

## Cultural Property, Museums, and the Pacific: Reframing the Debates

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The following short articles were presented at a special session of the Pacific Arts Association, held at the College Arts Association annual meeting in New York in February 2007. Entitled “Cultural Properties—Reconnecting Pacific Arts,” the panel brought together curators and anthropologists working in the Pacific, and with Pacific collections elsewhere, with the intention of presenting a series of case studies evoking the discourse around cultural property that has emerged within this institutional, social, and material framework. The panel was conceived in direct response to the ways that *cultural property*, specifically in relation to museum collections, has been discussed recently in major metropolitan art museums such as the British Museum and the Metropolitan Museum of Art (the Met). This prevailing cultural property discourse tends to use *antiquities*—that most ancient, valuable, and malleable of material culture, defined categorically by the very distancing of time that in turn becomes a primary justification for their circulation on the market or the covetous evocation of national identity—as a baseline for discussion of broader issues around national patrimony and ownership.

Despite the attempts of many activist groups in Canada, the United States, Australia, New Zealand, and elsewhere, indigenous cultural property in this international context is generally conceived as raising a different set of problems. In these articles the authors argue that some ethical and legal perspectives raised within the domain of indigenous cultural property discourse and practice might be relevant and useful to more generic discussions of cultural property. It is unfortunate that the thorny issue of cultural property in relation to source communities defined as indigenous (and therefore as both ancient and contemporary at the same time) has frequently been excised from broader discussions about cultural property, becoming its own

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genre of cultural property law and discourse (e.g., the Met despite its commitment to multicultural access has little conceptualization of contemporary source communities within its audience development initiatives).<sup>1</sup> The case studies presented here show how indigenous discourses around cultural property may in fact provide a productive blueprint for ethical curatorial and collecting practices, one that may be useful in approaching other claims to sovereignty over museum collections and the disputes that they may engender.

## CULTURAL PROPERTY IN NEW YORK

Discussion of cultural property in *internationalist* terms tends to interrogate the legitimacy of collecting practices (past and present) and the cultural identity of objects in terms of the ownership rights they may or may not afford. At the same time, this perspective has worked to diminish many claims to cultural ownership, especially when they emerge under the rubric of national heritage. Rather, ideas about *world heritage*, *world museums* and the benefits of a free market bolster the notion of cultural property as a global category.<sup>2</sup> This perspective is local as much as it is global and has, not coincidentally, emerged in cities where the art market is strongest and museums are primarily stocked by donations from wealthy collectors. For example, New York has become a center for a specific public discourse about cultural property, and in turn for a particular kind of marketplace. This, I argue, increasingly defines the ways in which cultural property is commonly understood outside of this specific locality. For example, in 2006, after a lengthy suit from the Italian government, the Met finally acknowledged that the Republic of Italy held legal title to the Euphronios Krater, which it accepted had been unlawfully exported (but purchased *in good faith*). This was the subject of intense media coverage and there were several panel discussions held in a variety of New York cultural institutions. The same commentators emerged at many of these events: director of the Met, Philippe de Montebello; the director of the Art Institute of Chicago, James Cuno; New York times art critic, Michael Kimmelman; and Princeton philosopher Kwame Anthony Appiah. At about the same time, Appiah published a new book, *Cosmopolitanism*, entire chapters of which were reprinted in the *New York Times Magazine* and the *New York Review of Books*. Discussions about the Krater were extended in these forums to ask and answer two ambitious questions: Who owns culture? and Who owns art? Despite their philosophical intent, it quickly became apparent that these debates were strategic—aiming, it seemed, to create a category of object called *cultural property* that was less rather than more cultural (e.g., promoting objects that could be easily disconnected from their places of origin, and that were presented as having no special source community with claims prevailing over any other) and more property-like (e.g., promoting these objects as commodities that could be circulated and sold freely). The intention of our panel was to challenge

the assumptions about culture and property that were built into many of these discussions.

To give an idea of the kinds of description and discussion of cultural property made in New York City in the wake of the repatriation of the krater,<sup>3</sup> I quote from some of these public discussions. Here is Philippe de Montebello, speaking at the New School for Social Research in NYC in a panel discussion entitled, “Who owns art” (without a question mark)<sup>4</sup>: “As you know, Italian museum storerooms are engaged with works of art. It’s not as if they needed them. This is a political statement.”

James Cuno reiterated the following at the same event:

Archaeological material and cultural property are two distinct things: They’re not the same thing. But the law equates them. And it’s kind of promiscuous . . . Archaeological material are . . . fact. They are what they are: these old things in the ground. Cultural property is a political construct. It’s what a modern nation state claims it to be. And sometimes they’re the same thing. That is, that Italy claims archaeological property as cultural property . . . But we have to realize that the nation of Italy, the state of Italy, is—am I right?—two months younger than the Metropolitan Museum. . . . So the state of Italy is making claims on objects that are, in the case of the Euphronios krater, let’s say 2,500 years old. The state itself is only 170 years old.

And Kwame Anthony Appiah reflected on the failings of international legislation:

I suppose what I feel is wrong with the way the UNESCO system has developed is that it shares an assumption that so far as I can see . . . which is that in general the object of the exercise is to get everything into some public domain. I actually think that for the vast bulk of the art that we live with. . . . the right place for it to be is in the private world . . . governed by market rules. . . .

So the first thing I would sort of urge us to think about is the importance of distinguishing between the vast majority of the objects that I think human beings should live with—objects of virtue, beauty, whatever you want to call it—and a rather small proportion of them, which are these masterpieces, works of profound importance, which I think should end up somewhere in the public domain.

Michael Kimmelman added in response, “And the government has the right, if you wish to sell it, to match the price that you have for it on the open market.”

In a chapter of *Cosmopolitanism*, entitled “Whose Culture Is It Anyway?”<sup>5</sup> Appiah develops this privatized theory of culture-as-moveable—feast of commodities into a theory of cosmopolitan globalism. He outlines the contradictions in place in international conceptions of national cultural property, which acknowledge the importance of allowing nations to administer the boundaries of culture whilst also developing the notion of *culture* as the *property* of all mankind. For Appiah, the free-market is the natural leveler that will ensure the fair distribution of cultural property in objective form with the greatest amount of satisfaction to the most people. He comments as follows:

The problem for Mali [by way of example] 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 . . . 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 now mean that Malians can now see, in however 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.<sup>6</sup>

Neil MacGregor, director of the British Museum in London, espouses a similar set of principles, glossing the national with the cosmopolitan, through his recuperation of the idea that the British Museum is a *world museum*. Although the British Museum was established in 1753 by an act of Parliament as the first national museum,

it was also a trust where the objects would be held “for the use of learned and studious men, both native and foreign.” In his will, Sloane had declared his desire that his collection should be preserved “for the improvement, knowledge and information of all persons.” The rest of the world has rights to use and study the collection on the same footing as British citizens.<sup>7</sup>

In this way, local and national ownership claims are trumped by the position of the museum as arbiter and storehouse of a common world heritage. However, the colonial underpinnings of this claim to global authority remain underscrutinized.

Follow the logic in these viewpoints: Cultural property claims from other countries are political (which is unarguably true) and therefore they are somehow inauthentic. They must be balanced by the cultural property claims presented via the free and democratic workings of the marketplace—mediated by major museum curators, collectors, and dealers—which provide an apolitical alternative to the potential corruptions of nation-states. (This is arguably false.) International legislation, which tacitly supports the boundaries of nation states, is therefore an inappropriate regulatory mechanism, because it interferes with the natural desires of collectors to rightfully consume global culture. (And because they ultimately donate it to museums at some point anyway, what's the fuss?) The assumption that markets will be fair and without undue restriction and that this will lead to the even distribution of, say, *world-class art* (however that may be defined) globally is not necessarily borne out in fact; nor is the assumption that national identity is a pure fiction that does not map onto any sense of continuity between distant and near past, past, and present or result in powerful claims to ownership; nor is the assumption that these large museums are culture-less in all the *right* ways. Equating the Met with the Republic of Italy bolsters the status of the Met as a

corporate collecting entity as much as it undermines the claims of the Italian government.

Following discussions around the Euphronios Krater and the scandals erupting around the relationships between dealers, collectors, and museum curators (e.g., the relationship between former Getty Institute curator Marion True, dealers Robert Hecht and Giacomo Medici and collectors Barbara and Lawrence Fleishmann<sup>8</sup>), this objective vision of cultural property, as a moveable feast of world heritage, seems to bolster a certain attitude toward trade and enhance some kinds of connection to objects over others. Rather than engaging with the moral and philosophical issues raised by congealing culture into objects, discussions quickly seemed to turn on the defense of a laissez-faire free-market model of private collecting. Many participants in the discussions in New York, curators, collectors, and academics seemed keen to disavow ideological, spiritual, national, and other relationships to artifacts, to justify another kind of entitlement, one based on the distribution of money and the desire to collect. The law, it seems, is moulded around these basic principles rather than around a set of ethical practices. As Appiah assumes, cultural property “is just like any other property”<sup>9</sup> (including the benefits of tax deductions when transferred into a not-for-profit context) in which ownership is decided by the laws of the market for the betterment of mankind (or at least some parts of mankind).

Despite the increasing sophistication of analytic discussions of cultural property (such as those presented within the pages of this journal), the pragmatics of dealing and collecting, which underlie so many debates around cultural property, remain underarticulated and underaddressed. In turn, the special role that museums play within dialogues between competing interests over cultural property and the bolstering of this energetic marketplace has also been underscrutinized.<sup>10</sup> The *free-market model* of cultural property has become increasingly salient to cultural property theory in general and frames the policies of many U.S. museums. The aim of our panel was to complicate some of these increasingly naturalized assumptions, and present some powerful alternative visions of how concepts of cultural property may be embedded in museums, in communities, in research, and even in the marketplace.

## CULTURAL PROPERTY IN PACIFIC MUSEUMS

In the following series of articles, we aim to resituate the potential of museum collections in developing debates around cultural property away from this particular market model and to present how a powerful, and efficacious, model of cultural property has developed around the circulation and display of Pacific artifacts, both in the Pacific and elsewhere. Our intention is to specifically intervene into more mainstream debates about cultural property, with a particular focus on museum practice, which we define broadly to include museum activities of research, outreach, and collection as well as collections management and exhibition. We

hope to demonstrate that there are alternative models of talking about cultural property and alternative forms of market engagement that neither limit public engagement with important cultural treasures nor alienate source communities, and may also have the side effect of bolstering national and cultural identity. In short, the fictitious bluster of the free market is not necessarily the only way to trade in cultural property. Cultural property can and may circulate widely but perhaps not only dealers and wealthy collectors should determine the rules of market engagement or the terms of the debate.

If New York has emerged at the center of one particular cultural property discourse around museum collections, Wellington has emerged as an alternative center to reframe these discussions. Wellington is located in New Zealand—a former British colony, part of the Commonwealth, still guided by the British legal system—and in Aotearoa—an indigenous Pacific island conglomeration of Māori tribes. The responsibilities of the state to both constituencies is upheld by the foundational document of the nation—the Treaty of Waitangi, signed between some Māori tribes and representatives of the British Crown in 1840.<sup>11</sup>

The Museum of New Zealand Te Papa Tongarewa, which developed out of the Colonial Museum originally founded by the British in 1865, reopened to much fanfare in 1998, having been rebuilt and reorganized from the bottom up.<sup>12</sup> The new museum was designed with a specific mandate following a particular vision of the nation: to acknowledge New Zealand as a *bicultural* state, which recognized the rights, claims, language, and culture of indigenous Māori citizens as equal and parallel to those originating from settler-colonial society. Biculturalism, as a model for governance, requires the interrogation of key ideas and practices within this dualistic framework.<sup>13</sup> Ideas that are understood to be nonindigenous must be balanced by their indigenous counterpart, with the acknowledgment that the indigenous way of doing things may be different. Within this context, museums such as Te Papa, are profoundly aware of the symbolic load they bear in putting this vision on display and are deeply engaged with developing practical ways of incorporating these ideals into the everyday museum practices of conservation, collection, display, and research. This engagement with the indigenous in turn becomes a blueprint for the nation as a whole. Māori curator Paul Tapsell notes, “finding balance between customary values (lore) and policy (law) is the new and exciting challenge in today’s museums as they attempt to give meaning to the Treaty principle of partnership.”<sup>14</sup>

One of the key strategies put in place to accommodate this multiplicity of perspectives within the museum is a firm emphasis on guardianship rather than ownership of Māori *taonga*, or cultural treasures. Apart from caring for collections in general in culturally responsible ways (e.g., refusing to recognize human remains as *collections* that can be owned), museum guardianship at Te Papa Tongarewa may also involve relinquishing definitive items in the collection in response to community demand. However, it is this idea of guardianship that often also permits treasured cultural property to remain *within* the museum. The concept of guard-

ianship, known in Māori as *kaitiakitanga*, acknowledges both the rights and responsibilities of the museum and other owners in the care of collections. Once it is understood that these are both acknowledged and respected, Māori groups are increasingly supportive of using the museum as a storehouse and exhibitionary context for their community treasures (provided there is an ongoing process of consultation).

Rather than a condition of ownership, this notion of guardianship develops relationships of consultation and collaboration. The acknowledgment that property is a relationship rather than an object (so evident to property theorists,<sup>15</sup> yet so obfuscated within many of the kinds of debates referred to earlier) suggests an alternative view of cultural property, which acknowledges the political and social relations that objects are enmeshed within as vital to their identities. In addition, it is not restricted to indigenous artifacts. As previously noted, the British Museum holds in trust, or guards, its collections not only on behalf of the British people but for the world. However, where is the consultation and collaboration, the other side of this reciprocal relationship? In these terms, Māori taonga in museum are *guarded* in different ways to the Parthenon (Elgin) marbles—they may be purchased at auction and collected by museums; but increasingly, communities are consulted regarding their exhibition, publication, and conservation. Ownership does not only imply the right to freely do what one wants to with an object, it is far expanded beyond this commodity logic and also implies a state of responsibility. The two are not necessarily mutually incompatible. The notion of property (and cultural property) implies entitlement, use, placement, and circulation as well as commoditization.

All these practices are negotiable within contemporary museum practice. Bell, Baker, Herle, and Smith describe how museum research projects, and exhibition and curating practices, may take advantage of and respond to this expanded sense of property relations. For example, Huhana Smith, Senior Curator Māori at Te Papa Tongarewa has directed her own research into cultural property issues toward her home community; she uses her own artistic practice to compress the complex local exegesis of entitlement to natural and cultural resources and to think through the ownership, entitlement, and the nature of culture (and nature) as property. Borne out of her curatorial interests working at Te Papa, her project combines photographic practice with environmental activism. However, her topic is explicitly conceptualized as *cultural property*. Similarly, Jade Baker's discussion of cultural property starts with a description of the rebuilding of a Māori meeting house on important tribal lands. The emplacement of tribal relationships in both the built environment and the natural landscape is a crucial way that cultural property rights are configured in relation to ancestral treasures, many of which are now in major museum collections. The original acts of collecting were part of colonial trade as well as traditional gifting practices, and both exchange forms effect how museum pieces are acknowledged as cultural property by local communities in the present day. Baker develops the idea that cultural property may be

understood in terms of *taonga*—a locally embedded understanding of prized artifacts that are embedded within local political and social structures and imbued with significant ancestral agency. This local perspective cannot be ignored in Aotearoa New Zealand, when negotiating the terms of international loans and national exhibitions (and this perspective was expanded and extended to New York during the landmark exhibition *Te Māori*, held at the Met in 1984).<sup>16</sup>

Despite the ways in which moving discussion from ownership toward guardianship opens the door to repatriation (both literal and symbolic), the notion of guardianship actually facilitates the keeping of objects inside museums, where they still continue to serve a dual function. They may officially *belong* to their source communities, but they may also be permitted to be there for the public at large to enjoy and experience. Guardianship is no longer an alternative to ownership—it has become a kind of property relation (a cultural property relation), redefined in relation to responsibility as well as money, and gives greater flexibility and potential for democratic access than the behind-the-scenes negotiations and out-of-court settlements commonly used to establish ownership in Europe and the United States. In addition, the idea of guardianship (mirrored by the use of the term *stewardship* around archaeological collections<sup>17</sup>) has greater symbolic capital and is an effective tool in the increasingly polarizing debates around the continued presence of cultural property within museums today.

The idea of guardianship has expanded through the Pacific diaspora. Anita Herle, senior curator at the Cambridge Museum of Archaeology and Anthropology (CUMAA), describes how in the United Kingdom the Māori expatriate organization, Ngāti Ranana (the London tribe), have formed an alliance with the British and Cambridge University Museums to “keep their *taonga* warm.” The relationship is a reciprocal one, the museum having a community to provide cultural guardianship to its collection while Ngāti Ranana has a cultural touchstone that localizes their diasporic situation. As Herle discusses, a recent CUMAA exhibition of contemporary art from Māori and Pacific Island artists, Pasifika Styles, developed an alternative model for conceptualizing the relationship between museums and communities with claims on the collections. During the exhibition several of the artists were brought into the museum to research and work in the storerooms and with the artifacts to be displayed. During this period there was a shift from the focus on cultural properties, away from an emphasis on objectified fixed entities exclusively *owned* by individuals and institutions, to a more relational understanding of the dynamic links between people and things. There is a received and often hostile notion, promoted and reinforced by stereotypic media representations, that rapacious museums are merely a final resting point for captive static objects and that return is simply restorative compensation. In contrast, the productive dialogues that have emerged between museums, source communities, and legislative bodies, in places such as Cambridge and Wellington, highlight the potential role that museums can play in changing commonly received ideas about ownership and mediating between different interest groups.



Both within the Pacific and between particular Pacific communities and western museums, recent projects have shifted the emphasis from ownership (in a narrow sense of the term) to considerations of access, use, and interpretation as well as to the social relations inherent within the idea of property and indeed within the very notion of a museum collection. In many instances, this shift has reconnected communities with treasured historic objects, reinvigorating their potency and reinforcing the presence of the ancestral past in the present. Bell, Baker, Herle, and Smith all describe the ways in which these attitudes of nonproprietary ownership may be extended *out* of museums into communities, while maintaining the integrity of historical collections and their institutional base within the museum.

Bell's discussion of the ways a historic collection of photographs, the originals of which are currently held in Cambridge, have activated a series of discussions about ownership and entitlement in the Purari Delta of Papua New Guinea and points to the ways museum collections may evoke many different kinds of property discourses. Photographs provide an intriguing model for theorizing about cultural property—they may be reproduced over and over again, images that may be owned simultaneously by many different people.<sup>18</sup> Similarly, Baker's discussion of the ways the idea of cultural property is negotiated at borders—the borders of colonial and indigenous land rights and cultural practices—highlights how, for many, museum collections open up dialogue and debate as much as crystallize ownership and entitlement. Furthermore, contemporary art practice, often involving members of diasporic communities, provides a creative and powerful commentary on ideas about appropriation and reciprocity. During *Pasifika Styles*, Herle describes several of the artworks, or site-specific installations and performances by contemporary Pacific artists in dialogue with their *taonga*, highlighting their potential to provide critical insights and revitalize the collections within the museum.

The policy shift within national institutions such as Te Papa reflects a broader national interest in thinking through cultural property issues, translating them into local idiom and subsequently revising national policy. If museums such as Te Papa, and New Zealand Government bodies, are reshaping ideas of ownership and cultural property inside the museum's walls, this in turn will have an effect on the form of the trade and collection on the art market. In New Zealand, this heightened political context had radically reshaped the form and practice of the marketplace.

The New Zealand auction market for Māori artifacts provides an interesting point of comparison to the transnational (or should we say, following Appiah, cosmopolitan?) ventures of auction houses such as Sotheby's and Christie's.<sup>19</sup> The sale of Māori artifacts has also long been an arena through which the NZ government has used to think about the definition of national as well as indigenous cultural heritage and property. The movement of all NZ cultural property, including the market for Māori artifacts, is constrained by the Protected Objects Act, which in August 2006 replaced the 1975 Antiquities Act. Despite its ostensible focus on all antiquities, now defined as any object older than 50 years, this legislation was established specifically to establish and record the ownership of Māori artifacts, to

control the sale of these artifacts within New Zealand, and to facilitate the country's accession to UNESCO 1970 and International Institute for the Unification of Private Law (UNIDROIT) conventions.<sup>20</sup> The amended act now has a special category for Māori artifacts, *taonga tuturu*; and most amendments are concerned with the transaction of objects now explicitly defined as *taonga*—the Māori word most broadly translated as cultural property or treasured possessions.<sup>21</sup> The three auction houses of New Zealand, Dunbar Sloane, Webb's, and Cordey's, hold annual *artifacts* sales that sell primarily Māori antiquities, often alongside a small number of Pacific island objects. Despite being subject to similar legislation in theory, antiquarian books, furniture, and other *European* artifacts are sold separately and rarely encounter the kinds of contestation found in sales of Māori artifacts.

However, there is a history of Māori intervention into the smooth running of the free market at auctions in New Zealand. For example, on March 31, 1996, John Turei, a Tuhoe elder made an impassioned speech at the start of an auction at the New Zealand auctioneer Webb's, asking private collectors not to bid for a native pigeon cloak dating from 1870s. Turei had been approached by both the Rangitane tribe and the Museum of New Zealand to do what he could to ensure that the cloak was not sold to private collectors. The cloak was locally well-known, having been passed down through one family until its last owner decided to sell it at auction. After Turei's protest, the cloak was sold to the Museum of New Zealand for NZ\$13,000 with no competition; evidently Mr. Turei's speech was successful in deterring private collectors from competitively bidding for the piece. Auctioneer Peter Webb said he *had* agreed that Mr. Turei could make a speech before the auction. He commented "Ordinarily, we would have expected that cloak to fetch \$20,000 plus. . . ." <sup>22</sup> This case gives us a good introduction to how Māori are able to enter auction salerooms, assert customary authority, effect public opinions about the process of commodity exchange, and influence the outcomes of sales. It also highlights the increasingly pivotal roles that museums have in determining the nature of these transactions and intimates the effect that these negotiations might have on ideas about cultural property.

Nationally, the antiquities market is highly regulated, again in contrast to the expectations placed on collectors and dealers in Europe and the United States.<sup>23</sup> As it currently stands, the Protected Objects Act requires that all dealers of artifacts found before 1976 must be licensed, and all collectors of registered artifacts must be ordinarily resident in New Zealand, must declare any prior police records, and must themselves be officially registered with an authorized museum in their area. Collectors and dealers are supposed to notify the Ministry for Culture and Heritage and the Museum of New Zealand Te Papa Tongarewa, which houses the artifact registry, when they sell a piece or even move house. Needless to say they are not automatically allowed to take protected objects out of the country. Theoretically, it should be possible to trace any registered artifact to its location within New Zealand. It is hard to imagine such government surveillance being tolerated by wealthy collectors in New York or London. The small number of auction houses (three), dealers (19 currently

listed on the government web site), and collectors (around 3,000) mean that all those with a serious interest in either trading or collecting Māori artifacts are well-known to one another, making open market activities relatively easier to track.<sup>24</sup> It is worth noting there that this tight-knit community, marked by an enthusiasm for trading Māori artifacts in this heavily politicized environment, has resulted in a market in which prices at auction may actually be higher than those of New York, Paris, or Brussels, even taking into account the relative weakness of the New Zealand dollar. Indeed, one dealer was only half-joking to me when he commented that he smuggles objects *into* New Zealand.

The Protected Objects Act both enhances indigenous rights *and*, unlike NAGPRA, boosts the idea of a shared national heritage—it does not create two domains, one for indigenous cultural property and one for other cultural property. Indeed, all the collections housed in the Museum of New Zealand Te Papa Tongarewa are conceptualized as taonga.<sup>25</sup> Despite its increased focus on the specificity of Māori material culture, like all national legislation the act subsumes Māori artifacts into the wider category of New Zealand cultural heritage, to be either managed by the Crown or owned by New Zealanders—their fate not necessarily to be determined by Māori people alone, but by a more inclusive notion of New Zealand citizenship.

The kind of critique of the free market built into the Protected Objects Act and the regulation of legislation has greatly affected how people deal and collect these artifacts (without, I must add, diminishing interest in the trade, which is more dynamic than ever). Dealers and collectors must consider the interests of source communities when transacting material. Museum curators are increasingly the arbiters of collections—not merely authenticating objects, but making important decisions as to whether or not they may be transacted. Although this sense of accountability is by no means embraced by every trader, it is increasingly built into the very form of the marketplace.<sup>26</sup>

With this series of case studies, we attempt to show how museums, as institutions, are more than capable of incorporating an expanded vision of cultural property into their practices of exhibition, collection, and research. In turn, we have expanded the definition of museum practice, connecting it to a social framework of inclusion, an interest in the ethical component of the marketplace, and an awareness of the continuing relations of inequality that lie underneath much of the circulation of so-called cultural properties across the globe. All these considerations are lacking in the public rhetoric of the aforementioned key commentators in New York or London. Ultimately, there is always the option of changing the terms of the debate rather than having to choose sides.

## ENDNOTES

1. Native American Graves Protection and Repatriation Act (NAGPRA) legislation in the United States delineates the responsibilities of museums with regards to their sacred and mortuary material

belonging to American Indians. This ethical remit is not extended to other kinds of sacred artifact, and the law ends at the borders of the United States. Although an important legal form of restitution and redress, NAGPRA makes cultural property separates ethic practices from legal requirements.

2. Lowenthal, "Why Sanctions Seldom Work."

3. Incidentally, this repatriation has been symbolic to date. For the time being, the label on the krater in the Met has merely been changed to "Lent by the Republic of Italy." There is no discussion of cultural property debates or the ethics of collecting antiquities in the newly renovated Greek and Roman Galleries at the Met.

4. The following comments are taken from the transcript of the symposium, "Who Owns Art: A debate on Museums and the Looting of the Past," held on Monday, March 6, 2006, at the New School. Excerpts were published in a special section on Museums of the *New York Times*. The entire transcript was available to download at the time from <http://www.NYtimes.com/packages/pdf/ans/29panel.pdf>.

5. Reprinted at the same time as these discussions, in the *New York Review of Books* February 6, 2006.

6. Appiah, *Cosmopolitanism*, 124.

7. All quotations from MacGregor, "The Whole World in Our Hands," 32.

8. See Watson and Todeschini, *The Medici Conspiracy*; Eakin "Treasure Hunt."

9. Appiah, *Cosmopolitanism*, 24.

10. But see Watson and Todeschini, *The Medici Conspiracy*; and Muscarella, *The Lie Became Great*.

11. See Belgrave, Kawharu, and Williams, *Waitangi Revisited*.

12. See Williams, "Te Papa" and "A Breach on the Beach."

13. O'Regan, "Bicultural Developments"; Geismar, "Alternative Market Values?"

14. Tapsell, "From the Sideline," 266.

15. Such as Hann, "Introduction: The Embeddedness of Property"; Humphrey and Verdery, "Introduction: Raising Questions"

16. See Mead, *Te Māori: Māori Art*; Newton, "Old Wine in New Bottles."

17. See Sullivan and Edwards, *Stewards of the Sacred*; Wylie, "The Promise and Perils of an Ethic of Stewardship."

18. See Geismar and Herle, *Moving Images*.

19. This account is condensed from Geismar, "Alternative Market Values?"

20. Schedule Four of the Protected Objects Act 1975 lists nine categories of protected New Zealand objects: archaeological, ethnographic, and historical objects of non-New Zealand origin, relating to New Zealand; art objects including fine, decorative, and popular art; documentary heritage objects; Taonga Tūturu (meaning objects that relate to Maori culture, history, or society); natural science objects; New Zealand Archaeological objects; numismatic and philatelic objects; science, technology, industry, economy, and transport objects; and social history objects [see <http://www.mch.govt.nz/protected-objects/index.html>; accessed April 3, 2008]. The act was updated with the specific intention of facilitating New Zealand's becoming a signatory to to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995, to which New Zealand became signatory on May 1, 2007). Another primary focus of the amendment was to assess the ownership and custody of newly found Māori *taonga*, which under the old act become automatically the property of the crown—a co-option that was directly against the principles of the Treaty of Waitangi, as upheld by the Waitangi Tribunal.

21. *Taonga Tūturu* are defined as and object that "(a) relates to Maori culture, history or society; and (b) was, or appears to have been: (i) manufactured or modified in New Zealand by Maori; or (ii) brought into New Zealand by Maori; or (iii) used by Maori: and (c) is more than 50 years old" (available at <http://www.mch.govt.nz/protected-objects/october-newsletter.pdf>; accessed April 3, 2008). As the advisory web site comments, under the heading, "What this means for Maori":

The amended Act improves the process for transferring ownership of newly-found Maori cultural objects (which are called *nga taonga tūturu*, replacing the term artifacts) from the Crown to individuals and groups. The process of claim-

ing ownership through the Maori Land Court will be simplified. The processes for trading privately owned taonga and becoming a registered collector will not change.

22. Quoted in Garry Sheeran, "Māori Plea Dampens Cloak Auction."

23. A notable exception in the United States is the lobbying of Elizabeth Sackler, a private collector who advocates the use of the marketplace as a way of repatriating sacred material to Native American communities, via her Repatriation Foundation. See <http://www.repatriationfoundation.org/airorf.html> (last accessed July 19, 2007).

24. There are approximately 2560 registered artifact collectors, including both individuals and organizations, and approximately 5100 registered artifacts on file (Ailsa Cain, Adviser, Heritage Operations, NZ Ministry for Culture and Heritage, personal communication, November 21, 2004). As of September 29, 2006, there were only 19 licensed traders of privately owned artifacts in New Zealand, according to the government ([http://www.mch.govt.nz/protected-objects/taonga\\_dealers.html](http://www.mch.govt.nz/protected-objects/taonga_dealers.html); accessed April 3, 2008). It is important to note here that it is almost impossible to determine the number of people operating outside of this official framework. Although some clandestine and illicit trade is inevitable, the small size of the New Zealand market suggests a greater form of internal accountability.

25. Museum of New Zealand Te Papa Tongarewa, *Icons Ngā Taonga*.

26. See Geismar, "Alternative Market Values?"

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