CHAPTER I

Introduction

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This volume is the second in an occasional series of titles aiming to promote a constructive dialogue among archaeologists, philosophers, anthropologists, museum professionals, lawyers, and other interested parties on major ethical issues raised by the contemporary practice of archaeology. Like its predecessor volume (Scarre and Scarre 2006), it presents previously unpublished essays by several well-established writers, as well as the work of some younger scholars. The contributors come from a range of countries and disciplinary backgrounds, and they defend a variety of different, and in some cases sharply contrasting, viewpoints. It is the editors' belief that the resulting mix of perspectives makes the volume greater than the sum of its parts and that the individual chapters not only can stand alone as valuable contributions to the debates they address but acquire a new dimension of significance when read together.

Archaeologists have commonly thought of themselves as the primary custodians and the most authoritative interpreters of the material remains of past cultures. In recent decades, however, the right of archaeologists to erect 'Keep Out' signs around what they conceive as the archaeological record has come under increasing challenge from other interest groups that assert equal or superior rights to access, utilise, and manage those remains, or to determine their significance. Thus, a decorated bronze vessel that for an archaeologist is principally a source of information to be extracted by standard research techniques may be, to other eyes, a sacred or taboo object, an anchor of social or cultural identity, a work of art, or a legitimate source of hard cash. These different perceptions correspond to different modes of appropriating the past, all of which are contentious in theory and in practice. As one set of stakeholders (or claimants to a stake) among others, archaeologists need to reflect on the ethical justification of their ideals and practices and to consider how best to achieve rapprochement between their own and alternative interests: a task made harder by the seemingly incommensurable nature of those interests.

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The essays in this book explore some, but by no means all, of the key ethical and practical issues raised by the competing modes in which archaeologists and others appropriate the past. These issues include (to list but a few) rights to interpret the past and tell stories about it; handling the sacred; the idea of heritage; the concepts and ethics of birthright and patrimony; local versus national versus international rights over landscapes, sites, antiquities, buildings, and artefacts; legal responsibilities of governments to defend and preserve heritage; rights to hold intellectual property; duties and rights of external intervention to defend antiquities; roles and responsibilities of museums; looting and the antiquities trade; the economic exploitation of sites and resources; duties to preserve antiquities for future generations; and the nature and legitimation of stewardship. Some readers may question the wisdom of couching these issues in the language of 'appropriation', whose use commonly reflects a mind-set more focused on contest and competition among claimants to some resource than on sharing and the harmonious resolution of differences. Indeed, accusations of 'cultural appropriation' and claims that others have taken what is rightfully ours are often employed more with the aim of guillotining reasonable debate than of advancing it. Once you identify something as your *heritage*, then anyone else's claims to or concern with it can be rejected as irrelevant and intrusive, a threat to your own rightful possession or even an assault on your identity. Writing in 1998 about the 'current craze for heritage', David Lowenthal wryly commented that although, on the one hand, 'it offers a rationale for self-respecting stewardship of all we hold dear', on the other hand 'it signals an eclipse of reason and a regression to embattled tribalism' (Lowenthal 1998: 2–3). The downside of pride in possession is that it can swiftly become jealous and exclusionary, suspicious of all external interests and unwilling to share.

It would be rash, though, to discard an otherwise useful term just because it is sometimes associated with the unwarranted assumption that any instance of cultural appropriation is, by definition, oppressive and unfair. In reality, appropriations may be just or unjust, reasonable or unreasonable. The normal form of appropriation statements is 'A appropriates B from C', but we might also speak of 'appropriation' when someone takes for his or her own use a hitherto-unclaimed resource (and thus preempts C's use of it while not taking it from C). More commonly, when A appropriates B from C, the transaction may variously resemble a borrowing or a theft, although there is an interesting intervening set of cases in which, while it would be unreasonable for C to refuse A permission to use or access B,

it would also be discourteous for A to help him- or herself to B without asking C's permission.

While appropriations in the cultural context are sometimes misappropriations, they are by no means invariably so. The history of humanity is the history of interacting cultures that appropriate from one another as a matter of course. (Why invent the wheel for yourself when you can copy the design from your neighbour?) No cultures exist as sealed units, and through their porous walls pass people, ideas, beliefs, practical techniques, artistic styles, and religious practices. Such osmosis and dissemination have been the key to human development from the most ancient times up to the age of the World Wide Web. As an associated constant, acts of cultural appropriation have been raising hackles ever since Prometheus, in Greek story, stole fire from the gods to give to mankind (thereby incidentally demonstrating that even taking without permission may occasionally be justified in the name of social utility). Reservation to one's own community of goods from which others could also benefit without leaving one's own worse off can smack of selfishness, besides being imprudent if it makes others less willing to allow one to share in their good things.

According to the *Shorter Oxford Dictionary*, to 'appropriate' is 'to take for one's own, or to oneself'. The noun 'appropriation' is defined as 'the making of a thing private property'. But the latter definition is misleading, for not all appropriations involve a claim to exclusive ownership of or access to the thing in question. To transfer another's ownership of something to oneself is to *ex*propriate it, and not all appropriations are expropriations. Appropriation can take stronger or weaker forms, some being less exclusionary than others. One variety involves 'muscling in' on what has previously been the preserve of others and demanding (or merely assuming) the right to share it with them. An example would be the act of a commercial manufacturer of pottery who 'borrows' without permission traditional artistic motifs from an Indigenous community for the decoration of its wares while leaving the community free to continue to use those motifs itself. Here the appropriation is plainly nonexclusive, albeit morally objectionable and potentially open to legal challenge. If instead the company were to copyright the motifs, depriving even their originators of the use of them without payment of a fee, then their appropriation would also be expropriation of the grossest kind.

Some appropriations are readily reversible, others less so. It has recently been announced that Yale University has acceded to the Peruvian government's request to return to Peru a large number of metal, stone, and ceramic

items removed from the Inca city of Machu Picchu in 1911. Itwould obvi-
ously be much harder to reverse the appropriation of an artistic style (e.g.,
the early twentieth-century cubist painters' borrowings from African sculp-
ture), a technological or agricultural method (e.g., the wheel, the domes-
tication of livestock), or some medical technique or religious ideology.
Although in principle reversibility is not a plausible necessary condition of
the permissibility of an appropriation, the difficulty (or impossibility) of
reversing some appropriations may be a morally important factor to bear
in mind while they are still in contemplation.

Appropriations differ from trespasses in being generally longer term in
their intention or effect. Crossing a farmer's field without permission would
be a trespass but not an appropriation of the owner's property, unless one
attempted to set up regular residence there. Typically, where A appropriates
B, A plans or hopes to hold on to B for some time to come, treating it
as a resource rather than simply an immediate or passing opportunity.
Note, too, that not all uses of a resource that is not one's own amount to
appropriations (or trespasses). Walking in the public street is an obvious
example; so too (for instances from a cultural context) are viewing pictures
in a gallery or visiting an historic stately home or battlefield. None of these
involves making claims to ownership or rights of control over the items
at issue, or the performance of any acts aimed at preventing others from
enjoying equal use or access.

In the cultural sphere, many kinds of thing are capable of being appropri-
ated, legitimately or otherwise: not only concrete things such as artefacts,
buildings, sites, and works of art but also more abstract objects such as ideas
and beliefs, indigenous knowledge and stories, technology and medicine,
laws and practices, artistic styles and motifs, music, and ceremonial. Appro-
priation is not, as it is sometimes supposed to be, 'an activity reserved for
hegemonic groups, so that the idea of members of Aboriginal cultures
appropriating from the dominant culture is absurd' (Walsh and Lopes,
2009); appropriation can and does go 'either way', even if the morally most
problematic appropriations are usually those in which the more powerful
take from the weaker.[1]

The title of this book, however, goes a stage further and suggests that
the past itself can be appropriated. This requires some comment. At one

[1] It has become common to speak of members of Aboriginal or subaltern cultures 'adopting' ideas,
    practices, techniques, and technologies from more dominant ones. But such adoptions, where
    voluntary, are indistinguishable from appropriations (reminding us that appropriations are not, by
    definition, all morally bad or doubtful).

level, our use of the expression 'appropriating the past' is merely convenient shorthand for referring to the appropriation of specific objects, concrete or abstract, of antique origin. But 'appropriating the past' is meant, too, to have a deeper resonance, reminding us that many disputes over particular contested objects arise in a context of more general and often impassioned debates about the preservation of community identity, the integrity of cultural traditions, and the authority to interpret the past in relation to the present. When A appropriates B from C, A may also explicitly or implicitly be asserting a right to speak about C's past, to determine that past's meaning or importance (inevitably, within his or her own parameters), or to integrate C's history as part of his or her own. To cite a notorious example, when early European visitors to the deserted city of Great Zimbabwe marvelled at the sophisticated design and massive scale of the remaining structures, they refused to believe that they could be the work of Africans and blithely dismissed local traditions of their indigenous origin. Imposing their own entirely speculative history of construction by Arab or other nonnative builders, they sidelined indigenous accounts as unreliable myths, thus robbing them, at a stroke, of their own historicity.

To insist on being the sole or the most authoritative interpreter of what has happened in some particular phase of human history (or prehistory) is at best discourteous to those who take an alternative view and at worst may be auxiliary to their repression or subordination. The persistent denial, in the teeth of the evidence, of a native origin of the ruins of Great Zimbabwe became an asset in the justification of the white-supremacist government of the country arrogantly renamed Rhodesia. It is not only poor ethics but also bad science to rule out a priori the possibility that anyone but yourself, or those who share your basic assumptions, can say anything worth taking seriously about the past. Of course, not all views of the past are epistemically on a par, nor are all in some sense 'true'. Specific 'histories' may be infected by fantasy, wishful thinking, guesswork, faulty memory, prejudice, or the deliberate or innocent confusion of myth and report; or they may simply lack the evidential basis to warrant being treated as solid fact. No human group has a monopoly on the production of such flawed accounts or is immune to the temptation to 'spin' the record in its own favour. (Lowenthal remarks that '[t]he earliest common use of the past was to validate the present' [Lowenthal 1998: 369].) But care should be taken not to dismiss as inaccurate or implausible what may never have been intended as pure factual reportage. It would be inappropriate to apply to the 'just-so' stories that distil a society's sense of its identity and values, or

the allegories that express its relationship with its gods or its neighbours, the same standards of appraisal that we would bring to a newspaper report or to the testimony of a witness in a court of law.[2]

Troubles can arise when a group insists on the sole validity of its own reading of the past, whether this be the self-flattering 'histories' once produced by colonially-minded white Europeans with an ingrained sense of their racial superiority, or the occasionally encountered rejections by Indigenous groups of any alternatives offered by archaeologists or anthropologists to traditional stories of origins. Such claims are often problematic at the outset because they depend on arbitrary or unhistorical notions of group identity and the distinction between 'us' and 'them'. The continuous fusion and fission of peoples and cultures are not always acknowledged in the simplifying stories people like to tell about their tribal or national ancestries. Even where a people have a demonstrably longer association with a certain territory than newcomers or immigrants have, and may with more propriety speak of 'my country' or 'our heritage', they may have more to lose than to gain by being deaf to the voices of others. Admitting outsiders allows the entry of novel perspectives that can refresh the homegrown ones. The virtues of epistemic cooperation over competition have been notably apparent in recent years in North America, where there have been increasingly frequent collaborations between Indigenous communities and scientific researchers prepared to combine their efforts in a spirit of respectful cooperation. Wherever possible, writes Larry Zimmerman, archaeologists should '[work] with indigenous peoples to formulate both research questions and methods' (Zimmerman 1997a: 105). The collaboration between archaeologists T. J. Ferguson and Chip Colwell-Chanthaphonh and Native American researchers in the San Pedro Valley in Arizona is a striking example of how productive such joint enterprises can be (see, e.g., Colwell-Chanthaphonh and Ferguson 2004), while Nicholas and Wylie note that '[i]n a number of contexts in the USA and Canada, Indigenous groups like the Navajo and the Shuswap are now responsible for, and increasingly direct any archaeological work undertaken in their territories' (Nicholas and Wylie 2009: 30). (The same authors observe, too, that issues concerning intellectual property are also attracting greater attention 'in contexts where descendant communities are seeking access to

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[2] That accounts of origins can bear multiple meanings is not a novel insight. In the preface to his *Roman History*, Livy described the stories of the events that led to the founding of Rome 'as being rather adorned with poetic legends than based upon trustworthy historical proofs'. 'It is the privilege of antiquity', he thought, 'to mingle divine things with human, and so to add dignity to the beginnings of cities' (Livy 1919: 5).

and control over their cultural heritage' [Nicholas and Wylie 2009: 31].)
Noteworthy, too, is Bendremer and Richman's recommendation of the
establishment of community advisory boards 'to provide an additional way
for academics to hear the voices of indigenous peoples' (Bendremer and
Richman 2006: 113).

Where the past is shared with others rather than appropriated, in exclu-
sionary mode, by a specific community or interest group, the pooling
of knowledge, research techniques, and material resources can facilitate
a mutual enlightenment that would otherwise be unattainable. However,
it is sometimes suggested that conceptions of the relationship between
past and present are not cultural universals, and that the sharp separation
of past and present implicit in Western notions of time is alien to some
Indigenous peoples. Instead of seeing the past as dead and gone, as modern
Westerners tend to do, members of some cultures consider themselves as
living and acting under the eyes of the ancestors. Some anthropologists
have proposed that the Western view of time is 'linear', whereas in certain
other cultures time is experienced in a 'cyclic' manner (see, e.g., Pullar
1994; Walker 2000). Piotr Bienkowski remarks in Chapter 3 of this volume
that '[w]hereas in the west most people are usually concerned only with a
very few generations into the past – maybe as far as their grandparents –
indigenous peoples and other animists regard ancestors who died hundreds
of years ago as still members of the group living today'.

It is somewhat unclear how deep this difference of temporal conceptions
really is. Our sense of time is intimately bound up with our experience of
change, where change consists in causal processes that point for us the arrow
of time. So far as the editors are aware, no human culture has thought that
the past can be changed or that a completed causal process can be undone
by running it backward. A society could conceivably believe that time was
cyclical in the sense that what has occurred in the past will be repeated in
the future (in the same way that a turning wheel will eventually come back
to its starting point), but that is not to believe that literally the *same* events
will happen again (as if the wheel could make its first revolution a second
time). Plausibly, the phenomenon that Bienkowski alludes to depends not
on some fundamental difference in the framework of experience but on a
combination of (1) the belief that the spirits of the ancestors survive their
death and (2) the greater sense of closeness to, and respect for, the past that
is possible in more static societies that lack the restless Western appetite for
change and still (in spite of all) Whiggish belief in 'progress'. But be that as
it may, provided that all parties are sensitive to the different resonances that
the sense of pastness (of people, objects, and places) may have for members

of other cultural groups, agreement should not be impossible on practical issues concerning the management and use of cultural heritage.

Still, it would be naive to suppose that where items of cultural heritage hold different significances for different people, any disagreements should be readily resolvable given a modicum of mutual understanding and good-will. Some writers talk as if a mild infusion of sweet reasonableness were all that is needed to settle any dispute about the possession, treatment, or rights to interpretation of heritage objects. But people can be entirely reasonable yet still reach different conclusions when they start from disparate premises.

Is there any way of bridging the conceptual gaps that might command the allegiance of all? In an influential article, John Henry Merryman has proposed that disputes about the ownership or control of cultural property are best addressed not in terms of cultural nationalism (with their narrow focus on questions of origin) but via an 'object-oriented policy' that emphasises instead 'three conceptually separate but, in practice, interdependent considerations: preservation, truth and access, in declining order of importance' (Merryman 1994: 64). From this viewpoint it is less important where objects are located, or who controls them, than that they are properly protected and made available for study and enjoyment:

> The most basic [consideration] is preservation: protecting the object and its context from impairment. Next comes the quest for knowledge, for valid information about the past, for the historical, scientific, cultural and aesthetic truth that the object and its context can provide. Finally, we want the object to be optimally accessible to scholars (for study) and to the public (for education and enjoyment). (Merryman 1994: 64)

Merryman's object-oriented approach is mainly directed against state-retentionist policies that prioritise keeping culturally significant objects on home soil, irrespective of whether they are well looked after there or open to scholarly study or public view. Such knee-jerk nationalism, Merryman argues, rarely serves anyone's real interests well, including those of the retaining states and their citizens. By contrast, the object-oriented approach is focused on the care and protection of objects themselves and recognises a wider range of interests in them; in place of narrow state or sectional interests, it places those of truth-seeking scholars and an undifferentiated general public at centre stage.

In giving primacy to the 'needs' of objects themselves, however, Merryman's object-oriented policy may sideline legitimate claims by Indigenous groups, local communities, or cultural or genetic descendants to have and

to hold, to preserve or dispose of, to keep private or make public, objects with which they have a special affinity. Indeed, despite the apparent inclusiveness of Merryman's conception of the audience for cultural objects, it effectively gives precedence to scholars whose methods are empirical and whose values are those of Western academia. In the event of a dispute between members of an Indigenous group who wish to retain some treasured sacred artefact in their own possession and archaeologists at a research institute who could give it better protection, probing scientific analysis, and ampler public exposure, the object-oriented policy would have the verdict go in favour of the latter. So an object that is, for the community of origin, an object of pride and veneration, even an icon of cultural or religious identity, would become part of a more universal commons (albeit a 'commons' to which academic 'experts' are the gatekeepers).

This is problematic not just because the Indigenous group which feels an intimate relationship with the sacred item is being treated just like any other members of the general public and denied any special privileges. If this is an affront to justice, a further difficulty is that an object-oriented policy so construed risks defeating its own intentions, by denuding objects of the meanings that they bear only while they play their designated roles in appropriate settings. The enigmatic statuette transferred from the dim depths of a temple or shrine to a shelf in a brightly lit museum, where its mysteries are unveiled by informative labelling and computer displays, has shed its sacred status through its radical detachment from context. From being a venerated item, it has morphed into a work of art or an object of study or curiosity. Loss of significance can also result from the isolated display of objects that were intended as components of larger wholes. A single terra-cotta soldier from the mausoleum of Qin Shi Huang at Xi'an is no longer a member of a mighty army but a lone warrior; a fragment of decorative stonework 'rescued' from some crumbling architectural ensemble may seem trivial and boring by itself. We could punningly say that such treatments of objects are de-meaning. Ironically, the very acts that are intended to protect objects and to make them available for study and pleasure can destroy the significances that made them interesting in the first place. The meanings of physical artefacts are often more evanescent than the objects themselves. Recontextualisation can also replace old meanings with new ones. For example, a Palaeolithic flint scraper displayed in a museum is intended not for the stripping of animal hide from flesh but to demonstrate the tool-making skills or the aesthetic tastes of our ancestors.

If Merryman is insufficiently sensitive to the fragility of the meaning of objects that are removed from their context, he is right to say that

politically motivated state policy or statute law that prohibits any move-
ment of culturally significant objects beyond national or regional borders is
unduly restrictive, being neither ethically justifiable nor practically enforce-
able. Items that are symbols of national identity or objects of national pride
may usually be best retained in their 'home' country.[3] But there is no justifi-
cation for insisting that anything created within the borders or produced by
a native craftsperson should never leave or, if removed, should be returned.
A French impressionist painting can be equally well understood and appre-
ciated in London or New York as in Paris. If someone were to claim that
the picture's Gallic origin meant that it 'belonged in' (or even 'belonged
to') France, it could reasonably be asked why others should be less entitled
to experience and enjoy what is not just a French but a human achieve-
ment. Seeking to exclude others from one's heritage may sometimes be
warranted on grounds of its sacredness, preciousness, rarity, or fragility,
but the unselfish sharing of our cultural treasures enhances our sense of
human kinship and promotes understanding and tolerance.

The chapters in this book are divided into three groups under the
headings 'Claiming the Past', 'Problems of Meaning and Method', and
'Problems of Ownership and Control'. These are only rough divisions, and
some of the chapters could have featured in more than one group. The
contributors to the first section are predominantly concerned with a range
of contested claims that people make, in a variety of contexts, to own, use,
protect, make public or keep private, explain and interpret, or determine
the significance of the things of the past (including traditional beliefs,
practices and modes of self-understanding as well as concrete objects and
physical places). While all the writers provide sensitive discussion of the
meaning of the claims at issue and the motivations behind them, they
do not always agree on how those claims should be evaluated or on the
weighting that should be accorded to different interests.

In the first chapter, James O. Young argues that focusing on the value of
finds may be more helpful in adjudicating disputes about appropriation of
the past than concentrating on ownership rights. To address in an informed
manner ethical questions about the appropriation of archaeological arte-
facts, it is necessary to know in what ways, in what degrees, and to whom
the past is valuable. Distinguishing four kinds of value (which he labels
'cognitive', 'economic', 'cultural', and 'cosmopolitan'), Young suggests that
thinking in these categories enables us to tackle rationally and fairly some

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[3] However, the situation is ethically more complex in the case of items that once belonged to someone
else, such as trophies taken in war.