Afrikanist*innentag 2023:
Im/materielles Erbe neu kalibriert – Im/material heritage recalibrated
5 May 2023 (Panel 4)
Venue: GWZ, Room NGW 1216, Beethovenstr. 15, 04107 Leipzig, Germany

---

Panel 4a/4b/4c:
Law in Africa vs. Law about Africa
Legal Aspects on the Protection of African Cultural Heritage
(Annual Conference/Jahrestagung)
(Gesellschaft für afrikanisches Recht • Association du Droit Africain • African Law Association)

Panel 4a 5 May 2023: 09: 00-10:30 – Room: NGW 1216 Chair: Hatem Elliesie	
Harald Sippel	The Spectrum of African Law throughout the Ages: The 50th Anniversary of the African Law Association (1973–2023) and the Protection of African Cultural Heritage
Anthony C. Diala	The Contemporary Identity of African Laws
Deginet Wotango Doyiso	Early Experiences of Multilingual Lawmaking in Ethiopia's Modern Legal History: Amharic, English and French
Panel 4b 5 May 2023: 11: 00-12:30 – Room: NGW 1216 Chair: Harald Sippel	
Thoko Kaime & Collins C. Ajibo	Recognizing African Dispute Resolution Frameworks as Autonomous Body of Law: Beyond Decoloniality
Leopold von Carlowitz	Return of Cultural Objects from Colonial Contexts: Difficulties with Legal Basis and Competency Issues on the German Side
Sebastian M. Spitra	Past the Colonial Median: Looting and Restitution of Cultural Objects as Epistemic Practice
Panel 4c 5 May 2023: 14: 00-15:30 – Room: NGW 1216 Chair: Katrin Seidel	
Jonas Bens	Contesting Property: Challenging Capitalist Property through Maasai Materialities
Christoph Brumann	Africa in the UNESCO World Heritage Arena: Marginalisation, discontent and complicity
Concluding Discussion	
General Meeting / Mitgliederversammlung **Gesellschaft für afrikanisches Recht • Association du Droit Africain • African Law Association** 5 May 2023: 16: 00-17:30 – Room: NGW 1216 Chair: Harald Sippel	

Abstracts Panel 4a/4b / 4c:

The Spectrum of African Law throughout the Ages: The 50th Anniversary of the African Law Association (1973-2023) and the Protection of African Cultural Heritage

Harald Sippel

Chairperson of the African Law Association
Universität Bayreuth

Founded in 1973 in Germany, the African Law Association has committed itself to the promotion of "African Law", i.e. the various legal sources which were or are applicable on the African continent. More than 200 members of the Association are not only interested in international laws, state laws and non-state laws (e.g. customary and religious legal sources) that relate to the past and present legal culture of all African states, but also in African legislative and judicial systems and in international African organizations. To share knowledge and exchange ideas, the Association has been organizing annual conferences on topics related to "African Law" since 1975 and has been publishing the journal "Law in Africa" since 1997. This paper emphasizes the importance of the Association for the preservation, promotion and protection of African legal cultures throughout the changing times.

The Contemporary Identity of African Laws

Anthony C. Diala

University of the Western Cape, South Africa;
Fellow of the Bayreuth Academy of Advanced African Studies, Germany
Visiting Professor of Law and Society in Africa, University of Turin, Italy

European colonisation of Africa constitutes a normative marker in the evolution of indigenous African laws. This claim arises from the revolutionary impact of colonialism on people's behaviour, as empirically observed in African social fields. The activities in these fields indicate three types of African laws. The first is State laws, which I describe as remnants and adaptations of the Western legal systems that were transplanted by colonial administrators. Normatively, State laws are the most important of the socioeconomic changes brought by European colonialism. The second type is indigenous laws, which are pre-colonial norms that emerged in agrarian social settings with the primary aim of promoting group welfare. The third type is a hybrid of the others because it represents people's adaptations of their indigenous norms to economic, religious, cultural, philosophical, and technological changes. Due to the intersectional influence of globalisation, this third type constitutes contemporary African customary laws. It also typifies the interaction of legal orders in the south of the Sahara.

Early Experiences of Multilingual Lawmaking in Ethiopia's Modern Legal History: Amharic, English and French

Deginet Wotango Doyiso
Universität zu Köln

The political and legal landscape in Ethiopia has been reorganized and reshaped several times over the past 150 years, the most notable one being the codification project in 1950s. Emperor Haile Selassie I had the vision that the introduction of uniform modern codes would bring legal unification and strengthen the top-down nation-state building process. Foreign legal experts recruited from France, Switzerland and the United Kingdom, who had very little, if any, knowledge of then-existing Ethiopian laws and customs, prepared a comprehensive set of six systematized code books. At the same time,

the Emperor pursued the goal of building a unique Ethiopian legal system and established a Codification Commission which translated the drafts written in French or English into Amharic. While the French original versions remained just drafts, the Amharic and English versions were published in the official gazette. But the National Parliament authenticated only the Amharic versions as official and authoritative. The legal transplantation process thus introduced three mutually dependent language versions into the Ethiopian legal system: Amharic, English and French language versions. Most of these codes have survived regime changes and still serve as the primary source of regulation in their respective areas. However, research on the development of modern Ethiopian laws, particularly with regard to the significant role of language, is still in its infancy. In the central part of my paper, I first explain how the codification process can be seen as an attempt to ensure historical continuity in the development of Ethiopian law. I then define the characteristic features of the Ethiopian legal transplantation process. Finally, I sketch a tri-lingual legal regime of Amharic, English and French to identify the types of translation problems in the transplanted codes and to examine how the original French versions would have helped clarify the authenticated Amharic versions today

Recognizing African Dispute Resolution Frameworks as Autonomous Body of Law: Beyond Decoloniality

Thoko Kaime and Collins C. Ajibo
Universität Bayreuth and University of Nigeria

Africa continent has in-built and functional dispute settlement law and policy before the advent of colonialism. This framework serves the useful needs of the society. Every community was underpinned by certain dispute settlement framework to help to settle commercial and non-commercial disputes leaving each party satisfied of the outcome. The multiplicity of communities in the continent did nothing to detract this functional framework based on the learned members and knowledgeable elders of the community. The advent of colonialism denigrated and relegated this dispute settlement law into the background as largely uncivilized and unsuited for the refined world. Although the element of African dispute settlement law still exists among family disputes and other close-knitted cases, the coloniality of dispute settlement system based on adversarial and inquisitorial system holds sway and virtually supplants the systematization and growth of African dispute settlement law. In the same vein, coloniality of dispute settlement norm-generation and application stunted the global recognition and application of the African dispute settlement law in the continent. Consequently, African dispute settlement law is literally inapplicable in commercial dispute settlement, while its application in non-commercial matters continue to dwindle and in some cases non-existent. Against this backdrop, this paper seeks to explore the potentials of African dispute settlement law, its preservation and protection, decoloniality of processes and outcomes and pathways for co-existence of western-oriented dispute settlement model with African dispute settlement law in future commercial dispute settlement matters.

Return of Cultural Objects from Colonial Contexts: Difficulties with Legal Basis and Competency Issues on the German Side

Leopold von Carlowitz
Rights, Resources, Dialogue

The article highlights various legal aspects of the return of artefacts from colonial contexts by ethnological museums in Germany. It provides an overview of the legal basis, relevant guidelines and precedents, budgetary difficulties and competency issues.

When addressing colonial injustice in Germany, there seems to be a general political interest in restitution. But there is no hard legal basis for restitution claims concerning collection items to the societies

of origin or their states. Guiding documents for action are the Framework Principles for Dealing with Collections from Colonial Contexts adopted by central actors of German cultural policy and the Guidelines for the Care of Collections from Colonial Contexts of the German Museums Association, both of which are outlined in the presentation. Even if relevant cultural policy actors are willing to return specific artefacts, they must observe budgetary regulations on the gratuitous disposal of state assets. These regulations vary between the federal government, individual federal states (Länder) and municipalities which makes them difficult to grasp. Furthermore, there are competency and participation issues between the federal government, the Länder and the municipalities in the largely unregulated but conflictual space between foreign cultural policy and the cultural sovereignty of the Länder.
So far, there have been isolated precedents for returns. These include the return of the Witbooi Bible and whip to Namibia and the Nama people by the state of Baden-Württemberg or the return of Benin bronzes by the Prussian Cultural Heritage Foundation and various ethnological museums to Nigeria. Contrary to what was assumed when the Framework Principles were adopted in 2019, there have been relatively few returns to date, which is also due to a lack of transparency or knowledge about returnable artefacts on the part of the ethnological museums. This is why the digitisation of existing collections and comprehensive provenance research are of great importance also in the field of return/restitution.

Past the Colonial Median:
Looting and Restitution of Cultural Objects as Epistemic Practice

Sebastian M. Spitra
Universität Wien

Discourses about global justice have been held in public, academic and legal fora with a broad range of issue areas in the last years. The most symbolic of which is the debate about the restitution of cultural objects plundered, looted or acquired in colonial contexts. While collecting in colonial contexts is mostly associated with plunder, genocide or at least structural violence, this presentation intends to address colonial plunder and restitution as historic and contemporary epistemic processes that have been creating and erasing local, regional and global (normative) knowledge. It starts from the observation that the colonial epistemic constellation still seems to be perpetuated in various ways in the current international or domestic law and legal debates. This is reflected in governmental declarations, legal analyses or historiographic narratives. In contrast, this presentation seeks a different approach by acknowledging the embeddedness of cultural objects in a plurality of normative orders – not only in the times of the colonial appropriation but also today.

Africa in the UNESCO World Heritage Arena:
Marginalisation, discontent and complicity

Christoph Brumann
Max Planck Institute for Social Anthropology

Adhered to by 194 countries, the Convention Concerning the Protection of the World Cultural and Natural Heritage adopted in 1972 is one of the most successful international treaties and the one activity most strongly associated with UNESCO, the UN special agency that administers it. A place on the World Heritage List is a coveted distinction the world over, significantly boosting tourist numbers, national and local pride, investments and conservation at many of the chosen sites. Yet while listing is premised on "outstanding universal value" or "OUV", complaints of Eurocentrism have accompanied the venture's spectacular expansion. There is broad agreement in the World Heritage arena that sub-Saharan Africa and its cultural heritage sites in particular are not represented to the degree they should be. Based on long-term ethnographic study, the paper addresses the history, causes and hidden

affordances of Africa's marginalisation in the World Heritage arena. European countries were quicker to realise the benefits of the List and nominate their sites, given also the implicit monumental framing of early years. Now that an explicitly "anthropological" conception of cultural heritage and new categories such as cultural landscapes have been approved, principal obstacles have been removed. Nevertheless, the superior capacity of other countries, mainly from the Global North, to submit nominations perpetuates their hegemony, also after the World Heritage Committee with its 21 rotating state members moved to politically motivated decision-making in the 2010s. Subtle Eurocentrism continues, such as when experts raised on European heritage fail to appreciate African cultural landscapes. Also, African countries on the Committee are themselves too absorbed by short-term political objectives to address the lingering biases in more depth. Complaints of a neglected Africa therefore continue to be raised, with momentous consequences for the recent expert-driven attempt to exclude the potentially divisive heritage of recent violent conflicts from World Heritage honours.

Contesting Property:
Challenging Capitalist Property through Maasai Materialities

Jonas Bens
Universität Hamburg

Ethnographic museums throughout Europe are engulfed in controversies over the coloniality of their collections. The frame of contestation is most often capitalist property law: Who should ‘own’ the ethnographic objects – the colonizers or the colonized? However, if one takes normative pluralism perspective, it becomes visible that the pieces of ethnographic collections in European museums originate in Indigenous cultural systems whose normative orders are based on sometimes radically different conceptions of what persons are, what things are, and how they interrelate. Drawing from legal ethnography in a Maasai community in northern Tanzania, this paper shows how capitalist property conceptions are challenged when what counts as “things” in capitalist property regimes are seen as “persons” and “body parts” in a Maasai legal framework. It is argued that it is not possible “decolonize” heritage regimes, without question the hegemony of capitalist property law.