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Cross-border title claims to cultural objects: property or heritage?

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Propositions relating to the dissertation

*Cross-Border claims to cultural objects.
Property or heritage?'*

by Evelien Campfens

1. The framing of claims by original owners to their lost cultural objects as merely 'moral claims' amounts to a denial of (access to) justice.
2. The intangible heritage value of cultural objects, as symbols of an identity, can best be addressed through the notion of 'heritage title'. Irrespective of the ownership rights of others, original owners should still be able to rely on heritage title, which means a right of access, control, return or an equitable solution, provided a continuing cultural link can be demonstrated.
3. The paradox of lawful possession of unlawfully looted art is due to fragmentation of the law. This can be solved by a 'heritage-sensitive' judicial interpretation of open norms to align outcomes with international standards, and by relying on human rights to address and weigh heritage interests.
4. The *lex originis*, whereby title issues are governed by the law of the country of origin or loss rather than the law of the country where the object is located (*lex rei sitae*), should be considered as a special conflict of law rule for cross-border claims to cultural objects.
5. In implementing the 1970 UNESCO Convention, states tend to focus more on the designation and protection of their own national heritage than on the identification of stolen or unlawfully exported cultural objects from abroad.
6. A registration and clearance system is needed to distinguish a 'lawful' from an 'unlawful' provenance, given that many cultural objects in circulation do not have a full provenance (ownership history). On the regional level, a European agency for cultural objects tasked with such matters, could also address implementation problems of EU Regulation 2019/880 on the import of cultural goods.
7. The UN Declaration on the Rights of Indigenous Peoples is the authoritative legal instrument on the rights of indigenous peoples and can be considered binding upon states in as far as the provisions on cultural rights are concerned. Accordingly, indigenous peoples are entitled to access, control or repatriation of their involuntarily lost cultural objects, depending on the heritage values involved.
8. The idea of 'universal museums' can be best served by the universal *circulation* of such collections, especially in regions that do not currently have such collections, and their administration by an international body.
9. The institutional vacuum within European jurisdictions with regard to claims to historical losses such as Nazi-looted art leads to an increase in the number of typically European cases being brought before US courts. This needs to be addressed.
10. Political interference in cases that are pending before restitutions committees undermines the authority and independence of such panels. Decisions on claims to artefacts in public collections should be duly motivated.
11. International cultural heritage law should be included in university curricula since awareness and education are the primary policy tools for combatting the illicit trade. Rules cannot be followed or applied if they remain unknown.
12. Every traveller to Greece should be aware that a trip to the Aegean can be a life-changing experience, both personally and professionally.