

Cambridge University Press

978-0-521-80216-1 - The Return of Cultural Treasures: Third Edition

Jeanette Greenfield

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The return of cultural treasures to their homelands has become the subject of heated public debate in recent years, highlighted by the controversial case of the so-called Elgin Marbles. In this important and pioneering work, Jeanette Greenfield analyses and discusses the historical, legal and political issues surrounding many similar cases, involving not only art treasures but also palaeontological and ethnographic materials, such as those belonging to the Australian Aborigine, the American Indian and the Greenland Inuit (Eskimo). The exploits of 'collectors' such as Aurel Stein and André Malraux are recounted. Dr Greenfield sheds new light on the Marbles debate, with surprising revelations about their removal and about Lord Elgin's role in the matter. She discusses another highly significant case, that of the Icelandic manuscripts, the return of which set an international precedent. This is the first full account in English of the long and colourful campaign for their return from Denmark. Greenfield goes on to trace the museum and legal developments in North America, especially in the light of the widespread plunder of Mesoamerican archaeological finds, and the practice of Canada and the United States as a progressive model for cultural return. She concludes with some possible solutions to this difficult and emotive issue.

The second revised edition brought the story up to date, with a new chapter on art treasures and museums in Russia after the break-up of the Soviet Union. A further chapter considered the claims against the Vatican for the return of Hebrew manuscripts, and the saga of the Dead Sea Scrolls.

The third revised edition completes the story of the Parthenon (Elgin) Marbles and the Icelandic saga manuscripts. The chapter on the art market deals with new issues related to art, archaeology and palaeontology, including dinosaurs. There are three additional chapters: 'Plunder' deals with European and Far Eastern spoils of war, stolen museum artefacts from Iraq and Afghanistan, antiquities smuggled from China, and disputes concerning famous paintings stolen by the Nazis; 'The First People' considers native rights of retrieval to relics and bones in America, Canada, Africa and Australia; 'Ground Zero' discusses the deliberate destruction of art such as occurred in Germany during the Hitler era and in China during the Cultural Revolution. It gives an account of the loss of the Bamiyan buddhas in Afghanistan and important art collections in New York on 9/11.

New cases define the on-going legal, political ethical and aesthetic debate about plunder, provenance, ownership, curating and return. Attention is drawn to the digitization of documentary material and hence the possibility of global repatriation. Some examples of this are projects at Cornell University, the Arnamagnaeian and Árni Magnússon Institutes, the Danish Royal Library and the British Library. The Internet facilitates shared knowledge and linked sites. Laser technology makes perfect copies possible. 'Virtual' reconstruction raises the prospect of the 'restoration' of lost sites.

Dealing with every aspect of who owns the past, *The Return of Cultural Treasures* is essential reading for anyone concerned with cultural property. This is an extremely readable account with more than 130 striking illustrations. The select bibliography, including related web sites, makes this an enduring reference work. The interdisciplinary approach makes it accessible to a wide range of readers interested in cultural heritage, archaeology and anthropology, museums, art history, the art market and international law.



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Preface to the first edition

A visit in 1980 to the caves of Tunhuang, China, denuded of their scrolls and Buddhist manuscripts by Aurel Stein over seventy years earlier; a book of essays by Magnus Magnusson, one of which described the elation in the 1970s at the return of Iceland's greatest national treasures, the medieval saga manuscripts; the unending debate over the *cause célèbre* of cultural return cases, the Elgin Marbles; fascination with the magic of archaeology; curiosity about ethnology and the museum and art collecting phenomenon; international chagrin over the unresolved claims and contentions of cultural return; historic and contemporary resolutions to this dilemma; and the perspectives of international law. These are the main threads woven into the fabric of this book.

But despite its title this is not a book about emptying the great museums of the world of their many treasures. 'Return' is part of a wider movement of cultural treasures and need not only mean restitution in the sense of reparation for wrongful taking. It may also refer to other kinds of restoration, reinstatement, and even rejuvenation and reunification. Inevitably museums are often central to this issue. What emerges is that objects 'migrate' sometimes legitimately and sometimes not. There are historical, political, legal, material and aesthetic considerations which govern this. A congruent feature of war, colonialism, missionary and archaeological expeditions and other cataclysmic events has been the transportation of art treasures on a global scale. Sometimes objects have also been peacefully and uncontroversially collected and bought. Such movements are a fascinating reflector of human history. Hardly a nation or tribe has remained untouched by this experience. All manner of individuals have participated, from common looters to men who attained high rank and office. The route of objects has sometimes been no less colourful and dramatic than that of the persons who initiated their journey.

There is a distinction to be made between historically removed treasures and the contemporary illicit traffic in art objects. The issue of return should be determined on the criteria of the means of acquisition and the nature of the object. This book makes out a case primarily on historic and aesthetic grounds, but within a legal framework, for the return of certain kinds of objects. It points out that such 'returns' have taken place under different guises in the past and that it is by no means a novel occurrence setting into motion unacceptable precedents. The role to be played by the scholars and conservators in the great institutions in

this course of action is not to be underestimated. A purely politicized view of the locations of cultural treasures can be shown to be quite futile, as evidenced by the many instances of wasteful returns resulting only in the reappearance of the same treasures on the international art market. A legalistic approach can be applied as leverage in obtaining returns or stemming the illicit flow of art treasures. The United States especially has followed that course of action, whereas the United Kingdom has no such approach. European institutions remain conservative while the Oceanic countries, such as Australia and New Zealand, take a more liberal view.

The issue of cultural return remains a perennial one which arouses passions and emotive argument, often because it is connected more with a restitution aspect than any other, and connected too with the existential dilemma of identity. There are cynical and material aspects, but the issue also has something to do with the charisma of objects and their language, or semiology. They represent creativity, continuity, and concreteness in the face of what is evanescent.

On the whole it has to be said that there is in this matter no magnanimity without duress, no voluntary codes applied voluntarily, no easy restoration of loaned materials recalled, no internationally accepted code of practice, no simple formulas to resolve cultural return.

There is a romantic, educative, inspirational aspect to museums. But there is another. It serves us well to remember that the Prague Museum of Judaica, which contains an unparalleled collection, was established by the Nazis and called the 'museum of an extinct race'. The Tasmanian Aboriginal Centre in 1985, seeking the return of the human remains of their people, were informed by the National History Museum of Vienna that the Tasmanian aborigines are 'extinct'.

This book deliberately crosses 'territories' in more than one sense in order to understand a phenomenon which has been debated for hundreds of years and to appreciate the real worth of the objects fought over. Sometimes enlightened co-operation emerges and the result can be a noble one, as in the case of the Icelandic manuscripts returned from Denmark. In the words of Iceland's Literary Nobel Laureate, Halldór Laxness, without the sagas Iceland would have remained 'as just another Danish island'.

JEANETTE GREENFIELD

Preface to the second edition

Since this book was first published at the end of 1989 the world has seen momentous political change, such as the extinction of Soviet communism and South African apartheid. There has also been widespread catastrophic human displacement in Europe and Africa and more barbarian destruction and cultural loss especially in Eastern Europe – notably in the Ukraine, the former Czechoslovakia and the former Yugoslavia. So many new states have been created in addition to a reunited Germany that cartographers have temporarily abdicated. The emergence of Russia and its new accessibility through the ending of the Soviet State have generated more questions than answers about many missing treasures, both Russian and foreign, and there are also new challenges to its national cultural monuments. Cultural iconography changes with lost ideology, and the former worth of things evaporates. Now massive sculptural monuments to former Soviet icons have been pulled from their plinths and lie broken in the dust like Shelley's 'Ozymandias', irrespective of their aesthetic merit. The sometimes Orwellian demands of the state as the true guardian of cultural heritage are still made against the individual. Thus, Olga Ivinskaya, the model for Lara in the book *Dr Zhivago*, could not retrieve the love letters she wrote so many decades ago to the Russian Nobel prize winner Boris Pasternak. Once confiscated as inimical to the state they are now retained as its cultural property. The uphill task of making cultural progress in this area seems Sisyphean.

Yet ideas about past wrongs, cultural completeness and the rights of indigenous peoples continued to be reappraised. Cultural angst is being re-evaluated, and this now permeates contemporary thought. Cultural raiders are always at work. Theft is pandemic. But clarity of provenance can no longer be ignored. For instance, the Vatican has now established formal relations with the Jewish state of Israel; but the Papal role over hundreds of years in the collection and destruction of Hebrew manuscripts is being questioned. Elsewhere, focused efforts have resulted in some largely unexpected cultural returns such as that of the Lydian Hoard (Croesus gold) from the Metropolitan Museum in New York to Turkey, and the return of many human relics to Australian Aborigines, Greenland Eskimos, and North

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Preface to the second edition

American Indians. The Sisyphean boulder of cultural meaning has been rolled forward.

JEANETTE GREENFIELD

1994

Preface to the third edition

After the Cold War ended in the 1990s other dangers emerged. Shakespeare's Julius Caesar proclaimed 'Cry havoc and let slip the dogs of war'. The havoc of fire, sword and famine have been let loose again, from the terror attack on 9/11 (2001) in New York to the wars in Afghanistan and Iraq and Africa. The deliberate destruction of the Bamiyan buddhas in Afghanistan was a prelude to the descent into archaeological and museum plunder and murder. Crimes of intolerance and natural catastrophes have rendered the certainties of cultural preservation more fragile. The beginning of the third millennium was thus marked by the need to reconsider the issues of cultural war and of recovery and salvage.

The hallmark of the advances made since the second edition of this book has been the heightened awareness of the rights of indigenous peoples to the restoration of their cultural heritage through the retrieval of their relics and bones. It is recognized that the deliberate removal of cultural treasures from vulnerable aboriginal peoples was intended to obliterate their cultural identity. A dedicated Museum of the American Indian has been established in Washington. Australia has successfully persuaded a number of institutions in the United Kingdom to return aboriginal bones. Sweden has been at the forefront of enlightened indigenous returns to Australia and Canada. The Glasgow Council and Kelvingrove Museum returned a Lakota ghost shirt to the Sioux Indians and the South Dakota Museum. In America important legal decisions have been made to prescribe the correct balance between Native American rights to bones and artefacts and the rights of archaeologists to scientific research.

More than fifty years after the Second World War the continued right of the individual to collect and own art, contrary to earlier Nazi laws, and the right to restitution for misappropriation, has been internationally recognized. Museums have had to review globally the legitimacy of their holdings. In particular American courts have recognized descendants' claims to Nazi-plundered art as human rights issues connected to genocide and hence without time limit. Many famous paintings, such as the Gustav Klimt *Portrait of Adele Bloch-Bauer* in the Altmann case, or Egon Schiele's *View of Kramau*, have been sought. They have served as a poignant reminder of the lives of the family owners whose stories have become part of the life of the paintings.

As a major art market destination America has set the benchmark in establishing bilateral arrangements with archaeologically rich countries to prevent

contemporary illicit export. However the old question of wartime-acquired ‘trophy’ art has not been resolved between Russia and Germany because of the arguments over mutual repatriation. Some prominent museums have resisted the notion of the return of historically removed objects by espousing a concept of the ‘universal museum’. This contrasts with the desire of countries such as China, which will take any steps necessary to retrieve its cultural heritage irrespective of when it was lost.

The matter of return is now a widely accepted heritage issue. The international practice of cultural rescue, restitution and return by many means and for different reasons has evolved. The Internet facilitates the creation of data bases and the tracking of stolen objects. The prospect of global reunification and repatriation through digitization projects such as those involving the Danish Royal Library, Cornell University, the British Library, the Arnamagnaean and Árni Magnússon Institutes and others has broadened the concept of ‘return’. The new technologies have made possible collaborative preservation projects such as that between the Mellon Foundation and the Tunhuang Institute. Virtual reconstructions of objects and sites such as Jerusalem mean that the greatest cultural treasures may be preserved and so ‘returned’ in perpetuity to the mind’s eye.

Nazi genocide, the Cultural Revolution in China, and the 9/11 attack on New York in 2001 reveal how crimes against people connect to crimes against art. Einstein once said ‘He who cherishes the values of culture cannot fail to be a pacifist.’ When the Iraq war erupted in 2003 the concerns of international scholars who petitioned the United Nations and UNESCO for the preservation of archaeological sites and museum collections of world importance were ignored. The deliberate destruction of art of recognized stature is held in America to be an offence against the artist. Such acts ought to be viewed as crimes against the artist and civilization, and wherever they occur they are the storm warning.

JEANETTE GREENFIELD
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Abbreviations

All ER	<i>All England Law Reports</i>
Alta LR	<i>Alberta Law Reports</i>
EEC	European Economic Community
F.2d	<i>Federal Reporter 2d Series</i>
ICJ	International Court of Justice
ICOM	International Council of Museums
ILR	International Law Reports
Interpol	International Criminal Police Organization
IOPA	International Organization for the Protection of Works of Art
<i>JHS</i>	<i>Journal of Hellenic Studies</i>
MR	Master of the Rolls
TLR	<i>Times Law Reports</i>
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIDROIT	International Institute for the Unification of Private Law
UNTS	<i>United Nations Treaty Series</i>
USC	<i>United States Code</i>

ON THE UNESCO DOCUMENTS

CLT	Culture Section Series
CONF or C	Conference
CC	Culture and Communications (Section)
COM	Communications (Section)

TERMS RELATING TO INTERNATIONAL CONVENTIONS

Signature:	to sign and authenticate (prior to agreement becoming binding)
Ratification:	confirmation of previous act not formerly binding (done by state parliament or equivalent)
Accession:	absolute or conditional acceptance by one or several states of a treaty already concluded between other states