Provenance Research and Claims to Bangwa Collections

A Matter of Morality or Justice?

Evelien Campfens & Isabella Bozsa

05.12.2022 doi: 10.17176/20230207-115249-0

Using the lens of a case concerning the Bangwa collection in the Municipal Museum of Brunswick, this contribution proposes that a human rights law approach and cooperative provenance research are key in dealing with collections from colonial context.

Fifty years after the UN General Assembly urged the return of colonial cultural takings to victims of expropriation and twenty years after the Declaration on the Value and Importance of Universal Museums – through which museums justified their continued possession of such artefacts – return ceremonies have gained widespread attention. They are a testament to the fact that times have changed. European museums and governments generally present these returns as voluntary gestures. However, is such an 'ethical model'– whereby high-profile cases are settled by ad-hoc agreements on a voluntary basis, depending on the moral standards of the current possessor – a sustainable way to achieve justice in the long run? Sooner or later standards need to be set: Which objects are eligible for return, exactly? And who are 'right-holders' to these objects?

This contribution proposes that a human rights approach, focusing on the intangible (heritage) value of objects, offers tools to address these questions. A human rights approach is based in the right to culture in Article 15, para 1 (a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) that has come to include the right of access to cultural objects, implicating certain rights of indigenous communities regarding their (lost) cultural objects.[1] The legal status of an artefact, in that sense, is not solely defined by the ownership status of an object according to national law in a holding state but also by the cultural rights of communities of origin. Since participation of these communities in the governance and care of their cultural heritage is essential to such a rights-based approach, this has to be considered also by museums and provenance researchers (i.e. during investigations into an object's ownership history). A case example concerning objects in the ethnographic collection at the Municipal Museum of Brunswick (MMB) attributed to the Bangwa – a people indigenous to today's Southwest region of Cameroon – may illustrate these points.

Colonial context and cooperative provenance research

The appropriation of the Bangwa collection that is currently in the MMB took place during German colonial expansion to the interior of Cameroon. The first contact between the Bangwa and a German was not directly accompanied by military force but set out within the context of colonial economic exploitation. In 1898, the powerful Bangwa ruler Fontem[2] Asunganyi (approx. 1870-1951) received Gustav Conrau (1865-1899), a trader, hunter and colonial agent who acted on behalf of a German trading company to recruit workers for their plantations at the coast. He himself described his first encounter with Fontem

[1] Committee on Economic, Social and Cultural Rights, General Comment No. 21 (2009), UN Doc E/C.12/GC/21, under 'Normative content', paras 7, 49(d), 50.

[2] Fontem is the name of the ruling dynasty of the Bangwa-kingdom called Lebang. Under German colonial rule the name Fontem was taken as an administrative unit for Lebang, the largest of the nine Bangwa kingdoms of the region (cf. Ndobegang; Bowie 2009: 96). Today, Fontem is still the capital of Lebang and an administrative subdivision of Lebialem in the Southwest Region in Cameroon.

Asunganyi as diplomatic and cooperative (Conrau 1899: 205). Asunganyi had interest in establishing a German trading "factory" in his kingdom and allowed seventy Bangwa men to accompany Conrau as workers to the coast. On that occasion, Conrau also obtained some cultural objects which he sent to the "Königliches Museum für Völkerkunde" (today: Ethnologisches Museum) in Berlin. Among these was a commemorative figure today known as the "Bangwa Queen".

When Conrau returned to the kingdom of Lebang to recruit more labourers, without honoring his promise to bring back the Bangwa men who had come with him on his first trip, conflicts arose. Asunganyi arrested Conrau, who escaped and probably shot himself out of fear what would come. This triggered several military operations by German colonial troops against the Bangwa from 1900 onwards. After the first brutal military attack, marking the beginning of the "Lebang-German war" (Atem 2000: 79), Kurt Strümpell (1872-1947), a lieutenant in the German colonial army, headed the military campaign to enforce "war retribution payments" (Deutsches Kolonialblatt 1901: 314) from the Lebang kingdom. In addition to forced labourers, a large number of ivory tusks and other resources, Strümpell mentions cultural objects taken by the German administration. Some of these resemble the ones in the collection at the MMB. Strümpell also mentions in this regard two ceremonial staffs, decorated with colourful glass beads, in his report to the colonial government. These were allegedly not seized, but gifted by Fontem Asunganyi himself. Strümpell described how Asunganyi sent a messenger to him, who asked Strümpell to carry one of them as "a sign [...] to make peace" (BArch R 1001/3348, Strümpell 14.12.1900, translation IB). Two years after this military campaign, Strümpell handed around 60 objects[3] from the Bangwa region to the MMB, a museum in his hometown, including two staffs with bead decoration.

During provenance research in the framework of the project PAESE at the MMB, Isabella Bozsa, a co-author of this piece, established contact with the Bangwa community and royal family of Fontem with the help of Evelien Campfens, another co-author. Isabella Bozsa consulted Chief Taku and George Atem (1953-2021), both descendants of Fontem Asunganyi and Bangwa title holders, about the Bangwa collection at the MMB. Both objects mentioned above are included in this collection. Both doubt that Fontem Asunganyi gifted the two ceremonial staffs; the king would not have given away his symbols of royal power and authority voluntarily. Royal and spiritually important objects like commemorative figures in particular, such as the "Bangwa Queen", would not have been gifted (Campfens 2019: 80). Instead, they qualify these as spoils taken during the invasion of the palace by German colonial troops. This demonstrates that including members of communities of origin in the process of provenance research is necessary to gain new insights into colonial history that may well challenge prevalent narratives. Decolonial knowledge production in provenance research, in sum, requires cooperation with communities of origin.

Collections as ancestral links

This type of collaborative research may raise questions about the ontological status of museum collections that were taken for the sake of scientific knowledge about non-European cultures. Bangwa representatives revealed that the artefacts had cultural meaning beyond their conception as "ethnographic objects". In July 2022, a visit of the king Asabaton Fontem Njifua and a delegation of eight Bangwa-title holders at the Municipal Museum of Brunswick took place. HRM Asabaton Fontem Njifua is the successor of Fontem Asunganyi and today's ruler of Lebang. The king and his delegation emphasized the spiritual meaning of the Bangwa objects. The moment when they saw and touched the objects for the first time was an emotional one. They sang and prayed to their ancestors, including Fontem Asunganyi. In Bangwa culture, ancestors guarantee the wellbeing of the kingdom and its people. The presence of the historical objects presented the Bangwa with an opportunity to connect to their ances-

[3] Today 46 objects can be traced in the storage of the museum. The missing objects were probably destroyed during the Second World War or entered other museum collections through exchange transactions, f.e. the Rautenstrauch-Joest-Museum Köln.

tors. According to Chief Taku, this truly was a historical moment. Since German colonisation, the kingdom of Lebang faced a number of catastrophes and misfortune. Most recent of those is the war in the anglophone North- and upper Southwest region of Cameroon. The king of Fontem, His Royal Majesty Asabaton Fontem Njifua, described the encounter at the museum in Brunswick a moment of hope: "To see them today and touching them means a lot of joy, a lot of relief and it gives us great hope for a better future" (HRM Asabaton Fontem Njifua, 12.07.2022).

What about the law?

That cultural objects are not merely commodities is a notion acknowledged in legal systems throughout history. Roman law considered certain cultural objects inalienable (as *res sacrae* or *res extra commercium*), and in most jurisdictions similar rules can be found. The first multilateral conventions echoed such special legal status and provided for protection of monuments and works of art. Destruction or pillage of cultural objects, even in times of war, is prohibited and today this rule is firmly established in international law. In that respect objects sacred to (indigenous) communities enjoy an even stronger status, as may follow for example from Article 5(3) of the 1995 UNIDROIT Convention.

Although present-day treaties do not apply directly to earlier takings, the principle that the social context and intangible (heritage) value of cultural objects to specific people is key in determining *for whom* and *where* cultural heritage should be preserved is gaining ground in an expanding legal framework. UN Security Council resolutions, for example, highlight that destruction and pillage is a threat to peace and security and that protection of cultural heritage is essential for the sustainable development of societies. In that same vein, a series of resolutions by the UN Human Rights Council approach these issues as a matter of fundamental human rights.

A human rights approach

In the context of the debate on restitution of colonial takings, the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) best exemplifies a human rights law approach. Article 11 (2) provides for a right of 'redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples' with respect to cultural objects taken without 'free, prior and informed consent or in violation of their laws, traditions and customs.' Depending on the cultural importance of the specific object (think of sacred and/or spiritual objects) such redress may vary from a right to 'access and control' to a straightforward right to repatriation. Today, these provisions are considered the implementation of the (binding) right to culture in Article 15 para 1 (a) ICESCR in as far as it concerns indigenous peoples. That this comes with legal obligations may be highlighted by the acknowledgement that the provisions on cultural rights of indigenous peoples in UNDRIP reflect evolving customary international law.

An interesting roadmap for the operationalisation of these rights is given in a Columbian ruling concerning the so-called 'Quimbaya Treasure.'[4] In that ruling, the Court ordered the Colombian government to pursue, on behalf of the Quimbaya people, restitution by Spain of a golden treasure lost at the close of the nineteenth century. The court relied in this ruling on the argument that under today's standards of international law, indigenous communities are entitled to their lost cultural objects. A recent Swedish decision to return cultural objects that were taken during scientific fieldwork in the 1930s to the Yaqui in Mexico, taking the provisions on cultural rights in UNDRIP as legal basis, bolsters this interpretation.

What we can see here is the development of a right of access and control, often implicating restitution, with regard to cultural objects that people identify with on account of their intangible 'heritage' value. A key element of this model that it may constitute a continuing human rights violation to *remain separated* from certain cultural objects. This, as

[4] Judgment SU-649/17 (2017) (Republic of Colombia, Constitutional Court).

opposed to a focus on the unlawfulness of the *acquisition at the time* in a traditional (property focused) approach. Another noteworthy element is that communities – not national states – should be considered right-holders. This obviously does not negate the role governments may have in these procedures as custodians of the interests of their citizens, but does point at the importance of participation of heritage communities in the governance and decisions over their cultural heritage.

It also means that national courts may be key in the further development of this field. Access to justice, obviously, is of special importance for dispossessed communities that—for whatever reason—are not actively supported by their governments. National courts can weigh the different interests at stake, and adjudicate individual claims, either by reliance on applicable human rights norms, or—depending on the specific jurisdiction—by a 'heritage sensitive' interpretation of open norms that exist in all jurisdictions.

Conclusion

Given the limitations of reconstructing facts in the distant past, we suggest shifting attention to the values and meanings attributed by communities to the objects at stake *today*. The Bangwa community representatives highlighted that museums may have objects of spiritual value that are utterly unknown to them in their collections, such as the royal staffs at Brunswick. These objects may continue to have present value as spiritual objects, functioning as links to their ancestors. In the Bangwa case, the objects at Brunswick have a stake in the current wellbeing of the Bangwa community. With this argument, the Bangwa delegation in Brunswick argued in favour of the return of the objects to the representatives of the Bangwa Kingdom of Lebang beyond the context of colonial crimes.

In terms of a legal claim and from a human rights perspective, *not* to grant indigenous communities such as the Bangwa access and control over their spiritual objects constitutes a continuing violation of their cultural rights. In other words, even if the unlawfulness of takings may be difficult to prove and revindication claims under private law may be stale, this still does not justify an assertion that this field is merely a matter of morality. Grave injustices of the past deserve justice—and access to justice—today.

ABOUT THE AUTHORS

Evelien Campfens
Dr. Evelien Campfens is an international lawyer specialized in art and cultural heritage law, based at Leiden University.
Isabella Bozsa
Isabella Bozsa is a provenance researcher with focus on museum collections from colonial contexts and a PhD candidate at the Department for African History at Leibniz University Hanover.

SUGGESTED CITATION

Campfens, Evelien; Bozsa, Isabella: Provenance Research and Claims to Bangwa Collections: A Matter of Morality or Justice?, Verfassungsblog, 05.12.2022, doi: 10.17176/20230207-115249-0.

Licensed under CC BY-SA 4.0.

Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20230207-115249-0.