Buying, Selling, Owning the Past

INTERACTION
one in an occasional series of articles about multidisciplinary teaching and research

COLLAGE By Anna Cobb; MADE WITH IMAGES FROM THE CANTOR CENTER FOR VISUAL ARTS AT STANFORD UNIVERSITY, PAUL HARRISON AND FLICKR PHOTOS BY ERIC CHAN, ROBIN ZEBROWSKI, NOAH GRAY, LARA EAkins, AND DIMITAR DENEV.
Buying, Selling, Owning the Past

John Merryman, generally credited with establishing the field of art law, is interested in the distinction between heritage and property. To his mind, heritage is fuzzy and intangible.

C rates of 15th-century objects found at Machu Picchu in the early 20th century today are housed at Yale University, and Peru plans to sue to get them back. The so-called Elgin Marbles were removed from the Parthenon in the early 19th century and taken to London, where they have been displayed ever since. Athens' new Acropolis Museum has a wing sitting empty, awaiting their return. Nearly a decade of litigation followed the discovery of 9,000-year-old skeletal remains near Kennewick, Wash., as American Indian tribes and scientists disputed ownership based on "cultural affiliation." And the former curator of antiquities at the J. Paul Getty Museum is on trial in Rome, accused of handling illegally excavated antiquities.

Stanford's archaeologists and other scholars who study the old objects we call "art" or "antiquities" frequently find themselves intervening in such controversies. The past decades have seen a booming international antiquities market in the context of sharply defined sentiments of nationalism and ownership on the part of former colonies. Violent upheavals such as the ongoing wars in Afghanistan, Pakistan and Iraq—all sites of valuable ancient relics—fuel the market. National and international bodies, most notably UNESCO, have tried to curtail the illicit trafficking. Still, the world's museums are full of objects notably UNESCO, have tried to curtail the illicit trafficking in unprovenanced artifacts.

"They say, 'Collectors are the real looters,'” he said, shaking his head. “They won't concede any role to collectors and dealers." Merryman, generally credited with establishing the field of art law, is interested in the distinction between heritage and property. To his mind, heritage is fuzzy and intangible, and therefore more easily manipulated by source nations and their champions. Claims of "cultural heritage" do not suffice, in his mind, as ownership claims. (The term cultural property first arose with the 1954 Hague Convention for the Protection of Cultural Property after the massive destruction of World War II.) Archaeologists criticize Merryman for condoning the buying and selling of unprovenanced antiquities, a market he considers logical given what he calls "the human appetite for antiquities." He is the author of an article arguing that Lord Elgin's acquisition of the marbles was legal and ethical for its time, and therefore should not be overturned now.

On the other side is Neil Brodie, cultural heritage resource director at Stanford's Archaeology Center. He is the former research director of the Illicit Antiquities Research Centre at the University of Cambridge and an international expert on looting and the trade for condoning the buying and selling of unprovenanced antiquities, a market he considers logical given what he calls "the human appetite for antiquities." He is the author of an article arguing that Lord Elgin's acquisition of the marbles was legal and ethical for its time, and therefore should not be overturned now.

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The ownership-heritage argument can be tricky: One could say that pre-Columbian art, for example, belongs to all of us as humans and therefore should not necessarily remain in, for example, Guatemala; or, instead, one could argue that pre-Columbian art is part of Guatemala's specific heritage, even though Guatemala did not exist in the 15th century, and should therefore remain there.

One of the more prominent participants in this debate is the director of the Art Institute of Chicago, James Cuno, who argued in a recent book that stewardship and broad access should take priority over legal ownership, given that most countries claiming objects—Greece, Egypt, India, for example—are recent creations. "That's fine," Brodie replied rhetorically to Cuno's argument, "but I'd add that there wasn't any 'art' as we know it until the 18th century either. It's equally constructed. Objects removed from their context become 'antiquities.' The real question is sovereignty, not ownership—the right of a country to have its heritage respected by other countries." This is also his objection to what he calls Merryman's "object-centered discourse of ownership." Instead, he said, let's look at knowledge, at heritage.

Looting the Middle East

"Everyone in this room has seen evidence of looting, I'm sure," Stanford archaeologist Daniel Contreras recently told an audience at the Archaeology Cen-
"I'm not sure I've ever been at a site where there hasn't been looting."

After the United States invaded Iraq in 2003, archeologist Elizabeth Stone, who teaches at Stony Brook University, wanted to quantify anecdotal information about the pillaging of the "cradle of civilization." Funded by a variety of sources, she obtained satellite images of some 1,800 sites in southern Iraq taken before the invasion. By studying before and after shots, she was able to identify looting patterns that revealed what was being taken and from where.

There are some who insist that reports of looting in Iraq are the result of deluded journalists echoing a story that serves their own agenda. "There is no debate about the looting," he said. "We know what happened."

"Every site has had something taken at the time of the invasion. There is défense in the books. We know what was taken and from where."

Archaeologists are increasingly being trained in geospatial techniques, and there is an active geographic information systems (GIS) community at Stanford. Archaeologists here have used GIS for projects in Mexico and Peru; the Spatial History Project, led by historian Richard White, comprises several research paths using GIS; and staff at Branner Library and academic technology specialists are helping scholars in many disciplines incorporate GIS into their research. Conterras, a Stanford PhD and a lecturer in the Anthropology Department, teaches a course called Digital Methods in Archaeology.

"Conterras found that Google Earth was more effective if used in conjunction with GIS software. So he exported the geo-referenced Google images of Jordan into ArcGIS, which makes it possible to precisely estimate the extent of looted areas. Looting is detected by the appearance of swaths dotted with pits that from the air look like potholes.

"It’s almost like a smoking gun," Conterras said, if an area near known Bronze Age sites is potholed and shortly thereafter the catalog starts advertising those items. "John Merryman says enforcement will never stop the market, and he is partly right. But there is educational potential on the demand side. If buyers were shown these images of damage, then they couldn’t have in their head the image of a poor farmer who sells a single pot to feed his children. Instead, they are photos of large-scale, systematic looting, and buyers are participating in the destruction."

He showed an image of one of the Jordanian sites, Safi, that has suffered the most looting. "This was industrial scale," he said, "and the material was headed straight for the antiquities market. So this can be a tool to stimulate policy."

In theory, Brodie and Conterras say, using Google Earth for tracking looting could be an open-source project. People could add information and photos, monitor particular areas or issue alerts as images reveal possible pillaging. Such a project also could be combined with a comparative pixel analysis of remote sensing images of pits landscapes.

The drawbacks to using Google Earth to monitor archaeological looting are, principally, two: The images are not always good, and you have to know what you’re looking for. You can’t just scan the globe in hopes of finding pits. Brodie and Conterras chose Jordan because they had a good database with which to compare the images. Conterras will next apply the technique to Peru, his area of expertise, for which he also has a lot of data. So it’s not perfect. But, he said, "I reservedly recommend it."

From the caves of Afghanistan

One of the chief arguments for removing antiquities from their site of provenance is safety.

"When people say, ‘It’s safer with us,’ I always reply, ‘Look at 9/11.’ There is no guarantee of safety in this world," said anthropology Professor Lynn Meskell. Beyond the fallacy of physical security, Meskell and others detect (and condemn) elitism in the assumption that an old bowl is better off in my city than in your backyard, or in my climate-controlled museum than in your shabby building.

But there are cases that stand out, and Afghanistan obviously is one. By 1996, after the Soviet withdrawal and when the country was torn apart by internal war-
fate, its archaeological sites were ransacked, and it was feared that the Kabul museum’s collections had gone missing. (In fact, museum staff managed to hide and save much of the holdings.) Few archaeologists or scholars would argue that in the case of intentional destruction or burning, artifacts should not be removed. (Where they should be held in safekeeping can be a matter of controversy; the Hoover Institution garnered some unwanted headlines last summer when it was revealed that it was providing a temporary haven for Baath Party records taken out of Baghdad.) Brodie’s position, also that of the profession in general, is that museums or other institutions may hold endangered objects in safekeeping, but no money may change hands.

Since the 1990s, and especially after the Taliban blew up the giant Buddhas at Bamyan in 2001, professionals both inside and outside Afghanistan have struggled to ensure the survival of manuscripts and artifacts. Paul Harrison, the George Edwin Burnell Professor of Religious Studies, is one of the editors of a remarkable collection of ancient Buddhist manuscripts held by the Schøyen Collection, headquartered in Oslo, Norway. That collection also has been the subject of controversy.

Some of the manuscripts—all of which Schøyen asserts were legally obtained—were found in caves. They are among the earliest known Buddhist documents, written in two scripts, Brahmi and Kharosti, dating from the second century AD onward.

Learning to read the scripts, Harrison says simply, was “painful,” and thousands of fragments remain to be identified. Through these pieces, he said, “we have learned a new language we had only hypothesized about.”

Using carbon testing, colleagues in Berlin and at the University of Washington have dated similar Buddhist manuscripts recently discovered in Afghanistan and Pakistan to the first century AD, said Harrison, a philologist by training. “So the dates have been pushed back, and this is very exciting, very big news. Our knowledge of the Buddhist canon is increasing enormously. There was a huge amount of literary activity; we’ve even found fragments of a play.”

But the discovery of such remarkable texts was possible only because someone dug them up and sold them on the black market. How they got to Europe is a mystery.

“These objects have no clear provenance,” Harrison said. “They were accidentally unearthed or dug up by fortune hunters, and there are no records. The objects were smuggled from Afghanistan to Pakistan, and somehow ended up in London. The collectors have had the sense to make them available to us. Our view is that ownership is one thing, but context doesn’t tell us that.”

Ownership of history

Theft and looting may be hard to pin down, but no one would argue that theft is legal. “That, at least, is clear cut. More murky is the matter of history itself. Who can lay claim to an Etruscan artifact? Should Muslims inhabiting formerly Buddhist lands care about the ruins around them? Do the Elgin Marbles belong in Athens? Should objects be shipped back where they came from?”

Figuring out the ethics of heritage involves weighing the value of the object’s context against the value of the viewer’s gaze; the village versus the museum.

“When the value of antiquities is the story of their culture and their use, and when they’re treated only as objects, they lose that,” Contreras said. “Ownership, context and use add up to a very interesting pattern of behavior that tells us about trading, culture, society, gender and so on. One pot out of context doesn’t tell us that.”

Meskell, whose work is in southern Africa, is adamant. “We know nothing about these objects outside of their context,” she said. “We look at their design, and they might as well come from Ikea. We look at objects from Mali and we ‘recognize’ them because we have seen them in Ikea. We look with a colonial, imperial gaze. We don’t recognize. We don’t know who made it or why.”

“There should be more of an exchange, partnership. It’s not our stuff, and we shouldn’t have it just because we can.”

But sorting it out is not simple. Cuno, director of the Art Institute of Chicago, has proposed a system of partage, whereby objects of universal value would be shared by the source nation, even if the nation did not exist when the object was created, and the financiers of the exploration. “There should be more of an exchange, partnership. It’s not our stuff, and we shouldn’t have it just because we can.”

Some people say if you return things, they’ll be lost forever,” Seligman said. They could be used to rebuild the country [through tourism] and help those who most need it. They care about these objects, they know them. People in Pretoria and the cities don’t.”

In North America, the most obvious instance of this debate takes place over American Indians and the 1990 federal Native American Graves Protection and Repatriation Act (NAGPRA), under which certain objects with “cultural affiliation” to certain descendants and tribes must be returned by museums. At Stanford, anthropologist Michael Wilcox, himself an American Indian, recently was on a task force of the American Anthropological Association that commented on new modifications of the law. Though he supports NAGPRA, he also is troubled by its implications.

“Indian people must demonstrate connections to a past that has been created by a professional and technological dialogue that has explicitly excluded them,” Wilcox wrote. Indians are asked to demonstrate our relation to the static cultures that archaeologists and museums have affirmed, reproduced and codified in professional journals.”

As the web of interests and claims enveloping these shards, bones, sculptures and masks is dense indeed, law, the legacy of colonialism, aesthetics, human history, prehistory — it’s not easy to sort out. “With cases like the Kennewick Man or with the Elgin Marbles, the most important thing is to wrestle with the idea,” Contreras said. “I don’t have an answer. But at least let’s think about it. There are hardliners on both sides.”

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Paul Harrison with a computer monitor displaying the Sanskrit texts he is studying. The Sambahavakaa Sutra, which instructs Buddhists in the practice of meditation. This manuscript is part of a hitherto unknown collection of sutras, which are scriptural texts that are often reused.


Native American Graves Protection and Repatriation Act (NAG- PRA) http://www.nps.gov/history/nagpra

Cultural Heritage Resource http://www.stanford.edu/group/chr/drupal

Stanford Archaeology Center http://gissig.stanford.edu/?cat=1

Schøyen Collection http://www.schoyencollection.com/Buddhism.htm

GIS at Stanford http://gisg Stanford.edu/?tab=1
