

Discussion of “Framework Principles”

23 January 2024

Minutes of 2nd discussion of civil society initiatives

Participants:

- Representatives from civil society initiatives
- Representatives from the Federal Foreign Office
- Representatives from the Federal Government Commissioner for Culture and the Media
- Representatives from the Ministry of Science, Research and the Arts for Baden-Württemberg and the Hamburg Museum Department on behalf of the federal-Länder working group for “dealing with collections from colonial contexts”
- Representatives from the German Contact Point for Collections from Colonial Contexts

Minutes

Question 1 and 2: General matters

*What is your experience of the requirements associated with the Framework Principles?
In your opinion, in what respects have the requirements associated with the Framework Principles proved their worth?*

What changes, clarifications and additions would be useful in your view? Are there any important aspects that have not yet been taken into account in the Framework Principles? Where do you see a particular need to change the terminology used?

- The Framework Principles from 2019 are a policy paper focused on collections from colonial contexts. Public collections are also the focus of any further development of the Framework Principles.
- The meeting could only serve as a prelude and outline some initial approaches, as there was too little time for participants from the initiatives to prepare; the experts therefore request an additional discussion.
- According to the initiatives, civil society and activist perspectives (including those of the younger generation) must also be fully included; the new Framework Principles should not be a purely academic or administrative paper.
- Following the discussion, participants from the initiatives want to suggest people they think must be involved.
- According to the initiatives, private collections and trade should also be addressed (e.g. preservation of cultural property by a museum under a trust arrangement; central contact point for private individuals too); particular problems would arise if part of a collection was in private and part in public ownership.
- The human rights dimension must be emphasised more clearly (“cultural heritage and access to culture as a human right”).
- Cooperation beyond the cultural dimension through collaborative projects is also needed in the economic sphere.
- The Framework Principles and the Contact Point, which is already in place not only for institutions but also for representatives from societies of origin, must be better known at home and abroad, according to all participants.
- Human remains would require a separate discussion due to special issues; however, the following aspects have already been mentioned:
 - Cultural property and human remains should be treated separately in general.

- In the case of human remains, repatriation should be subject to far fewer conditions.

Question 3 and 4: Criteria

According to the Framework Principles, the key criterion for the return of cultural property is whether the “appropriation took place in a way that is no longer legally and/or ethically justifiable today”.

What do you think of this criterion? Are there other criteria that should be taken into account when deciding whether cultural property should be returned?

Are there any areas (such as categories of cultural property, specific regions, etc.) that you think require special focus in terms of content and time? According to the Framework Principles, “due to the circumstances of their acquisition, those cultural objects which were removed from their societies and transported to Germany within the framework of formal colonial rule” is “particularly relevant”. From your perspective, what do you think of this prioritisation of cultural property from the formal colonial period? Should this be treated differently from cultural property from a time when informal colonial structures existed?

- The categorisation of an acquisition as “unethical” should not be limited to today's perspective, but must (more than ever) include acquisitions that were already considered unethical at the time (especially from the perspective of societies of origin); colonial rule was always a context of injustice.
- In terms of the time in question, the focus should not be on purely formal colonial rule. Instead, the colonality of other circumstances of acquisition must also be clarified further (more recent academic findings on informal colonial rule should be drawn on in relation to this). Solutions would also have to be found for pre-colonial acquisitions.

Question 5: Prioritisation and cultural significance

Should cultural property with special religious, historical or ritual significance be subject to requirements other than those listed under 3?

- There should be no prioritisation according to specific categories of cultural property, as otherwise the holding institutions would determine what they consider to be of relevance in terms of priority.

- The cultural significance should determine the respective solutions (i.e. cultural property should also be returned regardless of the circumstances of acquisition).
- However, the question of what counts as significant in this context is open to debate; the perspective of societies of origin regarding what, in their view, has cultural significance should be taken into account, – and not that of the holding institution.

Question 6: Countries/societies of origin

So far, the Framework Principles state that returns should “only be made in agreement with the countries and societies of origin”. In your opinion (and if so, in which cases) does it seem necessary and sensible to involve representatives from the society of origin? What form is suitable for this?

- Problems arise when dealing with differences between the country of origin and societies of origin.
- Due to the requirement that a claim for return must be made by the state, there is no scope for communities within a country to ask for things to be sent back. However, they have often carried out the decisive prior research work and, under this regulation, would have no means of demanding the return of the corresponding item, even in cases they know might qualify for return in principle under the Framework Principles.
- Even where a return is then made at state level, there is a risk that communities will not receive the cultural property because the respective countries of origin do not prioritise the transfer of returned cultural property.
- Societies of origin must therefore also be fully involved in the process.
- The intended use may not be decided by the returning organisation, but should be determined by the recipients.

Question 7: The challenges of provenance research

What do German institutions need to consider when conducting provenance research in relation to cultural property from colonial contexts?

- Provenance research must be better funded.
- The diaspora should be included in the course of provenance research, but also beyond that.
- Greater digitisation of collections is needed to better respond to inventory list requests from countries of origin.

- Provenance research must be carried out independently of any initiative by communities or other enquiries, and a proactive approach should be adopted instead; the initiative must come from the state or the holding institutions.
- The present approach (initiative taken by communities, but procedure determined by the holding institution) must be reversed, so the holding institution initiates the research, but the procedure is largely determined by communities.

Question 8: Advisory committee

What is your position on the call for a country-wide advisory committee in Germany to make recommendations, in the event of differences between institutions and societies of origin, regarding the return of cultural property from colonial contexts?

- If a committee is set up, it should be made up of people from different groups; continuity is important here.
- A committee that offers networking, expertise and advice could also be considered, not a committee in the sense of an advisory board that makes decisions, as such a committee is more likely to reflect established power structures.
- A committee without institutional ties is preferred, where the diaspora can also tackle the issue of cultural property (see Contact Point).