oscar van Overeem, who acquired the statue in Hong Kong in 1996. In November 2015, the Yangchun Village Committee filed a parallel lawsuit in China and the Netherlands to get the statue back. In December 2018, the Dutch District Court of Amsterdam ruled that the plaintiff was not a natural or legal person within the meaning of the Dutch Code of Civil Procedure and did not have standing to sue under Dutch law. In December 2020, the Intermediate People's Court of Sanming, Fujian Province, sentenced the defendant Oscar van Overeem to return the Buddha statue. After van Overeem lodged an appeal, in July 2022 the Supreme People's Court of Fujian Province confirmed the decision of the first instance that van Overeem must return the Buddha statue. However, it is not yet known whether van Overeem will comply with the Chinese court's decision.

### **3. Provenance research in Europe**

In the following chapter, the current restitution debate, postcolonial provenance research and the restitution situation in Europe will be discussed. As German provenance research probably one of the leading in Europe, it is cited several times below as an example.

#### **3.1 Current discussion about cultural assets from colonial contexts**

While there is now a general consensus among museums worldwide on the return of human remains or sensitive religious objects as well as cultural property confiscated as a result of Nazi persecution, the discussion about other artifacts and cultural property from colonial contexts has only really come to the fore in recent years, with the debate focusing on the return of the objects and how to deal with them.

In fact, since the 1960s, several African countries and regions have been making efforts to return

their colonial-era cultural assets from Europe, but have repeatedly come up against obstacles and the challenges of dealing with European governments and museums. The objections include the following: Firstly, many claim that the objects are too fragile to be returned. Secondly, others question the capabilities of the countries of origin and believe that they do not yet have the expertise and conditions to properly store the objects, whereas these valuable objects have been well cared for in Europe for centuries. In the spirit of the internationality of cultural goods, it is also argued that these objects are part of the heritage of all humanity and are now kept by museums, and that they can be of greater value in European museums where they are shown to a wider public. Furthermore, opponents cite the law as a pretext, claiming that museums would be restricted in their handling of these objects by their own national laws, as many of them are already the property of the state. Indeed, there is a fear in Europe that the precedent of restitution will lead to the emptying of museums, as Sir David Wilson, the former director of the British Museum, put it, that restitution will initiate the dismantling of the museum and set in motion a process of cultural destruction. However, this fear could be seen as an excuse for Europe's reluctance to accept restitution claims. Regardless of the complexity of the restitution process, which often very slow, it is unlikely that the vast collection of objects in European museums will be emptied by the return of objects.

However, the tide was turned by Emmanuel Macron's speech in 2017 and the report by Felwine Sarr and Bénédicte Savoy, which he commissioned and published in 2018. Both Macron's verbal commitment as French president to the restitution of African cultural property and Sarr and Savoy's initiative for "full restitution" and a timeline for it really brought the restitution debate into focus. Under the pressure of public opinion, museums such as those in Germany, the Netherlands and Switzerland came forward and declared that they too would respond. At the same time, public calls for the return of objects from colonial contexts have intensified and the arguments of previous opponents have been refuted. For example, the argument that restitution should be refused due to technical deficiencies in the country and region of origin is not valid from the outset. Asia and Oceania, which were also colonized, and China, for example, are perfectly, or even better, to take care of their own cultural assets. So why are there still countless Chinese artifacts in many European museums? For many, this is seen as the epitome of colonialism. It presupposes the powerlessness of non-European peoples and testifies to the colonial ideology that Europe has the privilege of disposing of other peoples' things. In addition, the concept of "common heritage" is seen by many as a wolf in sheep's clothing, through which objects from colonial contexts can be legitimized in European museums. Furthermore, the legal restrictions claimed by the museum have also been counter-argued. Many argue that these would not insurmountable obstacles as long as there is a will to find a solution - after all, all regulations are made by people. And above all, cultural objects are a spiritual presence, a cultural reproduction or a continuing cultural tradition for the society of origin, whereas for Europe they are more likely to be objects valued on the basis of their material qualities and may be objects of historical, scientific or cultural value.

It is also striking that the debate is predominantly focused on Africa, including the Sarr and Savoy restitution reports, which only deal with African cultural property lost during the colonial period. China, on the other hand, is rarely mentioned in the discussion, even though it also suffered massive looting of cultural property in the 19th and 20th centuries. The reasons for this could be complex. Firstly, the African continent was almost completely divided up by the Western powers in the 19th and 20th centuries, the countries lost their sovereignty and were colonized. China, however, was only partially colonized and did not fully gain its independence.

so that from the Opium Wars to the founding of New China, it was considered a semi-colonial and semi-feudal society. This is probably the reason why many people have no knowledge that China was also colonized, so it is not taken seriously. Secondly, while China has lost a huge

number of valuable cultural assets, it is not like the case in Africa where 90% of artifacts have been looted, so Western societies certainly do not prioritize the handling of objects from China. Furthermore, China's current position in international politics, economics, etc. does not seem to suit people as victims of colonial violence, but is rather portrayed as a perpetrator in many of today's news reports, according to Cord Eberspächer. While China has endeavored to accede to major international conventions and actively participated in the fight against the smuggling of cultural property since 1949, it has not been as active as African countries or regions in appealing to the international community for the restitution of cultural property looted during the colonial period or asking for its return.

### 3.2 Postcolonial Provenance research

In an essay from 2015, Piotr Bienkowski takes a critical look at contemporary postcolonial provenance research and restitution. He argues that most current restitution processes tend to be adversarial, lengthy and unfair because they favor the owning institution over the claimant. This means that the discourse remains largely in the hands of the owner of the object, namely the West. In the text, he therefore proposes that museums should be used as sites of consultative democracy. More specifically, Western museums should engage in open and equal dialog and cooperation with the communities of origin in connection with the return of objects. He also calls for museums to include different voices, values and forms of knowledge and to leave behind stereotypical ideas about the permanent ownership of objects.

How is postcolonial provenance research being conducted in Europe today, seven years later? In 2018, postcolonial provenance research in Europe and the issue of the handling and restitution of cultural property received a major boost from Macron's speech and the report by Sarr and Savoy. In Germany, for example, the construction of the Humboldt Forum in Berlin has also triggered a lively public debate on postcolonial issues, as around two thirds of the collections of the Ethnological Museum and the Museum of Asian Art will move into the Forum. In the course of the debate, politicians also recognized the pressure to act and, for the first time in 2018, stipulated a reappraisal of German colonial history in the coalition agreement and declared their intention to emphatically support source research. There are also plans to provide national funding of 2 million euros per year for provenance research into objects from colonial contexts. In addition to state funding, the federal states have also contributed financially to post-colonial provenance research. Baden-Württemberg, for example, invests 3.25 million euros annually in further research into colonial history, one million euros in provenance research and 2.35 million euros in the Namibia Initiative. The promotion and financial support of institutes such as the German Lost Art Foundation and the German Museum Association have also given impetus to provenance research. In addition, provenance research is gradually becoming a regular discipline at universities and is no longer just a short-term research project. In 2019, six permanent positions were established at federal level, two for provenance research into the Nazi era and four for research into cultural assets from a colonial context. This number is sure to increase in the future.

Many museums are also beginning to face up to their historical responsibility for colonialism and see it as their duty to correct their Eurocentric image. First of all, museums that own objects from colonial contexts must review the legitimacy of their collections. This means that "an object must have been purchased or donated without coercion and must not have extorted or looted in the context of acts of war or other crimes". The parties also call for the greatest possible transparency of information about museum collections in order to provide the public and communities of origin with access to these collections. This has contributed to the development of the digitization of museum collections, as the inventorying of collections and their digitization is seen as the basis for



handling and understanding colonial-related collections.

At the same time, another goal of the museums is to establish long-term partnerships with source communities. Since 2018, many museums have expressed a desire to engage in open dialog and collaboration with source communities. Museums are also gradually being transformed into forums where different ideas from around the world can be exchanged. In the case of the Staatliche Museen zu Berlin, for example, ten provenance research projects on colonial contexts have been initiated so far since 2016, most of which relate to African artifacts, such as the cooperation projects with Tanzania and Nigeria. However, it should be noted that collaborations for provenance research projects are beginning to expand beyond Africa in 2021. In 2021, seven German museums launched a joint research project with the Palace Museum Beijing on "Traces of the 'Boxer War' in German museum collections". In 2022, Germany, together with Finland and Sweden, led a new project on "The Sámi Collection at the Museum of European Cultures".

In general, the current strategy of postcolonial provenance research in Europe can be divided into internal and external components: The internal review of the legality of the acquisition of colonial-related objects in their museum collections and the external initiation of further more open dialogues and collaborations with communities of origin. Of course, there is also a degree of restitution, which is discussed in more detail in the next chapter.

### 3.3 Restitution and restitution

In 2015, the Prussian Cultural Heritage Foundation published a document setting out its basic position on dealing with and researching the provenance of non-European collections. On two pages of text, there is only a single sentence on restitution: "In individual cases, it may also be necessary to agree on restitution." The rest of the text is dedicated to the emphasis that, firstly, the presence of the collection in Europe is "meaningful" and serves the documentation and research of non-European societies, secondly, clarifying the origin of all non-European collections is not easy and takes time and, thirdly, in the sense of the common heritage, dialogue and exchange with the society of origin is necessary so that the sovereignty of interpretation over the objects is not unilaterally monopolized to the European one. It is evident that Germany was still very unreceptive to restitution at this time and that it was more of a last resort for them. In the 2018 restitution report, Sarr and Savoy also noted that in almost all parts of Europe - including France, which was the first country to publicly offer to return African artifacts - the mention of the word "restitution" evokes a defensive reflex and a gesture of retreat.

Since the report triggered a lively debate in Europe, many countries have begun to react actively or passively to it. What is certain, however, is that the attitude of some European countries towards the restitution of cultural property has actually opened up considerably in the last two or three years. In 2018, the first version of the guidelines issued by the German Museums Association on dealing with collection items from colonial contexts was published; a revised second and final version will be published in 2019 and 2021. With these guidelines, Germany is expressing its position on this highly topical issue. The guide covers a wide range of aspects, such as the colonial background, the categorization of collection items, information on handling collections and recommendations on restitution. It is noteworthy that the guide not only refers to objects from formally colonized areas such as Africa, but also describes collections from areas that were not officially colonized. For example, the history of the colonization of China and the looting of cultural assets is covered in detail. Compared to the first version, the new edition is much more accurate and informative. Not only does it go into more detail about the colonial history of the various regions, it also describes a significant change in the section on restitution proposals. In the first version, it was stated that the return of collection items without a legal basis should only be considered in exceptional cases. It

was therefore recommended that the return should not be offered unilaterally, but that open-ended solutions should be sought, namely options other than physical return, for example digital, virtual return, academic exchange or permanent loan. However, the final version suggests that museums make it clear from the outset that they are willing to discuss return, but are also open to other solutions. In addition, the guidelines also identify various situations in which return must take place or be considered. For example, firstly, legally enforceable restitution claims, secondly, objects that were unjustly taken away from the former owner, thirdly, acquisitions that appear unjust or unethical from today's perspective, and fourthly, objects that have a special significance for the society of origin or the former owner. It can be concluded that although direct definitive restitution is not yet the preferred option for Germany, a first important step nevertheless appears to have been taken.

The most recent case of restitution of a colonial collection is the return of the Benin bronzes by various countries. The Benin bronzes, looted by the British Expeditionary Force in 1897, were returned to Great Britain and sold as works of art in Europe and the United States. Since its independence in 1960, Nigeria has made several attempts to have the returned. In 2010, the Benin Dialogue Group, an association of several Western and Nigerian museums, was founded to work towards a just solution. Thanks to Macron's voice and support, the issue of the return of the Benin bronze finally made good progress in 2021. While some museums in Germany, the UK and the US have announced that they will return the Benin bronzes from their collections, other museums, such as the British Museum, have offered other solutions. However, these still only emphasize dialogue and cooperation. On July 1, 2022, Germany and Nigeria signed a joint declaration in Berlin on the return of the Benin bronzes and bilateral museum cooperation, in which the transfer of ownership of 1100 objects from German museums to Nigeria was announced. Further Benin bronzes, which are in other museums, are also on their way home. Nigeria's decades-long wish for the return of the objects has finally been fulfilled.

However, there are some obstacles to the implementation of restitution. From a legal perspective, there are now numerous international agreements that regulate the protection of cultural property, such as the 1954 Hague Convention, the "1970 Convention" and the "Washington Principles", which refer to art looted by the Nazis, but what they have in common is that they are not legally binding. In addition, none of these international agreements existed during the colonial period. As they do not regulate retroactivity or, in some cases, explicitly exclude it, their non-binding provisions have no bearing on claims for the restitution of cultural property from colonial contexts. For example, a paper from the Scientific Services of the German Bundestag points out that the legal framework specifically for cultural property with colonial contexts has only been developed to a limited extent. Although it is conceivable to create legal regulations on ownership issues in colonial contexts at the level of the respective national law and international law, it is doubtful whether the political will to do so exists. Nevertheless, public institutions such as museums are fundamentally bound by the law. In principle, therefore, their property or collections can only be dealt with if there is a legal basis for doing so. Since there are very few enforceable legal claims for cultural property from a colonial context, the issue of restitution of art and cultural property from the colonial period can in the vast majority of cases only be based on a political consensus, namely on moral grounds. Moreover, since the decision on the return of cultural property by public institutions is often not made by the institutions themselves, but must be submitted to the state, formal restitution often has to be decided by politicians, which makes the process lengthy and further complicates restitution.

#### 4. The future of cultural assets from colonial contexts

This paper discusses the provenance research of cultural property with colonial contexts using the example of China and Europe, more specifically the handling of lost cultural property in China and post-colonial provenance research in European countries. While China, as the community of origin, certainly wishes for the direct return of its lost cultural property, the European solution from the perspective of the current owner of the object is to enter into an open and equal dialog and cooperation with the community of origin. Although there are already some cases of restitution in Europe, direct restitution is not currently the preferred option for Europe in relation to colonial cultural property. So what does the future for these cultural objects with a colonial context? Judging by the attitude of some European countries towards the restitution of African cultural objects, direct restitution may become increasingly likely in the future. The increasing global focus on provenance studies in colonial contexts will also increase these possibilities. On the other hand, an open dialog with communities of origin and joint research may not be the only solution to the historical legacy of colonial plunder, but it is a good start for addressing the historical narrative and a prerequisite and basis for possible direct restitution in the future.

However, if China wants to recover more of its lost colonial artifacts, it must first make a formal claim for their return on behalf of the state or an institution. In the case of African countries, for example, the demand for the return of cultural property has been unbroken since the 1960s. Both government representatives and civil society organizations have worked hard to make their voices heard in the international community. China's official demands for the return of cultural property, on the other hand, appear to be limited to smuggled artifacts. The reasons why China has not made any direct demands are unknown to most people. Several reasons can be suggested: First, the sheer number of missing objects and their long history make it very difficult to obtain evidence. Secondly, China's current rapid development and political status in the world, as well as its diplomatic image, may have been an important factor for the government. This could also explain the fact that most of the cultural properties currently being returned to China are repurchases, donations and things that left the country illegally in clear violation of international conventions. So if China really wants the war-looted artifacts back, it may have to turn its passivity into initiative and take the first step. In general, provenance research, especially in the colonial context, will be a long road. We are still at the very beginning of this journey. In order to make progress here in the future, a joint effort is needed from both sides.

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