Summary

The main conceptual innovation of this work is to explain the significance of the (post)colonial context for the history of cultural property protection laws. The work is based on a new interpretation of comprehensive source materials and seeks to embed this research in current theoretical discourses. The result is a narrative that takes into account the different ways in which norms have developed in colonial or imperial constellations and it points out their connection to the "discourse of civilization" under international law. This approach is conceptually designated as the "administration of culture" in order to distinguish it from existing histories of cultural property protection.

According to the international legal doctrine of the 19th and first half of the 20th century, only "civilized states" were considered holders of rights and duties under international law. For many states, the laws governing the administration of culture were the instrument and reference point for participating in this discourse. Likewise, the colonial powers and empires of the 19th and 20th centuries saw themselves entitled by this discourse to define legal norms to legitimize the appropriation of cultural assets. The legal "protection" of cultural assets has always implied a general reference to culture and its administration in international law.

The traditional narratives about the origins of this area of law suggest that the norms at the international level were formed primarily in the 19th century by codification efforts concerning the laws of war and have developed continuously since then. Such a historiography perpetuates a narrative of progress that only rarely takes into account contemporary international legal doctrine and the postcolonial situation of international law. In contrast, this legal-historical study analyzes the period from the French Revolution of 1789 until the appearance of modern instruments of international law in the 21st century. It examines the norms that developed in connection with or reference to the "standard of civilization" under international law and that regulated cultural heritage. This perspective makes the purpose of protecting culture and its manifestations, described in many histories as neutral, seem at least ambivalent.

The period of the French Revolution and the Congress of Vienna brought a radical change that had far-reaching consequences for the understanding of culture, national identity and universalism. During this time,

the law became an instrument of destruction and appropriation of a large number of monuments and works of art. This resembles dynamics of European colonialism. At the same time, legal arguments were formulated to criticize these events and international lawyers were a leading voice in these debates. It is therefore all the more surprising that political arguments, such as the idea of balance of power, were used at the Congress of Vienna to justify the restitutions.

In the "long" 19th century, following the events at the Congress of Vienna, an international debate began in the field of international law, which discussed the status of works of art or monuments – as they were named in the legal language at the time. The standard of civilization of international law played an important role in this debates and sometimes also served as a legal argumentation figure. This period also marked the general rise and entry of the "discourse of civilization" into the science of international law. This went hand in hand with the spread of legal norms relating to cultural heritage. In addition, the traditional Eurocentrism of international law produced various scientific ideas that shaped the theories of international cultural cooperation. These doctrines formed the intellectual basis for many European interventions in cultural matters around the globe. At the same time, (semi-)peripheral states began to mobilize the juridification of cultural relations as an instrument to participate emancipatorily in the "discourse of civilization". This was mainly achieved by the enactment of new laws for the administration of cultural heritage, the introduction of new national cultural institutions and cultural cooperations with Western states.

The First World War did not put an end to these developments, but rather brought forth new international institutions that can be characterized, at least in part, as the continuation of an imperial order. The League of Nations and its organization of the mandate system and intellectual cooperation became an important forum for these developments. In some states, cultural heritage has become the arena to express imperial and national conflicts of interest. This was especially the case in formerly colonized countries. Colonial powers also established a number of new legal frameworks for access to the cultural heritage of their colonies in the interwar period. In this changed environment, law took on an important role. New terms and concepts, such as "cultural property" and a new understanding of "protection", were also coined at that time. Even though many ideas were not yet able to establish themselves, important conceptual change was experienced in this epoch. Likewise, some drafts were prepared

for the codification of this area of international law, however, they were still shaped by colonial ideas.

This did not change abruptly after the Second World War and the beginning of the decolonization era. Rather, the dynamics of discriminatory mechanisms continue to this day, for example in the discourses on the "New Wars", on the rights of Indigenous peoples, and on the restitution claims of cultural assets from colonial contexts – the current challenges of international law in this area. The restitution discourses in particular document the attempt to use law as an instrument to redress colonial injustices. The United Nations and the UNESCO provided forums for these efforts. However, the current legal debates seem to be characterized more by the autonomous self-regulations (soft law) of museums and other cultural institutions.

Nevertheless, in recent years and decades, new international treaties have been concluded, declarations have been made and guidelines have been drafted, all of which are aimed at reorienting this field of law and taking a more global approach. This is reflected in new legal concepts such as "world cultural heritage" or "intangible cultural heritage", but also in the new role of international law as a place of discourse for the emancipatory aspirations of the global South. This historical-critical analysis hopes to contribute positively to such a future development of this area of law.