

Museum International



**Return of cultural objects:
The Athens conference**

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Editorial

The work undertaken by UNESCO to promote the return of cultural property to its countries of origin was begun thirty years ago, during a decade that witnessed numerous developments in the field of heritage protection. In 1970 and 1972 two important conventions were passed by the General Conference of UNESCO. The first was aimed at the protection of heritage against illicit trafficking; the second gave a remarkable impetus to the promotion of world cultural and natural heritage. A third element was added in 1978, to strengthen existing provisions. Following an appeal by the Director-General of UNESCO, Member States established the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation.

The mandate of the Intergovernmental Committee, consisting of twenty-two members elected by the General Conference of UNESCO, is primarily to facilitate bilateral negotiations for the restitution or return of 'any cultural property which has a fundamental significance from the point of view of the spiritual values and cultural heritage of the people of a Member State or Associate Member of UNESCO and which has been lost as a result of colonial or foreign occupation or as a result of illicit appropriation'.¹ It must also 'encourage the necessary research and studies for the establishment of coherent programmes for the constitution of representative collections in countries whose cultural heritage has been dispersed'.² These two concerns guide UNESCO's efforts to utilize all resources in bilateral and international cooperation to meet the aspirations of countries concerned and the requirements of conservation of cultural property.

Since the establishment of the Intergovernmental Committee, UNESCO through *MUSEUM International* has reported regularly on discussions regarding the delicate issue of the return of removed cultural property, on the requests formulated and reservations expressed, and on the claims and misunderstandings, in particular within the museum community. This dissemination function echoes the mission of the organization as a whole: notably to work as a laboratory of ideas and as a catalyst for international cooperation.³ The organization of forums on the issue of return and restitution, and the dissemination of their results, can stimulate the

development of the public awareness necessary to change attitudes and for the emergence of responsible attitudes on the part of all involved.

This issue of *MUSEUM International* publishes the proceedings of an important conference intended to take forward the debate on the issue of the return and restitution of cultural property. Held in Athens on 17 and 18 March 2008, at the initiative of the Government of Greece, the conference brought together key actors to advance practice on this issue. On behalf of UNESCO I thank Greek authorities, for initiating this conference and for the resources – notably financial – that they have deployed and dedicated to the success of the Athens Conference. The proceedings follow the format of the conference. The first chapter is devoted to the presentation and exchange of successful experiences in the return of cultural property. The next four chapters reflect current debates on the main legal, ethical, diplomatic and scientific components relating to this issue. A summary of the conference, together with its conclusions, is presented at the end of the final chapter, by the Director of Prehistoric and Classical Antiquities, Hellenic Ministry of Culture, Elena Korka.

In communicating widely on the state of the debate on these issues, UNESCO participates in the advancement of an ethic of heritage. It strives to allow everyone equal enjoyment of cultural property as humanity's common heritage, created by the genius of peoples.

Françoise Rivière

ASSISTANT DIRECTOR - GENERAL FOR CULTURE

DIRECTOR OF THE PUBLICATION

| NOTES

1. Article 3.2 of the Statutes of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation.
2. Article 4.3 of the Statutes of the Intergovernmental Committee.
3. UNESCO Mid-Term Strategy for 2008–2013.

Foreword

by Dr George W. Anastassopoulos Ambassador, Permanent Delegate of Greece to UNESCO, President of the 34th session of the General Conference of UNESCO

It is a pleasure for me, as President of the UNESCO General Conference, to share my thoughts on one of the most important cultural issues to be recently re-examined by UNESCO¹. At the 34th session of the General Conference, UNESCO's member states unequivocally reaffirmed their support for the 1970 International Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property². They also stressed the greater role played by UNESCO in combatting illegal trafficking and the Intergovernmental Committee in promoting the return of cultural property to its countries of origin. To the uninitiated this seemed on the face of it an unremarkable state of affairs: once again the member states of an intergovernmental organization were reaffirming their adherence to one of their own normative texts. What could be the added value of this statement?

I would like to differ from this over-simplistic interpretation of events. I presided over the 34th session of the General Conference when this resolution and UNESCO's medium-term strategy for 2008–2013 were adopted, and personally saw it as, and to the contrary, a remarkable feat, despite its apparent banality. Indeed, if we look at the event from a historical perspective, we can appreciate the tremendous progress that has been made. Let us not forget that in the early 1970s the Convention was seen by many leading curators and collectors (in both the public and private domains) as an unwarranted restriction on the effective controls of the free market. For these professionals devoted to collecting the world's finest 'masterpieces' the 1970 Convention was perceived – at the time – as no more than an obstacle in the way of their unregulated acquisition plans.

Thirty-six years after the 1970 Convention came into force³ we can take pride in the fact that this former attitude to art collections and museums no longer holds sway, despite the fact that some of the more determined traditionalists, with the help of new information and communication technologies, are setting themselves up as proponents of digital repatriation – a convenient but pale excuse for old collections to stay where they are, offering cultures that have been plundered the meagre compensation of access to cultures without a soul. It was thus no accident at all that the

34th session of UNESCO's General Conference should assert in 2007 that virtual access to cultural property cannot supplant the enjoyment of such property in its original and authentic setting.

As of today, 115 countries have ratified the Convention, including those countries that historically have been least in favour of it, such as Japan, Switzerland, the United Kingdom, Sweden, Denmark, Norway and Germany, to name just a few.⁴ Furthermore, inspired by the 1970 Convention, the majority of museums have adopted the ICOM Code of Professional Ethics, which lays down a set of principles governing museums and the museum profession in general, and acquisitions and transfers of ownership of collections in particular. UNESCO also launched the International Code of Ethics for Dealers in Cultural Property.⁵ Adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its 10th session, in January 1999, the Code was endorsed by the 30th General Conference of UNESCO in November of the same year.

Lastly, as further testimony to the international community's unwavering determination to uphold the values of the Convention, today the world can count at least sixty-five countries with cultural heritage laws, all of which are inventoried in the UNESCO Cultural Heritage Laws Database,⁶ launched in February 2005 at the 13th session of the Intergovernmental Committee.⁷ This resource offers governments, customs officials, art dealers, organizations, lawyers, buyers and others a complete and easily accessible source of information on laws and procedures applicable to cultural heritage as a whole, whether movable, immovable, intangible, underwater or natural. Both public authorities and art markets have much to gain from this database. It provides free access to national laws, allowing buyers easily to verify the legal antecedents of cultural property, and making it more difficult for traffickers to claim ignorance of the law and thus of the illegal nature of their dealings.

Despite these undeniable signs of progress, our current economic and political environment is reframing discussions in terms that bring to light new trends and challenges that must be addressed without delay. Among these we are seeing an increasing number of requests from countries for the return of objects preserved outside their borders, as well as for assistance in reconstituting their cultural memory and traditional knowledge. We have to bear in mind that Africa has lost around 95 per cent of its cultural property.⁸ We are also witnessing an unprecedented increase in trafficking via the internet⁹ and the wilful damaging and illicit trafficking of cultural property during conflict. The case of Iraq is, after Afghanistan, the most striking.

Many hypotheses could be brought forward to explain these phenomena; two in particular strike me as most relevant to our discussions in order to understand the environment in which we are working. These tendencies can be partly explained by the fact that, more generally, the culture sector is an increasingly lucrative business, generating a strong and diversified demand for and supply of cultural goods and services. Cultural consumption occupies a growing proportion of individual budgets and national economies, as can be seen from the fact that museums around the world are flourishing and that the number of visitors is growing.¹⁰ Globally, it is estimated that the trade in cultural goods has grown from US\$ 39.3 billion in 1993 to nearly US\$ 60 billion, an increase of 50 per cent, in merely ten years.¹¹ Allied to this commodification of culture is the growing recognition, since the Pérez de Cuéllar Commission, of the essential role that culture and cultural industries play in economic growth and human development. With this comes the acknowledgment that cultural policies are ‘one of the key components of endogenous and sustainable development’.¹² It is therefore not surprising that the Convention on the Protection and Promotion of the Diversity of Cultural Expressions includes a focus on the need to take a ‘holistic view of the development process, bringing the cultural dimensions of development together with economic and environmental objectives within a sustainability framework’ (Article 13).¹³

In parallel to this economic ‘boom’ in the culture sector we are also witnessing a general movement away from purely economic analyses of power and towards culture as a marker of identity, thereby rejecting classic economic and military understandings of wealth and prestige. Societies are asserting their sovereign rights by claiming their cultural specificities and demanding, as their corollary, the right to reclaim and re-describe previously stigmatized or even unspoken parts of their history, in the name of the promotion of cultural diversity and identity.

In this context museums have become much more than sites of mere aesthetic contemplation and judgement. How can I not underline at this point that this relatively recent development of museums brings them back to the original sense of the Greek term *mousseion*, which means the ‘lodging of the Muses’ (all nine of them): places devoted to the learning of all the arts and harmony with the world. Today’s museums, whatever they may be, are rediscovering their holistic vision: they have become open spaces of cultural expression, exchange and dialogue, and invaluable vehicles for the preservation of cultural diversity as a common heritage of humanity. In the same buildings that house permanent collections and retrace periods of our common history museums are also now hosting live performances, conferences, workshops and film festivals that establish the connection between cultural objects and the values, cosmogonies, communities and talents that produced them.

This vision of culture, as a series of concentric circles with at the centre the community of origin, challenges traditional conceptions of ‘universalism’. It emphasizes the organic bond that links the work of art or artefact and the location where it was created. But what exactly do we mean by ‘universal’? And how does this principle relate to the idea of ownership? How can we promote universal access to cultural objects while honouring legitimate requests for the return and restitution of cultural property? Are we truly eroding the authority and ideal of ‘universal museums’ by encouraging the greater mobility and return of cultural objects? Or are we merely encouraging more innovative arrangements and conceptions of museography or even ‘museology’?

When Victor Hugo proclaimed that ‘monuments belong to their owner, their beauty to everyone’, he was unwittingly capturing a singular truth about cultural objects that, I believe, still holds true today. Monuments contribute to the creation of a cultural consciousness in a given geographic area. They are firmly rooted in the earth and pavements that they stand on and in the collective memories and minds of the people that observe them. It is for this reason that the UNESCO General Conference underlined the fact that the notion of universal access to cultural property exhibited in some museums of universal character cannot take precedence over the moral and legal notion of ownership of cultural property.

The increasing mobility of people has enabled easy access to elements of countries’ heritage long unknown to the wider public. Some would argue that people have a far greater opportunity today to visit ‘universal’ museums in order to rediscover traces of their own culture. This has unfortunately led numerous objects to acquire a status not of ‘universality’ but of ‘familiarity’, which progressively erodes the singularity and inherent symbolic value of cultural objects.¹⁴ Does this ‘familiarity’ suffice to guarantee the universal character of the work of art? I believe not. The reverse situation would be far more rewarding. Indeed, would we not be expanding the universality of cultural objects by, on the contrary, promoting the maintenance of cultural objects in their places of origin, or their restitution to them, since this would bring the visitors closer to the objects and their settings, instead of bringing the objects to the visitors? I am convinced that if we do not anchor these objects in their original environment and history, we run the risk of depriving them of their universal quality and beauty by making them ‘familiar’ objects of consumption.

Neither the existence of universal museums nor the multiplication of museums in different sites can resolve the problem of the relation between the cultural object and the society of yesterday, today and tomorrow that produced it. The situation asks for a

‘cultural or pedagogic accompaniment’, a narrative, an explanation of the context, in addition to the common political will and ability to protect and preserve our common heritage. This is particularly true in this area, where the shared knowledge on works of art and collections is one of the fundamental factors allowing us to get closer to a universal ideal.

I believe that both the economic expansion of the culture sector and the increased valorization of cultural diversity are driving changes in the policy environment in which we operate. Against this background we, as an international community of stakeholders, must explore every path that can lead us to the most appropriate solutions for all, in accordance with internationally agreed norms. The case studies presented here reveal some effective strategies in this direction. These are so-called success stories that have been resolved both within and beyond the realm of the Intergovernmental Committee, and hence offer invaluable insights into the resolution of diplomatic, legal and ethical dilemmas associated with the return of cultural property. In these cases, as well as in others not presented here, we can see a modification of modalities pertaining to the circulation of works of art. This is expressed notably in the rise of contractual agreements and privatization mechanisms taking the form of long-term cultural cooperation agreements. Such texts envisage various arrangements, such as reciprocal loans, negotiated in the spirit of ‘loyal collaboration’, to quote the 2007 agreement between the Ministry for Cultural Heritage and Activities of the Italian Republic and the Metropolitan Museum of Art, New York. This particular agreement could be considered historic, since it represents the first time that an important world museum has acknowledged the true ownership of cultural objects acquired through illegal trafficking.

These breakthroughs and innovations have only begun to alter the sense of universalism that governed the creation of museums. The future of our collections and their ‘universal character’ is in the making and in many ways rests on our goodwill and ability to come to similar agreements. Because there are many cases pending, it is my personal hope that, as foreseen in the mandate of the Intergovernmental Committee, the exchanges which took place during the Conference enriched our common understanding of our mutual interests and benefits. At the close of the Conference we parted with a renewed determination to find sustainable solutions to our respective aspirations as well as with a panoply of strategies for action.



| NOTES

1. This speech was first prepared on the occasion of the Athens Conference on Return and Restitution of Cultural Property held on 17 March 2008.
2. The 34th session of the UNESCO General Conference took place in Paris between 16 October and 3 November 2007.
3. The 1970 Convention came into force in 1972.
4. Germany is the latest country to date to ratify, on 30 November 2007.
5. This code of ethics was first elaborated in 1986 and has been regularly updated since. The last version of the Code was adopted by ICOM's 21st General Assembly, held in Seoul in October 2004. For more information consult: <http://icom.museum/measure.html>.
6. The database can be found at: <http://www.unesco.org/culture/natlaws>.
7. The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, established in 1972.
8. Alain Godonou, Director of the Ecole du Patrimoine Africain (EPA), public debate on 'Memory and Universality: New Challenges Facing Museums', UNESCO, Paris, 5 February 2007.
9. Joint ICOM, UNESCO and Interpol appeal available at: <http://icom.museum/release.common.initiative.html>.
10. C. Bernier 'Globalized Museumification', *L'art au musée: de l'oeuvre à l'institution*, Paris: L'Harmattan, 2002, pp. 243ff.
11. J. P. Singh 'Culture or Commerce? A Comparative Assessment of International Interactions and Developing Countries at UNESCO, WTO and Beyond', *International Studies Perspectives*, 8, 2007, pp. 36–53.
12. UNESCO (1998), *Final Report of the Intergovernmental Conference on Cultural Policies for Development: The Power of Culture*, Stockholm, 30 March–2 April 1998. Paris: UNESCO.
13. D. Throsby (2008), *Culture in Sustainable Development: Insights for the Future Implementation of Article 13*. Paris: UNESCO. <http://unesdoc.unesco.org/images/0015/001572/157287E.pdf>.
14. See Roland Recht, 'Introductory Remarks on the Notion of Universality', *MUSEUM International*, Vol. 59, No. 235, 2007.

| The reunification of a national symbol

by Dawson Munjeri

Formerly the Executive Director of National Museums and Monuments of Zimbabwe (NMMZ), Dawson Munjeri is currently the Deputy Permanent Delegate of Zimbabwe to UNESCO. He has served as Vice-President and Rapporteur of the World Heritage Committee and was a member of the various Experts' Meetings on the Global Strategy for a Representative World Heritage List. He was instrumental in the return of the Lord Baden-Powell/Mukwati Walking Stick from the UK to Zimbabwe and has written extensively in books and specialized journals on the subjects of museology, tangible and intangible heritage and cultural landscapes.

When describing the motivation behind her publication *International Law, Museums and the Return of the Cultural Objects*, Ana Filipa Vrdoljak states that the 'second trigger' was the exhibition *Africa: The Art of a Continent* that took place at the Royal Academy of Arts in London in 1995:

As I walked through the Royal Academy's darkened rooms I was left with a lingering sense of unease – despite its laudable claims. The historical voids surrounding the objects accentuated the denial of the colonial past ... In addition, a cursory glance at the exhibition catalogue revealed that the exhibits were the 'property of numerous European, North American or private collections'.¹

My own experience during a visit to the same exhibition made me recall Robert Burton's *The Anatomy of Melancholy*: 'Melancholy so resembling and reassembling of the world fragments wrested from the pasts and elsewhere to

be exhibited and categorized, only to yield instead through juxtaposition, aphorisms of coincidence'.²

On display in the Royal Academy of Arts was one of the finest specimens of the Great Zimbabwe soapstone birds, still 'in exile' in Groote Schuur, Cape Town, South Africa. Lent to this exhibition by its 'owners', this was a classic case of what the *International Herald Tribune* of 28 October 1995 aptly termed 'reasons for not exhibiting' an artefact. This narrative, however, led me to the opposite conclusion. Had it not been for the exhibition *Legacies of Stone: Zimbabwe Past and Present*, held at the Royal Museum for Central Africa (RMCA) in Tervuren, Belgium, in 1997–1998, one of Zimbabwe's cultural treasures would still be languishing in 'exile'. Its return illustrates the dynamics of interplay between a plethora of actors in a global context, reflecting a very delicate balance in which these actors play different and sometimes complementary roles, as interlopers, interlocutors and sometimes intercessors. Their roles reflect the different interests and issues, and the variables therein, all of which are defined by spatial, temporal, political and cultural contexts.

In the 15 May 2003 issue of *The Herald*, a Zimbabwe newspaper, the main news item focused on 'the reunification of the lower portion of one of Great Zimbabwe's soapstone birds':

Finally re-united with its upper part after more than 100 years in exile at a colourful ceremony punctuated by traditional song and dance at State House [the official residence of the President], the Ambassador of Germany to Zimbabwe, Dr Peter Schmidt, handed over the piece.

President Mugabe then rejoined it with its head amid ululations by guests who included chiefs, diplomats, Members of Parliament, Cabinet Ministers, historians and war veterans.³

A BBC message echoed the *Herald*, simply but poetically stating: 'Zimbabwe Bird Flies Home.'

To those unaware of the significance and meaning of this symbol of Zimbabwe's heritage, the bird was a 'fragment', a 'piece' or a 'plinth', but to the people of Zimbabwe this objectification or 'thingifying' of the soapstone bird was anathema. Zimbabwe, the country, was named after Great Zimbabwe, a twelfth- to sixteenth-century metropolis that controlled most of present-day Zimbabwe, Mozambique, eastern Botswana and northern parts of South Africa. It is famous for its dry stone architecture, a testament to the skills of the architects of Great Zimbabwe, comparable to those of pharaonic Egypt – a feat that Ali Mazrui argues is irrefutable evidence of 'Gloriana Africa'.⁴ Largely on the basis of this tangible heritage, Great Zimbabwe was inscribed on the UNESCO World Heritage List in 1986. However, the intangible dimension of this heritage is of far greater importance to Zimbabweans. When, in 1871, Carl Mauch, a German explorer, visited Great Zimbabwe, his research proved that this sacred site was a place of worship. On the occasion of the reunification of the two halves of the soapstone bird at State House, the President of the Council of Chiefs, Chief Jonathan Mangwende, remarked (in Shona), 'Vaive vasingazive kuti kune ngozi. Zvino heinoi ngozi yeshiri. Ndiko kurwadza kwengozi ikoku.' ('They [the Germans] did not know that there are avenging spirits. This is the

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© RMCA Tervuren/photo J.-M. Vandjck

1. The Great Zimbabwe Bird during the exhibition (5.11.1997 – 30.04.1998) at the Royal Museum for Central Africa in Tervuren (Belgium) where took place the reunification of the lower part of the bird, coming from the Museum für Völkerkunde in Berlin and the upper part coming from the National Museums and Monuments of Zimbabwe in Harare.

avenging spirit embodied in the bird. This is how painful avenging spirits can be. They could not live with it [retain the bird] because of the avenging spirits'.⁵) It is against this background that the true significance of the soapstone birds should be understood.

The soapstone birds in the context of Great Zimbabwe

The meaning of the Zimbabwe birds lies buried in the history of the people of Zimbabwe. The birds

were sacred representations constituting an integral part of the spiritual image of the capital. ... The combination of imagery demonstrates the union between the secular (the State) and the sacred (the guardian spirits). Indeed, the stone Birds continued to represent the spirit and essence of Great Zimbabwe long after its abandonment.⁶

There is general agreement that all ten birds found at Great Zimbabwe are sculptural manifestations of two species, the Bataleur Eagle (*Terathopius eadatus*) and the Fish Eagle (*Haliastur vocifer*). One Zimbabwean linguist, Aaron Hodza, wrote that: 'There are particular birds and particular animals believed to be sacred traditionally, notably *Chapungu* (the Bataleur Eagle), which the Shona respect because the elders say their dead founding fathers were transformed into Bataleur Eagles after their death'.⁷ Further evidence of the inspiration the people of Zimbabwe draw from the birds was apparent during the reunification ceremony, when the head of state of Zimbabwe remarked that the

return of the birds was part of the 'restoration of national identity'.

According to Frank McEwan, the 'father of Shona sculpture', this form of art 'arises from the bowels of Africa'. Nurtured in Great Zimbabwe, it declined alongside it, becoming 'a dormant genius' encapsulated in the Zimbabwe soapstone birds.⁸ It was revived in the late 1950s and 1960s through the efforts of McEwan, and through him a growing body of sculptors began using the Great Zimbabwe birds as a point of reference for their work.⁹ This inspiration transcends national boundaries. In his address at UNESCO Headquarters, Paris, on 19 November 2003 the President of the Republic of South Africa, Thabo Mbeki, said: 'We draw strength from African achievements in the arts, culture, philosophico-religions and architectural grandeur produced by the African mind over centuries. We recall in this regard the advanced civilizations of Mapungubwe (South Africa) and Great Zimbabwe'.¹⁰

The foregoing attributes, taken together, point to the significance of the Zimbabwe soapstone birds in the traditions and lives of the people not only of Zimbabwe but of all Africa. However, this role could only be fulfilled as long as the birds remained part of a 'flock', with each bird carrying out specific responsibilities and duties ascribed to it by tradition and practice. Regrettably, this was not to be.

The dark era

In the second half of the nineteenth century Western interventions severed the umbilical cord linking the birds to their people. Following

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Carl Mauch's visit to Great Zimbabwe in 1871, the site was exposed to the outside world. Following in Mauch's footsteps came Willie Posselt, from South Africa, who in August 1889 sighted four soapstone birds in the *sanctum sanctorum* of the Hill Complex ('the Acropolis'). At first, his attempts to obtain one of the specimens were forcibly resisted. He describes the incident thus: 'I examined the best specimen of the four "bird" stones and decided to dig it out; while doing so, Andizibi [Haruzivishe] and his followers became very very excited and rushing around with their guns and assegais, I fully expected them to attack us.' This attempt at forcible removal having failed, Posselt resorted to bribery: 'Next day I returned with some blankets and other articles and in exchange of these received the one "bird" stone and a round perforated stone. The former was too heavy to be carried and I was therefore obliged to cut off the pedestal.'¹¹ This action signalled the start of the sacrilegious removal of the birds and was the precursor to the systematic, officially sanctioned plunder that followed the colonization of the country in September 1890.

Cecil Rhodes, a British businessman and the 'founding father' of Rhodesia, received several of the birds and took a personal interest in them.

The original soapstone figure was housed in the library, except when Rhodes was telling worried and disputing politicians to turn from their 'trouble of ants' to the 'mountain of calm'. Then in the same spirit he placed the stone Phoenician hawk, found at Zimbabwe, in the Cabinet Council

room, that the emblem of time might preside over the deliberations.¹²

As a consequence, almost all the birds passed through the hands of Rhodes, including the bottom portion of the bird, which eventually found its way to Germany.

Jeanette Greenfield states that 'The route of objects has sometimes been no less colourful and dramatic than that of the person who initiated that journey'.¹³ This is exemplified by the 'German' soapstone bird, whose trials and tribulations began around 1890. The bottom portion proved to be a prized treasure. Around 1907 it was sold or presented to Karl Theodore George Axenfeld of the Berlin Museum, a theological inspector of the Berlin Mission. The bird changed hands for 500 Reichsmarks, and the piece was lodged with the Museum für Völkerkunde in Berlin.¹⁴ During the Second World War 'The bottom portion was captured by the Russian army, taken as spoils of war and deposited in the then St Petersburg Museum of Ethnography and Anthropology'. In the 1970s an agreement was reached between the Soviet Union and East Germany that the collections should be 'repatriated' to the 'good Germany'.¹⁵ The bird was handed over to the Museum für Völkerkunde in Leipzig. 'There it was kept with 46,675 other objects in more than 1,500 crates and packages, most of them unopened since the handover.'¹⁶ With the fall of the iron curtain and the reunification of Germany, the portion was returned between 1990 and 1992 to its 'rightful owners', the Museum für Völkerkunde in Berlin, where it was inventoried as artefact registration number Inv. No. III D 3170.

The road to recovery

But for numerous and crucial actors, the reunification of the bottom with the upper portion would have been well nigh impossible. The high sense of curatorial responsibility, professionalism and investigative scholarship demonstrated by the curatorial cadres led to the idea of the exhibition *Legacies of Stone: Zimbabwe Past and Present*. It is fitting to single out the role of Dr William Dewey, an American scholar. Pursuing research into the art history of the Shona-speaking peoples, Dewey followed a trail beginning in 1983 that led to the location of the bird at the Berlin museum. 'I asked the then Director of the Africa Collection, Dr Hans Joachim Koloss, if part of the Zimbabwe bird had also come back; he told me it had.' This major breakthrough was made possible thanks not only to Hans Koloss but also to the curatorial staff of the Royal Museum for Central Africa (RMCA), in particular Els de Palmenaer and Geerg Bourgois, whose negotiating skills played a crucial role in convincing the Trustees of the Prussian Cultural Heritage Foundation (PCHF) to part with the top portion of the bird. The advice of Zimbabwean curators also had an important catalytic effect and was instrumental in convincing the Zimbabwean authorities to part with the top portion of the bird so that it could be reunited with the 'German bird' at the RMCA exhibition. In the final analysis the governing organs of museum institutions in Zimbabwe, Germany and Belgium were all involved, as were diplomats, foremost among whom were the Ambassador of Germany in Harare, who strove to ensure the reunification of the two portions, and the Belgian Ambassador in Zimbabwe, who ensured the involvement of both royal and government circles in the exhibition.

The embassies of Zimbabwe in Belgium and Germany further ensured that the process ran smoothly. The Foreign Ministers of Zimbabwe, Germany and Belgium played a pivotal role in coolly handling the potential 'hot potato'. The underlying tensions and the roles played by governments are reflected in the remarks made by Dr Schmidt on the occasion of the reunification in Harare: 'Following representations from the Federal Government, the Prussian Cultural Heritage Foundation in the year 1999 agreed to restore to Zimbabwe the fragment.' These representations were triggered by pressures from the highest echelons in Germany, Belgium and Zimbabwe. The interest of the King of Belgium in *Legacies of Stone* was critical, and it was due to his involvement that the President of the Republic of Zimbabwe was invited to the exhibition.

On 7 January 1998 the President of Zimbabwe visited *Legacies of Stone*. The exhibit that touched him most was the Zimbabwe bird, temporarily reunited for the purposes of the exhibition. From that moment on all parties realized that the *status quo* could no longer be upheld. Justice had to be both done and seen to be done: the legacy of plunder had to be ended. It is also interesting to note that by the end of April 1998, when the exhibition closed, it had attracted more than 80,000 visitors, a record for an exhibition from a country with which many Belgians were unfamiliar. This public interest generated the critical mass necessary for wider appreciation.

Finally, the Prussian Cultural Heritage Foundation (PCHF) agreed to return the bottom half of the figure to Zimbabwe, the top half having

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already been returned shortly after the end of the exhibition. On 1 February 2000, as Executive Director of the National Museums and Monuments of Zimbabwe (NMMZ), I signed an agreement to this effect. This procedure was in accordance with the principles recommended by the International Council of Museums (ICOM), whereby return and restitution can take place 'either through bilateral agreements between states or more commonly [the recommended way] through agreements between museums, a method which has proved to be efficient'.¹⁷ The bottom portion of the bird was secretly handed over to NMMZ in February 2000 but was only officially presented on 14 May 2003. At the Society of Africanist Archeologists (SAFA) conference Dewey rhetorically asked why it had taken three years for the return to be publicly announced in Zimbabwe.¹⁸ The answer to this relates to the conditional terms attached to the return of the 'artefact'. The Memorandum of Understanding between NMMZ and PCHF can be seen as analogous to Shakespeare's *The Merchant of Venice*: the return to NMMZ of the bottom half of the figure was conditional on there being no drop of blood shed by PCHF. Zimbabwe would have its 'fragment' on condition that it was 'on permanent loan' to NMMZ. The issue now centred on whether this condition was acceptable to all those concerned.

'Return' or 'restitution' – which option would best placate the spirits? During the official reunification ceremony Dr Schmidt, the Ambassador of Germany, reiterated the 'permanent loan' nature of the return, stating to Zimbabwe's President that it had been made possible 'through your personal interest and insistence and through

the understanding and generosity of the Prussian Cultural Heritage Foundation, Legal Owners of the Fragment'. It took three years (2000–03) for Zimbabwe to accept this untenable position, whereby the PCHF was the 'legal owner'.

From the outset the case presented a dilemma: should the glass be seen as half-full or half-empty? If the former, then Zimbabwe should accept the return. The PCHF was a legal entity with great autonomy *vis-à-vis* state power. In such cases 'the State can only have recourse to means of persuasion and not coercion'.¹⁹ The Federal Government of Germany had bargained as hard as it could to persuade the PCHF to 'return' the bird. If the glass was seen as half-empty, however, then Zimbabwe should not accept: this was the position that Zimbabwe adopted during the hiatus (2000–03). The official handover could only take place on condition that the 'permanent loan' qualifier was endorsed at the highest levels. In fact, it took the traditional and spiritual leadership another year to accept the *fait accompli*; only on 6 May 2004 was the reunited bird installed in Great Zimbabwe. While Zimbabweans recognized the bird as a living tradition, the German perspective was, and continues to be, that the bird is an important 'fragment' or 'artefact'. The Germans were fully aware of the 'symbolic and emotional value of the Zimbabwe birds to Zimbabweans'. Dr Schmidt therefore acknowledged that the return itself was enough to satisfy these symbolic and emotional values. The point missed is that the bird is an embodiment of the life of a nation; it is not an artefact.

The international debate on 'return' and 'restitution' has tended to be premised on the purely legalistic meaning of 'restitution'. In this context the primary aim of restitution is to

re-establish the situation that existed prior to the wrongful act.²⁰ It is a condition that can easily be met by the physical return of the 'object'. Perceived this way, the 'return' of the Zimbabwe bird was a complete process, inclusive of restitution. But the hiatus of 2000 to 2004 is testimony to the fact that this course of action cannot be a sustainable resolution for this genre of heritage.

The solution lies in what Jeanette Greenfield calls the 'wider approach', whereby the merits of return are evaluated not only in terms of the cultural property 'going back' to its homeland but also in terms of the benefit of '[full] restoration, reinstatement and even rejuvenation and [absolute] reunification'.²¹

A comprehensive solution to the 'return' of Zimbabwe's stone birds is one that accepts and implements the 'three rationales' outlined by Christiane Tytgat for (full) restitution.²² The first rationale is that restitution should address the 'principle of territoriality and the link between people, land and cultural objects'. This is embodied in the speech given on the occasion of the 'reunification' in Zimbabwe on 14 May 2003: 'Today's ceremony allows us to proudly assert ownership over our national resources and treasures. ... Their return is cause for celebration because it fitted into the ongoing programme of national identity and restoration.' The second rationale entails 'the righting of international wrongs, in other words, *reversal* or amelioration of discriminating and genocide practices ... It is essential to address the "external silence" created in the collective memory of a nation and humanity.' During the ceremony on 14 May 2003,

inter alia, the history of colonial occupation was narrated in the context of the alienation of the soapstone birds. The third rationale is linked to the context of self-determination and reconciliation. In this sense 'recovery' is firmly tied to the articulation of the legal right to self-determination and cultural development in accordance with international law. This challenges the very notion that the legal right of the soapstone birds can be bestowed anywhere other than to Zimbabwe. 'Return' and 'restitution' cannot properly take place without moral restitution. This third rationale moves restitution from a physical act of return to one that is inclusive of the moral/intangible act.

What is returned? Why it is returned? When is it returned? Where is it returned to? How is it returned? These are critical issues that make the difference between 'return' and 'restitution', as underscored by Christiane Tytgat.²³ In the case of the 'German Zimbabwe bird', and indeed the other birds returned in 1981 by the South African Museum on condition that Zimbabwe surrender its unique collection of type-specimens of *hymenoptera*, they suggest that the conditions of restitution are still to be met.

It is encouraging that case law is increasingly veering towards empathy for the central issues raised by Tytgat. The 'community of nations now considers as an element of *jus cogens* the right of all peoples to recover cultural property which forms an integral part of their cultural identity'. Of particular note is the recent acceptance by the Supreme Court of Judicature Court of Appeal of England and Wales, which stated that it is 'essential for every State to become

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alive to the moral obligations to respect the cultural heritage of all nations and that the protection of cultural heritage could only be effective if organized nationally and internationally among States working together in close cooperation’.

More significantly, the Lord Chief Justice, Lord Phillips of Worth Matravers CJ, citing the case of *Webb v. Ireland* (1988), I.R 353 at 383, firmly anchors this:

In the Supreme Court of Ireland, C. J. Finlay said that it was universally accepted that one of the most important national assets belonging to the people is their heritage and the objects which constituted keys to their ancient history; and that a necessary ingredient of sovereignty in a modern State was and should be the ownership by the State of objects which constitute antiquities of importance which were discovered.²⁴

On the occasion of the reunification Ambassador Schmidt made it manifestly clear: ‘May the two parts of this bird never be separated again and may all the past, present and future creations and manifestations of artistic mind always be protected from destruction.’ This is indeed a positive sign.

Through the return and reunification of the Zimbabwe bird, Germany has demonstrated its political and diplomatic leadership and commitment. Through continued dialogue a way will be found to transfer the ‘legal ownership’ to those whom it is of most immediate concern rather than being held on to by those to whom it may be a

curiosity. Such an outcome will bring about the restitution that gives ‘full and true cultural meaning’ when they [the birds] are replaced in their original context.²⁵ Moreover, to paraphrase the words of Dr Peter Schmidt, it will heal, as it were, the wounds of the past, inflicted on the Zimbabwe bird and the people of Zimbabwe.

| NOTES

1. A. F. Vrdoljak (2006) *International Law, Museums and the Return of the Cultural Objects*. Cambridge: Cambridge University Press, pp. xiii–xiv.
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4. A. A. Mazrui (1986) *The Africans: A Triple Heritage*, Boston: Brown and Company, pp. 220–21.
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7. A. C. Hodza, R. S. Roberts, J. Gillian, et al. (1982). *Contrasting views of Shona sculpture*. Essay reviewed in *Zambezia X(i)*. Harare: University of Zimbabwe, pp. 56–7.
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12. Republic of South Africa (1970). *Groote Schuur: Residence of South Africa's Prime Ministers*, Pretoria, Department of Information, p. 27, cited in Matenga (1998), p. 45.
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14. Courtesy of Peter Junge of the Ethnological Museum, Berlin (formerly Museum für Völkerkunde), this invaluable information was availed to Edward Matenga on 17 March 2003.
15. W. J. Dewey 'Repatriation of a Great Zimbabwe Bird', *paper presented to the Society of Africanist Archaeologists (SAFA) Conference*, Calgary (23–6 June 2006). cohesion.rice.edu/CentersAndInst/SAFA/emplibrary/Dewey,W.Safa2006.pdf. (accessed 14 December 2007).
16. Peter Junge to Edward Matenga, 17 March 2003.
17. ICOM *ad hoc* committee. 1979. Study on the principles, conditions and means for the restitution and return of cultural property in view of reconstituting dispersed heritages. *MUSEUM* 31. Paris: UNESCO, p. 62.
18. Dewey op. cit.
19. M.N. Shaw, (2003) *International Law*, 5th edn. Cambridge: Cambridge University Press, p. 716.
20. Vrdoljak (2006) pp. 2–4.
21. See her contribution in this issue.
22. *Jus cogens*, or 'compelling law', means a law that may not be violated by any country (e.g. genocide, slavery etc). According to Article 53 of the Vienna Convention on Law of Treaties, *jus cogens*, or peremptory norm of general International Law, is a 'norm accepted and recognised by international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general International Law having the same character'.
23. Government of the Islamic Republic of Iran v. Barakat Galleries Ltd (2007). EWCA Civ 1374 at 4–5.
24. Federal Court of Justice (*Bundesgerichtshof*), judgment of 22 June 1972 – II ZR 113/70, *Neue Juristische Wochenschrift (NJW)*, 1972, at 1575 (cited in M. Weller, 'Iran v. Barakat: Some Observations on the Application of Foreign Public Law by Domestic Courts from a Comparative Perspective', *Kunstrechtsspiegel*, April 2007. <http://fkur.de/images/dokumente/kunstrechtsspiegel-04-07.pdf>.p.176–177 (accessed 24 April 2008).
25. *Ad hoc* committee, 1979, p. 63.

| The 1997 exhibition and the reunification process

by Christiane Tytgat

Christiane Tytgat¹ is Director of the Belgian Archaeological School (BSA-EBA) in Athens, Greece. A former member of the Ecole Française d'Athènes (1982–1987) and curator at the Royal Museums of Art and History in Brussels (1992–2007), she became Director of BSA-EBA in 2002 and since 2007 has held the post of Director of the Netherlands Institute in Athens. She has participated in excavations carried out by the Ecole Française d'Athènes in Argos (Greece) and Amathus (Cyprus) and by the Belgian Archaeological Mission in Apamea (Syria). Since 2004 she has headed an archaeological survey of Titani (Greece). Her scientific research focuses on the cemeteries of ancient Amathus and Cypriote, Greek pottery and the archaeological site of Titani.

In 1997 the temporary exhibition *Legacies of Stone: Zimbabwe, Past and Present* took place as part of the activities organized to commemorate the centenary of the Royal Museum for Central Africa in Tervuren, Belgium. The exhibition witnessed the reunification of the two parts of one of the famous stone birds of Great Zimbabwe. In 1997 no one imagined that the temporary reunification of the two pieces – an event that received substantial attention during the exhibition – would be the first step in the process to return the lost piece to its country of origin.

The exhibition *Legacies of Stone: Zimbabwe, Past and Present* took place over a six-month period (6 November 1997 to 30 April 1998), during which time about 80,000 visitors explored the exhibits displayed throughout the 1,200–1,400 m² space. Its success was all the more surprising considering the lack of attention accorded Zimbabwe in Belgium and the rest of Western Europe, with the possible exception of the United

Kingdom. This exhibition, inaugurated by the President of Zimbabwe, was unique in presenting the first comprehensive cultural overview of Zimbabwe from prehistoric to modern times. It showcased over 2,000 years of artistic traditions, divided into three central themes: prehistory up to the nineteenth century, material culture and contemporary Zimbabwe.

The Great Zimbabwe stone bird

The exhibition also witnessed the reunification of two parts of one of the famous stone birds of Great Zimbabwe. Only eight of these grey-green soapstone or talc-schist birds have ever been discovered. All were found in the Great Zimbabwe Ruins, one of the largest and most spectacular assemblages of stone structures in south-central Africa. Great Zimbabwe was the capital of a large Shona state system between 1200 and 1450. The site is now divided into three main areas: the Hill complex, the Valley and the Great Enclosure.

The bird displayed in Tervuren was broken long ago. The upper part was found at the beginning of the twentieth century in the Western Enclosure of the hill ruin, an area where at least one of the kings of Great Zimbabwe is believed to have lived. This part of the bird remained with the National Museums and Monuments of Zimbabwe (NMMZ) and was given the identification no. 1594. The lower part was probably taken from Great Zimbabwe in the late nineteenth century, but by whom and exactly when is unknown. An explorer (Carl Mauch in 1871), a hunter (Willie Posselt in 1889) and an antiquarian (James Theodore Bent in 1891) all

removed items from the ruins around this time. Moreover, after the occupation of the country by colonial forces in 1890, many European visitors came to the site, any of whom could have removed it. The first record of the lower part of the bird dates to 1906, when Karl Theodore George Axenfeld, a missionary, gave it to the Museum für Völkerkunde in Berlin. After the Second World War the object was presumed lost and probably destroyed, along with a number of other items from the museum. Only recently, after the dissolution of the Soviet Union, was it returned from St Petersburg, after having lain hidden for half a century in Leipzig.²

The exhibition at Tervuren and the reunification process

It is clear that the reunification, even temporarily, of the two parts of the stone bird for the exhibition in Tervuren was an important moment in history. The Great Zimbabwe bird is the symbol of the modern nation of Zimbabwe. It appears on everything, from coins and stamps to the nation's flag. This temporary reunification was the first step in the process of returning the lost piece. At the time the reunification in Tervuren was considered a symbol of cooperation between Europe and Zimbabwe, manifested in the organization of the exhibition, and a sign of future cooperation. In 2003, however, the German Ambassador to Zimbabwe returned the lower part of the bird to the African nation. The return of such an important artefact – one that is a representation of a spirit-medium, a supernatural being, the king of Great Zimbabwe and their ancestors – has, of course, immense symbolic value.

The return of cultural heritage artefacts

During a conference organized in January 2003 in the Belgian senate by François Roelants du Vivier and Paul Wille,³ Guido Gryseels, the Director of the Tervuren Museum, shared his views on the return of cultural heritage artefacts. According to Gryseels, museums have to improve the accessibility of their collections, both for scholars and the general public, by digitizing their collections so that they can be viewed online and by creating databases and virtual museums. Discussions relating to the physical locations where collections are displayed will then assume less importance. However, a blanket return of all cultural heritage artefacts is deemed out of the question. No objects can be returned to their country of origin before these countries have acquired political stability and a basic infrastructure. From this point of view the return of artefacts to museums in Africa would seem impossible at the moment. Gryseels states that only 'duplicates' can be returned in the foreseeable future. In the meantime, museums that have in their possession African cultural objects can develop partnerships with museums in Africa in order to strengthen their management. They can also collaborate in the organization of exhibitions, training and research programmes.

I do not agree fully with Dr Gryseels's ideas. One can easily imagine a unique artefact of highly symbolic value being returned to its country of origin. Each case has to be considered separately by an international committee of experts, created for that specific occasion. It is true that a lot of factors have to be taken into account and conditions fulfilled – including a stable political,

social, cultural and religious situation, the presence of an excellent infrastructure and an experienced scientific and technical staff, the accessibility of the artefact in the country of origin etc. – before the process can commence.

As my area of specialization is the Greek world and Greek civilization, I cannot say with any certainty whether the return of the stone bird of Great Zimbabwe to its land of origin was the correct course of action. However, I have been an eager supporter of the return of the Parthenon sculptures to Athens and their reunification. Looking around the new Acropolis Museum, one might consider that this is the place where they belong.

NOTES

1. Christiane Tygat delivered a version of this article on behalf of the Royal Museum for Central Africa at Tervuren in Belgium and its Director, Guido Gryseels, who was unable to attend the conference.
2. Berlin, Staatliche Museen zu Berlin: H. 44.5 cm.
3. Proceedings of the colloquium *La restitution des biens culturels. Quel rôle pour la Belgique?*, Brussels, 10 January 2003 (<http://www.senate.be/doc/misc/cultuurgoederen-10-1-2003.pdf>).

| The repatriation of Greenland's cultural heritage

by Daniel Thorleifsen

Daniel Thorleifsen was appointed Director of the Greenland National Museum and Archives in 2005. From 1991 to 1999 he was Assistant Professor at Ilinniartissuaq (Teachers' Training College) and Ilisimatusarfik (University of Greenland), and between 1999 and 2005 he was Associate Professor and head of the Department of Cultural and Social History at the University of Greenland. He has chaired the Commission of Scientific Investigations in Greenland since 2000 and the West Nordic History Group since 2002.

The steps to repatriation

Repatriation of cultural heritage is a complex phenomenon, involving many different approaches. Since most of the related disputes are tied to material appropriated within a colonial or otherwise occupation-related context, repatriation is not restricted to museological implications but touches on a wide variety of political, legal, ethical and cultural issues, as well as international policy, human rights, identity and cultural matters. Furthermore, the parties involved in repatriation disputes are just as multifarious: representatives of indigenous communities, less-developed, developing and Western nation-states, scientific communities, representatives of the United Nations system and a wide variety of other non-governmental organizations. Based on their individual starting points, all these parties may seem to have legitimate claims to the cultural heritage at stake.

During Greenland's colonial period (1721–1953) a significant number of Danish and Norwegian citizens lived in Greenland, while

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scientists from abroad acquired a significant amount of ethnographic material and other objects from Greenland and other Inuit societies in the Arctic. These items found their way into royal and museum collections in Denmark and across Europe. In the late nineteenth century substantial systematic ethnographic collecting activity took place in east and north-west Greenland, with the objects thereafter being housed in the Danish National Museum. Artefacts gathered from the Inughuit in the north-west were taken to both the United States and Denmark. As a consequence of twentieth-century Danish collecting activity in Greenland the National Museum in Denmark amassed six important material collections: the Viking age in Greenland, the Inuit past, ethnographic objects from the late nineteenth to early twentieth century, watercolour paintings from the middle of the nineteenth century, archival information on prehistoric sites across Greenland, and oral information about the past.

In 1979 Greenland obtained home rule. As of 1 January 1981 all matters relating to museums and the protection of ancient monuments became the responsibility of the home-rule Government, one consequence of which was the creation of the Greenland National Museum. The museum then initiated talks with the Danish National Museum in order to transfer parts of its collections back to Greenland. There were several arguments for the repatriation of these artefacts.

First, that the people of Greenland should have immediate access to their own prehistory. This is a common desire among all colonized people following decolonization. Many tough battles and discussions have been fought to obtain

this right, and many have been unsuccessful. Our Danish colleagues, however, were in full agreement with this aim, and the Danish–Greenland discussions were characterized by mutual respect over a common goal. The Danish National Museum subsequently declared that the Danish collections were large enough to share. This public announcement was made in the mid-1970s before home rule came into effect. Second, politicians in both countries supported the concept of repatriation. It was important that leaders in the home-rule Government and in Denmark agree that the issue should receive political support but be organized and run by responsible scientists from both museums. Third, the construction of the Greenland National Museum demonstrated the country's commitment to establishing the proper conditions to care for the artefacts.

Since the early twentieth century there has been growing interest among Greenlanders in the return of items relating to Greenland's cultural heritage. Having immediate access to the physical remains of their own past is an important factor in providing a historical awareness of the formation of Greenlandic identity. The establishment of the Greenland Museum in 1966 provided facilities to ensure proper storage of the material. In 1980 the museum was transformed into the Greenland National Museum and Archives, and negotiations were initiated with the National Museum of Denmark to repatriate substantial parts of the Greenlandic collections. The two museums quickly agreed on the basic principles for dividing the collections, and political agreement between the leaders of both countries followed suit. The agreement was signed in October 1983 and came into effect on 1 January 1984.

The basic principles of the agreement were as follows:

- (1) Greenland should have representative collections illustrating all aspects of its prehistory and covering all parts of the country;
- (2) Both collections should contain ample material suitable for popularization, research and teaching;
- (3) Collections or groups of objects naturally belonging together should remain together. In cases where this was impracticable, loans or permanent loans were to be negotiated between the two museums;
- (4) Special finds or objects of importance for cultural identity and material relating to religious matters should be repatriated to Greenland;
- (5) Information on all objects should be transferred, this being potentially the most important aspect of any collection;
- (6) Sufficient material should remain in Denmark to enable continuing research and the promotion of Greenland through exhibitions at the Danish National Museum;
- (7) Material illustrating the history of the Danish National Museum's activities in Greenland should remain in Denmark as part of Danish history;

(8) Researchers at the two museums should be able to acquire material on loan from the other museum without difficulty;

(9) An electronic database on all prehistoric sites in Greenland should be established.

The goals and the outcome

The goal of the Greenland National Museum was to establish public exhibitions on Greenlandic prehistory with the best available material. It sought to establish collections for scientific study to support students at Greenland University with prehistoric and historical material and to attract foreign researchers. It was important to create the foundation for future research into Greenland's history in Greenland and to support local museums with material on loan from Greenlandic collections. Its wish was to create and facilitate exhibitions to enhance the international visibility of the museum and Greenland worldwide. One additional goal was the establishment of a database on prehistoric sites, to help ensure their future protection from damage and destruction.

To what extent was the museum successful in achieving these aims? Today the museum possesses a fine ethnographic collection, with 1,158 objects, a fine archaeological collection comprising *ca.* 28,000 objects, an important fine arts collection of early Greenlandic art, a complete copy of all recorded drum songs from the twentieth century, public access *within* Greenland to our own prehistory and history, and a National Museum that is an attractive partner in research, exhibition and administration.

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In the final stage of the process certain major and important collections were transferred to Greenlandic authority but remained with the Danish institutions that take care of them. These include: all human material (skeletal material, mummies etc.) from graves, all zoological material from excavations and all unique European medieval clothing from Viking Greenland. These collections remain in Denmark, as the Greenland National Museum does not yet have the expertise to preserve them adequately. Although the property of Greenland, these artefacts are curated by the Danish museums, which retain responsibility for how they are used in national and international research. However, the Greenland National Museum has strict rules regarding research on Greenlandic human remains, more so than for zoological material, with each research application for access carefully evaluated by museum staff.

Significance of the Greenland repatriation

Overall, the general perception within Greenland is that the entire repatriation process has been both successful and amicable, and has led to ongoing cooperation and mutual benefits. Repatriation has been a common desire among Greenlanders, who lost essential aspects of their cultural heritage during colonial times. Repatriation is inextricably bound up with the restoration of cultural pride and identity. The legal instruments that define the relationship between Greenland and Denmark do not encompass repatriation. As such, Greenlanders instead cited ethical and post-colonial considerations.

The appropriation of cultural heritage from other cultures must be understood within its

historical context. In the Greenlandic–Danish colonial context the appropriation and exportation of Inuit ethnographical objects, artefacts and human remains occurred in the name of science. Today I choose to believe that this appropriation was undertaken in good faith, stemming from a desire to rescue Inuit cultural heritage from oblivion. Such appropriation should also benefit science in terms of the study of human development and evolution. However, the appropriation of artefacts increased the gradual disintegration of the Inuit culture – an aspect of the overall debate surrounding European appropriation of Greenland culture that requires additional research.

The repatriation of thousands of archaeological and ethnological objects, artefacts and human remains from Denmark in the 1980s and 1990s had enormous importance for Greenland: it had far-reaching significance for our understanding of ourselves today, for our identity and our cultural background. The process of repatriation was a collaborative experience with a former colonial power, Denmark, characterized not by conflict but by cooperation, and one that formed the starting point for new and rewarding partnerships.

My cultural background as a member of the Inuit and our collective experiences over the last centuries have taught me that a peaceful world is attainable only through respect of other cultures. The explanation for tension and conflict between cultures can usually be found in the different ways cultures and peoples regard one another. Without mutual respect we will never attain understanding.



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2. Eye-shades. 19th century, Ammasalik District, Eastern Greenland.
 Female dress, early 19th century, the Thule District, Northern Greenland.
 A selection of East Greenlandic objects collected by Captain Gustav Holm in 1883-1885. Today this collection has been divided between the two museums in Denmark and Greenland.

| The return of cultural heritage from Denmark to Greenland

by Mille Gabriel

Mille Gabriel is a Ph.D candidate in anthropology at the University of Copenhagen and a research associate at SILA, the Greenland Research Centre at the National Museum of Denmark. Her current research interests include legislative, ethical and political aspects of the repatriation of cultural heritage and the relationship between archaeology/anthropology and indigenous peoples, especially in the Arctic.

Between 1982 and 2001 Denmark and Greenland engaged in extensive museum cooperation, resulting in the return of approximately 35,000 archaeological and ethnographic artefacts from the National Museum of Denmark to Nunatta Katersugaasivia Allagaateqarfialu, the Greenland National Museum and Archives – a process that later became known as ‘Utimut’, the Greenlandic word for ‘return’.

Colonial collecting and rationales behind the requests

To understand fully the nature and implications of this partnership one has to be familiar with Danish–Greenlandic relations and the historical background to the collections held in Denmark. In 1721 the Danish-Norwegian missionary Hans Egede established the first missionary station in Greenland, at the approximate location of the present-day capital, Nuuk. This laid the groundwork for more than 200 years of Danish colonial reign in Greenland. During this period (1721–1953) Danish officials, arctic explorers and missionaries carried out considerable collecting activities, and consequently large quantities of

ethnographic and archaeological artefacts, as well as human remains, found their way into Denmark. As Greenland was a Danish colony, the antiquarian responsibility of Greenlandic cultural heritage was placed with Denmark, with the National Museum of Denmark eventually becoming the holder of one of the world's largest Arctic collections. Greenlandic requests for repatriation go back nearly a century and have from the outset been inextricably associated with both the formation of museological institutions within Greenland and the overall political processes leading towards independence.

The need for cultural heritage for educational and enlightenment purposes was central to Greenlanders from the outset. As early as 1913 Josva Kleist, a member of the Council of South Greenland, declared that 'The Greenlanders have no other history than that found in the graves, and it is of vital importance to acquire knowledge about the habits of the ancestors; that the population can get the opportunity to see the weapons and tools that were used'.¹

This initial request was made just a few years after Greenland had obtained a kind of moderate autonomy in 1908. A similar argument was advanced by the Greenlandic priest and author Otto Rosing forty years later, just after Greenland, as part of constitutional changes in 1953, ceased to be a Danish colony to become part of the Danish commonwealth:

The younger generation has no possibility to understand the ancestor's ingenuity and skilful crafts, because we have nothing to show of their tools and works; ... We Greenlanders, living today, are totally

stripped of everything – lock, stock and barrel – of old finds and similarly of national value. Everything has landed in Copenhagen.²

At a time when traditional customs and ways of living, such as kayaking and seal- and whale-hunting, were increasingly being abandoned in favour of more Western practices, an acquaintance with pre-colonial times was taken as beneficial to the process of Greenlandic identity formation. This close connection between cultural heritage and issues of identity was stressed repeatedly during the repatriation process that followed. In 2001 the head of the Government of Greenland, Jonathan Motzfeldt, stated that 'Psychologically it's of great importance to have your own past right outside your door. ... It's very important to get your identity right. Everybody is interested in questions such as: who am I, where do I come from, and what is my history?'³

The initial requests of 1913 and 1954 for repatriation of cultural heritage did not receive a positive response. Helge Larsen, later the chief curator of the ethnographic collections at the National Museum of Denmark, formulated the response to the latter request, stating that, owing to Greenland's colonial status, 'We must ... insist that Greenlandic museums must be regarded as provincial museums in relation to the National Museum of Denmark so that pieces of scientific value always be sent to and remain in the National Museum of Denmark'.⁴

But colonial liability was not the only Danish reservation. Another concern was the curatorial care of the collections, as at that time



3. In 1982 the Danish Minister of Culture Lise Østergaard and the State Antiquary Olaf Olsen hand over to the Greenlandic Home Rule Minister of Culture Thue Christiansen an important collection of watercolors. Σ In 1982 the Danish Minister of Culture Lise Østergaard and the State Antiquary Olaf Olsen hand over to the Greenlandic Home Rule Minister of Culture Thue Christiansen an important collection of watercolors.

there were no museums or similar institutions to properly house the objects in Greenland. In 1966 Greenland eventually established a first museum of its own, and in 1978, when moving to new locations, it was provided with additional modern facilities for storage and research. From the outset this museum entered into cooperation with the National Museum of Denmark with regard to archaeological excavations. Although overall antiquarian responsibility remained with Denmark, from this day onwards, artefacts and data were administered, stored and exhibited in Greenland.

The Utimut process

From the 1970s demands for self-determination and independency intensified in Greenland – demands that eventually led to negotiations between the two countries and finally resulted in the introduction of home rule in 1979. The introduction of home rule was accompanied by a wide-ranging legislative programme, which included museum policies as well as regulations for the preservation of cultural heritage and sites.⁵ Finally, cultural heritage administration and antiquarian responsibility were

transferred to Greenlandic home rule, and the museum of 1966 achieved the status of a national museum. However, it suddenly became apparent that the museum did not possess adequate collections to fulfil the purposes of a national museum, and repatriation became more of a priority than ever.⁶ However, as a consequence of the new political climate, the prevailing attitude in Denmark was that it would be reasonable and natural to return parts of the collection and that 'objects of cultural-historical value ought to be considered as the possession of the Greenlandic people'.⁷ As a first symbolic manifestation of this new positive attitude, a unique collection of watercolours, painted by the Greenlandic hunters and artists Jens Kreutzman and Aron of Kangeq, was returned in 1982.⁸

But this was just the beginning. In 1983 Danish-Greenlandic museum cooperation was formalized with the appointment of a committee to monitor and head the repatriation process. This committee consisted of three members assigned by Greenlandic home rule and three by the Danish Ministry of Culture, all six of whom had professional museum rather than political backgrounds. In order to divide the collections held in Denmark, the committee worked out a series of basic principles.⁹ During the years 1984–2001 the committee issued proposals for nine separate returns, each encompassing either a geographical region or a certain type of material: for example, cultural heritage from eastern Greenland, Inuit costumes from western Greenland or human remains of either Inuit or European origin. All nine proposals were based on unanimous decisions by the committee members, and all were approved by the Danish Minister of Culture.

Two aspects stand out as noteworthy. One is that the primary principle of ensuring representative collections at both museums was carried out regardless of ethnic origin. In Greenland not only Inuit but also Norse objects (produced by Scandinavian settlers in medieval times) are considered as Greenlandic cultural heritage, as both ethnic groups lived and died in the territory today defined as Greenland. Another striking point relates to human remains. With reference to the supposedly sensitive character of human remains, the committee decided to make an exception and not to divide the collection but to return it in its entirety – again regardless of ethnic origin (971 Inuit items, 359 European and 316 of unknown origin). It is likely that this decision was influenced by previous Danish experiences of returning human remains to indigenous communities in Canada and Alaska for reburial.¹⁰ In Greenland, however, human remains seem to be perceived not in particularly sensitive terms but simply as scientific material, like any other archaeological or ethnographical object. Reburial on account of ethical or religious reasons was never an issue, and owing to a lack of appropriate research and storing facilities in Greenland, the Greenlandic party decided to deposit the material in Denmark permanently.

Whereas around 100,000 archaeological and ethnographical items still remain in Denmark, 35,000 items have been returned to join the existing archaeological collections held and curated in Greenland. As a result, the two national museums today possess collections of equal importance. Besides the actual act of return, the repatriation process also included substantial conservation efforts, photographic documentation

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and electronic registration of the entire collection on a common database, as well as several joint exhibitions in both Denmark and Greenland.

But the return of objects did not mark the end of Danish–Greenlandic museum cooperation; instead, it simply paved the way for new and enriching collaboration in other fields, such as research and knowledge dissemination. Based on a partnership agreement between the two museums, a Greenland research centre, SILA, was established in 2000 and located at the National Museum of Denmark. From 2000 to 2008 this research centre conducted archaeological and ethno-historical research in Greenland in collaboration with the Greenland National Museum and Archives, as well as education and knowledge dissemination in both Denmark and Greenland – initiatives that, among other programmes, include archaeological field schools for Greenlandic, Danish and international students.¹¹

A successful partnership

‘Two equal partners in a friendly atmosphere and on the basis of objective criteria have solved problems’: this is how the repatriation process was described by Helge Schultz-Lorensen, the then head of the committee secretariat.¹² Danish–Greenlandic museum cooperation has subsequently received a great deal of attention from abroad and has repeatedly been described as a future role model for repatriation and as ‘an impressive example of cooperation between a country and a former colonized territory’.¹³

There are several reasons why this partnership turned out so amicably. One practical

reason concerned the substantial size of the collections, numbering more than 130,000 objects, as for obvious reasons it is less complicated to divide a large collection than a small one. Second, it is important to note that, owing to former colonial relations, Greenland has for centuries been influenced by Danish customs and values, not least when it comes to cultural heritage management. Until recently most Greenlandic museum curators were either of Danish origin or educated within a Danish tradition.¹⁴ For this reason the Greenlandic museum was constructed in the image of its Danish counterpart, stressing objectives such as conservation, research and knowledge dissemination. Even though the National Museum of Denmark, in accordance with ICOM’s Code of Ethics for Museums, has generally taken a sympathetic attitude to religious or ethically based repatriation claims, Greenlandic requests were from the outset based on educational and museological arguments, which were considered eligible, and never involved practices such as the reburial of human remains and reuse of religious artefacts.

But similarities between Danish and Greenlandic perspectives on cultural heritage did not end here. It is equally important to note that Denmark supported and shared the Greenlandic perspective on cultural heritage as inextricably constitutive of national identity and consequently a national matter, and differed in this respect from the eighteen museums that drafted and signed the 2002 Declaration on the Importance and Value of Universal Museums.¹⁵ Had the National Museum of Denmark been not a national but an encyclopaedic museum based on cosmopolitan claims to pan-human or universal

ownership,¹⁶ Greenlandic claims to national ownership might have been considered less reasonable. Instead, once home rule was introduced in Greenland, Denmark found it only natural to return parts of its collections, and thus the political development leading to home rule and independency worked in favour of repatriation.

To summarize, the Utimut process represents a partnership based on trust and mutual respect and has created the ideal platform for future museum cooperation between Denmark and Greenland. As has been suggested elsewhere,¹⁷ this partnership model may be applicable to other indigenous peoples and decolonized states that have lost their cultural heritage during colonial times but which are committed to establishing museums of their own. It is, however, important to emphasize that Utimut owes part of its success to the fact that it was a partnership between museums sharing practically identical objectives, and its example would consequently not apply in cases where objects are being claimed for purposes other than museological ones.

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| Implications and challenges of repatriating and reburial Ngarrindjeri Old People from the 'Edinburgh Collection'

by Christopher Wilson¹

Christopher Wilson is a Ngarrindjeri man from the Lower Murray Lakes and Coorong in South Australia who has been instrumental in assisting in the repatriation of Ngarrindjeri Old People (human remains) back to Ngarrindjeri country since 2004. He holds the position of Associate Lecturer at Yunggoendi First Nations Centre, Flinders University (Australia). He is currently undertaking a Ph.D. in Holocene occupation and subsistence in Ngarrindjeri Ruwe country along the Lower Murray SA, the main aim of which is the development of a regional synthesis conducted through a culturally appropriate methodology, developed in negotiation with the Ngarrindjeri community.

The Ngarrindjeri people of the Lower Murray River, Lakes and Coorong region of South Australia have been requesting the return of their Old People (human remains) from collecting institutions, such as museums, for many years.² Following the colonization of Australia in 1788, indigenous people became a target for scientific study, particularly among those influenced by racial theories and beliefs that advanced the notion that indigenous people formed a 'link' between 'man' and 'ape' and were soon to become extinct through a naturally occurring process of 'survival of the fittest'. These beliefs, supported by the academic community of the time, were so influential in the early nineteenth century that the collection of Old People (human remains) from their resting places became common practice



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4. Ngarrindjeri delegation carrying Old People (human remains) out of Museum Victoria for smoking ceremony.

An overview of removal and repatriation of Ngarrindjeri

In Australia the repatriation debate developed during the 1980s with demands for Old People to be returned from British museums. From the late nineteenth century Ngarrindjeri Old People had been illegally removed from their resting places, including burial platforms, by looters and collectors. A majority were 'stolen' by the former Adelaide City Coroner William Ramsay Smith and sent to overseas collections, including the Royal College of Surgeons in London and the University of Edinburgh. Ngarrindjeri Old People were also stolen and removed post-mortem from the Adelaide Hospital and sometimes even targeted prior to death. Requests from the Tasmanian Aboriginal Community to the University of Edinburgh initiated the first pro-repatriation policy, which was adopted in 1990. Following the repatriation of the majority of the collection in 1991, the university, in conjunction with the National Museum of Australia (NMA), repatriated the remainder of their collection of Old People, which consisted of both cranial and post-cranial remains.

In 2003 Ngarrindjeri representatives travelled to the NMA to collect the Old People returned from the Edinburgh Collection, consisting of over 300 individuals (mainly post-cranial). This event still remains one of the largest repatriation cases in Australia. Following this event, another seventy-four individuals were returned from Museum Victoria along with many more from private collectors, thus increasing the entire number of individuals awaiting reburial.

throughout much of the Pacific Rim.³ Since this time demands have been issued by many indigenous nations for the immediate repatriation of Old People from museums and collecting institutions to their communities of origin. However, it was not until the late twentieth century that these mounting demands awakened global interest in the issue, with the result that museums began to engage in dialogue with the communities in question and consider the repatriation of Old People. Since then the repatriation and reburial issue has become a global phenomenon.⁴



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5. Welcome Home Ceremony at Camp Coorong Race Relations Centre, southeast South Australia.

Issues and implications

The Ngarrindjeri people faced many complex social, cultural, political and economic issues as a result of the repatriation of the Edinburgh Collection. The necessary resources had to be found to fund community meetings and negotiations with community members to decide on locations, ceremonies and processes for reburial. Negotiations had to take place with state and local governments for land and necessary approvals for reburial sites/places. Appropriate storage facilities had to be located for the Old People until all reburials could be organized. This in turn created spiritual and emotional tensions within the community. The accuracy of associated documentation had to be cross-checked, which involved additional research. Decisions had to be taken regarding the future management of sites as well as training for community members, including youth. Spiritual tensions arose from 'incomplete' remains. Final

decisions had to be taken regarding the most appropriate funerary ceremony for the individuals in question, which was often dependent on age, sex and language group, if known. And finally there was the impact of all these pressures on an already stressed and under-resourced leadership.

In light of some of these challenges, which the community continues to face, there have been some successful outcomes. First, the repatriation of the Old People is a significant step forward, and one that establishes positive working relationships. Second, all the Old People are now resting in a 'keeping place' at Camp Coorong in Meningie and are therefore back to 'country'. Most importantly, the Ngarrindjeri nation conducted the first of many reburials, beginning the very complex task of reburying the Old People.

The Hacks Point and Parnka reburials

A total of twenty-four Old People were reburied at two locations at Warnung (Hacks Point) and Parnka along the Coorong in South Australia on Saturday, 23 September 2006. These Old People were part of the Edinburgh Collection returned in August 2003. The National Museum of Australia's Repatriation Unit assisted the Ngarrindjeri during the reburial process. Students from an Archaeology Field School run by Flinders University staff were also involved in aspects of the preparation with Ngarrindjeri elders and the ceremony through the use of signal fires. This process encouraged all members of the community to participate in the healing process. There are many issues surrounding repatriation

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and reburial often overlooked by people not associated with the indigenous community. Therefore, the repatriation and reburial of human remains within Ngarrindjeri Ruwe must be understood within a larger historical, political, social and cultural context.⁵

The reburial process, including its preparation, has provided opportunities for Ngarrindjeri people to work collectively to revive past practices, merging them with contemporary ways of life. For example, Ngarrindjeri *meminis* (women) prepare the funerary boxes, made from ti tree and native wattle plants, which are used for decorative and symbolic purposes. The Ngarrindjeri *kornis* (men) are involved in preparing the reburial sites and carrying the burial boxes. During the ceremony Flinders University students in conjunction with the Ngarrindjeri community revived the use of smoke signals, which had not been used in the region for nearly a hundred years.

The repatriation and reburial of Old People has proved to be a long, tiring and complex process for the Ngarrindjeri people. Although William Ramsay Smith's maps gave the original burial locations of the Old People, the community's decision on reburial sites had to take into account the most suitable location in today's context. Originally burial places for sixteen Old People were identified in Hacks and Parnka. However, with the support of the NMA the total number of burial places rose to twenty-four. It is expected that similar situations will occur in the future. Over 400 Old People still await reburial at Camp Coorong, and part of the ongoing strategy is for Ngarrindjeri

researchers and archaeology students to become increasingly involved in this process.

| NOTES

1. This article is based on Chris Wilson's honours research on repatriation of Ngarrindjeri Old People from Museum Victoria. For a more detailed account of repatriation and reburial issues from south-eastern South Australia please refer to Wilson (2006) and Hemming and Wilson (2008) (see Note 4). Thanks are due to the Ngarrindjeri Heritage Committee Inc. and Ngarrindjeri Regional Authority Inc. for their continuing support in sharing the Ngarrindjeri experiences of repatriation and reburial with the broader international community. The author would like to offer his thanks to the Hellenic Ministry of Culture for funding towards his attendance at the International Repatriation Conference, which took place in Athens in March 2008.
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| From Edinburgh University to the Ngarrindjeri nation, South Australia

by *Cressida Fforde*

Cressida Fforde's research and consultancy career has focused on increasing community accessibility to heritage, including work for museums, communities and indigenous groups in Australia, New Zealand and the UK. She has worked extensively in the repatriation field, as well as on more general community heritage and museum projects. She is currently co-chair of the World Archaeological Congress Repatriation Committee and a member of the UK government's Human Remains Advisory Panel. She obtained her Ph.D from Southampton University Archaeology Department in 1998 and is currently a director of HistorySpace Ltd, a heritage research and consultancy company in the UK.

The return of indigenous Australian remains from Edinburgh University was an extremely important step in the wider historical context of the reburial movement. The university was the first institution with a large number of remains outside Australia to support repatriation. Its pro-repatriation policy, adopted in 1990, was almost fifteen years ahead of that of any other institution housing remains close to the number held by Edinburgh. To date, it continues to lead in terms of sheer numbers of remains returned to Australia, Hawaii and New Zealand. This policy was adopted after long campaigning by Australian indigenous groups.

Since the 1970s indigenous Australians have increasingly been able to make their voices heard regarding the need for museums and other holding institutions to return the remains of

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their ancestors, appropriated in their thousands since the earliest days of contact and widely procured during the colonial era for scientific research conducted within the race paradigm. This scientific market fuelled the appropriation of indigenous remains from burial places, morgues, prisons, massacre sites and indeed any place where the dead could be accessed. The first recorded skull to reach European shores did so in 1793. It belonged to a young man killed by British settlers at Botany Bay.

The late twentieth-century rise of the reburial movement reflected long-held concerns regarding the removal of the dead. Even though we view this history through the texts of Western observers, there is still ample evidence to show that indigenous people did not wish their dead taken in the first place, opposed it when they could and even requested their return. In 1825, for example, the missionary Lawrence Threlkeld, observing a burial ceremony, was asked not to reveal the location of the plot 'lest whitefella come and take the head away'.¹ In 1893 Aboriginal people from Burrigong, furious at the removal of remains for shipment to the Australian Museum, complained bitterly to the police magistrate.² Most, if not all, collectors were aware that their work was opposed by the local population, as was demonstrated not least by reports of clandestine night-time raids on grave sites.

The acquisition of Aboriginal remains should also be viewed within the wider context of colonialism in Australia, which perceived Aboriginal people as deeply inferior. The pejorative and wholly 'other' identity ascribed to Australia's indigenous population was

supported and legitimized by the so-called scientific analysis of their remains, which formed a major factor in the rationale behind their oppressive and often inhuman treatment by the dominant culture. Prime Minister Kevin Rudd's recent apology to the Stolen Generation signals an increasing recognition of the legacy of this colonial era. Much of the theory behind the destructive policy of separating mixed-descent children from their families had its basis in the now long-abandoned tenets of racist physical anthropology studied and taught in anthropological laboratories 'back home'.³

By the mid-1980s British institutions had received a series of demands for the return of remains in the aftermath of legislative developments in Australia. Led by the Tasmanian Aboriginal Centre, requests for return were made to Edinburgh University, whose Anatomy Department had amassed a significant amount of human remains from around the world during the nineteenth and early twentieth centuries. The requests were initially refused by the Anatomy Department, but the continuing campaign for the return of the remains, supported by Edinburgh University students as well as academics within and outside the institution, was brought before the university court in 1990. The court agreed on a pro-repatriation policy and referred this to the university Senate for discussion and approval. As a reflection of the great significance attributed to the matter by the university, the policy was debated at a packed senate meeting with representatives present from all departments before being adopted almost unanimously.

William Ramsay Smith

Along with many hundreds of remains from the UK and around the world, the Anatomy Department at Edinburgh University housed remains of indigenous Australians from all states and territories. However, by far the majority of these comprised Ngarrindjeri people from South Australia. These remains had ended up in Edinburgh almost entirely due to the efforts of a single person, William Ramsay Smith, who, unlike most donors, sent numerous cranial and post-cranial remains over an extended period of time. As was the case with many other suppliers of human remains to university collections, Ramsay Smith was a former student. Universities relied on graduates who travelled or took up colonial posts abroad to send home supposed research material. Ramsay Smith had graduated from Edinburgh Medical School in 1892, took up a controversial post at the (Royal) Adelaide Hospital in 1896, and subsequently became physician to the isolation wards, City Coroner, Inspector of Anatomy and Chairman of the Central Board of Health in 1899. He used his various professional positions and numerous collecting trips to remove hundreds of indigenous remains, which he then shipped to Edinburgh University in the late 1890s and early 1900s. Most of the Ngarrindjeri remains were taken from burial grounds along the River Torrens and particularly from the Coorong, a 145 km sand spit south of Adelaide. However, he also took remains from the hospital morgue, actions for which he was later reported to the authorities, suspended from duty and faced a government board of inquiry in 1903. However, he was found innocent of all eighteen charges, which had included acting illegally and in violation of his

duty as coroner. Nonetheless, the event and the extensive media coverage and public outrage that surrounded it showed that not all the white population agreed with his actions – at least, not the acquisition of remains from the morgue – possibly in part because European bodies were also at risk.

While Ramsay Smith did not receive any remuneration for supplying the university with remains, he benefited in a variety of other ways, receiving published literature, introductions to learned societies and access to leading scholars in a highly prestigious scientific field. By 1911 he had supplied the remains of almost 400 people, along with an unknown – but considerable – number of individuals represented only by post-cranial bones. Ramsay Smith was detailed in his paperwork and kept a good record of the remains he sent to Edinburgh, including maps annotated with crosses showing the places from which he had removed some of them (this information was beneficial to the later repatriation process, proving of use in locating reburial sites). Once the remains reached Edinburgh, the Anatomy Department's detailed accession and cataloguing system recorded this information and assigned new numbers to them. At the point of entry into the department, bones from the same individual were separated and placed in two different locations – crania in the museum annexe and post-cranial remains in the technician's workroom.

The anatomy collection post-1900

The ancestral remains sent by Ramsay Smith were relatively late additions to an Anatomy Museum that had been acquiring human remains from the

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6. The Anatomy Museum of the University of Edinburgh Medical School.

late eighteenth century onwards. As interest in studying racial difference grew throughout the nineteenth century, so the anthropology section of the museum increased in size. Equally, reflecting its decline in the first quarter of the twentieth century, by 1920 the section had begun to fall into disuse. Fewer remains from around the world were acquired, although the acquisition of Scottish remains, largely from construction and excavation sites, continued. In the 1950s the large Anatomy Museum hall was eventually dismantled and converted into offices. The museum annexe was untouched and continued to house crania, but the post-cranial bones in the technician's

workroom were moved to the Anatomy Department basement. Here their containers began to disintegrate, and over subsequent decades the bones of individuals began to commingle. The integrity of each storage area was also compromised by the separation of skeletal elements into bone type (which reflected the research agenda at the time) and the replacement of researched and exhibited remains in the wrong places (which reflected curatorial errors). This 'mixing up' of bones was not identified or addressed until the repatriation process almost a hundred years later. With the retirement of staff familiar with the old museum there was a

consequent decline in institutional memory regarding the remains in the basement, the numerous interlocking numbering systems, the detailed catalogues, acquisition pathways and internal organization.

The events at Edinburgh were mirrored by many similar collections around the country. As research agendas and interests developed and changed, and requirements for space took precedence, so the comparative anatomy collections that formed the centre of so many anatomy departments in the nineteenth century became redundant and were dismantled by the mid-twentieth century. These were often relegated to basement storage areas or transferred elsewhere and were, for the most part, forgotten. While a few early twentieth-century publications and Ph.Ds researched the remains supplied by Ramsay Smith, they do not feature in the scientific literature thereafter. By far the greatest interest in Australian remains has been from indigenous groups requesting the return of their ancestors.

Repatriation of the Edinburgh collection

With the adoption of its pro-repatriation policy in 1990 the university immediately responded positively to previously tabled requests from Australia for the return of ancestral remains. In early 1991 remains from Tasmania were collected by Tasmanian Aboriginal representatives. The following September what were thought to be the entire mainland Aboriginal holdings were sent to the repatriation unit at the National Museum of Australia in Canberra, which was to manage subsequent returns to the numerous source communities represented.

Without any knowledge of the history of the collection or its extensive archive, workers in Edinburgh had in fact only returned the crania in the still existing old museum annexe. These remains were returned with what was believed to be the only catalogue in existence – an index card system that provided basic details for about 60 per cent of the remains, the rest having no accompanying documentation whatsoever.

The Australian government preferred the option of transferring the remains to the National Museum of Australia for a number of reasons, but mostly because the collection was badly and multi-provenanced. Although Aboriginal campaigners called for in-depth research to locate further information, the university believed that no other documentation about the collection existed. The transfer to the National Museum of Australia was criticized by Aboriginal groups, who have consistently argued that appropriate repatriation can only occur if remains are collected and accompanied home by members of the source community. Some groups collected remains from Canberra, but others could not surmount the considerable financial barriers to doing so. Lack of funding was one of the significant obstacles faced by those source communities who could be identified.

In the mid-1990s the extensive anatomy archive at Edinburgh University was re-discovered. This provided rich historical information in the form of numerous catalogues, donor correspondence and curator notes. This discovery in turn led to the identification by university authorities of the large quantity of Aboriginal post-

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cranial remains, mostly Ngarrindjeri, that still lay in the by now rarely accessed basement of the Anatomy Department. Worse, it became clear that many of these remains belonged to skulls repatriated in 1991. With full support from the university an Australian government-funded programme was undertaken in 1998 to locate all indigenous Australian remains still within the department and reconnect them with their associated documentation. This successful programme was driven by the legal representative of an Ngarrindjeri family whose famous great-grand-uncle's partial remains were among those still unaccounted for.

Following this programme, which greatly increased the amount of available provenance and identification information, the second phase of repatriation occurred in 2000. This saw the mainly post-cranial remains of hundreds of individuals returned to Australia. Again, remains were returned to the National Museum in Canberra, where the repatriation unit then began the task of reuniting the separated bones of individuals and conducting community consultation. Almost 130 individuals had their remains reunited through this process. Remains repatriated to the National Museum of Australia have either now been returned or are awaiting return to source communities, although funding continues to be an issue.

Lessons learned from the Edinburgh case

There is still a significant lack of available detailed information regarding these types of collections, particularly in continental Europe. Institutions frequently know little about what

they house, and source communities encounter great difficulty not only in finding out where their ancestral remains are being kept but also in gaining permission to access archival material. The case of Edinburgh University demonstrates why lack of information can have such serious consequences for the repatriation process. While institutions may assume that lack of available information equates to a lack of associated documentation, this is rarely the case. As with Edinburgh, archives are commonly separated from their associated collection and, if not forgotten in deep storage, make their way into university, museum or sometimes county council archive systems with no accompanying contextual information. If modern catalogues are available, then these frequently collate only brief data and are not primarily concerned with the type of detailed provenance information so crucial to repatriation. The potential danger lies in the fact that people often misconstrue the modern catalogues as the only information available, unaware of other more detailed archive sources separated from the collection in the distant past. The need for detailed research is therefore of great importance.

The situation has improved in the UK in some institutions, mainly owing to the preparation required for repatriation requests. But in many other European museums with relevant holdings there has been little change, and access to information is an issue of real concern to indigenous groups. The realization of just how little was known was a major lesson for US museums that have been cataloguing their holdings of Native American remains since 1991 as part of legal obligations under the Native American

Graves Protection and Repatriation Act (NAGPRA). In their experience the identification of further remains after initial repatriations was also not uncommon.

Repatriation is fundamentally about facilitating the rights of a source community to decide the future of their ancestors' remains, thereby ensuring community control of the repatriation process. Knowing what they wish to do, how and when they wish to do it and how this can be facilitated is integral to the repatriation process. This is one of the main reasons why research to determine provenance, and thus identify the source community, is so important. It provides the opportunity (as yet rarely taken up, although increasingly desired) for holding institutions to enter into direct communication with source communities and jointly to develop a repatriation process that is feasible and culturally appropriate. Supporting community wishes requires early identification of remains and rigorous consultation. The diversity of provenance of collections such as those at Edinburgh need not militate against community control of repatriation, as many proven avenues of communication are available for holding institutions to contact source communities, particularly in countries that now have a long experience of repatriation. For example, effective networks in Australia have been developed over the past decade, partly because of domestic returns but also as a result of the repatriation of remains from Edinburgh and other overseas institutions. Information is now readily available to assist holding institutions in contacting the appropriate authorities, providing opportunities for establishing communication and links between

curators and communities, ensuring the appropriate nature of the repatriation process and facilitating greater understanding.

In July 2008 a Ngarrindjeri delegation collected the ear-bone of one of their ancestors from the University of Edinburgh – the last known Aboriginal remain to be housed at this institution. A handover ceremony took place, as well as the first direct contact between those in charge of the university collections and those whose ancestors' remains had been acquired in such large numbers by the university over a century earlier. But while these remains have now been returned to Ngarrindjeri country, a long process must now be undertaken before they can be reburied.

| NOTES

1. N. Gunson (1974) *Australian Reminiscences and Papers of L. E. Threlkeld. Missionary to the Aborigines, 1824–1859*, 2 vols. Australian Aboriginal Studies 40. Canberra: Aboriginal Studies Press, p. 48.
2. H.J. McCooley in P. Turnbull. 1993. 'Ancestors, not Specimens: Reflections on the Controversy over the Remains of Aboriginal People in European Scientific Collections' in *Contemporary Issues in Aboriginal and Torres Strait Islander Studies* 4: 10–35, p. 25.
3. See S. Hemming and C. Wilson. 'The First Stolen Generations: Repatriation and Reburial Issues in Perspective', in H. Murphy and P. Turnbull (eds), *The Long Way Home*. Canberra: National Museum of Australia, 2008.

| The cultural benefits of the return of the Axum Obelisk

by Haile Mariam

Haile Mariam is General Manager of the Authority for Research and Conservation of Cultural Heritage of Ethiopia.

History

In the ancient world Ethiopia was known as the legendary Land of Punt. It played an important part in the religious texts of Pharaonic Egypt and was mentioned in the works of Homer. The most significant traces of early Ethiopian civilization are found in the northern region of Tigray, along a former trade caravan route leading from the city of Adulis on the Red Sea coast to Qohaito, Metera, Yeha and Axum.

The development of the Axumite kingdom was a crucial turning point in the cultural, political and environmental history of Ethiopia. The rise of the kingdom was the apex of a long process of social and economic transformation that began in the third millennium BC. Located on the northern side of Axum, it grew to prominence *ca.* 2,000 years ago and, at its height in the fourth to the seventh century, held sway over a vast region extending from ancient Meo in present-day Sudan to Mecca on the Arabian peninsula. The ancient port of Adulis on the Red Sea, in present-day Eritrea, contributed its share to the development of the empire's military and maritime powers, through which it was able to extend its influence further.

Based on the available evidence to date, the Axumite civilization came to power in the region a few hundred years BC and, according to the third-century Persian traveller Mani, came to rank among the greatest empires of its time, along with Babylon, Rome and Egypt. The ruins of the ancient capital and remains on many sites in various parts of the region bear witness to this ancient civilization. In this regard Axumite culture stands out as one of the best-represented among the memorials of Antiquity.

The transition from pagan cults to the adoption of Christianity as the state religion greatly influenced the future course of Ethiopian history. The well-known stele standing at the centre of the contemporary city bears an inscription that testifies to this historic event. A number of impressive pre-Christian monarchic obelisks still survive in and around the ancient town of Axum. These were originally created as mortuaries of the necropolis, built for the nobility. Exquisitely carved, they functioned as multi-storey buildings, complete with door and window, in a manner peculiar to Ethiopia. The highest was 34 m long and weighed 500 tons, although it now lies in fragments. At the time it was the largest monolithic structure ever erected in the ancient world, exceeding the obelisks of Egypt in size.

The process of return

In 1935 one of the obelisks was removed from Axum by personal order of Benito Mussolini and was relocated to Piazza Capena in Rome. In 1947 Italy signed a peace accord with the United Nations, Article 37 of which obliged Italy to return the obelisk to Ethiopia. During the next eighteen

months the parliament and government of Ethiopia made numerous requests for the fulfilment of this promise. A subsequent treaty was signed between the two countries in 1956, but the obelisk remained in Italy. In 1968 the parliament of Addis Ababa city unanimously approved a resolution requesting the return of the obelisk.

It was only in March 1997 that the governments of Ethiopia and Italy agreed to enhance their bilateral relationship on the basis of the peace treaty of 1947. This diplomatic agreement created the political and organizational conditions needed for the return of the obelisk to Axum. At the first meeting of the joint committee the issue of the restitution of the obelisk to Ethiopia was examined, and a Memorandum of Understanding between the two countries was signed. Both the political and the technical discussions were held in a friendly manner, placing emphasis on the age-old and excellent relations between the two countries. The Italian delegation, for its part, acknowledged the importance of the beliefs of the Ethiopian people and government attached to the return of the obelisk. The Ethiopian delegation, meanwhile, expressed its appreciation of Italy's change in attitude after the long period of waiting, and its own readiness to establish the appropriate conditions for the return of the obelisk. This act of goodwill on both sides set the seal on a renewal of friendship between the two countries and peoples.

Alongside this agreement, a joint project was established to prepare the administrative and technical conditions necessary for the return. The return implied full restoration and restitution of the stele of Axum to its original location. There

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7. The Aksum World Heritage Site.

were many prevailing reasons for the return of the obelisk. Aside from its historical significance to the country in which it was created, it had also been acknowledged as one of the symbols of human achievement. In 1970 all the stelae of Axum were registered on the World Heritage List as masterpieces of human creative genius, and the archaeological site was recognized as dating to a significant period in the history of humanity.

Cultural benefits of the return

The return of the stele to its original location in Axum undoubtedly made the site more complete

and meaningful. Moreover, the reconstitution of the cultural landscape of Axum, with all stelae, will without doubt benefit Ethiopian society by securing development activities in the region. The return of the obelisk to its original site will therefore enable it to continue as a living witness for past human development, while benefiting the present.

The change in attitude of the Italian government concerning the return of this cultural treasure has placed Italy in the forefront of the debate concerning restitution, particularly with reference to implementation of the UNESCO 1970

Convention as a means to prevent illicit trafficking. The issue of restitution of works of art to their site of origin will gradually spread as a result of the international nature of the project, creating opportunities to promote numerous aspects of the 1970 Convention.

Although the 1947 peace treaty set an obligation for the return of the obelisk to its place of origin, the interest and measures taken by the Italian government to return the stele comprise a cornerstone for cooperation between the governments and the people of both countries. The numerous technical challenges posed by the return of the stele, which required the design of a complex system, were adequately addressed through the cooperation of the two countries.

Moreover, during early 1994 Ethiopian archaeologists together with Italian colleagues conducted a thorough investigation of the site. Research works revealed that extensive modern disturbance dated from the time of the stele's removal. However, there was a strong possibility that major tombs, formerly associated with the stele, could have remained in good condition. The project of excavating and preserving the tombs presents an exciting and unique opportunity for visitors to experience the Axumite stelae in relation to the original setting of the complex. A subsequent archaeological excavation was conducted at the stele site, and the results of the 1994 field report confirmed the exact place of origin of the stele.

Prior to its removal the stele lay in pieces but still inhabited its original environment. Its relocation to Rome, where it stood for sixty-five

years, caused a loss of historical significance. Information that could have been extracted from its original placement was lost. It was therefore impossible to replace the stele as it was before 1937. However, a new start in its history was given by providing a new location to the pieces that form the stele. Unfortunately it was not possible to return the stele to its exact original spot without altering the position of the pieces.

On the other hand, the recent history of the stele (whatever the reasons for its relocation away from its original site) now forms an integral part of its present status. This cannot be ignored in spite of the stele's return to Ethiopia. Keeping this in mind, the priority during the preparations for the replacement and erection of the stele was the preservation of its integrity as well as that of the surrounding archaeological zone. It was also important to assess the impact of the process, including the construction of the foundations.

Like all human achievements, cultural heritage cannot be separated from the social and political patterns to which it belongs. For many groups of indigenous people, the past and its sacred symbolic dimensions are among the most unifying issues in their struggle for self-determination. The way in which any nation defines and contemplates itself is vital to its growth. A nation's historical and cultural heritage is a repository for definition of its character and identity.

The point of returning cultural heritage to its country of origin is not just to recapitulate its own history but, more importantly, to create its identity and its future. Cultural objects must therefore be returned to their original sites.

| Legal aspects of the Axum Obelisk case

by Tullio Scovazzi

Tullio Scovazzi is Professor of International Law at the University of Milano-Bicocca, Milan, Italy. As a legal expert, he has represented the Government of Italy in a number of international negotiations and meetings relating to the International Law of the Sea, environmental law, cultural matters and human rights.

The removal

The town of Axum (or Aksum) in Ethiopia is home to a number of giant obelisks (or stelae),¹ royal tombs and ancient castles. These massive ruins date from between the first and thirteenth centuries AD, during the height of the Kingdom of Aksum, an ancient Ethiopian civilization. In 1980 the cultural property 'Aksum' was inscribed on UNESCO's World Heritage List, as established under the Convention concerning the Protection of the World Cultural and Natural Heritage, on the basis of criteria (i)² and (iv).³

In 1937 the second-largest obelisk in Axum was removed following the annexation of Ethiopia by Italy (1935–1936). The obelisk dates back some 1,700 years, weighs 150 tons and stands 24 m high. The operations for its removal were coordinated by the archaeologist Ugo Monneret de Villard, appointed by the Italian Ministry of the Colonies to carry out archaeological research in Ethiopia.⁴ The obelisk at the time lay broken into five fragments, and a 1-metre piece was removed from its base to lighten the heaviest fragment and thus prevent the trailer from sinking into the sand. The obelisk was then transported by road from

Axum to Massawa and by ship from Massawa to Naples, overcoming serious obstacles *en route*. Following its arrival in Italy, it was reassembled with the use of dowels to hold the fragments together, and was then erected in Piazza di Porta Capena in Rome, in front of the former Italian Ministry of Colonies (today the headquarters of the United Nations Food and Agriculture Organization). The inauguration took place on 31 October 1937, the fifteenth anniversary of the March on Rome. The fascist regime wished to commemorate the conquest of Ethiopia, drawing a direct parallel with the Roman Empire, also known to have plundered booty from the cities it annexed.⁵

At the time the obelisk was removed, Italy was a party to the Second Convention on the Laws and Customs of War on Land (The Hague, 29 July 1899).⁶ The Regulations annexed to the Convention state that both pillage (Art. 47) and seizure of historical monuments and works of art (Art. 56) are prohibited. It is true that the 1899 Convention applies only in the case of war between two or more parties and that Ethiopia was not a party to it. However, unlike Italy, Ethiopia was a party to the Fourth Convention on the Laws and Customs of War (The Hague, 18 October 1907)⁷ as well as Arts. 47 and 56 of the Regulations annexed to the 1907 Fourth Hague Convention (which re-states Arts. 47 and 56 of the Regulations annexed to the Second 1899 Hague Convention). This can be understood as meaning that the prohibition against the seizure of cultural heritage in time of war had already acquired the character of customary international law, particularly considering the number of states that were parties to either of the two conventions.⁸ It is also true that

in 1937 no formal state of war existed between Ethiopia and Italy, as the former had already been unilaterally annexed by the latter. But, in any case, the illegality of the removal of the obelisk can be considered as a consequence of the fact that the war waged by Italy against Ethiopia was itself illegal. On 7 October 1935 the Council of the League of Nations approved a report that stated that Italy had resorted to war against Ethiopia in disregard of Art. 12⁹ of the Covenant of the League of Nations and adopted a number of sanctions against Italy.¹⁰

The restoration/restitution/return

Under Art. 37 of the Peace Treaty concluded on 10 February 1947 in Paris by Italy and the Allied and Associated Powers: ‘Within eighteen months of the coming into force of the present Treaty, Italy shall restore all works of art, religious objects, archives and objects of historical value belonging to Ethiopia or its nationals and removed from Ethiopia since October 3, 1935.’¹¹ This obligation was not complied with by Italy, with respect to the Axum obelisk.

Under Annexe C to an agreement between Ethiopia and Italy on the settlement of economic and financial matters issuing from the Peace Treaty and economic collaboration, signed in Addis Ababa on 5 March 1956:

The Italian Government undertakes to dismount, remove from its present site and to transport f.o.b. [free on board] Naples, for transportation to Ethiopia, the large Axum obelisk now located in Rome

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and recognized by the Italian Government as being subject to restitution to Ethiopia. Such dismantling and removal from site and transport f.o.b. Naples shall have been completed within six months following the entry into force of the Agreement to which the present document constitutes Annexe C; shall be at the expense of the Italian Government, which shall take such measures as are necessary to ensure that said obelisk shall be delivered f.o.b. Naples, properly reinforced and packed for transportation to Ethiopia, and in its present existing condition except for the removal of any non-Ethiopian base or socle which may have been constructed for the purpose of its erection in Rome, and except for such dismantling as may be agreed to by the Ethiopian official hereinafter mentioned, as being necessary for the purposes of transportation to Ethiopia, and, further, to assure that said obelisk may be freely and without charge or hindrance exported from Italy on such vessel as the Imperial Ethiopian Government may choose. Each High Contracting Party shall designate an official to be present at the dismantling, if necessary dismantling, removal, reinforcement, packing, and transportation f.o.b. Naples. The two officials may, in agreement, designate technicians to assist them in their functions.¹²

Once more the obligations resulting from Annexe C of the agreement were not complied with by Italy.

On 4 March 1997 Ethiopia and Italy signed a joint statement in Rome 'on the basis of existing treaties'. The two countries declared themselves 'appreciative of the inestimable value of the Axum obelisk to Ethiopia' and 'fully cognizant of the positive impact of the obelisk's restitution on the friendship' between them. According to the joint statement:

The Italian delegation appreciated the central importance that the Ethiopian people and Government attach to the return of the Obelisk. The Ethiopian delegation expressed its deep appreciation for Italy's resolve to shoulder the responsibility for the restitution of the Obelisk to Axum. This gesture of great significance would set the seal on the renewed friendship between the two countries and peoples.

The joint statement defined the 'stages through which the operation to effect the return of the obelisk to Ethiopia shall be performed within the current year' (that is, 1997) – namely, 'carrying out a structural survey of the monument; cleaning the monument; drafting a detailed plan for the whole operation; dismantling and transporting the Obelisk to Ethiopia; preparing the site for its reinstallation; re-erecting the obelisk in the Axum Archaeological Park' – concluding with the donation 'to Italy by Ethiopia of a gift to commemorate the return of the Obelisk and as a testimony to the friendship between Italy and Ethiopia'. The obligations resulting from the joint statement were not complied with by Italy.

In a memorandum of understanding on the transfer and handover of the Axum obelisk, signed



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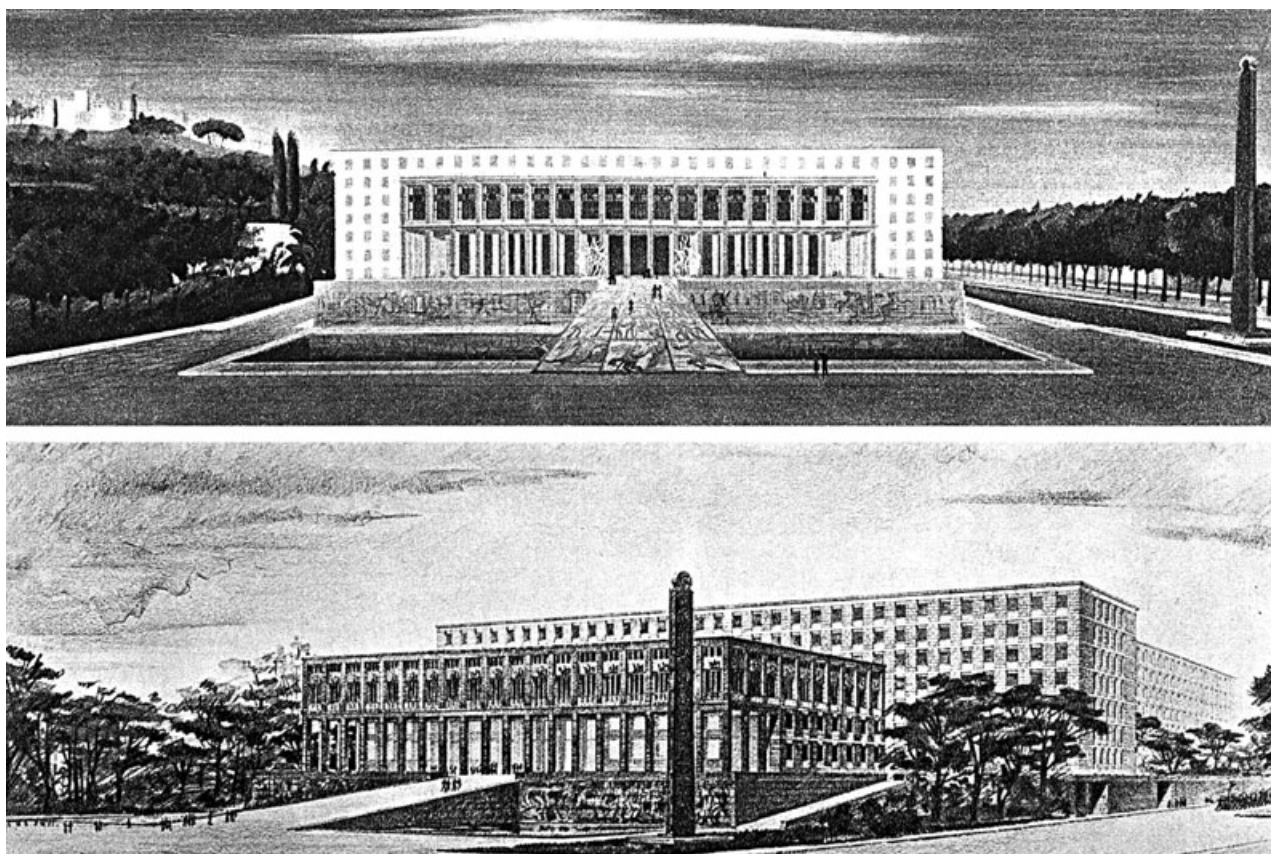
8. Transportation of the Axum Obelisk to Rome.

in Rome on 18 November 2004, Ethiopia and Italy reiterated the obligations undertaken in previous agreements and further acknowledged ‘the importance of enhancing the historical and cultural heritage of Ethiopia in accordance with the principles set forth [...] within the frame of the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage of 1972’. The two states also noted that the executive project for the transport of the obelisk had been approved by both of them (in agreed minutes signed in Rome on 10 November 2004). In particular: ‘The Italian Government shall transport the three sections of the Axum Obelisk from Italy to Ethiopia. The Italian Government shall also ensure that the air transport of the three sections of the Axum Obelisk from Fiumicino Airport to

Axum Airport is carried out under conditions of maximum safety and security’ (Art. I); ‘The Italian Government shall take charge of all the operations associated with the off-loading of the three sections of the Obelisk from the airplane at the Axum Airport’ (Art. II); and ‘The Italian Government commits itself to finance the re-erection and restoration of the Obelisk in the Axum archaeological site, to be executed by UNESCO with technical support from Italian experts in collaboration with the Ethiopian side’ (Art. VI).

The obligations resulting from the memorandum were complied with by Italy. In April 2005 the obelisk was dismantled into three pieces, which were repatriated to Axum and

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9. The project, only partially completed, of the Ministry of the Colonies in Rome.

deposited near the original location of the monument. The budget for the project, amounting to US\$ 4,736,033, was provided by Italy. In 2005 the UNESCO World Heritage Committee applauded 'the cooperation between the States Parties of Ethiopia and Italy, leading to the return of the obelisk, which could enhance the value of Axum' and welcomed 'the tripartite cooperation between UNESCO and the States Parties of Ethiopia and Italy in the preparation of the re-erection of the obelisk'.¹³

Despite the delay of fifty-seven years, today the importance lies in the fact that the obligation to

return the obelisk has finally been fulfilled. There is no need to dwell on the precise terminology either: the word 'restore' appears in the 1947 Treaty of Peace, the word 'restitution' in both the 1956 Agreement and the 1997 joint statement, and the word 'return' in the 1997 joint statement.¹⁴ What is important is the assumption that cultural heritage which should not have been removed must be given back.

It is preferable not to detail here all the dubious justifications given in the past by public and private Italian circles to delay the restoration/restitution/return.¹⁵ It is difficult to

understand how Italy, a country rightly proud of its own extraordinary cultural heritage, could not perceive the importance of the Axum obelisk as a symbol of the Ethiopian people's culture, religion and identity. In the end Italy undertook to re-establish the situation that would have existed had the monument not been removed. To be precise, Italy also agreed to improve the original situation. In 1937 the obelisk was found lying on the ground, broken into five fragments. It was re-erected at its original site, which in itself can be considered as a form of compensation for the delayed restoration/restitution/return.

Re-erection

Work on the re-erection of the obelisk was financed by Italy through an extraordinary contribution to the UNESCO budget. After an initial delay, caused by a change in UNESCO's internal procedures for calls for tender, a contract was finally concluded in June 2007 between the UNESCO World Heritage Centre and an Italian construction company. The operation to re-erect the obelisk itself was complex and unprecedented in nature and took several months to complete. The unveiling of the obelisk at its original site took place on 4 September 2008. This memorable day held immense symbolic value not only for Ethiopia and Africa in general but also for Italy.

New principles in the field of cultural heritage

The story of the belated restoration, restitution or return of the Axum obelisk has its own peculiarities. But it can also be seen as a

precedent, among others, in the current process of formation of new principles of international law in the field of cultural heritage. International action for the restitution or return of cultural properties is today based on the Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Protocol (The Hague, 1954), the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 1970) and the UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects (Rome, 1995). These instruments have many merits but also present a number of problems, such as their application to certain cultural properties to the exclusion of others. Furthermore, as with any treaty, they are not binding on non-parties and cannot be applied retroactively. The issue of return or restitution of cultural properties is also the subject of United Nations General Assembly resolutions.¹⁶ But present international law in the field of cultural heritage¹⁷ should be understood in the light of broader principles currently being developed in international practice. The principle of non-impoverishment of the cultural heritage of states of origin is already embodied in Art. 2, of the 1970 Paris Convention:

1. The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international cooperation constitutes one of the most efficient means of protecting each country's cultural

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property against all the dangers resulting therefrom.

2. To this end, the States Parties undertake to oppose such practice with the means at their disposal, and particularly by removing their causes, putting a stop to current practices, and by helping to make the necessary reparations.

The principle of non-impoverishment applies, *inter alia*, in cases of illicit movement of cultural properties. Such movements are encouraged by unscrupulous art dealers and middlemen established in certain countries and feed individual and organized criminal activity in other countries. They affect not only the cultural heritage of the impoverished countries but the common heritage of all peoples, as rightly stated in the preamble of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, wherein states parties declare themselves

deeply concerned by the illicit trade in cultural objects and the irreparable damage frequently caused by it, both to these objects themselves and to the cultural heritage of national, tribal, indigenous or other communities, and also to the heritage of all peoples, and in particular by the pillage of archaeological sites and the resulting loss of irreplaceable archaeological, historical and scientific information.

The principle of non-impoverishment can play an even stronger role in cases where removal of

cultural property has occurred as a result of the political, military or economic weakness of the state of origin. In such cases, the principle in question could be combined with, and strengthened by, an analogous principle relating to the non-exploitation of the weakness of other countries to obtain a cultural gain. Resolution 1483 (2003), adopted by the United Nations Security Council on 22 May 2003, may be seen as relevant in this case, the Security Council having decided that all United Nations member states

shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library and other locations in Iraq since the adoption of Resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph. [para. 7]¹⁸

A third principle, relating to the preservation of the integrity of cultural sites, can also be evoked. This is reflected in Art. 5, para. 3, of the UNIDROIT Convention and provides that a court or other competent

authority of the State addressed shall order the return of an illegally exported cultural object if the requesting State establishes that the removal of the object from its territory significantly impairs, *inter alia*, the interest of 'the integrity of a complex object'.¹⁹

It is not paradoxical to conclude that great progress could be achieved in the future if the regime of international movements of cultural properties could be improved to follow, *mutatis mutandis*, the path of the present regime of hazardous wastes, as set forth in the Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel, 22 March 1989). Moreover, as in the case of hazardous wastes, international movements proceed largely in one direction, from developed to developing states, taking advantage of the weakness of the latter. To tackle the scandals created by such practices, the Basel Convention established a new regime, based on the prohibition of covert movements, the prohibition of movements without the previous explicit consent of the potentially affected state (the state of import in the case of wastes), the prohibition of movements if the potentially affected state cannot manage the wastes in an environmentally sound manner (that is, the prohibition of taking advantage of the weakness of the state of import) and the obligation of the state of export to take back the wastes if the movement was illegal.

The application of similar concepts to movements of cultural properties, which also largely proceed in one direction (albeit the inverse of that of hazardous wastes, i.e. from

developing countries to the developed world), would result, *mutatis mutandis*, in the following consequences: the prohibition of covert movements, the prohibition of movements without the previous explicit consent of the potentially affected state (the state of export in the case of cultural properties), the prohibition of movements if they exploit the weakness of the state of export in ensuring appropriate protection of its cultural heritage, and the obligation of the state of import to send back the cultural properties if the movement was illegal. Such principles should provide inspiration for future international movements of cultural properties.

| NOTES

1. The majority of these stelae took the form of edifices several storeys high, each with a main door and lock with windows at different levels. At the summit a metal plaque was embossed with the symbol of Almaqah, which shone under the burning sun. But what purpose did these masterpieces serve? To placate the gods? Or were they an expression of funerary rites? The presence of places of sacrifice and underground rooms tends towards the latter assumption, but to date, we know almost nothing of these imposing constructions' (J. Chwaszcza, 'Le royaume de la reine de Saba: Aksoum', in *Les trésors du patrimoine mondial*, Vol. 1, Paris: France Loisirs, 2000, p.123).
2. Under criterion (i) the property must 'represent a masterpiece of human creative genius' (para. 77 of the Operational Guidelines for the Implementation of the World Heritage Convention).
3. Under criterion (iv) the property must 'be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history' (para. 77 of the guidelines quoted *supra*, note 2).
4. For the reproduction of relevant documents from archives, see ICCROM/Ministero degli Affari Esteri (1999) *La stele di Axum: progetto di smontaggio e trasporto della stele di Axum dall'Italia in Etiopia*.

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5. See R. Pankhurst, 'Ethiopia, the Aksum Obelisk, and the Return of Africa's Cultural Heritage', *African Affairs* Vol. 98, 1999, p. 235.

6. Italian ratification was deposited on 4 September 1900.

7. Ethiopian ratification was deposited on 5 August 1935.

8. According to the decision rendered on 30 September 1946 by the International Military Tribunal (known as the Nuremberg Tribunal), 'with respect to war crimes [...] the crimes defined by article 6, section (b), of the Charter [establishing the Tribunal] were already recognised as war crimes under international law. They were covered by Articles 46, 50, 52, and 56 of the Hague Convention of 1907 [...]' (*The Trial of German Major War Criminals, Proceedings of the International Military Tribunal Sitting at Nuremberg, Germany*, Vol. 22, London, 1950, p. 467).

9. 'The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to enquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision or the report by the Council' (Art. 12, para. 1).

10. The sanctions were revoked on 4 July 1936 by the Assembly of the League of Nations, despite the memorable speech made before it by the former emperor of Ethiopia, Haile Selassie: 'I assert that the issue before the Assembly today is a much wider one. It is not merely a question of a settlement in the matter of Italian aggression. It is a question of collective security; of the very existence of the League; of the trust placed by States in international treaties; of the value of promises made to small States that their integrity and their independence shall be respected and assured. It is a choice between the principle of the equality of States and the imposition upon small Powers of the bonds of vassalage. In a word it is international morality that is at stake' (League of Nations, *Official Journal, Special Supplement*, No. 151, 1936, p. 68).

11. The Peace Treaty entered into force on 10 September 1947.

12. The Agreement entered into force on 4 July 1956.

13. Decision 29 COM 7B.34.

14. It seems that the difference in terminology comes from the name of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit

Appropriation, established by a Resolution adopted in 1978 by the UNESCO General Conference. The word 'repatriation' could also be envisaged.

15. 'The Italian Government accepted Article 37 [of the Peace Treaty] only with the worst of bad grace, and implemented its provisions with remarkable sloth' (Pankhurst, *op. cit.*, p. 236). 'The Obelisk of Axum became a source of tension as Italy found a thousand excuses not to return this ancient artistic treasure, an obligation prescribed under Article 37 of the 1947 peace treaty. The psychological value of the monument was well known to the Italian authorities, but every effort was made to avoid remedying the original error' (A. Sbacchi, 'Italia e Etiopia: la rilettura del periodo coloniale e la valutazione delle sue conseguenze sul paese africano', *I Sentieri della Ricerca*, December 2007, p. 192).

16. See, for instance, Resolution 61/52 on the 'Return or Restitution of Cultural Property to the Countries of Origin', adopted on 4 December 2006, whereby the General Assembly 'calls upon all relevant bodies, agencies, funds and programmes of the United Nations system and other relevant intergovernmental organizations to work in coordination with the United Nations Educational, Scientific and Cultural Organization, within their mandates and in cooperation with Member States, in order to continue to address the issue of return or restitution of cultural property to the countries of origin and to provide appropriate support accordingly' (para. 2).

17. On the concept of cultural heritage of humanity see B. Hoffman (ed.) (2006) *Art and Cultural Heritage: Law, Policy and Practice*, New York: Cambridge University Press, p. 201; F. Francioni, 'A Dynamic Evolution of Concept and Scope: From Cultural Property to Cultural Heritage', in A. Yusuf (ed.) *Standard-Setting in UNESCO: Normative Action in Education, Science and Culture*, Vol. 1, 2007, Paris: UNESCO Publishing, p. 221; J. Nafziger and T. Scovazzi (ed.) (2008) *Le patrimoine culturel de l'humanité/The Cultural Heritage of Mankind*, Leiden: Nijhoff.

18. The retrospective application of para. 7 is noteworthy.

19. Integrity is also a condition for a property to be inscribed on the World Heritage List (see paras. 87–95 of the guidelines quoted *supra*, note 2).

| From Italy to Ethiopia: the dismantling, transportation and re-erection of the Axum Obelisk

by *Giorgio Croci*

Giorgio Croci was appointed Professor of Structural Problems of Monuments and Historical Buildings at the Faculty of Engineering of 'La Sapienza' University of Rome in 1995. From 1995 to 2005 he was President of the International Scientific Committee for Analysis and Restoration of Structures of Architectural Heritage at ICOMOS (International Council of Monuments and Sites). He is a member of the UNESCO standing committee on the preservation of the Temples of Angkor (Cambodia) and the international committee for the safeguarding of the cultural heritage of the Citadel of Jerusalem. As scientific coordinator, he has overseen a number of major restoration projects, including the Colosseum, the Tower of Pisa and Santa Sofia (Istanbul). In March 2000 he was awarded the Grande Médaille d'Argent by the Académie d'Architecture in Paris for his international contribution to the safeguarding of architectural heritage. Giorgio Croci is the author of many books and about a hundred publications, devoted to the study of instabilities, analysis of ancient stone buildings, restoration, seismic adaptation and the reinforcement of historical structures.

Following the decision to return the Axum Obelisk to Ethiopia in 2005, the blocks of the stele were transported to Axum by an Antonov aircraft, although navigation on the runway posed several challenges. At the time of the conference in Athens, the reconstruction of the stele on its original site in Axum has not yet begun. The project foresees the construction of a temporary steel tower to lift the pieces, with aramidic fibre bars being used to connect the blocks, thereby ensuring the necessary strength to withstand seismic activity. A final restoration and cleaning of the surfaces will complete the work.

The dismantling, transportation and re-erection of the obelisk in Axum is a very

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complex scientific, technical and cultural operation. The stele became unstable, collapsed and broke up into five huge blocks about 1,000 years ago following an earthquake. It lay on the ground in Axum close to another similar stele, which remains standing today. In 1937 the stele was shipped in pieces from Massawa in Eritrea, then unloaded in the harbour of Naples, transported by lorry to Rome and eventually re-erected in the Piazza di Porta Capena in the same year. The total weight of the stele, which is made of granite, is 152,000 kg, with an overall length of about 24 m. Bronze pivots (90 mm in diameter, 600 mm long) were used to connect the pieces together.

In 1997 a combined Italian–Ethiopian commission was created with the final goal of detailing how to ship the stele back to Axum.¹ The decision to return the stele was welcomed with great enthusiasm in Ethiopia, where celebrations to mark the event were held at the airport.

The commission had to face two main challenges. The first was how to dismantle a stele comprising five segments linked together with cement and bronze pivots without doing any further damage to the monument, particularly as it fell under the special protection of Italian law. The second challenge was how to transport it, as the route used in 1937 was no longer viable: ICCROM, at the request of the Italian Government, verified that the road used at that time (through Eritrea) had since been modified and was no longer suitable for transportation. Furthermore, local political conditions in Eritrea made transportation by sea even more difficult, as no harbour was available. The only possible way to transport the stele was by air.

The dismantling of the stele in Rome

In 1999 I was entrusted by the Italian Ministry of Foreign Affairs with the task of providing the preliminary plan for the dismantling of the stele. I was then requested by the Provveditorato alle Opere Pubbliche di Roma to prepare the final project.² Given the requirement of transportation by air, it was decided to separate the stele into three main blocks, opening two of the main joints sealed in 1937. No other further alteration to the monument was permitted. The dismantling required a series of preliminary operations, including the protection of the exterior surface of the stele with a layer of fibre-reinforced structural mortar, including a structural mesh of carbon fibres and the application of circumferential steel reinforcements above and below each of the two joints. This provisional reinforcement was necessary to prevent the appearance of cracks during the work and to enable the application of a series of jacks. In order to exceed the strength of the cement and the resistance of the bronze pivots, a complex system of oil jacks was designed (sixteen along the vertical length and eight along the horizontal). These were connected using high-pressure pipes to manifolds and to an electric pumping system. The jacks could act vertically and horizontally to exert different pressures on the cement mortar, leading to the opening of the joints and eventually to the slippage of the bronze pivots.

Control of the applied forces, of the movements at the joint and of the resulting stresses was achieved by means of a monitoring system. This processed data from the sensors in real time while performing a comparison with design data



10. The Axum Stele in Rome.

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and alarm thresholds in case of excessive inclination, elevated stresses, slippage of the stele framework, tension failure of connectors, crushing of compressed edges etc. The system was also connected to a computer able to acquire and record all significant data.

The dismantling works were successfully carried out by a specialized contractor, Lattanzi, between May and December 2003. Following the separation of each block, provisional safety supporting strips were placed around the bottom sections to avoid any possible slippage of the steel reinforcements during lifting. The weights of the upper, intermediate and lower blocks, including the reinforcements, were 47 tons, 71 tons and

77 tons respectively. The cranes used had a load-bearing capacity of 300 tons.

Transportation

The transport of the stele by air was carried out by Provveditorato alle Opere Pubbliche del Lazio, with the technical support of experts in the field of air transportation.³ Conditions at the airport at Axum imposed serious limits on the load-bearing capacity of the aircraft, owing to high local air temperatures, the reduced length of the runway, the high local altitude (2,300 m above sea level, with a consequent reduction of air pressure and therefore load-bearing capacity) and the complete lack of adequate equipment for the assisted night flight.

No aircraft from the two countries involved was able to carry the weight of the blocks and the associated reinforcement at the required safety levels. It was therefore necessary to re-examine carefully the options for transportation. To this end a series of site visits was performed by Lattanzi and a Ukrainian company that had at its disposal a Russian Antonov, one of the largest aircraft in the world.

In the meantime a lighter form of reinforcement was substituted, reducing the total weight of the lower block to approximately 60 tons. Subsequent to the above alterations, the pilot responsible for the final decision on the weight limit agreed to transport 60 tons from Rome to Axum. As an additional condition, the flight plan included provision for an intermediate landing in Benghazi (Libya) with the biggest block on board. If the Benghazi test proved successful, the aircraft would fly on to Axum.

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11. The Stele reinstalled in Axum.



12. The first block of the Stele arrives at Axum airport.

The loading of the first granite block on to the aircraft required special care. In particular, the anchorage cables that held the block in place had to resist the strong deceleration during landing. The test flight to Benghazi took place on the evening of 18 April 2005. A computerized static and dynamic monitoring system with electronic devices able to record stresses, strains, temperature, vibrations and accelerations was applied to the structures during the flight, and the data acquired were then interpreted with reference to conditions at the runway in Axum. The results showed that all safety requirements could be met, and the test was regarded as successful. The aircraft finally landed in Axum at sunrise; this was essential in order to ensure lower temperatures and higher air pressure. Two further flights to transport the remaining two blocks were scheduled for, and performed on, 21 and 24 April.

In Axum a huge crowd awaited the arrival of the first flight. At midday a lorry transporting each block of the stele slowly drove the 20 km from the airport to the site at Axum, where the blocks were provisionally housed.

The re-erection

Although not stipulated in previous agreements between Italy and Ethiopia, the Italian Ministry of Foreign Affairs agreed to finance the re-erection of the stele as well as its transportation. The Ministry entrusted this phase of the operation to UNESCO. Studio Croci,⁴ with the cooperation of an Ethiopian consulting firm,⁵ and a specialized Italian contractor (Lattanzi) were charged with the final design, the supervision and the re-erection works. The plan

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for the re-erection takes into account the fact that the stele is no longer monolithic and that the three blocks have to be placed separately one over the other. Traditional techniques, such as those used to erect the obelisk in St Peter's Square, were not feasible.

Work on the re-erection of the stele was divided into three main phases. The first phase began in September 2007 and focused on the organization of the site in Axum. The site itself is a sacred place and home to several steles of various dimensions. Three main steles stand close to one other. Stele 1 is the largest, at 35 m and around 500 tons. This collapsed around the fourth century AD, probably during its erection, and now lies horizontally on the ground. Stele 2 is the obelisk repatriated from Rome. Stele 3 is approximately 1 m shorter than stele 2 and is the only one to remain standing. However, it leans dangerously to one side as a result of inadequate foundations and prolonged exposure to various seismic occurrences. To avoid possible negative influences from vibrations produced during work on stele 2, a decision was taken to install a provisional system to prevent any increase in the incline. This consisted of two tenons attached to the base of the stele, which in turn support two cables, anchored at one end to the ground and at the other to the stele. The tension on the cables can be regulated, and a monitoring system controls changes in the stele's position.

The second phase concerns the re-erection and began in early 2008. The three blocks were moved to a new location to permit removal of the reinforcement used during the flight. This was replaced by a new form of reinforcement needed

to lift the blocks into their final positions. During this phase four longitudinal holes were drilled close to the corners of each block, where longitudinal synthetic fibre bars (made of Kevlar) were inserted to ensure future structural continuity between the blocks and improved seismic resistance. These bars were inserted and anchored on the upper of two adjacent blocks, while the drilled holes in the lower block will remain empty until the upper block has been placed vertically above it. A temporary steel structure, 30 m high, was constructed to facilitate the lifting of the blocks. On top, a system of rails houses a travelling crane able to move horizontally (in two directions) and lift the blocks up and down. The first block with its base was placed on a hemispherical hinge already installed in the foundation. By means of adequate topographic measuring, the vertical and transversal position of the block was verified, and a system of jacks made possible the required corrections. At this point the block was fixed on the reinforced concrete foundation. The second block was lifted up and placed vertically above the first, and as the second block approached the first, the Kevlar bars were inserted into the holes in the first block. When the surfaces of the two blocks matched, the holes were injected and the surfaces sealed with a special resin-based mortar. Verification of final positioning and possible corrections were then conducted. The same procedure was followed for the third block.

The third phase, to be completed by the end of 2008, concerns the removal of the travelling crane, the supporting steel structure and the provisional protection of the stele surfaces, in order to prepare for final restoration.⁶

| NOTES

1. Professor G. Croci was nominated a member of the commission as an acknowledged expert on structural engineering in the context of cultural heritage.
2. P. E. Rapisarda, P. E. De Santis and P. E. Gara participated in the different phases of this project.
3. A. Maffei was involved in the transportation project.
4. A. Bozzetti and C. Russo participated in the design, monitoring and supervision.
5. Messele.
6. The third phase was completed by the end of 2008.

| The impact and significance of the statue of Ur-Ningirsen

by Joan Aruz

Joan Aruz is Curator in Charge of the Department of Ancient Near Eastern Art at the Metropolitan Museum of Art, New York, a post she has held since 2002. She received her Ph.D from the Institute of Fine Arts, New York University, was awarded several fellowships and joined the Metropolitan Museum as a curatorial fellow in 1978. She has curated several exhibitions at the Metropolitan, including The Golden Deer of Eurasia: Scythian and Sarmatian Treasures from the Russian Steppes (2000), Art of the First Cities: The Third Millennium BC from the Mediterranean to the Indus (2003) and most recently, Beyond Babylon: Art Trade and Diplomacy in the second Millennium BC (2008). Joan Aruz has written extensively on the subject of art and intercultural exchange, with a special focus on stamp and cylinder seals.

Only one statue of Gudea from among the many from Tello, ancient Girsu, has been discovered with its head intact. Others, including the imposing and monumental statue known as the *Architect with Plan*, have lost their heads.¹ This latter statue is of particular interest to the debate regarding return or reunification because it was itself a ‘museum’ relic, appreciated in antiquity as today. The Hellenized prince Adad-nadin-ahi built his palace on the ruins of Tello in the second century BC and was the first to discover the majestic *Architect with Plan*, nearly 2,000 years after it was created. Despite the damaged condition in which he found it, the prince had the statue installed in a niche in his palace. He appears to have also had the statue polished and its neck-break filed down, probably in preparation for the addition of a new head, but neither the original nor the possible replacement, if it indeed existed, was ever found. This Gudea

came to light for a second time with the French excavations.²

The story of Ur-Ningirsu had a happier ending. The statue was identified by the long inscription on its back as the third governor, or *ensi*, of Lagash, one of the independent states that emerged in southern Mesopotamia around 2100 BC. This was the period known as the Sumerian renaissance, which followed the collapse of the Akkadian empire. Ur-Ningirsu ruled for only a few years, and very few statues of him have survived. According to the inscription, he dedicated this statue to the god Ningizzida and placed it in his house, probably the god's temple at Girsu built by Ur-Ningirsu's father, Gudea, so that the god would grant him a long life.³

Such votive statuary was placed in temples so that the donors might remain in a state of everlasting prayer. The relief scene beneath Ur-Ningirsu's bare feet, of kneeling men bearing full baskets, may represent bearers of ritual offerings.⁴ While one can appreciate the artistry of such fragmentary works, it cannot compare with the experience of viewing a statue intact. With Ur-Ningirsu we can understand a little more of the intention of the sculptor – the body surface being well proportioned so as not to distract the viewer from the major focal points of this image: the ruler's hands and head.⁵

The chlorite used to fashion the Ur-Ningirsu statue is much softer than diorite, the stone commonly used at the time for royal statuary and for the numerous surviving statues of Gudea. The result is a work of greater naturalism, notable

in the garment folds over the left arm, the careful rendering of the musculature of the bare shoulder, arm and back, and even the figure's fingernails and toenails. Compared with statues of Gudea, Ur-Ningirsu has elegant, slender and attenuated proportions, and even the clasp of the hands in perpetual prayer is not so rigidly geometric.⁶

The head of Ur-Ningirsu was purchased by the Metropolitan Museum in 1947 from the Estate of Joseph Brummer – an internationally known antiquarian and a sculptor trained by Rodin. From its initial purchase the head was generally considered one of the museum's great acquisitions, transforming the nature and scope of the collection of the Department of Near Eastern Art.⁷ Ur-Ningirsu is beardless and has a large, rather cubic-shaped head that sits on his shoulders without much of a neck. He has large, heavy-lidded eyes. His curving eyebrows meet on the bridge of the nose and are accentuated by incised lines in a herringbone pattern. He has a prominent nose, a closed mouth with nicely shaped lips and a strong jaw, very similar to that seen on the rare intact statues of his father, Gudea, perhaps an actual physiognomic family trait.⁸ These traits can also be seen on a life-size bald head of Gudea at the Metropolitan, which came to the museum in 1949, two years after the arrival of the head of Ur-Ningirsu.

It was Brummer who first determined that the head and body of Ur-Ningirsu should go together. In June 1935 he wrote to René Dussaud to tell him that he possessed the head, and that by examining the line of the break in the neck he was able to determine that it belonged to the son of Gudea in the Louvre. He offered to take a cast to Paris to see whether the two pieces did indeed belong

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13. Relief scene on base of statue of Ur-Ningirsu, son of Gudea, chlorite, H. 55 cm (21 5/8 in.) Mesopotamia, probably Tello (ancient Girsu), Second Dynasty of Lagash, reign of Ur-Ningirsu, ca. 2100 BC. Lent by Musée du Louvre, Département des Antiquités Orientales (Paris) to The Metropolitan Museum of Art (New York).

together, but the meeting apparently did not take place, and Brummer had to wait twelve years before he was able to sell the head to the Metropolitan.⁹

Scholars were also convinced that the two pieces belonged together because of stylistic similarities in characteristics and material. An effort was thus made in 1955 to reunite the head with the body of the statue, and in 1958 the Louvre made an official request to borrow the head. At the time, however, there were concerns about the delicacy of the stone and the availability of proper techniques to fit the pieces together, and the reunification did not materialize.

In October 1973 Vaughn Crawford, the curator in charge of the Department of Ancient Near Eastern Art, took the head to the office of the Director, Thomas Hoving, for a personal inspection. Crawford believed that the head was not as fragile as had previously been believed and that conservation methods had improved sufficiently over the intervening years, allowing for a more secure join. The two museums had also recently jointly purchased another work of art, a medieval ivory comb depicting the Tree of Jesse.¹⁰ It seemed the perfect moment to reach an agreement over the statue of Ur-Ningirsu. Hoving agreed and contacted Pierre Amiet, at that time head of the Department of Oriental Antiquities of the Louvre.



14. Seated Statue of Gudea: Architect with Plan, diorite, H. 93 cm (365/8 in); W. 46.5 cm (18_in); Thickness 61.5 cm (24_in), Mesopotamia, probably Tello (ancient Girsu), Court A of the Palace of Adad-nadin-ahi, Second Dynasty of Lagash, reign of Ur-Ningirsu, ca. 2090 BC.

A final agreement was struck in 1974 and a decision taken to transport the head to Paris, where it would be joined on to its body and displayed in the Louvre for a three-year period. Henceforth, on a rotating basis, the now united statue would travel across the Atlantic to the other

institution. As the historic agreement was reached, Hoving told the *New York Times*:

I am most pleased that the Metropolitan and the Louvre have been able to make possible the reunification of this distinguished statue. The parts are believed to have been separated in ancient times; the public therefore, will have the benefit of seeing the statue intact for the first time in possibly as much as 4,000 years.¹¹

In the academic world the reuniting of the two pieces received much applause and salvaged one of the outstanding works of its period from only partial appreciation. The joining of the head and body was hailed by Professor Helene Kantor, of the University of Chicago, as ‘an important development and a very good example of the kind of cooperation museums should follow, since each part of the work is too important for a museum to give it up to the other’.¹²

In 1987 the agreement was amended to four years, to allow for a longer stay at each venue. The schedule is flexible, allowing the statue to make an appearance on special occasions, such as the inauguration of the Richelieu wing of the Louvre in 1993. More recently, in 2003, Ur-Ningirsu returned to New York as part of the *Art of the First Cities* exhibition at the Metropolitan Museum. There he joined the company of relatives from many museums, including one of the other rare images of Ur-Ningirsu, the torso in Berlin.¹³

Currently it is the Metropolitan’s turn to enjoy Ur-Ningirsu’s presence. His statue stands near that of his father, represented in the form of a

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small seated and complete diorite statue. Next to him is displayed another spectacular work purchased at the same time as the head of Ur-Ningirsu: a copper alloy head of a ruler probably dating from a century or two earlier. This piece has characteristics that lead experts to think it may have been created in Iran during the period of the Akkadian conquest – illustrating a more naturalistic approach to the rendering of the human image.¹⁴ Sadly this work remains anonymous as no inscribed body was ever found.

Without Ur-Ningirsu in its complete state we would not be able to demonstrate the basic types of royal statuary during the Second Dynasty of Lagash or fully to appreciate this work. The impact of this statue in our galleries is enormous, placed, as it is, in the midst of its forerunners – Early Dynastic statuettes of male and female worshippers excavated at the sites of Eshnunna and Nippur. It exhibits the strength of the Sumerian legacy with the continuity of a belief system expressed in typological features, such as the standing figure with clasped hands. This form of statuary re-emerged during the time of Gudea and his son, despite the Akkadian intervention with its innovative approaches to artistic representation.

The Ur-Ningirsu exchange should be viewed as part of a wider programme to enrich the Metropolitan's ancient Near Eastern galleries through long-term loans from major institutions around the world – thereby filling gaps in the collection with archaeologically excavated works of art. This allows the museum to present more fully the various facets of the history of ancient Near Eastern art and to emphasize connections with contemporaneous civilizations. One of the most



15. Head of statue of Ur-Ningirsu, son of Gudea, chlorite, H. 55 cm (21 5/8 in.), Mesopotamia, probably Tello (ancient Girsu), Second Dynasty of Lagash, reign of Ur-Ningirsu, ca. 2100 BC.

recent of such exchanges was the loan from the State Museum of Oriental Art in Moscow of two spectacular ivory rhyta, which now comprise the highlight of the section of our galleries devoted to the art of the Parthians. These nomadic peoples settled in present-day Turkmenistan, dominating regions of Central Asia that had been Hellenized in the wake of the conquests of Alexander the Great. In the second century BC – in fact, around the time that the Hellenistic-period prince of Tello was collecting Gudea statuary – they established a powerful empire and controlled trade between China and the Mediterranean, along the legendary Silk Road.

In the first Parthian capital, Nisa, not far from Ashkabad, an archaeological mission discovered a royal treasury, which yielded forty

ceremonial drinking vessels carved out of elephant tusks. These were inlaid with glass, and details of gilded bronze, silver and gold were applied to figures modelled in relief on the horn-shaped rhyta. These masterpieces of ancient art combine imagery derived from both the Greek and Near Eastern worlds, representing a highpoint of cultural interaction in Central Asia, one that we otherwise would not have been able to portray. On one rhyton we see the lion-griffin, with curved horns and claws thrust forward, Iranian in inspiration. The other rhyton terminates in the figure of a centaur carrying a female figure on his left shoulder. The centaur is taken from Greek iconography but possesses wings, which probably evoke the celestial nature of a syncretic deity related to the steppe figurative world. These masterpieces of ivory-carving, with their blend of nomadic, Iranian and Hellenistic traditions, undoubtedly represent one of the highest artistic achievements of Central Asian Hellenism.

So the museum pursues its mission: to represent the mosaic of cultures encompassed by the field of ancient Near Eastern studies with great works of art in their contextual setting. And while Ur-Ningirsu presented us with a unique opportunity, our programme of long-term loans, often in exchange for curatorial and conservation training and other programmes of cooperation with our museum colleagues, is a continuing source of enrichment.

| NOTES

1. B. André-Salvini 'Seated Statue of Gudea: Architect with Plan', in J. Aruz with R. Wallenfels (ed.), *Art of the First Cities: The Third Millennium BC from the Mediterranean to the Indus*. New York: Metropolitan Museum of Art 2003. pp. 427–28.

2. B. André-Salvini 'The Rediscovery of Gudea Statuary in the Hellenistic period', in Aruz with Wallenfels (ed.), *Art of the First Cities*. pp. 424–25.

3. D.P. Hansen 'A Sculpture of Gudea, Governor of Lagash', *Bulletin of the Detroit Institute of Arts*, Vol. 64, No. 1, 1988, pp. 14, 19 (footnote 19); D.O. Edzard (1997) *Gudea and His Dynasty*, Toronto, pp. 185–86; O.W. Muscarella, 'Standing Statue of Ur-Ningirsu', in Aruz with Wallenfels (ed.), *Art of the First Cities*. pp. 431–33.

4. J. Evans 'Approaching the Divine: Mesopotamian Art at the End of the Third Millennium BC', in Aruz with Wallenfels (ed.), *Art of the First Cities*. pp. 417–24; Hansen, 'A Sculpture of Gudea', p. 15.

5. B.L. Schlossman 'Portraiture in the Late Third and Early Second Millennium BC', *Archiv für Orientforschung*, Vol. 26, 1978–9, pp. 56–77.

6. D.P. Hansen 'A Sculpture of Gudea', pp. 8, 12, 13, 16; E. Peck, 'Standing Statue of Gudea', in Aruz with Wallenfels (ed.), *Art of the First Cities*. pp. 430–31; Schlossman, 'Portraiture in the Late Third and Early Second Millennium BC', p. 65.

7. The present Department of Ancient Near Eastern Art was created in 1956.

8. Hansen, 'A Sculpture of Gudea', p. 14; I. J. Winter, 'Aesthetics in Ancient Mesopotamian Art', in J.M. Sasson (ed.), *Civilizations of the Ancient Near East*, Vol. 4, New York, 1995. p. 2572.

9. I thank Annie Caubet for this information.

10. Ivory comb depicting the Tree of Jesse, purchased 1973. MMA 1973.70.

11. T. Hoving, Metropolitan Museum of Art press release, July 1974.

12. *New York Times*, 2 August 1974.

13. R. Heitmann 2003. 'Fragment of a Statue of Ur-Ningirsu,' in Aruz with Wallenfels (ed.), *Art of the First Cities*. pp. 434–35. No. 308.

14. J.-F. de Lapérouse 'Head of a Ruler', in Aruz with Wallenfels (ed.), *Art of the First Cities*. pp. 210–12.

| The historical context of the Sumerian discoveries

by Annie Caubet

Annie Caubet is a field archaeologist and has excavated at sites in Syria, Cyprus and Kuwait, among others. Until 2006 she was head of the department of the ancient Near East at the Louvre and was responsible for the opening of galleries dedicated to Mesopotamian, Persian, Phoenician and Cypriot antiquities. The temporary exhibitions she has organized aim to express the continuity from the civilizations of the ancient Near East to the present-day Western world and the relevance of these cultures for understanding our time.

A Sumerian statuette reconstructed

This article, in part, concerns a statuette of brown gypsum alabaster, identified by a cuneiform inscription engraved on its back as a representation of the neo-Sumerian ruler Ur-Ningirsu (ca. 2080 BC). The inscription reads:

To Ningizzida his God, Ur Ningirsu ruler of Lagash, son of Gudea, ruler of Lagash, who built the Eninnu (temple) to Ningirsu, his own stone statue has sculpted. This image 'I am he who loves his god. May my life be prolonged. This name he gave it. In the Temple, he introduced it.'

The image was dedicated in eternal prayer to the vegetation god Ningizzida ('Lord of the True Tree') in the ancient city of Girsu, a metropolis of the Sumerian city-state of Lagash. Finds from Girsu at the end of the nineteenth century led to the rediscovery of the Mesopotamian civilization of the people of Sumer.¹ The inventors of writing and founders of the first cities in the third

millennium BC, the Sumerians had sunken into complete oblivion, forgotten even in the Bible.

In 1924 the Louvre acquired the headless statue.² The head came into the possession of the Metropolitan Museum of New York. It was the owner of the head in New York, Joseph Brummer, who in 1935 identified it as belonging to the statue.³ In 1947 the Louvre exhibited the statue complete with a cast of the head.⁴ In 1974 the Louvre and the Metropolitan Museum of Art in New York passed an agreement to the effect that the two institutions would reunite the head and body of the Sumerian statue. Owing to the unique character of the piece, shared ownership was preferred to an exchange, with the two museums taking turns to exhibit the reconstructed statue.⁵ In the Louvre a coloured cast takes the place of the original during its absence.

The story is a nice instance of international agreement between two institutions that tend to be rivals as often as friends. It is also a good example of knowledge-sharing between scholars searching for missing pieces of evidence to archaeological puzzles. The issue that this article addresses, however, is how statues such as this one come to be fragmented and separated – an issue that has a great deal to do with the more general problem of how ancient artefacts frequently become embroiled in politics.

Historical context

Ancient Mesopotamia, the land of the two rivers, the Tigris and the Euphrates, covers much of present-day Iraq. In the nineteenth century, prior to the discovery of oil in the region, the country

was poor. Land that had been fertile in ancient times had become a desert through environmental changes and bad management. Before the opening of the Suez Canal, Mesopotamia, a possession of the Ottoman Empire, lay on the natural route to India and was consequently of strategic importance to the Europeans. At Baghdad foreign consuls and representatives kept watch on the circulation of goods from the East India companies. The local Arab tribes along the route had no share in the economy, with the exception of the occasional ambush. The Ottoman authorities were mainly concerned with maintaining order and levying taxes. When, in the 1830s, Baghdad fell victim to plague and earthquakes, the European powers turned to the north and opened new consulates in Mosul. One of the unexpected consequences was the rediscovery of the Assyrian civilization.

In March 1843 the newly appointed French consul of Italian origin, Paolo-Emilio Botta, discovered the first Assyrian colossal sculptures on the ruins of Khorsabad. A young man of immense learning, Botta was interested in finding archaeological evidence for the Bible. He promptly published what he thought were the ruins of ancient Nineveh, but these were proved to be another Assyrian capital built by King Sargon II, Dur Sharruken.⁶ In 1845 Henry Austin Layard began British excavations and rightly identified Nineveh on the mounds across the Tigris from Mosul. Finds from Assyria include monumental sculptures, vessels of precious metal and thousands of cuneiform clay tablets inscribed with the cuneiform script.⁷ The decipherment of the cuneiform script involved travellers and scholars from several European countries during

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16. Team of excavators in Tello ca. 1890.

the 1840–60s and attracted great interest from the press, eager to report on the reappearance of biblical figures such as Jehu, king of Judah, in the Assyrian records. European museums competed with one other to obtain access to promising sites. Excavations took place under the protection of the Ottoman authorities, who claimed a share of the finds to be taken back to Istanbul. Local Arab tribes, who earned nothing from the business, soon found that there was profit to be made from selling archaeological artefacts, sculptures and tablets to European travellers and dealers, who were beginning to comb the country. These arrivals had appeared together with the introduction of modern European novelties, such as the telegraph and the railway, and the tribes rightly saw in these ‘satanic inventions’ a means to facilitate Turkish rule. Indeed, the Baghdad Bahn, the railway line between Istanbul, Baghdad and Mecca, built by the Germans, was later used during the First World War to transport Turkish troops into the heart of Arabia.⁸

Until the 1870s the majority of archaeological research and finds had taken

place in the north. When telegraph poles were installed on the route to Basra, further south, these were regularly destroyed by Muntefiq Arabs, a powerful tribe in constant revolt against the Ottomans. French inspectors sent to check on the telegraph reported that Arabs had dug up a large number of stone sculptures at a site called Tello. The French consul at Basra, Ernest de Sarzec, began investigations on the spot in 1877. He pursued his work at the rate of several weeks a year until he retired in 1900. He died in 1901, having discovered the first monuments of the Sumerians, and his publications bear witness to his achievements.⁹

In these southern parts of Mesopotamia insecurity was a constant concern. Sarzec’s own labourers, the local villagers, would start excavating by themselves as soon as he was absent. In a letter dated 17 March 1881 Sarzec wrote:

Les Arabes deviennent si menaçants, la nuit les attaques si audacieuses que dans l'impossibilité de lutter plus longtemps, il m'a fallu lever les tentes. La plupart des pièces ou fragments que je rapporte, m'ont été d'abord volés et il m'a fallu les racheter ensuite.¹⁰

The Louvre and the French government were concerned for the protection of the site. Captain Gaston Cros, a topographer and a specialist in desert land, was entrusted with the reopening of excavations at Tello, which he conducted from 1903 to 1909, before having to leave to pursue his military career in Africa.¹¹ His successor had just been appointed when the First World War broke out. It took until 1928 for the French government



17. The Statue of Ur-Ningirsu, son of Gudea, without its head in the Louvre Museum before reunification.

and the Louvre to appoint a new excavator: Abbé Henri de Genouillac, a brilliant Assyriologist, who had excavated at Kish in Mesopotamia. He was succeeded by André Parrot, who worked at Tello until 1933.¹² In the following years French excavations would concentrate on the newly discovered sites of Larsa (in southern Iraq) and Mari (in Syria). No scientific exploration of Tello has been undertaken since this time.

The ruins at Tello are that of the ancient city of Girsu, a metropolis of the Sumerian city-state of Lagash. Located on the left bank of the Shott el Hai, the most northern of the marshes that used to occupy the south of Iraq before being drained by Saddam Hussein, its surface covers approximately 250 acres and is 2 to 3 km in length. The highest point (Tell A) rises 25 m above the level of the plain. A canal to the east connected Girsu with the two other major cities of the state of Lagash, al-Hiba and Nina (modern Zurghul), further south. Remains from the late fifth millennium BC were uncovered in the lowest levels, and Sarzec identified in the 'construction inférieure' at Tell K a structure that was probably the early third millennium temple, containing copper foundation deposits and examples of the earliest offerings dedicated to the weather god Ningirsu, patron god of the city. The first dynasty of Lagash (ca. 2450–2300 BC) challenged other powers, such as Mari and Elam, and established alliances with Uruk, Larsa and Badtibira. Its founder, Ur Nanshe, imported exotic forms of wood by boat from Dilmun (probably Bahrain in the Persian Gulf) to rebuild the temple of Ningirsu. His grandson Eannatum erected the first known historical monument, the Stele of the Vultures, to commemorate his victory over the rival city-state of Umma. The last prince of the dynasty, Urukagina, was a social and religious reformer, leaving a series of laws that together constituted the earliest form of legal code.

The early Sumerian city-states disappeared with the arrival of the empire of Akkad. A new Semitic language was imposed over all of Mesopotamia, although the Sumerian language was maintained for religious use. A Sumerian

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THE REUNIFICATION OF A SUMERIAN STATUE



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18. Statue of Ur-Ningirsu, son of Gudea.

renaissance took place with the second dynasty of Lagash, whose most glorious representative, Gudea, was a peaceful ruler who undertook an ambitious building programme and dedicated statues of himself and his family to his gods.¹³ More than twelve statues in his image were recovered, most of them carved out of diorite, a hard black stone imported from Makkan, an ancient location in south-west Iran. Images of his wife Nin Alla and his son Ur Ningirsu were carved out of softer stone, such as chlorite or gypsum alabaster, that was easily accessible in Mesopotamia. With the apogee of the third dynasty of Ur, the city lost its independence and began to decline and had disappeared by the time of the Old Babylonian period. The site remained unoccupied until a Graeco-Aramaean prince of the kingdom of Characene, Adad-nadin-ahi (ca. 150 BC), rebuilt his palace in the ruins of Gudea's structures, apparently giving shelter to several statues of his predecessor.

Sharing the finds

While working at Tello, Sarzec was constantly advised from afar by Léon Heuzey on the best way to proceed with the excavations. The final publication, *Découvertes en Chaldée – a monumental work in several volumes –* was written by Heuzey using Sarzec's reports. Heuzey, then curator of the Antique department of the Louvre, was a former student of the French school of Athens; as a young man, he had worked in Macedonia and discovered the first royal tombs. Negotiations for sharing the finds from Tello began in 1895 between Istanbul and France.¹⁴ The French ambassador, Paul Cambon, was advised by Heuzey and Sarzec, while Sultan Abdul Hamid was

assisted by the first curator of the Istanbul archaeological museum, Osman Hamdi Bey.¹⁵ A great scholar and a sincere nationalist, Hamdi Bey had been trained in France. Despite the relative passivity of the Sultan, Hamdi Bey passionately defended the interests of the Turkish museum, gaining the lion's share of the finds made by foreign archaeologists in Mesopotamia and Syria. As a result, the Istanbul museum at Topkapi became one of the world's leading museums in ancient Near Eastern archaeology.

As mentioned earlier, local Arabs had not been included in these transactions and, not surprisingly, endeavoured to obtain their share. It is not clear exactly when and from where looting took place. Some sculptures were looted before the arrival of Sarzec, and some were taken after he took charge during periods in which had to return to Bassorah. In 1894 and 1895, when Sarzec located the Temple archives in the so-called *tell des tablettes*, the Arabs excavated the site as soon as Sarzec departed, and an estimated 30,000 tablets reached Baghdad, Bassora and Mossul, where they were seen by Père Vincent Sheil, the great philologist who deciphered the inscriptions from Susa. Further looting took place before and during the First World War and continued until 1928, when official excavations resumed. As a result, thousands of cuneiform tablets were dispersed around the world, and a large number of sculptures and vessels from Tello arrived on the market, many through the dealer Ilias Gejou, and were sold to various European and American institutions or collectors in Berlin, London and New York. Among these were a series of statues of the Sumerian dynasty, including the statue of Ur-Ningirsu. Only those artefacts with an

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inscription can safely be assigned to the site. For the rest, the absence of context is an irreparable loss. Furthermore, Gejou is probably responsible for the manufacture of a large number of forgeries, including statues in the style of Gudea's dynasty.¹⁶ For this reason the reunification of the head of Ur Ningirsu with the body, bearing an impeccable Sumerian inscription, constitutes, among other numerous benefits, a guarantee of its authenticity.

One century later the lesson to be learned from this particular case is of the utmost importance of every country having a service responsible for its antiquities. In Iraq, as in many countries, efforts still have to be made to ensure that national cultural treasures are appropriately safeguarded.

| NOTES

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3. Joseph Brummer to René Dussaud, keeper of the ANE Department of Ancient Near Eastern Antiquities in the Louvre, 28 June 1935 (Louvre, DAO archives).
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5. Routinely every four years, but by common consent the calendar is flexible.
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9. L. Heuzey and E. De Sarzec (1884–1912) *Découvertes en Chaldée*, Paris: Leroux.
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12. H. De Genouillac (1934–36) *Fouilles de Telloh*, I–II, Paris; A. Parrot (1948) *Tello: vingt campagnes de fouilles*, Paris.
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14. See N. Chevalier. *La recherche archéologique française au Moyen-Orient, 1842–1947*, Paris: Éditions Recherche sur les Civilisations, 2003.
15. On the role of Osman Hamdi Bey (1842–1910), founder and first Director of the Istanbul Archaeological Museum, see W. M. K. Shaw, *Possessors and Possessed: Museums, Archaeology and Visualisation of History in the Late Ottoman Empire*, Berkeley: University of California Press, 2003.
16. F. Johansen, 'Statues of Gudea Ancient and Modern', *Copenhagen Studies in Assyriology*, Vol. 6 (Copenhagen, 1978).

| The reunification of the Kwakwaka'wakw mask with its cultural soul

by *Andrea Sanborn*

Andrea Sanborn, or Pudtas of the Ma'amtigila (her traditional name), is a member of the Kwakwaka'wakw First Nations. As Executive Director of the U'mista Cultural Centre since 2002, she is dedicated by their mandate to ensuring the survival of all aspects of Kwakwaka'wakw cultural heritage. Over the past decade she has been the lead project manager on a number of significant developments, including the creation of a replica Kwakwaka'wakw village in the Netherlands, the rebuilding of the ceremonial Alert Bay Big House following its destruction by arson, and the expansion of the U'mista Cultural Centre itself. More recently, she acted as the primary negotiator for the repatriation of a transformation mask from the British Museum, which is now exhibited at the U'mista Cultural Centre on a long-term loan.

This article traces the path of a Kwakwaka'wakw transformation mask from its origin in Alert Bay, British Columbia, Canada, in 1921 to the British Museum in London, UK, and finally back to Alert Bay in 2005. This eighty-four-year journey impacted in many ways on the culture of the Kwakwaka'wakw First Nations of northern Vancouver Island in Canada, which dates back thousands of years. We can only imagine the distress carried by the spirit of the transformation mask while it was separated from the spirit of its culture. We can easily understand the impacts of similar circumstances on other world cultures over the last few centuries and have come to understand that the very soul of our culture remains fragmented until all the pieces can be reunited, repatriated and returned home.

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Our history, our culture

The foundation of this process is our cultural language, kwak'wala. Without our language we cannot be the Kwakwaka'wakw. We ask that our language, cultural ceremonial masks and regalia be returned to us as part of our spirit. Only then can our culture be whole again, and only then can the spirits of our ancestors be at rest. U'mista (the return of something important) will enable us to continue rebuilding our culture and our lives. Without reunification and repatriation we cannot be whole. World histories cannot make sense if they remain in pieces, spread around the world in fragments. We need to tell our own stories and build our own histories. After all, they are ours, and we will share them in friendship, living together in this world with peace and understanding. Let the spirits of our ancestors be at rest now.

We must maintain the cultural and historical information of our ancestors for the generations of children to come. Our story begins with the creation of our ancestors in our territories. Each group of people on earth has its own story of how it came to be. Each of our member nations holds its own creation stories. For the Kwagu'ł it was the seagull who first became a man by taking off his mask. Others who also took off their masks to become the first men were the sun, the grizzly bear and the thunderbird. For the Dzawada'enuxw their ancestors were four wolves who climbed to the top of a mountain to escape the great flood. They returned after taking off their wolf masks to become three men and one woman. Other ancestor figures include the whale, the butterfly and the eagle, just to name a few who shed animal masks and skins to become the first people of our member nations.

Just a few years after European contact in the mid-nineteenth century in 'Yalis, or Alert Bay, British Columbia, traditional Kwakwaka'wakw Big Houses still lined the water's edge. However, government and church interventions had taken hold and soon changed our lives significantly and permanently. In 1884 our cultural ceremony the potlatch was banned. This ban was not lifted until 1951, when the law was quietly dropped from Canadian law statutes. We faced many restrictions to our culture: our children were removed from their families and sent to residential schools. We were prohibited from speaking our kwak'wala language, and children were severely punished for doing so. This was not a good time for the First Peoples of Canada (or of Australia, or of New Zealand or anywhere else).

We want to know whether you have come to stop our dances and our feasts, as the missionaries and agents who live among our neighbours do. We do not want to have anyone here who will interfere with our customs. We were told that a man-of-war would come if we should continue to [do] as our grandfathers and our great-grandfathers have. But we do not mind such words. Is this the white man's land? We are told it is the queen's land. But no! It is mine. Where was the queen when God gave this land to my grandfather and told him, 'this will be thine'? My father owned the land and was a mighty chief: now it is mine. And when your man-of-war comes, let him destroy our houses. Do you see yon trees? Do you see yon woods? We shall cut them down and build new houses and live as our fathers did. We will dance when our law commands us, and we will

feast when our hearts desire to feast. Do we ask the white man, 'Do as the Indian does'? It is a strict law that bids us dance. It is a strict law that bids us distribute our property among our friends and neighbours. It is a good law. Let the white man observe his law: we shall observe ours. And now, if you come to forbid us dance, begone. If not, you will be welcome to us.¹

In 1921 many of our chiefs and ancestors were arrested following a raid on a huge potlatch hosted by Chief Dan Cranmer at 'Mimkwamlis or the remote Village Island. The potlatch ceremony is fundamental to our culture. Those arrested were charged for making speeches, dancing, distributing gifts and for being guests at the potlatch. They were tried and imprisoned for not agreeing to relinquish their cultural practices and regalia in the potlatch ceremony. While in prison, they were treated with no respect, and the conditions imposed on them were harsh. Their spirits neared destruction. Ceremonial masks and regalia were seized and taken far away for many years. Over time some were lost or stolen, or sold with no regard to the fiduciary responsibilities required by the Canadian government's Department of Indian Affairs. Newly introduced diseases to which our people had no immunity were already decimating our populations. Our numbers and our strength were too greatly diminished to fight back.

My uncle took me to the Parish Hall, where the Chiefs were gathered. O^{dan} picked up a rattle and spoke, we have come to say goodbye to our life; then he began to sing his sacred song. All of the Chiefs, standing in a circle around their regalia were weeping, as if someone had died.

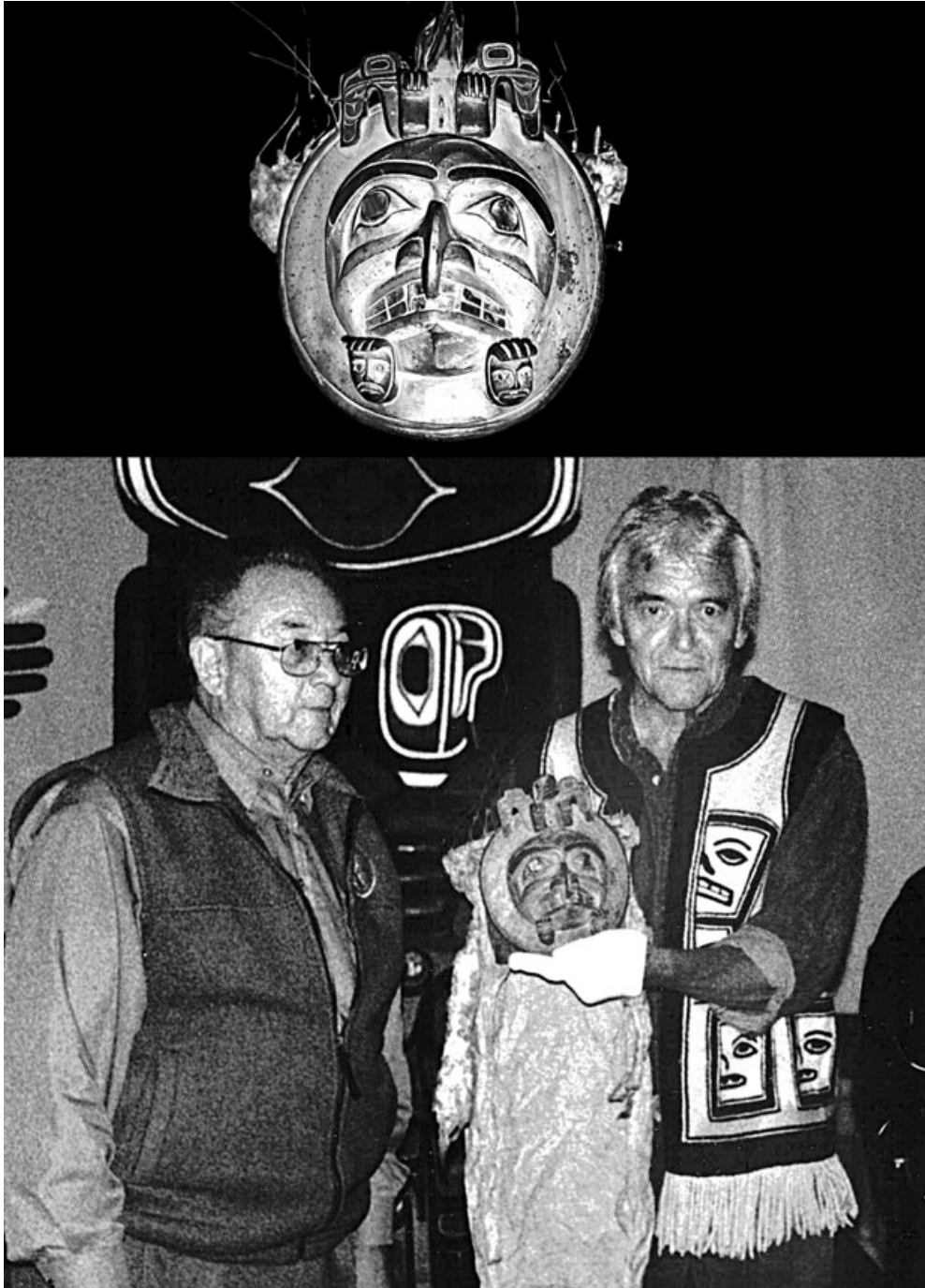
As our own Chairman William T. Cranmer said: 'What they did was stop our ability to pass on our culture.'²

It was *not* common for us to display our ceremonial masks and regalia anywhere other than in our ceremony. It was distressing for our people to see them on public display after confiscation. The masks and regalia are normally kept, carefully wrapped, in our box for treasures until the next ceremony. Yet they were placed on display, and an Indian Agent charged admission to see them. It was not enough that the potlatch ban resulted in our cultural materials being taken away. But as time went by, disreputable collectors began to arrive looking for 'art', as they called our ceremonial treasures. We did not even have a word for art. All of these objects were just part of our culture, a living culture. As an example, Pakiwe', the property of T'łakwa or Chief Sam Scow, was stolen from our collection in Alert Bay and has not yet been found. Since 1980 the U'mista Cultural centre in Alert Bay has housed the repatriated treasures now known as the Potlatch Collection.

The repatriation of the Potlatch Collection

The treasures that form the Potlatch Collection were returned following many years of negotiations over repatriation. The first to arrive home were those stored at the National Museum in Ottawa, followed by those stored at the Royal Ontario Museum in Toronto and the Smithsonian's National Museum of the American Indian in New York. Discussions continue with other museums to repatriate materials identified as belonging to the Potlatch Collection, and we continue to search the world for outstanding treasures belonging to this collection. For most of

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19. Restitution ceremony at the Albert Bay Big House (British Columbia, Canada) on 21 September 2003. Bill Cranmer, president of the U'Mista Cultural Centre (Alert Bay) is holding the mask and to his right is Don Assu, president of the Nuyumabalees Society at the Kwagiulth Museum and Cultural Center (Cape Mudge) .

the cultural objects we know their place within the potlatch ceremony as well as the rightful owners at the time of confiscation. But as a result of the potlatch ban era some of these stories remain lost. Field notes, research papers and the written materials of early anthropologists, linguists, engineers, government agents and other researchers, held elsewhere, all play an important part in repatriation. It is likely that these notes may hold information such as kwak'wala words, names and other cultural information not remembered by current generations. This information was not readily written down because of the oral nature of our stories. During the period of the potlatch prohibition many things were not discussed openly with the younger generations because of fear of repercussions: in particular, having children removed from homes and sent to residential schools as part of government and church attempts to assimilate us into a foreign culture.

Collecting from the Pacific Northwest Coast first began in the late 1700s. At the time there was little understanding among collectors, scholars or the public of our treasures, and these were scooped up at an alarming rate by collectors. The First Peoples of Canada were referred to in the past tense, as a vanishing race. Even our ancestors' bones were removed from their final resting places, in the name of research, and placed on exhibit in institutions, an insensitive action that is vulgar and repugnant to our people. In the early 1990s the National Museum of the American Indian in New York agreed to repatriate nine objects from their collection and almost ten years later it returned seventeen more. In the case of the transformation mask, following its original confiscation it was sold by Indian Agent William Halliday to George Heye,

whose collection later became part of the Museum of the American Indian/Heye Foundation. In 1937 the mask formed part of an exchange between the museum and Harry Beasley of the Cranmore Museum in Chislehurst, Kent. From there it went to the British Museum in London.

Our Chairman William T. Cranmer and I first travelled to the British Museum in 1997 to initiate discussions to repatriate the Kwakwaka'wakw transformation mask. Years of correspondence followed, and I met again with museum officials in the autumn of 2004 to continue discussions. Keeper Jonathan King of the British Museum was very helpful in coordinating the many meetings, providing as much information as he could and generally being supportive of the process. During the eight-year period of negotiations many people from Canada, the US and Great Britain sent letters of support for the repatriation process of the transformation mask to the Trustees of the British Museum. Over time I came to believe that changes were taking place in the negotiating process. I could see that attitudes were softening, my own included, and many were sympathetic to our cause. The process showed that, given sufficient information, it becomes easier for people to understand our deep desire to have our masks and regalia returned to us.

In November 2003 we celebrated the return of a related treasure to the Potlatch Collection at the U'mista. This yaxwiwe' was discovered in the collection of André Breton in Paris, France. When Madame Aube Elleouet, Breton's daughter, was informed of the origin of the yaxwiwe', she immediately replied: 'if it belongs to the Kwakwaka'wakw, then we will

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return it to them.' A wonderful ceremony was held where the joy in the faces of our Elders and other community members renewed our determination to repatriate all our treasures confiscated in 1922. Repatriation discussions continued with the British Museum, and on 1 November 2005, the twenty-fifth anniversary of the U'mista Cultural Centre, the transformation mask was restored to our community.

Repatriation is maintaining our culture

Why is repatriation so important to so many of us worldwide? Repatriating our treasures means honouring the work of our ancestors. We must maintain the cultural and historical information of our ancestors for the generations of children to come. Everyone has the right to know where they belong, what cultural privileges they hold and what songs, dances and legends they can celebrate. U'mista's mandate is to ensure the survival of all aspects of the cultural heritage of the Kwakwaka'wakw First Nations. Our children are our future, our artists are integral to our ceremonies and our lives, our ancestors are integral to our history and culture, and honouring our memories of them is mandatory; all these factors are central to our arguments for repatriation.

Many repatriation discussions continue today among cultures around the world. As time goes by and more information becomes available to us, we become better equipped to prepare our repatriation cases. Education is an important component of knowledge, and with computer technologies and the internet people worldwide are able to access information more easily.

Relationships with museums around the world are improving considerably. We know that all museums are bound by their governing policies and their mandate. We are aware of the British Museum Act of 1963 and acknowledge that the Trustees are bound by it. But over time things change, things can be changed and at times things should be changed. With the introduction of repatriation negotiations the time has come for museums bound by such legislation to review it and, with all goodwill and good intentions, provide and develop a process for repatriation to enable us to enter into positive dialogue and have our treasures returned to be reunited with their spirits and their souls. There is every reason for us to have access to and ownership of our heritage and culture, both tangible and intangible. For now, our mask has been returned to us by the British Museum on a long-term loan agreement, something we accept for the time being.

Our cultural treasures are important to us, and they must be returned to their homes. We thank museums for caring for our treasures, but now is the time to send them home. Positive dialogue with open hearts and minds can make this happen. We have been separated long enough from our whole cultural histories and treasures. We must bring them home now to rest in peace. Let us work towards coming together to make this happen.

| NOTES

1. Kwagu't Chief statement to Franz Boas, October 1886.
2. Chief Jim King, at Alert Bay, 1977. statement about confiscation.

| ICOM statement on reclaiming cultural property

by Udo Gößwald

Udo Gößwald has been the Director of the Neukölln Museum in Berlin since 1985. After studying political science and European ethnology in Marburg and Berlin, he became a research assistant for the exhibition Preussen – Versuch einer Bilanz. From 1983 he was an independent research assistant in the museum's pedagogical department. Since 2004 he has been Vice-President of the International Council of Museums (ICOM) Germany and since 2005 President of ICOM Europe. His publications include Ein Haus in Europa (1996), Immer wieder Heimat (1997) and Romeo and Juliet in Neukölln (2001). He also instigated the 'Born in Europe' project, which was promoted by the EU CULTURE 2000 programme.

Museums have long experienced diverse pressures on collections, particularly from source communities, many of which now exist within modern nation-states and suffered extreme loss of their heritage under colonialism. A great deal of the world's archaeology and anthropology in the nineteenth and twentieth centuries – even when most honourably pursued – can be argued to have advanced under grossly inequitable conditions among the world's peoples and cultures. At worst, brutal human violence and uncontrolled pillage occurred. Cultural destruction and social dislocation prevailed in many of the historical movements of artefacts from their communities of origin to private collections and museums. The record is especially stark across the continent of Africa, in China (with 1 million objects missing) and in all parts of the world in relation to indigenous peoples.¹ During a UNESCO public debate on 'Memory and Universality' organized by *MUSEUM International* (Paris, 5 February 2007) – in which the International

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Council of Museums (ICOM) Ethics Chair, Bernice Murphy, and the Director of the British Museum, Neil MacGregor, among others, participated – Alain Godonou, Director of the Ecole du Patrimoine Africain in Benin, spoke of the extent of violence that had accompanied loss of heritage across the African continent over many centuries. He alluded to the moral violence of dispossession that continues today, as witnessed by the fact that 95 per cent of the collections that represent sub-Saharan African art heritage have long been held and interpreted outside continental Africa; meanwhile a huge majority of African schoolchildren grow up without any knowledge of or contact with their artistic heritage.²

Instead of being preoccupied with the ‘Universal Museums Declaration’³ as a misjudged political event that did more harm than good, ICOM is interested in an approach that moves beyond attack or censorious repression of the discourse of universalism. A more considered response is required – namely, to challenge the discourse itself to move out of the eighteenth and nineteenth centuries (where it remains atrophied) and to extend its continuing legacy and potential of self-transformation in twenty-first-century terms.

There is a need to reconsider the eighteenth-century historical movement that promoted ‘universal’ values and, as a consequence, trace the important trajectories in political and social philosophy arising from the concept of the dignity of all humankind. Seen in this light, the whole scenography of cultural heritage disputes and property claims brought to the door of museums may be recast in different terms from

those staked out by the self-styled ‘universal museum’. The claims of those seeking to regain access, control or possession of their cultural heritage may be projected no longer as irritant or aberrant voices speaking from far outside the discourse of universal values but rather as the extension and fulfilment of these values in today’s world. It is also important to consider alternative approaches to legalistic deadlock or strident stand-off over cultural property claims involving museum collections. An active, questing ethical consciousness calls on museums with encyclopaedic collections to translate their consolidated possession and bountiful representation into real conversations and proactive relationships with those who have vital interests, through undeniable historical association, in what they hold.

The ICOM Code of Ethics for Museums does not pre-judge any outcomes of cultural property disputes or repatriation claims – except in the case of looting, theft and illicit trafficking, on which its demands for just return are firm and clear. The ICOM position on reclamation of cultural heritage or repatriation claims is to exhort museums to undertake conversations of good faith and active intent when issues are raised: ‘Museums should be prepared to initiate dialogues’, as stated in Article 6(2) of ICOM’s Code.⁴ Museums should demonstrate a real desire to build affirmative, beneficial relationships with source communities, where these are identifiable and continue to evolve their relationships to such collections today. This involves an ethics that moves from an exclusive focus on object possession and proprietorship to a broader address to comparative contextualization and stewardship. It embraces multiple histories

and a co-responsive approach to the creation of value and meaning.

The ethical issues in cultural heritage care today are indeed challenging. Museums with concentrated collections and resources are summoned to undertake new kinds of research and interaction between institutions, individuals and communities, and to address questions of multiple knowledge systems and diverse cultural histories worldwide. This points to innovative work being accomplished by museums – to more multifaceted, cross-disciplinary research and intellectual advance – as well as more far-reaching social engagement. At the same time, an ethical consciousness does not overlook the infinitely complex issues of appropriate ownership and agency (from legal status to cultural interpretation and intellectual property issues) that need to be addressed along the way.

Of all the exponents of the universal museum position Neil MacGregor has reached furthest in trying to renovate the discourse through a more dynamic vision of social responsibility and the need to address multiple heritages and constituencies, including source communities:

I believe that the big challenge for the museum community worldwide ... is to build a network of partnerships and exchanges that allow cultural objects to circulate freely and frequently. To date, this has happened through loan exhibitions. But these have predominantly been exchanges among rich countries. We must widen the scope of those exchanges, and they must not only be exchanges of

objects, but of knowledge and interpretation. People and skills need to travel, not only things.⁵

Seen in this proactive light, many museums have moved beyond a fixation on their exclusivity of ownership and have begun to act according to tenets of shared custodianship and stewardship of cultural heritage. They have sought to build new kinds of partnerships in research and heritage care. In so doing, some museums have found themselves recipients of new resources and have become hosts to expanding knowledge, enlarged collections and innovative exhibitions. In fact, the most progressive analytical thought on museum collections today relies on an understanding of the history of inter-cultural encounters. It recognizes the profound and permanent legacies of cross-cultural diffusion that have been a crucial dynamic in the transmission of heritage.

ICOM meanwhile recognizes that cultural heritage is an integral component of identity for a given community. In order to uphold the moral rights of people to regain significant elements of their heritage that may have been alienated or dispersed in consequence of colonial or foreign occupation, it is necessary to pursue constructive professional efforts at the international level. This means that ICOM will continue to support actively, in a collegial capacity, the UNESCO Intergovernmental Committee for the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation on the basis of the 2005 resolution – especially considering mediation as amended in Article 4.⁶ However, ICOM will not itself arbitrate or act as a direct mediator in cultural property disputes.

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Instead, ICOM will help willing parties to ‘get to the table’, thereby moving them a step closer to reconciliation.

ICOM will also continue to undertake studies to evaluate the needs of countries that have lost a significant part of their respective heritages. ICOM will furthermore continue to assist in the preparation of inventories of cultural property at the national and regional levels and, where possible, will continue to provide relevant scientific data and information to interested parties. Finally ICOM members, both at individual and institutional levels, should seek to initiate dialogues with an open-minded, constructive attitude in order to share knowledge and build up trust at every level of professional encounter. This includes measures to improve or build adequate human and technical resources as well as museum infrastructures according to ICOM base standards internationally. In ethical terms it is of great importance to foster respect and dignity towards all parties that are involved in claims concerning cultural property. Anticipated solutions should strive to create a win-win situation for both sides and contribute ultimately to the preservation of cultural heritage for all humankind.

| NOTES

1. G. Lewis (ed.) (2006) *ICOM Code of Ethics for Museums*. Paris: International Council of Museums/ICOM. Full text of ICOM Code (in various languages) is accessible on the ICOM website <http://www.icom.museum>.

2. N. MacGregor, ‘We Mustn’t Fixate on the Property of Works as an Issue’, interview by Vincent Noce and Sue Williams, *UNESCO Courier*, No. 3, 2007.

3. For further information regarding the declaration and the debate that followed, see *ICOM News*, Vol. 57, No. 1, 2004. See also B. Murphy, ‘Museums (Re)mediating History’, *ICOM News (Mediation issue)*, Vol. 59, No. 3, 2006, pp. 4–5. Paris: International Council of Museums (see also contributions by Patrick Boylan and Guido Carducci in the same issue.); and B. Murphy, ‘Comment: Reconsidering Universality, Reviewing Ownership, Renewing Culture’, one of three responses to Constantine Sandis, *Two Tales of One City: Cultural Understanding and the Parthenon Sculptures*; all texts published in *Museum Management and Curatorship*, Vol. 23, No. 1, March 2008, pp. 5–21.

4. Lewis (ed.), *ICOM Code of Ethics for Museums*.

5. Intervention by Neil McGregor at the *MUSEUM International* public debate on *Memory and Universality*, UNESCO, February 2007. See: http://portal.unesco.org/culture/en/ev.php-URL_ID=32653&URL_DO=DO_TOPIC&URL_SECTION=201.html

6. 33C/Resolution 44, Article 4, §1.

| New types of cooperation between museums and countries of origin

by Paolo Giorgio Ferri

Paolo Ferri acts as Prosecutor for the Republic of Italy at the Ordinary Tribunal of Rome, where he deals with crimes against cultural heritage. Since 1995 he has conducted many investigations into dealers worldwide. In particular, since July 2005 he has represented the prosecution v. Emanuel Robert Hecht and Marion True (former curator of the J.P. Getty Museum in Los Angeles), who have been charged with conspiracy and handling in relation to the illicit traffic of archaeological items. This case marks the beginning of a new policy on acquisitions on the part of many museums, which have begun to approach Italy to discuss the return of stolen cultural goods.

The return of cultural goods to their country of origin

The return of cultural goods to their country of origin – or prior to that, the prevention of their illicit exportation – not only benefits the community by recuperating and/or preserving part of its personal memory and identity but also represents a contribution towards the furthering of dialogue between cultures. The return of cultural goods to their country of origin is not tantamount to mere greedy nationalism. Indeed, while culture should not be confined to its national context, opening it up to a global market would certainly be even more detrimental. Whereas exaggerated cultural regionalism can be obviated through a scrupulous policy of exchanges and loans, the removal of cultural goods from their places of origin leads to the loss of identity, a loss

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of roots and, as a consequence, a loss of friendship among peoples, which at least today treat each other on the whole with mutual respect.

Furthermore, it should be stressed that, when cultural goods are removed from their context, they lose their 'soul', both objectively and in the eyes of viewers. This is particularly understood by specialists, who, if need be, can perfectly well pursue their legitimate cultural and research interests by obtaining cultural goods on temporary loan. Such arrangements can easily be made, based on common international standards, conventions or agreements, ratification of which involves all states. This ratification is necessary to avoid cultural isolation, as dissenting states would otherwise find themselves outside the circuit of loans and exchanges, and other possible options. Thanks to these loans and exchanges, would-be criminals can no longer seek economic gain from the traffic of cultural goods, such as illicit profits from destructive clandestine excavations and/or the decontextualization of archaeological artefacts. Illicit activities, as has been demonstrated statistically, not only stimulate the traffic in authentic works of art but also encourage criminals, who, in response to increased demand, produce ever more perfect and abundant forgeries.

Illicit trading and museum curators

During my investigations I have had the opportunity to read the expert reports of many curators whose appraisals of archaeological items benefited criminals, even when the items' provenance from clandestine excavation or illegal exportation was perfectly well known. I have known similar situations in many museums

worldwide, where illicitly traded items have been accepted as parts of exhibitions.

It should also be noted that museums sometimes propose themselves as repositories of last resort for cultural goods. This is a huge problem, which must be confronted on a case-by-case basis. However, if a museum does embark on a purchase, it is the museum's responsibility to act openly and transparently, and to report all details of the acquisition to the country of origin and the police. On one occasion a museum curator even admitted to me, 'It is true that I came to realize that we were being blackmailed'. However, the curator in question could have broken his/her ties with criminality by denouncing the illicit transactions. In this regard I would like to cite the UNESCO Recommendation, adopted in Paris in 1978.¹ Furthermore, according to the International Council of Museums (ICOM) Code of Ethics,² museums are called upon to collaborate with the relevant authorities as a form of preventative cooperation and immediately to report the matter, should they have reason to suspect illicit or illegal transfer, import or export. Lastly, with regard to the restitution of goods, museums have to cooperate subsequently with a country of origin whose norms have been violated.

The new Italian approach to museums

While previous policies were very different and short-sighted, the new Italian approach to museums worldwide consists of a scrupulous policy of exchanges and loans. Conventions signed between the Ministry of Culture of the Italian Republic and one US museum are a good illustration of this new approach.

In the foreword to one of these conventions, *inter alia*, the parties recognize that cultural assets are among the foundations of civilization and that much of their value is based on an accurate understanding of their origin, history and environment. As a result, the US museum condemns any unauthorized and unscientific excavation of archaeological materials and ancient art from archaeological sites, the destruction or disfiguring of ancient monuments and the theft of art works to the detriment of individuals, museums or other sites. The Italian Ministry recognizes, on the other hand, that the exchange of cultural assets among countries and cultural institutions for scientific and educational purposes deepens our knowledge of human civilization, enriches the cultural life of all peoples and creates mutual respect and appreciation. Having previously demanded the return of objects to Italy on ethical grounds, the convention agrees to make medium- and long-term loans of archaeological materials and contexts – on a continuing and rotating sequential basis – to the US museum for the purpose of developing an appreciation of Italy’s cultural heritage. The convention also permits the integration of such objects within the collections of the US museum, to enable the latter to perform its cultural mission fully. As a result, there should be no cause for any recurrence of previous misconduct. Museum curators who exhibit a cultural object without provenance or dating, for purely aesthetic rather than cultural purposes, will be seen to be betraying their mission. Furthermore, the convention authorizes excavation permits for joint or unilateral projects, consenting to the temporary export of excavation materials for their study, restoration and publication. The convention

establishes that the Italian Ministry agrees to facilitate and support a dialogue between the curators of the US museum and curators and custodians of Italian museums and archaeologists who work in Italy. The Ministry furthermore guarantees that the curators of the US museum shall have reasonable access to Italian museum collections, whether on display or not.

This underlines the point that the agreement aims to provide an ethical rather than an explicitly legal answer to past and future problems. In this regard, notwithstanding the expression *ars grata legi*, I believe that the ethical approach is more fruitful than the straightforward legal one, in relation to both the prompt repatriation of cultural items and better dialogue between curators and archaeologists of different countries. Indeed, while it is not always possible to gather sufficient evidence of curators’ wrongdoing, the unethical provenance of a cultural item can easily be established. Furthermore, the legal vindication of cultural acquisitions can mean the end of any dialogue between the parties involved. With regard to this new approach, however, it should be stressed that in many established conventions the museums in question come to an agreement with the Italian Ministry on procedure. The museums agree subsequently to consult and coordinate with the Ministry in advance of contemplated future purchases, loans and/or donations of cultural items that might be deemed of Italian origin and/or provenance.

It should be stressed that until very recently the UNESCO Convention of 1970 was held up as the benchmark for repatriation of illicitly traded cultural goods. Nowadays it is

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possible to interact in different and more ethical ways. In this respect, the example of the Director of the University of Pennsylvania Museum is illustrative. The Director sent a note in September 2007, wishing to open a dialogue with the Italian Ministry of Culture regarding an archaeological object (a fragmented head) that had entered the museum's collection in 1954. He stated that no one was able 'to explain the museum's rationale for the acquisition', which, moreover, had been from a disreputable dealer. The importance of this example does not lie in the future repatriation of the object. There have been many important restitutions of cultural items of outstanding importance, which were illicitly traded well before the 1970 UNESCO Convention. The importance of this example lies instead in 'the ordinariness' of the museum's fragmented head. This illustrates a significant new trend. However, the ethical principles embedded in the 1970 UNESCO Convention are equally important for post- or ante- acquisitions when balancing opposing interests on a case-by-case basis (i.e. issues of ownership versus the decontextualization of important items from their natural site), especially if the party making the final acquisition is a museum.

To summarize, attitudes to and international opinion on the illicit circulation of cultural goods are changing, although it is an extremely difficult and very gradual process. The emergence of a new and different international public policy, comprising all the international norms and legislation of the legal systems of the countries of origin, means alterations in normative and jurisprudential inputs. That is, at least with respect to good faith and proof of diligence, in the

context of the contingencies of the era in question and communal social sentiment. Harmony and balance are achieved through the assimilation of different legal systems and by respecting the overriding requirements of the country of origin. It therefore becomes possible to envisage a final unified result: namely, the creation of an integrated system of legislation.

| NOTES

1. UNESCO Recommendation 1978. See *MUSEUM*, Vol. 31, No. 1 1979. Available online at the *MUSEUM International* website.
2. G. Lewis (ed.) (2006) *ICOM Code of Ethics for Museums*. Paris: International Council of Museums/ICOM. The full text of the ICOM Code is accessible (in various languages) on the ICOM web site: <http://www.icom.museum>.

| Artistic heritage and the return of masterpieces

by Louis Godart

Louis Godart is a member of the Accademia dei Lincei, the Institut de France and the Academy of Athens and a Professor of Aegean Civilizations at the University of Naples Federico II. Since 2002 he has acted as Cultural Adviser to the President of the Italian Republic. A specialist in Aegean scripts, he has written or collaborated on more than twenty-five volumes on the Minoan and Mycenaean civilizations. In 2007 he organized the exhibition Nostoi: Rediscovered Masterpieces in the Quirinale Palace, which celebrated the return to Italy of sixty-seven masterpieces.

Interests at stake

At the end of a long, tiring and complex operation law enforcement agencies were able to reconstruct the chain of complicity lying behind the theft of works of art. The organizers of clandestine excavations sell the objects to accomplices, who pass them on to international smugglers, who in turn pass them on to well-known international dealers skilled in the antiques trade. At the end of the chain are buyers who place the works on display: approximately thirty directors of major American, European and Japanese museums and wealthy, private collectors who have established collections since the end of the Second World War. These unscrupulous buyers trust, or pretend to trust, counterfeit certificates of origin and have often paid highly inflated sums to buy unique masterpieces. For example, a private collector paid US\$ 10 million for an ivory mask originating from a chryselephantine statue discovered in the countryside near Lake Bracciano. Carabinieri from the Cultural Heritage Specialist Unit Division in Italy have come to the conclusion

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that the smuggling of works of art is an activity more lucrative than drug-smuggling.

It is easy to see why masterpieces torn from their surroundings lose an important part of their historical value. We may admire them for their intrinsic beauty, but they can no longer answer the questions that any archaeologist or historian would put to them. For example, was the chryselephantine statue from Bracciano found in a palace, a house or a temple? In which princely burial chamber did the trapezophoron bought by the J. P. Getty museum reside? Who was its rich owner, able to take such an extraordinary masterpiece to his tomb?

It is the right moment, then, to reflect on the circumstances that have allowed a country such as Italy to recuperate treasures carried away in operations that can only be defined as simple acts of theft. The great plundering to which Italy fell victim began in the early 1970s and lasted about thirty years, with American museums being the principal beneficiaries. In those years criticizing politics in Italy was ill advised – even criticizing the cultural politics of the United States. For this reason the objections raised by certain Italian archaeologists and judges when the thefts against Italian archaeological heritage became known never received a reply. But times have changed, the proof of which is the return of sixty-seven masterpieces from four great American museums: the J. Paul Getty Museum, the Metropolitan Museum of Art, the Museum of Fine Arts, Boston, and Princeton University Museum. These are now being exhibited to the public for the first time as part of the exhibition *Nostoi: Rediscovered Masterpieces* in the Quirinale Palace. The exhibition, formally

inaugurated by the President of the Republic and the Minister for Culture on 21 December 2007, has been an unprecedented success; so much so, that its duration has been extended. All the works shown are the result of clandestine excavations carried out on sites in Magna Graecia, Etruria, Latium, Campania and Sicily. They cover around 900 years of Italian history, from the ninth century BC to the second century AD.

The recent suggestion of the Greek government to add to the artefacts on display the splendid statue of *Korè*, originally from the island of Paros and returned to Greece by the Getty Museum, has also been enthusiastically accepted. The participation of Greece in this event is of great symbolic importance. It is vital that our two countries, which transmitted the message of Greek and Italian Classical civilization to Europe and the world, unite to fight the war against antique smugglers and reclaim this part of our past and our memory which has been stolen.

The days when decisions regarding the heritage of Western civilizations were taken in Paris, London, Berlin or elsewhere are past. As Melina Mercouri said in Mexico City, the time is ripe to demand the restoration of the fragments of monuments that made the history of this part of the world. It is not a question of asking the great European or American museums to return the entirety of the works that grace their collections, which originate from Mediterranean, Oriental or African countries. Instead it is a matter of restoring to their original fullness monuments, such as the Parthenon marbles, that have been injured by ignorance, greed and arrogance. It is in this spirit that Italy returned to Ethiopia the Obelisk of Axum.

| Unwanted antiquities

by Neil Brodie

Neil Brodie graduated from the University of Liverpool with a Ph.D in Archaeology in 1991 and has held positions at the British School at Athens and the McDonald Institute for Archaeological Research at the University of Cambridge. From 1998 to 2007 he was Research Director of the Illicit Antiquities Research Centre at the McDonald Institute. Since October 2007 he has been Director of the Cultural Heritage Resource at Stanford University's Archaeology Center.

What should happen to cultural property that the country of origin does not want returned?

The recent return to Italy by several US art museums of antiquities claimed by Italian investigators to have been illegally excavated and traded has attracted a lot of celebratory attention. But the publicity surrounding these returns should not be allowed to obscure a further fact, which is that Italy has not pressed for the return of the many more antiquities that left the country by similar means. One reason may be evidential – it is easy to assume that objects with no provenance are looted but not so easy to prove. But another reason may be one of cost. Taken out of archaeological context, many of the unclaimed objects have lost much of their historical value and in purely artistic terms cannot compete with artefacts inside Italy. The Italian authorities may be reluctant to go to the trouble and expense of recovering what they regard as second-rate material, only to be faced with the prospect of spending yet more to secure its long-term storage and curation. If the goal is to reduce the illegal excavation of archaeological sites by discouraging future acquisitions of illicit material,

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then the Italian authorities may well think that the high-profile returns have served their deterrent purpose and that further action is unnecessary.

Possible scenarios

Italy is not the only country facing such a dilemma. In January 2008 US federal agents raided four art museums in southern California. The museums had acquired through donation minor antiquities smuggled from several south-east Asian countries, largely Ban Chiang material from Thailand. It is alleged that these donations were made as part of a conspiracy to commit tax fraud. In the United States charitable donations to museums are tax-deductible, and donations over US\$ 5,000 are subject to independent appraisal. The donations that formed the focus of the US investigation normally comprised several objects appraised together at a value of less than US\$ 5,000, presumably to avoid independent oversight.¹ Thus the individual items comprising the donation can have been of only limited artistic importance. The aim of the conspiracy was not to place great works of art in US museums but to make money, although the museums involved as possibly unwitting accomplices seemed content to acquire free artefacts. But again these objects have no archaeological context and are of limited historical and artistic importance. Should Thailand be expected to press for the return of this material and pay for its long-term curation, or should it be left in the possession of the US museums, who will then have benefited from a criminal activity, or in the possession of the US federal authorities, who might then choose to sell it?

The examples of Italy and Thailand could be repeated many times over, but they are sufficient to pose an important question: what should happen to illegally exported cultural property if the country of origin does not want it returned? The *de facto* answer at the moment is that it is left where it is, in the possession of foreign owners, who become beneficiaries of a criminal trade. For many commentators this fact in itself points to a solution. There is an oft-repeated argument that a legal market in all but a few of the most important antiquities would go a long way towards eradicating the illegal trade and looting of archaeological sites. Why, then, not release legally excavated artefacts of the type not being reclaimed into circulation in the first place? The answer is simple. As already mentioned, the unclaimed artefacts, which may be characterized as unimportant, have been shorn of archaeological context. Legally excavated artefacts that retain their context would be more important and not so readily released on to the market. Unimportant artefacts are produced only by illegal excavation.

Still, the Italian strategy, if such it is, of reclaiming only high-quality artefacts and relinquishing ownership of the rest may be a dangerous one. It seems to be based on the belief that if the most important collectors, whether institutional or individual, are deterred by successful claims for repatriation, then demand will be severely reduced and the incentive for looting will be seriously diminished. This reasoning seems sound enough and may even have been vindicated by the 2008 revision of the guidelines of the Association of Art Museum Directors (AAMD) on the acquisition of archaeological objects, which now recommends

that member museums should not acquire an object unless there is documentation to show that it left its country of origin prior to 1970, the date of the UNESCO Convention. The timing and nature of this revision suggest that it was prompted in part by the Italian returns. But it leaves the way open for an unprincipled collector (individual or institutional) to acquire a large number of objects, secure in the knowledge that, at most, only a few of them will be reclaimed. When a claim is made, the collector can respond publicly and magnanimously by returning a piece, receiving the gratitude of the claimant country and walking away with personal reputation enhanced and collection largely intact. It should not be forgotten, either, that antiquities are economic capital. Museums make money from their displays, and, when kept in foreign museums, that money remains outside the country of origin.

The new recommendation made by the AAMD referred to in the previous paragraph has complicated the situation still further. There is now potentially a large circulating store of antiquities, moved illegally out of their country of origin since 1970, that the country of origin may not want to reclaim and that US museums may not want to acquire. What should happen to them? This question is not a trivial one. In the United States the debate over the collection and repatriation of antiquities is a very public one, and although the trial in Rome of the ex-Getty curator Marion True and the museum returns to Italy have swung opinion towards the source countries, there is no guarantee that in the future it won't swing back towards museums and collectors. The debate is ongoing. If no convincing solution to

the problem of apparently unwanted artefacts is forthcoming, then it will be easy for collectors or their sympathizers to argue that in abandoning artefacts source countries have demonstrated that they do not enforce their own patrimony laws and do not care about their own heritage. What will be characterized as source-country indifference and neglect will be contrasted unfavourably with the more positive attitude towards ownership shown by collectors and museums in the United States.

Considered answers to the question of unclaimed cultural are beyond the scope of this short article. There is an urgent need for intergovernmental discussion and consultation, perhaps mediated by UNESCO and for relevant NGOs such as the International Council of Museums (ICOM) and the International Council on Monuments and Sites (ICOMOS) to take an interest. Some solutions, however, almost suggest themselves. One may be that, if a museum or collector comes into possession of a piece that probably moved out of its country of origin after 1970, the relevant country may choose to assert title over the object, while leaving it in the possession of the foreign holder, although subject to certain stipulations. These stipulations could include restrictions on the sale or transfer of possession of the object, or requirements for descriptive materials that should be displayed alongside the object, emphasizing that it is the property of the country concerned and that it was first acquired in destructive and illegal circumstances. This would serve to place the object within a framework of understanding that is relevant to contemporary concerns about the commercially led destruction of archaeological

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heritage and that would counter the aesthetic framing of the museum. A second strategy might be to remember the economic aspect, and, quite simply, to rent it out.

| NOTE

1. J. Felch. 'Four Southland Museums Raided in Looting Probe'. *Los Angeles Times*, 24 January 2008.

| The ethics and law of returns

by Lyndel Prott

Lyndel Vivien Prott is an expert and consultant in cultural heritage law. A former Director of UNESCO's Division of Cultural Heritage and Professor of Cultural Heritage Law at the University of Sydney, she has had a distinguished career in teaching, research and practice. She has written, co-written or edited over 200 books, reports and articles.

Both international law and national laws are relevant in settling disputes about cultural heritage items. But what happens if the law is uncertain or non-existent, or if the relevant national laws conflict? Ethical principles and cultural arguments are important in any negotiation for return of cultural heritage.

National laws

National laws control the conduct of institutions such as museums, which as a result may find themselves legally forbidden from returning heritage items because their collections are regarded as state property or because of the existence of rules preventing the alienation of items in their collections. National laws may also determine that an item has been stolen or exported in violation of national law. This may have an impact on the institution or state where the object is now being held. Generally speaking, all states recognize that a stolen object should be returned. However, the situation is less clear in respect of illegally exported cultural objects. The rules controlling the conflict of national laws ('private international law') in many states would accept that the categorization of an object as stolen should be determined by the law of the state where the crime was committed. However,

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they would not enforce 'foreign public law', such as administrative law controlling imports and exports. This position was already called into question by the Institut de Droit International in 1975 and by judicial decisions in a number of countries. All held that the rules of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 amounted to international public policy, which should be applied by a court, even in cases where the state concerned was not a party to the Convention.¹ A further way of dealing with state claims of ownership over items not in their possession but alienated or exported contrary to the rights of the state was for a court to recognize the rights of the state of origin because of the need for reciprocity and comity of nations in their efforts to preserve their respective national heritages.²

International laws

Public international law (i.e. law between states) is binding on all states that are members of the international community: in other words, the 193 members of the United Nations. These laws may be customary or, more frequently, established by treaty. Thus heritage objects falling within the ambit of one of the conventions concerning the moveable cultural heritage – such as the Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954, the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 or the UNIDROIT Convention on Stolen or Illegally Exported

Cultural Objects 1995 – will be the subject of a legal remedy between states party to such a convention.

However, a dispute may exist between states as to whether the object concerned does fall within the convention in question. This may be because it is not clear that both states were party to the convention at the time the object was removed from one state to the other, or because it is not clear that the object falls within the definition of 'cultural property' in the text of that convention or because the evidence does not allow a legally satisfactory tracing of events leading to the abstraction of the object from the country of origin. Cases where objects were taken during colonial times against the wishes and consent of the local people form a major source of conflict and ambiguity. Similar cases concern communities that, although not in a direct colonial relationship, were nevertheless unable to retain control of their heritage because of punitive raids (Benin, Ethiopia) or arrangements between states that they were unable to prevent (the Parthenon marbles). Another set of problems arises where heritage items are claimed by indigenous peoples who were unable to prevent removal of their goods and human remains that were taken for 'scientific purposes' or simply as collectors' items, but whose return for burial is claimed by their descendants or communities because of the ancestors' need to return to their own country to ensure their spiritual peace. In these latter cases international law was either not sufficiently developed or was (and sometimes still is) contested. Therefore, relying on the law to provide an answer in such cases is to misunderstand the situation.

Conflict between laws

Problems also exist where national and international law conflict. It is an old principle of international law that a nation cannot excuse non-compliance on grounds that its own law is not in order. It is its international responsibility to change that law to bring it into compliance with its international obligations. Law, by its nature, crystallizes the general consensus at a particular time. There was no consensus on the (il)legality of colonization before 1960, when the United Nations Resolution on Decolonization was adopted.³ So any objects taken from colonized countries before that date fall into an international limbo: there are no agreed rules of international law on the subject and only conflicting national laws. Colonizers assert that they had good legal title by their law, although the colonized peoples assert that removal of objects was contrary to their law and practice. The legal problems for indigenous peoples are much the same: as is well known, the Declaration on the Rights of Indigenous Peoples was only adopted in 2007 and is still not accepted by a few states.

So reliance on the law is not going to resolve the issue, and to insist that it does is simply to ensure continuance of the problem. There are many cases where the absence of a particular item, or particular class of heritage items, creates long-lasting pain. The length of time between the removal of an item and its return, some examples of which exceed 300 years, shows that any hope that the claim will simply disappear misunderstands the situation. This has rarely been stated better than by the officers of the MFAA (Monuments, Fine Arts and Archives) unit of the

US Army, faced in 1945 with an order for the transportation to the United States of works of art, the property of German institutions or nationals, for purposes of protective custody:

We wish to state that from our own knowledge, no historical grievance will rankle so long, or be the cause of so much justified bitterness, as the removal, for any reason, of a part of the heritage of any nation.⁴

Ethical principles

Ethical principles alter with changing attitudes in a community. Since the law formalizes these principles and turns them into rules, changing attitudes often foreshadow changes in law. So what ethical principles exist in this area, and what changes can we see?

In respect of *cultural objects taken during hostilities or occupation*, changes in attitude can be clearly logged through the increasing protection given by national law and through current developments on the return of objects looted during the Second World War, even though time restrictions on the bringing of claims expired long ago in many national legal systems. Developments in International Law deriving from the Treaty of Westphalia in 1648, the 1907 Hague Convention on the Laws of War, the post-First World War settlements, the Declaration of London 1943 and the Hague Convention and Second Protocol of 1954, as well as the Second Protocol of 1999, demonstrate a steady response on the behalf of the international legal system to the growing moral consensus that

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such looted cultural objects must be returned. More recent practice, such as the adoption of a Security Council Resolution mandating the return to Iraq of cultural objects looted there in 2003, has reinforced this development.

In the case of *cultural objects removed by theft, clandestine excavation and illegal export*, the international legal system has responded with the adoption of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects 1995. It has also set up non-legal processes for return, such as the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation. A growing number of bilateral settlements of such claims, such as those recently entered into by a number of American museums with the Italian authorities, show that practice is developing further. Just as significant are statements of ethical values such as the UNESCO International Code of Ethics for Dealers in Cultural Property 1999 and the International Council of Museums (ICOM) Code of Ethics for Museums, most recently updated in 2004. All indicate trends in advancing ethical values.

For *cultural objects taken in colonial circumstances*, the UNGA Declaration on Decolonization 1960 and the practice of return of such items by numerous states (the Netherlands to Indonesia and Belgium to the Congo, both at the time of independence or soon thereafter) showed a developing sense of the need to deal with these cases. ICOM Reports in 1976 and 1980 helped

formulate ethical principles for return, such as the need of every state to possess a representative collection of its own cultural heritage. The eloquent 'Plea for the Return of an Irreplaceable Cultural Heritage to Those Who Created It' by the Director-General of UNESCO on 7 June 1978 clearly formulates a number of ethical bases for the return of such items. It includes claims for 'at least the art treasures which best represent [a people's] culture, which they feel are the most vital and whose absence causes them the greatest anguish', for the return of 'a work of art or record to the country which created it' in order to enable 'a people to recover part of its memory and identity', arguing 'that respect for works of art leads, wherever necessary, to their return to their homeland' and for the need for 'the gradual revision of codes of professional practice' and the need for states 'to share generously the objects in their keeping with the countries which created them and which sometimes no longer possess a single example'. ICOM's latest Code of Ethics includes clear ethical obligations.

Concerning the return of cultural property, museums should be prepared to initiate dialogues for the return of cultural property to a country or people of origin. This should be undertaken in an impartial manner, based on scientific, professional and humanitarian principles, as well as applicable local, national and international legislation, in preference to action at the governmental or political level.

Cultural objects taken in circumstances not strictly colonial, but somewhat similar, have also received consideration. In these cases the community that wants the cultural object back had

it taken at a time when it lacked the power to prevent a more powerful party divesting them of it. It is notable that both the Director-General's 'Plea' and the ICOM Code would also apply in these circumstances. *Cultural objects taken from indigenous communities* have in recent years seen considerable development in institutions in a number of countries. Australia, Canada, New Zealand and the United States have seen many institutions involved in returns to their own or other indigenous peoples, and the United States has developed complex national legislation mandating such returns. The adoption of the Declaration of the Rights of Indigenous Peoples by the United Nations General Assembly is another indicator of changing attitudes. The specific Principles and Guidelines for the Protection of the Heritage of Indigenous People developed in 1995 within the UN Human Rights Committee have no legal force but constitute a clear statement of an ethical position that will need to be taken into account in the development of future law on this subject.

Finally, *sacred objects* have had a special place in some national legal systems for many years. *Sacred and secret objects* of minority and foreign communities are now the subject of special concern in a number of national legal systems. This is perhaps the least developed of the new strands of ethics that can be detected in the first decade of this century.

Cultural principles

In addition to the legal and ethical arguments advanced for the return of cultural property, there are cultural arguments. Where are disputed

heritage items most accessible? For whom are they most important? How can they best be shared where they belong to the heritage of more than one group? It should be noted that cultural property may have important links to more than one human group: Article 4 of the 1970 Convention formalizes five different kinds of link – and there may be others.

Most importantly, recent expressions of the importance of cultural diversity and the need to respect the cultures of others support important cultural arguments that already exist.⁵ For example, the Director-General's 'Plea' of 1978 declared that states must possess at least a representative collection of their own cultural heritage in order to teach and inspire the descendants of their makers, so that they can continue to develop their unique contribution to humanity's art and knowledge. Faced with those kinds of concerns, disputes on the law and quibbles over its interpretation and its application seem out of place.

The law only slowly follows profound changes in public attitudes, as the making of a new law or the revision of an old one requires considerable effort. In addition, it is also important for governing authorities to be sure that the law has sufficient consensus to ensure that implementation will be possible. Today new ethical positions are formulated not only by states but also by museum professionals and anthropologists in holding states' communities. Many are active in drafting new statements of ethics for their institutions and in developing rules of practice to guide their handling of future claims for return. Statesmen are also now

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becoming aware of the importance of treating such claims with respect. In particular, returns can defuse enduring tensions between states where such issues have long been unresolved.

Such claims need not go to legal settlement. Other kinds of settlement, such as negotiation, mediation or arbitration, can be used. These can also be ideally tailored to meet the particular circumstances of a claim, taking all kinds of argument into account and working to find solutions that provide some advantage to each side. Practice will eventually show which process leads to the most mutually satisfactory solutions, but each case is unique, and no one type of procedure can or should be mandated as the sole way of resolving a dispute regarding the ultimate resting place of a heritage object.

| NOTES

1. *Allgemeine Versicherungsgesellschaft v. E.K.BGHZ 59,83* (German Federal Court in Civil Matters) 1972.
2. *Republic of Ecuador v. Danusso*, Court of Appeal, Turin (Italy), 2nd Civil Section 593/82. Based on principles and practice developed on the basis of the Convention concerning the Laws and Customs of War on Land 1907, the Declaration of London 1943 and the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954.
3. United Nations General Assembly Resolution 1514 (XV), 14 December 1960, Declaration on the Granting of Independence to Colonial Countries and Peoples.
4. The Wiesbaden Manifesto, 7 November 1945, signed by thirty-two specialist officers of the MFAA.
5. UNESCO Universal Declaration on Cultural Diversity 2001; UNESCO Convention on the Protection and Promotion of Cultural Expressions 2005.

| Returning a stolen generation

by Tristram Besterman

Continuing a career in UK museums that has spanned more than thirty years, Tristram Besterman works as a freelance in the museum, cultural and higher education sectors. The social purpose of museums as trusted, democratic places of cultural exchange is of particular interest to him. His work on professional ethics, engagement with source communities, management and leadership focuses on issues of social interaction, cultural identity, accountability and sustainability.

The recent return of human remains to the peoples of Tasmania from two British institutions provides two contrasting and instructive examples of repatriation in practice. These returns occurred at a time of political change in Australia, with the past colliding powerfully with the present. This article explores the politics of repatriating the ancestors of indigenous people held in UK museums in the context of history, shifting contemporary power structures and the rhetoric of science.

Mediation and cultural diplomacy are terms that apply to two rather different processes of engagement between peoples, whose values, interests and aspirations diverge. Cultural diplomacy appears to be the means by which the political interests of a society are advanced to achieve certain objectives. Mediation, on the other hand, is a technique of conciliation, whose principal purpose is to find common ground between parties who may be profoundly alienated from each other.

Anger, resentment, suspicion and fear: these are some of the familiar faces of alienated human beings, be they scientists or indigenous people. To mediate a positive relationship based

on trust and mutual respect requires courage, goodwill, a leap of imagination and effective communication. And in order to be good communicators, curators and scientists, who are used to telling people their story, need to hone their listening skills and to watch their language.

In the dialogue between museum and source community language creates pitfalls as well as bridges. For instance, the use of the term ‘cultural object’ would be deeply offensive to an indigenous group as far as human remains are concerned. To the source community these are *people*, not things. And we know that great wrong is done when humans reduce each other to the status of objects.

The failings of science

For nineteenth-century museums the remains of ‘natives’ lent weight to a Eurocentric human evolutionary narrative whose highest expression was the white European. Human ‘specimens’ were collected as ‘evidence’: ‘Combining the concept of racial hierarchy with theories of social evolutionists [...] Darwin concluded that each race represented a separate stage through which the human species had evolved.’¹ The catastrophic impact of colonial settlement on indigenous populations was reported even at the time:

It is only on the margins of settlement now that the natives give much trouble; as civilisation advances they seem to give up the struggle. And though we hear occasionally of instances of surprise and slaughter, these are as frequently the result of cupidity and breach of faith on the part

of settlers. [...] Notwithstanding all efforts to civilise and Christianize the Australian native, and to preserve the race, there seems no chance of any prolonged success. A few generations more and he will become extinct.²

In the case of the peoples of Tasmania evidence of their place in a human racial taxonomy was rare – and therefore highly sought after – because colonial settlement had all but wiped out the Aboriginal population by 1850. In violation of indigenous custom and belief the remains of Tasmanian Aborigines were removed and shipped to museums in Victorian Britain. Taken without consent, human remains retained in Western institutions against the will of living Tasmanians compound the original violation. The reason usually given by scientists for holding on to indigenous human remains is that these form a unique and irreplaceable resource that enables humankind ‘to understand human history and human diversity and [...] human evolution. Not as a system of belief but as something that does have an empirical record and therefore some basis in science.’³ Science – as all good scientists acknowledge – is not about some indisputable, revealed truth. The ‘empirical record’ is, of course, capable of different interpretations. A skull from an old collection that was recently examined by two leading bio-anthropologists was independently ‘verified’ by one as Australasian and by the other as South American. Each used the same measurements to reach a different conclusion. That is the way science proceeds: evidence is collected and then subjected to all too human interpretation, which can thereafter be revisited and reinterpreted. Scientific method is in part empirical, but the conclusions of scientists are necessarily open to challenge.

What is indisputably the case, however, is that human remains in museums have in most cases lain unexamined in stores for many decades prior claims for repatriation. Moreover, the argument of actual or potential utility to science cannot, in my opinion, justify holding on to something that does not belong to you. One is struck by two points concerning the rhetoric of scientists who continue to oppose repatriation. The first is the asserted universality of science, whose entitlement to serve the whole of humankind transcends the parochial claims of any particular group. Ironically, this supra-human positioning of science has, to some ears, a distinctly pantheistic ring to it. It is also an expression of precisely the same Eurocentric rationalist quest that fuelled the illicit removal of human remains in the first place. The second is the dismissal by scientists of claims for repatriation as merely 'political'. The implication is, presumably, that 'political' can be equated with devious, cunning and self-serving forms of behaviour that have, of course, no place in the laboratory. But in a democratic society politics, like science, is a product of the restless human quest for betterment: it is the means by which humankind progresses. If repatriating human remains to a democratic society is part of a political process by which an oppressed minority reclaims cultural territory of which it has been undemocratically dispossessed, then who from the enlightened democratic world can with a clear conscience gainsay them?

Restoring dignity

Many – but regrettably not all – of the ancestors held in the UK have recently been returned to resume their place in the lives of their descendants

in Tasmania and other parts of Australia. Because the original dispossession typically occurred at a time of gross inequality of power, repossession provides some remedy. The balance of power is still unequal: the Western institution holds all the cards. Surrendering them requires the institution to show leadership, humility and generosity of spirit. When we return their ancestors, we repatriate authority to the source community and control over their history and culture. With that simple act some dignity is restored. There are gains for the returning museum too: if the process of repatriation is handled appropriately, the museum grows in stature and benefits from new forms of cultural exchange. A holding institution that fails or refuses to engage positively with claimant communities is guilty of an abuse of power more inexcusable in our more enlightened times today than when the original acquisition occurred.

Sometimes it takes a surge in the tide of national politics to move these issues forward. In 2000 John Howard and Tony Blair pledged 'to increase efforts to repatriate human remains to Australian indigenous communities. In doing this, the Governments recognize the special connection that indigenous people have with ancestral remains, particularly where there are living descendants.'⁴ The joint statement of the UK and Australian prime ministers led, within five years, to a change in English statute law that enabled national museums to repatriate human remains to source communities. In early 2008 Kevin Rudd, the newly elected Prime Minister of Australia, publicly apologized to Australia's indigenous nations for the 'stolen generations', a government-sponsored violation of human rights perpetrated over six decades of the twentieth century. This was



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20. Bob Weatherall, representing the Foundation for Aboriginal and Islander Research Action, receives the documents that record the return of his ancestors from Tristram Besterman, Director of The Manchester Museum, at a public ceremony held outside the museum in July 2003.

swiftly followed in the UK Parliament in February by a motion signed by forty-nine Members of Parliament, which stated:

This House recalls Great Britain's role in the colonisation, settlement and early governance of Australia; acknowledges Great Britain's responsibility for the suffering and degradation inflicted on indigenous Australians, including the removal of indigenous human remains and material culture; supports the Prime Minister of Australia, Kevin Rudd, in his apology to the stolen generations and other indigenous Australians for the pain, loss, deprivation and abuse they have suffered.⁵

In 2006 I was taken by an Aborigine to Wybalenna, a desolate, windswept place on Flinders Island, just off the coast of Tasmania. Here rows of unmarked graves bear silent witness to near genocide. Close by is a memorial to Aunty Ida West, a Tasmanian who died in 1995. The inscription ends with her words: 'Where the bad was, we can always make it good.'⁶ What better expression of cultural diplomacy could there be than that?

| NOTES

1. C. Fforde, (2004) *Collecting the Dead: Archaeology and the Reburial Issue*. London: Duckworth, p. 28.

2. *The Illustrated Sydney News*, 16 March 1878, in T. Besterman, (2005) *Returning the Ancestors: Repatriating Human Remains from The Manchester Museum to Australian Aboriginal Communities*, 2005, p. 1.
3. R. Foley 'Human Remains: Objects to Study or Ancestors to Bury?' Transcript of debate at the Royal College of Physicians, 2003.
4. *The Report of the Working Group on Human Remains*. London: Department of Culture Media and Sport, 2003, p. 3.
5. Early Day Motion 1000. 'Indigenous Australians', UK Parliament, 2008.
6. T. Besterman, (2006) *Returning the Stolen Generation*.

| The thieves of Baghdad: a new way of looking at the unification of the Parthenon sculptures

by Matthew Bogdanos

*Matthew Bogdanos, an Assistant District Attorney in New York City since 1988, is a colonel in the US Marine Corps. He holds advanced degrees in law, classics and military strategy. Recalled to active duty after 11 September 2001, he received a Bronze Star for counter-terrorist operations in Afghanistan, served several tours in Iraq and the Horn of Africa and received a 2005 National Humanities Medal for his work heading the investigation into the looting of the Iraq Museum and recovering Iraq's treasures. Royalties from his book *Thieves of Baghdad go to the Iraq Museum*.*

On such a sensitive issue as the return of cultural property we must think in new, innovative and creative ways. In this article I would like to propose a possible new way of thinking about the complex issues involved in the return of cultural objects. To do this I must go back in time, not to the years 1801–12 or to 1970, but to 2003 and the tragedy of the Iraq Museum. This event shed new light, perhaps, on the return of cultural property; indeed, I would argue that 2003 may prove to be every bit as much a watershed year as 1970, the year of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

The power of awareness-raising

In April 2003 an outraged world watched in horror as the cultural patrimony of the very cradle of civilization was stolen from the Iraq Museum –

home to the finest collection of Mesopotamian antiquities in the world. At the time, as a US Marine Corps Colonel, I was conducting counter-terrorist operations in Basra, in southern Iraq. I heard about the looting of the museum in the same way as almost everyone else: from an enraged journalist – in my case, a reporter for the BBC. I believed – with Voltaire – that everyone is guilty of the good he does not do and, because I was the Commanding Officer of my unit, I did what anyone else in my situation would have done: I volunteered, taking part of my team to Baghdad to begin the tasks of investigating what had happened and returning to the Iraqi people their priceless cultural heritage.

When I arrived at the museum a few days after the looting, I had no idea that I was beginning a journey that would last for many years. It has been a journey enriched by an Iraqi people whose warmth and hospitality in inviting me into their homes and their hearts will stay with me always. It has also been a journey marked by the heroism and determination of some of the most exceptional people with whom I have ever had the honour of working. Sadly, it is also a five-year journey that has seen the recovery of slightly less than half of the almost 15,000 objects that were stolen from the museum. Rather than focus on those items recovered – either in Iraq or elsewhere – I continue to be haunted by what is still missing. As Aeschylus tells us, however, ‘There is advantage in the wisdom won from pain’. The wisdom here, I submit, is the recognition that we must use the tragedy of Iraq to increase public awareness not only of the ongoing tragedies of the twenty-first century but of those of centuries long past.

To gain advantage from that wisdom I offer three possible thoughts. First, we must leverage this new awareness. In the United States, at least, the media and public attention devoted to cultural heritage is unprecedented in my lifetime. Whether the amazing work of Paolo Ferri, the Italian prosecutor, in his prosecutions in Italy, the continuing tragedy of the looting of Iraq’s archaeological sites or discussion about the unification of the Parthenon’s fragmented sculptures, the increased awareness among the mainstream public is extraordinary. Of course, academics and archaeologists have been discussing these issues for years. It is only recently, however, that the wider public has become aware of the issues involved and the stakes.

These newly interested people vote, pay taxes, lobby governmental officials and write articles in general public newspapers and magazines, and not only in academic journals. As such, they can make a significant difference. I agree with the former US president Thomas Jefferson, yet another lover of Classical Greek culture, that given the choice between newspapers without government or government without newspapers, he would choose newspapers. So let us enlist the aid of the media in this battle, because increased publicity means greater awareness, leading to increased scrutiny, pressure and resources brought to bear on the issues of recovery and repatriation.

Changing the paradigm

But now that light is shining on areas where before there were only shadows, what do we do with this increased attention? How do we seize the moment – a moment that we may not see again

in our lifetimes? This brings me to my second thought. It starts with the words of Herodotus: 'As each opportunity arises, if you were to take account of everything that could go wrong, you would never act. It is better to be brave and endure half of the terrors we dread than to do nothing.' We could act by changing the paradigm.

As a child, I viewed Heinrich Schliemann as a hero who proved Homer spoke of a world that really existed. Of course, I completely ignored how he secretly smuggled objects out of the country of their discovery. I also thrilled to the stories of Austen Henry Layard and his discoveries at Nimrud and Nineveh – again, glossing over any unpleasant issues of ownership. Imagine, though, if we had had CNN in the nineteenth century. Might that not have exposed a different side of exploration and discovery? Imagine if we were able to make the world see the removal of cultural property more clearly, instead of seeing it through the hazy distance of centuries, which transforms removers of property into gentleman adventurers.

If the public viewed prior instances of the removal of cultural property through the lens of April 2003 and the thefts from the Iraq Museum, would the discussion about the return of cultural heritage not take on new depth? I am not in any way suggesting that Layard, Schliemann, Lord Elgin and others can be compared to the thieves of Baghdad. What I am suggesting is that for too long we have viewed those events far too simplistically and that an additional layer of analysis ought to be brought to bear on historical events. The outrage each of us felt when we learned of the looting can be harnessed, for example, by asking the public

how they might have felt if CNN had broadcast live coverage into our homes of Henry Layard's extensive removal of Assyrian reliefs from Nimrud. Would he then still seem such a distinguished archaeologist?

This does not, of course, provide an answer to some of the toughest questions, such as where countries should draw the line – both chronologically and substantively – on the return of cultural property. Moreover, how can museums be assured that they will not be denuded of their collection of cultural objects acquired over centuries? One solution to these questions is to expand the conversation to include and enlist the aid of the *demos*, the people, in whose name and for whose interests we serve.

A new way of looking

Finally, there is perhaps a third way in which the tragedy of Iraq can illuminate current dialogue. Since 2003 approximately 3,000 objects stolen from the Iraq Museum have been recovered inside Iraq and returned to the museum. But another 4,000 objects stolen from the museum have been recovered abroad. Those objects have been photographed, inventoried and then ceremonially presented to Iraq's Ambassador in the relevant country. In each case, however, the objects are then placed in safekeeping in the country in question until the Iraqi government determines that the security situation in Iraq permits their return.

For example, one of the finest objects stolen from the Iraq Museum was a statue of Entemena, king of Lagash (2450 BC). It is the first

known statue to feature an inscription detailing exactly who the subject was. It travelled the normal route for stolen antiquities – Baghdad to Damascus to Beirut to Geneva – before being intercepted on its way to New York. After it was seized, it was turned over to Iraq’s Ambassador to the United States and currently resides in the United States at Iraq’s Embassy in Washington DC awaiting the Iraqi government’s decision on its repatriation. Can you imagine the international outcry if the Iraqi government were to issue its request after twenty-five years and the United States then did not hand over the statue? Similarly, what if Jordan refused to return the 2,000 pieces it is holding for Iraq? Again this is not a perfect analogy, but it does offer the mainstream citizen, voter and taxpayer – the *demos* – another way of viewing a complex issue.

I am not suggesting that I have any answers – or even a single answer. But to paraphrase former US Supreme Court Justice Oliver Wendell Holmes, we should share the passion and action of our time – at the peril of being judged never to have lived. For Sophocles was certainly correct when he told us so many centuries ago that ‘he who neglects the arts is lost to the past and dead to the future’.

| Mediation and cultural diplomacy

by *Irini Stamatoudi*

Irini Stamatoudi is currently the Director of the Hellenic Copyright Organization. She holds degrees from the University of Athens-Greece (in Law) and the University of Leicester-England (LL.M, Ph.D). In the last few years she acted as a legal counsellor to the Ministry of Culture on issues relating to the illegal trafficking of antiquities. Since 1999 she has participated in negotiation committees concerning the Parthenon marbles. She has written several books and published numerous articles in journals in Greece and elsewhere.

The issue of culture can be used as an instrument for various purposes, in some countries more than others. It cuts across many areas and can be used as a bargaining chip for numerous issues, especially with regard to parts of countries that value its importance. The internationalization of ideas and concepts has highlighted culture as perhaps the only vehicle that allows nations to work more closely together and successfully to share common interests. So even if a state does not necessarily agree on the return of a particular object to its place of origin, it may still be in a position to profit from the benefits of such a return. These may take the form of exhibition exchanges, cooperation in research and excavations, the creation of museum annexes and so on. The best way for these benefits to emerge is through mediation and cultural diplomacy.¹

Mediation in the legal context

However, mediation or alternative forms of dispute resolution function in many instances as a solution to problem areas governed not only by rigid

law but also by legal grey areas. This is the case because ethical, social, scientific and humanitarian factors need to be taken into account in cases of restitution of cultural property. Codes of ethics, resolutions, declarations, guidelines and so on all point in this direction. The most typical example of this is the International Council of Museums (ICOM) Code of Ethics.² Article 6 provides that museums should be prepared to take prompt and responsible steps to cooperate in and initiate dialogue over the return of cultural property to a country or people of origin, if this property has been acquired in violation of the principles of international and national conventions.³

Mediation in cultural matters is encouraged both by practice and by international conventions. Article 17(5) of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property provides that 'at the request of at least two States Parties to this Convention which are engaged in a dispute over its implementation, UNESCO may extend its good offices to reach a settlement between them'.⁴ Article 8(2) of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects provides that parties to a dispute under either Part II or Part III of the Convention 'may agree to submit the dispute to any Court or other competent authority or to arbitration'.⁵ Direct references to alternative dispute resolution were also made in a number of cases referring to Holocaust-era related claims.⁶

One could argue that mediation and cultural diplomacy are the most promising tools in the area of return of cultural treasures to their countries of

origin, regardless of whether or not these returns fall within the scope of the 1970 UNESCO Convention. The main reason for this is that they possess certain virtues usually welcomed by both sides of the claim, the foremost of which is that they do not form part of a rigid process and are therefore capable of taking into account interests of parties other than the purely legal ones. The majority of cases that concern the return of artefacts to their place of origin are the outcome of talks and negotiations between the parties involved, rather than the outcome of judicial judgments. This applies to cases of return irrespective of the legal status of the parties involved: in other words, individuals, collectors, dealers, museums, states and so on. Recent instances of repatriation have all been the outcome of negotiations and cultural diplomacy. These include the return of the Obelisk of Axum from Italy to Ethiopia, the return of the soapstone birds from Germany to Zimbabwe and their reunification, the return of the ancestral human remains from the Royal College of Surgeons to South Australia, and the return of the ceremonial mask of the Kwakwaka'wakw people of Vancouver Island from the British Museum to Canada. These were success stories in the sense that they promoted cooperation, collaboration and good relations between the parties. The same applies to the reunification of the neo-Sumerian alabaster figure divided between the Louvre and the Metropolitan Museum, and the very successful Utimut project for the return of cultural objects from Denmark to Greenland.

There are a series of similar examples, including cases that Greece has recently concluded, such as the return of a fragment belonging to the Parthenon's sculptural decoration from the University of Heidelberg (2006), the

return of four antiquities from the Getty Museum (2006), a collection of forty-eight ancient Greek coins from Sweden (2006), a fragment of an ancient Greek marble relief portraying Athens from a Danish citizen (2007), six ceramic oinochoe from a British professor of archaeology (2007), a stolen statue of Apollonas Lykeios from Gortyna in Crete from Switzerland (2007) and ninety stolen antiquities from the Theodoropoulos collection in Germany (2007), to cite but a few.

Mutual benefits of mediation

Mediation is usually preferred to the initiation of legal proceedings by parties, for a number of reasons. The first deals with the diversity of legal traditions and mentalities among the various states involved. As a result, the outcome of a court decision may remain uncertain; parties are thus not willing to enter into such a process, which may prove detrimental not only to the case at hand but also in relation to future cases. The second reason is the cost of bringing a case to court. If the party claiming a cultural object is a country with limited resources, the costs of legal proceedings may be too high to bear. Third, even if a court decision is reached, it is not always easy to enforce judgments in other states for a variety of legal reasons, including public order. Fourth, there are many problems in bringing a case before a national court, one of which relates to issues of private international law. In other words, it is not always certain that the court chosen by the claimant is competent to decide (issues of jurisdiction) and that the law is applicable to the case at issue (the law of the state that claims the object, or the law of the state where the object is situated).

The fifth reason concerns the issue of providing necessary proof, even if issues of jurisdiction and applicable law are overcome. Proof is not easy to find, especially in cases where an artefact has left its place of origin under conspicuous conditions and has changed hands many times and passed through many countries. The sixth reason is the fact that law is not retrospective. Its use therefore excludes a considerable number of cases. Furthermore, many claims for return have been barred because of time limitations. This, however, does not mean that a claim may not be sound on ethical, scientific, historical, humanitarian or other grounds. These grounds, however, are not assessed by courts, which have to follow a rigid legal approach.

The last reason concerns the use of culture for other purposes. Most of the time the parties involved (especially states and museums, but also individuals with an interest in art and archaeology) have other interests closely linked with the smooth conclusion of the case. For example, collectors of good reputation who care for art and archaeology may favour contributing in certain cases to the reunification of an object that left its place of origin many years ago in an illegal or even in a legal manner. The restitution of an object may also help good relations between two or more countries and may open the door to future cooperation. This approach can also work well for museums that choose to exchange exhibits on loan and exhibitions or contribute to developing the infrastructure in the country of origin through the creation of museum annexes.

For one or more of these reasons the parties involved may seek the extra-judicial resolution of a

claim for return.⁷ This is where mediation – an easier method than arbitration⁸ – and cultural diplomacy become relevant. In order for two or more parties to be able to act within these particular roles, they first need to establish a mutual understanding and respect for each other's culture. They need to act in trust and unanimously believe that the return of an object to its place of origin is a win-win situation – one that can bring benefits to all sides, even if these sides do not share the same ideology with respect to the field.

Earlier attempts at negotiations usually took place following the initiation of legal action. These were conducted under pressure to ensure a swift resolution to the matter. International treaties and their incorporation into national law harmonized the latter to a certain extent and put into place for many countries some basic principles of good practice and conduct. However, these have not resolved the matter. It appears that over recent years states, museums and collectors are becoming more informed and more perceptive, while the public has become more sensitized, leading to the emergence of the trend towards unifying and displaying objects in their original context. This means that mediation and cultural diplomacy as such gradually gain in importance and are no longer merely an adjunct to legal proceedings. This, in itself, signifies an essential move towards a common cultural understanding where the various stakeholders involved start taking seriously the mutual benefits that can be acquired through amicable resolution of a dispute in a climate of consensus and trust.

Mediation can take place on the basis of institutional and non-institutional mediators.

Non-institutional mediators can be almost anyone selected by the parties on the basis of a number of grounds, including expertise, neutrality and mediating abilities. The UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation can act as an institutional mediator. Its mediation rules are currently under consultation, and member states would be well advised to press for their acceptance. Its role as an institutional mediator is not only necessary but must also be strengthened through the necessary means, resources and infrastructure. The role of institutional mediators is very important, particularly when difficult disputes involving considerable friction are at stake.

The role of the UNESCO Intergovernmental Committee

The role of the committee should be more proactive and 'return-friendly' in a broader sense, even outside the framework of the UNESCO Convention. UNESCO needs to be able to assist parties to see and locate the mutual benefits they can obtain from the return of a cultural object to its place of origin, as well as to propose solutions to help resolve disputes among parties.

Thirty-eight years after the adoption of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and its ratification by 150 states, the time is perhaps ripe to move on. At the time, the 1970 convention represented a breakthrough. It was important in changing and forming

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mentalities, introducing basic common *de minimis* provisions, preparing the ground for the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects and helping states to resolve disputes and settle their claims. It is now time to reflect subsequent international trends and practices in a new international instrument.

The return of cultural objects to their country of origin no longer takes place solely on grounds of theft or illegal export from their country of origin. It also takes place on ethical, social, scientific and humanitarian grounds, particularly for artefacts that are unique and that can be identified, understood and appreciated only with reference to the cultural context in which they were created (ritual objects, national symbols, ancestral remains and parts of outstanding works of art). Museums have become increasingly alert to the need to avoid purchasing or exhibiting such objects, and codes of practice for museums and collectors have been drafted to this end. The integrity of objects or sites focuses on truth. By this, we mean that one should be able to appreciate objects in their original context, as they were meant to be. This is even the case for objects that have been removed from their original context.

| NOTES

1. W. Eichwede, 'Models of Restitution (Germany, Russia, Ukraine)', in E. Simpson (ed.) *The Spoils of War*, New York: Harry N. Abrams, Inc., 1997.

2. *ICOM Code of Ethics for Museums*, Paris: ICOM (approved at the ICOM General Assembly, Seoul, 2004); G. Lewis, 'Legal and Ethical Considerations in the Repatriation of Stolen and Illegally Exported Cultural Property: Is There a Means to Settle Disputes?', 2004, available at <http://icom.museum>.

3. Article 6.2: *Return of Cultural Property*: 'Museums should be prepared to initiate dialogues for the return of cultural property to a country or people of origin. This should be undertaken in an impartial manner, based on scientific, professional and humanitarian principles as well as applicable local, national and international legislation, in preference to action at a governmental or political level.' Article 6.3: *Restitution of Cultural Property*: 'When a country or people of origin seeks the restitution of an object or specimen that can be demonstrated to have been exported or otherwise transferred in violation of the principles of international and national conventions, and shown to be part of that country's or people's cultural or natural heritage, the museum concerned should, if legally free to do so, take prompt and responsible steps to co-operate in its return.' Article 6.4: *Cultural Objects from an Occupied Country*: 'Museums should abstain from purchasing or acquiring cultural objects from an occupied territory and respect fully all laws and conventions that regulate the import, export and transfer of cultural or natural materials.'

4. 14 November 1970. Entered into force 24 April 1972. Ratified by 116 states.

5. 24 June 1995. Entered into force 1 July 1998. Ratified by 29 states.

6. 'Eleventh Principle of the Washington Principles of 1998 (Principles of Nazi-Confiscated Art, Washington Conference on Holocaust-Era Assets, 30 November to 3 December 1998), endorsed by the Vilnius Forum in October 2000 (International Forum on Holocaust-Era Looted Cultural Assets, Vilnius, Lithuania, 3–5 October 2000) and by the Resolution of the Parliamentary Assembly of the Council of Europe of 4 November 1999 (Resolution 1205, Looted Cultural Property, Parliamentary Assembly of the Council of Europe, 4 November 1999), as well as by museum groups in the United States, as referred to in N. Palmer, 'Litigation the Best Remedy?', in *Resolution of Cultural Property Disputes*, The Permanent Court of Arbitration/Peace Palace Papers, Kluwer Law International, 2003, 265, at 283.

7. Another case that demonstrates the deficiencies of legal recourse is the Sevso Treasure Case. See H. Kurzweil, L. Gagon and L. De Walden, 'The Trial of the Sevso Treasure', in K.F. Gibbon (ed.), *Who Owns the Past? Cultural Policy, Cultural Property and the Law*, Piscataway, New Jersey: Rutgers University Press, 2005. See also K. Meyer (1973) *The Plundered Past: The Story of the Illegal International Traffic in Works of Art*, New York: Atheneum, p. 41.

8. N. Palmer, 'Arbitration and the Applicable Law', in *Resolution of Cultural Property Disputes*, p. 291.

| Museums and restorative justice: heritage, repatriation and cultural education

by *Moira Simpson*

Moira G. Simpson is Senior Lecturer in the Faculty of Education and Social Sciences at the University of South Australia. She has written extensively on the subjects of museums, indigenous cultural politics and repatriation. Her publications include Making Representations: Museums in the Post-Colonial Era and Museums and Repatriation. Her current research interests relate to the care and protection of sacred and ceremonial objects, museum repatriation as a mechanism for cultural revitalization, and the development of indigenous museums models.

Heritage preservation and interpretation are central functions of museums and constitute the most public dimensions of museum practice. However, indigenous people frequently refer to the limitations of museum display as a means of expressing and preserving culture, emphasizing that culture is a living process that incorporates both continuity and change. As Kalpana Nand, Education Officer of Fiji Museum, states: 'Culture is a living, dynamic, ever-changing and yet ever-constant thing – it is a story, a song, a dance performance, never a 'dead thing' to be represented in the form of an artefact to be looked at through glass.'¹

In recent decades indigenous peoples' voices and interests have contributed to broader understandings of how heritage is defined and its importance for the maintenance of cultural identity, as reflected in the content of a number of

recent UNESCO conventions designed to promote recognition and protection of cultural diversity, intangible heritage and the rights of indigenous peoples. As a result, contemporary museology has undergone a significant shift, from practices and purposes based on ideas of heritage as evidence of the past – valued for its historical research potential and as the basis for a thriving heritage industry – to recognition of the contemporary value of heritage for living cultures. In this article I briefly explore the links between heritage and health and well-being that become evident as indigenous peoples seek to restore cultural values and identity and renew the spiritual dimension of their cultures, as a means of dealing with life in the twenty-first century. This process often involves the restoration of key items of cultural and spiritual heritage to living indigenous cultures, and it is these types of objects that are most frequently the subject of repatriation requests. These sacred and ceremonial artefacts have immense contemporary value as resources for cultural renewal for indigenous peoples that have lost most of their heritage materials during the colonial era and are now seeking to recover from the effects of post-colonial trauma.

Repatriation and the revival of ceremonial life

Miriam Clavir's comparative study of Aboriginal and non-Aboriginal approaches to the conservation of First Nations cultural materials has highlighted the importance that many First Nations communities place on the use of cultural objects.² The enactment of cultural activities for which these objects were intended reinforces the knowledge and rights associated with ceremonial objects and maintains their spiritual integrity. Cultural

preservation is therefore achieved in the form of cultural maintenance or perpetuation of beliefs, values and activities associated with these objects.

In practical terms the emphasis on preservation of the context and associated activities, not just the object itself, involves the re-socialization of objects: their return to the place of origin where the intangible aspects of heritage provide meaning and where the objects themselves may stimulate renewed activities of the intangible aspects of culture. This perspective emphasizes the importance of ceremonial objects for intergenerational knowledge transmission within indigenous communities and for preserving and renewing the intangible aspects of heritage. As a result, museum conservation has been changing to include practices designed to preserve the integrity of an object's meaning and purpose as well as the material of its construction. In addition, indigenous peoples are utilizing a combination of Western conservation practices and traditional approaches within community social contexts and community museums that involve preservation of intangible dimensions of objects and the perpetuation or renewal of cultural practices such as ceremonies. This is often linked to broader community initiatives to perpetuate and renew cultural knowledge and practices as part of contemporary cultural revitalization processes and the affirmation of cultural identity within twenty-first-century societies. For some communities the repatriation of ceremonial materials from museums may be an important part of this process and linked to strategies to aid recovery from post-colonial trauma, and, as such, it has the capacity to contribute to indigenous health and well-being.

Michael Dodson, a former Aboriginal and Torres Strait Islander Social Justice Commissioner and now Professor of Indigenous Studies at the Australian National University in Canberra, states that: 'As indigenous peoples, we are acutely aware that our survival as peoples depends on the vitality of our cultures. The deepest wound that colonization has inflicted has come from a process of stripping us of our distinct identities and cultures.'³

The social and cultural disadvantages that many indigenous people experience in colonized nations are reflected in statistics that clearly demonstrate far higher rates of child mortality and lower rates of life-expectancy. For example, in Canada the life-expectancy rate for Aboriginal populations is five to eight years lower than for the non-Aboriginal population, while in Australia the life-expectancy of indigenous Australians is seventeen to eighteen years lower than that of non-indigenous people.⁴ The reasons for this are diverse and include poor diet and living conditions, leading to chronic heart disease, diabetes and other diseases. However, there is also increasing evidence that the psychological effects of post-colonial life and the effects of acculturation have a significant role to play, and this creates a direct link between cultural heritage and indigenous health and well-being. Historical factors and their contemporary legacy have been identified by commissions of inquiry as primary causes of social ills and health problems faced by Aboriginal people in both Canada and Australia.⁵ In *Bringing Them Home*, the report of the Australian National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, it was stated that

'An entrenched pattern of disadvantage and dispossession continues to wreak havoc and destruction in indigenous families and communities'.⁶

There is growing evidence from a number of sources that greater self-governance, self-determination and cultural renewal have a positive effect on the lives of indigenous peoples who have been enduring the effects of historic or post-colonial trauma.⁷ Michael Chandler and Christopher Lalonde of the University of British Columbia have identified cultural discontinuity as a primary factor in suicide among both young people and adults in First Nations communities in British Columbia; this, they believe, is the reason why 'some communities show rates 800 times the national average, while in others suicide is relatively unknown'.⁸ They claim that 'just as the loss of personal continuity puts individual young persons at risk, the loss of cultural continuity puts whole cultural groups at risk'.⁹ Their research suggests that 'collective efforts to preserve cultural continuity' are linked to improved health and well-being and lower suicide rates in First Nations communities.¹⁰

After decades of suppression and social injustice many colonized indigenous peoples are seeking to revive traditional values and cultural practices as part of a process of renewal intended to strengthen cultural identity, heal personal and community ills and provide a stimulus for new creativity. Cultural heritage in its tangible and intangible forms is integrally linked to social structure, ceremonial life and cultural identity. Indigenous activities regarding heritage preservation are therefore often part of cultural



21. Ancient Near Eastern Galleries in the Richelieu Wing of the Département des Antiquités Orientales in the Musée du Louvre.

maintenance or renewal strategies and tied to community concerns in many other aspects of community life, including indigenous education, sovereignty, language renewal, intellectual property rights, land rights, economic development and health and well-being. Spiritual and religious practices are being revived as indigenous people seek ways to maintain their cultural identity and forge a successful path through contemporary society. Cultural camps are being organized in a number of indigenous communities in Canada and Australia to immerse young people in cultural experiences and ceremonial practices that link them to the values, knowledge and skills of past generations and instil in them a sense of pride in their cultural heritage.

The revitalization of traditional practices is not a return to outdated ways of life that have no relevance in the modern world. The protection and preservation of cultural heritage are often closely tied to efforts to maintain cultural and spiritual independence but involve renewal of cultural identity and pride and the utilization of indigenous approaches to communicating, teaching, governing and healing. Many indigenous people believe that the strengthening or renewal of traditional cultural and spiritual values can help to alleviate some of the problems that effect health and well-being. To quote a member of the Mnjikaning First Nation in Ontario: ‘the term “healing” can also be called “reviving”, “rebuilding” or “recreating”.’¹¹

Community healing in Canadian Aboriginal communities is increasingly being recognized in government policies in the arenas of health, social security and social justice. In the 1996 report of the Canadian Royal Commission on Aboriginal People (RCAP), the commissioners say that 'Healing, in Aboriginal terms, refers to personal and societal recovery from the lasting effects of oppression and systematic racism experienced over generations'.¹² Spiritual renewal has become an accepted part of Aboriginal justice initiatives in Canada, and Health Canada recognizes that 'Aboriginal approaches to "wellness" ... encompass physical, social, emotional and spiritual spheres'.¹³

At an individual level healing may involve 'overcoming personal problems that are debilitating to community life'. This can include alcohol or other forms of substance abuse as well as 'negative emotions and behaviour such as jealousy or anger'. The revival of cultural and ceremonial practices can provide opportunities for individuals to reconnect with meaningful aspects of traditional culture and contribute to the process of personal healing. As Wayne Warry notes: 'personal healing journeys are lifelong struggles to grapple with the intergenerational effects of various forms of abuse, neglect or loss of identity'.¹⁴

The return of ceremonial materials has assisted some communities in their efforts to renew cultural values and practices and contributed to efforts to revive traditional ceremonial practices as a component of contemporary life. For example, the Blackfoot community of Southern Alberta in Canada has been active in seeking the repatriation of ceremonial objects, in this case sacred medicine

bundles that traditionally played an important role in maintaining health and well-being in the community and provided a focus for establishing personal and community discipline and responsibilities. As Blackfoot elders and ceremonialists Reg Crowshoe and Geoff Crow Eagle explain:

Once or twice a year, that bundle will be opened, and somebody will make a vow to that bundle, to a certain holy object that's contained within; for example, they may vow to the Creator to dance with a certain relic in that bundle, so that someone who is very sick will be healed. And payments are made, as you make that vow to the custodian.¹⁵

During the late nineteenth century the arrival of Europeans led to the almost complete extermination of the buffalo, the primary source of food and other resources for the Blackfoot, and they faced starvation. The Blackfoot entered into a treaty with the British Crown and were resettled on reserves where they learned farming practices. Further cultural changes were imposed by Christian missionaries and the residential school system. As a result, many Blackfoot abandoned traditional ceremonial ways. While Blackfoot ceremonial life persisted in a reduced form, disruption to Blackfoot cultural practices and knowledge transmission has seen a decline in the numbers of those participating in more traditional forms of ceremonialism.

With the arrival of Western collectors medicine bundles were attributed with new meanings, as ethnographic museum specimens. They became objects of curiosity for collectors

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and then valuable commodities on the Indian art market. In this context circulation and transfer depended not on the spiritual power of the bundle and the authority of the owner but on the commercial and ethnographic value of the bundle. Their commodification within the secular world provided a source of income for some bundle keepers forced into extreme measures in order to survive in times of great hardship. As George Kipp, a Piikuni cultural leader from the Blackfoot Reserve in Montana in the United States points out: 'At some point in time, when you are in an area where you're suffering from 90 to 95 per cent unemployment and looking for the necessary food for the next meal and you have something of value, instead of letting your children starve you will sell that item.'¹⁶ As a result, many bundles ended up in private collections and in museums in Canada, the United States and elsewhere. This in turn further impacted on ceremonial life by removing the mechanisms for transmitting and perpetuating knowledge of and authority for the bundles and the ceremonies. The removal of the bundles from the normal cycle of transfer led to a reduction in the number of ceremonialists and a decrease in traditional knowledge as older ceremonialists passed on and fewer followed the traditional pathways of learning and acquiring the authority and responsibilities associated with bundle keeping. As Blackfoot writer, Beverly Hungry Wolf, notes: 'The holders of our tribal medicine bundles were mostly old, and when they died the bundles were frequently sold to museums or private collectors ... With each bundle that disappeared there was one less ceremony.'¹⁷

The removal of bundles to museums and their retention in collections has impacted

adversely on ceremonial life and contributed to the dissolution of some of the ceremonial societies that managed and cared for the bundles and to the loss of associated knowledge. In the Blackfoot communities of Southern Alberta cultural and spiritual beliefs and values are being incorporated into cultural renewal strategies, knowledge transmission and museum planning, and the repatriation of sacred bundles is a central part of these efforts. According to customary teaching methods, it is through the processes of learning and teaching knowledge associated with the ceremonial transfer of bundles from one bundle-keeper to another that Blackfoot world-views and values are passed on. It is not, therefore, just the sacred bundles as objects that are being returned but the means to transfer and perpetuate knowledge.

Repatriation efforts by the Blackfoot have led to the return of a number of bundles and the renewal of ceremonies not practised for many decades; they have also resulted in the introduction of legislation in Alberta to facilitate the process of repatriation of bundles from major museums in the province. The reconnection of Blackfoot people with their spiritual knowledge and ceremonial activities is a key component of contemporary Blackfoot cultural renewal strategies manifested in existing and proposed community museums and cultural centres that serve both intra- and intercultural educational functions. Blackfoot spiritual beliefs and ceremonial activities are the customary methods of transmitting and preserving cultural knowledge, and these are being renewed by Blackfoot ceremonialists in partnership with conventional museological methods of storing and

archiving heritage materials. The cultural renewal projects of the Peigan Blackfoot community in Brocket currently involve the existing Oldman Cultural Centre on the Peigan reserve, which is operated by Peigan ceremonialists. There are also plans to establish a Peigan Medicine Lodge Museum and Cultural Renewal Centre based on the structure of a traditional camp with tipis or lodges arranged around a central medicine lodge. The Medicine Lodge Museum will provide a ceremonial space for community activities involving the transmission of ceremonial knowledge, as well as interpretive spaces and tourism activities for intercultural interpretation of Blackfoot culture.

The repatriation of ancestral remains as a stimulus for cultural renewal

In some indigenous communities the repatriation of human remains has also contributed to cultural renewal processes and stimulated the creation of new forms of contemporary cultural practices based on traditional values, ceremonies and art forms, thereby reinforcing cultural identity in the modern world. For example, in the 1990s members of the Haida First Nation of British Columbia in Canada discovered that the remains of ancestors had been removed from gravesites in old Haida villages abandoned in the nineteenth century following a smallpox epidemic that killed 90 per cent of the population. The Haida communities of Old Masset and Skidegate formed a repatriation committee and sought the return of ancestral remains from a number of museums in Canada and the US. Over a period of six years the remains of over 466 ancestors were located and returned.

The process of organizing the collection, return and reburial of the ancestors proved to be an emotional journey for members of the Haida community, but one that has stimulated the renewal of cultural knowledge and activities and contributed to the process of community healing. In order to bury the ancestors with respect, members of the Haida Repatriation Committee talked with elders and researched traditional burial practices, using this information to devise reburial ceremonies informed by traditional values and methods. This involved the weaving of cedar bark mats for wrapping the remains, the construction of steamed bentwood boxes to carry the remains of each individual, and the stitching of blankets, decorated with clan crests outlined in mother-of-pearl buttons, which were used to cover each box during repatriation and reburial ceremonies. Haida artists re-learned bentwood box-making processes and taught Haida teenagers about this form of their heritage. The process also stimulated the development of new songs and dances, evidence of the vitality of contemporary Haida culture.

Nika Collison, curator of the Haida Gwaii Museum and a member of the Haida Repatriation Committee, explains further:

In order to really, really do things respectfully, we really had to call on our ancient teachings and knowledge and traditions because these ancestors don't know anything but the old ways, of course, they lived ... hundreds of years ago. So that made a larger portion of our community relearn our old ways, and that's brought more people to learn our songs and dances, and to learn about our ceremonies, and to

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relearn ancient burial techniques and traditions that may not have otherwise been used any longer, and it brings our whole community together.¹⁸

Nika and Vincent Collison, who are both active members of the Haida Repatriation Committee, have observed that ‘After each ceremony, one can feel that the air has been cleared, that spirits are resting, that our ancestors are at peace, and that healing is visible on the faces of the Haida community’.¹⁹ Through the process of repatriating their ancestors the Haida also discovered a number of important cultural objects in the collections of museums they visited. Arrangements with some of these museums have led to several ceremonial objects being returned on long-term loan to the museum in Haida Gwaii. Emphasis is then placed on reuniting the objects with community members who are descendants of the last-known owner and who hold inherited rights to use such objects. Items such as a speaker’s staff and masks have been returned and are now available for use on ceremonial occasions. The Haida have built a new museum and heritage centre, which includes a feast hall where potlatch ceremonies will be held, thereby inextricably linking the life of the community and the work of the museum.²⁰

Museums as supporting actors in communities

Museum collections contain cultural materials from all over the world and provide an invaluable educational resource through which people can learn about the values, practices, beliefs and traditions of their own and other cultures. However, the ethnographic collections of modern museums were largely collected during times of colonial

occupation, when salvage collecting was deemed necessary to preserve evidence of cultures that appeared to be disappearing. The challenge that museums face today is to facilitate the preservation of objects within the context of their broader social and cultural significance and develop strategies that offer the best protection and utilization of these resources to the benefit of all humankind.

In the twenty-first century museums can play a new role in supporting and contributing to processes of cultural renewal. This involves serious consideration of why we preserve things and for whom. It requires museum staff to look beyond the walls of their own institutions and the local community and recognize the values and needs of source communities, and to consider the contribution that museums can make to society as a whole, not just to museum visitors and the academic community. By giving greater consideration to the contemporary cultural, social and economic circumstances that traditional owners face, museums can, through the repatriation process, contribute to indigenous peoples’ efforts to renew cultural practices. Museums can thus extend their role to becoming more actively involved in the preservation and development of living heritage and contemporary cultural practices. To ignore, dismiss or reject requests from indigenous peoples who seek the return of cultural objects that they require to assist in the processes of cultural renewal would suggest that museum professionals are more concerned with preserving artefacts than supporting communities in their efforts to perpetuate the distinct cultures, beliefs and practices that led to the creation of the artefacts. If the return of ceremonial objects can assist indigenous peoples in

continuing or renewing the values and practices essential to their cultural and ceremonial life and can contribute to community healing as part of contemporary life, then the act of repatriation is surely the ultimate form of cultural preservation.

NOTES

1. K. Nand (2000) *Fiji Museum in the Post-Colonial Era*. Papers presented at the ICOM-CECA conference 'Culture as Commodity', held in Christchurch, New Zealand.
2. M. Clavir (2002) *Preserving What Is Valued*. Vancouver: UBC Press.
3. M. Dodson, 'Cultural Rights and Educational Responsibilities', The Frank Archibald Memorial Lecture, University of New England, 5 September 1994.
4. In Canada 'Aboriginal' includes Indian, Inuit and Métis people. In Australia 'indigenous' refers to Aboriginal Australians and Torres Strait Islanders (Health Canada, *A Statistical Profile on the Health of First Nations in Canada for the Year 2000*. Highlights of First Nations Health Statistics. http://www.hc-sc.gc.ca/fnih-spni/pubs/gen/stats_profil_e.html; Australian Bureau of Statistics, 2002; Australian Social Trends 2002, p. 76).
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7. M. J. Chandler and C. E. Lalonde, 'Cultural Continuity as a Hedge against Suicide in Canada's First Nations', *Transcultural Psychiatry*, Vol. 35(2), 1998, pp. 193–211; L. Kirmayer, C. Simpson and M. Cargo, 'Healing Traditions: Culture, Community and Mental Health Promotion with Canadian Aboriginal Peoples', *Australasian Psychiatry*, 2003; P. Lane Jr, M. Bopp, J. Bopp and J. Norris (2002) *Mapping The Healing Journey: The Final Report of a First Nation Research Project on Healing in Canadian Aboriginal Communities*. Aboriginal peoples collection APC 21 CA. Lethbridge: Four Directions International and Cochrane: The Four Worlds Centre for Development Learning.
8. Chandler and Lalonde 1998, p. 191.
9. C. E. Lalonde, 'Counting the Costs of Failures of Personal and Cultural Continuity', *Human Development* 46, 2003, pp. 137–44. http://www.christchurchartgallery.org.nz/icomceca2000/papers/Kalpana_Nand.pdf.
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11. Lane et al. 2002, p. 38.
12. RCAP, Vol. 3, 1996, p. 109.
13. Health Canada. *A Statistical Profile on the Health of First Nations in Canada for the Year 2000*. Health Canada. *First Nations, Inuit and Aboriginal Health: First Nations Comparable Health Indicators*, 2005. http://www.hc-sc.gc.ca/fnih-spnia/diseases-maladies/2005-01_health-sante_indicat-eng.php#life_expect.
14. All quotations from W. Warry (1998). *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government*. Toronto: University of Toronto Press, p. 208.
15. R. Crowshoe, and G. Crow Eagle (2006). *Piikani Blackfoot Teaching*. Four Directions Teaching.com. Online at <http://fourdirectinsteachings.com/transcripts/blackfoot.html>.
16. G. Kipp, quoted in A. Gulliford (2000). *Sacred Objects and Sacred Places: Preserving Tribal Traditions*. Boulder: University Press of Colorado, p. 55.
17. B. Hungrywolf (1996) *Daughters of the Buffalo Women: Maintaining the Tribal Faith*, Skookumchuk: Canadian Caboose Press, p. 139.
18. N. Collison, interview, Rabble Radio, Canada, 2006. <http://www.rabble.ca/rpn/files/re/re-2006-01-02.mp3>.
19. V. Collison and N. Collison. 'Haida Case Study 2002'. Unpublished document.
20. The potlatch is a traditional form of ceremony among First Nations communities on the Northwest Coast, involving gift-giving to repay debts and make payments to participants. It is accompanied by feasting, dancing and singing.

| Preventing looting through the return of looted archaeological objects

by *Ricardo J. Elia*

Ricardo J. Elia is Associate Professor and Chair of the Department of Archaeology at Boston University. He teaches archaeological ethics, law and heritage management, and his research interests include archaeological protection, policy and the antiquities market.

Recent cases involving the negotiated return of cultural objects looted from archaeological sites highlight the problem of confronting the irreplaceable losses that result when archaeological sites are plundered to provide art works for the international market. Although there are many old cases involving claims for the return of archaeological materials (the Parthenon marbles being the most celebrated example), this problem frequently involves antiquities that have been recently looted from archaeological sites, while looting itself continues to be a pressing contemporary problem. Those who seek the return of recently looted archaeological objects must keep in mind that the return of the object can never be more than a Pyrrhic victory for the country of origin – the object is returned, but the archaeological context in which the object was embedded can never be recovered.

When source countries become involved in negotiations with museums and private collectors for the return of archaeological objects, as Italy and Greece have done in recent years, the attention

of negotiators and the media inevitably focuses on individual objects as art treasures and not on the destruction of archaeological context and knowledge. These cases are therefore treated and regarded by the public as essentially legal disputes over the ownership of cultural property. Source countries may be inclined to measure success in terms of the recovery of individual art treasures rather than the safeguarding of archaeological sites from future looting. Every archaeological object that is looted from its archaeological context represents an irreplaceable loss of historical, cultural and scientific information. To obtain one painted Greek vase looters may destroy a dozen or more ancient tombs, disturbing or destroying human remains and non-marketable artefacts and erasing our ability ever to learn from those sites. Recovering one Greek vase will never restore these sites or the knowledge contained therein.

In cases involving the return of looted archaeological objects – and especially in public statements and media interviews – it is vital that negotiators and representatives of source countries highlight the fact that more is at stake than a contest over which party should own an art treasure. Museums and private collectors that acquire looted archaeological objects are the end-users in a systematic and destructive process that plunders cultural sites. Museums and private collectors are the main actors driving the looting of archaeological sites and, as such, need to be held accountable for their participation in that process.

Unfortunately, in most negotiated agreements for the return of looted archaeological objects the culpability of museums in the

destructive phenomenon of looting is rarely highlighted. Instead, in the interest of achieving the return of cultural objects without litigation, agreements are fashioned that allow museums to admit no guilt and accept no legal liability. They are, in effect, permitted to appear innocent of any wrongdoing, as though ignorant of the cause-and-effect relationship between unprincipled collecting and looting. Moreover, they are often rewarded in terms of generous loans that form parts of agreements. Source countries have every right to seek the return of looted antiquities in the manner that they deem fit. Moreover, the consequent media attention is certainly of public benefit in revealing that respected museum institutions have acquired looted objects and must return them. But it should be asked whether this is enough. Negotiators for source countries should act with the aim not only of securing the return of looted cultural objects but also of deterring further looting in their countries. They should be encouraged to focus not only on individual looted objects but also on pressuring museums to change their acquisition policies. Deterrence should be a goal equal to the recovery of looted artefacts, as the return of a few looted objects can never match the archaeological information that has been destroyed in the process. The return of looted archaeological objects can never be a complete victory unless it leads to the prevention of future looting and destruction.

| Art history meets archaeology: considering cultural context in American museums

by Lee Rosenbaum

Lee Rosenbaum is a frequent contributor to the Wall Street Journal's Leisure and Arts page and a blogger on cultural property issues at CultureGrrl. She has published numerous articles on the New York Times' Op-Ed page and in the magazines ARTnews and Art in America among many others. She has lectured on cultural property issues at the University of Pennsylvania, Columbia University Law School and Seton Hall University. She is the author of The Complete Guide to Collecting Art.

The current state of the display of antiquities in American museums shows that quite often they do not know where, when or how their treasures were originally uncovered. Nevertheless, they have to devise ways to describe these 'orphaned' objects and present them intelligently to visitors. I examine here some specific examples of best and worst practices and end with demonstrative examples of 'separated objects' that should be reunited to be seen as their creators intended them to be. American museums have to find a way to present antiquities intelligently and engagingly, despite gaps in knowledge about these objects' archaeological and cultural histories. Their strategies for circumventing these gaps can range from the inspired to the insipid.

Labelling in the absence of context

Many museums approach labelling the old-fashioned way. The label describes what the visitor

is looking at, sometimes with reference to the power of the object and the unknown artist's mastery of technique. The label for a Greek marble lion from the mid-fourth century BC at the Metropolitan Museum of Art, New York, for example, provides an engaging description of the lion's appearance but tells the viewer little that he or she couldn't have established for themselves.

Because we know so little about the archaeological context of much of the content of American museums, we are often lost in the land of 'perhaps', 'possibly' and 'reportedly'. For example, the label for the J. Getty Museum's famous statue, due to be relinquished to Italy by the museum of Malibu, California, in 2010, calls her 'Goddess, *probably* Aphrodite'. The label also acknowledges that she could *perhaps* be Demeter or Hera. But notwithstanding the sculpture's label, a group of international experts convened by the Getty last year to study this sculpture indicated in their published findings that the sculpture is probably not Aphrodite. Why the museum still titles her '*probably* Aphrodite' may have more to do with the popular appeal of the voluptuous goddess of love than with the current state of scholarship. An Old Kingdom Egyptian statue, 'Ity-sen', Dynasty V, from the Brooklyn Museum, is labelled 'provenance unknown'. But a touch-screen computer kiosk elsewhere in the gallery gives technophiles information unavailable to label readers. According to the digital description, the statue comes from the site at Gizeh.

As shown by these examples, museums adopt various presentation strategies to give visitors a 'you-are-there' sense of context. This vogue for 'atmospherics' (in the sense that they are

meant to provide a feeling of the 'original' atmosphere) produces results ranging from the tasteful to the tacky. For the Metropolitan Museum's recent exhibition *Gift of the Gods: Images from Egyptian Temples* a temple-like structure was erected, around and within which objects were arrayed. Its curtain walls were adorned with details from ritual scenes in an authentic temple. The ensemble produced a gauzy evocation of the context in which such objects were originally seen. But another attempt to evoke an Egyptian temple at the Brooklyn Museum is not gauzy but garish, in the manner of an Egyptian theme park. What is worse, it forms part of the permanent collection galleries and so will remain there until someone rethinks this ill-conceived installation. There is, however, one aspect of the Brooklyn Museum's Egyptian installation that should serve as a model for antiquities galleries everywhere: a wall label, near the entrance to the galleries, that clearly delineates the museum's policies regarding antiquities acquisitions.

Many American museums do make serious attempts to reconstruct objects' original contexts as best they can. They achieve this through groupings of objects and supplementary illustrations that provide a sense of their site, functions and, if possible, their place of discovery.

Such efforts at the Metropolitan Museum include an installation of funerary slabs from Palmyra, Syria, accompanied by a photograph of objects from the Northern Syria desert, a drawing of a map of the area from which the Metropolitan Museum's slabs came, an aerial photograph of a sanctuary there and a reconstruction drawing of the interior of a funerary temple from the area

showing grave stele similar to those displayed by the museum. The Met also displays, in its Egyptian galleries, objects arrayed similarly to their arrangement at Fort Cemetery, *ca.* 3500 BC, Hierakonpolis, where they were professionally excavated and legally removed by the Met during the era of partage. Through photographs, labels and the placement of objects this installation tries to convey a sense of archaeological context.

There is another possible response to the difficult problem of incomplete information about an object's cultural context: some museums don't even bother. This seems to be the philosophy behind the Getty Museum's populist, unscholarly reinstallation of its recently reopened Getty Villa, Malibu, where antiquities are arranged almost entirely by theme rather than by culture or chronology. Currently displayed at the Getty's main Los Angeles campus is a Greek gold funerary wreath still owned by the museum, which famously recently relinquished another example to Greece. The wreath is part of an exhibition that tries to make the case for the 'universal museum' by drawing connections between Classical antiquities and later objects from different cultures. The wreath is displayed alongside a photograph of the museum's eighteenth-century sculpture by Canova depicting Apollo crowning himself with a wreath, an obvious but superficial connection between the Classical and neo-classical periods.

Reuniting fragmented artefacts

As Acropolis devotees are well aware, the Parthenon marbles are not the only previously intact antiquities that have been sundered and

scattered to widely separated locations. The label for a Late-Period Egyptian head owned by the Brooklyn Museum, for example, informs us that it 'was originally attached to a statue in the Egyptian Museum, Cairo'. The label includes a photograph of how that sculpture would look if its pieces were reunited. Also at Brooklyn, the informational computer kiosk for 'Ity-sen', previously cited, shows the museum's figure together with his four family members. These were originally united as a sculptural group, before being 'broken apart and the heads knocked off, possibly in ancient times', according to the museum's description. This touch-screen display is presented as a game. All the figures are originally clustered on the right side of the screen, to be dragged to the centre and arranged in their proper places within the sculptural group. When you have completed this task, the text at the top of the screen says: 'You have reunited Ity-sen with his family.' This happy result is marred by the computer's revelation that the other four figures are dispersed in the permanent collections of four American museums: the Metropolitan Museum; the Nelson-Atkins Museum of Art, Kansas City, Missouri; the Worcester (Massachusetts) Art Museum; and the Robert Fullerton Art Museum, San Bernardino, California. Perhaps, then, the Greeks should not feel so offended that the British have yet to agree to reunite the Parthenon marbles. After all, we in the USA have not managed to reunite, except in a computer game, five figures residing in museums within our own country.

Much valuable information and visual enjoyment can still be imparted by museum objects torn from their archaeological and cultural contexts, but much that those objects might have

told us has been lost. Rather than trying to pump up their appeal through glitzy *faux* atmospherics or superficial, unilluminating thematic constructs, museums should stay true to their educational missions and seriousness of purpose by presenting what *can* be known or inferred about art historical, cultural and archaeological contexts. The respect of the integrity of the objects is central to their missions. This means striving to reunite pieces – particularly important pieces – that have been fragmented over time. Whatever the political differences between the various nations and institutions holding these antiquities, they must endeavour to bridge those divides, unifying what ought to be made whole.

| A first small step in a long journey

by Maurice Davies

Maurice Davies is Deputy Director of the UK Museums Association (MA), with particular responsibility for policy, professional development and ethics. He was the editor of the Museums Journal and has also been a curator at Manchester City Art Galleries and a Turner Scholar at Tate Britain. His recent work has covered areas including the illicit trade in cultural property and human remains in museums. He has a doctorate in art history from the Courtauld Institute, University of London.

The New Acropolis Museum in Athens and the British Museum in London are both characterized by excellent and humanist staff committed to preservation, public education, research, beauty and to sharing their collections with the people of the world. In Athens there is a deep commitment to preserving the Parthenon and its sculptures and to promoting public understanding of them. In London the British Museum has a deep commitment to promoting public understanding of the Parthenon, lending its collection widely and engaging with the difficult issues of return.

These two museums, albeit in very different contexts, share very similar strong values of preservation and education with a wide audience, as well as a passion for the Parthenon and its sculptures. So why is there so much negative talk about the Parthenon marbles? We seem to be in an extremely unfortunate situation where the British Museum and the New Acropolis Museum do not at present share a close, cooperative working relationship, in spite of their shared beliefs and purposes.

The contrast

Interestingly, both museums seem to be dissatisfied with the current situation. There appears to be a sense of insecurity on both sides. I believe that both sides desire a better relationship and that both sides feel that they are to an extent suffering. It must be possible to move to a position that will benefit both sides, away from the current 'lose-lose' to a 'win-win' situation.

From the different case studies, particularly the Utimut/Return project with Denmark and Greenland, we have learned that collaboration brings friendship and mutual benefit. The Vice-President of Chinese the International Council on Monuments and Sites (ICOMOS) Committee, Zhan Guo, has stated that cooperation needs generosity and elegant manners on all sides. We have learned that politicians can play a vital role by establishing the broad context and identifying issues that need to be resolved. But having done so, progress is often achieved if politicians remain in the background and allow museum people to work together, building on their deeply shared values and purposes. Before there can be progress on the Parthenon sculptures, we need to place the two museums in a position where they are free to have discussions and collaborate as equals who respect one another. We need to create circumstances of 'good faith'.

To do this will be difficult because of the differing roles of politicians and government. In Greece politicians have historically played a role in museums, and as such, the museum is part of government. In the UK, by contrast, the British Museum, like other national museums and cultural

organizations, has always been independent of government and is incredibly sensitive to political direction or interference. It is almost impossible in the UK for a politician to tell a museum what to do. This may sound strange, but it is the political reality: no one tells the British Museum what to do.

Path to progress

The Greek government and the British Museum need fully to understand and respect each other's different systems. We have to work with the administrative systems that exist. But if we could create a situation in which the British Museum and the New Acropolis Museum could talk as equals, it is likely that progress could be easier to come by. But what do we mean by 'progress'? I think we do not know this as yet – but discussions are more likely to succeed if there are no expectations as to the outcome. We must start with shared values, not differences. We also have to recognize that the Parthenon marbles have been the subject of debate for decades. The situation, however, is different now, as both museums feature excellent, broad-minded staff. But it will not be possible to reach a quick or easy solution; it takes time and joint working to build trust. There is a saying that every long journey begins with a small step. We must therefore create the conditions in which this first small step can be taken – without knowing what the destination will be. To do so will require imagination and flexibility on the part of the museums, while politicians and government officials will need to offer support and quiet encouragement, with elegant manners.

Five years ago I spoke at a conference in Athens about the small steps that could be taken.

MUSEUM, SITE AND CULTURAL CONTEXT

Since then there have been some small improvements. In particular, the language employed has become more moderate. There have been preliminary encounters between officials and museum staff, but there has not been sufficient progress. I believe, from private conversations, that the two sides do not fully understand each other's feelings. Sadly, in the past five to ten years we have lost many opportunities to take that first step.

I say respectfully to the British Museum, the New Acropolis Museum and the Hellenic Ministry of Culture that you owe it to humanity – to the world – to find a way to engage in constructive discussions in pursuit of your shared values and aims. I hope that within five years positive discussions will have taken place between the New Acropolis Museum and the British Museum, fully supported and quietly encouraged by ministers and government officials. I hope that the museums will be comfortable in working together to achieve their shared aims. Over the next months and years progress will best be made if we focus on the need to build trust, confidence and good faith between the parties involved. In practice this will make more of a difference than focusing on the differences between them.

| Return and restitution of cultural property in the wake of the 1970 Convention

by Mounir Bouchenaki

Mounir Bouchenaki is Director-General of the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM). His appointment in 2005 followed a long career at UNESCO, where he was most recently Assistant Director-General for Culture. Previously, Mounir Bouchenaki was Director of Antiquities, Museums and Historic Monuments at the Algerian Ministry of Culture and Information. He holds a Ph.D in archaeology and ancient history from the Arts Faculty of Aix-en-Provence (France) and has been awarded the titles of Chevalier des Arts et des Lettres by the French Ministry of Culture and Chevalier de la Légion d'Honneur by the President of the Republic of France. He was also raised to the rank of Commendatore della Repubblica Italiana al Merito Culturale by the President of the Italian Republic.

Over the past decades interest in the issue of the return and restitution of cultural property has grown in proportion to the spread of illicit traffic. The latter has now reached epidemic proportions, comparable with the international trade in drugs, with which it shares certain characteristics. It should be clarified that the notion of illicit traffic in cultural property is intended to denote both trades that should not take place from an ethical point of view and trades that are *de facto* illegal. This traffic concerns the entire world, but, as is frequently the case, it is those who can least protect themselves that lose the most.

Over the centuries there have been regular and numerous examples of removal or

displacement of cultural property from countries of origin. The practice of removing artefacts of significance to a culture's history and identity is increasingly acknowledged by the international community as unethical, even if this view is not always reflected in attitudes and legislation. Notions such as the inalienability of cultural property, and the idea that cultural artefacts are the property of the community they belong to and, hence, should not be traded without permission of the official representatives of these communities, are increasingly gaining recognition.

In addition, we have seen over the past decades that conflicts and wars have given rise to attacks on cultural heritage. Visible examples of this trend include the looting of objects from the Iraqi Museum, together with the development of illicit excavations. Moreover, the creation of new independent states and the waning of colonial power over the last century have seen the issue of the protection of cultural heritage gain in importance among new nations.

A palpable expression of this gradual but certain change in attitude is the adoption of professional codes of ethics by many museums and fine art dealers, reflecting a heightened awareness of the implications and problems connected with illicit traffic in cultural property. Whether or not we succeed in protecting cultural property better in the future depends on such wide-reaching changes in attitudes. Nevertheless, many countries still lack laws and regulations to protect cultural heritage effectively from the risks of uncontrolled commercial trade, plunder and pillage.

International instruments

It is clear that the illicit traffic in cultural property is an international affair, and only international cooperation, particularly through the adoption of and adherence to international conventions, will allow a greater measure of control in this area. Remarkably, only in the last sixty years have the first international instruments with universal application emerged to provide clear principles for the return of cultural property from one state to another. It was UNESCO that spearheaded international efforts to prevent illicit trafficking in cultural property and to protect cultural property in its place of origin. Emphasis was placed foremost on the formulation of international agreements and conventions in this field and the promotion of a general change in attitudes relating to this issue. Agreements concluded include the 1954 Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970, the UNIDROIT Convention on Stolen or Illicitly Exported Cultural Objects 1995 – the result of fruitful cooperation between UNESCO and the International Institute for the Unification of Private Law (UNIDROIT) – and several important UNESCO recommendations.

To curb illicit traffic in cultural property more countries must ratify the 1970 UNESCO Convention,¹ as well as the UNIDROIT Convention of 1995 and other relevant multilateral and bilateral agreements. However, unless supported by adequate national legislation

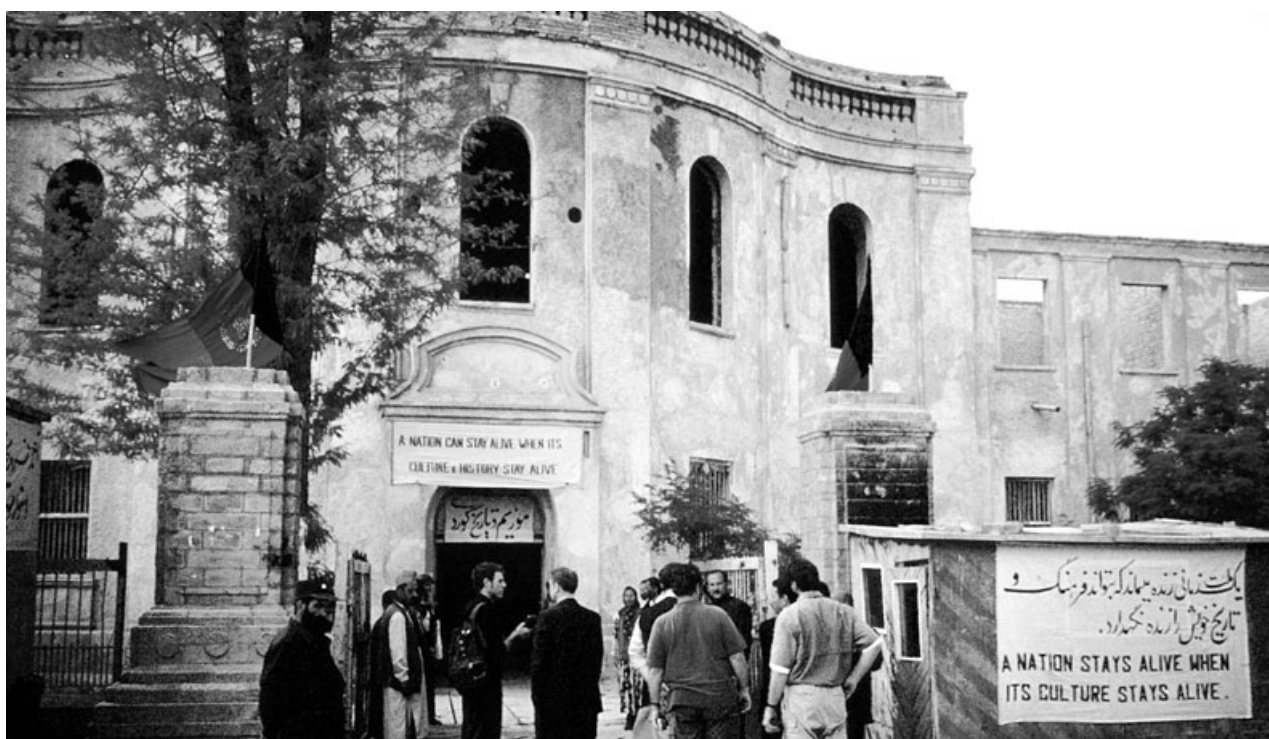
and a comprehensive programme for the protection and preservation of cultural heritage, international conventions can have only limited effect. The implementation of these conventions is relatively recent, and there is a widespread need for training and training materials for those concerned with conservation and the safeguarding of cultural heritage as well as those dealing with the problem of illicit trafficking. In recent years UNESCO has embarked on a comprehensive technical assistance programme of regional and national training workshops and has developed a handbook to support activities such as these.

Following the period of decolonization in the 1970s UNESCO member states recognized that the lack of retrospective application of existing international instruments resulted in the creation of many 'victim' states that had no legal recourse to claim the return or restitution of illicitly appropriated cultural property. Therefore, existing practice largely comprises bilateral negotiations. In view of this situation, the 1978 UNESCO General Conference established an intergovernmental committee to promote cooperation and dialogue with regard to the return of cultural property. This provides a forum to advance negotiations for the resolution of disputes. It also adds momentum and support to UNESCO's actions against the illicit traffic in cultural property and recommends activities to be undertaken by the organization and its member states. While the committee serves only as an advisory (rather than judicial) body, its recommendations carry moral weight, influencing parties amid disputes, the opinions of UNESCO member states and the public at large.

International cooperation

Countries suffering from conflict situations often witness the destruction and looting of their cultural heritage. Afghanistan is an illustrative example of this, exemplifying both the destruction and loss of heritage and subsequent efforts made by the international community to assist in reconstruction. On the basis of lessons learned regarding the looting of regional museums in the north and south of Iraq in the aftermath of the First Gulf War and the destruction and looting that occurred in Afghanistan, UNESCO wrote to Interpol, the International Council of Museums (ICOM) and the International Association of Art Dealers foreseeing the potential for future similar situations, in particular with regard to the war in Iraq. Unfortunately, its predications proved accurate, with press agencies announcing the looting of cultural heritage from ministries and public institutions, and subsequently from the collections of the Iraqi National Museum. Institutions and museums worldwide denounced these thefts as a cultural catastrophe, and UNESCO received a large number of appeals. In response, the Director-General, Koïchiro Matsuura, decided to convene a meeting in Paris at UNESCO headquarters on 17 April 2003.

This first meeting aimed to provide an initial assessment of the situation. It assembled, at short notice, prominent scholars with experience in Iraq alongside Iraqi experts, the majority of whom were heads of archaeological excavations. Following on from the initial assessment, the main goal was to organize and coordinate international scientific networks to contribute to



22. The Kabul Museum.

the recovery of the cultural heritage of Iraq. The second aim was to formulate strategic recommendations with a view to rehabilitating the cultural heritage of Iraq. The third was to establish a plan to determine immediate, medium- and long-term actions for the cultural heritage of Iraq.

On 8 July 2003 Interpol and UNESCO signed an amendment to their 1999 Cooperation Agreement to define their respective responsibilities in the effort to recover stolen Iraqi works of art. On this occasion Willy Deridder, Executive Director of Interpol's Police Services, declared that

This agreement proves the will of Interpol and UNESCO to unite their efforts in the fight against the illegal trafficking of Iraq's cultural property. It will also enable Interpol to transmit accurate information to its member states. Police and customs officers will have increased chances to identify and confiscate such cultural assets.

UNESCO's role has been to gather data on the artefacts in question for inclusion on Interpol's database on stolen works of art. Information from this database has been made available on CD-Rom to law enforcement agencies (such as police and customs) and art dealers worldwide, to

assist them in the fight against the illegal traffic of cultural property.

A further example of international cooperation in relation to the issue of return of cultural property to its country of origin is the now well-known case of the Obelisk of Axum. In signing Article 37 of the 1947 Italian Peace Treaty with the United Nations, the Government of Italy agreed to return all artefacts taken from Ethiopia after 3 October 1935. Following a joint statement signed by Italy and Ethiopia on 4 March 1997, in which, based on existing treaties, the entire operation and agreement were reconfirmed and redefined, ICCROM was requested to carry out a study and diagnosis of the state of conservation of the stele and a feasibility assessment of the various options regarding its transportation. One key aspect of this phase of activity was the active participation of Ethiopian officials in conservation studies. This aspect of international cooperation was maintained throughout the restitution phase – a complex technical operation implemented through a multi-bilateral agreement with the UNESCO World Heritage Centre.

One recent success story comprises the restitution of sixty-seven objects to Italy from a number of American museums and private dealers. The event was widely covered by media both at the national and international level, with the participation of a number of prominent officials from the Ministry of Cultural Activities and Heritage and the Command of the Carabinieri Corps for the Safeguard of Cultural Heritage affiliated to the same ministry, and the broadcast of a special programme on the Italian channel RAI.

The returned sixty-seven masterpieces were displayed at an exhibition entitled *Nostoi* at the Quirinale Palace in Rome.² On the eve of the inauguration, Francesco Rutelli, Italy's Minister of Cultural Activities and Heritage, stated that 'These pieces conclude their odyssey here today'. A significant aspect of this complex operation in cultural diplomacy was the role played by Italy in 'bringing about radical changes in the trade of looted antiquities' through its own acts of restitution, returning hundreds of objects to their countries of origin, most prominently Pakistan and Iran. These handovers reflect a sea-change in attitudes in the museum world. 'It would be a little sad if in the end all of this was just the result of the prosecutors' threats and that American museums had only reacted because of legal questions', said Stefano De Caro, Director-General of Archaeological Heritage at the Italian Ministry of Cultural Activities and Heritage, on the occasion of the inauguration. ICCROM also contributed at the very beginning of this process by making available background information on international legislation regarding issues related to illicit traffic to the Ministry of Cultural Activities and Heritage.

In 2003 UNESCO hosted an exhibition on the Parthenon marbles organized by the Melina Mercouri Foundation with the support of UNESCO and the Greek Ministry of Culture. It was successful in focusing public attention on the ensemble of the Acropolis Parthenon marbles and was opened in the presence of the UNESCO Director-General, Queen Rania of Jordan, and UNESCO Goodwill Ambassador Marianna V. Vardinoyannis, who proposed the initiative.

INTERNATIONAL COOPERATION AND RESEARCH

The complex issue of the return and restitution of cultural property can be addressed in such a way that international institutions dealing with the protection of cultural heritage, such as UNESCO, ICCROM, UNIDROIT, Interpol, ICOM, the International Customs Association, international federations of art dealers and national authorities work in a spirit of full cooperation and respect for international ethics. Creative solutions should be sought for controversial issues, and the recent 2008 Athens Conference can be rightly considered as a positive step in this direction.

| NOTES

1. To date, 116 countries have ratified the 1970 Convention.
2. Headquarters of the Presidency of the Italian Republic. The exhibition opened in December 2007. See article by Louis Godart in the issue.

| Repatriation of cultural properties: the Peruvian experience

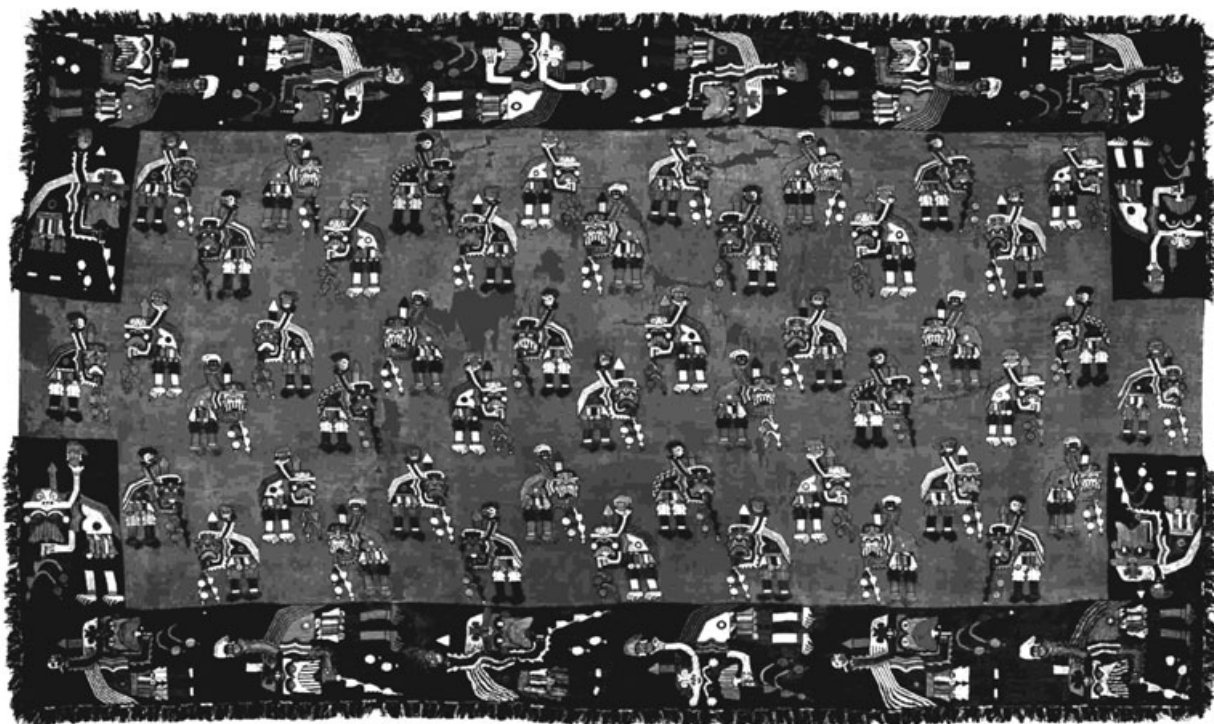
by *Blanca Alva Guerrero*

Blanca Alva Guerrero is a historian with a post-doctorate in museology. She is Professor of Heritage and Legislation in the Museology Graduate Programme at the Universidad Nacional Mayor de San Marcos (Lima). She is also a member of the International Council on Monuments and Sites (ICOMOS), Peru's Board of Directors and, since August 2006, the Historical Heritage Defence Director of Peru's National Culture Institute. Her responsibilities involve supervising and executing all action to prevent, control and suppress crimes against cultural heritage and the repatriation of any cultural asset of Peruvian origin held illegally outside Peru.

Ever since its independence Peru has been aware of the importance of preserving its memory and identity as a nation and has enacted legislation to protect its cultural properties. Less than one year after its formal independence from Spain, a Supreme Decree dated 2 April 1822 prohibited unauthorized excavations of archaeological sites and the exportation of ceramics, textiles and other pre-Hispanic cultural properties. 'Dolefully, invaluable goods have been known to be sold here to be taken where their value is known, depriving us of the opportunity to own what is ours', read the heartfelt decree. Since this time successive administrations have enacted dozens of laws that almost unanimously and emphatically prohibit cultural properties that form part of Peru's cultural heritage from leaving the country.

Loss of heritage and of history

Nevertheless, throughout the last two centuries none of these laws has prevented numerous collections and individual properties from leaving



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23. Paracas mantle, Early Nasca, 200 BC. 265 × 157 cm.

the country, thus irreparably hurting Peru's memory. Many of these exports were even authorized by the administrations in office, as was the case of the archaeological artefacts from Machu Picchu exported by Hiram Bingham with a permit granted by Peruvian authorities. The fact that archaeology as a science has developed mostly over the last four decades should be taken into consideration. Prior to this, it was erroneously believed that 'duplicates' – or objects of identical or similar characteristics – could be spared and thus their export would not hamper future studies. However, the export of archaeological artefacts from Machu Picchu was allowed subject to the condition that they would be returned at the

request of the Peruvian government. This has not yet happened.

The greatest harm to the history of Peru has been and continues to be made by ongoing unauthorized archaeological excavations and thefts from museums and religious sites. Ironically, the number and diversity of Peruvian cultural heritage properties impedes the enforcement of effective and appropriate control for better protecting its heritage. The situation is particularly serious at thousands of archaeological sites and ruins dispersed across the nation, some of which remain unknown to scientific researchers owing to their extremely remote location. It may therefore be

safely stated that there are portions of Peru's past that are yet to be discovered, and that Peruvian archaeological, ethnological and historical research augurs well for a promising future, if the present plundering of Peru is stopped. Many archaeological sites appear desolate, dotted by clandestine digs (made by *huaqueros*, or 'looters') and strewn with objects ignored by looters – shards, bone and cloth fragments that once served to wrap funerary bundles. Empty frames hang on church walls, while altars have been despoiled of whatever objects may have had any commercial value. The damage caused by these criminals is so vast as to be immeasurable.

Peruvians are becoming increasingly aware of how much of their heritage has been lost, exhibited in museums and private collections throughout the world or sold at galleries and auction houses and on internet sites, while ordinary Peruvians are denied access to their own history. In an attempt to remedy this situation Peru's National Institute for Culture is developing programmes to involve communities and local and regional authorities in protecting their cultural heritage. The aim is to prevent the illicit traffic of cultural property more effectively and to identify, claim and repatriate historical and archaeological properties illicitly kept abroad or whose authorized stay abroad has elapsed.

Peru has initiated numerous repatriation claims, but proceedings often stagnate because the recovery process is too expensive, requiring not only legal expenses (including lawyer and experts' fees, official translations and notarized documents) but also warehouse storage,



24. A colonial *retablo* or altarpiece, repatriated from Uruguay, September 2007.

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preparation of delicate pieces for travel, air and land freight, handling and packaging, insurance policies and sundry expenses. In July 2007, for the first time ever, the Peruvian government allocated a special budget (that it further renewed and increased in 2008) to undertake these endeavours. In the first year twelve repatriations were concluded, and 815 cultural properties were returned to Peru from the United States, Uruguay, Germany, New Zealand, the United Kingdom and Colombia. At the end of 2008 the repatriation of about another 500 pieces from Spain, Ecuador, Chile and the United States was expected. In addition, dormant proceedings have been awakened in Argentina, Germany, Denmark, the US and Spain.



25. Altar from Huaró's church (Cusco – Peru) undressing of its silver covering.

The Peru/US Memorandum of Understanding

The largest number of repatriated pieces come from the United States, whose government signed a Memorandum of Understanding with Peru in 1997 that has been regularly renewed ever since. This bilateral cooperation agreement is a model for cooperation in its field, because it protects almost all archaeological cultural properties and many historical/ethnological pieces that markets look for and trade in. Enforcing this memorandum is relatively easy and requires only a demonstration beyond reasonable doubt of the Peruvian origin of the pieces and of the fact that, because of their characteristics, they fall within an import prohibition category defined by the Registry of the United States government. Broad cooperation from the customs authorities of the United States

enables Peruvian officials to be promptly informed of every seizure, thus providing sufficient time to identify the pieces. Once proof has been demonstrated, the pieces are physically returned to Peru's diplomatic representation, thereafter to be packaged and transported safely to Peru.

A key component of this memorandum is the so-called archaeological and ethnological Designation Lists. These comprise seven categories and include generic descriptions that afford broader protection to the pieces inscribed on them. A similar principle has been used in preparing the Red Lists of endangered antiques promoted by the International Council of Museums (ICOM). The usefulness of the 'generic categories' concept lies in that, as mentioned earlier, a large percentage (estimated at approximately 95 per cent) of

Peruvian cultural properties abroad stem from illicit excavations, and there is thus no single registry or formal document certifying their provenance. Moreover, the existence of these objects frequently becomes known only when they reach the market.

International conventions generally ignore this fact. Moreover, this situation is not exclusive to Peru but is habitual in other countries with similar archaeological legacies. The process of reclaiming a clandestinely removed artefact that has come to light in a country other than its own can be long, costly and fruitless. Furthermore, documenting an archaeological object that has come from a plundered site is an almost impossible task, particularly if the artefact's features are so unique that they render comparison with other pieces from Peruvian museums difficult. Courts abroad frequently reject as insufficient identification of pieces by inference based on materials, techniques, iconography, chronological radiocarbon dating and other techniques, instead requiring documentation of the theft or plunder. However, in cases of clandestine excavations objects are not registered and no such documentation exists, leaving Peru powerless to file an effective claim. In addition, the burden of proof still rests unfairly on the claimant. For instance, when a claim is filed against an auction house, the latter would normally declare that the possession of the piece has been verified' but would not allow the affected country to examine the presumably probative documents.

Access to information on ownership, including at least the last three owners of each item

to be sold, would not only ensure the legitimacy of the property title but also identify clandestine networks operating within the antique black market. At present many forged and modern reconstructions, fabricated using original archaeological artefacts, remain in circulation, protected by the secrecy surrounding commercial practices.

As long as this situation remains unacknowledged at the international level, bilateral agreements such as the Memoranda of Understanding that the United States has signed with Peru and other countries – with emphasis on the categories discussed above – will remain the best solution. Indeed, Peru's experience confirms that huge benefits can be derived from these agreements and their effective contribution to the recovery of lost memory.

| Cultural objects in cultural contexts: the contribution of academic institutions

by *Angelos Chaniotis*

Angelos Chaniotis is Senior Research Fellow for Classical Studies at All Souls College, Oxford. He was Professor of Classics at New York University (1994–1998), Professor of Ancient History of the University of Heidelberg (1998–2006) and Vice-Rector of the University of Heidelberg (2001–2006). His main research interests are the social and cultural history of the Hellenistic world and the Roman East.

Cultural objects beyond generalizations

UNESCO is naturally interested in cases of good practice concerning the return of cultural objects; countries of origin are also quite naturally interested in cases of precedence. But it is important that we learn to make distinctions, recognize particularities and avoid generalizations. There exists an entire range of issues related to cultural objects that need to become the object of research as much as the cultural objects themselves. Such issues range from legal approaches to questions of property to cultural – and often emotional – approaches to the symbolic nature of objects as agents of identity, from the function of cultural objects in living cultures to their significance as objects of cultural memory in countries with long and complex pasts.

Broken is beautiful: the deficiencies of academic programmes

At present these issues are frequently neglected in academic education and research. In most academic programmes students of art history and the humanities learn to view cultural objects as products of a particular cultural context – although not even this can be taken for granted. It is rare for students to learn about the later history of the country of origin or the significance of these objects. In the case of the Parthenon marbles students of art history learn about the style of these cultural monuments but not why modern Greeks view them, very emotionally, as expatriate fellows citizens. Thus they do not comprehend that these sculptures somehow epitomize the most traumatic experiences of modern Greek history: exodus, exile, migration and Ottoman rule. They do not understand how their return would symbolically heal these wounds.

Issues of ethics, law and cultural policy are also neglected in academic programmes, although there are exceptions, such as Joan Connely's seminar 'Ancient Art at Risk: Conservation, Ethics and Cultural Policy' at New York University and Ricardo Elia's class 'Archaeological Ethics and Law' at Boston University. Generally speaking, academic programmes teach students how to take pleasure in *membra disjecta*: broken is beautiful, as it were. They teach them to derive aesthetic delight from fragments, deprived of their colour and removed from their setting, to admire statues without statue bases, grave reliefs without inscriptions, heads without bodies, architectural sculpture without buildings, mosaics without houses. These programmes will continue producing museum

curators uninterested in cultural contexts, and advisers to ruthless collectors of antiquities who destroy information regarding contexts.

A holistic approach to research on cultural objects

To return to the Parthenon sculptures, the pieces displayed in the British Museum have become objects of art in their own right: fragmented, polished and displayed in a particular manner. These objects are labelled with reference not to the sculptor who created them for a specific building but to the man who removed them. This is my second point: the necessity for a holistic approach to research on cultural objects that covers all issues from their creation to their significance in changing cultural environments. More can and should be done by academic programmes in research to determine provenance. At present research dedicated to questions of style is regarded as more important than, for example, research on the illicit antiquities trade. Few archaeology or art history departments would regard subjects concerning the illicit antiquities trade as suitable for a Ph.D. dissertation. I should also mention here the necessity of engaging law enforcement in education, research and cooperation.

A holistic approach is meaningful only when the provenance of cultural objects is known, fragments are reunited, contexts are recreated and cultural objects significant to the cultural memory and the identity of a community are displayed where the community lives. This obliges the community in question to facilitate further research by the international community. Countries of origin therefore have a duty to make

INTERNATIONAL COOPERATION AND RESEARCH

available resources for further research. The return of cultural objects to their place of provenance is often the result of this research but should be seen not as its end and more as a beginning, and one under better conditions.

Cooperation for the protection of contexts

But how can this be achieved? In a word: cooperation. Cooperation can be based only on reciprocity and respect. I explicitly exclude from respect and cooperation private collectors, who through the acquisition of unprovenanced objects effectively promote looting and destroy contexts. But long-established museums, which raise claims to universality, serve as agents of education. As such, they deserve respect – insofar as that respect is merited by their behaviour – and should profit from cooperation. But many of those who hold cultural objects are concerned as much with ‘saving face’ as they are with questions of legal ownership. However, an entire set of possibilities exists to enable the exhibition of cultural objects in their country of origin without damaging the reputation and mission of museums. These range from unconditional repatriation and donation to loan, whether renewable, long-term or permanent, and from exchange and preferential treatment in the organization of temporary exhibitions to the regular organization of periodic exhibitions. The pragmatic attitude of Andrea Sandborn¹ in accepting the ceremonial mask of her tribe as a loan from the British Museum – thereby making its return possible – is perhaps a gesture from which others can learn. However, this step may require an acknowledgement that a museum did not act illegally in acquiring an object prior to the establishment of international law concerning the

protection of cultural objects. But if this acknowledgement will allow us to witness the reunification of a work of art and its display as a symbol of identity and cultural memory in its country of origin, then it is a price worth paying.

| NOTE

1. See article in this issue.

| Final synthesis and conclusions of the Athens Conference

by *Elena Korka*

Elena Korka is Director of Prehistoric and Classical Antiquities and Director for Documentation and Protection of Cultural Objects at the Hellenic Ministry of Culture.

The Athens International Conference on the Return of Cultural Objects to their Countries of Origin was hosted by Greece on 17–18 March 2008 at the New Acropolis Museum, Athens. It took place at the foot of the Acropolis, an environment strongly associated with the issue of the return of cultural objects. The conference was organized under the auspices of UNESCO and was the fruit of close cooperation between UNESCO and the Hellenic Ministry of Culture. Its importance lies in the fact that it constituted the first of a series of actions which will take place within the framework of UNESCO's Intergovernmental Committee. Moreover, it preceded the convening of the Extraordinary Session of the Intergovernmental Committee for the Return of Cultural Property to its Country of Origin (ICPRCP) of UNESCO, which was held, in celebration of the thirtieth anniversary of the Committee, in Seoul, Korea, on 25–28 November 2008. During this session the results of the Athens conference were the subject of productive debate, and were acknowledged in the recommendation of the Committee.

The Athens conference focused on constructive exchanges; of experience and knowledge relating to discussions and negotiations for the return of cultural objects. It constituted a fertile starting point, focusing on the benefits that

FINAL SYNTHESIS AND CONCLUSIONS

can arise from cooperation between states or competent bodies at the international level as decisive factors in the issue of the return of cultural objects.

This first international conference brought together a select number of high-profile professionals who have been involved in discussions leading to the return or reunification of cultural property, including jurists, archaeologists, academics, professionals in the museum field, journalists and others. Consideration was given in particular to the existing and developing legal, ethical and scholarly framework, as well as to practical means for the effective strengthening of the infrastructure relating to this issue.

The first day of the conference was dedicated to specific cases of return, presented by both parties involved. These cases referred to objects, monuments or human remains removed from their countries of origin before 1970 – that is, before the UNESCO Convention – and whose return met with success as a result of a series of actions and long negotiations. These cases were selected as pilot projects and examples of best practice. It is worth mentioning that each case was a voluntary return, with various cultural, scientific and scholarly benefits, wherein the outcome was the result of dialogue rather than recourse to judicial proceedings or disputes. A common denominator of all six cases presented during the Athens conference was the special importance and exceptional value attributed to the returned property. The requests for return were based on the fact that the object, monument or remains were considered as essential elements of the cultural

heritage of certain communities, states or nations, necessary to their existence.

Therefore, the Athens international conference can be considered as a reference point concerning the issue for the return of cultural objects in terms of the proven potential of goodwill, intercultural dialogue and cultural ethics. The conference produced concrete proof of the possibility of using a common, trans-national language, shared and understood by all peoples – a language based on moral grounds, which supersedes legal obligations. This is the language of cultural diversity, its recognition and its acceptance. The cases of return that were presented attest to our ability to cooperate and find solutions, acknowledging the role that culture plays in connecting peoples and promoting a positive global vision. This message reinforces the mandates of the Committee. A return denotes generosity. It provides an ideal for humanity and respect for the identity of others. It means involvement in the moral progress and evolution of society worldwide. It inspires and teaches us higher cultural values, which countries and cultural organizations are called upon to serve and bequeath to the next generations. Finally, it signals the dawn of a new era, based on ethics and principles: in this spirit, those who participate in such proceedings contribute to the universal mosaic of a new cultural aura for the future.

The cases of return on which the conference focused revolve around objects that constitute an inseparable part of the cultural identity of certain peoples, operating as a link between the past, the present and the future and often as a means for self-awareness and

self-definition. The return of cultural objects, on a permanent basis or under certain conditions, represents an important event for humanity as a whole, while the conference speakers consistently highlighted the benefits that accrue as a direct result of returns.

The case of the Axum Obelisk – an excellent example of engineering and an Ethiopian national monument – constitutes a model programme and landmark for similar cases of return relating to World Heritage Monuments removed from their birthplace during foreign rule. This removal occurred during the Second World War, and the return from Italy was entwined in a bilateral agreement for research and promotion of the World Heritage site of Axum. The ongoing cooperation between the Ethiopian Archaeological Service and Italian universities and laboratories can be considered as a pilot agreement that benefits both sides.

The stone birds of Great Zimbabwe are national symbols and form part of a World Heritage Monument. The repatriation and reunification of one of their number was a generous gesture by an independent Berlin museum, with support from the German government. This agreement accomplished the reunification of the head with the body of the soapstone bird, thereby re-establishing its spiritual value.

In another case ancestral remains of high religious importance to the Ngarrindjeri nation were returned from the University of Edinburgh. This example highlighted the dilemma arising from the choice between scientific research and museological exhibition of human remains, and

the importance of respecting the customs and religious beliefs of indigenous groups desiring the return and reburial of their ancestors' relics to their native lands.

The Utimut programme functions as the platform for the return of cultural goods from Denmark to Greenland. It stands out as a dynamic instrument for closer communication and development of better relations, demonstrating that returns may have continuous and long-standing cultural and scholarly benefits for both sides. The programme includes scientific research projects and training seminars for Greenlanders who wish to study in Denmark.

The case of the reunification of a Sumerian statue and its alternating exhibition between the Musée du Louvre and the Metropolitan Museum in New York embodies a rare and ground breaking agreement for the sharing of an artefact. Moreover, it acknowledges the necessity of reunifying dismembered parts of important sculptures for the benefit of the public.

The return, in the form of a long-term loan, of the ritual mask of the indigenous Kwakwaka'Awakw tribe of Canada's Vancouver Island from the British Museum demonstrates the recognition of the cultural needs of an indigenous community. Through this gesture the tribe's collection of potlatch objects comprising religious regalia and paraphernalia is now complete. The importance of this gesture lies in the fact that certain objects can fulfil their spiritual role only when integrated within the cultural environment that created them and which safeguards their traditional values.

FINAL SYNTHESIS AND CONCLUSIONS

All the above-mentioned cases have enriched our understanding and comprise model ‘modus operandi’.

The return of a cultural artefact enhances intangible heritage as well. This issue relates to the main aims of UNESCO and its relevant Convention of 2003. It has been stressed that intangible values are embodied in certain objects, and their return is thus essential for the existence and continuation of specific communities.

Dialogue is a key aspect of the return process. The two parties involved must put aside past obstacles and work to build mutual trust. UNESCO and the Intergovernmental Committee offer a platform for the promotion of dialogue. The main role of the Committee is to explore routes and ways to facilitate intergovernmental negotiations and promote bilateral and multilateral cooperation, aiming at the restitution or return of cultural goods. For this reason it is crucial to reinforce the role of the Committee. States must be encouraged in every way to use existing UNESCO mechanisms – a point that was underlined at the conference. Furthermore, the ICPRCP can function as a mediation instrument to facilitate discussions on the return of cultural goods, ensure public information and promote cooperation between countries. The Athens conference was the first such activity to contribute decisively to public awareness. The participation of a large number of recognized experts from all over the world and the broad public response were highly encouraging in this respect.

During the second day the conference included workshops grouped around basic thematic axes: Ethical and Legal Aspects; Mediation and

Cultural Diplomacy; Museums, Sites and Cultural Context; and International Cooperation and Research. These discussions offered a starting point for further reflection and reached the conclusion that a significant number of changes has taken place since the UNESCO Convention of 1970, which was considered radical at the time. New trends include long-term or renewable loans and agreements, including reciprocal exchanges of cultural objects, as in the case of the agreement between the Ministry for Cultural Heritage and Activities of the Italian Republic and the Metropolitan Museum of Art in New York. This agreement marked the first time that an important museum acknowledged the questionable provenance of cultural objects, which had been the subject of illegal exportation and trade. Such agreements underline the need for a new code of ethics, revised according to moral rules, and a reconsideration of existing practices. A revision of national and international legislation is also considered advisable in this context, to provide art dealers with a stronger reason to control the provenance of cultural goods, and to furnish museums with guidelines concerning best practice for returns. Goodwill often faces restrictions imposed by the statutes of museums, whose governing rules impede the return of cultural objects.

The ICOM Code of Ethics or the UNESCO International Code for Dealers in Cultural Property and the Second Hague Protocol have played an important role in the development of a new, revised code of ethics, while the UNIDROIT Convention complements and updates the 1970 UNESCO Convention. A proposal was made during the conference to unify the two conventions and to create a more complete and extensive legal

instrument with updated provisions. The increasing concern in all parts of the world over the return of cultural objects has been highlighted by the rising number of such cases. Certain individuals even purchase objects in order to repatriate them.

The importance of reuniting dismembered cultural objects in order to restore their integrity and outstanding value was stressed during the workshops. Creative and honest dialogue is the best solution in such cases. Reconsideration of the best place for better viewing certain objects in order to enable their better appreciation by the public must be weighed and judged from a new perspective. Furthermore, museums need to conform to Recommendation 44 of the 34th General Conference of UNESCO (2007), according to which digital access to cultural heritage cannot replace the enjoyment of the original in its authentic form. Discussions also took place regarding the era of colonialism and the removal of cultural goods. Although museums have played an important role in safeguarding these objects in the past, they are now called upon to examine requests for the return of certain objects on an individual basis, and to facilitate better public viewing and understanding. In countries such as Greece and Italy or states in Asia, Africa and Latin America entire archaeological sites have been completely and irrevocably destroyed as a result of the removal of antiquities, resulting in the irreversible loss of archaeological data and historical information. We must address the heart of this matter. Even today some museums accept goods without examining the provenance or legitimacy of the objects. Museums should therefore review their overall policy for the purchase of artefacts and

apply pressure for changes in the trafficking of goods. Such principles can also offer guidance when applied to past acquisitions of cultural objects by museums.

Finally, it was evident that the return of cultural objects constitutes an effective platform for the promotion of international and intergovernmental cooperation. Cultural diplomacy opens doors to all forms of agreements with win-win solutions. With regard to research, scholarship is certainly served by the reinstallation of important monuments in their original setting. Moreover, this renders feasible the restoration and enhancement of sites, thus facilitating their study by scholars.

The broad and immediate response to this international conference demonstrates that the issue of return of cultural objects now captures the attention of the broader public as well as of the scientific community. The return of artefacts is considered as cultural magnanimity, a vision for humanity and respect for the identity of others; it means involvement in a global process and the sharing of higher values which states and cultural organizations are called upon to serve and profess for future generations.

I hope that this first meeting in Athens, the birthplace of rationalism and dialectics, will prove to be a creative springboard for fruitful dialogue and collaboration, enabling those involved to better understand the issue of return of cultural objects – objects that are of unique value for humanity. I hope that its conclusions will offer new solutions for resolving such issues and will raise public and political awareness.

Conclusions of the Athens International Conference on the Return of Cultural Objects to Their Countries of Origin

Experts on the issue of the return of cultural objects to their countries of origin who participated in the first international conference held in Athens, on 17–18 March 2008, within the framework of the meeting co-organized by the Intergovernmental Committee of UNESCO for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation, and the Hellenic Ministry of Culture, in the presence of the Member-States of the Committee, reached the following conclusions:

- The organization of international conferences by UNESCO plays a major role in enabling experts to intensify their study of the issue of the return of cultural property to its country of origin, and thereby to produce viable and realistic solutions.
- Cultural heritage constitutes an inalienable part of a people's sense of self and of community, functioning as a link between the past, the present and the future.
- Raising awareness and disseminating information regarding this issue among the public, in particular the younger generation, is essential. Information campaigns may prove effective to this end.
- Certain categories of cultural property are irrevocably identified by reference to the cultural context in which they were created (unique and exceptional art works and monuments, ritual objects, national symbols, ancestral remains, dismembered pieces of outstanding works of art). It is their original context that gives them their authenticity and unique value.
- The role of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation must be strengthened through the necessary means, resources and infrastructure. Effort should be made to encourage mediation either through the Committee or by other means of alternative dispute resolution.

- Requests and negotiations for the return of cultural goods can work as a vehicle for cooperation, collaboration, sharing, joint research and economic promotion.
- In recent years a clear tendency towards the return of cultural objects to their countries of origin has been developed on legal, social and ethical grounds. The return of cultural objects is directly linked to the rights of humanity (preservation of cultural identity and preservation of world heritage).
- Museums should abide by codes of ethics. On this basis, museums should be prepared to initiate dialogue for the return of important cultural property to its country or community of origin. This should be undertaken on ethical, scientific and humanitarian principles. The cooperation, partnership, goodwill and mutual appreciation between the parties concerned can lead to joint research programmes and exchanges of technical expertise.



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26. The Parthenon Hall at the New Acropolis Museum.



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27. Aerial view of the Acropolis and the New Acropolis Museum.