

## *Whose Culture Is It, Anyway?*

### THE SPOILS OF WAR

In the nineteenth century, the kings of Asante—like kings everywhere—enhanced their glory by gathering objects from all around their kingdom and around the world. When the British general Sir Garnet Wolseley destroyed Kumasi in a “punitive expedition” in 1874, he authorized the looting of the palace of the Asante king Kofi Karikari. At the treaty of Fomena, a few months later, Asante was required to pay an “indemnity” of 50,000 ounces (nearly one and a half tons) of gold, much of which was delivered in the form of jewelry and other regalia. A couple of decades later, a Major Robert Stephenson Smyth Baden-Powell (yes, you know him as the founder of the Boy Scouts) was dispatched once more to Kumasi, this time to demand that the new king, Prempeh, submit to British rule. Baden-Powell described this mission in his book *The Downfall of Prempeh: A Diary of Life with the Native Levy in Ashanti, 1895-6*.

Once the king and his Queen Mother had made their submission, the British troops entered the palace, and, as Baden-Powell put it, “the work of collecting valuables and property was proceeded with.” He continued,

There could be no more interesting, no more tempting work than this. To poke about in a barbarian king’s palace, whose wealth has been reported very great, was enough to make it so. Perhaps one of the most striking features about it was that the work of collecting the treasures was entrusted to a company of British soldiers, and that it was done most honestly and well, without a single case of looting. Here was a man with an armful of gold-hilted swords, there one with a box full of gold trinkets and rings, another with a spirit-case full of bottles of brandy, yet in no instance was there any attempt at looting.

This boast will strike us as almost comical, but Baden-Powell clearly believed that the inventorying and removal of these treasures under the orders of a British officer was a legitimate transfer of property. It wasn’t looting; it was *collecting*. In short order, Nana Prempeh was arrested and taken into exile at Cape Coast. More indemnities were paid.<sup>1</sup>

There are similar stories to be told around the world. The Belgian *Musée Royal de l’Afrique Centrale*, at Tervuren, explored the dark side of the origins of its own collections in the brutal history of the Belgian Congo, in a 2001 show called “ExItCongoMuseum.” The Berlin Museum of Ethnology bought most of its extraordinary Yoruba art from Leo Frobenius, whose methods of “collection” were not exactly limited to free-market exchange.

The modern market in African art, indeed in art from much of the global south, is often a dispiriting sequel to these earlier imperial expropriations. Many of the poorest countries in the world simply do not have the resources to enforce the regulations they make. Mali can declare it illegal to dig up and export the wonderful sculpture of Djenné-Jeno. But it can’t enforce the law. And it certainly can’t afford to fund thousands of archaeological digs. The result is that many fine Djenné-Jeno terra-cottas were dug up anyway in the 1980s, after the publication of the discoveries of the archaeologists

Roderick and Susan McIntosh and their team. They were sold to collectors in Europe and North America who rightly admired them. Because they were removed from archaeological sites illegally, much of what we would most like to know about this culture—much that we could have found out by careful archaeology—may now never be known.

Now, once the governments of the United States and Mali, guided by archaeologists, created laws specifically aimed at stopping the smuggling of the stolen art, the open market for Djenné-Jeno sculpture largely ceased. But people have estimated that, in the meantime, perhaps a thousand pieces—some of them now valued at hundreds of thousands of dollars—left Mali illegally. Given these enormous prices, you can see why so many Malians were willing to help export their “national heritage.”

Modern thefts have not, of course, been limited to the pillaging of archaeological sites. Hundreds of millions of dollars worth of art has been stolen from the museums of Nigeria alone, almost always with the complicity of insiders. And Ekpo Eyo, who once headed the National Museum of Nigeria, has rightly pointed out that dealers in New York and London—dealers including Sotheby’s—have been less than eager to assist in their retrieval. Since many of these collections were well known to experts on Nigerian art, it shouldn’t have taken the dealers long to recognize what was going on. Nor is such art theft limited to the Third World. Ask the government of Italy.

Given these circumstances—and this history—it has been natural to protest against the pillaging of “cultural patrimony.”<sup>2</sup> Through a number of declarations from UNESCO and other international bodies, a doctrine has evolved concerning the ownership of many forms of cultural property. It is that, in simplest terms, cultural property be regarded as the property of its culture. If you belong to that culture, such work is, in the suggestive shorthand, your cultural patrimony. If not, not.

#### THE PATRIMONY PERPLEX

Part of what makes this grand phrase so powerful, I suspect, is that it conflates, in confusing ways, the two primary uses of that confusing word “culture.” On the one hand, cultural patrimony refers to cultural artifacts: works of art, religious relics, manuscripts, crafts, musical instruments, and the like. Here “culture” is whatever people make and invest with significance through the exercise of their human creativity. Since significance is something produced through conventions, which are never individual and rarely universal, interpreting culture in this sense requires some knowledge of its social and historical context. On the other hand, “cultural patrimony” refers to the products of *a* culture: the group from whose conventions the object derives its significance. Here the objects are understood to belong to a particular group, heirs to a trans-historical identity, whose patrimony they are. The cultural patrimony of Norway, then, is not just Norway’s contribution to human culture—its voices in our noisy human chorus, its contribution, as the French might say, to the civilization of the universal. Rather, it is all the artifacts produced by Norwegians, conceived of as a historically persisting people: and while the rest of us may admire Norway’s patrimony, it belongs, in the end, to them.

But what does it mean, exactly, for something to belong to a people? Much of Norway’s cultural patrimony was produced before the modern Norwegian state existed. (Norway achieved its modern independent existence in 1905, having been conjoined with either Denmark or Sweden—with the exception of a few chaotic months in 1814—since

the early fourteenth century.) The Vikings who made the wonderful gold and iron work in the National Museum Building in Oslo didn't think of themselves as the inhabitants of a single country that ran a thousand miles north from the Oslo fjord to the lands of the Sámi reindeer herders. Their identities were tied up, as we learn from the sagas, with lineage and locality. And they would certainly have been astonished to be told that Olaf's gold cup or Thorfinn's sword belonged not to Olaf and Thorfinn and their descendants but to a nation. The Greeks claim the Elgin marbles, which were made not by Greece—it wasn't a state when they were made—but by Athens, when it was a city-state of a few thousand people. When Nigerians claim a Nok sculpture as part of their patrimony, they are claiming for a nation whose boundaries are less than a century old, the works of a civilization more than two millennia ago, created by a people that no longer exists, and whose descendants we know nothing about. We don't know whether Nok sculptures were commissioned by kings or commoners; we don't know whether the people who made them and the people who paid for them thought of them as belonging to the kingdom, to a man, to a lineage, to the gods. One thing we know for sure, however, is that they didn't make them for Nigeria.

Indeed, a great deal of what people wish to protect as “cultural patrimony” was made before the modern system of nations came into being, by members of societies that no longer exist. People die when their bodies die. Cultures, by contrast, can die without physical extinction. So there's no reason to think that the Nok have no descendants. But if Nok civilization came to an end and its people became something else, why should those descendants have a special claim on those objects, buried in the forest and forgotten for so long? And, even if they do have a special claim, what has that got to do with Nigeria, where, let us suppose, a majority of those descendants now live?

Perhaps the matter of biological descent is a distraction: proponents of the patrimony argument would surely be undeterred if it turned out that the Nok sculptures were made by eunuchs. They could reply that the Nok sculptures were found on the territory of Nigeria. And it is, indeed, a perfectly reasonable property rule that where something of value is dug up and nobody can establish an existing claim on it, the government gets to decide what to do with it. It's an equally sensible idea that the object's being of cultural value places on the government a special obligation to preserve it. Given that it is the Nigerian government, it will naturally focus on preserving it for Nigerians (most of whom, not thinking of themselves as heirs to Nok civilization, will probably think it about as interesting as art from anywhere else). But if it is of cultural value—as the Nok sculptures undoubtedly are—it strikes me that it would be better for them to think of themselves as trustees for humanity. While the government of Nigeria reasonably exercises trusteeship, the Nok sculptures belong in the deepest sense to all of us. “Belong” here is a metaphor, of course: I just mean that the Nok sculptures are of potential value to all human beings.

That idea is expressed in the preamble of the Convention for the Protection of Cultural Property in the Event of Armed Conflict of May 14, 1954, which came out of a conference called by UNESCO.

Being convinced that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world ...

Framing the problem that way—as an issue for *all* mankind—should make it plain that it is the value of the cultural property to people and not to peoples that matters. It isn't peoples who experience and value art; it's men and women. Once you see that, then there's no reason why a Spanish museum couldn't or shouldn't preserve a Norse goblet, legally acquired, let us suppose at a Dublin auction, after the salvage of a Viking shipwreck off Ireland. It's a contribution to the cultural heritage of the world. But at any particular time it has to be in one place. Don't Spaniards have a case for being able to experience Viking craftsmanship? After all, there's already an awful lot of Viking stuff in Norway. The logic of "cultural patrimony" would call for it to be shipped back to Norway (or, at any rate, to Scandinavia): that's whose cultural patrimony it is.

And, in various ways, we've inched closer to that position in the years since the Hague convention. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the UNESCO General Conference in Paris in 1970, stipulated that "cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting"; that "it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage." And a state's cultural heritage, it further decreed, included both work "created by the individual or collective genius of nationals of the State" and "cultural property found within the national territory." The convention emphasized, accordingly, the importance of "prohibiting and preventing the illicit import, export and transfer of ownership of cultural property." A number of countries now declare all antiquities that originate within their borders to be state property, which cannot be freely exported. In Italy, private citizens are free to own "cultural property," but not to send it abroad.<sup>3</sup>

#### PRECIOUS BANE

Plainly, special problems are posed by objects, like Viking treasure and Nok art, where there is, as the lawyers might say, no continuity of title. If we don't know who last owned a thing, we need a rule as to what should happen to it now. Where objects have this special status as a valuable "contribution to the culture of the world," the rule should be one that protects that object and makes it available to people who will benefit from experiencing it. So the rule of "finders, keepers," which may make sense for objects of less significance, will not do. Still, a sensible regime will reward those who find such objects, and give them an incentive to report not only what they have found but where and how they found it.

For an object from an archaeological site, after all, value comes often as much from the knowledge to be gleaned by knowing where it came out of the ground, what else was around it, how it lay in the earth. Since these articles usually don't have current owners, someone needs to regulate the process of removing them from the ground and decide where they should go. As I have said, it seems to me reasonable that the decision should be made by the government in whose soil they are found. But the right conclusion for them is not obviously that they should always stay exactly where they lay. Many Egyptians—overwhelmingly Muslims who regard the religion of the pharaohs as idolatrous—nevertheless insist that all the antiquities ever exported from its borders are

really theirs. You do not need to endorse Napoleon's depredations of North Africa to think that there is something to be said for allowing people in other countries the chance to see close up the arts of one of the world's great civilizations. And it's a painful irony that one reason we've lost information about cultural antiquities is the very regulation intended to preserve it. If, for example, I sell you a figure from Djenné-Jeno with evidence that it came out of the ground in a certain place after the regulations came into force, then I am giving the authorities in the United States, who are committed to the restitution of objects taken illegally out of Mali, the very evidence they need.

Suppose that, from the beginning, Mali had been encouraged and helped by UNESCO to exercise its trusteeship of these Djenné-Jeno terra-cottas by licensing digs and training people to recognize that objects removed carefully from the earth with accurate records of location are worth more, even to collectors, than objects without this essential element of provenance. Suppose they had required that objects be recorded and registered before leaving, and stipulated that if the national museum wished to keep an object, it would have to pay a market price for it; the acquisition fund being supported by a tax on the price of the exported objects. The digs encouraged by this regime would have been worse than proper, professionally conducted digs by accredited archaeologists. Some people would still have avoided the rules. But mightn't all this have been better than what actually happened? Suppose, further, that the Malians had decided that, in order to maintain and build their collections, they should auction off some works they own. The cultural-patrimony crowd, instead of praising them for committing needed resources to protecting the national collection, would have excoriated them for betraying their heritage.

The problem for Mali is not that it doesn't have enough Malian art. The problem is that it doesn't have enough money. In the short run, allowing Mali to stop the export of a good deal of the art in its territory does have the positive effect of making sure that there is some world-class art in Mali for Malians to experience. (This doesn't work well everywhere, since another feature of poor countries is that it's hard to stop valuable materials from disappearing from national collections and reappearing in international auction houses. That's especially true if the objects are poorly cataloged and worth many times the total annual salaries of the museum staff; which explains what has happened in Nigeria.) But an experience limited to Malian art—or, anyway, art made on territory that's now part of Mali—makes no more sense for a Malian than for anyone else. New technologies mean that Malians can now see, in however imperfectly reproduced a form, great art from around the planet. If UNESCO had spent as much effort to make it possible for great art to get into Mali as it has done to stop great art from getting out, it would have been serving better the interests that Malians, like all people, have in a cosmopolitan aesthetic experience.

#### LIVING WITH ART

How would the concept of cultural patrimony apply to cultural objects whose current owners acquired them legally in the normal way? You live in Norway. You buy a painting from a young, unknown artist named Edvard Munch. Your friends think it rather strange, but they get used to seeing it in your living room. Eventually, you leave it to your daughter. Time passes. Tastes change. The painting is now recognized as being the work of a major Norwegian artist, part of Norway's cultural patrimony. If that means that it

literally belongs to Norway, then presumably the Norwegian government, on behalf of the people of Norway, should take it from her. After all, on this way of thinking, *it's theirs*. You live in Ibadan, in the heart of Yorubaland in Nigeria. It's the early sixties. You buy a painted carving from a guy—an actor, painter, sculptor, all-around artist—who calls himself Twin Seven Seven. Your family thinks it's a strange way to spend money. But once more time passes, and he comes to be seen as one of Nigeria's most important modern artists. More cultural patrimony for Nigeria, right? And if it's Nigeria's, it's not yours. So why can't the Nigerian government just take it, as the natural trustees of the Nigerian people, whose property it is?

Neither the Norwegians nor the Nigerians would in fact exercise their power in this way. (When antiquities are involved, though, a number of states will do so.) They are also committed, after all, to the idea of private property. Of course, if you were interested in selling, they might provide the resources for a public museum to buy it from you (though the government of Nigeria, at least, probably thinks it has more pressing calls on its treasury). So far, cultural property is just like any other property. Suppose, though, the governments didn't want to pay. There's something else they could do. If you sold your artwork, and the buyer, whatever his nationality, wanted to take the painting out of Norway or Nigeria, they could refuse permission to export it. The effect of the international regulations is to say that Norwegian cultural patrimony can be kept in Norway, Nigerian in Nigeria. An Italian law (passed, by the way, under Mussolini) permits the Italian government to deny export to any artwork over fifty years old currently owned by an Italian, even, presumably, if it's a Jasper Johns painting of the American flag. But, then, most countries require export licenses for significant cultural property (generally excepting the work of living artists). So much for being the cultural patrimony of humankind.

These cases are particularly troublesome, because neither Munch nor Twin Seven Seven would have been the creator that he was if he'd been unaware of and unaffected by the work of artists in other places. If the argument for cultural patrimony is that the art belongs to the culture that gives it its significance, most art doesn't belong to a national culture at all. Much of the greatest art is flamboyantly international; much ignores nationality altogether. Early modern European art was court art, or it was church art. It was made not for nations or peoples but for princes or popes or *ad majorem gloriam dei*. And the artists who made it came from all over Europe. More importantly, in the line often ascribed to Picasso, good artists copy, great ones steal; and they steal from everywhere. Does Picasso himself—a Spaniard—get to be part of the cultural patrimony of the Republic of the Congo, home of the Vili, one of whose carvings the Frenchman Matisse showed him at the home of the American Gertrude Stein?

The problem was already there in the preamble to the 1954 Hague Convention that I quoted a little while back: "... *each people* makes its contribution to the culture of the world." That sounds like whenever someone makes a contribution, his or her "people" makes a contribution, too. And there's something odd, to my mind, about thinking of Hindu temple sculpture or Michelangelo's and Raphael's frescos in the Vatican as the contribution of a people, rather than the contribution of the individuals who made (and, if you like, paid for) them. I know that Michelangelo made a contribution to the culture of the world. I've gazed in wonder at the ceiling of the Sistine Chapel. I will grant that Their Holinesses Popes Julius II, Leo X, Clement VIII, and Paul

III, who paid him, made a contribution, too. But which *people* exactly made that contribution? The people of the Papal States? The people of Michelangelo's native Caprese? The Italians?

This is clearly the wrong way to think about the matter. The right way is to take not a national but a cosmopolitan perspective: to ask what system of international rules about objects of this sort will respect the many legitimate human interests at stake. The point of many sculptures and paintings, the reason they were made and bought, was that they should be looked at and lived with. Each of us has an interest in being able, should we choose, to live with art; and that interest is not limited to the art of our own "people." Now, if an object acquires a wider significance, as part, say, of the oeuvre of a major artist, then other people will have a more substantial interest in being able to experience it and to the knowledge derived from its study. The object's aesthetic value is not fully captured by its value as private property. So you might think there was a case for giving people an incentive to share it. In America such incentives abound. You can get a tax deduction by giving a painting to a museum. You get social kudos for lending your artworks to shows, where they can be labeled "from the collection of ..." And, finally, where an object is a masterpiece, you can earn a good sum by selling it at auction, while both allowing the curious a temporary window of access and providing for a new owner the pleasures you have already known. If it is good to share art in these ways with others, the cosmopolitan asks, why should the sharing cease at national borders?

In the spirit of cosmopolitanism, you might wonder whether all the greatest art should be held in trusteeship by nations, made widely available, shared across borders through traveling exhibitions, and in books and Web sites. Well, there's something to be said for the exhibitions and the books and the Web sites. There is no good reason, however, to think that public ownership is the ideal fate of every important art object. Much contemporary art—not just paintings, but conceptual artworks, sound sculptures, and a great deal more—was made for museums, designed for public display. But paintings, photographs, and sculptures, wherever they were created and whoever imagined them into being, have become one of the fundamental presences in the lives of millions of people. Is it really a sensible definition of great art that it is art that is too important to allow anybody to live with?

#### CULTURE™

Talk of "cultural property," even when directed at imperialism, has had imperial tendencies of its own. In recent years, various people have urged us to go further and take account of collective forms of *intellectual* property. The cause has been taken up by a number of anthropologists and legal experts and by spokesmen for indigenous groups as well. The Inter-Apache Summit on Repatriation, for example, claims tribal control over "all images, text, ceremonies, music, songs, stories, symbols, beliefs, customs, ideas and other physical and spiritual objects and concepts." A UN body circulates a Draft Declaration on the Rights of Indigenous Peoples (1994) affirming their right to "to maintain, protect and develop the past, present and future manifestations of their cultures," including "artefacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs." The World Intellectual Property

Organization assembles a committee to explore how expressions of folklore can be given legal protections. A Mataatua Declaration proposes an expansion of the “cultural and intellectual property rights regime,” given that “indigenous peoples are the guardians of their customary knowledge and have the right to protect and control dissemination of that knowledge,” while the Julayinbul Statement on Indigenous Intellectual Property Rights declares that “Aboriginal intellectual property, within Aboriginal Common Law, is an inherent inalienable right which cannot be terminated, extinguished or taken.” As the anthropologist Michael F. Brown observes, in discussion of these developments, “if native knowledge is held to be collective and eternal rather than the invention of a solitary author, then it follows that time limitations keyed to the human life span, which clearly reflect the possessive individualism of Western capitalist thought, should be replaced by some form of perpetual copyright.”<sup>4</sup>

Notice what happens when we shift from tangible artifacts to intellectual property. It’s no longer just a particular object but any reproducible image of it that must be regulated by those whose patrimony it is. We find ourselves obliged, in theory, to repatriate ideas and experiences. Epic poems—and there are still bards who recite them in Senegal, say, and parts of South India—would similarly be protected: reproduction prohibited without permission. So, too, with tunes and rhythms handed down over the generations. Brown notes that Zia Pueblo sought damages from New Mexico for having reproduced the Zia sun symbol on its license plates and flags. (No damages were paid, but a formal statement of apology was issued.) And matters get even more complicated when a group’s ritual secrets are involved.

It all seems to follow from the logic of cultural patrimony. But the movement to confer the gleaming, new protections of intellectual property to such traditional practices would damage, irreparably, the nature of what it seeks to protect. For protection, here, involves partition, making countless mine-and-thine distinctions. And given the inevitably mongrel, hybrid nature of living cultures, it’s doubtful that such an attempt could go very far. Not that we should be eager to embark on it. For one thing, we’ve been poorly served by intellectual-property law when it comes to contemporary culture: software, stories, songs. All too often, laws have focused tightly on the interests of owners, often corporate owners, while the interests of consumers—of audiences, readers, viewers, and listeners—drop from sight. Talk of cultural patrimony ends up embracing the sort of hyper-stringent doctrine of property rights (property fundamentalism, Lawrence Lessig calls it) that we normally associate with international capital: the Disney Corporation, for instance, which would like to own Mickey Mouse in perpetuity.<sup>5</sup> It’s just that the corporations that the patrimonialists favor are cultural groups. In the name of authenticity, they would extend this peculiarly Western, and modern, conception of ownership to every corner of the earth. The vision is of a cultural landscape consisting of Disney Inc. and the Coca-Cola Company, for sure; but also of Ashanti Inc., Navajo Inc., Maori Inc., Norway Inc.: All rights reserved.

#### HUMAN INTEREST

When we’re trying to interpret the concept of cultural property, we ignore at our peril what lawyers, at least, know: property is an institution, created largely by laws, which are best designed by thinking about how they can serve the human interests of those whose behavior they govern. If the laws are international laws, then they govern everyone. And

the human interests in question are the interests of all of humankind. However self-serving it may seem, the British Museum's claim to be a repository of the heritage not of Britain but of the world seems to me exactly right. Part of the obligation, though, will be to make those collections ever more widely available not just in London but elsewhere, through traveling collections, through publications, and through the World Wide Web.

It has been too easy to lose sight of the global constituency. The legal scholar John Henry Merryman has offered a litany of examples of how laws and treaties relating to cultural property have betrayed a properly cosmopolitan (he uses the word "internationalist") perspective. "Any cultural internationalist would oppose the removal of monumental sculptures from Mayan sites where physical damage or the loss of artistic integrity or cultural information would probably result, whether the removal was illegally or legally, but incompetently, done," he writes. "The same cultural internationalist, however, might wish that Mexico would sell or trade or lend some of its reputedly large hoard of unused *Chac-Mols*, pots and other objects to foreign collectors or museums." And though we readily deplore the theft of paintings from Italian churches, "if a painting is rotting in a church from lack of resources to care for it, and the priest sells it for money to repair the roof and in the hope that the purchaser will give the painting the care it needs, then the problem begins to look different."<sup>6</sup>

So when I lament the modern thefts from Nigerian museums or Malian archaeological sites or the imperial ones from Asante, it's because the property rights that were trampled upon in these cases flow from laws that I think are reasonable. I am not for sending every object "home." Much Asante art now in Europe, America and Japan was sold or given by people who had the right to alienate them under the laws that then prevailed, laws that, as I say, were perfectly reasonable. The mere fact that something you own is important to the descendants of people who gave it away does not generally give them an entitlement to it. (Even less should you return it to people who don't want it because a committee in Paris has declared it their patrimony.) It is a fine gesture to return things to the descendants of their makers—or to offer it to them for sale—but it certainly isn't a duty. You might also show your respect for the culture it came from by holding on to it because you value it yourself. Furthermore, because cultural property has a value for all of us, it can be reasonable to insist that those to whom it is returned are in a position to take trusteeship; repatriation of some objects to poor countries whose priorities cannot be with their museum budgets might just lead to their decay. Were I advising a poor community pressing for the return of many ritual objects, I might urge it to consider whether leaving some of them to be respectfully displayed in other countries might not be part of their contribution to the cosmopolitan enterprise of cross-cultural understanding as well as a way to ensure their survival for later generations.

To be sure, there are various cases where repatriation makes sense. We won't, however, need the concept of cultural patrimony to understand them. Consider, for example, objects whose meaning would be deeply enriched by being returned to the context from which they were taken; site-specific art of one kind and another. Here there is an aesthetic argument for return. Or take objects of contemporary ritual significance that were acquired legally from people around the world in the course of European colonial expansion. If an object is central to the cultural or religious life of the members of a community, there *is* a human reason for it to find its place back with them. The communities in question are almost never national communities; still, the states within

which they lie may be their natural representatives in negotiating their return. Such cases are bound to be messy: it will often be unclear if a work is site-specific or how an outsider should judge whether something is central to a community's religious life. Law, whether national or international, may well not be the best way to settle these questions.

But the clearest cases for repatriation are those where objects were stolen from people whose names we often know—people whose heirs, like the king of Asante, would like them back. As someone who grew up in Kumasi, I confess I was pleased when some of this stolen art was returned, thus enriching the new palace museum for locals and for tourists. (Thank you, Prince Charles.) Still, I don't think we should demand everything back, even everything that was stolen; not least because we haven't the remotest chance of getting it. Don't waste your time insisting on getting what you can't get. There must be an Akan proverb with that message.

There is, however, a more important reason: I actually want museums in Europe to be able to show the riches of the society they plundered in the years when my grandfather was a young man. I'd rather that we negotiated as restitution not just the major objects of significance for our history, things that make the best sense in the palace museum at Manhyia, but a decent collection of art from around the world. Because perhaps the greatest of the many ironies of the sacking of Kumasi in 1874 is that it deprived my hometown of a collection that was, in fact, splendidly cosmopolitan. As Sir Garnet Wolseley prepared to loot and then blow up the *Aban*, the large stone building in the city's center, European and American journalists were allowed to wander through it. The British *Daily Telegraph* described it as "the museum, for museum it should be called, where the art treasures of the monarchy were stored." The London *Times's* Winwood Reade wrote that each of its rooms "was a perfect Old Curiosity Shop." "Books in many languages," he continued, "Bohemian glass, clocks, silver plate, old furniture, Persian rugs, Kidderminster carpets, pictures and engravings, numberless chests and coffers ... With these were many specimens of Moorish and Ashantee handicraft." The *New York Herald* augmented the list: "yataghans and scimitars of Arabic make, Damask bed-curtains and counterpanes, English engravings, an oil painting of a gentleman, an old uniform of a West Indian soldier, brass blunderbusses, prints from illustrated newspapers, and, among much else, copies of the London *Times* ... for 17 October 1843."

We shouldn't become overly sentimental about these matters. Many of the treasures in the *Aban* were no doubt war booty as well. Still, it will be a long time before Kumasi has a collection as rich both in our own material culture and in works from other places as those destroyed by Sir Garnet Wolseley and the founder of the Boy Scouts. The *Aban* had been completed in 1822. It was a prize project of the Asantehene Osei Bonsu, who had apparently been impressed by what he'd heard about the British Museum.<sup>7</sup>

#### IMAGINARY CONNECTIONS

Cosmopolitanism, as we've been conceiving it, starts with what is human in humanity. So we understand the urge to bring these objects "home." We, too, feel what Walter Benjamin called the "aura" of the work of art, which has to do with its uniqueness, its singularity. In this age of mechanical reproduction, Benjamin noticed, where we can make good facsimiles of anything, the original has only increased in value. It is relatively easy nowadays to make a copy of the Mona Lisa so good that merely looking at it—as you would look at the original in the Louvre—you could not tell the copy from the

original. But only the original has the aura: only it has the connection with the hand of Leonardo. That is why millions of people, who could have spent their plane fare on buying a great reproduction, have been to the Louvre. They want the aura. It is a kind of magic; and it is the same kind of magic that nations feel toward their history. A Norwegian thinks of the Norsemen as her ancestors. She wants not just to know what their swords look like but to stand close to an actual sword, wielded in actual battles, forged by a particular smith. Some of the heirs to the kingdom of Benin, the people of Southwest Nigeria, want the bronze their ancestors cast, shaped, handled, wondered at. They would like to wonder at—if we will not let them touch—that very thing. The connection people feel to cultural objects that are symbolically theirs, because they were produced from within a world of meaning created by their ancestors—the connection to art through identity—is powerful. It should be acknowledged. The cosmopolitan, though, wants to remind us of other connections.

One connection—the one neglected in talk of cultural patrimony—is the connection not *through* identity but *despite* difference. We can respond to art that is not ours; indeed, we can fully respond to “our” art only if we move beyond thinking of it as ours and start to respond to it as art. But equally important is the human connection. My people—human beings—made the Great Wall of China, the Chrysler Building, the Sistine Chapel: these things were made by creatures like me, through the exercise of skill and imagination. I do not have those skills, and my imagination spins different dreams. Nevertheless, that potential is also in me. The connection through a local identity is as imaginary as the connection through humanity. The Nigerian’s link to the Benin bronze, like mine, is a connection made in the imagination; but to say this isn’t to pronounce either of them unreal. They are among the realest connections that we have.

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<sup>1</sup> Ivor Wilks, *Asante in the Nineteenth Century: The Structure and Evolution of a Political Order*, (Cambridge: Cambridge University Press, 1975). The history of Asante in the nineteenth century has a great deal to do with its wars and treaties with Britain. Sir Garnet Wolseley’s sack of Kumasi was intended to establish British dominance in the region; though the fact is that he entered Kumasi unopposed on February 4, 1874, and had to retreat two days later because he needed to take his sick and wounded back to the safety of the Gold Coast colony. The expedition of 1895-96, in which Baden-Powell took part, was intended in part to enforce the settlement of 1874 and to establish British sovereignty over Asante by the forced submission of the king. The British eventually exiled a number of political leaders, like the Asantehene, to the Seychelles, remote islands in the middle of the Indian Ocean, in order to make it hard for them to communicate with their peoples. Prempeh I returned to the Gold Coast colony as a private citizen in 1924, and was allowed to resume his title as Kumasehene—the chief of Kumasi—a couple of years later. Only in 1935 was his successor, Osei Agyeman Prempeh II (my great-uncle by marriage), allowed to resume the title of Asantehene, king of Asante.

<sup>2</sup> I owe a great deal to the cogent (and cosmopolitan!) outline of the development of the relevant international law in John Henry Merryman’s classic paper “Two Ways of

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Thinking about Cultural Property” *American Journal of International Law* 80, no. 4 (October 1986): 831-853.

<sup>3</sup> James Cuno, “U.S. Art Museums and Cultural Property,” *Connecticut Journal of International Law* (Spring 2001): 189-96.

<sup>4</sup> Michael F. Brown, “Can Culture Be Copyrighted?” *Current Anthropology* 39, no. 2 (April 1998): 203.

<sup>5</sup> Lawrence Lessig *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity* (New York: Penguin Press, 2004).

<sup>6</sup> Merryman, “Two Ways of Thinking,” p. 852.

<sup>7</sup> The quotations from the *Daily Telegraph*, *London Times*, and *New York Herald*, as well as the information about Osei Bonsu are all from Ivor Wilks *Asante in the Nineteenth Century* pp. 200-201.

Chapter 9: The Counter Cosmopolitans