KRONOS
southern african histories

MAY 2026 VOLUME 52 http://dx.doi.org/10.17159/2309-9585/2026/v52a3

What's in a restitution policy? The human in 'human remains from colonial contexts'

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Abstract

The article discusses policies that address demands for the return of the remains of people from museum and academic collections. Attending to key contested issues in the negotiations about their restitution, the paper tries to trace underlying concepts of the human as they are implied by different parties. It argues that these broader notions of the human often remain unquestioned, and the meaning of terms such as 'dehumanising' or 'rehumanisation' is taken for granted. Yet, it is precisely the often contradictory notions of the human that are at stake in negotiations about the return of the remains of people that were taken in colonial contexts and used for racial science. Based on a close examination of selected policies as well as activist and scholarly contributions to the debates, the paper argues that the very racialised ideas of the human, which led to the establishment of 'collections of human remains from colonial contexts', continue to haunt the negotiations about their return. Not least through the definitions of 'human remains' that the policies are based upon, the basic understanding of the human becomes limited to its physical, dissectible or otherwise materially partable aspects. In some instances, this limited basis seems to allow for an othering of all other aspects of being human and its relationality, presenting them as particularities of specific cultural groups. This, however, is empirically false. Potentially, an emphasis on the necessity to strive for new, more inclusive notions of the human could help to refocus the debates towards the building of non-racial, decolonial societies. To work towards these aims, negotiations about the return of the remains of people need to move out of a limited terrain of attempting to solve past injustices while leaving the epistemological and ontological basis for these injustices – the idea of humanity being classified by race – intact.

Keywords

Restitution, human remains, policy, colonialism, racism, the human

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It is easy to dismiss policy documents. Penned in legalistic language yet not legally binding, they often lead an existence within limited communities of expertise, communities whose imaginations get shaped distinctly by the policy documents that govern their actions and agency. As genres, policies 'communicate values and objectives [and] play a powerful role as tools in socializing new members of an activity system.'[1] Their authors shape the evolution of the next, and the next policy paper, as part of 'rhetorical decision-making processes.'[2] And yet, the influence of policies expands beyond these institutionally appointed groups of experts. As publicly accessible documents, they become an interface between interested parties, pressure groups, and the institutions that issue them. In what can be described as a 'genre *uptake*' (Anne Freadman), policies perform social actions.[3] They are meant to guide and inform how people think and act in specific situations and as such, they hold weight in any given field that they are trying to intervene in: as a reference, a set of negotiated standards, a document which can be used to hold people accountable, ethically. In this function, they also shape – limit or open – spaces of imagination, possibilities of doing otherwise, of leaving one set of standards behind, overturning that which became outdated, that which was proven dysfunctional, in the way of better futures.

The policies that I am concerned with in this paper are policies which are trying to provide manuals for handling that which colonial modernity turned into 'scientific collections.' They include suggestions for navigating demands for the return of some of these 'collections' to the places they were taken from. Following the categorisations common in the field, my interest should be described as one that focuses on 'human remains from colonial contexts' in museum and academic collections. While I will try to unpack my hesitation towards different terminologies, the aim of this paper is not a step-by-step break down of the potentials and pitfalls of certain guidelines. As much as I can, I hope to stay clear of providing a manual myself. Rather, I wish to ponder on a few interrelated questions that keep coming up in different conversations and which are persistent reminders of a certain urgency to find new approaches, perspectives, or rather: new connections, between that which is and which is not included in the 'human'. What really do we qualify when we speak of human remains? And what, in consequence, do we mean, when we speak of their dehumanisation and rehumanisation?

I argue that these questions remain unresolved in current debates about restitution, not least because they are not sufficiently attended to. Too often, a common understanding of notions such as de- and rehumanisation is taken for granted. Based on a close reading of two policies as well as scholarly and activist contributions to the debates around the demands for the restitution of the remains of people, I will trace links to the broader question of what kind of human is being imagined. The

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1 M. S. Knievel, "Rupturing context, resituating genre: A study of use-of-force policy in the wake of a controversial shooting," *Journal of Business and Technical Communication* 22.3 (2008): 330-363, here 336.

2 J. T. Gabriel, "Shaping local HIV/Aids services policy through activist research: The problem of client involvement," *Technical Communication Quarterly* 9:1 (2000): 29-50, here 35.

3 M. J. Reiff and A. Bawarshi, "From Genre Turn to Public Turn: Navigating the Intersections of Public Sphere Theory, Genre Theory, and the Performance of Publics," in *Genre and the Performance of Publics*, ed. by ibid. (University Press of Colorado, 2016), 3-22, here 4.

selection of the two policies that I analyse more closely is based on my perspective as a researcher working both in the South African and in German-speaking contexts. I discuss these in some detail not so much to critique these particular documents, but to alert to the underlying issues in the debates they are trying to intervene in. When I refer to a 'we' I refer to everyone who is partaking in the negotiations around returns, restitutions, repatriations of that which is termed 'colonial collections'. A 'we' that is extraordinarily heterogeneous, a 'we' in which, I would argue, the understanding of the human is far from univocal, and oftentimes contradictory.

German Museums Association: Universalist Claims and their Contentions

In June 2021, the German Museums Association[4] issued a substantially revised version of their 2013 'Recommendations for the Care of Human Remains in Museums and Collections'.[5] Both documents were put together by a German Museums Association Working Group on 'Human Remains'. As newcomer in the field and working in Austria at the time, the 2013 guidelines had special significance for me. They were the first institutionally issued recommendations on the topic in a German-speaking context, to be downloaded freely from the association's website in English and German.

In Germany, the only prior reference was a guideline developed for remains of people in collections associated with atrocities committed by the Nazis.[6] In other countries, however, demands by indigenous and non-indigenous activists, pressure groups and scholars had led to the development of national legislation, such as the 1984 *Aboriginal and Torres Strait Islander Heritage Protection Act* in Australia and the 1990 *Native American Graves Protection and Repatriation Act* in the USA. In 2007, the United Nations *Declaration on the Rights of Indigenous* demanded that states 'shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.'[7] Sparked by demands for the return of the remains of people from Namibia, especially those connected to the genocide committed against Nama and Herero, Germany was forced to confront its own legacies of colonial racism. The same year as the first 'Recommendations for the Care of Human Remains in Museums and Collections' by the German Museums

4 The German Museums Association was founded in 1917 and is an association representing and promoting the interests of museums, museum staff and people whose work is connected to museums on federal level nation-wide.

5 German Museums Association (GMA), "Recommendations for the care of Human Remains in Museums and Collections," (GMA, 2013), accessed 24 May 2025, https://www.museumsbund.de/wp-content/uploads/2017/04/2013-recommendations-for-the-care-of-human-remains.pdf. The 2013 policy needs to be understood as an ongoing process of German museums coming to terms with their postcolonial responsibilities; the 2021 policy showed the association's commitment to learning in that it attempted to react to criticism that the 2013 version faced.

6 Arbeitskreis Menschliche Präparate in Sammlungen, "Empfehlungen zum Umgang mit Präparaten aus menschlichem Gewebe in Sammlungen, Museen und öffentlichen Räumen," *Deutsches Ärzteblatt* 100, Vol 28-29 (2003): p. A 1960- A 1965, https://www.aerzteblatt.de/pdf/100/28/a1960.pdf.

7 United Nations, "United Nations Declaration on the Rights of Indigenous Peoples," September 2007, Article 12, accessed 29 July 2025, https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

Association, the seminal edited volume *Sammeln, Erforschen, Zurückgeben?*[8] (Collect, Research, Return?) was published. The book, which discussed the violent histories of appropriation, methods of conducting provenance research, and a wide range of case studies of the restitution of the remains of people, was a reaction to such demands for repatriations and a result of the *Charité Human Remains Project*, which aspired to provide information on remains in their collections and conduct returns.[9] Therefore, although the Museums Association's 'Recommendations' were the first guidelines on the topic in the German-speaking context, there were several international predecessors and a growing body of literature about the German context that the authors could refer to.

One characteristic of a policy paper is its need to clearly define what it is concerned with — or, in the words of Ciraj Rassool, what it is wanting to govern. Hence, the recommendations defined human remains (*Menschliche Überreste*) as: 'all physical remains belonging to the biological species Homo sapiens.'[10] They included bones, tissue, organs, skin, cremated remains and even such often disputed parts of the body as hair and fingernails ('even if they originate from living people'), but excluded 'mouldings of human bodies or body parts, death masks, audio recordings of human voices, anthropological photographs; (ritual) objects previously associated with human remains, such as for example burial objects'.[11] It is the body in its dissectible form, in its materiality, no matter how fragmented, that is the basis for this definition.

However, the necessity to issue recommendations for the *care* of human remains in collections arose from a different understanding of who and what such fragments are or represent. Demands for remains of 'non-European' (*außereuropäisch*) origins from 'indigenous minorities'[12] were referenced as motivating the need to agree on guiding principles for German museums and collections: 'In many non-European indigenous communities, the connection felt to the dead is of a longer duration and shaped by different cultural and religious values to those of our Western European mindset'.[13] This monolithic divide, which separates a Western European 'us' from a 'non-European indigenous' 'them' runs through all the almost 70 pages of the paper. The 'culture' of collection holding institutions, and therewith the concept of the 'human' as a dissectible, collectable, species based body, is presumed for everyone included in the 'us' of the guidelines, that is, for everyone in 'Western Europe.' Notably, the Working Group of the German Museums Association did not include international experts. Neither did the guidelines intend to offer support for claimants. The policy was 'intended for museums and universities in Germany with collections of human remains, irrespective of their geographical origin and age (both European and non-European).'[14]

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8 H., T. Schnalke, A. Winkelmann (eds.), *Sammeln, Erforschen, Zurückgeben? Menschliche Gebeine aus der Kolonialzeit in akademischen und musealen Sammlungen* (Berlin: Ch. Links Verlag, 2013).
9 H. Stoecker, T. Schnalke, A. Winkelmann, "Zur Einführung," in *Sammeln, Erforschen, Zurückgeben?*, 9-22.
10 GMA, "Recommendations 2013," 9.
11 Ibid.
12 Ibid., 4.
13 Ibid., 7.
14 Ibid., 9.

In 2017, H-Soz-Kult, a Germany-based online platform that offers 'communication and information services for historical research.'[15] published a critical debate of the 'Recommendations for the Care of Human Remains in Museums and Collections.' [16] Based on the claim that central perspectives were missing, the editors, Larissa Förster and Sarah Fründt, asked international experts for commentaries on the policy. One point of discussion was the policy's introduction of the concept of a 'context of injustice' as a means to decide which remains might have entered the collections unethically and could therefore be considered for repatriation. As I am trying to show through the relevant sections of the policy and their contestations, these questions do not only link to differing understandings of the nature and scope of colonialism and racism but also what it means to be human. Particularly the arguments about what it means to respect a person's dignity, and the legal implications of that judgement, reveal how pertinent the underlying concept of the human is for these negotiations.

Defining injustice: legal frameworks, conflicting ethics, and the question of dignity

The German Museums Association stated that a definition of a context of injustice would remain difficult, 'since very different values applied and apply in different cultures and at different times.'[17] But their examples for when one could speak of a context of injustice were limited to specific situations of individually experienced violence, thereby implying a rather narrow understanding of the term. Michael Pickering, Head of the Research Centre at the National Museum of Australia and one of the respondents in Förster and Fründts' discussion paper, suggested 'a wider definition, to include any remains collected under a colonial regime in which explicit inequities in the balance of power between Indigenous peoples and colonisers existed. Under such a definition, a context of injustice would begin from first occupation by a colonial power.'[18] And Ciraj Rassool asserted that 'contexts of "injustice" should not merely refer to theft, illegal disinterment, or documented cases of illegal acquisition. This category should be extended to address not only those collections acquired under formal colonial conditions, but also those that were inserted into discursively colonial classificatory systems and processes of knowledge production, including racial research'.[19] Both Pickering and Rassool highlighted conditions of structural injustice and power relations. This opened questions about the legacies and ongoing effects of colonialism and racism, and the necessity to attend to the possibility of restitution negotiations being embedded in structures of inequality. The German

15 H/Soz/Kult website, accessed 24 May 2025, https://www.hsozkult.de/?language=en.
16 L. Förster and S. Fründt, eds., "Human Remains in Museums and Collections. A Critical Engagement with the 'Recommendations for the Care of Humans Remains in Museums and Collections' of the German Museums Association," *Historisches Forum vol. 21* (Clio-online and Humboldt-University Berlin, 2017), https://edoc.hu-berlin.de/18452/20146.
17 GMA, "Recommendations 2013," 10.
18 M. Pickering, "A Helping Hand? Comments on the 'Recommendations,'" in "Human Remains in Museums and Collections," ed. Larissa Förster and Sarah Fründt (Clio-online and Humboldt-University Berlin, 2017), 29.
19 C. Rassool. "German Museums, Human Remains and the Challenges of Colonial Legacies," in "Human Remains in Museums and Collections," ed. L. Förster and S. Fründt (Clio-online and Humboldt-University Berlin, 2017), 70.

Museums Association, however, in their 2013 guidelines, framed contexts of injustice as individual events of the past.

The necessity to negotiate a context of injustice partly emanated from the failure of (international) law to provide solutions for contested contexts of appropriation during colonial times. By principle, laws are not retroactively applicable. This has presented a major obstacle for putting more recent international legal frameworks to work when it comes to colonial contexts.[20] However, as critics have cautioned, 'the reference to the law in force at the time generally refers to the law as it was codified and interpreted by the victors, and it was most often formulated in a way that served their interests.'[21] Another hurdle is the lapse of time regarding the legal rights of those who were violated, a time span which is often stipulated as relatively short. Therefore, in demands for restitution relating to colonial contexts, one can refer to underlying principles of legal frameworks, such as the principle of justice, but such arguments do not have legal force.[22] Nonetheless, the German Museums Association policy included a section in which potential legal frameworks for negotiating the return of the remains of people were explored.[23] While scholars have questioned which national law should be taken into consideration when deliberating international restitution, if it should be the country where that which is being demanded back is situated at the time of the claim or the country where it was situated at the time of spoliation,[24] the German Museum Association only considered international and German national law.

German constitutional law includes the fundamental right for the protection of human dignity. Based on case-law, this includes the dignity of the dead. Remarkably, drawing on previous jurisprudence, the authors of the policy section explained that for museum and academic collections, this would mainly result in the responsibility to guarantee a certain scientific objectivity when exhibiting human remains.[25] It could also result in the obligation to introduce specific rules for the accessibility of storage spaces which hold human remains.[26] In each of these cases, the issue of who would define 'scientific objectivity' or the rules of accessibility remained unmentioned, unquestioned. German jurisprudence has also found that the remains of people who died *a long time ago*, become '"tradable items" for the purposes of civil law in respect of which rights of ownership may therefore exist'.[27] The threshold between a 'res extra commercium' – as which the remains of people are generally thought of – and a 'tradeable item', however, remains undefined. It is unclear how many years have to pass for the remains to cease being associated with a person and to become a commodity. Even in cases of proven theft, the situation still remains complicated: A thief never legally acquires the ownership of whatever was stolen by them. But if

20 C. Labadie, "Decolonizing collections: A legal perspective on the restitution of cultural artifacts," *ICOFOM Study Series* 49-2 (2021): 132–146, here 136 f.
21 Ibid., 137.
22 Ibid., 138.
23 GMA, "Recommendations 2013," 31–42.
24 C. Labadie, "Decolonizing collections," 140 f.
25 GMA, "Recommendations 2013," 31 f.
26 Ibid., 33.
27 Ibid., 34.

a museum acquired something from a thief and can argue that it did not know the items were stolen, the court will assume that the museum acted in 'good faith'. In that case, after 10 years, the institution can legally become the owner of the item. Also, if the acquisition happened more than 30 years ago, an earlier owner can no longer claim their items back.[28] From the perspective of people demanding their ancestors back, the German legal situation therefore looks rather dire.

Judging from the guidelines, a more powerful tool for demanding the remains of people to be returned from museum and academic collections seemed to be the legal obligation that the memory of the deceased and the personality of the individual must be protected.[29] This obligation is closely related to the right to care for the dead. However, in order to claim that right, people 'would have to prove that they are relatives of the individual from whom those remains originate. Furthermore, there would therefore have to be a close familial relationship in order for it to be assumed that the commemoration of the dead person has not yet ended and that the claimants are also persons entitled to exercise the right to care for the dead.'[30] In this context, another statement by the authors of this section became particularly relevant and was widely criticised later on. They maintained that 'from an ethnological perspective, memories of a deceased person fade after approximately four to five generations. This equates to approx. 125 years, thus providing a period of time which can also serve as a guide from a physical-anthropological perspective.'[31] In Förster and Fründts' debate, Te Herekiekie Herewini, Manager of the Karanga Aotearoa Repatriation Programme based at the Museum of New Zealand Te Papa Tongarewa, objected that 'the view taken that it is difficult to identify the community of origin for ancestral remains that are older than 125 years, seems rather subjective, and does not seem to be informed by numerous examples of Indigenous peoples actively seeking the return of their ancestors well passed this time span.'[32]

The extent to which the view of the authors of the legal section of the policy and the views of people who demand their ancestors to be returned from academic and museum collections contradict each other, also became evident in the question if to be held in a collection would indeed violate the memory of the dead. For legal purposes, a 'particularly serious insult to the memory of the deceased person is in fact required'[33] in order to demand a return. The co-authors of the policy, however, were under the impression that acts 'on the part of employees of museums/collections which would satisfy the requirements of this offence are difficult to imagine.'[34] In that same spirit, they also stressed that in order to demand a return, claimants 'would have to show and, where appropriate, prove that it is incompatible with the human dignity of the deceased person for the human remains to stay in the collection. In

28 Ibid., 36 f.
29 Ibid., 32.
30 Ibid., 38 f.
31 Ibid., 11.
32 T. H. Herewini, "A View from Aotearoa New Zealand," in "Human Remains in Museums and Collections," ed. L. Förster and S. Fründt (Clio-online and Humboldt-University Berlin, 2017), 61.
33 GMA, "Recommendations 2013," 37.
34 Ibid.

practice, the enforcement of such a claim before the courts is scarcely conceivable.'[35] While the policy briefly acknowledged the possibility that 'the courts will also include the values of other cultures in its considerations where there is sufficient link to the facts of the case,'[36] this was hardly practiced in the document itself. Authors of the critical debate issue addressed further problematic aspects of the policy, not least relating to the practical side of actually *caring* for the remains, which would need to include spiritual aspects, knowledge and respect of the requirements of the communities were the remains were taken from. What these disagreements show, are conflicting views about which set of behavioural norms are presumed in dealing with *a* human, and, possibly, *the* human.

These conflicts remained apparent in the German Museums Association's revised guidelines from 2021.[37] While I do not want to get lost in a detailed breakdown of what changed and what did not, I do want to mention that the definitions set at the beginning of the revised document included some crucial adaptations. The 2021 policy acknowledged that those 'responsible for museums and collections should always be aware that there may be individuals or communities who perceive themselves as the descendants of the deceased.'[38] It affirmed that '[m]emories of a deceased person may be preserved by a community for differing lengths of time'[39] and that 'there should be an awareness that memories of injustices committed, especially group persecution and genocide, remain alive within a community or country of origin for an indeterminate period of time or may re-enter awareness and hence public debate.'[40] The policy also acknowledged that 'communities' are heterogeneous social groups and that cultural affiliations are 'subject to a continuous process of negotiation,'[41] thereby partially breaking with the rather static idea of a 'non-European indigenous' 'them' of the 2013 guidelines. As for legal issues, the 2021 policy emphasised the necessity for 'ethical-moral considerations.'[42] Here, the authors proposed that 'repatriation may be considered even without a context of injustice, for instance, as a statement of recognition of the fact that the human remains or the objects containing them have a particular significance for the persons calling for their repatriation,'[43] opening pathways beyond the legal confines outlined above.

The role of the dead and the construction of different sets of values

But as in 2013, the working group did not include international experts. The addressees of the guidelines were defined as museums and universities in Germany, not people whose relatives are housed in the collections.[44] At the very end, the policy

35 Ibid., 39.
36 Ibid., 36.
37 GMA, "Guidelines: Care of Human Remains in Museums and Collections," (GMA, 2021), accessed 17 May 2026, https://www.museumsbund.de/wp-content/uploads/2021/07/dmb-leitfaden-umgang-menschl-ueberr-en-web-20210625.pdf.
38 GMA, "Guidelines 2021," 14.
39 Ibid.
40 Ibid., 15.
41 Ibid.
42 Ibid., 53.
43 Ibid.
44 Ibid., 12.

included three separate, short commentaries by Michael Pickering, Edward Halealoha Ayau, Alma Nankela and the late Jeremy Silvester – people working on the restitution of the remains of people and cultural heritage in Australia, Hawai'i and Namibia. In these contributions, the notion of the human as dissectible and collectible – that the 2021 policy, again, officially adhered to[45] – was challenged. All of them emphasised how essential it was to bring ancestral remains back to their homelands to restore their and their descendants' dignity. The return of the remains was seen as a crucial element in an ongoing process of reconciliation.

Michael Pickering stressed that there was 'no universal Indigenous Australian philosophy regarding issues surrounding death' but that death was understood as 'another transitional phase in life.' Therefore, it was essential to take care of a person's spirit upon their death.[46] Edward Halealoha Ayau, a representative of the Office of Hawaiian Affairs, explained that Hawaiians traditionally referred to themselves as Kanaka 'Ōiwi, which literally translated to 'people of the bone', indicating how intrinsic bones are to the ways in which Hawaiians relate to their ancestors and themselves as people. Accordingly, one might say Ola nā iwi, which translates to 'the bones live,' about an elder who is well taken care of. This care is extended to those who have become ancestors, based on an understanding that the relationship between the ancestors and the living is interdependent.[47] Ayau emphasised that returning ancestral remains to Hawai'i would not only be needed to allow for Hawaiians to become whole again, it would also present an opportunity for those who have done harm to regain *their* dignity.[48] In their contribution on Namibia, Alma Nankela and the late Jeremy Silvester (Museums Association Namibia) explained that also for most people in Namibia, death and life are not seen as mutually exclusive. Rather, after death, life continues in a different realm.[49] Therefore, the return of the remains held in collections was essential.

The arguments brought forward by these experts from three distinct regions of the world, reveal that the authors were all working in contexts in which the remains of people hold a very different meaning from that which the German Museums Association's guidelines propose. Key here is a different understanding of the relation between life and death, the living and the ancestors. To be held in a museum collection does *not* represent a dignified treatment of the deceased, as the ancestral remains have important roles to play in contemporary society, which they are unable to perform if treated as collectible. Contrary to what the guidelines seem to suggest, the understanding that the mortal remains of the deceased hold a special relevance and need to be treated accordingly is, however, not exclusive to what are considered to be indigenous belief systems. In societies commonly referred to as 'Western',

45 Ibid., 13.
46 M. Pickering, "The Significance of Ancestral Human Remains to Australian Aboriginal and Torres Strait Islander People," in "Guidelines 2021", 120–123, here 120.
47 E. Ayau, "The Responsibility to Restore the Ancestral Hawaiian Foundation through Repatriation and Reburial," in "Guidelines 2021," 124-128, here 124.
48 Ibid., 126.
49 A. Nankela and J. Silvester, "A Namibian Experience: The Contentious Politics of Repatriation of Human Remains and Sacred Objects," in "Guidelines 2021," 129–137, here 131.

independently of the question of religion, spirituality and life after death, the dead body 'does massive work for the living,'[50] as Thomas Laqueur has put it, 'because the dead make social worlds.'[51]

In his painstaking analysis, he recounted treaties from the Ancient Greek period, the Enlightenment, Christian, Jewish, Muslim and atheist perspectives to show how prevalent the attachment of the living is not only to the dead but to the dead body.[52] The dead also intervene into the world of the living, if as ghosts or in other forms.[53] Indeed, Laqueur went as far as to claim that '[l]iving bodies do not have the same powers as dead ones', even in societies in which 'specific beliefs have no purchase.'[54] Throughout time, funerary practices have marked the inclusion of the deceased into the category of the human.[55] The rituals and places of the dead have reflected the broader societal order, be it defined by religion or capitalism, a given 'natural' hierarchy or democracy, the parish or the nation. 'This is not', Laqueur insisted, 'a story of progressive disenchantment, but rather a history of the creation of new ways of construing the fundamentally unbreakable bond between the materiality of the corpse and the consciousness – individual and collective – of those who live with the dead.'[56]

International regulations about the treatment of war dead and the rights of the dead asserted through humanitarianism are two interrelated fields that poignantly illustrate the value that is given to identifying and honouring the dead body, where possible through proper burial in their homelands, today. Partly building on Laqueur's work, Claire Moon has contemplated the question of *human* rights with respect to deceased victims of mass atrocities.[57] Moon suggested to approach the issue empirically and pose the argument that 'the dead have human rights insofar as people *act* as though they have rights.'[58] Even if the dead cannot claim rights or bear responsibility, 'they can be rights *holders* insofar as the living behave as if they have obligations towards the dead.'[59]

Outlining the history of humanitarianism from its beginnings of treating the wounded of the battlefields in Europe in the mid 19th century to today, Moon pointed out several aspects of International Humanitarian Law that are relevant to the issues discussed here. Customary International Humanitarian Law stipulates that the dead and their personal effects should be returned to their homelands, that they must be disposed in a respectful manner and their graves respected and properly maintained. Crucially, they require that people be buried according to rites prescribed by their religion and that they must have individual, not collective graves.[60] On this point,

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50 T. Laqueur, *The Work of the Dead: A Cultural History of mortal remains* (Princeton University Press, 2015), xiv.
51 Ibid., 1.
52 Especially in part one of the book, "The Deep Time of the Dead," 29–106.
53 Esp. 63-79.
54 Ibid. 18.
55 See e.g. ibid, 31.
56 Ibid., 84.
57 C. Moon, "What remains? Human rights after death," in *Ethical approaches to human remains: A global challenge in bioarchaeology and forensic anthropology*, ed. K. Squires et al. (Cham: Springer International Publishing, 2020), 39–58.
58 Ibid., 43., emphasis in the original.
59 Ibid., emphasis in the original.
60 International Committee of the Red Cross, "Customary International Humanitarian Law," Volume 1 Rules, 2005 (https://assets.cambridge.org/052180/8995/frontmatter/0521808995_frontmatter.htm), Rule 112–116 as quoted in C. Moon, "What remains?" 50.

international regulations relating to crimes go even further, in that Interpol's 1996 General Assembly statement affirmed that 'human beings have *the right not to lose their identities after death*.'[61] The question of naming and the right to one's own identity are also at the centre of negotiations about people whose remains were appropriated for colonial collections, in the name of racial science.

'Naming marks the entry not into biological but into human life,' claimed Thomas Laqueur in his discussion of the meaning of the names and their role in the work of the dead, based on the observation that an infant does not receive their name the moment they are born but once they are accepted into the family and the broader community they live in.[62] He understands this moment as 'a certain minimal status of personhood'[63] and discussed different memorial practices related to the dead, their bodies, and their names. Relatedly, Moon described identification as 'a practice that "reunites" the dead body with the identity of the person in life,' one that 'restores personhood after death,' and that can therefore be understood as a practice of rehumanisation.[64] It is this relation between the deceased, their physical remains, their identities and the concept of rehumanisation that I want to discuss in more detail. Important for my discussion of the underlying concept of the human in negotiations about the return of the remains of people from museum and academic collections is the fact that in societies commonly referred to as 'Western', both proper burial rites and the identification of the deceased are seen as essential for a dignified treatment of the dead and their bodies and the acknowledgment of them being human.

Rehumanisation, identification, and international repatriation movements

Alma Nankela and the late Jeremy Silvester, in their contribution to the 2021 German Museums Association guidelines, stressed that the people whose remains had been put into museum and academic collections 'suffered a double abuse,' due to the violence of being treated as '"specimens" of racial types.'[65] For them, too, a process of 'rehumanisation' involved research into the biographies of the people whose remains were appropriated, thereby allowing for a restoration of their personhood.[66] However, partly due to the severe gaps in German archives and the stark distortions resulting from racism, this process of rehumanisation could only be conducted by or in collaboration with Namibian partners.[67] Perhaps tellingly, in the guidelines, Nankela and Silvesters' contribution is the only occasion at which the concept of rehumanisation is evoked.

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61 Interpol, "General Assembly on Disaster Victim Identification," 23–29 October 1996, as quoted in C. Moon, "What remains?," 50.
62 T. Laqueur, *The Work of the Dead*, 367.
63 Ibid.
64 Ibid., 52.
65 Ibid., 132.
66 Ibid., 134.
67 Ibid.

Ciraj Rassool and the late Martin Legassick, in their reflections on the return of the remains of the Pienaars from a teaching and research collection at the University of Vienna to South Africa in 2012,[68] referred to rehumanisation as a method for processes of return. Key factors in this particular rehumanisation were that the Pienaars acquired post-mortem citizenship for South Africa, received cultural and spiritual guidance, were transported in coffins, research was conducted to find information on their biographies, and they were reburied with tombstones carrying their names. Rassool and Legassicks' introduction of rehumanisation as a method for the return of 'human remains from museum and academic collections' could perhaps be understood as one articulation of an ongoing conversation between Forensic History and African Museum and Heritage Studies at the University of the Western Cape. It was the specific constellation of research fields that converged at the Department of Historical Studies, which allowed for the 'bringing together of two lines of research that have previously been treated separately – namely the missing/missed body of apartheid-era atrocities and the racialised body of the colonial museum.'[69] The introduction to a previous issue of *Kronos*, co-authored by Nicky Rousseau, Riedwaan Moosage and Ciraj Rassool, combined these strands to outline common research genealogies and some key concepts, among them rehumanisation.

Here, it was Jenny Edkins' notion of counting and accounting for each person that was introduced to help thinking through processes of rehumanisation.[70] Edkins' analysis complicates the conceptualisation of rehumanisation through her complex understanding of the politics of identification and personhood. In *Missing: persons and politics*, she claimed that 'the ways in which personhood is regularly produced under current forms of political order in the West [is] *a politics that misses the person*, a politics that objectifies and instrumentalizes.'[71] The 'politics of missing persons' – the search for people who went missing, conducted by families, friends, the state – therefore open productive questions about the relation between *who* a person was, between a politics in which 'the person *as such* counts,'[72] and a politics in which someone counts solely for *what* they were. For relatives and friends, it is the specific person who is being missed, not a statistical, administrative one. And yet, some people go 'unmissed,' like the thousands of people who are buried without kin in the UK every year,[73] or, as Edkins suggested, are 'doubly missing'[74] – unaccounted for, be it as people whose deaths go unnoticed and/or as people whose existence is erased epistemologically.

Rousseau et al. took these provocations up to think through their own grappling with the role of the state and the nation in South Africa. Both the missing/missed

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68 C. Rassool and M. Legassick, "Postscript: The Impact of *Skeletons in the Cupboard*." in ibid., *Skeletons in the Cupboard*, second edition (Cape Town: Iziko Museums of South Africa, 2015), 106–114.

69 N. Rousseau, R. Moosage, C. Rassool, "Missing and Missed: Rehumanisation, the Nation and Missing-ness," *Kronos* 44 (2018): 10–22, here 22.

70 Ibid., 23.

71 J. Edkins, *Missing: persons and politics* (Ithaca, NY: Cornell University Press, 2011), 2, emphasis in the original.

72 Ibid.

73 Ibid., 5.

74 Ibid., 6. She also refers to Judith Butler's notion of 'ungrievable lives' here: J. Butler, *Frames of War: When Is Life Grievable?* (London: Verso, 2009) and *Precarious Life: The Powers of Mourning and Violence* (London: Verso, 2004).

body of apartheid-era atrocities and the racialised body of the colonial museum, particularly in processes of return and (re)burial, get inscribed into the nation. They are therefore 'caught in ongoing critiques about the ways in which they are appropriated into the post-apartheid nation.'[75] This cannot result, however, in a wholesale dismissal of such processes. On the contrary, despite the risks of overwriting the 'person as such' and the inherent mechanisms of inclusion and exclusion, these politics of national recognition need to be reckoned with. To expand on a question the authors asked in their paper, new, alternative scripts of mourning[76] have to be developed, in which the multiple relational lives of the deceased can be acknowledged.

Indeed, this relationality is essential for the concept of rehumanisation developed here, in that the process of return is one of 'returning mortal remains to a social network'.[77] The meaning of these relational lives also extends to objects – personal belongings of the dead, grave goods, or, in the case of the colonial dead, even artefacts which were appropriated in association with the deceased. And, to stay with the question of materiality, the person can extend, together with their decomposing, leaking body, to the soil, to surrounding organic matter, or even to objects which were close at the time of their death.[78] For Rousseau et al., the identification of the remains, which enables the 'return of *this* person,'[79] is 'the single most important practice' of rehumanisation; it is the 'restoring of a name' which allows for the body to be reconnected with the social network of the deceased.[80]

In some instances, the concept of rehumanisation was taken up during the return of the remains of people from academic and museum collections. The ethnological museum, the *Museum für Völkerkunde*, in Dresden, Germany, for example, aspired to rehumanise the remains of people from Hawai'i which were returned in 2017.[81] They also made reference to the concept when they returned the remains of Yawuru, Karajarri and Djugun people to Australia in 2019.[82] In a Working Paper on 'Germany's history of returning human remains and objects from colonial contexts' published by the German Lost Art Foundation, in which these returns are described, 'rehumanisation' gets curtailed into a one-sentence definition of an 'act' that is being 'performed in a solemn setting in the museum, objects become human remains again and are entitled to a dignified burial in their respective country.'[83]

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75 N. Rousseau et al., "Missing and Missed," 16.
76 Ibid., 22.
77 Ibid., 26.
78 Ibid., 27 f. See, for example, Brent Abraham's contribution "Griffiths Mxenge's Audi: The Agency of a 'Dead' Car" in this issue.
79 Ibid., 17.
80 Ibid., 26.
81 R. Gram and Z. Schoofs, *Germany's history of returning human remains and objects from colonial contexts: An overview of successful cases and unsettled claims between 1970 and 2021* (Magdeburg: Deutsche Zentrum Kulturgutverluste, 2022), 12.
82 Ibid., 22.
83 Ibid., 12. A similar, if not more severe distortion of the concept is taking place in "Rehumanisation is not a Metaphor: Changing Practices and the University of Glasgow's Hunterian Museum" by A. Nankela, N. Grout, and J. Garsha in *University Museums and Collections Journal* vol. 17, no. 1 (2025): 48–56. In the attempt to provide a manual for how to 'implement a rehumanising discourse', the authors lump together demands for shifts in terminology, coffins in storages, as well as provenance and collaborative research to a degree that the concept gets emptied of meaning. While their insistence on changes *within* the holding institutions is understandable, their paper seems to suggest that rehumanisation as a process could take place in the collections, lacking a discussion of the deeper epistemological and ontological implications of both the processes they do describe and those that they omit.

Edward Halealoha Ayau, in a paper in which he reflected, among other cases, on the aforementioned return of what he refers to as Ancestral Remains or iwi kūpuna from Dresden, did not make use of the notion of rehumanisation.[84] Ayau did, however, see the demand for returning the ancestors as 'an effective expression of our humanity.'[85] It is the 'interdependent relationship between the living and the deceased' which results in a 'duty of care owed to disturbed iwi kūpuna and moepū' (ancestral remains and funerary possessions).[86] To reject the museum's possession of the Ancestral Remains also reflects the 'asserted belief in a universal human right of dignity for ourselves and our ancestors.'[87]

While the notion of the human is central here, the essence of human dignity is described as an undisturbed interconnectedness between ancestors and the living. Ayau explained that for the first successful international repatriation effort he was involved in, he involved the ancestor who was being claimed to provide 'guidance, courage and clarity of thought.'[88] Naming and the issue of individual identity are not discussed. The relationality of the remains is described as them belonging to 'Papahānaumoku (Earth Mother), to whom they were entrusted by their 'ohana (family) during ceremonial interment.'[89] Demanding their return means 'exercising the duties of the 'ohana to restore the commitment to the land.'[90] In his conclusion, Ayau described repatriation and reburial as 'aspects of our dignity as human beings and as a lāuhui (nation).'[91] So, here, too, the reburial is claimed to perform an inscription into the nation, but a different kind of nation, one that exists outside or even against current state-governmental structures.

Frictions between people who might be described as affected communities with regard to international repatriation issues and the government of the land they live in are, as legacies of colonisation, inherent in the postcolonial state. A prominent example were the efforts of Nama and Herero against their exclusion from negotiations between the Namibian and German governments concerning the genocide committed against their ancestors. The repatriations of the remains of people from different German collections to Namibia escalated these conflicts into the wider public in the 2010s. Reinhart Kößler concluded his reflections on the return of the remains of fourteen people from Namibia, that had been held in the Alexander Ecker Collection in Freiburg, Germany, in 2014, by suggesting that rehumanisation – and particularly the return of the Pienaars – should become a 'normative goal'[92] for such processes. The two main factors that he considered essential to enable rehumanisation were the 'establishment of the precise identities of the deceased' as well as the inclusion

84 E. H. Ayau, "I Mana I Ka 'Ōiwi: Dignity empowered by repatriation," in *The Routledge Companion to Indigenous Repatriation: Return, Reconcile, Renew*, ed. C. Fforde, C. Timothy McKeown and H. Keeler (New York: Routledge, 2020), 63–82.
85 Ibid., 65.
86 Ibid.
87 Ibid.
88 Ibid., 68.
89 Ibid., 81.
90 Ibid.
91 Ibid., 80.
92 R. Kößler, "Imperial skullduggery, science and the issue of provenance and restitution: the fate of Namibian skulls in the Alexander Ecker Collection in Freiburg," *Human Remains and Violence* vol. 4, No. 2 (2018): 27–44, here 38.

of 'persons who could be construed as "relatives" of the deceased' and the conducting of appropriate rituals.[93] Memory Biwa, interpreting a first return from Germany to Namibia in 2011, called the 'multidirectional vocalisation' of 'battle songs, ululations, sobbing, and dissonant moaning' of the Namibian delegation at the hand-over ceremony 'a rupture in chronological time, where the time-space continuum was drastically reversed and capitulated into co-presence' with the ancestors.[94] In 2014, however, the affected communities were not invited to the handover ceremonies in Germany. This was despite people like Ester Utjiua Muinjangue, at the time chair of the Ovaherero/Ovambanderu Genocide Foundation, advocating for the importance of the remains being retrieved and accompanied by their kin, since they had 'never been mourned'[95] before.

Identification matters not only for deciding who and were to return the dead to. It is also a precondition for *claiming* the remains of people from holding institutions. But colonialist and racist legacies still interfere with ideas of lineage and affiliation articulated in policies and guidelines.[96] In the 2013 German Museums Association guidelines, for example, affiliation, and thereby the question of who can lay claim to the remains, seemed to be defined as biological descent. In his response, Michael Pickering explained that this was not in line with much more open, culturally and socially determined concepts of affiliation as they were lived by indigenous people in Australia.[97] Yet, biological identity and scientific attempts to define it are part of negotiations about the return of remains held in collections. Alexandra Roginski and Cressida Fforde have recently drawn attention to the danger of ancient DNA analysis overriding social, cultural and even geographical affiliation by claimants. In a discussion of several contested cases, they showed that contrary to the perception of the wider public, DNA analysis is far from presenting unequivocal, objective truths – its results are based on the interpretation of the respective scholar. Furthermore, the search for 'biological markers of identity and disease'[98] continues to implicate the 'disciplines of the dead'[99] (Ciraj Rassool) in the perpetuation of racist ideologies. All too often, genetic markers get framed as revealing racial belonging, thereby re-inscribing the idea of race as a legitimate classification system of human variety. While DNA analysis in some cases might be helpful for return processes, one needs to be aware

93 Ibid.

94 M. Biwa, "Afterlives of genocide: Return of human bodies from Berlin to Windhoek, 2011," in *Memory and Genocide: On What Remains and the Possibility of Representation*, ed. F. Moradi, R. Buchenhorst and M. Six-Hohenbalken (Abingdon: Routledge, 2017), 91–106, here 99.

95 E. U. Muinjuange, "100 Years of Silence. The Case of the Ovaherero Genocide," sound recording of a public lecture, University of Applied Science Freiburg, 17 June 2010, https://www.freiburg-postkolonial.de/mp3/2010-06-17-Esther-Muinjangue-Herero.mp3, quoted in Kößler, "Imperial skullduggery," 35.

96 C. Fforde, C. T. McKeown, H. Keeler, L. Ormond-PArker, P. Tassel, P. Turnbull, S. Hemming, D. Rigney, M. Pickering, A. Aran, W. Morris, G. Knapman, "Identity in applied repatriation research and practice," in *Working with and for Ancestors: Collaboration in the Care and Study of Ancestral Remains*, ed. C. H. Meloche, L. Spake, K. L. Nichols (Abingdon: Routledge, 2021), 255–267.

97 M. Pickering, "A Helping Hand? Comments on the 'Recommendations,'" in "Human Remains in Museums and Collections," ed. L. Förster and S. Fründt (Clio-online and Humboldt-University Berlin, 2017), 26 ff.

98 A. Roginski and C. Fforde, "Ancestors Now: DNA Technologies, Identity and the Repatriation of Indigenous Ancestral Remains," in *Repatriation, Science and Identity* (Abingdon: Routledge, 2021), 210–233, here 211.

99 C. Rassool, "Human Remains, the Disciplines of the Dead, and the South African Memorial Complex," in *The Politics of Heritage in Africa: Economies, Histories, and Infrastructures*, ed. D. R. Peterson, K. Gavua and C. Rassool (New York: Cambridge University Press, 2015), 133–156.

that it can 'only produce information on relatedness and should not be seen to ascribe identity – even if the reference sample is comprehensive.'[100] Identification, then, if by individual name or at least as a person belonging to a somewhat specifiable social network (which, in returns of the colonial dead, often gets framed as cultural or even ethnic), *is* indeed a precondition not only for the notion of rehumanisation but for the mere act of returning. But the identification of the 'colonial dead' remains complicated not only by the *who* and the *what* the deceased were, are, and are claimed to be. All these aspects remain deeply troubled by the currency of scientific racism, ongoing racialised power relations, and their contestations.

South African restitution policy: Colonialism, racism, and healing

Unlike the German Museums Association's guidelines,[101] the 'National Policy on the Repatriation and Restitution of Human Remains and Heritage Objects,' issued by the South African ministry for Sport, Arts and Culture, acknowledged scientific racism and colonisation as both the motivation and the condition for the establishment of 'collections' of the mortal remains of colonised people right from the beginning. Violence, conquest, 'collecting and museum-making in South Africa and Europe … especially of the remains of indigenous people taken illegally from their graves' were not only described as central processes in the making of society in Southern Africa at the beginning of the twentieth century, these 'legacies of domination and racism' were also acknowledged as 'enduring features' today.[102] The introduction addressed South Africa's domination of Namibia and acknowledged people's resistance 'against the imposition of a racial order' from the onset of colonisation in Southern Africa throughout the apartheid regime.[103] Accordingly, the policy's definition of 'unethical acquisition' of human remains included remains 'collected and used for the purpose of racial study' and 'collected from those who lived under formal subjugated colonial occupation.'[104] The 'restitution and repatriation of the dead of colonialism, apartheid and resistance' were understood 'as part of the healing and reconciliation of the communities and people of South Africa.'[105]

By positing the fight against racism and postcolonial conditions as central to the need for restitution and repatriation, the policy shifts the focus of the debate. In this document, there is no 'us' and 'them', no 'Western' versus 'indigenous' dichotomy. It is acknowledged that South Africa, not only as a state or nation but as a society, is implicated in enduring legacies of domination and racism. The holding of the remains

100 A. Roginski and C. Fforde, "Ancestors Now," 221.
101 Other than in Nankela and Silvesters' contribution, the 2021 guidelines mention 'racism' only once, on p. 66: 'In communities of origin and postcolonial discourses in Europe alike, [human remains stemming from colonial contexts] are regarded as testament to racist ideologies of supremacy and dependencies as well as a symbol of the loss of respect and interpretational sovereignty. The collections and their funding bodies are therefore called upon both to examine the acquisition contexts of human remains in their collections and to clarify the status of the human remains in each case.'
102 South African ministry for Sport, Arts and Culture, "National Policy on the Repatriation and Restitution of Human Remains and Heritage Objects," undated, unpaged (here, p. 9 of the pdf).
103 Ibid.
104 Ibid., p. 7 of the pdf.
105 Ibid., p.9. of the pdf.

of indigenous people and liberation fighters in what the policy defined as repositories ('also known as collections')[106] both within and outside of the country is seen as part of that legacy, one that needs to be overcome to allow for healing and reconciliation. Restitution and repatriation is not presented as a potential, yet a carefully limited solution to individual past wrongs committed against *others.* Arguably, it is precisely the acknowledgment of the ongoing implicatedness of the South African society in the perpetuation of racist and colonialist relations which signifies that the underlying notion of the 'human' is one *not* classified by race. The underlying notion of the 'human' is one that defeats the legacies of scientific racism and colonialism and it is *that* idea of the human that is being imagined as constitutive of a reconciled society.

The policy also included the possibility of 'spiritual repatriation', defined as an act through which a person's spirit can be repatriated in the absence of their physical remains. The concept of spiritual repatriation moves the concept of the human beyond material fragments of a dissectible species. It was suggested that such a spiritual repatriation, possibly to 'a person's place of birth … or a site identified by the person's immediate family or the requesting community' could 'include the return of soil, rock/s and flora,'[107] applying an extensive concept of the person.

Yet, in its definitions, the South African restitution policy stated that the term 'human remains' referred to 'the physical remains of *Homo sapiens*' and listed as examples 'complete or partial skeletons,' 'preserved human tissues,' 'slide preparations' and 'artefacts made largely or wholly from the above,' the latter including – in contrast to the German Museums Association's guidelines – body casts.[108] Remarkably, the South African restitution policy thereby included contradictory notions of the human in one and the same document. That the policy sometimes speaks of 'ancestral remains' but mainly adheres to 'human remains' might also be read as a reflection of such contradictions.

While 'radiographs, digital imagery, scans' were explicitly excluded from the definition of 'human remains,' they were part of a more comprehensive list of documentation and data which should be considered for restitution together with the physical remains of people. In the case of 'unethically acquired' remains, all associated documentation and data was also considered to be unethical and therefore subject to restitution. As Robyn Humphreys has pointed out, the fact that documentation was explicitly excluded from the definition of 'human remains' might still leave loopholes for institutions to retain digital replica of remains which are demanded to be restituted, thereby undermining the authority of claimants. Another challenge might be that in one section, the policy stated that it was 'unlikely' that a claim would be successful if the remains were more than 300 years old and 'highly unlikely' if they were more than 500 years old.[109] In the policy's definition of 'human remains',

106 Ibid., p. 6 of the pdf.
107 Ibid., p. 7 of the pdf.
108 Ibid., p. 4 of the pdf.
109 Ibid., p. 25 of the pdf; R. Humphreys, *Critically engaged archaeology: Prestwich Street burial grounds as a case study* (unpublished Phd thesis: University of Cape Town, 2025), 177.

however, only fossils were excluded. In Humphreys' analysis, these statements partook in processes in which, through repatriation negotiations, different categories of remains are introduced. Categories which deem some remains more repatriable than others and produce new hierarchies.[110] Arguably, these hierarchies reflect different grades of humanness which are granted to the physical remains.

The objectives of the policy highlighted that families and communities of the deceased must be 'interacted with throughout the repatriation process' and that 'healing and closure for the communities and families involved' shall be facilitated.[111] In the last section of the policy, 'cultural protocols', the document stressed the authority of communities and families, who 'have a responsibility to their ancestors to bring them back home … in accordance to their customs, traditions and laws.'[112] Families and communities were granted the right to decide who should be 'involved in negotiations and consultations,' they 'should have access to and copies of all relevant documentation concerning their ancestral remains' and the remains 'should be returned expeditiously and in accordance with the protocols of communities and / or families.'[113]

But the discussion of who can lodge claims shows the difficulties of defining affiliation. The policy seemed to attempt to attend to the complexities of affiliation and identification by introducing different recognised groups of claimants: 'community of origin', 'country of origin', and 'descendants and next-of-kin'. To be recognised as 'community of origin', claimants are expected to 'demonstrate a continuity of belief, location, and history between themselves and the group or family or community from which the remains originate,' while 'documentation and data in the form of archival, historical, political, economic, oral historical, molecular (DNA) and other chemical methods along with biological analyses' may be used to establish descendants and next-of-kin.[114] Who can legitimately lay claim to the remains keeps being entangled with ideas of linear cultural or geographical developments and biological descent. Importantly, however, it is also possible for scholars and activists, if they have knowledge about unethical or illegal acquisition, to initiate a restitution process.[115]

In the face of centuries of racist and colonialist erasure of identities and their replacement with typologies, exploitation, and suppression, how can we acknowledge the *who* of the person and not only the *what* they were made to be – or, in the process of return and reburial, *what* they are asked to be in that current moment? Must we, perhaps, accept, name and work with and through the conflicts, the failures of restoring personhood, the contradictory claims to the deceased person and is *this* work, if handled with care and attention for ongoing racialised power relations, the work *towards* rehumanisation?

110 R. Humphreys, *Critically engaged archaeology*, 179 f.
111 Ibid., p. 10 and 11 of the pdf.
112 Ibid., p. 26 of the pdf.
113 Ibid.
114 Ibid., p. 24 of the pdf.
115 Ibid.

Man and the social relationality of return and restitution

To return the colonial dead involves facing legacies of erasure and rupture of social webs, cultural practices, individual identities, of colonial inventions of ethnicity and tribe, of entangled and violent histories.[116] Ciraj Rassool, Nicky Rousseau and Riedwaan Moosage speak of these violent histories as processes of dehumanisation. These include the concrete objectification of people who were turned into specimen and collectibles but extend to broader structures of racialisation, exploitation and 'desubjectification'. According to the authors, people who were deemed to be less-than-human maintained their being-human in relation to each other, in protest and refusal of techniques of oppression. It is for that reason that Rousseau et al. suggest to speak of re/humanisation:[117] to account for the fact that in some regards, processes of return, restitution and rehumanisation might actually be the first time that the deceased are treated as fully human, therefore rather to be described as humanisation, but that to adhere to this terminology would give in to the perpetrators view and neglect the agency of the affected. What they imply but do not elaborate on, are the different conceptions of the human that are at stake here.

Building on the work of W.E.B. Du Bois, Frantz Fanon, Aime Césaire, Michel Foucault, Valentine Mudimbe and Anibal Quijano (amongst many others), Sylvia Wynter has analysed different conceptions of the human, and particularly the rise and characteristics of what she calls Man2, a secular biocentric notion of the human, based on Darwinian evolutionary theories and liberal humanism. According to her, it is *this* conception of the human which still overdetermines our contemporary present, through what she terms the overrepresentation of the 'ethnoclass Man.'[118] The 'culture-relative term *Man* – as the desupernaturalied *conception of the human* that evolved out of the Judaeo-Christian origin narrative and its cosmogenic schema that had given rise to two variant models (the first hybridly religion-secular and specific to sixteenth-century Europe, the second now purely secular and global in its scope), and that is therefore a *member* of the *class of all possible* conceptions of the human – is represented as isomorphic with the class itself, that is, with the class of all the varied modes of being human generic to our uniquely hybrid (*bios* and *logos*) species.'[119] In her analysis, different conceptions – or, as she says, genres – of the human have always coexisted but were erased or suppressed by *Man*.

I argue that it is precisely the identification with that overrepresentation of *Man* which allowed for the authors of the guidelines of the German Museums Association to present claims that keeping the remains of people in museum storages did not

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116 See, for example: A. Mafeje, "The Ideology of 'Tribalism,'" *The Journal of Modern African Studies* 9 (2) (Aug 1971), 253–261; M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (London: James Currey Ltd, 1996); A. Quijano, "Coloniality of Power, Eurocentrism, and Latin America," *Nepantla: Views from the South* 1;3 (2000): 533–580.

117 N. Rousseau et al., 'Missing and Missed, 24.

118 S. Wynter, "Unsettling the Coloniality of Being/Power/Truth/Freedom: Towards the Human, After Man, Its Overrepresentation – An Argument," *CR: The new centennial review* 3.3 (2003): 257-337, here 316 f. It was Rinaldo Wiscott's insistence on the troubling of the notion of the 'human' in Sylvia Wynter's terms during the 'Missing and Missed' workshop, 29 February - 1 March 2018, at UWC, Cape Town, that stayed with me and eventually resulted in me writing this paper.

119 S. Wynter, "1492: A New World View," in *Race, Discourse, and the Origin of the Americas: A New World View*, ed. V. Lawrence Hyatt and R. Nettleford (The Smithsonian Institution, 1995), 5-57, here 43, emphasis in the original.

grant the deceased the dignity they deserved as the worries and values of *Others*. It is the overrepresentation of *Man* which allows for a homogenisation of the 'Western European' *us* as a unit which subscribes to a conception of the human based on evolutionary theories and enlightenment and which ties this very conception to an indispensable, 'non-European' *Other*, one that is irrational, one that is *not* modern. Arguably, the human that is being defined solely by way of its physical, therefore biological aspects – as it is represented in 'human remains' – remains stuck in this very biocentric notion of the human and its "genetic status-organizing principle"[120] *race*. Demands for the return of the remains of people from collections and their (re-)integration into social contexts which practice ways of being human different from *Man2* might therefore actually represent aspects of a broader struggle for the establishment of more inclusive notions of the human, ones that are attentive to the relationality of being, and to the manifold aspects of being human beyond its biological form.

Thinking through the social, the subject, and notions of global apartheid in the postapartheid world, Maurits van Bever Donker, Ross Truscott, Gary Minkley and Premesh Lalu proposed to work with the notion of 'traversal'. In psychoanalysis, traversal describes a process of acting out one's unconscious, a repetition through which one might work through and reconfigure one's desire. 'To traverse the social in the wake of apartheid' they suggest, 'is to attend to the repetitions that impede but also make possible another social beyond the horizon of apartheid, beyond apartheid's ordering of extrinsic difference.'[121] Building on Fanon's call for new concepts, for 'a new man'[122] – a call that Sylvia Wynter has elaborated and developed – van Bever Donker et al. reiterated: 'Such a construction requires the production of difference that is not apartheid's difference. This difference can be neither ontological nor extrinsic; it amounts to an affirmation of becoming at the limit.'[123] Ultimately, it is this project of working towards a new social, a being human as becoming, that the project of re/humanisation needs to adhere to, a rehumanisation as open-ended process, as a process of affirming and developing new, more inclusive forms of being human.

Acknowledgments

I would like to thank Sophia Sanan, Jens Kastner and the anonymous reviewers for their comments. Special thanks go to Sam Longford, who has been such a reliable, committed and fun co-editor that the workload became bearable, and to Ciraj Rassool for his support.

120 S. Wynter, "'No Humans Involved': An Open Letter to my Colleagues," *Forum N.H.I.: Knowledge for the 21st Century* 1;1 (1994): 1-17, here 5.
121 M. van Bever Donker, R. Truscott, G. Minkley and P. Lalu, "Traversing the Social," in *Remains of the Social: Desiring the Postapartheid*, edited by ibid. (Johannesburg: Wits University Press 2017), 1-39, here 6.
122 F. Fanon, *The Wretched of the Earth*. Translated by Constance Farrington (Penguin Books, 1990 [1961]), 255, qt. in ibid.,14.
123 Van Bever Donker et al., "Traversing the Social," 14.