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RESPONSE ARTICLE

Why Sanctions Seldom Work: Reflections on Cultural Property Internationalism

David Lowenthal*

Abstract: Heritage piety departs ever farther from reality. High-minded admonitions broaden the gulf between what happens to cultural property and what virtuous stewards feel should happen. Ever more of our patrimony gets looted, destroyed, mutilated, shorn of context, hidden from scrutiny, inadequately stored, poorly conserved, eBayed. Merryman cites three causes: the animus of UNESCO and archaeology against marketing cultural property, the sanguine view that trafficking abuse can be quashed by state fiat and moral suasion, and excessive constraint against heritage export by blanket diktats from source nations (and tribes and ethnic groups). These evils endure because heritage stewards commonly subscribe to four underlying sacrosanct fictions. (1) The heritage of all humanity deserves to be preserved in toto. (2) Cultural heritage matters above all for the information it can yield. (3) Collecting is reprehensible; it must be circumscribed if not outlawed. (4) Nations and tribes are enduring entities with sacred rights to time-honored legacies. I show why these views are mistaken yet remain embedded in heritage philosophy and protocol. In particular, although heritage is piously declared the legacy of all mankind, chauvinist sentiment continues to impede internationalism, partly because it buttresses the credentials of those in charge, who are forced into moral postures that promise unachievable stewardship. National and local self-esteem are holy writ for UNESCO and other cultural property agencies. Equating heritage with identity justifies every group's claim to the bones, the belongings, the riddles, and the refuse of every forebear back into the mists of time. All that stands in the way of everyone's reunion with all their ancestors and ancestral things is its utter impossibility. Heritage professionals once seen as selfless are now targets of suspicion, often thought backward looking, deluded, self-seeking, or hypocritical. Small wonder that militant reformers who seek to suppress illicit cultural property dealings by treaties, court decisions, government fiats, and the moral artillery of shame and guilt are viewed with an increasingly cynical eye.

*Department of Geography, University College London. Email: d.lowenthal@ucl.ac.uk

The chasm between much-invoked heritage pieties and the practical realities of heritage management prompted John Henry Merryman's admirable essay.[1] Despite, or perhaps because of, high-minded admonitions, the gulf between what happens to cultural property and what virtuous stewards feel *should* happen is not narrowing but broadening. Ever more of our patrimony gets looted, destroyed, mutilated, shorn of context, hidden from scrutiny, inadequately stored, poorly conserved, eBayed. "World heritage is threatened as never before," is the repeated dirge. "Collecting antiquities is destroying our archaeological heritage and driving the looting and plundering of priceless cultural treasures all over the world."[2] The "aura of indelible loss" at Angkor Wat, as elsewhere, reflects the mix of local indigence and global greed.[3]

Cultural-property violation in war is Merryman's first topic. The Hague and other conventions condemn the sacking of combatants' heritage. They are all in vain. Heritage is destroyed and uprooted precisely *because* it shores up enemy will and self-regard. The fate of the world's great libraries from ancient Mesopotamia down to modern Iraq is a chilling reminder of the futility of sanctions. Although less often trophies of conquest or targets of avarice than, say, paintings or statuary, books nonetheless succumb time and again to theft, greed, and natural disaster. But they are destroyed above all because foes deliberately target them for obliteration. Libraries are strongholds of enemy culture and identity; they embody enemy history; they tell the wrong stories.[4] (In a gruesome exception to such libricide, Nazis retained hundreds of thousands of Jewish books, while slaughtering their owners and custodians, for a Frankfurt library of "Jewish Studies without Jews."[5]) The book incinerations of Sarajevo, Kabul, and Baghdad; the Soviet libricide of Estonia; and the Chinese of Tibet show up the Hague Convention as fodder for *Fahrenheit 451*.

As in war, so in peace, except that more is saved to be sold. Given the bulldozer, the metal detector, and the sums with which collectors' touts tempt impoverished peasants and bribe compliant police, little can be done about it. Merryman cites three causes. One is the animus of UNESCO and the archaeological community against *all* marketing of cultural property. Another is the sanguine view that trafficking abuse can be quashed by state fiat and moral suasion. The third is excessive constraint against heritage export by blanket diktats from source nations and, we must add, from tribal and ethnic groups as well. In short, heritage stewards hold it abhorrent that "Mummie is become Merchandise," as Thomas Browne put it three and a half centuries ago, and worse still that "Pharaoh is sold for balsoms" by being purloined out of Egypt.[6]

Neither the evils nor their causes are likely to be rectified soon. The chasm between ideal and reality seems to me unbridgeable. It endures because heritage leaders—scholars, stewards, conservators, statesmen—commonly subscribe to several underlying fictions. Although clearly false and self-defeating, these fictions are too serviceably sacred to disown. I discuss four of them.

1. THE HERITAGE OF ALL HUMANITY DESERVES TO BE PRESERVED IN TOTO

That cultural property is of universal concern is widely assumed. Everyone everywhere cares, or at least talks about caring, for heritage. This is quite new. As recently as 1989, a champion of restitution termed cultural property the product of "the genius of relatively few individuals," and culture "not really an active or primary interest to the majority of people anywhere."[7] Not even the most blinkered elitist would make such statements today. To possess the tangible (and today the intangible) corpus of heritage is a sine qua non of collective identity and well-being, as vital a nutriment as food and drink.[8]

Nor do selected items or aspects of heritage suffice; the loss of *any* legacy is a grievous deprivation. To be sure, the issue is not always so starkly put: more often deplored are threats to iconic treasures or to some portion of them, such as half the museum holdings of Iraq or two thirds the archives of Afghanistan. But the underlying axiom is that heritage is a fixed and ever-diminishing quantity—"*by definition*, a nonrenewable resource." And every bit of it matters. Because "all cultures are of equal worth," in Elazar Barkan's double dictum, "all cultural property is worth preserving."[9] According to a 1972 UNESCO fiat, "deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all nations of the world."[10]

None of this is true, however. Cultural heritage is neither static nor dwindling. On the contrary, it gets altered and added to every day. Ancestral treasures are unearthed, discoveries made on land and water, things found in attic and basement. And new legacies come into being by our own hand. Above all, what counts as heritage changes all the time; it is no finished product pickled in amber but an ever-changing palimpsest. Fresh creations and recognitions more than make up for what is lost through erosion, demolition, and obsolescence. Care for what we inherit requires adding to it. To conserve is never enough; good caretaking involves continual creation. We treasure heritage by both protecting *and* transforming, reshaping it for heirs who in turn become selective stewards. And heritage is jettisoned not just because it outlives use but to ease exchange and engender new creation.

Intangible legacies of arts and crafts, skills and techniques confirm the point. What is handed down are not things but ways of doing things—the know-how embodied in Living National Treasures, English thatchers, American luthiers, Japanese temple builders, Korean knot makers, Brazilian body painters. The primacy accorded to original stone and brickwork in UNESCO's Venice Charter of 1966 left cultures that do not build or make things to last, ill at ease. They "place more emphasis on spiritual values . . . than on material symbols"; for them "heritage is a bundle of relationships rather than a bundle of economic rights" or tangible things. They regenerate rather than preserve, or, to be precise, preserve acts instead of artifacts.[11] Indeed, keeping old stuff around inhibits creative continuity.

"When the product is preserved and venerated, the impulse to repeat the process is compromised," wrote Chinua Achebe of Nigerian art. "The Igbo choose to eliminate the product and retain the process so that every occasion and every generation will receive its own impulse and kinesis of creation."[12] A Zuni Indian agrees. "Everything for ceremonial, religious, and ritual purposes that my culture makes is meant to disintegrate . . . to go back into the ground. Conservation is a disservice to my culture."[13] Museum retention of Melanesian *churinga* is likewise distressful; these artifacts, essential in tribal exchange rituals, must be destroyed after use so that new *churinga* can be made. The human life-cycle requires reiterated creation, exchange, and destruction of forms that embody or host beings.[14] For example, Melanesian *malanggan*, structures built to house rites of passage for the newly deceased, are subsequently obliterated to free the dead from earthly trammels and play their vital role in regulating land ownership.[15] A colored sand-grain mandala pattern designed for tantric initiation in northern India and then dismantled is now a UNESCO Living Human Treasure.[16]

Where ritual destruction is absent, the burgeoning of cultural property entails needs for recurrent discard. With so much transmuted into heritage, it takes special effort to resist keeping it all. Packrats by nature, we preserve too well. Not only do we not need all we have, we need desperately to be rid of it. Moth and rust no longer suffice; culling and disposal must be integral to making and collecting. Heritage overload is not a new problem, to be sure. "The world is accumulating too many materials for knowledge," observed Nathaniel Hawthorne after a day at the British Museum in 1855, "and as each generation leaves its fragments & potsherds behind it, such will finally be the desperate conclusion of the learned."[17] Today the glut becomes suffocating. New finds mount up too fast to record, to process, even to store. Recurrently out of warehouse space, the Museum of London faces "absolute disaster."[18]

Yet heritage is such a sacred cow that none dare call for its culling. Italy is so stuffed with treasure that only a small fraction of it is catalogued or adequately cared for, let alone open to the public. Things are much the same the world over. Everyone knows this, yet no steward will publicly affirm it. Rather, they laud the renewal of pride in ancestral roots, the protection of relics threatened by erosion or plunder, the rescue of cherished legacies from purblind greed.

Preservation and destruction are inherently conjoint and codependent. As in David Ely's cautionary tale, heritage salvage demands heritage subtraction.[19] "Failure to acknowledge that any part of it can be allowed to die can result only in madness."[20] Archivists, heritage managers par excellence, should be a model for us all: they limit intake to about 2% of what they are offered and then, perforce, mercilessly sift and winnow even that.[21]

But most cultural property managers shun the archivists' example. Getting rid of things hurts too much. "To know that everything is changing, is in some way dying," was a prospect too bleak for Ann Temkin's fellow curators. Museums hate dealing with evanescent art, creations intended to be ephemeral, doomed *churinga*,

or chocolate creations meant to decay within months. Curators are schooled to accession forever; an acquisition number marks "the sense of permanence bestowed by an inventory." Philadelphia Museum of Art staff members "felt terrific about exhibiting *Strange Fruit*," a Zoe Leonard composition of avocado, grapefruit, lemon, orange, and banana skins, but they felt uneasy about *acquiring* it. Visitors as well as museum trustees take it for granted that works of art are permanent assets. To let them deliquesce or decay, even at their makers' express wish, is dereliction of duty, culpable complicity in property loss.[22]

2. CULTURAL HERITAGE MATTERS ABOVE ALL FOR THE INFORMATION IT CAN YIELD

Context is said to be of primary concern; securing knowledge matters more than taste, convenience, political goals, curatorial needs, and above all, commercial gain. Hence we are adjured to leave relics in situ, to conserve all epochs of building use and alteration, to retain all evidence of a painting's history. Archaeologists take pride in *not* digging, in the faith that future generations will be able to excavate with less loss of information. Art historians crave access to information about works of art beyond any concern over issues of ownership, including illicit trade.[23] "We are an art museum" was the director's justification for the unprovenanced antiquities in the Metropolitan Museum of Art's recent "First Cities" show. "We have an obligation to knowledge . . . to put these objects forward."[24] A bellwether museum-studies volume is entitled *Objects of Knowledge*, not, as museum holdings used to be termed, objects of aesthetic delight, patriotic praise, civic virtue, or moral edification.[25]

This preference reflects two modern shibboleths. First, information is an unalloyed good of which we can never have too much; it is the font of knowledge, wisdom, and progress. Second, unlike other heritage desiderata—wealth, glory, antiquity, self-respect, roots, identity—the quest for information is essentially unselfish; it is garnered and dispersed for all humanity.

Neither stance is tenable, however. Information is no unmitigated good but a commodity of which we now have a daunting and bewildering plethora. Complaints of information glut go back to Seneca, but printing and electronic reproduction aggravate the problem. The explosion of printed matter after 1550 led Robert Burton to feel oppressed by "a vast chaos and confusion of books" and Denis Diderot to fear it would soon "be almost as difficult to learn anything from books as from the direct study of the whole universe," easier "to search for some truth concealed in nature [than] to find it hidden away in an immense multitude of bound volumes."[26]

Print made writing cheap and easy to disseminate; electronic transmission diffuses text everywhere instantaneously. Both breed indiscriminate growth. To supply a broader but less learned public, publishers printed [referring to past] more

and more rubbish. But informed judgment still enabled gatekeepers of the word—editors, archivists, librarians—to sift classic wheat from common chaff. The computer and the Internet, unable to distinguish true from false, allow no informed scrutiny. The more easily data are produced, the harder they are to filter.[27] Overload inhibits retrieval: in 1997, one-third of the World Wide Web's 320 million pages were indexed; of 800 million in 1999 only one-sixth. By 2002 data had more than doubled again, to 800 megabytes for every person on the planet.[28]

Far from promoting knowledge, this avalanche of raw data imperils it. We spend ever more time dealing with "information as garbage, information divorced from purpose and even meaning"—not just with "more statements about the world than we have ever had," in Neil Postman's phrase, but with "more *erroneous* statements than we have ever had."[29] Bereft of cataloguing aids, Internet users cannot evaluate the glut they face and have no idea what they may be missing. As in Borges's Babylonian library, we have all possible books in the universe but can't locate what we seek among the infinite clutter of useless gibberish. Unlimited access proves an anarchic nightmare.[30] Our Internet world is that of Stanislaw Lem's robot, greedily devouring data churned out at three hundred million facts per second on "the sizes of bedroom slippers available on the continent of Cob, . . . six ways to cook cream of wheat, . . . twelve types of forensic tickling, and the names of all the citizens of Foofaraw Junction beginning with the letter M." At last he cries "enough," but "Information had so swathed and swaddled him in its three hundred thousand tangled paper miles, that he couldn't move and had to read on and on . . . all about . . . the courtship of the carrion fly and why we don't capitalize paris in plaster of paris . . ."[31]

So easy is access that "we think we're *entitled* to all the information there is." We want it all, and we want it now.[32] Heritage stewards like others suffer "'mythinformation'—the almost religious conviction that at the root of our difficulties . . . is the fact that we do not have enough information." But cultural property dilemmas do not persist for want of information; they plague us because we don't know what to do with all the information we have, which we confuse with knowledge, even with wisdom.[33]

But information priority is not a universal given; it is a cultural choice. An American curator recalls a pre-NAGPRA (Native American Graves Protection and Repatriation Act, 1990) meeting with anthropologists dismayed by the prospect of losing knowledge to artifact reburial.

> Finally one Native American activist said, "Why do you white people need to know all this stuff? Why can't you just let it go?" Listening, I had such a visceral reaction of horror, I knew he had hit on something very sacred to *my* culture. The thought of deliberately letting knowledge perish was as sacrilegious to me as the thought of keeping one's ancestors on a museum shelf was sacrilegious to the Indians.[34]

Information gathering is often as self-serving as any patently selfish use of cultural property. It may be that "knowledge is a gift of God," in the classical and

medieval adage, "hence it cannot be sold."[35] But information is routinely sold, notably in cultural-property matters. It is also structured to suit purchasers and hidden from others' scrutiny. Enlightenment and Victorian advances in literacy and social inclusion won access for ever more readers, making information a public good. That inclusive vision is now at risk. The dizzying pace of information technology confines the latest modes of retrieval to experts, consigning cheap and easy means of retrieval to the dustbin. High-tech apparatus and costly databases restrict access to the well-equipped and the well-off; "market forces continually compound these pressures," notes an archivist.

> Today, libraries can buy an encyclopedia and put it on the shelves for anyone to use. Tomorrow, they may have to pay a large fee to get the encyclopedia, then be charged an additional fee for every use of the resource, be forbidden to let anyone not a member of a particular university community have any access to it at all, and be required to give it back if they stop paying an annual fee.[36]

With ever less on open shelves, the general public is more and more excluded. From public services, archives and libraries become privatized wares. The omnium-gatherum gives way to the specialized databank—"bank" itself suggests putting money away. Just as journals once open to all become accessible online only to the few, once-public services drift into pay-for-use. Former repositories for reaching consensually agreed truths become propaganda dossiers for special interests. Governments use the Net to snoop, entrepreneurs convert it into a shopping mall, and global business preempts its cables.[37] In theory, Web-based publications can be accessed from any of the world's 100 million terminals; in practice, they are less accessible than most library books. The Internet has "put the future of the past—traditionally seen as a public patrimony—in private hands," concludes a historian.[38]

Corporate pressure restricts information access. Market forces render data ephemeral. Up-to-the-minute business use determines survival; "antiquarian" material of no immediate "relevance" gets dumped. Data withdrawn from ready scrutiny ceases to be veridical for or veracious to society at large. What should be done, a seminar group was asked, if a researcher on contract to write a business history found material embarrassing to the firm? The answer: to destroy the evidence would be unethical; instead, reshelve it under lock and key to minimize the chance it is ever seen again.[39]

Keeping things from general perusal is common practice among heritage custodians, from the British Museum and the Smithsonian to Aboriginal and Native American tribes. Like regal and papal potentates of yore, indigenous groups treat knowledge as sacred and exclusive. Showing a legacy to outsiders vitiates its virtue and power. Confining information and controlling its flow is felt essential to the survival of tribal societies.[40] Like "tribal" Washington, where each White House press secretary keeps a "secret history" hidden in a bullet-proof waistcoat to be shown only to his successor, Maoris and Aborigines exclude outsiders and women and noninitiates from ceremonial display and access to museum artifacts.[41] The

value of Pawnee Indian "sacred bundles" inheres in being opaque to outsiders; they are defiled or polluted if seen by others,[42] for "the authority of knowing is often coupled with the authority to judge."[43]

Such authority justifies more than exclusion; it condones theft for the sake of restitution, as in the case of the Aztec codex stolen from the Bibliothèque Nationale in Paris and installed, with minimal French protest, in Mexico's National Museum.[44] And as noted earlier, it validates the destruction or obliteration of artifacts in rites of passage, ritual exchanges, spiritual purification, and arts and crafts renewal.

Conflicts over privacy bedevil heritage management everywhere. But they especially vex tribal relations in pluralist societies, where indigenous groups must at the same time proclaim their heritage yet keep it hidden. If tribal knowledge is inviolate, how can any outside agency adjudicate between tribal and other rights? "The state must protect heritage," noted Michael Brown, "but it cannot inquire about what that heritage is, where it came from, and where it might be headed."[45] The International Society for Ethnobiology invokes both a *principle of reciprocity* stressing "the inherent value to Western science and humankind in general of gaining access to knowledge of indigenous peoples [and] traditional societies" and a totally opposing *principle of confidentiality* affirming those groups' right, "at their sole discretion," not to disclose anything they want to keep confidential.[46]

Data freely open to all is a noble but far from universal aim. And advocates should be aware of how and why information arises in the first place. It is initiated by personal curiosity, perhaps spurred by careerist and social incentives, often triggered by possession. To own a piece of the past promotes a fruitful connection. "When I think of my own fierce joy on acquiring a Roman coin at the age of 15, and my frenzied researches into the dim, fourth-century emperor portrayed on it," recalled Auberon Waugh, "there can be no doubt in my mind that it served a far more useful purpose than it would in the county museum."[47] As honorary curator of such a museum, John Fowles nonetheless championed public access to Dorset's fossil-rich chalk cliffs. "What they pick up and take home and think about from time to time" brings to life the reality of "the poetry of evolution," a value far transcending the protective tenets of "vigilante fossil wardens."[48] It is the *passion* for acquiring knowledge—an act of discovery—that gives rise to almost all we know. Only by caring do we bother to become informed. Disembodied selflessness is a chimera: to know is to possess, to possess to know.

Yet to invoke altruism seems irresistibly infectious. Holier-than-thou rhetoric suffuses every realm of heritage. Auctioneers no less than academics claim to be actuated by motives that would pass muster in paradise. Knowledge, not ownership, is said to animate metal-detecting treasure seekers. Collectors amass antiquities not to possess but to learn from and leave them to global posterity. Benevolent buyers of tribal goods endow indigent host countries with heritage *matériel* and expertise.[49] Galleries display unprovenanced treasures to heighten public awareness of what would otherwise be lost or scattered or ruined. Pharmaceutical firms harvest indigenous plant species for the benefit of all mankind.

In short, we con ourselves into heritage hypocrisy. Personal selfishness is seldom confessed, mostly self-concealed. National avarice is rebuked, tribal self-interest justified as cultural survival and global equity. Few are willing to admit the reality that much information, like cultural property in general, is valued precisely because it *is* private, *our own*, not someone else's.

3. COLLECTING IS REPREHENSIBLE: IT MUST BE CIRCUMSCRIBED IF NOT OUTLAWED

I exaggerate for effect. Few damn all collectors—there's nothing wrong with amassing furniture, cigarette cards, Dinky toys, modern art, even old master paintings, said the archaeologist Colin Renfrew. But unprovenanced antiquities are entirely off limits; those who collect them collude in the rape of our shared global heritage.[50]

What concerned Renfrew was the loss of context caused by illicit digging, looting, source concealment, export fraud, and blind-eye trading and auctioning. Yet these evils beset all cultural property, not just excavated antiquities. They afflict Dinky toydom along with Cycladic sculpture. Whistle-blowers in every branch of heritage censure corruption. They do so with no less reason than archaeologists, for information is lost when anything is removed or altered to conceal provenance. Paintings and drawings are unframed, defaced, and over-painted and documentation forged to pass customs scrutiny. Ancient armor, vintage autos, aboriginal art, Barbie dolls suffer like abuse. Contextual knowledge is the *intended* victim. But it is not the only victim: such acts degrade sites and objects themselves, depriving them of beauty and integrity. Why agonize over unprovenanced antiquities alone? Indeed, why confine censure to collecting that is illicit, when what is lawful also does incalculable harm?

Yet in the absence of collecting, there would be little movable cultural property (and today almost everything is portable) to arouse concern at all. To the Bad Collector along with the Good Collector we owe almost all that is stewarded in the world's museums and galleries. Without those who amass things to begin with, most of these treasures would have vanished from view. "Collectors are heroes; they rescue antiquities from almost certain destruction . . . and save and exhibit them for the benefit of humanity."[51] This self-serving exculpation in time turns true: most of what individuals avidly pile up for themselves becomes public property by subsequent gift or sale.[52]

Contrast this with the fate of things deemed unworthy of collection, like the Inca and Aztec artifacts that the conquistadors found savage and grotesque and so melted down for bullion. Three centuries later, that rendition still held proof of their worthlessness. Had they any merit whatever, the Europeans who took them, "being quickened by art, would have . . . sacredly preserved them," argued James Jackson Jarves, America's then best-known art critic, in 1864. "We need no fact

more demonstrative of the absence of art value in the immense quantities of wrought silver and gold . . . than that all went directly to the crucible."[53]

Better the most cloistered cabinet of curiosities than the conquistadors' crucible. "If there were no market, treasures would be melted down . . . to make weddings rings or to sell as bullion," noted George Ortiz, much rebuked for publicly displaying his own unprovenanced antiquities. "The market . . . is a saviour."[54] We are grateful to avaricious forebears for modes of appropriation no longer countenanced. "Nowadays, no respectable museum would buy objects which it believes have come from illicit digging," reflects a reviewer on curator Herbert Winlock's Luxor purchases in 1922. "But it was something of a blessing that the Metropolitan [Museum of Art] did what it did, because otherwise the treasures would have been scattered around the world," mixed up with other antiquities, made into jewelry, or melted down.[55] The U.S. customs investigator doubted the motive, not the veracity, of the Madison Avenue dealer who "considered himself a saviour of Eastern art, for if he didn't encourage its illegal removal," it would have been "broken up and used as road construction material."[56]

The impulse to collect is in any case well-nigh universal.[57] We store for future needs. Hunters and gatherers save game and fruit against seasons of dearth. Farmers garner grain from harvest to planting. Mere toddlers pile up pebbles and shells. The *Antiques Roadshow* attracts more than half a million youngsters, "curators from the cradle" who learn to handle, appraise, and acquire antiquities.[58] The 13-year-old bidder who got a Degas on eBay is a fledging Ortiz, a collector whose passion is not unrequited. "Objects came my way . . . because they had to do so . . . they came to me because they knew I would love them."[59] A British Museum anthropologist likened his collecting in Papua New Guinea to marriage; "the collection itself was viewed as a bride," paid for in bride-wealth and being ritually purified before "being sent from this society to my own."[60]

Digging at Saqqara in the 1870s, Amelia Edwards expressed remorse at being a party to plunder, but

> we soon became quite hardened . . . , and learned to rummage among dusty sepulchres with no more compunction than would have befitted a gang of professional body-snatchers . . . So infectious is the universal callousness, and so overmastering is the passion for relic-hunting, that I do not doubt we should again do the same things under the same circumstances.[61]

She was true to type. "We are inherently greedy collectors," confesses a museum director. "The desire to accumulate and bring together objects of quality is in our blood." Professionals acquire no less avidly for the public than amateurs on their own behalf. Museums with modest purchase funds find it easy to be virtuous; with millions it is "impossible to ignore tempting objects of all sorts."[62]

The collecting instinct is more than human: many birds and mammals squirrel away bedding and foodstuffs. Obsessive hoarding can be induced: biologists have tweaked the right medial prefrontal cortex of rodents to make them go on amass-

ing useless objects "no matter how much they've stashed away."[63] So perhaps covetousness can be curtailed. But if a human race shorn of the collecting instinct is imaginable, the likely ill effects would outweigh the benefits.

That collecting is alike innate and, on balance, benign makes it no less offensive to heritage stewards. And with some reason, for its attendant looting and fraud are not likely to wither away any time soon. Secrecy and shady dealing are not simply adventitious side effects of antiquities and art and cultural property markets; they are integral to those markets. They flourish because they well serve both buyers and sellers, against whom sanctions are largely unenforceable, especially in lands that embargo all trade in relics. They also enhance the visibility and survival of some antiquities. "If you ask too many questions," says a dealer complicit in smuggling a stele out of Egypt, "too many things will disappear."[64] As much as ever, "the international black market thrives because no alternative is allowed to exist . . . , so that all economic incentives are pushed in favor of the *illegal* trade."[65] The few dozen conspicuous exceptions—digging halted, smuggling prevented, restitution achieved—are but a tiny fraction of the flourishing commerce in illicit goods. "Illicit digging is not something that can be stopped," concludes a curator; export bans are worse than useless. Given "the material gain from finding just one little minor antiquity in relation to the earnings of the typical worker the temptations are too great to stop."[66]

Hence it is a cardinal rule among antiquities dealers to "operate in darkness [where] secrecy is their watchword and incontestable right."[67] In Paul Bator's classic remark, "the most striking thing to a lawyer who comes upon the art world is how deep and uncritical is the assumption that transactions within it should normally be—are certainly *entitled* to be—secret." Bator found the art and antiquities trade wholly mired in fraud and deception; the acceptance of the principle of secrecy "enables persons, otherwise aspiring to the highest standards of personal probity, to become accomplices in the acquisition of looted masterpieces."[68] Still true today; Sotheby's and Christie's continue to pilot the trade, with few hostages to justice, into ever more lucrative heritage honeypots. Secrecy is not confined to crooked dealers and clients or even to honest dealers and clients; it is integral to such bastions of rectitude as the Metropolitan Museum of Art and the British Museum.[69] "However much one publicly deplores the illicit art trade, any contact with the trade corrupts," writes a critic.[70] "People think that there is an illicit market and a legitimate market," said archaeologist Ricardo J. Elia. "In fact, they are the same."[71]

4. NATIONS AND TRIBES ARE ENDURING ENTITIES WITH SACRED RIGHTS TO TIME-HONORED LEGACIES

Heritage is piously declared the legacy of all mankind. But the possessive jealousies of particular claimants pose huge, often insuperable, obstacles to our global

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common heritage. Indeed, the very notion of a universal legacy is problematic, confining possession to some while excluding others is the *raison d'être* of most heritage. Each group's heritage is by definition domestic. The past we prize is our own; those of foreigners are alien and incompatible. Our legacy is jealously *un*shared.[72]

We need reminding that because "all heritage is someone's heritage, . . . it is thus by definition *not* someone else's."[73] Heritage makes each past an exclusive, secret possession. Created to generate and protect group interests, it benefits us mainly if, like Pawnee sacred bundles, it is withheld from others. Being clannish is essential to group survival and well-being. Heritage keeps outsiders at bay through claims unfathomable or offensive to them. To exclude others, heritage cannot be universally true; for those beyond the pale, its tenets must defy reason. Hence each corporate group cultivates a crop of delusory faiths—faiths nutritive not despite but owing to their flaws. Exempt from critical analysis, heritage fabrication sustains every society. The bad effects of wrong beliefs are more than compensated by the bonding a legacy confers and by the barriers it erects against others. Shared misinformation excludes those whose own legacy encodes different catechisms. "Correct" knowledge could not so serve, because it is open to all, alien and domestic alike; only "false" knowledge can be a gauge of exclusion.[74] Hence, heritage mandates *mis*reading the past. Like the famed Slav soul, it is hidden and enigmatic, yet irrefutable.

Each of us inherits multiple overlapping legacies. But zealous patriots are intolerant of partial allegiance and demand our exclusive loyalty. Because we cannot cleave to nation, locality, faith, vocation, and family all at once, we mute our ties to competing legacies. In being true to *one* self, we necessarily put our other collective selves on the back burner. Nationhood above all demands absolute fealty. "Nationalism has to fill one's life," aver Europeans. "We can have no 'fifty-fifty' allegiance," agreed President Theodore Roosevelt. "Either a man is an American and nothing else, or he is not an American at all."[75] A nation, it is truly said, is a society united by a delusion about its ancestry and by a common hatred of its neighbors. Chauvinism underpins most heritage rapine.

We have come some way since the Rosetta Stone entered the British Museum "honourably acquired by the fortune of war," since Napoleon looted all Europe and North Africa to prove France the Roman Empire's rightful heir, and since rich Americans "would carry away all England if it was possible."[76] But jingoist frenzy still foments plunder and inhibits restitution. Israel's 1994 cession to Egypt of all relics excavated in Sinai since 1967 was termed "unprecedented," Taiwan's return to mainland China of a Buddha head snatched from its body in 1997 a "rare gesture."[77] When art taken from Germany in the Second World War went on public view in 1994, Russia was praised for sharing "appreciation of a magnificent common heritage." But Russia refused to give it back; after all, Nazis had seized much of it from Jewish owners, its return would undermine Russian claims to czarist treasures, and its retention was just reparation for millions of books burned and

treasures wrecked. "The Germans said the Slavs have no cultural heritage and that all must be destroyed," as St. Petersburg palaces and Novgorod frescoes bore tragic witness.[78]

Rivalry suffuses internal as well as international heritage affairs. National, regional, local, and in situ museums contest its allocation. With a threat more dire than that Melina Mercouri invoked to regain the Elgin Marbles, Lewis Islanders wanting back their twelfth-century chessmen warned the British Museum that "people have died horribly in the seizure of these pieces." At every level of identity it is more and more "assumed that one's cultural reach is fixed and determined forever by whatever slot one is raised in."[79]

Self-regarding chauvinism is perhaps now more than ever a potent and stubborn impediment to global sharing. National and local self-esteem are sacred writ in UNESCO and other cultural property protocols. Equating heritage with identity justifies every group's claim to the bones, the belongings, the riddles, and the refuse of every forebear back into the mists of time. All that stands in the way of everyone's reunion with all their ancestors and ancestral things is its utter impossibility.

It is impossible because the essentialist credo that fosters these claims flies in the face of historical reality. There are no well-attested, or long-enduring, or pure, or unchanged social or cultural entities. Contrary to such fictions, invented or embellished by romantic chroniclers and philologists, every people are hybrid, every legacy multiple, every society heterogeneous, every tradition as much recent as ancient. All cultures are compage that amalgamate reworked fragments stemming from manifold antecedents. The farther back in time the more mixed is every ancestry, the less like the present every past people. Multiple entitlements embroil and vitiate all allegations of prior existence, prior occupance, priority of use, or of discovery.

Consider Europe, where each unambiguous ethnic group, graced with immutable language, religion, customs, and national character, ardently avers autonomy and rule over a realm defined by early medieval settlements or kingdoms, no matter who lives there now. "Contemporary nationalists . . . look to the moment of primary acquisition, when 'their people,' first arriving in the ruins of the Roman Empire, established their sacred territory and their national identity." But medieval historian Patrick Geary termed this willful fancy:

> Congruence between early medieval and contemporary "peoples" is a myth. . . . The history of European peoples . . . is not the story of a primordial moment but of a continuous process, . . . a history of constant change, of radical discontinuities. . . . Franks "born with the baptism of Clovis" are not the Franks of Charlemagne or those of the French people [of] Jean Le Pen. The Serbs . . . in the decaying remnants of the Avar Empire were not the people defeated at the battle of Kosovo in 1389, and neither were they the Serbs called to national aggrandizement by Slobodan Milosevic.[80]

Tribal primordial claims match, indeed trump, European disregard of historical reality. Australian Aboriginal painters assert direct descent from and continuity

with prehistoric cave artists: "The same communities that made rock art are making the art we see today."[81] Modern Hopis and Navajos parade as hoary traditionalists whose ancestral occupance of the Four Corners country makes them its natural and rightful stewards. Indeed, majority pressure leaves them little choice, casinos aside, but to feign such links. "We have to learn to be Indian again. First, the whites came and stripped us. Then, they come again and 'find' us. Now, we are paid to behave the way we did when they tried to get rid of us."[82] Newly minted or regained stability shrugs off the actual annals of European incursion, cultural innovations, social upheaval, sexual mixing, ecological change, and tourist commerce that have transformed Southwestern tribes.

Indigenous peoples thus get redefined like European essentialists—we are the same people we have always been, our values unchanged since time immemorial. Mainstream heritage not only acquiesces in this fiction but actively promotes it. Thus a South Dakota exhibit celebrated Sioux adherence to "generosity, fortitude, wisdom now, as ever, . . . a timeless culture that was, is, and will be."[83] A restitution expert justifies tribal claims to the Kennewick skeleton by virtue of self-ascribed indigenous primordiality—having been in America from the beginning of time. To deprive Native Americans of their remote mythic past by "externally imposed and artificial time boundaries," in this view, "places their heritage and their religious beliefs in jeopardy."[84] (Surely, one would think, such disrespect should strengthen rather than weaken tribal resolve.) If cultural property is morally inalienable from the original owners, as currently contended, then each discrete creation myth, custom, language, lifestyle, and artifact is a fragile jewel to be shielded against attrition and contamination. To be saved, it has to be seen and appreciated, but not so far as to encourage corruption by modern admixture. Hence, for example, "museums have to persuade indigenous people to exhibit their culture without amalgamating it into the Western tradition."[85]

This chimera of timeless tribal purity harks back to the 1920s and 1930s, when an Arizona museum sought to rescue authentic Hopi arts and crafts by banning aniline dyes, scrapping "touristic" basket shapes for old-time flat ware, and "restoring" prehistoric Anasazi and Mimbres pottery motifs. (A Santa Fe potter later complained that she could not use a pottery wheel without being chastised as inauthentic.[86]) Anthropologists made much of pueblo dwellers' traditional subsistence without mentioning that they got most of their food by driving to the local supermarket, and stressed traditional dances while ignoring the same Indians' attendance at Anglo discos in Anglo clothes.[87] The same primitivist mystique animated English folklorists to find and nurture "ancient and unchanging links with a lost rural past when the folk in organic societies responded simply and directly to the rhythms of nature." Subsequent alterations and accretions were dismissed as degenerative.[88] As late as 1968, Cecil Sharp legatees in Anglo-Saxon England and Appalachia alike asserted that "folk society and folk art do not accept, reflect, or value change."[89]

Visions of cohesive innocent indigenes unaltered by history and untouched by mainstream ways have long been consigned to the scholarly dustbin. They survive among tribalists themselves mainly for rhetorical positioning in politics and legal disputes. Coca-Cola bottles on South Ryukus altars, Aboriginal and Maori inventive pastiche, Pukapukan synthesis of tribal with biblical ceremony give the lie to the conceit that "while 'we' had moved on, . . . these 'other' people had somehow stood still."[90] Hence, it had been supposed, "we" but not "they" could adapt to change and adopt alien ways without social suicide.[91] Yet this patronizing anachronism gains renewed currency among patrons of indigenous cultures, in the name of equity and of global diversity. Despite caveats that tribal peoples "retain the right to 'market' themselves if they want to,"[92] primitivist essentialism wreaks havoc in heritage affairs. In particular, it exacerbates problems of restitution.

Failing an assured and undivided ancestry, repatriation is a dodgy mission that calls to mind the supermarket melon labeled "product of more than one country." Priam's golden hoard—the Trojan treasure Schliemann smuggled out of Turkey, kept in Greece, and gave to Berlin, where Soviet forces seized it—is claimed by four nations as their sole legacy. Who are the rightful heirs of ancient Babylon or the Ottoman Empire? To which descendants ought one consign Oetzi or Kennewick Man? Were Britain to cede it, should the Koh-i-Noor diamond go back to India, Pakistan, Iran, or Afghanistan? No UNESCO or NAGPRA diktat can tell. Cultural property conflicts based on identity and descent are unavoidably decided by arbitrary fiat, not by natural justice.[93]

"First People" identity claims are ambiguous, casual, confused. The ancestral horizons of early Australians and Americans were as circumscribed as those of medieval Europeans; Indians and Inuits and Aborigines asserted Ur-continentality only when the continents ceased to be theirs. In any case, all ancestral roots are ultimately of equal age; each of us harks back to Lucy and her ilk. What entitles stay-at-homes more than others? Why has Melbourne, the world's third-largest Greek city, no original relic of Greece's classical legacy? Should Ghanaians have more say than African Americans over how to restore and display the Gold Coast dungeons from which millions of slaves were shipped to the New World? As Alex Haley's *Roots* have shown, diaspora are notably heritage hungry; "the more people are on the move, the more they will grasp at tangible memorials of their collective past."[94] With ever fewer folk left on ancestral turf, hundreds of millions of emigrants and their offspring crave legacies. So do mounting numbers of wannabe Maoris, Aborigines, and Native Americans, attracted by the spirituality, ecological nous, exotic chic, or lucrative spin-offs of minority status. Such is the urge to become Indian that tribes have reinstated blood-quantum criteria, telling applicants that having been Native American in a former incarnation does not entitle them to tribal membership.

However dispersed or diluted a group actually is, its presumed solidarity shores up essentialist claims. Nations, ethnic minorities, tribes, and so on are assumed to speak with one voice. Hence each collective entity asserts the right, even the duty,

to enforce heritage traditions for all its members. "The true purpose of NAGPRA should be seen as the returning to Native American *groups* the ability to control their own identity," to sustain "legitimate cultural authority."[95] That authority is explicitly vested in anointed chiefs, elders, and censors.[96] Oligarchical rule is mandated on the premise that cohesion is crucial for such groups, whatever the cost to universalistic values of gender and other equity. However, such strictures pertain only to *traditional* social entities and tribal minorities; these are deemed to speak with one voice, while mainstream pluralists do not.

Hence the disparate standards adopted for managing heritage. "What justifies this sacrifice of object-related values?" asked Merryman of the Afo-a-Kom, the revered sculpture stolen from Cameroon to be sold in the United States, which might when returned to Cameroon be ritually secluded or destroyed.[97] "The answer is, of course, person-related values," replies Prott. "By what moral principle does one justify values related to an object above those related to people and central to their well-being? By what right should an object meant by its creators to be seen only by authorised persons be made accessible to the public at large?"[98]

But the values Prott invokes are not *person*-related, they are *collective* values that cede total control to the *tribe*. They take for granted an identity between those who some time back made ritual objects and those who are now using them, and the concurrence of present-day folk with ancestral rules and hierarchies. "For the system to work," writes the anthropologist Diane Bell vis-à-vis Aboriginal heritage, "those who are not privy to the inside knowledge must accept the authority of those persons who are privy, and the wisdom of the restrictions."[99] It is the *system* that counts, not those willy-nilly in it.

That "groups have rights similar to those that have traditionally been reserved for individuals" is lauded as "neo-Enlightenment morality."[100] But when groups are fossilized as sacrosanct entities, the morality of the outcome is dubious.[101] By what right, in circumstances much altered today, should women have to submit to the will of male elders? How many and which members need to subscribe to the traditional view for it to remain authoritative, let alone representative?[102] Such issues are highly contested, to be sure. Not every Anglican is happy about women being priests, let alone becoming bishops. But the Anglican Church relaxes ancient proscriptions in line with general social change. Ethnocentric traditionalists do not.

What of the right of individuals to deal as they wish with cultural property personally created or lawfully acquired? Have persons *less* claim than groups? Inheritance laws safeguard personal, not group desires; we aim to leave cultural property to particular heirs, not to a generic state. "Everyone agrees the remains of grandparents should be [held] where grandchildren can decide what to do with them," declares the president of the American Association of Physical Anthropologists. Not the state, not the tribe, but the *grandchildren*.[103] We may deplore the miserly greed or pathological privatism that impels a collector to squirrel an old master painting out of sight,[104] or, as bibliophiles have done, to buy simply to

destroy any incunabula whose existence detracts from the pricelessness of their own otherwise unique copy. But we have no right to prevent them from doing so, unless we are prepared to forgo free-market liberty for authoritarian collectivism.

Essentialism is a stubbornly persisting delusion. Each group claims its "own" history and heritage, insisting that only a Native American can know what it was like to have been Indian, only an African American to have been black, only a Jew an ancient Israelite. Mystiques of ancestry determine how legacies are divided, whose historical tales are heard, how and to whom heritage is displayed. This is politically correct, but practically wrong—wrong because we are all multiply mixed, wrong because ancestral pasts cannot be possessed anyway. To say my ancestors, the Gauls, or my forebears, the Athenians, or my people, the Africans, makes a statement not about them but about us; these Gauls, Athenians, Africans are not actual progenitors but presentist emblems of ancestry. "Claims that 'we have always been a people' actually are appeals to *become* a people," concluded Geary, "appeals not grounded in history but rather, attempts to create history."[105]

Creating history is a fraught enterprise. "Who has the right to frame and interpret the past of others?"[106] This oft-raised query implies that no one has such a right. But that right is asserted all the time, for we all have a stake in each other's history. "History did not need to be mine in order to engage me," wrote the Haitian historian Michel-Rolph Trouillot. "It just needed to relate to someone, anyone. It could not just be The Past. It had to be someone's past."[107]

Yet no "past of others" is truly distinct from our own. All pasts are those of others *and* ourselves. Nobody "owns" a past whose interpretation is their exclusive privilege. The real question is "not *which* past should count as ours but why *any* past should count as ours," since most of "the events and actions that we study did not happen to and were not done by us. In this sense," we are reminded, "the history we study is never our own; it is always the history of people who were in some respects like us and in others different."[108]

This insight, however, is anathema to nationalists and tribalists. For them the beat of "their own" history is that of their own hearts. To gain permission to use Apache blood samples, geneticists studying disease resistance had to agree to refrain from any research "that might contradict traditional views of the tribe's history."[109] At the University of Western Australia, any mention of Aborigines in history lectures must be vetted beforehand by the state Aboriginal council.[110] As a Tokyo University professor put it in defending a history textbook's fiction of heroic Japan's war record, "All nations have a right to interpret their history in their own way. . . . That is a part of sovereignty."[111] Angered by an expression of historical doubt over the wisdom of bombing Hiroshima, one congressman aimed "to get patriotism back . . . to reflect real America and not something that a historian dreamed up."[112] Wearied of bogus tales of wartime heroics, Richard Cobb concluded that historians ought to make it a rule "to assume that our country is *always* wrong."[113] Only thus could they begin to question canonical national myths.

Essentialist claims are flawed in logic, untenable in fact, lethally divisive in practice. Yet they continue to proliferate, shaping every aspect of heritage—how it is identified, interpreted, stewarded, altered, purloined, and scuttled. Such claims endure because they are embedded in long-standing notions of cultural property—even of natural and intangible legacies. The aurora borealis has been bitterly contested as a national find by Sweden, Norway, Russia, even by France on the basis that its very absence from their skies made the French more acute observers.[114] And national, tribal, and local retention and restitution claims become not less but more assertive because global agencies and scholarly bodies lend them moral standing.

Free trade, even in images and ideas, is increasingly curtailed. To be sure, UNESCO's intangible cultural heritage convention says nothing about state retention. It would ludicrous, as Merryman says, to stop a Japanese "living treasure" from emigrating to Korea, or a dwindling Canadian First Nations band from joining a thriving Minnesota tribe.[115] It would be absurd for Greece to deter neoclassical architects from "borrowing" Corinthian designs or to demand tearing down that Greek temple, the British Museum. Yet Canada cordons off its music and media from the U.S. juggernaut, Britons protect "native" landscapes against "alien" continental weeds and vermin, peoples the world over secure everything, from deities to drumbeats and dance steps, against export. Foreign tattooists' use of Maori designs, "an ancestral legacy [that] should not be abused, exploited, or commodified," is censured as "pillaging the spirit of a tribal people to sate the culturally malnourished appetites of the decadent . . . West."[116] Prince Harry of Britain committed "cultural theft" in exhibiting paintings with Aboriginal motifs. "They stole our land, they stole our religion, they stole our remains, and now they have stolen our images."[117] An Aboriginal tribe sued the National Aquarium in Baltimore in 2004 for replicating its sacred waterfall in a display of Australian flora and fauna.[118]

Local constraints encumber even *potential* heritage resources. Samoa in 2004 gained sovereign control over an as-yet-undiscovered gene of the mamala tree, *Homalanthus nutans*, whose bark contains the protein prostratin, patented in 1997 to combat HIV. The tree grows elsewhere in the Pacific, but Samoans were the first to claim to recognize the bark's medicinal potential. Their indigenous knowledge raises a flag against biopiracy; every test tube containing the gene or its product will bear a Samoan imprimatur.[119] *All* references to tribal culture by outsiders are made subject to tribal control in a Draft United Nations Declaration on the Rights of Indigenous Peoples (1994), empowering their "right to maintain, protect, and develop the past, present, and future manifestations of their cultures." Not only is the heritage of indigenous peoples "collective, permanent, and inalienable," held the United Nations in 1997, it embraces and protects "objects, knowledge and literary or artistic works which may be created in the future."[120]

A statutory safeguard can be a two-edged sword, however. Viewing cultures as the discrete possessions of discrete groups spurs demands for official recognition to protect their "legitimacy and richness," as Oakland's school board did for Ebonics,

the inner-city African-American lingo of fancied West African cum slave-ship origins. But "subcultures flourish when they are just part of life, not part of the curriculum," as Louis Menand observed. "When they acquire official patronage, they're on the way to the museum."[121] A UNESCO imprimatur similarly confers on "Masterpieces of the Oral and Intangible Heritage of Humanity" the fatal kiss of eternal life. Things fluid by their very nature are ossified into factitious perpetuity. Thus we "reinforce the notion that heritage is a kind of fortress requiring constant protection," in an Africanist rebuke, and that "every breach in its walls is one more irreversible step in losing one's culture."[122] Indeed, designation *promotes* loss: the very act of cataloguing, warns a United Nations tribal protection report, may "encourage outsiders to think that the heritage of indigenous peoples can be sold."[123]

Heritage chauvinism not only reflects group values, it also buttresses the credentials of those in charge. Rulers pose as stalwart guardians of precious treasures against foreign robbers. Blanket export prohibition talk masks actual inability to stem the drain of cultural property. Heritage-rich nations and tribal groups alike *sound* bellicose in defense of heritage because they are impotent to prevent its attrition. Looters in Belize outnumber and are better funded than the country's entire military.[124] Given Italy's vaunted 40, 60, or 70% of the world's cultural patrimony, it is small wonder army and police force combined cannot secure its relic-laden soil from *tombaroli*, its tens of thousands of museums and churches from theft, nor its porous borders from illicit export.[125] A lone iconoclast's wrench and screwdriver wreaked havoc in Venice with total impunity during the summer of 2004; to protect the city's massive heritage would mean putting the whole of it behind glass or replacing every original with a copy.[126]

From bellicose words ensue bellicose acts. "As tools of cultural identity and proof of ancestral claims to the land," noted US/ICOMOS's executive director in the wake of Taliban iconoclasm, "heritage sites have acquired new attributes important and perverse enough to merit their obliteration and fuel war."[127] Chauvinism everywhere, as in Geary's Europe, "has turned our understanding of the past into a toxic waste dump, filled with the poison of ethnic nationalism, . . . seeped deep into popular consciousness. Cleaning up this waste is the most daunting challenge facing historians today."[128]

CONCLUSION

Heritage stewards foster chauvinism by making autonomy holy writ and trusting that each sovereign people can and will enact the right controls. "Collectors will develop the moral sense to stop purchasing unprovenanced artefacts," in the militant archaeological view, "only when they have been humiliated into submission by public opprobrium." But "do Western collectors *really* stimulate looting," queries *Art & Auction* writer Steven Vincent, "or does the cause lie more with corrupt

source governments and impoverished social conditions?"[129] Or, perhaps, with cultural-property knights in shining armor?

A generation ago, heritage professionals were seen as selfless. No more.[130] Any defense of heritage is now a target of suspicion, denigrated as backward looking, deluded, or self-seeking. The public in general, and tribal people in particular, view claims of disinterested inquiry with a cynical eye. "Artifacts represent money and power to archaeologists and art historians," say tomb robbers. "That is how they make their upper-class living." In much of the world, as Thoden van Velzen has shown in Tuscany, illegal digging is not only a crucial adjunct to subsistence but "an institutionalised part of community life."[131] Rural villagers join curators and collectors in upbraiding "archaeologists [who] argue that every shard is a buried treasure and ought to remain in the ground as a nonrenewable resource until it is discovered—but only by them."[132] Museum staff suffer similar opprobrium; the very term "keeper" suggests a curmudgeon clinging to other people's stuff, much of it out of sight.[133]

Militant reformers would suppress antiquities looting by international treaty, court order, state fiat, and the moral artillery of shame and guilt. "No wonder the trade feels so besieged: their opponents act like a combined Pope, Minister of Culture and nagging parent, all the while claiming that they are the victims," yet at the same time coping with a "system where unaccountable bureaucrats pass down prohibitive edicts based on moral posturing."[134] Life in the trade sounds rough. Still, however buffeted between the Scylla of self-righteousness and the Charybdis of officious hypocrisy, dealers carry gamely on pushing antiquities around the world. Someone is bound to do it, for "the common fate of great objects is to be sold and sold and sold," noted Larry McMurtry—unless they are stolen or melted down. "Great jewels, books, art seldom reach a final home."[135]

High motives—justice, equality, global sharing—actuate many who would ban trafficking and enjoin repatriation. But in endorsing visionary reforms, they disserve their cause. The vast majority of prized portable property, and ever more of what used to be immovable, is no longer in lands of origin.[136] And the vast majority of heritage attachments are now commingled among countless shifting clienteles. "No efforts of romantics, politicians, or social scientists," warned Geary, "can preserve once and for all some essential soul of a people or a nation."[137] Both the solitary stakeholder and the unalloyed tribe are dying breeds. We sanction their heritage rights at our own personal and collective peril.

ENDNOTES

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6. Browne, *Hydriotaphia: Urne-Buriall*, 168.

7. Greenfield, *The Return of Cultural Treasures*, 299.

8. Cited in Lowenthal, "The Heritage Crusade and Its Contradictions," 22.

9. Barkan, "Amending Historical Injustices," 33 and 16 (my italics); Lyons, "Objects and Identities," 116. Arjun Appadurai's "The Past as a Scarce Resource" is the classic statement of scarcity, but not as applied to Western culture.

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22. Temkin, "Strange Fruit."; Lowenthal, *White Elephants and Ivory Towers*, 11–12; John Rockwell, "Preservation Performance Art: Can You Preserve the Wind?" *New York Times*, 30 April 2004, on "Not for Sale: Curating, Conserving and Collecting Ephemeral Art" symposium at New York University. Postmodern cultish decrepitude is exemplified in Bill Morrison's "Decasia: The State of Decay," a 67-minute montage of decomposing nitrate film: "all the putrefaction you could ask for. Watch the Master Narratives crumble! Entropy now!" (Herb Muschamp, "After the Decay of Decay, a New Modernity," *New York Times*, 7 February 2004, 1, 23).

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28. Kurt Kleiner, "Search Engines Can't Keep Up," *New Scientist*, 19 July 1999, 11; "Brain Drain" and "No Stopping the Megabytes," *The Times* (London), 1 November 2003.

29. Postman, *Building a Bridge*, 89–92.

30. Borges, "The Library of Babel."

31. Lem, *The Cyberiad*, 157–59.

32. Sawyer, "The Pied Piper Goes Electronic." We have gone, as Georg Simmel predicted a century ago, from the blissful poverty of the Franciscans' *omnia habientes, nihil possidentes* (having everything, possessing nothing) to *nihil habentes, omni possidentes* (having nothing, possessing everything) (Simmel, "The Concept and Tragedy of Culture," 73).

33. Postman, *Building a Bridge*, 89–90.

34. Carolyn Gilman to the author, 29 June 1995, recalling a 1989 symposium. Aborigines remark that "white people don't know what to remember and what to forget, what to let go of and what to preserve" (Griffiths, *Hunters and Collectors*, 226).

35. Davis, "Who Owns History?" 34.

36. O'Donnell, *Avatars of the Word*, 95.

37. Featherstone, "Archiving Cultures," 178; Sebastian Mallaby, "Libertarians No Longer Rule the Net," *International Herald Tribune*, 4 September 2000.

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39. Roth, "The Mechanics of a History Business," 36. On business destruction of potentially sensitive corporate information, see Rabchuk, "Life after the 'Big Bang,'" 40.

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41. O'Regan, "Maori Control of the Maori Heritage"; Butts, "'Nga tukemata: nga taonga o Ngati Kahungunu'; Wareham, "'Our Own Identity,'" 41–42; Lowenthal, *Heritage Crusade*, 128–29.

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43. Lyons, "Objects and Identities," 130.

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47. Auberon Waugh, "A Matter of Judgment", *New Statesman*, 17 August 1973, 220.

48. "Fowles Defends Fossil Collectors", *The Times* (London), 10 September 1982, 6.

49. Susan Keech McIntosh, in "'The Good Collector': Fabulous Beast or Endangered Species?" 74–5.

50. Colin Renfrew, in "The Good Collector," 76. The argument is elaborated in Renfrew's *Loot, Legitimacy and Ownership*.

51. McIntosh, in "The Good Collector," 74.

52. Hallman, "Museums and Cultural Property."

53. Jarves, *The Art-Idea*, 98.

54. Ortiz, "The Collector," 155.

55. John Ray, "Leave the Duck Alone," review of Christine Lilyquist's *The Tomb of Three Foreign Wives of Tuthmosis III*, in *Times Literary Supplement*, 6 August 2004, 8.

56. Koczka, "The Need for Enforcing Regulations on the International Art Trade," 191.

57. For telling examples see Blom, *To Have and to Hold: An Intimate History of Collectors and Collecting*, and Muensterberger, *Collecting: An Unruly Passion. Psychological Perspectives*.

58. Ralph Gardner, "Curators from the Cradle," *New York Times*, 13 May 2004, House & Home: 1 and 8.

59. Ortiz, "In Pursuit of the Absolute."

60. O'Hanlon, "Collecting among the Wahgi," 14.

61. Edwards, *A Thousand Miles Up the Nile*, 51.

62. Shestack, "The Museum and Cultural Property," 97–98.

63. "Secret of Compulsive Hoarding Revealed," *New Scientist*, 15 November 2003, 17.

64. Bernard Blondeel, quoted in Barry Meier and Martin Gottlieb, "A Illicit Journey Out of Egypt, Only a Few Questions Asked," *New York Times*, 23 January 2004, A1, 12–13.

65. Bator, *The International Trade in Art*, 42

66. James C. Y. Watt, chairman, Asian Arts, Metropolitan Museum of Art, 2002, interview quoted in Randy Kennedy, "China's Request for Art-Import Ban Stirs Debate," *New York Times*, 1 April 2005. Weekend: 33.

67. Dan Hofstadter, "The Angel on Her Shoulder: Annals of the Antiquities Trade," *New Yorker*, 13 July 1992, 36.

68. Bator, *International Trade in Art*, 84 n146.

69. Prott, "International Movement of Cultural Objects." For secrecy at the British Museum vis-à-vis Duveen's mistreatment of the Elgin Marbles, see St Clair, *Lord Elgin and the Marbles*, 281–313; and St Clair, "The Elgin Marbles." Archival records of the Duveen firm's art dealings were long restricted to the staff of the Metropolitan Museum of Art and the Frick Museum (John Brewer, "The Art of the Deal," *Times Literary Supplement*, 7 October 2004, 25, citing Colin Simpson, *The Partnership: The Secret Association of Bernard Berenson and Joseph Duveen* (London: Bodley Head, 1987). See also Secrest, *Duveen: A Life in Art*.

70. McIntosh, restating a 1987 comment in "The Good Collector," 78.

71. Elia quoted in Meier and Gottlieb: "A Illicit Journey Out of Egypt," Martin Gottlieb and Barry Meier, "Ancient Art at the Met Raises Old Ethical Questions," *New York Times*, 2 August 2003, A1, 1.

72. This is elaborated in Lowenthal, *Heritage Crusade*, chapters 6, 7, and 10.

73. Baers and Snickars, *Rational Decision-Making in the Preservation of Cultural Property*, Group Report, 278.

74. Freud, "Constructions in Analysis"; Munz, *Our Knowledge of the Growth of Knowledge*, 282–302.

75. Anthony D. Smith, "The Problem of National Identity"; Theodore Roosevelt (1917), quoted in Schlesinger, *The Disuniting of America*, 35.

76. General H. Turner to Nicholas Carlisle, quoted in Greenfield, *Return of Cultural Treasures*, 297; Charles Butler (1895), quoted in Lockwood, *Passionate Pilgrims*, 363.

77. Celestine Bohlen, "A Head Finds Its Way Back Home," *New York Times*, 9 January 2003, Arts: 1, 5.

78. *International Herald* Tribune, 26–27 February, 8 September 1994.

79. Lowenthal, *Heritage Crusade*, 229–30; Hughes, *Culture of Complaint*, 197.

80. Geary, *The Myth of Nations*, 37, 156–57, 174.

81. Hettie Perkins, curator of Aboriginal and Torres Straits Islander Art, quoted in Tony Clifton, *International Herald Tribune*, 26 April 2003.

82. Informant quoted in M. Estellie Smith, "The Process of Sociocultural Continuity," 132.

83. Nicholson, "Advisors to Partners: Bridging the Cultural Gap" 11.

84. Gerstenblith, "Cultural Significance and the Kennewick Skeleton," 178.

85. Barkan, "Amending Historical Injustices," 32, 39. Barkan wrongly ascribes this viewpoint ("consolidating, for some, the best possible goal") to the Australian archaeologist John Mulvaney, who said something quite different: museums and academics "must convince Aboriginal communities that their interests [are] positively safeguarded from amalgamation into European culture" (Mulvaney, "A Question of Values," 95). Mulvaney wanted to guarantee indigenous groups cultural protection; Barkan wants to protect the West against the dilution of indigenous culture.

86. Evans-Pritchard, "The Portal Case."

87. Wade, "The Ethnic Art Market"; Lowenthal, "The Timeless Past," 140–43.

88. Boyes, *The Imagined Village*, especially 96–99, 133–41; Lowenthal, "Timeless Past," 143–45.

89. Abrahams and Foss, *Anglo-American Folksong Style*, 11

90. Howell, "Whose Knowledge and Whose Power?" 177–79; Thomas, *Possessions*, 197–223, 269–76; Borofsky, *Making History*, 142–43; Leach, "Tribal Ethnography," 43.

91. Howell, "Whose Knowledge and Whose Power?" 176.

92. Paredes, "Preface," vii.

93. Rhetorical claims are best left vague; calling on Britain to "return" the Crown Jewels to Africa, the Afro-Caribbean parliamentarian Bernie Grant specified neither which jewels nor to what African country they should go (Chamberlin, "Culture or Plunder?").

94. Simon Jenkins, "Dead and Dismembered on the Nile," *The Times* (London), 9 January 1993, 12.

95. Barkan and Bush, "Introduction," 5 (my italics).

96. United Nations, "Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples" (1997), Appendix B, article 15, in *Cultural Rights and Wrongs*, 199.

97. Merryman, "A Licit International Trade in Cultural Objects," 23.

98. Prott, "International Movement of Cultural Objects."

99. Bell, *Ngarrindigeri Wurruwarrin*, 537.

100. Barkan, "Amending Historical Injustices," 16; but see Brown, *Who Owns Native Culture?* 218–19.

101. It was on just this point that the United States demurred at the *Draft UN Declaration on the Rights of Indigenous Peoples*. "Characterizing a right as belonging to a community, or collective, rather than an individual, can be and often is construed to limit the exercise of that right (since only the group can invoke it) and thus may open the door to the denial of that right to the individual" (U.S. Department of State, preliminary statements, 1 November 1995, quoted in Suagee, "Cultural Rights, Biodiversity and the Indigenous Heritage of Indian Tribes in the United States," 91–92).

102. Brown, *Who Owns Native Culture?* 184.

103. Philip Walker, quoted in James Randerson, Anil Anathaswamy, and Emma Young, "Back to Their Roots," *New Scientist*, 31 May 2003, 12–13.

104. Ben Macintyre, "For Your Eyes Only: The Art of the Obsessive," *The Times* (London), 13 July 2002.

105. Geary, *Myth of Nations*, 37.

106. Barkan and Bush, "Introduction," 2; Lyons, "Objects and Identities," 127.

107. Trouillot, *Silencing the Past: Power and the Production of History*, 142.

108. Michaels, "Race into Culture," 682.

109. Phil Cohen, "Totems and Taboos," *New Scientist*, 29 August 1998, 5.

110. Richard Bosworth, personal communication, July 2005.

111. Professor Fujioka, quoted in Doug Struck, "To Critic's Ire, Revisionists Insist Tokyo's War Record Is Twisted," *International Herald Tribune*, 19 April 2001, 5.

112. Sam Johnson, press release, 19 January 1995, quoted in Harwit, *An Exhibit Denied*, 407.

113. Cobb, *French and Germans*, xv.

114. Fara, *Northern Possession: Laying Claim to the Aurora Borealis?*

115. Merryman, "Cultural Property Internationalism," 16.

116. Awekotuku, "More than Skin Deep," 248, 253.

117. Rodney Dillon quoted in *The Times* (London), 21 August 2003: B2. Claims of appropriation need to be seen in the broader context of mutual influence; Thomas, *Possessions*.

118. Personal communications, Jean Craighead George, 7 December 2004 and 9 March 2005.

119. "Gene Deal Boosts Indigenous Rights," *New Scientist*, 9 October 2004, 8; Brown, *Who Owns Native Culture?* 141.

120. Appendix A, article 12, and Appendix B, articles 3 and 11, in *Cultural Rights and Wrongs*, 193, 198.

121. Menand, "Johnny Be Good."

122. Kasfir and Yai, "Authenticity and Diaspora." 193–97.

123. Daes, *Protection of the Heritage of Indigenous Peoples* (see note 11), quoted in Brown, *Who Owns Native Culture?* 210. See also Brown, "Heritage-Trouble," pp. 46–49.

124. Pendergast and Graham, "The Battle for the Maya Past," 55.

125. Richard Owen, "Pssst! Wanna Buy a Palazzo?" *The Times* (London) T2:14 (citing UNESCO for Italy's 70% of the world's cultural heritage); Italy, Ministry of Foreign Affairs, *An Evaluation of Cultural Policies in Italy*, 131–32, 142–49 (the 40% figure), 182–95; Gordon, *National Cultural Policy in Italy*, 13, 66, 74; Bator, *International Trade in Art*, 36.

126. Elisabetta Povoledo, "Venice Shaken by Vandalism Spree," *International Herald Tribune*, 3 July 2004.

127. Gustavo Araoz, "Heritage as Conscience," *US/ICOMOS Newsletter* No. 3 (May–June 2000), 7.

128. Geary, *Myth of Nations*, 15.

129. Steven Vincent, in "The Good Collector," 80–81.

130. Zimmerman, "When Data Become People."

131. Thoden van Velzen, "The World of Tuscan Tomb Robbers," 112, 125.

132. Matsuda, "The Ethics of Archaeology," 93; Marks, "The Ethics of Art Dealing," 123; James C. Y. Watt, chairman, Asian Arts, Metropolitan Museum of Art, cited in Randy Kennedy, "China's Request for Art-Import Ban Stirs Debate," *New York Times*, 1 April 2005. Weekend: 33.

133. Lowenthal, *White Elephants and Ivory Towers*, 9.

134. Steven Vincent, in "The Good Collector," 80–81. "Today, all dealers are criminalized" (Giacomo Medici, quoted in Elisabetta Povoledo, *International Herald Tribune*, 3 Dec. 2003).

135. Larry McMurtry, "Mad about the Book," *New York Review of Books*, 20 December 2001, 57–59.

136. British arts minister Grey Gowrie in 1993 estimated exported art works at 80% of the total (Peacock, *A Future for the Past*, 37).

137. Geary, *Myth of Nations*, 174.

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