Analysis

Germany's new guidelines on "Cultural Belongings and Human Remains from Colonial Contexts": What does the document mean and how can it be implemented?

By Thomas Fues

The following analysis was developed as part of the workshop discussion "Opportunities & Challenges in Implementing the 'Joint Guidelines on Dealing with Cultural Property and Human Remains from Colonial Contexts"' organised by the Africa Department of the Heinrich Böll Foundation.

On 14 October 2025, the federal government, the states and local authority associations adopted "Joint Guidelines" on the handling of colonially appropriated *cultural belongings* and *ancestral human remains* in public German institutions. This is an important step for German restitution policy. Nevertheless, many questions remain unanswered regarding the details and implementation.

The guidelines are a revised version of the "First Key Issues Paper" from March 2019. They represent a welcome development of the previously valid voluntary commitment of politicians and administrators at all levels of the federal system in Germany. The starting position remains the same: in the case of human remains, there is an *"unconditional willingness"* to repatriate them across the board, while in the case of cultural belongings, the case-by-case approach will be maintained. With regard to the temporal and geographical scope, the guidelines focus on Germany's formal colonial rule:

"Coming to terms with Germany's colonial past is of fundamental importance for Germany and has a firm place in its relations with states and societies that formerly suffered under German colonial rule."

The following decisions in the new guidelines in particular give hope for progress:

- ➔ Creation of a central point of contact for the governments of former colonial territories;
- ➔ Establishment of an interdisciplinary and international network of experts.

Decisive factors for the implementation of the intended innovations are now the political will at all levels and the adequate financial resources for the new bodies. It remains questionable whether the corresponding approaches in the German government's draft budget for 2026 will be sufficient to meet the tasks at hand.

Consultations

As part of the further development of the key issues paper, accompanying consultation talks were held in 2024 with museum representatives, civil society organisations and international experts, the minutes of which were made publicly available. The new guidelines address some of the concerns raised by the stakeholders involved, for example with regard to epistemic sensitivity and the non-use of the term "no longer justifiable today" for legally and ethically questionable forms of appropriation. Other issues raised, such as criticism of the separate jurisdiction for human remains and cultural belongings, the significance of such belongings for communities of origin, and funding opportunities for them, are not reflected in the document.

Civil society petition

The guidelines take up some of the demands made in a widely supported civil society petition addressed to the parties involved in forming the government during the last federal election. Among other points, the petition addresses the need to clarify the respective responsibilities of the various ministries for dealing with Germany's colonial history within the framework of a nationwide concept. The petition also calls for the establishment of a civil society-academic advisory board with international participation to advise the federal government.

Opportunities

The new guidelines can be seen as a building block of the policy agreed upon in the German government's black-red coalition agreement:

"We will intensify our efforts to come to terms with colonialism. This includes cross-border research on objects and the return of cultural artefacts in dialogue with the countries of origin. Particular attention will be paid to a dignified place of remembrance and the return of human remains."

The following positive aspects are particularly noteworthy:

Coordination committee

One institutional advance is the establishment of a *"state-mandated committee comprising the federal government, the states and local authorities, which will serve as a central point of contact for the governments of origin and their agencies*." According to reports, an important impetus for this step was the dialogue between German authorities and the Tanzanian State Restitution Committee in March 2025, which wanted a clearly defined counterpart in the German federal system, which is difficult to understand from the outside. However, no details on the implementation of the decision are given. It therefore remains unclear who will control the coordination committee, where it will be based and what financial resources it will have at its disposal. The committee's focus on the governments of

former colonial territories is understandable, as communities of origin can continue to contact the "Contact Point for Collections from Colonial Contexts" at the Cultural Foundation of the German States.

Expert network

The guidelines also break new ground with the announced creation of an interdisciplinary and international network that provides expert advice to museums, collections and their sponsors. The network is responsible for both cultural belongings and human remains. To date, German restitution governance has not provided for the institutionalised involvement of non-governmental forces from Germany and the communities of origin. The only exception is the "Colonial Contexts" advisory board at the German Lost Art Foundation. Its members include Kokou Azamede (University of Lomé/Togo), Albert Gouaffo (University of Dschang/Cameroon) and Tahir Della (Initiative of Black People in Germany). However, the details remain unclear at the moment: Namely, where the network will be based, what its mandate will be, and who will finance its work. Possible models here could be, for example, the relevant expert committees in the Netherlands and Austria that advise the government.

Unconditional restitution

The guidelines take an unambiguous stance on the possible conditions for the restitution of cultural property: Returns should take place without any conditions or compensation, even if the "objects" *"are returned to everyday or sacred use, altered or even destroyed*" in their country of origin. When Germany made its comprehensive decision to restitute the Benin Bronzes in 2022, there were critical voices calling for contractual conditions to be imposed on the country of origin for future actions of this kind. In a motion in June 2023, for example, the faction of the conservative party (CDU/CSU) criticised the fact that the transfer to Nigeria had been carried out by the then Federal Government *"without first contractually securing public access to such outstanding pieces of humanity's cultural heritage".*

Epistemic sensitivity

The guidelines recognise that there are knowledge systems and worldviews on the part of the societies of origin that differ fundamentally from Western concepts (*"divergence of cultural perception*"). As Julia von Sigsfeld explains, the spiritual and religious characteristics of cultural belongings derived from this mean a rejection of the (Western) understanding of objects by conferring a subject identity. This is linked to the recognition formulated in the guidelines that in the

communities of origin *"cultural artefacts and human remains are sometimes understood as a single entity".*

The division of institutional responsibility initiated by the Bundestag's Budget Committee in the last legislative period (human remains: Contact Point for Collections from Colonial Contexts; cultural artefacts: Agency for International Museum Cooperation) contradicts this understanding and complicates the approach of the communities of origin in Germany.

The increased sensitivity of the guidelines with regard to human remains is to be welcomed. They emphasise the need for re-humanisation and name re-humanising practices (e.g. "*creation of separate rooms dedicated specifically to remembrance*"; "*ceremonial* procedures").

Unidentifiable human remains

The guidelines attach the utmost importance to the handling of human remains:

"When processing collection holdings, human remains continue to take precedence over cultural artefacts from colonial contexts."

One positive aspect of the guidelines is that they identify the handling of regionally unattributable remains from colonial contexts as an important challenge for German institutions. Through a survey of German museum and university collections, the Contact Point for Collections from Colonial Contexts has determined that almost half of the 17,000 remains identified cannot be geographically attributed. The guidelines therefore advocate *"a decision on the appropriate handling of these human remains that also allows for further research into their origin."*

Details are also omitted here. The need for dignified storage in Germany also applies to cases where the communities of origin expressly do not wish the remains to be returned.

However, Germany's willingness to return remains is not automatically met with a positive response from the government of origin. For example, in January 2025 the Charité Berlin handed over twelve human remains to representatives of the Hehe community from Tanzania. However, these could not be repatriated because the national government has so far refused to give its consent and has not issued an import licence. The reason given is that the Tanzanian government insists on concluding a comprehensive agreement on cultural belongings and human remains with the German government before individual restitution measures are permitted.

Conservation standards

In a radio interview, Larissa Förster, director of the Weltkulturen Museum in Frankfurt, points to a rather inconspicuous formulation in the guidelines that could greatly facilitate international museum cooperation, especially with the Global South. The relevant passage in the guidelines reads:

"In the case of loans, the borrower does not necessarily have to guarantee the same conservation conditions as German museums and collections."

Expansion of international cooperation

The guidelines place an interesting emphasis on cooperation in Europe in order *to "overcome the previously predominantly national approaches to dealing with historical responsibilities*". This reflects the insight that German colonialism is linked to the European expansionist efforts of the 19th century. Whether this statement refers exclusively to the era of formal German colonial rule (1884 to 1918) or includes the entire period of the European colonial project and the forms of coloniality that continue to this day is not specified.

Within the framework of European cooperation, the German government could work with other countries to address the question of whether and in what form the legal framework for repatriation and restitution demanded by some voices is appropriate. Belgium, for example, passed a corresponding law in 2022. In France, preparations are currently underway to pass a restitution law for cultural belongings. A law on human remains has already been passed there.

The intention to strengthen cooperation with Africa is also to be welcomed, for example within the framework of the EU project with the African Union "Strengthening African European Museum Partnerships" and UNESCO's "Priority Africa Flagship Programme". However, the guidelines remain unclear as to how this is to be achieved in concrete terms. The statements on future cooperation with formerly colonised countries in the South Pacific and with China also remain vague.

Another international arena for German restitution policy is the G20, the platform of 20 globally important states. As chair of the G20 in 2025, South Africa has placed the issue of "restitution of cultural belongings and human remains" at the centre of the culture ministers' work programme. In this context, the South African government is calling on all G20 members to develop national restitution programmes and to support the creation of an "International Cultural Restitution Fund" to deal with provenance research, storage and repatriation logistics.

Challenges

Gaps in human rights and international law

One weakness of the guidelines is the lack of specific references to human rights and international law, even though Germany has entered into relevant commitments in this regard. The International Covenant on Economic, Social and Cultural Rights, which came into force in 1976 and was ratified by Germany in 1973, codifies the right to culture in Article 15. The (non-legally binding) Declaration on the Rights of Indigenous Peoples of 2007, which is also supported by Germany, deals in detail with the paramount importance of cultural heritage for these groups in Article 11(2):

"States shall provide redress, including, where appropriate, restitution, for cultural, intellectual, religious and spiritual property taken from indigenous peoples without their free, prior and informed consent or in violation of their laws, traditions and customs, through effective mechanisms developed in consultation with indigenous peoples."

Against this backdrop, Almaz Teffera of Human Rights Watch Germany sharply criticises the guidelines:

"Like other European governments, Germany generally views such returns and repatriations as voluntary gestures of goodwill and as 'intergovernmental (political) matters' rather than as part of an obligation to redress historical and ongoing colonial injustice with continuing effects on affected communities."

One consequence of the gaps in the guidelines with regard to human rights and international law is the failure to take into account the prominent historical, cultural, spiritual or religious significance of cultural belongings for the communities of origin. The German Museum Association has explicitly recognised this justification for restitution in its guidelines, regardless of the conditions of appropriation, with reference to the UN Declaration on the Rights of Indigenous Peoples:

"Collection items are returned because they are of special significance to their former owners or custodians."

On this basis, for example, the former president of the Prussian Cultural Heritage Foundation, Hermann Parzinger, justified the foundation board's decision in June 2022 to return (as yet unfulfilled) the founding mother Ngonnso':

"The decision makes it clear that the question of returning collection items from colonial contexts is not solely a matter of injustice. The special – above all spiritual – significance of an object for the society of origin can also justify its return."

Appropriation

A key criterion in the guidelines for the restitution of cultural property is the restrictive statement that the *"appropriation took place in a legally or ethically unjustifiable manner.*" This raises the question of who must provide proof of this and in what form, and what happens if the German side does not

agree with the demand for restitution. A negative position could be substantiated, for example, by the reference in the entry book to acquisition or voluntary exchange by German colonial actors.

It is to be expected that determining unlawful or unethical circumstances will often require extensive provenance research. This would entail a considerable investment of resources and possibly many years of clarification processes before the claims of the communities of origin can be finally dealt with. The extent to which this approach pushes German institutions to their limits, given the enormous quantity of "collection items" is exemplified by the "Atlas of Absence" compiled by a research group that has identified over 40,000 cultural belongings from Cameroon alone in numerous institutions in Germany. The violent nature of German appropriation, especially through military operations, has often been proven here.

Although the guidelines recognise the difficulty of assessing unlawful and unethical appropriation in practice, they do not offer any clear guidance for decision-making:

"Due to the time that has elapsed since the appropriation, missing or imprecise documentation, or other circumstances, there may be gaps and ambiguities regarding provenance. This should not lead to returns being rejected per se. It should also be taken into account that in many colonial contexts, legally and/or ethically unjustifiable appropriation was common practice."

If the guidelines lead to repeated conflicts between societies of origin and German institutions, a formal dispute resolution procedure would have to be developed. The German government has just established a new arbitration tribunal for dealing with conflicts over Nazi-looted property, which will come into force on 1 December 2025.

In their 2018 report for French President Emmanuel Macron, Felwine Sarr and Benedicte Savoy propose a fundamental reversal of the burden of proof. According to this, Western cultural institutions would have to prove that their colonial-era collections were acquired in a legally and ethically sound manner.

The fundamental criticism of Berlin Postkolonial, Decolonize Berlin and Flinn Works regarding the guidelines' understanding of colonialism takes a similar line:

"We note with disappointment that the guidelines do not contain a general recognition of colonial contexts as contexts of injustice. Recognising this would mean understanding appropriations in colonial contexts as fundamentally unlawful."

Government to government

The guidelines establish the primacy of intergovernmental agreements for dealing with colonially appropriated artefacts and human remains. This stipulation is a consequence of the key role demanded by some governments of former colonial territories in such negotiation processes. For

example, the royal and spiritual cultural belongings of the Nso' in Cameroon, which is located in the Ethnological Museum Berlin and the Linden Museum Stuttgart, cannot be returned despite valid decisions by the respective institutions because the Cameroonian government has not yet submitted the agreed restitution list.

For the German government, the sometimes massive conflicts between communities of origin and national governments represent a foreign policy challenge. On the one hand, it is bound by the above-mentioned human rights and international law obligations to protect the interests of indigenous peoples. On the other hand, it must comply with the conditions of diplomatic relations, because otherwise other interests could be damaged and accusations of neo-colonial interference would not be far off.

Against this background, the wording of the guidelines is understandable:

"If a cultural object is to be returned, the consent of the country of origin must first be obtained by the Foreign Office, for example through a government communication (verbal note) or documented in a joint intergovernmental memorandum of understanding."

The restitution of cultural property to Nigeria, Namibia, Samoa and Colombia, for example, was carried out with the consent of the government of the country of origin.

In the case of human remains, the guidelines waive the formal consent of the government of origin (verbal note or intergovernmental memorandum of understanding) required for cultural property, but emphasise that a state import licence is required for repatriation. On this basis, the repatriation of human remains to Namibia, Australia, New Zealand and Hawaii has been successfully carried out.

Support for communities of origin

The options for action available to communities of origin and traditional authorities, affected communities and descendants are limited not only for domestic political reasons, but also for financial reasons. So far, there has been little financial support from the German side. In the 2024 federal budget, the Federal Government Commissioner for Culture and the Media (BKM) had 600,000 euros at its disposal for the restitution of colonially appropriated colonial artefacts. However, the total budget of 2.4 million euros originally approved by the Bundestag for the period 2024 to 2027 was not implemented.

The German government's table of financial support for coming to terms with Germany's colonial past, provided in response to a minor interpellation by the Green Party parliamentary group in August 2025, does not include any projects directly linked to restitution. It can therefore be concluded that the BKM has not yet used the 400,000 euros allocated for this purpose in 2024. Since 80 per cent of the

BKM budget item "Global South, Reappraisal of Colonialism" has been allocated for so-called self-management, this sum will be available in future years.

Since, according to the guidelines, the BKM will no longer play a role in restitution efforts, it remains unclear where funds to support the societies of origin will be made available in the federal budget in future. It remains questionable whether the Agency for International Museum Cooperation, which has been designated for this purpose by the Federal Foreign Office, currently has sufficient personnel and financial resources to shoulder this task.

The Contact Point for Collections from Colonial Contexts, which is supported by the Cultural Foundation of the German States, is receiving funding from the Foreign Office and BKM to set up a "liaison office" on dealing with human remains until the end of 2026. Whether and to what extent funding instruments for societies of origin will be created within this framework after that date remains open.

Digitisation

The guidelines call on museums to create transparency for societies of origin by posting their holdings on the "Colonial Collections" portal at the German Digital Library. However, they do not address the fact that the portal has been used very little by actors in the Global South. In order to remedy this weakness, actors from these regions would need to be involved in further development and low-threshold access would need to be created in the former colonial territories.

Gaps

In addition, the (deliberate) focus on cultural belongings and human remains does not cover all areas that are relevant to the reappraisal of German colonialism. For example, the colonial interconnections between natural history, botanical, archaeological and phonographic collections, colonial history archives, library holdings, and places of learning and remembrance related to colonialism are not addressed. The issues of reparations, compensation, restitution and apologies for colonial injustices are completely ignored.