

Dealing with shared sources from colonial history

Advice on redress and restitution in relation to colonial archives

'Without a clear understanding of the beginning, we cannot foster a meaningful dialogue about tomorrow. Without a sense of the sufferings of our ancestors, we cannot join hands to pave the way for better prospects for our descendants.'

Alida Frances, St. Eustatius Government Commissioner, speech on Emancipation Day 2023

'Two facts must be recognized from the outset: firstly, that the problem of archival claims at the end of a period of decolonization is particularly complex, and, secondly, that there is no possibility of achieving any real progress unless the full complexity of the problem is understood.'

Charles Kecskeméti, Archival Claims. Preliminary Study on the principles and criteria to be applied in negotiations (Paris 1977)

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Summary: ‘Dealing with shared sources from colonial history’

As a result of the Netherlands’ colonial past spanning several centuries, parts of the history of countries, communities and individuals across the world are being held in archives currently located in the Netherlands. Although these archives may be here, they may not be in the right place. In many cases, the colonial context remains unrecognised and unexplained. Some archives are available online while others are not. Some archives have been made accessible from a one-sided perspective only. Much of this archive material was written and described in Dutch. All of this entails some serious responsibilities. This is the topic addressed in this advisory report.

In 2020, the Council for Culture published the advisory report entitled *Colonial Collections and Recognition of Injustice (Koloniale collecties en erkenning van onrecht)*. The main thrust of that report is that the Dutch state inflicted an injustice on the population of the former colonies by taking possession of cultural heritage objects against their will and that the state must be prepared to seriously consider requests for restitution of these cultural heritage objects. In her policy document on the subject, *Beleidsvisie collecties uit een koloniale context* (2021), the then Minister Ingrid van Engelshoven adopted many of the report’s recommendations. Former State Secretary, Gunay Uslu, then sought more detailed advice from the Council for Culture on ‘dealing with archives and documentary collections shaped within a colonial context’. The Council is issuing this advisory report as a stand-alone document.

In compiling the report, the Council has liaised closely with administrators and experts from Indonesia, Suriname and the Caribbean islands; areas that were under Dutch control until decolonisation and/or are still part of the Kingdom of the Netherlands. The input from the discussion partners consulted by the Council proved to be very much in line with the Council's own thinking.

For the purpose of dealing with colonial archives and documentary collections, the Council applies the following frames of reference:

- the recognition of the historic injustice inflicted on the former colonies by the Dutch state;
- the willingness to put right this injustice where possible;
- the need to prevent new injustice and/or any lasting impact caused by historic injustice.

The Council believes that the issue of redressing injustice in relation to colonial archives is not so much a legal as an ethical question. In this context, justice takes precedence over the law.

Scope of the advisory report

In this advisory report, the Council makes recommendations with regard to how the Dutch government (and ideally also public and private archive custodians) should approach their colonial archives and documentary collections. The report not only addresses the issue of restitution, but also explores other potential ways of putting right injustice relating to colonial archives and documentary collections and preventing any new injustice.

As was the case in the advisory report *Colonial Collections and Recognition of Injustice*, the focus here is on Indonesia, Suriname and the Caribbean islands. However, the advice also applies to archives from and/or relating to other areas where the Netherlands exercised colonial power.

Current context

Since the Slavery History Dialogue Group Advisory Board (*Adviescollege Dialooggroep slavernijverleden*) issued its report *Chains of the Past (Ketenen van het Verleden, 2021)* calling on the Dutch government to take responsibility and offer apologies for the state's role in historic slavery and slave trading, the mayors of Amsterdam, Rotterdam, Utrecht, The Hague, Delft and Haarlem have all offered their apologies for the historic role their predecessors played in slavery. Several organisations, including ABN Amro and the Dutch Central Bank (De Nederlandsche Bank), have also acknowledged their role in this history. All of these apologies were preceded by extensive (archival) research. Knowledge led to self-reflection and ultimately to the understanding that an apology was necessary.

Investigations into the colonial past and/or history of slavery are still ongoing in various places, including many municipalities and in the Royal family. The Ministry of the Interior and Kingdom Relations (BZK) commissioned the book entitled *Staat en slavernij* (State and Slavery), calling on the Dutch state to enable continuing dialogue and redress. On 19 December 2022, the government also offered its apologies and on the day of the Ketj Koti commemoration on 1 July 2023, 160 years after slavery was formally abolished in the former Dutch colonies, the King also finally apologised.

Thoughts about redress

In an attempt to interpret the concept of redressing injustice in relation to archives, ideas about transitional justice can be useful in providing direction and guidance. This concept, embraced by both the United Nations and UNESCO, assumes that communities can recover from mass human rights transgressions by means of efforts to identify the truth, by doing justice to and according rights to the victims (or their descendants) and doing everything in their power to prevent the injustice ever being repeated. Heritage can also play a role in this, because it can bring about recognition of injustice, healing, dialogue and participation.

Cultural heritage is closely related to the right to remember. This is why, when dealing with heritage, caution should be exercised in according rights to a single state, community or individual because heritage first and foremost serves the interests of humanity as a whole. After all, communities that have an interest in particular colonial archives and collections may not necessarily be the same as the national community in the source country because many members of formerly colonised communities are now spread across the globe.

Definitions

The Council defines the term *colonial archives and documentary collections* as follows: all archives and documentary collections held in or outside the Netherlands that bear witness to colonisation, colonial relations and a Dutch presence in all areas where the state or other Dutch institutions exercised a form of colonial power. These may be archives held by the

state, provinces, municipalities, universities, museums, research institutions, the Royal family, church institutions, companies and other private parties.

For a community, a colonial archive may hold a symbolic, emotional, cultural and/or historic value and therefore be regarded as cultural heritage. In addition, colonial archives should be seen as:

- *Sources of information* (and as such of importance in acquiring knowledge and understanding). The informative value of an archive not only resides in the content of the documents included in it, but also in the archive structure and how it relates to other archives.
- *Instruments of colonial power*. The content, structure and custodial history of archives are closely related to the unequal power relationships in colonial history. The information recorded served the interests of the creator of the archive; it is an expression of their responsibilities and powers and an instrument of the power they wielded. Knowledge about this is essential in order to understand the nature and significance of the information from colonial archives.
- *Instruments of lasting impact*. By definition, archives provide an incomplete and one-sided picture of history. Colonial archives and documentary collections provide a lot of knowledge about the past, but always from the perspective of the creator of the archive or collection. The access points and finding aids that purport to point the way in archives and collections also contribute to the perpetuation of injustice. They may fall foul in terms of bias (information about those who were colonised and enslaved is more difficult to find than information about colonists), the language used is often hurtful or offensive, access points may be in Dutch only and archives are often located long distances away from the inhabitants of former colonies.
- *Instruments of recognition and redress* (especially when they are used frequently and effectively by people from or with ancestors in the former colonies). Archival research conducted from a range of different perspectives helps us to gain increasing insight into the effect of the colonial system and its repercussions.

Archivistic and legal frameworks

Archival science

In this advisory report, the Council respects classical archival science, the study of the collation and description of archives based, among other things, on the principle of original order (*structuurbeginsel*), the respect des fonds principle (*bestemmingsbeginsel*) and the principle of archival integrity (*overgangs- of successiebeginsel*) (for further explanation, see the full advisory report). However, it also argues that classical archival science is a nineteenth-century construct of Western origin and is therefore emotionally charged and not impartial. In the context of this advisory report, the Council therefore adopts a critical approach to the principles of archival science.

Legislation

In its advisory report *Colonial Collections and Recognition of Injustice*, the Council argued that dealing with colonial cultural heritage objects is an ethical rather than a legal question. This also applies to dealing with colonial archives. Even when, from a legal perspective, the Netherlands may be in the right, there can also be ethical reasons for making changes to the

approach to colonial archives and documentary collections, providing, of course, that this takes account of legislation. In its advice, the Council respects the Public Records Act 1995 (*Archiefwet 1995*) and the Heritage Act (*Erfgoedwet*).

Colonial archives present in the Netherlands and how they are dealt with

From the start of the seventeenth century, the Dutch maintained an active presence worldwide as traders, colonists and occupiers. The numerous archives and documentary collections that bear witness to this are not only of importance for the Netherlands or for the countries that were under its sovereignty, but also for the countries where it exercised colonial power in other ways (e.g. through trade or missions), as well as their inhabitants, the diasporic communities with roots in these countries and their descendants.

In the Netherlands, there are colonial archives in collections held by regional historical archive centres, municipal archives, regional archives, archives based around specific themes, university libraries, scientific research institutes, museums and possibly a few remaining private archives and collectors. However, it is impossible to provide any comprehensive overview of what is where, its provenance or its subject.

There is no doubt that the National Archives hold the largest collection of colonial archives. As the central government's archive repository, it includes archives relating to the former Ministry of Colonies, archives from the Dutch colonial rulers in various former colonies, archives from sections of the Dutch Armed Forces that were deployed in the former colonies and parts of the current Kingdom and archives of the Dutch East India Company (VOC, nationalised in 1795).

The National Archives and other Dutch archive institutions face a further major challenge with regard to digital access to colonial archives. While most digitised archives can be searched online by means of digital inventories and other finding aids, if colonial archives are to be made accessible and usable in a balanced and fair way, further measures will be necessary. This could include improving existing access points in order to reveal multiple perspectives and provide insight into the internal and external structures that are necessary for a proper understanding of the archives; where possible avoiding the use of hurtful language or providing context for it at access points; translating the access points into the language of the communities with an interest in the archives concerned.

Archive relationships between the Netherlands and the former colonies

For the purpose of this advisory report, the Council looked at the existing relationships, in the context of archives, with Indonesia, Suriname, Aruba, Curaçao, St. Maarten and the Caribbean Netherlands (Bonaire, St. Eustatius and Saba), together with their views, interests and priorities in this area. It held conversations with administrators and officials responsible for the (colonial) archives in all of these countries and areas.

For a separate breakdown for each country or area, the Council refers readers to the full text of the advice. In general terms, it is worth noting that each situation, and the relevant views, interests and priorities, vary very widely for each country or area. Areas of shared interest include cooperation on an equal footing, proper sharing of information, a better overview of

available archives and further advances in digitisation. Some countries have a need for a physical archive (storage facility) of their own or to have existing archives professionalised. It is also important to point out that, to the Caribbean part of the Kingdom specifically, the relationship with and attitude of the Netherlands is still felt to be colonial; they call for much greater equality, which could partly be achieved by more even-handed access to archives and collections.

Dilemmas relating to the handling of colonial archives

There are various dilemmas at play when it comes to dealing with colonial archives.

- *Shared archives, divergent interests*

In the case of shared archives and documentary collections, there are, by definition, several interested parties and their interests may not always coincide. Returning original (records from) archives or documentary collections to source countries may be doing justice to those countries and some of their inhabitants, but this may also conflict with the interests of other population groups and the descendants of colonised peoples who have moved elsewhere in the world.

In this case, it is important to refer back to the principle of transitional justice. First and foremost, heritage serves the interests of humanity as a whole. Granting rights to heritage to a single state, community or individual can undermine this. Because colonial archives and documentary collections are shared sources chronicling the histories of different countries and communities, the Council takes the view that, with the exception of colonial cultural heritage objects, the unconditional return of colonial archives and documentary collections is out of the question. A careful weighing of interests will *always* be necessary in order to do as much justice as possible to the interests and priorities of stakeholders who must be considered to be joint owners from a cultural and/or moral perspective.

- *The paradox of the principles*

The principles of archival science aim to protect the value of an archive as a whole, but this study of the formation and management of archives is itself a Western construct conceived for the benefit of the governing power and does not necessarily serve the interests of communities. Archives are not neutral. There is a paradox at play here: on the one hand, it is important to respect the principles in order to maintain the intrinsic colonial characteristics of colonial archives since this facilitates an understanding of the impact of colonial power. On the other hand, the need to put right injustice may at times necessitate a departure from this. For example, it is possible to envisage a situation in which stakeholders may welcome the return of specific records, but be reluctant to see the return of whole archives, for example because the management of large archives and collections in terms of funding, staffing and resources may place a heavy burden on a country's already fragile and/or overburdened archive infrastructure. Similarly, there may be a personal document that has found its way into an archive where it does not belong but has great emotional value for descendants who have no interest whatsoever in the rest of the archive. This is another instance where a careful weighing of interests is necessary in all cases. The Council therefore takes the view that careful account should be taken of

the principles of archival science whilst accepting that the return of an individual record from an archive must be permissible in exceptional cases.

- *Digitisation and digital access: redress or renewed inequality?*

In addition to the fact that digitisation may not always be a satisfactory solution (the tangibility of an object can be of emotional or symbolic value, for example), new inequalities can also emerge in the context of digitisation and digital accessibility, possibly relating to funding, control and inadequacies in digital accessibility. For this reason, digitisation must be coupled with improvements to the shortcomings of archives and access points described above (bias, use of language, one-sided or missing contextualisation) in order to prevent it contributing to the further dissemination of the colonial view of history. In enabling (digital) access to colonial archives and documentary collections, the Council believes that a critical assessment must be made of provenance, point of view, custodial history and the manner and language in which an archive collection was originally made accessible. Where this proves to be problematic, this should preferably be made clear and put right at the access point. This is why the development of this digital accessibility calls for cooperation on an equal footing with the other communities that have an interest in the archive or collection in question.

Where and why should departures be made from policy concerning colonial cultural heritage objects?

Taking into account the previously described functions of archives and the related dilemmas, the Council believes that, when dealing with colonial archives and documentary collections, it is necessary to depart in a number of key areas from the policy framework previously developed by the Minister of Education, Culture and Science (OCW) with regard to the handling of colonial cultural heritage objects:

- *Willingness to provide restitution is not enough*

Injustice in relation to colonial archives is about much more than just a question of whether the physical repository is legitimate or appropriate. Putting right injustice therefore not only calls for (a willingness to provide) restitution, but also and more importantly, requires effective, convenient and fair digital or physical access to and use of colonial archives and digital collections, with room for multiple perspectives.

- *Set minimum conditions for return*

The fact that colonial archives and documentary collections almost always involve materials with a shared cultural ownership makes their unconditional return problematic. Minimum conditions must include the right for the returning party and any other stakeholders to gain access to and copies of the records to be returned, the right to refer to these metadata at access points and the right to make these copies available.

- *Bespoke approach*

Although records from archives that are to be preserved should ideally remain in their original order and structure, in exceptional cases and under specific conditions,

partial return may be necessary especially if one or several records have particular symbolic or emotional value.

- *Not only from state to state*

The Council believes that in cases involving personal documents that were taken by or behalf of the Dutch colonial power against the original owner's will, family members should also be given an opportunity to request that the Dutch state return them or take other measures.

- *Take additional responsibility within the Kingdom*

The Council takes the view that the continuing political links with Aruba, Curaçao, St. Maarten, Bonaire, St. Eustatius and Saba mean that the Netherlands also has moral obligations and shared responsibilities for the care and management of archives in these places. With their current resources, amenities and workforce the Caribbean islands are insufficiently able to physically manage, provide digital access to and make available their own (colonial) archives and documentary collections.

- *Take proactive action if appropriate*

If it is clear in advance to the archive custodian or official responsible that a central government colonial archive or documentary collection really belongs elsewhere, it is recommended that rights holders be informed proactively that the state recognises their rights.

Advice on dealing with colonial archives and documentary collections

All of the above brings the Council to the following recommendations concerning the handling of colonial archives and documentary collections:

Recommendations to facilitate redress and prevention of lasting impact and new injustice

1. Recognise the shared cultural and/or moral ownership of colonial archives and documentary collections and develop policy on how to deal with colonial archives and documentary collections in equal dialogue with the stakeholder countries. Focus that policy not only on putting right injustice, but also on preventing new injustice.
2. Cooperate on an equal footing with the former colonies in ensuring that the colonial archives and documentary collections present in the Netherlands can be found, used, interpreted and seen by stakeholders worldwide by establishing a multi-year programme focusing on such areas as digitisation, digital access, improving shortcomings in terms of access, translations and awareness among the wider public. Ensure that appropriate and permanent funding is available for this.
3. Encourage other ministries, municipalities and provinces, documentation and research institutions, museums and universities to contribute to and participate in this programme.
4. Encourage (e.g. by means of grants and funds) researchers and artists/creators from former colonies to conduct research into the colonial archives and collections

present in the Netherlands, thereby contributing to knowledge production, awareness raising and a more balanced picture of history.

5. Recognise that the Caribbean countries and islands must be facilitated in physically managing, providing digital access to and making available their own colonial (and other) archives and documentary collections and that the current policy on this fails to achieve this effectively. Join forces with other government officials involved in consulting with the countries and islands on the solution to this policy deficit.

Recommendations for redress by means of restitution

6. Adopt a proactive approach in cases where it is clear in advance that a central government colonial archive or documentary collection really belongs elsewhere, by acknowledging the other party's rights of ownership in these cases.
7. Be prepared to respond positively to requests from other states and from the islands of the Caribbean Netherlands for restitution of (records from) colonial archives and documentary collections owned or managed by central government. In cases involving personal documents that were taken by or behalf of the Dutch colonial power against the original owner's will, also consider requests from family members of the person or persons from whom these documents originated. Restrict the return of an individual record from an archive to cases in which a) a record from an archive is of great symbolic and/or emotional significance for the person or body requesting it and b) it is impossible or not relevant for that person or body to take custody of the entire archive concerned.
8. Arrange for these requests to be assessed by an independent committee of Dutch and international experts at least specialising in historical research, archives and the colonial history of the countries concerned. This committee should have a dual remit: a) to advise the minister or state secretary on restitution requests relating to colonial archives and documentary collections in the state's possession and b) to advise on restitution requests relating to colonial archives that are not owned by central government.
9. Allow this committee, in handling a request of this kind, to start to determine how and why a colonial archive or a colonial documentary collection found its way to the Netherlands. If it is shown with a reasonable amount of certainty that (parts of) a colonial archive or collections have been involuntarily relinquished or remain in the Netherlands on spurious grounds, the committee will consider what should happen with the archive or documentary collection after considering the following points: a) what interest (parts of) a colonial archive or documentary collection represents for one or more countries and/or communities; b) risk management.
10. Arrange for the committee to receive support from a centre of expertise capable of carrying out the research necessary to assess restitution requests.

Introduction

In recent years, countless volunteers have worked tirelessly to make it possible to search for information from colonial archives, such as population and slavery records. Saoendy Tanuya Orelia is one of them. She talks about her experiences:

*'In order to understand where you're heading, you need to know where you come from. (...) History cannot be reversed, but we can learn from it. And in one way or another, being confronted with it also has a healing effect on me. (...) What an amazing stroke of luck it was to actually find myself face-to-face with my great-grandmother's birth certificate! That was a truly emotional moment.'*¹

Learning, healing and the actual and emotional value of tangible proof of a minor or major piece of history: Saoendy Tanuya Orelia's experience perfectly exemplifies why the subject of this advisory report is so important. As a consequence of the Netherlands' colonial past spanning several centuries, parts of the history of countries, communities and individuals across the world are being held in archives currently located in the Netherlands. Although they may be here, they may not be in the right place. In many cases, the colonial context remains unrecognised and unexplained. Some archives are available online while others are not. Many archives have only been made accessible from a one-sided perspective. They talk freely about some things and stay silent about others. Much of this archive material was written and described in Dutch. All of this entails some serious responsibilities. This is the topic addressed in this advisory report.

Background

In September 2020, the Council for Culture published the advisory report entitled *Colonial Collections and Recognition of Injustice*.² The main thrust of that report is that the Dutch state inflicted an injustice on the population of the former colonies by taking possession of cultural heritage objects against their will and that the state must be prepared to seriously consider requests for restitution of these cultural heritage objects. In her policy document on the subject, *Beleidsvisie collecties uit een koloniale context* (2021), the then Minister Ingrid van Engelshoven adopted many of the report's recommendations.³

The advisory report and the policy vision based on it did not include colonial archives because archives are not just about the documents themselves, but also about the information they contain and access (rights) to them.⁴

Request for advice

On 23 August 2022, former State Secretary, Gunay Uslu therefore sought more detailed advice from the Council for Culture on 'dealing with archives and documentary collections shaped within a colonial context'. She did this as part of her responsibility for the Dutch public records system, the Public Records Act 1995 (*Archiefwet 1995*) and the BES Public

¹ <https://www.ru.nl/slavenregisters/ervaringsverhalen/saoendy-tanuya-orelia-o/>

² <https://www.rijksoverheid.nl/documenten/rapporten/2020/10/07/koloniale-collecties-en-erkenning-van-onrecht>

³ <https://www.rijksoverheid.nl/documenten/kamerstukken/2021/01/29/rapport-beleidsvisie-collecties-uit-een-koloniale-context>

⁴ Council for Culture 2020, p. 15.

Records Act (*Archiefwet BES*) and as the official responsible for central government archives that have been transferred. She asked the Council to focus its advisory report on:

- The ownership of the archives in the context of involuntary dispossession of archive records and the possibility of their return;
- access to the archives, with a particular focus on digital access;
- the wishes and interests of countries that were colonised in the past;
- the special position held by the National Archives in its capacity both as the custodian of a large collection of colonial archives and as a knowledge institute in this field;
- the opportunities for international cooperation.

The advisory report is a stand-alone document

Initially, the Council saw this advisory report as a supplement to its previous report *Colonial Collections and Recognition of Injustice*. However, in the process of preparing the report, the nature and functions of archives raised some specific issues to such an extent that the advice became an increasingly important document in itself. This was reinforced by the fact that the issue of putting right injustice in relation to heritage has become more topical and urgent since the publication of the report on colonial collections. In the administrative and cultural world in particular, it has become much more possible to discuss redress and the form that this might take.

Consultation with administrators and experts in the former colonies

The Council felt it necessary to prepare this advisory report in close consultation with administrators and experts from Indonesia, Suriname and the Caribbean islands; areas that were under Dutch control until decolonisation and/or are still part of the Kingdom of the Netherlands. However, in 2022, some of the Council's requests to discuss the colonial archives came at an inopportune moment. At that time, Aruba, Curaçao, St. Maarten and the Caribbean Netherlands (Bonaire, St. Eustatius and Saba) in particular had been overwhelmed in the lead-up to the commemoration of the abolition of slavery and the apologies of the Dutch government. There was also dissatisfaction about the way in which the commemoration and apologies were being prepared. This meant that the consultations and ultimately the advisory report itself were delayed.

It was not possible to hold most of these conversations until November 2023, just before the new deadline for the advisory report. The Council did not feel that this justified a further delay to the report's publication. The input from the discussion partners consulted by the Council proved to be very much in line with the Council's own thinking. Indeed, most of them consider the handling of colonial archives in the context of redressing the wrongs to be a fundamental and urgent issue. In cases where these conversations justified it, the draft advisory report was supplemented and slightly amended.

Frames of reference

For the purpose of dealing with colonial archives and documentary collections, the Council applies the following frames of reference:

- the recognition of the historic injustice inflicted on the former colonies by the Dutch state;
- the willingness to put right this injustice where possible;
- the need to prevent new injustice and/or any lasting impact caused by historic injustice.

The first two of these also formed the basis for the advisory report on dealing with colonial cultural heritage objects. Partly in the light of that earlier advisory report,⁵ the Council believes that the issue of redressing injustice in relation to colonial archives is not so much a legal as an ethical issue. It is not so much about law, but more specifically about justice. Verne Harris, Nelson Mandela's former archivist, puts it succinctly as follows: '(...) *the work of archive is, in a word, justice*'.⁶ Even if a legal claim has not been fully proven, some kind of redress may be appropriate.

The third frame of reference is a new addition by the Council. Colonialism was based on suppression, violence, discrimination and inequality. It catalysed and justified these forms of injustice, embedding them in our society. In that respect, colonialism is still not completely in the past. It still continues to have a lasting impact; in the power relationships and economic inequities between countries, in the way in which population groups view and treat each other, in unequal opportunities and in mental slavery, the internalisation of colonial thinking that has a negative influence on the self-image of the descendants of colonised peoples. In the field of archives, this lasting impact also has specific manifestations and consequences, as this advisory report shows.

Guide for readers

Chapter 1 describes the current context in which this advisory report came about. Chapter 2 describes what the Council understands to be colonial archives and documentary collections, what the nature and purpose of these materials are and what the scope of this advisory report is. The technical and legal frameworks are the subject of Chapter 3. Chapter 4 explores the development of international views on questions relating to the ownership of and control over colonial archives. Chapter 5 described in broad outline the range of colonial archives and documentary collections that exist in the Netherlands and the approach adopted towards these so far. Chapter 6 provides an insight into archive relationships between the former colonies and the Netherlands and outlines the views, interests and priorities of the relevant countries and areas relating to colonial archives. Chapter 7 looks at the most important dilemmas at play when it comes to dealing with colonial archives and documentary collections. In Chapter 8, an explanation is provided of the extent to which and why this advisory report departs from the line of thinking in the advisory report about and the policy framework for colonial cultural heritage objects. All of this culminates in Chapter 9 in the advice to the State Secretary.

The committee that prepared this advisory report is made up of Dagmar Oudshoorn-Tinga (Chair), Leo Balai, Deirdre Carasso (Council member), Michael Karabinos, Wim Manuhutu and Matthias van Rossum. The committee was ably supported by Pieter Bots, Philippine Jenster, Lukas Kaas, Margreet Windhorst and Kiran Sukul.

⁵ Council for Culture 2020, p. 5.

⁶ Harris, 2021, p. 2.

1. Current context

1.1 Developments since September 2020

Since the Council issued the advisory report in September 2020, *Colonial Collections and Recognition of Injustice*, there has been an increased focus in society, in government, in academia and in the cultural sector on the Netherlands' colonial history, the injustice committed in that context and how this could and should be redressed.

In the policy vision entitled *Collecties uit een koloniale context* of January 2021, the Minister of Education, Culture and Science adopted the Council's recommendations almost in full. In 2022, the Advisory Committee on the Return of Cultural Heritage Objects was established, charged with assessing requests for restitution from source countries and advising the Minister of Education, Culture and Science on this. The first requests have already been processed and honoured.

In July 2021, the Slavery History Dialogue Group Advisory Board report *Chains of the Past* called for recognition of the fact that slavery and the slave trade were crimes against humanity that have a lasting impact even today. The government was encouraged to take responsibility for the state's role in the history of slavery and offer its apologies for it. The report also sought to emphasise that recognition and apologies should be accompanied by redress. This should be interpreted as 'an integrated and systematic approach to tackling the consequences that the history of slavery has on society'. Knowledge production and dissemination have an essential role to play in this.

On 1 July 2021, the Mayor of Amsterdam Femke Halsema became the first Dutch official to apologise for the role her predecessors played in the history of slavery.⁸ She was followed by her counterparts in Rotterdam, Utrecht, The Hague, Delft, Haarlem, Middelburg and Vlissingen and by the leaders of some provinces. Several organisations, including ABN Amro and the De Nederlandsche Bank, have also now acknowledged their role and responsibility. All of these apologies were preceded by extensive (archival) research. The knowledge acquired in this process led to self-reflection and ultimately to the understanding that an apology was necessary. Investigations into the colonial past and/or history of slavery are still ongoing within various organisations, including many municipalities and the Royal family.

In October 2022, a parliamentary motion resulted in the Ministry of the Interior and Kingdom Relations (BZK) commissioning a group of academics to compile a field study and research agenda on the history of Dutch colonial slavery and its lasting effects. The end result of this, the book entitled *Staat en slavernij* (State and Slavery), calls on the Dutch state to enable continuing dialogue and redress.⁹

⁷ <https://www.rijksoverheid.nl/documenten/rapporten/2021/07/01/ketenen-van-het-verleden>

⁸ <https://www.amsterdam.nl/bestuur-organisatie/college/burgemeester/speeches/toespraak-slavernijherdenking-2021/>

⁹ Allen et al, 2023.

On 19 December 2022, the Dutch government also offered its apologies¹⁰ and announced that it would be adopting most of the recommendations from the Slavery History Dialogue Group Advisory Board¹¹. The Dutch government pledged, among other things, to include a focus on slavery in primary and secondary education, to preserve and further develop museums, archives and protect cultural heritage, both in the Netherlands and in the Caribbean parts of the Kingdom and other countries concerned; to set up a national slavery museum and an associated knowledge centre; to establish a multiannual research programme and to set up a statutory fund of €200 million for initiatives aimed at raising awareness.

In this context, the State Secretary for the Interior and Kingdom Relations wrote letters to the Kingdom's Caribbean islands and countries, also raising the issue of the emphasis that the islands themselves wish to place in terms of spending these funds.¹²

In May 2023, the Dutch Foundation for Academic Heritage (*Stichting Academisch Erfgoed*) published its advice on handling university collections from a colonial context which includes a lot of overlap with this advisory report. The central thrust of the report was *'that dealing with colonial heritage is not just about claims and restitution or about perpetrators and victims. It is also about a concerted effort to untangle an emotionally charged history. And about taking account of the meaning that parts of our own collections have in that context. About acknowledging the authority of stakeholders from the source countries.'*¹³ It recommends that universities investigate those parts of their collections that have a colonial context; ensure that it is possible to find and make use of these parts of the collection by digitising and enabling access to them; remove barriers for researchers from source countries and actively invite and provide support to researchers; carry out provenance research in response to requests for returns or based on their own suspicions of problematic provenance and show a willingness to return collections and parts of collections if this is requested.

On the day of the Keti Koti commemoration on 1 July 2023, 160 years after slavery was formally abolished in the former Dutch colonies, the King also finally expressed his apologies. He asked for forgiveness for the House of Orange's 'clear failure to act in the face of this crime against humanity'. Looking to the future, he said: 'There's no blueprint for the process of healing, reconciliation and redress. We are entering new territory together.'¹⁴

1.2 Thoughts about redress

In 2001, there were already discussions at the World Conference against Racism on the need for reparations in the wake of the colonial past. However, there was ultimately no agreement on this issue and very little concrete progress was made.

¹⁰ <https://www.rijksoverheid.nl/documenten/toespraken/2022/12/19/toespraak-minister-president-rutte-over-het-slavernijverleden>

¹¹ <https://open.overheid.nl/documenten/ronl-a6b18a9d980649083437fdc086c48125c608be46/pdf>

¹² <https://www.rijksoverheid.nl/ministeries/ministerie-van-binnenlandse-zaken-en-koninkrijksrelaties/documenten/brieven/2022/12/19/brief-met-uitwerking-van-de-kabinetsreactie-op-het-rapport-adviescollege-dialooggroep-slavernijverleden>

¹³ Boeles et al., 2023, p. 7.

¹⁴ https://bijlagen.nos.nl/artikel-18188663/Toespraak_koning_Willem-Alexander.pdf

In an attempt to interpret the concept of redressing historic injustice in relation to archives, ideas about transitional justice can be useful in providing direction and guidance.¹⁵ This approach, embraced by both the United Nations and UNESCO, assumes that communities can recover from mass human rights transgressions by means of efforts to identify the truth, by doing justice to and according rights to the victims (or their descendants) and doing everything in their power to prevent the injustice ever being repeated. Heritage can also play a role in this, because it can bring about recognition of injustice, healing, dialogue and participation.

In this context, it is especially important to be mindful that communities that have an interest in particular colonial archives and collections may not necessarily be the same as the national community in the source country. Many members of former colonised communities have been spread across the globe, partly as a result of colonialism and its lasting impact. In the handling of colonial archives and documentary collections, it is important also to involve these diasporic communities and take their interests into account.

Cultural heritage is closely related to the right to remember. This is considered to be an intrinsic component of human rights, because of its universal and intergenerational importance for the identity and development processes of individuals and groups.¹⁶ This is why, when dealing with heritage, caution should be exercised in according rights to a single state, community or individual because heritage first and foremost serves the interests of humanity as a whole. At the same time, the importance of heritage for human rights means that states must ensure that communities, groups and individuals can exercise their right to access heritage, that the misuse of heritage is prevented and awareness of the value of heritage and its protection worthiness is enhanced.¹⁷

This advisory report focuses specifically on these recent developments and the philosophy of transitional justice. The Council takes the view that greater knowledge about, an improved approach to and increased use of colonial archives should not only form part of the process of healing, reconciliation and redress, but also facilitate and intensify this process.

2. Definitions and scope

2.1 Definition of terms

Archive

An *archive record* is a document, of whatever form,¹⁸ that, by its very nature, is intended to be kept by the person, group of persons or organisation that received or compiled it by virtue of their activities, their duties or in upholding their rights.¹⁹

¹⁵https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/26_02_2008_background_note.pdf

¹⁶ This harks back to the preamble of the The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954.

¹⁷ Dey, 2022.

¹⁸ 'Of whatever form' means: it may concern one of many formats and types of data or storage media, such as paper and digital (textual) documents, drawings, maps, photographs, films and sound recordings.

¹⁹ Derived from *Archiefterminologie voor Nederland en Vlaanderen*.

An *archive* is the archive records as a whole, received or created by a person, group of persons or organisation. An archive has an internal structure that reveals something about the actions of an archive creator, what mattered to it and how it organised itself. Because people and organisations are never completely isolated and always work together, archives are actually never isolated units either. The mutual coherence of archives provides an insight into external structural networks that played a decisive role in the systems and societies of which the archive creators were or are a part.²⁰

Documentary collection

A *documentary collection* is understood to mean a group of documents brought together according to a specific criterion and managed in or from a specific place.²¹ Although a documentary collection may often partly consist of archive records, these have been removed or displaced from the archive to which they belong and have been included in a collection. Collections of this kind can be found in such places as the Special Collections held by university libraries. For example, Leiden University Library manages a collection of Bugis and Makassar manuscripts collected by the Netherlands Bible Society. The University of Amsterdam's Surinamica Collection is one of the world's largest collections devoted to Surinamese history and culture. Archive institutions also manage colonial documentary collections, such as the famous Leupe map collection at the National Archives.

It is not always easy to distinguish between documentary collections and archives. Documentary collections are often erroneously referred to as archives. There is also a grey area where no distinction can be drawn. University libraries contain many scientific endowments and bequests from researchers who made annotations on their expeditions to far-off places and collected research materials. This has resulted in an archive and (documentary) collection hybrid. The information that museums record about their museum collections often includes documents that are part of the museum's archive, such as correspondence relating to acquisitions, together with documents that are separate from that and must be regarded as documentation.

Colonial archives and documentary collections

The Council chooses to define *colonial archives and documentary collections* as follows: all archives and documentary collections held in or outside the Netherlands that bear witness to colonisation, colonial relations and a Dutch presence in all areas where the state or other Dutch institutions exercised a form of colonial power. These may be archives held by the state, provinces, municipalities, universities, museums, research institutions, the Royal family, church institutions, companies and other private parties from former colonies and from all areas where the state or other Dutch institutions exercised a form of colonial power.

This broad definition has been chosen based on the understanding that all sources from the shared past can potentially contribute to new knowledge, that knowledge is essential for recognition of injustice and that recognition is essential for redress. A broad definition of colonial archives is necessary to do justice to this.

²⁰ Jeurgens, 2012.

²¹ Derived from *Archiefterminologie voor Nederland en Vlaanderen*.

For reasons of brevity, this advisory report generally uses the term ‘(colonial) archives’ to refer to both archives and documentary collections. In cases where it is important to distinguish between the two, this is explicitly stated.

The term colonial archives is often associated with such terms as migrated archives, expatriate archives and displaced archives. Since 2016, the International Council on Archives (ICA) ²² has been using the term shared archival heritage. By doing so, the organisation is highlighting the fact that archives that relate to the history of more than one community, country or region, and where management, ownership and access is unclear or disputed, belong – from a cultural and moral perspective – to multiple communities.²³ While agreeing with this view, the Council feels that the term ‘heritage’ is not always appropriate for use in relation to archives. The Council sees colonial archives as ‘shared sources of shared histories’.²⁴ We explain why in the next section.

2.2 Functions of archives and documentary collections

For a community, a colonial archive may hold a symbolic, emotional, cultural and/or historic value and therefore be regarded as cultural heritage. However, archives and documentary collections are much more than just cultural heritage objects. In order to determine how to deal with these materials, it is necessary to take account of all of their functions.

Source of information

Even if an archive is not seen as heritage by a community, it may still be of value for that same community, primarily because it is a source of information and therefore of relevance in acquiring knowledge and insight. As explained in section 2.1, the informative value of an archive not only resides in the content of the documents included in it, but also in the archive structure and how it relates to other archives.

Because of its informative value, a documentary collection is also more than a cultural heritage object. Unlike an archive, however, this type of collection does not form a whole that came into being in the course of the creator's day-to-day activities or functions. That means that the informative value of a documentary collection resides mainly in the information in the documents included in it.

Instrument of colonial power

Archives created by the colonial powers are not only cultural heritage objects and sources of information, but also instruments of colonial power. Their content, structure and custodial history are related to the unequal power relationships that helped to shape the past that the Netherlands shares with the former colonies. The information was recorded in archives in the interests of the creator of the archive; it is an expression of their responsibilities and powers and an instrument of the power they wielded. This applies to individual archive records, whether they are in the archive in which they belong or in a documentary collection. And, in

²² NGO that connects archive professionals and institutions worldwide in efforts to achieve effective archive management, the protection of archives, widely supported norms and standards and international cooperation and sharing of knowledge, see <https://www.ica.org/en>

²³ See ‘Purpose and objectives’, <https://www.ica.org/en/expert-group-on-shared-archival-heritage-egsah>

²⁴ The Council is aware that the way in which ‘shared histories’ are perceived in former, colonised communities is very different from that in the community of the former colonisers and is a product of the unequal power relationships at the time of colonialism.

the case of an archive, this also applies to the archive as a whole and the way in which it is structured.

Former colonies, their inhabitants and their descendants are partially dependent on the archives created by Dutch institutions and individuals in order to be able to study a specific period from their own history. This is not only because the Dutch actually created records during their colonial rule whereas the colonised peoples did so very little or not at all. The colonial power also bears partial responsibility for causing the lack of sources that the local population has concerning its own history. For example, the colonial powers prohibited enslaved people from learning to read and write and broke the chains of cultural transfer by uprooting communities and undermining cultures. These countries and communities therefore often have no alternatives to the colonial sources in order to conduct research into the colonial period.

In order to understand the nature and significance of the information from colonial archives, an understanding and knowledge of the internal structure of the whole is essential.²⁵ The same applies to knowledge of the external structures: the colonial power structures, the role and position the archive creators had within that and the way in which this manifests itself in the cohesion of these archives.

The need for context

Author and speaker Lara Nuberg did archival research into her family history, much of it in the former Dutch East Indies. She describes the archive as *'a place where, by definition, it's the voice of power that's heard. Based on these archives, I'll never be capable of forming a full picture of my Indonesian ancestors.'* Reflecting on the large numbers of cultural productions about the colonial past that have recently seen the light of day and their varying quality, she states: *'Simply dusting off heritage and presenting it with no form of context or attempt to challenge stereotypes (...) makes it more likely that, as its creator, you will reproduce racism and suppression rather than questioning them.'*²⁶

Instrument of lasting impact

Colonial archives are rich sources of information. For some countries, areas and/or communities, they are virtually the only sources that they have about a significant period of their history. When dealing with these sources, it is essential to acknowledge that the information held in archive records is never fully impartial or value-free. Nowhere near every aspect or perspective is visible or represented in archives in a balanced way. By definition, archives provide an incomplete and one-sided picture of history. The creators of archives and collections are not neutral actors. Colonial archives and documentary collections provide a lot of knowledge about the past, but always from the perspective of the creator of the archive or collection. Besides this, the writing of history about the colonies has long been dominated by officials in the colonial administration. Any new officials would prepare for their work overseas by studying this (one-sided) version of history.²⁷ All of this means that the colonial view continues to persist and it takes great effort to refute it.

²⁵ Karabinos, 2019. Karabinos argues: *'Lose sight of it and the colonial structure will exist unimpeded, still guiding us to certain records, still guiding the structure of what and how we read the records.'*

²⁶ Nuberg, 2023.

²⁷ Schrikker, 2023.

The access points and finding aids that researchers are forced to use to navigate their way through the many kilometres of colonial archives and documentary collections also serve to compound the lasting impact of colonial injustice. First of all, they are often guilty of bias. As a result, information about colonised and enslaved people is more difficult to find than information about colonists. The language used at access points may be hurtful or insulting because it tends to reflect the colonial ideas and relationships expressed in the records. The fact that many archive records and also most access points were written in Dutch makes research even more difficult for the inhabitants of the former colonies and their descendants. Finally, the fact that the inhabitants of the former colonies are a long distance away from the colonial sources present in the Netherlands also creates inequality and enables the lasting impact of the colonial past to continue to this day.

Need for multiple perspectives

More research from different perspectives is needed in order to adjust the one-sided Dutch view of colonialism, even though Dutch researchers are already taking greater account of the perspective of those who were subject to suppression. *‘With a Western history of guilt, we will not return history to the colonised peoples, it will remain Western history’*, argues Remco Raben from Utrecht University.²⁸

Rick Honings, Professor of Special Collections at Leiden University, highlights the fact that foreign researchers face numerous practical obstacles.²⁹ His own university’s Asian Library holds the world’s largest Indonesian collection, most of it written in Balinese, Javanese and Malay. Currently, these sources are hardly ever used because there are few people in the Netherlands with the expertise to read them. This is why foreign researchers with a good command of these languages are extremely welcome. There are all kinds of factors preventing non-EU citizens from conducting research in the Netherlands, such as the need for a visa and expensive tuition fees.

The increasing social, academic and political interest in the colonial past may have resulted in the establishment of numerous grants and funds³⁰ for Dutch and foreign researchers, but it is difficult to establish exactly what opportunities are available, especially for people who are not familiar with Dutch institutions.

Instrument of recognition and redress

Colonial archives and documentary collections can also serve as an instrument of recognition and redress, especially when they are used frequently and effectively by people from or with ancestors in the former colonies. Archival research conducted from a range of different perspectives helps us to gain increasing insight into the effect of the colonial system, the injustice that occurred within it and the consequences of that for the former colonised countries, communities and individuals.

The many studies devoted to the history of slavery of recent years clearly show that easily accessible colonial archives can serve as ‘valuable utilities’ that can facilitate the necessary

²⁸ Quoted in Van der Hoeven, 2020.

²⁹ Honings 2021.

³⁰ For example, the €2.8 million made available as part of the NWA programme Research into Collections with a Colonial Context is partly being made available to researchers from source countries, see <https://www.nwo.nl/onderzoeksprogrammas/nationale-wetenschapsagenda/thematische-programmering/onderzoek-naar-collecties-met-een-koloniale-context>.

progress towards the redressing of injustice. That insight can also be of relevance when dealing with colonial archives and documentary collections.

2.3 Scope of the advisory report

In this advisory report, the Council makes recommendations on the way in which central government and ideally also public and private archive custodians should deal with their colonial archives and documentary collections. These recommendations should be seen in the context of redressing the injustice that the Netherlands perpetrated as a colonial power and preventing new injustice that arises as a result of the lasting impact of colonial history. This concerns both injustice in the broadest sense and injustice that relates specifically to the colonial archives and documentary collections.

The report not only addresses the issue of restitution, but also explores other potential ways of putting right injustice relating to colonial archives and documentary collections and preventing any new injustice. This means that its focus goes beyond archives whose provenance may be disputed. After all, communities with a colonial relationship with our country may have justified interests and needs with regard to undisputed archives that are also important historical sources for them. They may, for example wish to see improvements in (the quality of) online accessibility and the ease with which archives and collections may be found, or want to have access points or finding aids in their own languages.

Some of these choices are in response to the request for advice, which was relatively openly formulated. In addition, the specific nature, functions and user value of archives and documentary collections have resulted in the scope of the advice being broadened (see section 2.2).

However wide the definition of colonial archives may be, this does not lessen the fact that the government policy to be based on this advice can only ultimately apply to archives and documentary collections owned by central government and not those owned by other government bodies and private parties. Central government cannot prescribe to other owners and custodians of colonial archives, including municipalities, provinces, public entities, universities, research institutions, the Royal family and other private parties as to how they should deal with them.

Just as in the advisory report *Colonial Collections and Recognition of Injustice*, the emphasis here is on Indonesia, Suriname and the Caribbean islands; areas that were under Dutch control until decolonisation and/or are still part of the Kingdom of the Netherlands. In preparing the report, there were discussions with representatives from Indonesia, Suriname, Aruba, Curaçao St. Maarten, Bonaire, St. Eustatius and Saba. However, the advice in it also applies to colonial archives from and/or relating to other areas where the Netherlands exercised colonial power.

By way of addition to the advisory report *Colonial Collections and Recognition of Injustice*, it should be noted that colonialism already existed in the early modern period (late fifteenth to the eighteenth century). The expansion from the end of the sixteenth century should also be considered as colonial activity. During that period, the States General and other government bodies, such as the stadholder, the states, cities and admiralties outsourced 'sovereignty' to

the VOC, WIC (West India Company), patroonships and other colonial organisations.³¹ This means that the associated archives and documentary collections from the early modern period are also within the scope of this advisory report.

The limits of the scope of this advisory report with regard to the period to which colonial archives relate necessarily vary according to the country or area and are generally fluid. In any case, the time limit not only depends on the period in which the Netherlands was the colonial power in a specific country or area, but also on the pace at which and the extent to which relationships between the former colonies were decolonised. During the discussions held by the Council for the purposes of this report, the representatives from the countries and public entities of the Caribbean parts of the Kingdom made it clear that, in their view, colonial relations persist to the present day. They remain, even for their more recent history, partly dependent on sources that are in the Netherlands. For example, the archives of the central government bodies active in the Caribbean Netherlands are the responsibility of Dutch ministers and mostly still managed in the Netherlands. But other types of more recent archives, such as audiovisual materials about the Caribbean countries and islands which are plentiful in the Netherlands, are also of importance for the identity of the communities there. This is why Aruba is already collaborating with the Netherlands Institute for Sound and Vision. This is discussed further in section 6.3.

This can also be expected to be a factor in other places, although it was not explicitly raised in every conversation. Although independence from the colonial ruler may mean an immediate change in the constitutional position, the decolonisation of mutual relationships is a long-term process. For this reason, archives from the period after decolonisation that relate to these relationships and that process can also be seen as colonial archives and of relevance as sources for the history of a country or area.

In the event that opinions differ among stakeholders with regard to the limits of the term ‘colonial archives and documentary collections’ in terms of time, the Dutch government will need to be willing to look and listen openly.

3. Archivistic and legal frameworks

3.1 Principles for handling archives

Mindful of the specific nature of an archive as a whole that develops as a byproduct of the day-to-day activities of an archive creator, archivists across the world apply the following principles for dealing with archives:³²

- *The principle of original order* (structuurbeginsel). This implies that an archive’s structure as historically determined must not be disrupted and if necessary must be reinstated.
- *The respect des fonds principle* (bestemmingsbeginsel). This follows on from the principle of original order and means that each archive record should belong to the

³¹ Allen, 2023.

³² *Lexicon van Nederlandse archieftermen* (1983).

archive for which it was intended by virtue of its nature and to which it must be returned, where appropriate.³³

- The principle of archival integrity or functional pertinence (*overgangs- of successiebeginsel*). This follows logically from the ‘respect des fonds principle’ and means that if part of the tasks of an administration or person is transferred to another administration or person, the contents of the archive should also be transferred.

These principles are products of the nineteenth century; they are based on the views of officials from Western countries who firmly believed in the ideal of the nation state, which in many cases was also a colonial state. Classic archival science, the study of structuring and describing archives, is also an emotionally-charged construct and definitely not free of values. This suggests there are good reasons for adopting a critical approach to the principles of archival science in the context of this advisory report.

At the same time, it is important to acknowledge that these principles are of relevance in enabling an understanding and interpretation of colonial archives. As explained in the previous sections, the way in which an archive creator organises information is an essential part of the task and potentially also the power that they exercise. In order to understand how that operated, it is important for the original order and cohesion to remain recognisable since this is also a source of information.

For this reason, the Council has deliberately attempted to adhere to these principles, without allowing them to become prescriptive. The Council does *not* consider these principles to be applicable to documentary collections, since the way in which collections are formed is not comparable to the process of forming an archive and the informative value of a documentary collection resides mainly in the information in the documents included in it.

3.2 Legislation

In its advisory report *Colonial Collections and Recognition of Injustice*, the Council argued that dealing with colonial cultural heritage objects is an ethical rather than a legal question. The Council is maintaining this view in the present advisory report. Even when, from a legal perspective, the Netherlands may be in the right with regard to its colonial archives and documentary collections, there can also be ethical reasons for making changes to the way in which these materials and/or the countries, communities and individuals that have an interest in them are dealt with. Of course this does not obviate the need to take account of any legislation that applies in this area.

Public Records Act (Archiefwet)

The Public Records Act 1995 applies to government archives and private archives that are included in a repository as defined in the Act. The Act applies a definition of the term archive records (*archiefbescheiden*) that reflects the principles outlined in section 3.1:

³³ The ‘respect des fonds principle’ (*bestemmingsbeginsel*) also incorporates the older term ‘provenance principle’ (*herkomstbeginsel*), where provenance refers to the archive to which a record was intended to belong ‘by virtue of its nature’. In discussions about colonial guides, the Dutch term *herkomstbeginsel* is still used regularly, but generally refers to ‘geographic provenance’. It should be emphasised that, when used in that sense, the term is *not* one of the principles of archiving that form the basis for the way in which archives are dealt with worldwide.

1. records in any form whatsoever received or created by an administrative authority which, by their nature, are designed to be kept by that authority;
2. records in any form whatsoever, which have been received or created by an institution or person whose rights or duties have passed to an administrative authority and which, by their nature, are designed to be kept by that institution or person;
3. records, in any form whatsoever, which, pursuant to agreements with or decisions or bequests by institutions or persons, or on another basis, are kept in repositories;
4. reproductions, in any form whatsoever, which, by or pursuant to Act of Parliament, have been substituted for the records referred to at 1, 2 or 3 (...).³⁴

Section 1 (c), as quoted above, shows that the principle of archival integrity is supported by legislation; archives can transfer from the original creator to a (different) government body if the rights or duties are transferred to that body. The law does not specify whether this must be a Dutch government body.

The law allows for reproductions to substitute the original archive records. This provides opportunities for dealing with colonial archives, where the physical repository for the originals and the way in which the digital reproductions are dealt with can be the subject of dialogue and negotiations.

The Public Records Act 1995 also specifically refers to the issue of alienation: ‘Our Minister may not alienate records kept in a state repository other than in order to implement a regulation laid down by Act of Parliament or with the authorisation of the person on whose instructions the records were transferred.’³⁵ This implies that, in principle, it is possible for colonial archives kept in a repository as referred to in the Public Records Act to be relinquished or returned to source countries of colonial archives.

Heritage Act

Archives and documentary collections that are not subject to the Public Records Act but do belong to the national collection, for example the collections of several university libraries and former state museums, are instead subject to the Heritage Act (*Erfgoedwet*). Not all archives and documentary collections held in the collections of university libraries and former state museums are to be considered as part of the national collection. However, it is not always very easy to draw the distinction and further research is required in many cases. In principle, the Heritage Act offers possibilities for the alienation of objects in public

³⁴ Public Records Act 1995, Section 1(c), see <https://wetten.overheid.nl/BWBR0007376/2022-05-01>. The new Public Records Act, currently under preparation, includes the same definitions, although they may be worded differently and/or included in different sections, see

<https://www.rijksoverheid.nl/documenten/kamerstukken/2021/11/18/archiefwet-2021-wettekst-met-mvt>

³⁵ Section 8, subsection 3, see <https://wetten.overheid.nl/BWBR0007376/2022-05-01#HoofdstukII>. The new Public Records Act maintains this provision in Section 9 of the draft legislation, see

<https://www.rijksoverheid.nl/documenten/kamerstukken/2021/11/18/archiefwet-2021-wettekst-met-mvt>.

Articles 2, 7 and 8 of the Public Records Decree (*Archiefbesluit*) provide further rules that should be taken into account in the event of alienation, such as an assessment of the value of the archive records, the involvement of a number of officials with specific expertise and authority, the reporting of the way in which this involvement took effect and the recording of the details of what is being alienated and the arguments that justified this. See <https://wetten.overheid.nl/jci1.3:c:BWBR0007748&z=2020-01-01&g=2020-01-01>. In the new Public Records Decree, which is subject to an internet consultation until 9 February 2024, these rules remain partially in force; the alienation procedure is being slightly simplified.

ownership. This must be assessed on a case-by-case basis to establish which protective regime applies and which procedure should therefore be followed.

4. International views and developments³⁶

Because of their information value and as an instrument and symbol of power, archives have long been the target of theft and looting in conflict situations. Despite this, the debate about the handling of looted archives is relatively new. Until 1940, common law applied in this area, which ultimately meant the following:

- The state that is the legal predecessor passes on to the state that is the legal successor the documents required to enable sovereignty to be exercised and administrative continuity to be guaranteed. Where necessary, archives are duplicated.
- Archives dating from the period when a state was a dependency are returned when a state becomes independent again.
- Archives that have been looted and removed in a war are returned to the state that is the legitimate owner when hostilities cease.
- The archives of the occupier's temporary military administration remain the property of this occupying power.

In the wake of World War II, as a consequence of decolonisation, new issues arose for which there were no historical precedents and for which common law proved inadequate, partly because in many cases it involved areas where there was no state prior to colonisation. UNESCO and the International Council on Archives (ICA) therefore began work in the 1970s to develop principles from international law that could be used to resolve conflicts and discussions about shared, displaced and/or disputed archives. In 1980, the UNESCO General Conference was unanimous in adopting the proposals³⁷ to that effect:

- The principle of *sovereignty with retroactive effect*: archives created by administrations and institutions charged with the management and governance of the territory that has become a new independent state are transferred to the new state.
- The *respect des fonds or provenance principle*: the archives of one archive creator must remain as an indivisible, organically formed unit under the management of that archive creator or their successor.
- The principle of *functional pertinence*: after a change of sovereignty, the transfer of power and responsibilities must be accompanied by the transfer of archives required to guarantee administrative continuity. This is the only argument to depart from the *respect des fonds* principle.
- The principle of *shared heritage*: if the archives were produced by an administration which has legal successors spread across different states and the archives therefore belong to the national heritage of different countries, the original archives are stored in one of the countries involved, where their safety is guaranteed. All of the countries

³⁶ The contents of this Chapter are derived largely from Keckskeméti, 2022. Keckskeméti was the driving force of the work that the International Council on Archives did on this matter in the 1970s and 80s.

³⁷ Report 20C/102 from the DG of UNESCO, <https://unesdoc.unesco.org/ark:/48223/pf0000028772>

concerned must have equal access and have and be able to exercise moral rights of ownership.

- The *right to historical continuity*: in the application of the above principles, the starting point must be that every national community has a right to an identity derived from its history. National communities therefore also have a duty to help each other in their search for this history. Access to archives is essential in that.

However, efforts to have these principles enshrined in international law proved unsuccessful.³⁸ The issue descended into international deadlock.

In 1995, the ICA made a further attempt to make progress on this issue, with a new Position Paper.³⁹ Remarkably, this left even less room for restitution than the UNESCO paper from 1980. According to the Position Paper, the basis for solutions to shared, displaced and/or disputed archives was to be found in:

- The *inalienability* of public records: the transfer of ownership of government archives especially in the case of succession of states can therefore only occur through a legislative act of the state that created them.
- *Provenance and respect for the integrity* of the archival fonds: an archive must not be divided up and an archive institution must not acquire archives that belong elsewhere.
- The *right of access and the right of reproduction*: archives that should be regarded as common heritage are stored in one of the countries concerned and the other countries concerned and their citizens have the right to access and reproduce the materials.
- *Equity in international cooperation*: the parties involved must resolve problems concerning access to shared, displaced and/or disputed archives through mutual agreement and in a spirit of fairness and mutual respect.

After 1995, the ICA again fell silent on this theme, although, in 1996, the organisation did establish an Ethical Code for archivists⁴⁰ which included the provision that the professional group should cooperate in the repatriation of displaced archives.

In spite of the lack of consensus with regard to an international legal and/or operating framework, many questions concerning colonial archives have been resolved in recent years. For example, the Netherlands reached agreement with Suriname, as South Africa did with Namibia, Australia with Papua New Guinea, Denmark with the Virgin Islands and Iceland, France with South Korea, Belgium with Rwanda. In many cases, these arrangements revolve around sharing (digital) reproductions and access information and in a small number of cases, original archives or records have also been transferred to the former colonies, sometimes transferring ownership, sometimes on loan.⁴¹

Although the latter may not at first glance seem to be a very satisfactory solution, it can have quite a positive effect. When South Korea had archives returned on loan from France in 2011,

³⁸ Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, 1978.

³⁹ https://www.ica.org/sites/default/files/ICA_1995_Reference-Dossier-on-Archival-Claims_EN.pdf

⁴⁰ See the final sentence of Article 2 of this code, which can be found at https://www.kvan.nl/wp-content/uploads/2021/12/ICA_1996-09-06_code-of-ethics_EN1.pdf

⁴¹ Van Beurden, 2022.

this was greeted by official ceremonies and parades. The improved accessibility of these archives resulted in a great deal of new research by South Korean researchers.⁴²

In 2018-2019, the ICA's Expert Group on Shared Archival Heritage completed an assessment of the status quo with regard to shared, displaced and/or disputed archives.⁴³ This study not only involved colonial archives. It evoked a limited response. There was no response from the Netherlands, Indonesia, Suriname or the Caribbean parts of the Kingdom. This lack of response can be interpreted in many ways: that dealing with shared, displaced and/or disputed archives is either of little relevance or actually a major and/or sensitive issue; that countries still lack sufficient information in order to determine whether there are issues; that the countries in question are so preoccupied by urgent challenges of a primary nature that there is no room to focus on issues of this kind.

In eight of the 17 colonial cases in this study, countries stated that they would prefer to have the physical archives returned. In only two of these eight cases did the countries in question state that the provision of (digital) copies could not be considered to be a satisfactory alternative solution. But that is no reason to suggest that restitution of archives is no longer an issue in the present day. There remains a power imbalance between the former colonial rulers and the source countries. While a willingness to make do with copies may be a sign that the return of the originals may not be such a priority, it can also mean that the countries believe that is all that is on offer when they might perhaps prefer something else.

5. Colonial archives present in the Netherlands and how they are dealt with

From the start of the seventeenth century, the Dutch maintained an active presence worldwide as traders, colonists and occupiers. In Asia, the Netherlands consequently not only shares history and sources with Indonesia, but also with Bangladesh, India, Japan, Malaysia, Myanmar, Sri Lanka, Taiwan, Thailand and Vietnam. In Africa, the Netherlands has links via colonial history and archives with Angola, Equatorial Guinea, Gabon, Ghana, Côte d'Ivoire, Cameroon, Madagascar, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Sao Tomé and Príncipe, Senegal, St. Helena and South Africa; in the Middle East with Yemen and Iran. In North and South America, the Netherlands not only has links with Suriname and the Caribbean islands, but also Brazil, Canada, Guyana, the Virgin Islands and the United States. There is even a link with Australia.

The numerous archives and documentary collections that bear witness to this are not only of importance for the Netherlands or for the countries that were under its sovereignty, but also for the countries where it exercised colonial power in other ways (e.g. through trade or missions), as well as their inhabitants, the diasporic communities with roots in these countries and their descendants. We still have insufficient awareness of the perspective and interests of all of these stakeholder communities worldwide, in the former colonies and beyond. This is why it is necessary to clarify which sources are of value to whom and to enable these countries and communities to engage with them.

⁴² Cox, 2017.

⁴³ <https://www.ica.org/en/disputed-archival-claims-an-international-survey-20182019>.

Spread across the Netherlands, there are colonial archives in collections held by regional historical archive centres, municipal archives, regional archives, archives based around specific themes, university libraries, scientific research institutes, museums and possibly still by archive and collection creators. However, it is impossible to provide any comprehensive overview of what is where, its provenance or its subject.

Searching for the names of former colonies on www.archieven.nl, a website that provides access to the collection data of 90 Dutch archive institutions, results in large numbers of hits spread across dozens of mainly local and regional repositories, more than 2,300 for the keyword 'Indië' (East Indies), 725 for 'Suriname', 325 for 'Curaçao'. This gives an indication of the extent and spread of colonial archives in our country.

There is no doubt that the National Archives holds the largest collection of colonial archives. As the central government's archive repository, it includes archives relating to the former Ministry of Colonies, archives from the Dutch colonial rulers in various former colonies, archives from sections of the Dutch Armed Forces that were deployed in the former colonies and parts of the current Kingdom and archives of the Dutch East India Company (VOC, nationalised in 1795). In addition, large numbers of highly diverse archives established by people, companies and other private actors have found their way into the National Archives, such as the archive of the last governor general of the Dutch East Indies, H.J. van Mook, the archive of the Batavia electric tram company (*Electrische Trammaatschappij*), the Netherlands Trading Company (*Nederlandse Handelsmaatschappij*), La Prosperité Plantation in Suriname and the Foundation for the Promotion of Dutch Investments on the Antilles (*Stichting tot bevordering van Nederlandse investeringen op de Antillen*).

The National Archives website features a number of special pages devoted to aspects of colonial history and countries where the Netherlands had a long-term presence as colonial ruler. Researchers are referred to the relevant archives and given tips and tools to work with them. The Indonesia page mentions the presence in The Hague of more than 700 archives about the former Dutch East Indies.⁴⁴ The National Archives have around 750 archives, much of them in digital format only since the original records were returned to Suriname in 2010 and are managed there (see sections 6.2 and 7.3 on this subject).⁴⁵

The principles for dealing with archives may raise expectations that provenance research into archives is easy; that records are kept together that belong together, that they are kept where they should be kept and that it is clear who the owner is and by virtue of what legal title (transfer, gift, deposit) an archive is present at the institution managing it. The reality is less predictable. A brief online search conducted in preparation for this advisory report in order to gain an impression of the custodial history of the government archives from former colonies present in the Netherlands revealed that colonial archives have not been dealt with especially consistently, including in relation to the principles set out in section 2.3.

Introductions at archive access points occasionally provide information about the provenance and custodial history of the archive in question: where it started, what records have remained and where, how and by whom the archive was described, (re-)structured and

⁴⁴ <https://www.nationaalarchief.nl/onderzoeken/zoekhulpen/indonesie-1602-1962>. It is also mentioned that *Arsip Nasional Republik Indonesia* holds 17 km of archives from the period 1610-1949.

⁴⁵ <https://www.nationaalarchief.nl/onderzoeken/zoekhulpen/suriname-o>

made accessible. These descriptions often provide no insight into the sensitive and potentially problematical aspects of the way in which colonial archives found their way to the Netherlands. The picture that emerges from this is that the decisions made about these archives were often arbitrary, dictated by circumstances and at times poorly substantiated. This becomes clear in the next chapter as we examine several specific cases. At many access points, information about provenance and custodial history is largely or totally lacking. Moreover, on occasions cataloguers and custodians fail to acknowledge the colonial nature of church and other private archives and documentary collections, for example, and therefore do not describe or interpret it.

In recent years, the National Archives has applied an active digitisation policy, prioritising the most frequently-consulted sources. In that process, a significant portion of the colonial archives have been digitised, but there is still a lot of work to be done. Since the most frequently-consulted sources have now largely been scanned, this has begun to make digitisation possible based on other criteria. This opens up opportunities for meeting the needs of the former colonies. The Council has no overview of the extent to which other Dutch archive institutions have already digitised their colonial archives.

The National Archives and other Dutch archive institutions face a further major challenge with regard to digital access to colonial archives. While most digitised archives can be searched online by means of digital inventories and other finding aids, if colonial archives are to be made accessible and usable in a balanced and fair way, further measures will be necessary. This could include improving existing access points in order to reveal multiple perspectives and provide insight into the internal and external structures that are necessary in order to properly understand the archives; where possible avoiding the use of hurtful language or providing context for it at access points; translating the access points into the language of the communities who have a stake in the archives concerned.

Some archive institutions are already aware of this task and in the process of working on it. Since 2020, for example, the Netherlands Institute for Sound and Vision has been a partner in the international research project Decolonising South East Asian Sound Archives.⁴⁶ In this alliance of academics, archivists, activists and artists from Southeast Asia and Europe, existing views about heritage are being brought into question. Efforts are also being made to identify ways of democratising heritage management and enabling access to Southeast Asian collections held in Europe with the help of researchers from the source countries working in the Netherlands in the context of a fellowship.

6. Archive relationships between the Netherlands and the former colonies: facts, views, interests and priorities

Even during colonial rule and in the wake of decolonisation, there were discussions about the most appropriate location for and control over colonial archives. At that time, the Netherlands transferred or returned many of the colonial record creators' archives to new independent states. This resulted in worldwide cooperation between the former colonies and the former coloniser with regard to the custody of and access to shared historical sources.

⁴⁶ <https://www.decoseas.org/>

In order to develop new policy for dealing with colonial archives, it is important to take lessons from practice so far; to continue what contributes to redress and prevention of injustice and to change what is preventing redress or causing renewed injustice. For this reason, this chapter includes a brief description of the archive relationship of the source countries up to the present day and assesses the views, interests and priorities of these countries in broad outline. For this purpose, the Council held conversations with administrators and officials responsible for the (colonial) archives in Indonesia, Suriname, Aruba, Curaçao, St Maarten and the Caribbean Netherlands. During the phase of policy development based on this advisory report, these and other countries and areas concerned must be involved on an equal footing.

6.1 Indonesia

Archive relationship between Indonesia and the Netherlands

The administrative archives created in what was then the Dutch East Indies were largely transferred to the Indonesian government by the Dutch government following the transfer of sovereignty in 1949. Around 17 km of archives created by the Dutch remained in Indonesia, much of it VOC materials. The fact that there were good facilities available played a part in this decision. In Jakarta, the colonial administration had established a National Archive that formed the basis for the Arsip Nasional Republik Indonesia. Despite this, as described in Chapter 5, the Dutch National Archives also has a large number of archives from and about the former Dutch East Indies.

Informal cooperation relating to archives quickly established itself between the two countries after independence. Dutch archivists took photographs of ‘Dutch’ archives that had remained behind in Indonesia; the Indonesian government received prints of them.⁴⁷ In the late 1960s, the cultural cooperation was formalised⁴⁸ and there were talks about the return, exchange and reproduction of archives. One concrete result of this was the return of the Nagarakretagama manuscript by Leiden University Library.⁴⁹ In 1975, the Netherlands and Indonesia agreed to return more archives to each other. The plan was for administrative archives from the former Dutch East Indies, from the Japanese military power and the young republic to return to Indonesia and the VOC archives to return to the Netherlands. In practice, however, very little of this happened. Most archives remained where they were.⁵⁰ However, from 1975, there was a phased return of a very small portion of the archive records seized by the Netherlands Forces Intelligence Service (NEFIS) in 1948 in Yogyakarta. Most of the returned records were part of government archives of the young Indonesian Republic.

The remaining thousands of records from this archive described in the inventory under the description ‘looted and found’⁵¹ are still in the Netherlands and remain the subject of debate

⁴⁷ Letter from the Government Commissioner for Indonesian Affairs on behalf of the Minister of Foreign Affairs (BuiZa) to the Minister of Education, Arts and Science (OKW), dated 19/1/1955 (NA, Archief MinBuiZa 1955-1964, inv.no. 13156).

⁴⁸ <https://wetten.overheid.nl/BWBV0004208/1970-01-08>

⁴⁹ Van Beurden, 2022. This manuscript has had UNESCO Memory of the World status since 2013, see <https://en.unesco.org/memoryoftheworld/registry/277>

⁵⁰ Van Beurden, 2022.

⁵¹ See Karabinos, 2013. The NEFIS archive inventory referred to is <https://www.nationaalarchief.nl/onderzoeken/archief/2.10.62>, section 5.1. Remarkably, this inventory makes no reference to this return; as such, the description of the custodial history is incomplete.

to this day. For example, the inclusion of copies of some of these archives in the Indonesia Exhibition held at the Nieuwe Kerk in 2023 elicited much criticism, especially from the Indonesian community in the Netherlands.⁵² In the same period, in anticipation of the Council's advice, member of the Dutch House of Representatives Sjoerd Sjoerdsma submitted a motion calling for the return of the remaining looted records from the NEFIS archive. This was passed with a large majority.⁵³

There is an online list available of the archives from and about Indonesia in the Dutch National Archives. There are very likely to be other archives present in other Dutch archive institutions that concern and/or are of interest for Indonesia, the Indonesian population and Indonesian communities worldwide, but no overview of them exists.

Indonesia's views, interests and priorities

The fact that Indonesia has freed itself of the colonial yoke colours the Indonesian attitude in discussions about the handling of colonial heritage and colonial archives: self-confident, with a focus on justice and cooperation on an equal footing in the present rather than on redressing historic injustice.

The now decades-old habit of mutually sharing reproductions and knowledge is being fully continued into the digital age to the satisfaction of both parties. The Netherlands and Indonesia are frequently cooperating in digitising and making digitally accessible shared archives in both countries. The focus has so far primarily been on the archives of the VOC, much of which are to be found in Indonesia. The total size of the VOC archives is huge and are estimated to include 25 million documents. Especially combined with the complexity of creating the archive and the language barrier faced by non-Dutch users of this archive, making it digitally accessible is an enormous challenge, in which the Netherlands, Indonesia and other stakeholder countries are extremely reliant on each other for success.

Indonesia feels that it is important for any future cooperation with the Netherlands on archives to focus on documents and/or archive records seized by the Dutch authorities and military during the Indonesian war of independence between 1945 and 1949. These are considered to be a crucial part of Indonesian history.

Positive prospects for digitally accessible colonial archives

The Huygens Institute, the International Institute for Social History, the Digital Infrastructure department of the Royal Netherlands Academy of Arts and Sciences, Vrije Universiteit, the University of Amsterdam and the National Archives are collaborating on the GLOBALISE project that aims to make it easier to research the huge and complex corpus of VOC archives. This project is applying automatic handwritten text recognition and historical and semantic contextualisation methods to the sources, enabling all kinds of probing

⁵² In June 2023, the General State Archivist commented on this commotion and declared and defended the decision to give what she herself described as illegitimately obtained records on loan, see <https://www.nationaalarchief.nl/onderzoeken/nieuws/reactie-algemeen-directeur-nationaal-archief-afelonne-doek-op-berichten-over>. In September 2023, the Nieuwe Kerk decided not to include these records in the exhibition in their original form, but instead to use copies and to do so only with the permission of the legitimate owners, see Groenewoud, 12 September 2023. Ultimately, in October 2023, it emerged that there were copies on display for which permission had not been granted, see Groenewoud, 21 October 2023.

⁵³ Motion of 14/6/2023, Parliamentary Papers 26049/102, <https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2023Z10851&did=2023D26027>

investigation and analysis. The project aims to make these layers of annotation as balanced as possible, with minimum impact from historical bias and significant focus on avoiding modern bias. GLOBALISE aims to deliver an open system that can be freely used and further developed by other stakeholders and interested parties. Users can adapt it for the purpose of their own research, for example by adding their own layers of context.⁵⁴

6.2 Suriname

Archive relationship between Suriname and the Netherlands

In 1915, the Dutch colonial administration in Suriname⁵⁵ decided to move its archives to the Netherlands when they were at risk of becoming degraded because of poor storage conditions in Suriname. These archives also remained there long after Suriname's independence. From the end of the twentieth century, Suriname was successful in creating better conditions for archive storage: a new storage facility, public records legislation and a team of expert archive staff. In 2006, Suriname issued a public claim for the return of its archives. The legitimacy of this claim was never disputed by the Netherlands. Any other option would have been difficult in any case because, when agreeing to the transport of archives to the Netherlands in 1915, the Governor of Suriname had explicitly made this conditional on the archives 'remaining the property of the colony'.⁵⁶ Despite this, it took a long time for both countries to reach agreement on the conditions for return.

As pointed out in Chapter 5, there are numerous archives in the Netherlands that may be of relevance for Suriname, the Surinamese population and the Surinamese people spread across the world. A list is available of those that are held in the National Archives,⁵⁷ but the same cannot be said of other archival institutions in the Netherlands.

Suriname's views, interests and priorities

The cooperation between the Netherlands and Suriname with regard to archives is intensive and to some extent serves the country's own interests and priorities. In a Memorandum of Understanding in 2021 both countries agreed that, in the period 2021-2024, they would work to continue the digitisation of archives in both Suriname and the Netherlands, focus on professional development of archive staff at the National Archives of Suriname, provide reciprocal support on projects and activities relating to the Caribbean region and other countries together with technical support for the expansion of the National Archives of Suriname storage facility.⁵⁸

Suriname takes the view that this cooperation could be made more equal if it had an overview of the Surinamese and Suriname-related archives present in the Netherlands, both on paper

⁵⁴ https://globalise.huygens.knaw.nl/project_overview/

⁵⁵ Colonial administration of 22 December 1915.

⁵⁶ Ministerial proposal from the Minister of Colonies for the colonial administration of 22-12-1915, NA, Inventory 2.02.14 from the archive of the Queen's Office, no. 6128 of that.

⁵⁷ <https://www.nationaalarchief.nl/onderzoeken/zoekhulpen/suriname-o>

⁵⁸ <https://cds.gov.sr/de-boodschap/nationale-archieven-suriname-en-nederland-bestendigen-samenwerking-opnieuw/> and <https://internationalheritage.dutchculture.nl/en/news/suriname-dutch-surinamese-national-archives-renew-cooperation> The cooperation covers such areas as the digitisation of archives in both Suriname and the Netherlands, the professional development of the NAS archive staff, reciprocal support on projects and activities relating to the Caribbean region in other countries and technical support for the expansion of the NAS storage facility.

and on other media, such as audiovisual materials. This would enable the country to make choices reflecting its own needs and interests, for example with regard to the question of whether the country would like to see more archives returned. Rather than being government archives, these are more likely to involve private archives, such as those of the Evangelical Brotherhood (Moravian Church). There is a desire for the Netherlands to provide space and support for such requests and create the conditions needed to enable forms of redress of this kind.

A good, comprehensive overview of archives will also enable Suriname to set its own priorities and make progress in such areas as digitisation, digital access and the enhancement and improvement of access points through the addition of a Surinamese perspective that is lacking in many cases. In this context, Suriname is also calling for the establishment of and/or access to research programmes and fellowships for researchers from the former colonies and the removal of barriers for researchers.

6.3 Caribbean parts of the Kingdom

Archive relationship between the Caribbean countries and islands and the Netherlands

The administrative archives of Curaçao, Bonaire and Aruba (1707-1828), the archives of the Orphans and Estate Chambers (*Wees- en Boedelkamers*) on these islands and those of several banking companies and notaries were transferred to the Netherlands ‘in the wake of the Surinamese archives’ in 1915 and included in the General State Archive. Between 1916 and 1935, archives from the ‘Windward’ islands of St. Eustatius, St. Maarten and Saba dating to around 1828 were gradually transferred to Curaçao in order to be brought to the Netherlands from there. However, many of these remained on Curaçao. Only a portion of them were shipped to the Netherlands from there. Most of these were also archives of administrative bodies and orphans and state chambers. These archives have now been partly digitised and made digitally accessible.

It is unclear why it was also deemed necessary to transport these Caribbean archives to the Netherlands. The conditions for archive storage in Curaçao at least were seen as being much more positive than those in Suriname.⁵⁹ At the time, unlike the Governor of Suriname, the authorities in these islands made no claim of ownership of the archives that were to be shipped. This does not mean that the administrations on these islands and countries cannot claim ownership of these archives or parts of them. It may be that a precedent has been set by the return of the Surinamese administrative archives and the Dutch willingness in 1949 to transfer its colonial administrative archives to the Independent Republic of Indonesia.⁶⁰

⁵⁹ In the introduction to the inventory, see <https://www.nationaalarchief.nl/onderzoeken/archief/1.05.12.01>, it says that, in 1900, an official from the General State Archive had determined that Curaçao was home to an ‘orderly building’ made of stone erected in 1890 that met the conditions required at that time for an archive storage facility in a tropical climate and in which there was still sufficient space to last for years.

⁶⁰ Van Dijk and Tjien Fooh (2022), pp. 291-292. In this article, the manager in charge of the project to return Surinamese archives from the National Archives writes that, in his view, although a return of archives to Suriname would be more difficult without a written claim of ownership, it would still also be successful. In saying this, he referred to the fact that a precedent had been set by the way in which the Netherlands had acted at the time of the transfer of sovereignty to the Indonesian government. The action taken by the Netherlands is also in line with international views on the handling of disputed archives as described in Chapter 4.

The Information and Heritage Inspectorate (OI&E Inspectorate), charged with the supervision of archive management on Bonaire, St. Eustatius and Saba, expressed criticism in 2019 with regard to the fact that many recent archives of government institutions operating on these islands fall under the Netherlands duty of care and are located in the Netherlands, even though these archives are mainly of significance for the islands. It recommended investigating whether it would be possible to transfer the archives concerned to somewhere closer to the place or places of provenance. The OI&E Inspectorate called for a systematic island-based approach and schedule focusing on such areas as the establishment of a safe archive space where citizens can access heritage and for old archives to be processed and preserved.⁶¹ Currently, the three public entities do not have the necessary resources, facilities, capacity and expertise to achieve this, although it is required in accordance with the BES Public Records Act.

In 2022, the Dutch Ministry of Education, Culture and Science (OCW) and the public entities of the Caribbean Netherlands signed a covenant agreeing that there should be intensified cooperation in the field of archives and the implementation of the Inspectorate's recommendations should be facilitated.⁶² The agreements reached in the covenant included that:

- with support from the Dutch National Archives, the public entities will work to develop storage places for paper archives;
- in cooperation with the national archives of the Netherlands and Curaçao, progress will be made in the digitisation of archives;
- the Netherlands and the public entities will collaborate in ensuring that digital archive materials can be found via a web service and consulted by island inhabitants.

Contrary to the recommendations of the OI&E Inspectorate, the covenant does not call for the return of the (recent) archives originating from the islands that remain in The Hague.

On Curaçao, the State Archive Ordinance 2007 (*Archieflandsverordening 2007*) applies, the thrust of which is very close to Dutch legislation on archives. This ordinance also regulates the powers and responsibilities of the general state archivist and the National Archives of Curaçao, a well-equipped archive service established in 1969.

In 2022, the National Archives of Curaçao and the Netherlands signed a Memorandum of Understanding, agreeing to investigate the circumstances in which a tenant account can be established for the e-Depot of the Dutch National Archives to enable the long-term management and consultation of archives managed by the National Archives of Curaçao. This investigation will also cover the digital archive records of Aruba, St. Maarten, Bonaire, St. Eustatius and Saba, that are under the management of the National Archives of Curaçao.⁶³

On Aruba, the Archivo Nacional Aruba, responsible for the preservation, care and conservation of archives of historical value for Aruba has existed since 1994. The country has no public records legislation. The Archivo Nacional Aruba has joined forces with the

⁶¹ <https://www.inspectie-oe.nl/publicaties/rapport/2019/06/12/rapport-archiefwet-bes>

⁶² Covenant with the public entities, dated 27/9/2022, see:

<https://www.rijksdienstcn.com/documenten/beleidsnotas/ocw/cultuurconvenant/2022-2025/index>

⁶³ <https://dossierkoninkrijksrelaties.nl/2022/09/27/nationale-archieven-curaçao-en-nederland-gaan-samenwerken/>

Biblioteca Nacional Aruba and the Union di Organicasionnan Cultural Arubano in taking the initiative to establish the open digital platform Coleccion Aruba. In it, the partners are making the country's cultural heritage, including colonial archives, available online via The Internet Archive.⁶⁴

In recent years, the Dutch National Archives has been attempting to digitise Aruban archives that were brought to the Netherlands at the start of the twentieth century. On 1 July, these digitised archive records – 70,000 scans – were made digitally available to the Archivo Nacional Aruba. Both organisations see this as a first step towards the continuous sharing of scans and data within the Kingdom. The Archivo Nacional Aruba is able to offer the scans on its own platform, with its own descriptions in Papiamentu and with data that may be of relevance or useful for users, such as references to related archives and geo-references. The scans are also available on the website of the Dutch National Archives.⁶⁵ There has also been collaboration between the Archivo Nacional Aruba and the Netherlands Institute for Sound and Vision relating to audiovisual archives.

Finally, the island of St. Maarten has little in the way of an archive infrastructure. Archive management (contemporary and historical archives) is in the hands of the Records Management Department in the Ministry of General Affairs. There is nothing to be found online about archives on the island. There is also hardly any cooperation concerning archives between the Netherlands and St. Maarten.

There is no overview of the locations of archives from and/or about Curaçao, Aruba, St. Maarten, Bonaire, St. Eustatius and Saba that are in the Netherlands. Archives from and about the small islands in particular may well be located on Curaçao, as stated earlier, although little is known about this.

Shared views, interests and priorities of the Caribbean countries and islands

The Caribbean parts of the Kingdom vary a lot, both in terms of size and population numbers and language and culture. What they have in common is that they are all struggling with their relationship with the Netherlands and the country's attitude, which they continue to experience as colonial. All of the islands take the view that approaching the colonial archives on an equal footing creates an opportunity for permanently improving relationships in the future and facilitating the process of healing and redress. In their view, equality calls first of all for respect, understanding and equal access to information. All of the Caribbean parts of the Kingdom agree that it is essential that archives and documentary collections about the islands currently present in the Netherlands should be made easy to find and should preferably be located on the islands themselves. The fact that no overview exists of these archives forms an impediment to the fair and equal handling of the sources from colonial history that they share with the Netherlands.

Equality also calls for equal facilities for archive preservation and management. From the very outset, it also requires a joint concerted approach to the development of policy and setting up of programmes and projects. This will require both cooperation between the countries and islands themselves and cooperation with the Netherlands. Decisions about

⁶⁴ <https://archive.org/details/aruba?sort=title&and%5B%5D=collection%3A%22bibliotecanacionalaruba%22>

⁶⁵ <https://www.nationaalarchief.nl/onderzoeken/nieuws/koloniaal-archief-aruba-in-digitale-vorm-aangeboden>

objectives, scope and methods of implementation need to be made in consultation and it is appropriate for the Netherlands to adopt a supportive approach to this.

There is a lot of effective collaboration between the islands with regard to archives. Despite their differences, the islands all share a key part of their history and the Netherlands' colonial presence is a unifying factor. Thanks to their shared colonial history, the islands also share many historical sources and are therefore also dependent on each other. Curaçao in particular is home to many archives that are not only of interest and relevance to the country itself. This is partly because during the colonial period the Netherlands operated as an administrative centre for all the islands for a long time, which means that administrative archives on Curaçao are also of relevance for the other islands. Another reason for this is the fact that, as described earlier, archives destined for the Netherlands ultimately remained on Curaçao. In that sense, Curaçao has a similar position and task as the Netherlands with regard to the former colonies when it comes to ensuring the fair and equal handling of these shared archives. For this reason, it is important that policy relating to colonial archives supports, benefits from and enhances collaboration between the countries and islands while respecting their differences.

Bonaire's views, interests and priorities

Bonaire attaches value to usable and accessible archives that are presented attractively. As far as that is concerned, the covenant is considered to have delivered little in the way of results so far. It is important for inhabitants, especially children and young people, to be able to gain a better understanding of their history and culture, understand where they come from and have an insight into the lasting impact of slavery, in order to free themselves from the mental slavery that it results in.

Currently, the island is lacking basic facilities for the management of public records. The intention is to establish an archive storage facility in a new government building. The island will need assistance in realising facilities of this kind.

St. Eustatius' views, interests and priorities

St. Eustatius preserves its archives in the heritage centre known as Heritage Statia. The conditions and facilities there are not optimal. The public entity lacks the staff and resources needed to resolve this itself: support is necessary for this. Statia places the utmost priority on giving island residents access to their heritage and sources concerning their history. The main route towards achieving that will be effective digital access. However, the ultimate return of certain archives is not being ruled out, if facilities for that purpose can be realised.

Saba's views, interests and priorities

Saba has no facilities for the management and storage of archives whatsoever. There is no designated storage facility and no archival expertise on the island. The island government believes that it is important for even the smallest Caribbean island of the Kingdom to have such facilities and cites the above-mentioned covenant in support of its cause. The administrative agreement concluded between Saba and the Netherlands in 2022 includes an agreement to work with the Ministry of Education, Culture and Science in the establishment of an archive on Saba for the preservation of and to provide access to archives from and

about the island.⁶⁶ In this, it is also important to ensure that Saba is given the capability to maintain these facilities.

In the consultation with BZK on the spending of the fund for initiatives to raise awareness of slavery, the island government expressed the wish for research into the history of slavery to be made possible and residents facilitated in their personal quest for their origins and identity. Archives that can be found, are properly digitally accessible and searchable will be an important (and first) precondition for this, and this must take account of the fact that the official language of Saba is English.⁶⁷

In the longer term, there may also be a desire to see certain archives brought physically (back) to the island, but the situation does not currently allow for this.

Curaçao's views, interests and priorities

Curaçao in particular is home to many archives that are not only of interest and relevance to its own country but also to other countries and islands in the Caribbean part of the Kingdom. This is partly because during the colonial period Curaçao operated as an administrative centre for all the islands for a long time, which means that administrative archives on Curaçao are also of relevance for the other countries and islands. Another reason for this is the fact that, as described earlier, archives destined for the Netherlands ultimately remained on Curaçao. With this in mind, investigations will need to be conducted into how the archives on Curaçao could be opened up for the other countries and islands of the former Dutch Antilles.

Aruba's views, interests and priorities

Aruba is eager to expand the Coleccion Aruba digital platform to other Caribbean parts of the Kingdom. Existing cooperation with the Dutch National Archives and with Netherlands Institute for Sound and Vision is greatly valued and it is hoped that this will be continued.

Archives strengthen Aruba's identity and that of its residents and enrich and deepen knowledge of their own history. However, the island lacks the space and human resources to acquire anything other than government archives. On the Caribbean islands and countries, basic heritage facilities have been structurally underfunded. Concerted efforts to change that are seen as desirable.

Aruba needs to have an overview and (shared) control over the archives from and about Aruba in the Netherlands and on the other islands. There are also calls for good access to these archives. Digitisation is seen as the most realistic route to achieve the latter, since Aruba lacks sufficient facilities to include physical archives that are currently being managed elsewhere.

⁶⁶ <https://www.rijksoverheid.nl/documenten/convenanten/2022/07/01/saba-package-20>

⁶⁷ See letter to the Island Council of the public entity of Saba: <https://www.rijksoverheid.nl/ministeries/ministerie-van-binnenlandse-zaken-en-koninkrijksrelaties/documenten/brieven/2022/12/19/brief-met-uitwerking-van-de-kabinetsreactie-op-het-rapport-adviescollege-dialooggroep-slavernijverleden>

St. Maarten's views, interests and priorities

St. Maarten is a young country that is eager to take ownership of its own history. Accessible archives will be an essential part of that process. For this, the country is heavily dependent on third parties, because most (if not all) of the colonial archives from and about St. Maarten are currently located outside the country, not only in the Netherlands, but also on Curaçao, in Suriname, in New York and perhaps elsewhere. The lack of knowledge, human resources, insight and an overview concerning what is where and what information the materials contain are the main obstacles and the first that will need to be overcome in order to enable the country to be able to engage with its colonial history.

St. Maarten deserves special attention for its audiovisual archives, which have been kept in poor conditions since hurricane Irma. Advice and assistance from the Netherlands Institute for Sound and Vision would be very welcome.

If it is to be able to collaborate with the Netherlands in regard to archives on an equal footing, St. Maarten's primary requirement is facilities. Only if that need is met will the country even be able to start thinking about and make known its need for digitisation and digital access to specific archives..

St. Maarten emphasises that aiming to deal more effectively with colonial archives should be separate from its year of commemoration marking 160 years since the abolition of slavery. Dutch colonial history entails an ongoing shared responsibility with regard to colonial archives, wherever they may be located.

6.4 Other stakeholder countries

Since the end of the twentieth century, academic interest in research into the colonial past has been growing. As a result, relationships relating to archives have grown in number with the many other countries where the Netherlands was active as a colonial power.

In 1999, the National Archives and Leiden University launched the Towards a New Age of Partnership (TANAP) programme. This collaborative programme was based on the idea of a shared past and the desire for reciprocal collaboration. In addition to the desire to preserve and optimise the accessibility of VOC archives in the Netherlands, Indonesia, Sri Lanka, South Africa and India, this programme also aims to help equip students from Asian and African countries with the language and other skills required to study these archives in order to write their own history.⁶⁸

In the same period, the world of politics also began to take an interest in heritage relationships with the former colonies. This has resulted in international heritage policy based on the concept of 'reciprocal', 'shared' or 'joint' cultural heritage.

⁶⁸ The databases featuring reconstructions of the archives from the various VOC settlements have been offline since mid-2022. The intention is for these to be made available online again on the National Archives website, but this has still not yet been achieved. This shows how important it is for this kind of initiative to have a permanent funding base that can guarantee its continuity.

In recent years, in its efforts to ensure that ‘the traces of our shared history remain visible for future generations’, the National Archives has run a series of projects as part of the Shared Cultural Heritage Programme (2009-2020) and the International Heritage Cooperation Programme (2021-2024). The current programme also includes cooperation with Australia, Brazil, India, Japan, Russia, Suriname, Sri Lanka, the United States and South Africa. As part of this policy, agreements are being made between the national archives of the countries involved aimed at digitising certain colonial archives in the Netherlands and the associated archives in the former colonies and enabling coordinated access. In many cases, the Netherlands is providing scanning and other equipment for this purpose.⁶⁹

Many of the countries with an interest in Dutch colonial archives still remain outside these kinds of collaborative arrangements. The Netherlands is focusing primarily on those countries where there are colonial archives and with which it is therefore possible to reach reciprocal arrangements.⁷⁰ Although this approach may at first glance appear equal, it is not. It ignores the priorities of countries that themselves may have few Dutch archives or none at all but whose communities do have an interest in and a need for better accessibility to the archives in the Netherlands of which they are a co-owner in a cultural and moral sense.

7. Dilemmas relating to the handling of colonial archives

In common with the international archive community, the Council has discovered just how numerous and complex the dilemmas are when it comes to dealing with colonial archives and documentary collections. The wide range of functions and shared cultural and/or moral ownership of this heritage in particular make the issue complex and challenging to deal with from a policy perspective. This chapter provides examples to highlight and illustrate some of these dilemmas.

7.1 Shared archives, divergent interests

In the case of shared archives and documentary collections, there are, by definition, several interested parties. These interests do not always run parallel. Returning original (records from) archives or documentary collections to source countries may be doing justice to those countries and some of their inhabitants, but this may also conflict with the interests of other population groups and the descendants of colonised peoples who have moved elsewhere in the world, sometimes as a result of the colonial system itself.

‘Displaced’ on request

Certain communities may actually have an interest in the sources of their history *not* being located in the source country. The collection of Leiden University Library (UBL) contains the Kong Koan Archive, which originates from the Chinese Council of Batavia. In the second half of the seventeenth century, this body was responsible for handling civil-law cases and minor criminal cases involving Chinese people, the registration of marriages between Chinese people and the management of Chinese cemeteries, schools and temples. Especially during the Suharto regime (1967-1998), the culture and identity of the Chinese minority was

⁶⁹ <https://www.nationaalarchief.nl/over-het-na/internationale-erfgoedssamenwerking>

⁷⁰ This issue is clearly described in Jeurgens and Karabinos, 2020, see pp. 203-205.

deliberately and systematically undermined in Indonesia. In that period, now around thirty years ago, a researcher from Leiden University was told that the Kong Koan Archive, thought to be lost, was located in a warehouse in Jakarta and was in a neglected condition. In 1995, the Indonesian Chinese community asked the UBL to take over custody of the archive in the Netherlands on the condition that it would be made accessible to researchers worldwide. The UBL honoured this request. The archive was brought to Leiden, given material care, restored, digitised and made accessible. Since 2017, the access point and digitised archive have been online.⁷¹

This example is particularly telling because it involves numerous aspects that must be taken into account in dealing with colonial archives and documentary collections, such as the risk of degradation as a result of inadequate facilities, the risk of destruction or neglect for internal political reasons and the issues of public access and usability for researchers across the globe.

In this case, the principle of transitional justice, referred to in section 1.2, is of particular relevance. Cultural heritage and the right to remember are intrinsic components of human rights. First and foremost, heritage serves the interests of humanity as a whole. Granting rights to heritage to a single state, community or individual can undermine this.

Because colonial archives and documentary collections are shared sources chronicling the histories of different countries and communities, the Council takes the view that, with the exception of colonial cultural heritage objects, the unconditional return of colonial archives and documentary collections is out of the question. A careful weighing of interests will *always* be necessary in order to do as much justice as possible to the interests and wishes of stakeholders who must be considered to be joint owners from a cultural and/or moral perspective. In order to ascertain which countries and/or communities this applies to, provenance research must also be accompanied by stakeholder research.

7.2 The paradox of the principles

The principles described in section 2.2 recognise and protect the value of an archive as a whole, the composition and original structure of which provide an insight into the operations of the creator of the archive. As such, abiding by these principles is important for an understanding of specific archives and archive creators, but also for providing an insight into the operation of the colonial power in general.

At the same time, archival science, the study of the formation and management of archives, is a Western construct that was conceived for the benefit of the governing power and does not necessarily serve the interests of communities. Archives are not neutral. Nor is archival science. There is a paradox at play here: on the one hand, it is important to respect the principles in order to maintain the intrinsic colonial characteristics of colonial archives since this facilitates an understanding of the impact of colonial power. On the other hand, the need to put right injustice may at times necessitate a departure from this. For example, it is possible to envisage a situation in which stakeholders may welcome the return of specific

⁷¹ Blussé, 2017. The digital access point to this archive and the digital reproductions of the content can be consulted via: <https://collectionguides.universiteitleiden.nl/resources/ubl209>

records, but be reluctant to see the return of whole archives. This may be because the management of large archives and collections in terms of funding, staffing and resources may place a heavy burden on a country's already fragile and/or overburdened archive infrastructure. Similarly, there may be a personal document that has found its way into an archive where it does not belong but has great emotional value for descendants who have no interest whatsoever in the rest of the archive.

The voice of Tula

In The Hague, the archives from Curaçao from the period 1707-1828 include Tula's story: the report of the conversation Father Schinck had in 1795 with the leader of the largest slave uprising in the history of the Dutch Caribbean islands. In it, Tula, who was at last officially rehabilitated by the Dutch government in October 2023, explained why he was revolting and what he aimed to achieve. It is the only record of Tula's own words. This makes it a document of great historic importance, both nationally and internationally. There are very few examples of colonial archives in which the voices of enslaved people resonate so loudly and clearly. For Curaçao in particular, this archive record therefore not only has informative value but also significant symbolic and emotional value.

The National Archive of Curaçao is a modern, well-equipped archive institution, but struggles with space, people and resources. In common with other archive institutions worldwide, it faces significant challenges, for example with regard to the durability, visibility and usability of modern digital archives. The organisation cannot do everything that it would wish and has to make some stark choices. As explained in section 6.3, there are good reasons to assume that the Caribbean Netherlands can successfully claim ownership of the archive from which Tula's story originates. It is possible to envisage Curaçao asking the Netherlands for the return of the story only rather than (at this stage) the whole of the archive to which the record belongs, because it is not yet capable of preserving everything in its entirety.

This is another instance where a careful weighing of interests is necessary in all cases. The Council believes that careful account should be taken of the principles of archival science in this case, but that the return of a separate record from an archive must be a possibility if a) a record from an archive is of great symbolic and/or emotional significance for the person or body requesting it and b) it is impossible or not relevant for that person or body to take custody of the entire archive concerned. As stated in Chapter 3, the Public Records Act does not preclude this.

7.3 Digitisation and digital access: redress or renewed inequality?

The speed of digital developments opens up numerous opportunities for archives of the colonial past that are of interest to several countries and communities actually to be shared. Despite this, digitisation and digital accessibility will not meet all of the needs of the countries and communities partially affected. Digitisation is not a satisfactory solution for archive records with emotional or symbolic value, because it is the tangibility of the original that has value as a historical object.⁷² New inequalities can also emerge in the context of digitisation and digital accessibility, possibly relating to funding, control and inadequacies in

⁷² This is something also acknowledged by the general state archivist Afelonne Doek, see <https://ibestuur.nl/artikel/de-emotionele-waarde-van-papier/?tid=TIDP4703982X84618A547D5F479391187E04CF8DDEFBYI5>

digital accessibility. This becomes clear if we take a closer look at the return of the Surinamese archives described in section 6.2; see box.

‘Almost neocolonial’

When Suriname asked for the return of the remaining archives from the Netherlands in 2006, the Netherlands did not hesitate to acknowledge the legitimacy of this claim. Soon afterwards, the Netherlands made the return conditional on the archives first being digitised in their entirety. Suriname thought differently. What followed were negotiations – some of them difficult – about how to deal with the originals, about the management and online availability of digital copies, access points and metadata. It was only in 2018, twelve years after the initial request for return, that the digitisation process and all associated works had been completed and the last Surinamese archive was repatriated.

Director Rita Tjien Foooh of the National Archive of Suriname later described how the Dutch attitude was experienced in Suriname: *‘Although Suriname was of the opinion that duplication of the Surinamese archives was not an activity that fell under the terms of return (...) it was clear what little influence we had in the terms of condition and the timeframe for the return of these archives (...) Suriname’s argument that scientists, researchers and the public in general have been waiting for these archive (sic) for more than 80 years, was destined for deaf ears.’*⁷³ The general state archivist of that time, Marens Engelhard, acknowledged that setting conditions in the way in which the Netherlands had done looked *‘almost neocolonial’*. Despite this, he considered it to be legitimate *‘from the perspective of conservation and therefore based on the idea that these archives are of global importance and we share a certain responsibility for them.’*⁷⁴

The Council takes the view that the recognition of shared cultural and/or moral ownership of a colonial archive or documentary collection must have consequences for control over it. Decisions about the digitisation of a shared archive and the conditions in which that is to be achieved can only be made on an equal footing with the co-owners, in other words, based on accurate and comprehensive information, an open dialogue, joint decision-making and in a spirit of justice and mutual respect.

If digitisation is not accompanied by improvements to the shortcomings (bias, use of language, one-sided or missing contextualisation) in existing accessibility, it can actually contribute to the further dissemination of the colonial perspective on history. In other words, a one-dimensional policy of digitisation and the provision of digital access can enable historic injustice to persist and even lead to the development of new injustice. The available access points and finding aids that mark the start of any search for and in colonial archives and documentary collections have largely been set up from the perspective of the archive creator and therefore the coloniser. Using the existing access points, traces or voices of colonised people that are in these archives can only be found and understood with difficulty. The information recorded in the archives as well as the language used in the (older) access points and indices sometimes serve to confirm colonial views and relationships. This can lead to one-sided or limited perspectives and can even be hurtful and confrontational. The fact that many of the existing access points and aids are available only in Dutch can also serve as an

⁷³ Van Dijk and Tjien Foooh, 2022. The article describes the return from both the Dutch and Surinamese perspectives.

⁷⁴ See *Archievenblad* 2019/8, available at <https://www.kvan.nl/archievenblad/archievenblad-8-oktober-2019/>

obstacle. Some access points completely fail to acknowledge or describe the colonial origin and/or significance and custodial histories are not questioned. If colonial archives are made accessible digitally without rectifying these shortcomings, new injustice will be created from old injustice.

Injustice at access points

Injustice can creep into archive access points all too easily, not as a result of malicious intent, but because of the lack of sensitivity, for example, and too great an emphasis on speed and efficiency and a lack of human resources. In 2020, for example, the National Archives made more than 10,000 wills from the VOC period in the Dutch East Indies accessible via an online finding aid⁷⁵ based on a nineteenth-century index. This only included the names of the men who had the wills drawn up. Even if a will also applied to and had been signed by a spouse, her name was missing from the original index and from the new one. The names of beneficiaries, often from the local population, were also not included. In the project Unsilencing the VOC Testaments, the National Archives is repairing these shortcomings in collaboration with academics.⁷⁶ Nevertheless, on the webpage where the index can be found there is no reference to the shortcomings of the index, the reasons for still using the index are not mentioned and there is no reference at all to the Unsilencing project.

Between 2001 and 2007 as part of the TANAP project (see section 6.4), Indonesian and Dutch archivists worked to make the VOC archives accessible in the Indonesian National Archives in Jakarta. But initially only the introduction to the inventory was published in Bahasa Indonesia, English and Dutch and all other descriptions were only available in Dutch. Since then, the Arsip Nasional has translated the descriptions into Bahasa. For the other countries in the area where the VOC was active, language remains an obstacle for the time being.

On the other hand, a careful approach to digital access achieved through cooperation on an equal footing can ensure that communities, groups and individuals can exercise their right to access heritage, that the misuse of heritage is prevented and awareness of the value of heritage and the search for truth is promoted. This kind of approach can make a significant contribution to redressing injustice and creating new relationships on an equal footing.

Indeed, for several years, the National Archives have been working on the decolonisation of archives by critically scrutinising existing access points and making adjustments and additions where necessary. In this process, any hurtful language used in descriptions is amended or placed in context and explained, colonial territorial descriptions are supplemented by the postcolonial nomenclature, information is added about the perspective of the archive creator and, where possible, references are added to complementary materials created from an alternative point of view.⁷⁷

In enabling (digital) access to colonial archives and documentary collections, the Council believes that a critical assessment must be made of provenance, point of view, custodial history and the manner and language in which an archive collection was originally made

⁷⁵ <https://www.nationaalarchief.nl/onderzoeken/zoekhulpen/voc-testamenten-1698-1807>

⁷⁶ <https://www.create.humanities.uva.nl/education/unsilencing-the-archive/>

⁷⁷ In this context, there are also public invitations to report any hurtful language, see <https://www.nationaalarchief.nl/taalgebruik-in-onze-archieven>

accessible. Where this proves to be problematic, this should preferably be made clear and put right at the access point. This is why the development of this digital accessibility calls for cooperation on an equal footing with the other communities that have an interest in the archive or collection in question. If this does not happen or not to a sufficient extent, any work to improve accessibility perpetuates and intensifies the inequality that formed the basis for the archives being established in the first place.

8. Where and why should departures be made from policy concerning colonial cultural heritage objects?

Taking into account the dilemmas described in the previous chapter and the functions of archives described in Chapter 2, the Council takes the view that, when dealing with colonial archives and documentary collections, it is necessary to depart in a number of key areas from the policy framework previously developed by the Minister of Education, Culture and Science (OCW) for dealing with colonial cultural heritage objects:

Willingness to provide restitution is not enough

Injustice in relation to colonial archives is about much more than just a question of whether the physical repository is legitimate or appropriate. Colonial archives were instruments of colonial power and are instruments of its lasting impact to the present day, partly because they were influenced by bias and provide a one-sided picture of colonial history and because people in the former colonies face greater difficulties in using them as a result of language and other barriers. The way in which these archives are currently dealt with perpetuates these unequal positions and that has consequences for the production of knowledge in the countries concerned. Putting right injustice therefore not only calls for (a willingness to provide) restitution, but also and possibly more importantly, requires effective, convenient and fair (digital) access to and use of colonial archives and digital collections, with room for multiple perspectives.

Set minimum conditions for return

The fact that, unlike colonial heritage objects, colonial archives and documentary collections almost always involve materials with a shared cultural ownership makes their unconditional return problematic. Minimum conditions must include the right for the returning party and any other stakeholders to gain access to and copies of the records to be returned, the right to refer to these metadata at access points and the right to make these copies available. Only then can justice be done to all stakeholders and new injustice be prevented. Specifically for the current archive custodians, there is also the additional fact that it is important for an insight into the original composition and structure of an archival collection to be maintained and ensure that any removed records remain traceable in (academic) publications. Whatever the case, all stakeholder countries and/or communities must be given a say in any decisions taken about shared heritage.

Bespoke approach

Reticence is to be advised when it comes to the return of separate records from or parts of archives. Unlike a collection of cultural heritage objects or a documentary collection, an archive must be considered and treated as an organically developed whole that as such also represents an informative, cultural and occasionally even legal evidential value. Ideally, the records to be stored from it should therefore remain in the original order and structure. The

partial return of records from this kind of whole should only be possible in exceptional cases and under specific conditions, especially if it concerns one or several records that as such represent a special symbolic and/or emotional value.

The return of separate records from parts of documentary collections is less problematic: in that respect, colonial documentary collections can be treated in the same way as collections of colonial cultural heritage objects.

Not only from state to state

Dealing with colonial archives and documentary collections calls for more than just a state perspective. The Council believes that in cases involving personal documents that were taken by or behalf of the Dutch colonial power against the original owner's will, family members should also be given an opportunity to request that the Dutch state return them or take other measures. These records may be of great value and significance for a family and this value may not always be acknowledged by the state. In any attempt to put right injustice, it is therefore important for policy to take account of this perspective. There are no legal impediments to prevent this.

Take additional responsibility within the Kingdom

The Council takes the view that the continuing political links with Aruba, Curaçao, St. Maarten, Bonaire, St. Eustatius and Saba mean that the Netherlands also has moral obligations and shared responsibilities for the care and management of archives in these places. With their current resources, facilities and workforce, the Caribbean islands are insufficiently able to physically manage, provide digital access to and make available their own (colonial) archives and documentary collections.

Take proactive action if appropriate

In cases where it is clear in advance to the archive manager and/or official responsible that a central government colonial archive or documentary collection really belongs elsewhere, it is not appropriate to adopt a wait-and-see approach. Of course, rights holders should not have anything imposed on them, but it makes sense in these kinds of cases to inform them proactively that the state recognises their rights.

9. Advice to the State Secretary on dealing with colonial archives and documentary collections

All of the above brings the Council to the following recommendations on dealing with colonial archives and documentary collections. The first five are conditional measures aimed at facilitating redress and preventing any lasting impact and new injustice in the area of colonial archives. The last five describe how redress can be achieved and shaped through the return of archives. The Council has deliberately opted not to prioritise any of its recommendations. The Netherlands and its former colonies will need to decide in equal consultation whether there is any desire for this and, if so, which recommendations should be given priority.

11. Recognise the shared cultural and/or moral ownership of colonial archives and documentary collections and develop policy on how to deal with colonial archives and

documentary collections in equal dialogue with the stakeholder countries. Focus that policy not only on putting right injustice, but also on preventing new injustice.

12. Cooperate on an equal footing and where possible based on existing initiatives with the former colonies in ensuring that the colonial archives and documentary collections present in the Netherlands can be found, used, interpreted and seen by stakeholders worldwide by establishing a multi-year programme focusing on the development of:
 - an overview available online of the colonial archives and documentary collections present in the Netherlands in archive repositories, documentation and research institutions, museums and universities;
 - an online 'colonial archive encyclopaedia' with the historical knowledge required to be able to interpret the role and significance of these colonial archives and collections in their colonial context and the countries, areas and/or communities for which they may be of relevance;
 - digitisation of colonial archives, with the former colonies and the Netherlands determining the priorities based on an equal footing;
 - improving shortcomings (bias, hurtful language use, one-sided or missing contextualisation) in existing access points and the development of digital accessibility of colonial archives;
 - translations of access points and finding aids;
 - an advanced digital infrastructure to ensure that (information from) digitised colonial archives and documentary collections can be used to optimum effect by all stakeholders and interested parties, taking account of the interests, wishes and priorities of the inhabitants of the former colonies and their descendants;
 - awareness among the wider public of the existence and value of colonial archives and documentary collections, including by means of the international presentation of stories that can be told based on them and the insights that this can bring.

In doing so, make maximum possible use of existing structures, collaborative relationships, techniques and facilities. Ensure that there is appropriate and ongoing funding to implement the programme and permanently manage the results of it and make these available.

13. Encourage the other ministries⁷⁸, municipalities and provinces, documentation and research institutions, museums and universities to contribute to and participate in this programme. Institutions are increasingly recognising that their legal predecessors had a role and responsibility in perpetuating the colonial system and are expressing their intention to work to put right this injustice. Especially in the case of government bodies, this is an area in which they are particularly well placed to make a contribution, in view of the fact that every government body has archives and a statutory duty of care based on that.

⁷⁸ This particularly applies to the co-signatories of the letter describing the response to the history of slavery dated 23 June 2023, which includes not only the Ministry of Education, Culture and Science, but also the ministries of the Interior and Kingdom Relations (BZK), Foreign Affairs (BuiZa), Legal Protection, Social Affairs and Employment (SZW) and Health, Welfare and Sport (VWS).

14. Encourage researchers and artists/creators from former colonies to conduct research into the colonial archives and collections present in the Netherlands, thereby contributing to knowledge production, awareness raising and a more balanced picture of history. With that in mind, remove any existing obstacles, make it easy for this target group to access grants and funds and make extra grants and funds available.
15. Acknowledge that the Caribbean countries and islands must be facilitated in physically managing, providing digital access to and making available their own colonial archives and documentary collections and that the current policy on this fails to achieve this effectively. Join forces with other government officials involved in consulting with the countries and islands on the solution to this policy deficit. This process will require a bespoke approach to each island and an understanding of the historical links and cooperation between the islands.
16. Adopt a proactive approach in cases where it is clear in advance that a central government colonial archive or documentary collection really belongs elsewhere, by acknowledging the other party's rights of ownership in these cases. As the similar case of Suriname demonstrates, this would definitely be appropriate with regard to the archives of the colonial administration of the Caribbean islands. Actively engage in conversation with the national and island administrations about how they wish to deal with these archives and be prepared to help them in achieving the necessary provisions and facilities.
17. Be prepared to respond positively to requests from other states and from the islands of the Caribbean Netherlands for restitution of (records from) colonial archives and documentary collections owned or managed by central government. In cases involving personal documents that were taken by or behalf of the Dutch colonial power against the original owner's will, also consider requests from family members of the person or persons from whom these documents originated. Restrict the return of an individual record from an archive to cases in which a) a record from an archive is of great symbolic and/or emotional significance for the person or body requesting it and b) it is impossible or not relevant for that person or body to manage the entire archive concerned.
18. Arrange for these requests to be assessed by an independent committee of Dutch and international experts at least specialising in historical research, archives and the colonial history of the countries concerned. The Dutch National Archives cannot be allocated a role in this committee itself, because this institution is one of the main stakeholders. Of course, the committee should make use of the expertise of the National Archives in appropriate cases.

This committee could be a subcommittee to the committee on the Return of Cultural Heritage Objects from the Colonial Context, providing that the specific expertise, composition and wide perspective on redress can be guaranteed.

Just as in the case of colonial collections and artworks looted during the Nazi period, this committee should have a dual remit:

- to advise the minister or state secretary on restitution requests relating to colonial archives and documentary collections in the state's possession;

- to advise on restitution requests relating to colonial archives that are not owned by central government. The committee should only pursue requests of this kind if both the party looking for redress and the current owner of the archive or documentary collection are willing to agree to the committee's judgment.
19. Allow this committee, in handling a request of this kind, to start to determine how and why a colonial archive or a colonial documentary collection found its way to the Netherlands. If it is shown with a reasonable amount of certainty that (parts of) a colonial archive or collections have been involuntarily relinquished or remain in the Netherlands on spurious grounds, the committee will consider what should happen with the archive or documentary collection after considering the following points:
- The relevance of (parts of) a colonial archive or documentary collection for one or more countries and/or communities. Based on the assessment of the interests of the different countries and/or communities involved, it should be possible to ascertain where the archive or collection should best be placed and whether (and if so which) other corrective measures are appropriate to reach a compromise with regard to the interests and wishes of the other stakeholder countries and/or communities.
 - Risk management. In determining the most appropriate place for an original archive or documentary collection to be kept, the risks for all stakeholder countries and communities and the extent to which that risk is being managed must also be taken into account. This for example concerns the risk of a deterioration in the extent to which the information contained in the materials concerned is publicly available and usable, the risk of degradation as a result of poor facilities, the risk of destruction for internal political reasons and the risk to people's safety (e.g. to minority groups under threat or political factions, information about which is contained in the relevant records).
20. Arrange for the committee to receive support from a centre of expertise capable of carrying out the research necessary to assess restitution requests. In this context, the Council refers to the recommendation included in the advisory report *Colonial Collections and Recognition of Injustice* concerning the establishment of an independent Expertise Centre on the Provenance of Colonial Cultural Heritage Objects. Its operations could be extended to include colonial archives, providing that the specific expertise required for archive issues can be guaranteed. In collaboration with existing research and knowledge institutions, the expertise centre can also make a contribution to the programme referred to in Recommendation 2.

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