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Collecting Secrets: A Call to Museums for Greater Transparency about the History and Acquisition of their Collections

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Collecting Secrets:

**A call to museums for greater transparency about the history and acquisition of
their collections**

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**A thesis submitted in partial fulfillment of the requirements for a degree of
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Seton Hall University**

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Abstract

This thesis explores the benefits and pitfalls of exercising greater transparency about the history and acquisition of museum collections. The ways in which museum collections were (and sometimes even continue to be) obtained may not always have been reflective of the high-minded image that they present to the public. Many museums house collections amassed in unethical ways and do not exercise transparency about the histories of their collections or how the very act of collecting harmed many people and cultures in the process. Case studies of “non-transparent” museums such as the J. Paul Getty Museum, the Metropolitan Museum of Art, and the Boston Museum of Fine Arts are examined.

Also discussed are museums that have incorporated transparency into their collecting and exhibition practices: the Melbourne Museum, the South African Museum, and the Fine Arts Museums of San Francisco. Their paths to transparency and the outcomes of their efforts are discussed.

For my grandmother, Madeline E. Falco, a strong woman who always stood up for what she believed.

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Preface

When I first began my journey as a graduate student in Museum Professions, I knew that I wanted to channel my passion for museums into something that would enrich my life and the lives of others. My career goals were to impress people with the inherent wonder and cultural value of these great institutions and to show them that in museums they could explore new horizons and be exposed to new patterns of thinking and ways of seeing the world.

As I pursued this degree, my research showed that museums, in order to enrich their collections (all in the name of the public good) and enhance the esteem of their institutions, have often accepted or obtained objects in their collections with a disregard for, and even to the detriment of, the very people and cultures that produced and originally owned them. My view of the “sanctity” of museums changed, as did the notion of what “culturally valuable” really meant. My idealistic notions of museums went slightly awry.

But as I did even more research, I found that all was not as dark as I had thought; indeed, there was hope. Recently, a number of museums have created programs and initiatives to exercise transparency about their past and present collecting practices. The “transparent” museums discussed in this thesis have demonstrated that an honest and open dialogue about the often negative effects of their past collecting processes on source cultures and communities is ultimately the best policy. Transparency extends into the present and also requires that museums make sure that every object they acquire has a clear and legal provenance. Although each case study shows that for museums to become transparent about the ways they obtained their collections can be a difficult process, museums can help mend the rift between themselves and the communities or countries they may have harmed. Once that is accomplished, both the museum and the source community benefit.

In the end, my work on this thesis has made me see museums in a new light. I ask readers to consider it not as an exposé on the past evils of museum collecting, although I do discuss some of them, but as a proposal to museums to work towards increasing the public’s knowledge about their collecting practices.

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Introduction

Museums are repositories of the collective visual and material culture of humankind. Sites of scientific inquiry and public education, they have grown from private princely collections and scientists' curiosity cabinets. According to the American Association of Museums' (AAM) *Code of Ethics for Museums*, museums make a "unique contribution to the public by collecting, preserving, and interpreting the things of this world." The International Council of Museums (ICOM) defines a museum as "a non-profit making, permanent institution, in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits for the purposes of study, education, and enjoyment, material evidence of man and his environment."¹

Although museums foster inspiration, education, and research, the ways in which their collections were (and sometimes even continue to be) obtained may not always have been reflective of the high-minded image that they present to the public. Most established Western museums house collections that were amassed in unethical ways, such as the plunder of native villages or the raiding of tombs. During the eighteenth and nineteenth centuries, Europeans collected treasures from newly-acquired colonies and through

¹ Arapata T. Hakiwai, "The search for legitimacy: Museums in Aotearoa, New Zealand – a Maori viewpoint," *Heritage, Museums, and Galleries: An Introduction*, ed. Gerard Corsane. (New York, USA: Routledge, 2005) 154-162.

ambitious archaeological expeditions across the globe. The Americans also joined this international race for riches, which made the pursuit for treasures all the more competitive between nations. The haphazard removal of precious objects from archaeological sites without regard to the context in which they were found has caused a detrimental loss to the scientific, anthropological, and historical value of the objects.

Western explorers, archaeologists, and colonizers did not always use violent means to collect cultural heritage; they frequently bought or traded artifacts with indigenous communities. However, even this “friendlier” form of trade contributed in important ways to the loss of cultural heritage in less developed countries. Foreigners took advantage of poverty and unstable political situations in order to acquire treasures from places such as Mesopotamia, Africa, South America, and Asia. One infamous case is that of British archaeologist Sir Aurel Stein, who acquired tens of thousands of ancient Chinese scrolls from the “Caves of the Thousand Buddhas” in Dunhuang, China, in 1907. Although the stories about the way Stein acquired the scrolls from the cave conflict, what is known is that Stein convinced the Taoist abbot guarding the cave, Wang Yuanlu, to give him access to the repository and buy thousands of the priceless scrolls for a small amount of silver² to take them back to England.

² Sheila Melvin, “A Priceless Peek at a Looted Past,” International Herald Tribune 25 Nov. 2000, Feature 8.

Although some might argue that Stein's payment for the scrolls makes the transaction legal, the fact remains that the deal was lopsided. The scrolls, or sutras, books and manuscripts written in Chinese, Tibetan and other Central Asian languages dated back to as early as 366 A.D. They offered invaluable information about the monks who had carved out the cave, such as their lifestyle, belief systems, and daily habits.³ Because of the sutras' age, historical and cultural value, they were certainly worth a lot more than a few pieces of silver. Stein took advantage of the poverty in Dunhuang as well as the political turmoil in China at the turn of the century which, by today's standards, makes his transaction clearly unethical.

One of the scrolls taken from the cave, known as the "Diamond Sutra," has become one of the world's most valuable objects and is now in the possession of the British Museum. Printed in 868, it is the first dated printed book and it has great importance for Chinese history. The British Museum does not mention how the Diamond Sutra was acquired, nor would it consider returning it and the thousands of other scrolls to Dunhuang. Because China was unable to control the rapid disappearance of its material cultural heritage, its precious scrolls, artifacts, and even murals have wound up in museums around the world, casualties of a time when the transfer of culture heritage occurred in ways that would now be considered illegal and even immoral.

³ Sheila Melvin, "A Priceless Peek at a Looted Past," International Herald Tribune 25 Nov. 2000, Feature 8.

Another infamous example of how a museum received its collection by taking advantage of poverty and an unstable political situation is the well-known case of the “Elgin Marbles.” Thomas Bruce, the seventh Earl of Elgin, served as British Ambassador to the Ottoman Empire from 1799 to 1803. At that point in time, the Ottomans had controlled Greece for hundreds of years, and the Acropolis on which the Parthenon was built had begun to fall into decline due to wars and an unstable political situation.⁴ Tourists and looters stole whatever fragments they could get from the many friezes and sculptures that were strewn about the Acropolis. Turkish soldiers used marble slabs of the Parthenon and other temples to fortify the Acropolis’ walls; local inhabitants used them to construct homes and businesses.⁵ When Elgin, an enthusiast of ancient art, saw the Acropolis in such disrepair, he decided that it would be in the best interest of the marbles to bring them to England. Although the original document is now lost, Elgin claimed that legal documentation from the Ottoman Empire granted him and his workmen permission to physically remove as many marble sculptures and friezes from the Parthenon’s walls as they wished without interference in 1802.⁶

⁴ Kate Fitz Gibbon, “The Elgin Marbles: A Summary,” Who Owns the Past? Cultural Policy, Cultural Property, and the Law, ed. Kate Fitz Gibbon (New Brunswick, NJ, USA: Rutgers University Press, 2005) 109-119.

⁵ Ibid.

⁶ Kate Fitz Gibbon, “The Elgin Marbles: A Summary,” Who Owns the Past? Cultural Policy, Cultural Property, and the Law, ed. Kate Fitz Gibbon (New Brunswick, NJ, USA: Rutgers University Press, 2005) 109-119.

Elgin's decision to take the marbles was motivated by a desire to protect them and raise awareness and understanding of Greek art in Great Britain, but even at that time his legal claim to the marbles was questioned by British authorities. Parliament debated their purchase from Elgin for the British Museum. Some members believed that they should keep the marbles in order to protect them, others wanted to hold them in a trust, and still others wished to return them to the Ottoman Empire.⁷ In the end, however, the British Parliament purchased the Parthenon marbles from Elgin for the British Museum in 1816 where they remain on exhibition today.

In 1828, Greece won back its independence from Ottoman rule, but it was not until 1983 when a formal demand by the country's government for the return of the marbles was issued to the British government. The demand was refused, and the marbles are still property of the British Museum. In January 2004, the museum issued a statement, now published on its website, regarding the controversy over the marbles. It addresses most of the arguments for the return of the marbles, defends the history of the acquisition as legal in accordance with the times, and mentions some of its reasons why it does not want to return the marbles.⁸

⁷ Kate Fitz Gibbon, "The Elgin Marbles: A Summary," Who Owns the Past? Cultural Policy, Cultural Property, and the Law, ed. Kate Fitz Gibbon (New Brunswick, NJ, USA: Rutgers University Press, 2005) 109-119.

⁸ "The Parthenon Sculptures: Facts and Figures," The British Museum, January 2004, Dept. of Greek and Roman Antiquities, 27 Nov. 2006 <<http://www.thebritishmuseum.ac.uk/gr/debate.html>>.

However, the statement does not address the controversy surrounding the questionable validity of the document which granted Elgin permission to take the sculptures. Nor does it mention that the Ottomans, who occupied Greece at the time, granted Elgin the ability to take the marbles, something that they essentially did not own. Although Elgin succeeded in preserving the Parthenon sculptures, the British Museum's stance to not restitute them now to the economically and politically stable nation of Greece, shows that today the British are still taking advantage of – and benefiting from - the country's volatile history.

Cases like the removal of the Dunhuang scrolls and the Elgin Marbles occurred throughout the nineteenth and much of the twentieth centuries, as in Western countries it was widely accepted and even applauded that explorers and archaeologists brought back whatever treasures they found, above or in the ground, to their respective countries. Many of these treasures wound up in museums, devoid of context and the scientific and historical information that would come out of proper excavations or fair trades amongst people. Even when the provenance of objects was known, it was not always made clear to the public how or where artifacts were obtained. This practice still continues today, as many museums are not transparent about the histories of their collections or how the very act of collecting harmed many people and cultures in the process.

In the late 20th century, many nations formally tried to put an end to the great plunder and loss of material cultural heritage around the world. By the 1960s, the impact of archaeological looting had become a growing issue in the international community. Sites in developing nations were looted at an alarming rate; objects were cut into pieces, sawed apart and sold to private collectors and museums.⁹ Indeed, museums often were complicit in the illegal trade of artifacts or, at best, oblivious to it. Several international agreements and regulations pertaining to the trafficking of art and artifacts made museums accountable for investigating the provenance history of any object that would be acquired. In 1970, the groundbreaking UNESCO “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property” outlawed the import and export of looted objects and required the return of stolen items to their country of origin. The convention states that no “partner museum” will accept any artifact into its collections without clear evidence of legal provenance.¹⁰ Many countries had previously made their own laws about the excavation and exportation of their own cultural heritage, but this was the first time that countries formed an international treaty of this nature. The U.S., one of the largest importers of

⁹ Laura Sydell, “Getty curator in Italian court over artifacts,” National Public Radio (Online) 16 Nov. 2005, National Public Radio, 16 Dec. 2005 <<http://www.npr.org/templates/story/story.php?storyId=5014718>>.

¹⁰ “Ancient Moche Culture Gold Artifact from Peru, Recently Recovered by FBI, Goes on Display at the University of Pennsylvania Muse July 16 through August 8,” UPenn.edu, 1998, University of Pennsylvania Museum of Art and Archaeology, 1 Apr. 2006 <<http://www.museum.upenn.edu/Moche/pressrelease.html>>.

antiquities, ratified the convention in 1983, and at its behest, the treaty was not retroactive.¹¹ Therefore, the treaty protected museums from having to empty their collections of all the objects with problematic provenances that were acquired before 1970. But it required that museums thoroughly research the history of any object with a dubious provenance before buying it or accepting it as a donation in the future.

Although museums are now expected to be an integral part of the effort to curb the looting and destruction of cultural heritage by researching thoroughly the provenance of new acquisitions, they are not required to become transparent about their collecting history. The AAM's *Code of Ethics for Museums* requires that the institutions must "take affirmative steps to maintain their integrity so as to warrant public confidence. They must act not only legally but also ethically."¹² Museums, like any institution, must act in accordance with the law. But as civic institutions, they are implored to take the extra step in making their actions visible and understandable to the public. Therefore, museums are responsible for making the communities they serve aware that their taxes or admission purchases support the care and exhibition of objects that have not always been obtained legally.

¹¹ Roger Atwood, *Stealing History: Tomb Raiders, Smugglers, and the Looting of the Ancient World*, (New York: St. Martin's Press, 2004) 158.

¹² "Code of Ethics for Museums," *American Association of Museums*, 2000, American Association of Museums, 10 Dec. 2006 <<http://www.aam-us.org/museumresources/ethics/coe.cfm>>.

Of course, there are pitfalls to making public the unethical ways in which museums have acquired their collections. Museums may not want to do so out of fear of a heightened call for restitution from source countries and the general public. “Universal” museums like the British Museum or the Metropolitan Museum of Art in New York, which have countless collections of treasuries from across the globe, may fear a boycott or demands to cut tax-payer money from funding museums.

But if museums talked openly about how the unethical (by today’s standards) plunder of the ancient world helped create the museums that continue to be havens for research, scholarly study, education, and enjoyment, then that would help people understand the issues involved in cases of source countries demanding restitution. There are, in fact, museums around the world that now have begun to talk openly about their collecting history and work with source countries and communities to acquire, care for, and exhibit collections properly and in culturally-sensitive ways. The results of becoming transparent and communicating with communities and source countries have so far been positive for these museums that have set favorable precedents for other museums to follow.

It is an undeniable and shameful fact that in the process of collecting objects for museums, communities were harmed and world cultural heritage was lost or destroyed. However, by staying silent about the history of the ways in which museums obtained

collections in the past, these institutions will continue to fall prey to reputation-tarnishing trials and lawsuits from source countries demanding restitution of possessions they consider their own. A collection's artistic and cultural importance is not always greater than its history. Therefore, if museums educate the public about the visual and material culture within their walls, then they certainly should provide information about how those collections were obtained.

Cases of Non-Transparent Museums

Recently, many prestigious museums around the world have come under scrutiny for obfuscating the ways in which they acquired their collections, especially when their collecting policies have harmed indigenous peoples and destroyed cultural heritage sites. Some museums, such as the Metropolitan Museum of Art in New York and the J. Paul Getty Museum in California, have had to restitute objects that were illegally taken in direct violation of the rules of the UNESCO convention. Another museum, the Boston Museum of Fine Arts, continues to spark controversy by its persistent silence and inflexibility regarding its acquisition of a *Weary Herakles* fragment that Turkey claims belongs to it.

Each museum, however, has not become transparent about how it gained its collections before the UNESCO convention was passed. The following case studies detail how the lack of transparency in the museums' collecting practices has marred relations with the international community, and have tarnished the reputations of these respected institutions.

1. The J. Paul Getty Museum, Los Angeles, California, USA

The J. Paul Getty Museum in Los Angeles, California was originally established in the Malibu home of J. Paul Getty, an oil tycoon and philanthropic art enthusiast. His small museum, which housed collections of Greek and Roman antiquities, 18th-century French furniture, and European paintings, opened to the public in 1954. He later built a Roman-style villa, modeled after the Villa dei Papiri of the first century, A.D.¹³

After Getty's death in 1976, the museum was left with an endowment worth billions of dollars.¹⁴ With that money, the museum expanded the antiquities collection to include some 44,000 items. The collection is currently housed in the recently refurbished "Getty Villa" in Malibu, California.¹⁵

Since the 1970 UNESCO "Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property," collecting antiquities legally has become quite difficult. Before the UNESCO convention, museums and private collectors did not face international restrictions on importing

¹³ "About the J. Paul Getty Trust," 2006, The J. Paul Getty Museum, 29 Oct. 2006, <<http://www.getty.edu/about/trust.html>>.

¹⁴ Laura Sydell, "Getty curator in Italian court over artifacts," National Public Radio (Online) 16 Nov. 2005, National Public Radio, 16 Dec. 2005 <<http://www.npr.org/templates/story/story.php?storyId=5014718>>.

¹⁵ "About the Museum," 2006, The J. Paul Getty Museum, 29 Oct. 2006, <<http://www.getty.edu/museum/about.html>>.

antiquities from source countries. For centuries, excavations of ancient sites and trafficking of looted objects were not highly regulated by governments, nor was it considered as immoral as it is today.

But after 1970, when the Getty began to aggressively bulk up its antiquities collection, the international restrictions posed serious barriers. Although excavation projects not sponsored by a source country or community was once considered an acceptable way to obtain ancient art and artifacts for American and European museums, the UNESCO convention was a watershed agreement among countries to discontinue that practice and to make what were once legal acquisitions, illegal.

However, tomb raiding and looting of ancient sites has not ceased. Huge numbers of antiquities that have been illegally excavated after 1970 still wind up on the black market and may pass through many hands before reaching a museum. Dealers may fabricate documents and testimonials expressing that artifacts were acquired legally. Private collectors who wish to receive tax write-offs from donating collections to museums may claim that the objects have been in their families for years, when in fact they have recently bought the objects from shady dealers. Many museums are guilty of not doing enough fact-checking to make sure that records presented by donors or gallery owners convey the objects' history factually and accurately, and therefore can wind up unintentionally accepting illicit objects.

But today, the Getty Museum stands accused of having knowingly acquired illegally excavated Italian antiquities. The museum's former antiquities curator of nineteen years, Marion True, has been on trial in Rome since November 2005 on charges by the Italian government that she acquired illegally excavated ancient art for the Getty. It is demanding that 52 objects that she acquired for the museum be repatriated. Correspondence and other documents give evidence of a close relationship between True, American art dealer Robert Hecht, and Italian art dealer Giacomo Medici, who already received a 10-year prison sentence in 2005 after being convicted of illegally trafficking antiquities. Although True has denied the charges and says she acquired the objects in good faith,¹⁶ letters and documents presented during her trial give hard proof that True was aware of the illicit origin of the ceramics, statues, gold and silver that she acquired for the Getty through Hecht and Medici.¹⁷ For example, photographic evidence taken from a raid on Medici's warehouse in Geneva in 1995 shows archeological artifacts such as sculptures, frescoes, and vases, still caked with dirt or wrapped in newsprint, evidence

¹⁶ Philip Boroff, "Getty Museum Says It Will Tighten Policy on Buying Antiquities," Bloomberg.com, 26 Oct. 2006, Bloomberg News, 29 Oct. 2006
<<http://www.bloomberg.com/apps/news?pid=20601088&sid=aWRLsIKOzNpw&refer=home>>.

¹⁷ "Documents Give View of Curator's Ties to Smuggler; Italian prosecutors say letters, papers indicate Marion True was aware that she was dealing in stolen artifacts while she worked at the Getty," Los Angeles Times 17 Dec. 2005: A6.

of having been freshly dug up from ancient Italian tombs. Many of the items could be tracked to the Getty's shelves and display rooms.¹⁸

Another piece of incriminating evidence found in the Medici raid that linked the Getty to the warehouse was a picture of two unique Italian marble griffins (a mythical eagle-headed lion beast), covered in dirt in the trunk of a car. From the color and type of marble, authorities were able to deduce that the statues were from southern Italy. The same griffins are now exhibited in the newly reopened Getty Villa, the museum's showcase for its antiquities collection.¹⁹

Although Marion True is so far the only Getty Museum employee on trial, there is a chance that Italian authorities will continue a legal battle with the institution. If True admits guilt, she will likely avoid jail time,²⁰ but her admission could also incriminate the Getty and the Museum might be forced to give back all the questionable antiquities. Or, if during True's trial, the Getty decides to give back all the objects, or is allowed to keep some as long-term loans, it could further implicate True in the scandal. The Getty Museum is also paying True's legal bills, which appears to inculcate the institution as an accomplice to the former curator's illegal trafficking of antiquities no matter what happens during or after the trial.

¹⁸ "Why Getty's Negotiations With Italy Are Tangled," Los Angeles Times 15 June 2006: A1.

¹⁹ Ibid.

²⁰ Ibid.

Further, in October 2006, amidst the ongoing trial, the Getty announced that it will only buy works with documentation proving that they are in the U.S. legally or have been authorized for export to the U.S. from their countries of origin before November 17, 1970.²¹ The chosen timeframe refers to the date when the UNESCO “Convention on the Means of Prohibiting and Preventing the illicit Import, Export, and Transfer of Ownership of Cultural Property” was passed. In response to questions about the heightened precautions for acquisitions, Michael Brand, Director of the Getty Museum, said “We’re trying to do what we believe is right,” and “I suspect that [Italian authorities] will be happy to hear about this, but it’s not something we’ve discussed with them.”²² Brand also insisted that the new guidelines had no direct connection with Marion True’s ongoing trial.²³ Are Italy and the international public supposed to believe that by mere coincidence the Getty has suddenly changed its collecting policy amidst a trial directly related to objects of dubious provenance in its collection? Perhaps no matter what the outcome of the trial is, the Getty’s administration would still want to preserve its

²¹ Philip Boroff, “Getty Museum Says It Will Tighten Policy on Buying Antiquities,” Bloomberg.com, 26 Oct. 2006, Bloomberg News, 29 Oct. 2006

<<http://www.bloomberg.com/apps/news?pid=20601088&sid=aWRLsIKOzNpw&refer=home>>.

²² Christopher Reynolds, “Getty toughens up its rules for acquisition: An item’s history must be clean since 1970. The move is not retroactive,” LATimes.com 27 Oct. 2006: Los Angeles Times, 27 Oct. 2006

< <http://www.latimes.com>>.

²³ “Why Getty’s Negotiations With Italy Are Tangled,” Los Angeles Times 15 June 2006: A1.

institutional clout by showing that it has taken initiatives to acquire only documented works in the future.

But instead of trying to rectify past misdeeds now, the Getty Museum could have avoided the damage that this trial has done to its credibility by instituting policies to control collecting habits earlier and by working with source countries such as Greece, Italy, and Turkey to collect and exhibit antiquities. Although buying objects for its collection through any means possible seemed facile and harmless at the inception of the Museum in the 1980s, it ironically has made the Getty's situation complicated and costly. If it had made initiatives with Italy to acquire long-term loans, as it must do now as a result of the lawsuit, then this trial and quandary would have been avoided.

Additionally, if the Getty had been transparent about the ways in which it received its collection, then its image would not be tarnished. By using its own collection as an example, the Getty could have educated the public on the illicit antiquities trade. It could have described how before the UNESCO initiatives in 1970, museums could buy or accept donations of artifacts that were obtained in any way. But since the Museum's founding in 1982, it has been very hard for the Getty to create an antiquities collection legally as the art market has so dramatically changed. It is also difficult to prove a legitimate provenance of all objects because many objects have been unearthed, stored in warehouses, and changed hands so many times without documentation that the original

provenance is lost. For some objects it would be impossible to determine whether they were excavated before or after 1970. Dealers also forge documents to pretend that items have been excavated before 1970 and can thus be legally purchased; so it is very arduous for a museum to acquire a cohesive, educational antiquities collection for its public in a way that is above board and legal. The Getty could have explained that, in accordance with the tough UNESCO regulations, it made every effort to research each piece's provenance, but there is always a chance that a work did not enter the art market legally. If the museum had made the attempt to be transparent about its collection's history to its public or to work with source countries for a fair and legal trade in antiquities, then Italy probably would have been more willing to negotiate with it outside of court.

Instead, Italy is making an example out of Marion True and the museum to send a message to other (mostly American) museums to beware of stealing its treasures. Even Francesco Rutelli, Italy's new cultural minister admits, "Our request for the restitution of all of the trafficked works -- and I say all -- is our priority... This is in the interest of the American museums, as well. This explains to the trustees and officials that the period of great plunder is over."²⁴

Therefore, if Italy can strip the Getty's antiquities collection and hold a curator accountable for trafficking illegal works, then what message will that send to the public?

²⁴ "Why Getty's Negotiations With Italy Are Tangled," Los Angeles Times 15 June 2006: A1.

That museums aid the plunder of archaeological sites by being on the buyer's end of the illegal trafficking of antiquities, all in the name of educating the public? Without knowing where items came from or what they were made of or used for would not support any education initiatives. An object is only as historically significant as its context. Museums should be protectors of world cultural heritage, not its destroyers. Valerie Higgins, an archeology expert and chair of the arts and humanities department at the American University of Rome, said the Getty case has "certainly made people a lot more cautious" and she expresses the hope that it will help solidify a movement amongst museums toward consciousness of the cultural context of treasures. She adds, "This should go pretty far in cutting the tie between museum acquisitions and the contemporary looting of sites... It's an important development."²⁵

²⁵ "Why Getty's Negotiations With Italy Are Tangled," Los Angeles Times 15 June 2006: A1.

2. Metropolitan Museum of Art, New York City, New York, USA

Founded in 1870, The Metropolitan Museum of Art (MMA) in New York City is one of the oldest, most esteemed art institutions in the United States. Its endowment worth over \$900 million and its Board of Trustees with many members from America's most prominent families make the MMA one of the wealthiest and most institutionally secure American museums.

In addition to monetary wealth, the MMA has a superior, extremely diverse permanent collection of art from all over the world spanning thousands of years. Ranging from paintings by Nicolas Poussin, to dresses designed by Gucci, to towering ancient Buddha statues from Southeast Asia, the MMA's collection duly justifies its institutional clout.

Of all its magnificent art collections, the most controversial is that of Greek and Roman antiquities. Recently, the MMA has agreed to demands by the Italian government to return works that the country believes were looted from archaeological sites on its soil. Of the works to be repatriated, the most esteemed and art-historically important one is a sixth-century B.C. Greek vase known as the Euphronios krater. The calyx-krater, one of the finest existing examples of Greek vases of that era, represents an historic collaboration between two of the most prominent artists of ancient Athens: the potter

Euxitheos and the painter Euphronios.²⁶ One side of the krater features a scene from Homer's *Iliad*: supervised by the god Hermes, the dead warrior Sarpedon is carried off by Hypnos and Thanatos, the spirits of sleep and death; the scene is flanked by Laodames and Hippolytos. Another scene depicts young Greek warriors preparing for battle. Thomas Hoving, Director of the MMA from 1967 to 1977, recalls in his memoirs his love-at-first-sight experience upon seeing the krater in 1971. Hoving describes Euphronios' drawing as "the finest I had virtually ever observed" and that the MMA "had landed a work that would force the history of Greek art to be re-written, perhaps the last monumental piece ever to come out of Italy, slipping in just underneath the crack in the door of the pending UNESCO treaty which would drastically limit the trade in antiquities."²⁷ One can imagine what owning a piece like this could do to sustain the MMA's reputation as one of the premier art institutions in the country, let alone in the world.

However, Hoving did not imagine the controversy that would ensue after the purchase of the Euphronios krater due to the improper way in which it was acquired. After seeing the krater, Hoving suspected that it had been looted from an Etruscan tomb, but still yearned to buy it. Dietrich von Bothmer, former head of the MMA's Greek and

²⁶ *Terra cotta calyx-krater (bowl for mixing wine and water)*, 2006, The Metropolitan Museum of Art, 4 Nov. 2006, <http://www.metmuseum.org/Works_of_Art/director/1972.11.10.R.asp>.

²⁷ Thomas Hoving, *Inside the Metropolitan Museum of Art: Making the Mummies Dance* (New York: Simon & Schuster, 1993) 318.

Roman Art Department, who still works as a senior researcher at the museum,²⁸ also turned a blind eye to the dubious provenance of the piece, and the two men had an “unspoken understanding... [to] consciously avoid knowledge of the history of the vase.”²⁹

Additionally, American art dealer Robert Hecht, who currently stands trial in Italy on charges he acquired illicit antiquities and sold them to the J. Paul Getty Museum, wanted to sell the piece to the MMA as an agent for the owner, Dikran Sarrafian, an antiquities dealer in Beirut. Sarrafian claimed that the krater had been in his family since 1920. In his memoir, Hoving admitted that he suspected that the evidence presented to show that Sarrafian had legal title to the krater was concocted by Robert Hecht, but he never voiced his concerns to the MMA’s Acquisitions Committee. The Acquisitions Committee never pried further into the history of ownership of the piece and agreed to pay \$1 million for it in 1972.³⁰

After the MMA’s acquisition of the heralded Euphronios krater was made public, the Italian government, with the help of the FBI and the New York police, began an investigation in 1973 into the provenance of the vase. Anyone who was involved in the

²⁸ Vernon Silver, “Met’s Antiquities Case Shows Donor, Trustee Ties to Looted Art,” Bloomberg.com, 27 Oct. 2006, Bloomberg News, 29 Oct. 2006

<<http://www.bloomberg.com/apps/news?pid=10000088&sid=aSqTpqVQLIP8&refer=culture>>.

²⁹ Thomas Hoving, *Inside the Metropolitan Museum of Art: Making the Mummies Dance* (New York: Simon & Schuster, 1993) 310.

³⁰ *Ibid.*, 319.

affair was interrogated. Sarrafian and his wife, in 1977, died in a car accident that Thomas Hoving could only describe as “mysterious.”³¹ It seemed that the MMA was caught in the middle of an international conspiracy to cover up the true provenance of the Euphronios krater. But due to conflicting evidence and discrepancies in stories by key witnesses, Italian authorities were unable to prove their case and dropped it in 1977,³² although they continued to insist that the vase was theirs.

However, nearly two decades after the Italians gave up pursuit of the Euphronios krater, proof emerged that it was indeed looted. Photographic records taken during a 1995 raid on the warehouse of Italian art dealer Giacomo Medici showed that the Euphronios krater had once been there, evidence that clearly poked a hole in Robert Hecht’s statement that Dikran Sarrafian’s father had acquired the krater in 1920.³³ Further incriminating evidence against Hecht materialized in 2001, when a journal seized during a raid on his Paris apartment contained a personal written statement that he had obtained the vase not from the Lebanese dealer Sarrafian, but from Medici.³⁴ In addition, Marion True, the former antiquities curator of the J. Paul Getty Museum, and Jiri Frel, one of

³¹ Thomas Hoving, Inside the Metropolitan Museum of Art: Making the Mummies Dance (New York: Simon & Schuster, 1993) 336.

³² Andrew Slayman, “The Trial in Rome,” Archaeology January/February 2006, 3 Oct. 2006, <<http://www.archaeology.org/online/features/italytrial/>>.

³³ “Italy and U.S. Sign Antiquities Accord,” New York Times, 21 Feb. 2006: E7.

³⁴ Andrew Slayman, “The Trial in Rome,” Archaeology January/February 2006, 3 Oct. 2006, <<http://www.archaeology.org/online/features/italytrial/>>.

True's predecessors at the Museum, have both reportedly testified that Dietrich von Bothmer once told them exactly from which tomb at an archaeological site near Rome the Euphronios krater had come.³⁵ Clearly, Thomas Hoving's neglect, 30 years ago, to act on his suspicions about the illicit provenance of the Euphronios krater has landed the museum into an uncomfortable predicament.

Because of the past non-transparent practices and irresponsible collecting policies of the MMA, current Museum Director Philippe de Montebello now must face the consequences and repatriate 21 objects to Italy. After deliberating for months, an agreement was reached in February 2006 between the Museum and the Italian authorities to return a portion of the MMA's Greek and Roman antiquities collection in exchange for loans of equal beauty or art historical value.³⁶ Some of the items to be returned immediately include a red-figured Attic amphora, a red-figured psykter decorated with horsemen, and a Laconian kylix.³⁷ The Euphronios krater and a Hellenistic silver collection will remain on display at the MMA until 2008 and 2010, respectively, after

³⁵ Andrew Slayman, "The Trial in Rome," *Archaeology* January/February 2006, 3 Oct. 2006, <<http://www.archaeology.org/online/features/italytrial/>>.

³⁶ Vernon Silver, "Met's Antiquities Case Shows Donor, Trustee Ties to Looted Art," *Bloomberg.com*, 27 Oct. 2006, Bloomberg News, 29 Oct. 2006 <<http://www.bloomberg.com/apps/news?pid=10000088&sid=aSqTpqVQLIP8&refer=culture>>.

³⁷ "Statement by the Metropolitan Museum of Art on its Agreement with the Italian Ministry of Culture," 2006, Metropolitan Museum of Art, 27 Oct. 2006, <http://www.metmuseum.org/Press_Room/full_release.asp?prid=%7BF9704AC3-297B-4704-999B-111ACC8E6804%7D>.

renovations of the Leon Levy and Shelby White galleries for Etruscan, Hellenistic, and Roman Art finish in 2007.

Although conceding to Italy's demands of restitution has embarrassed the MMA, working with the country has had some benefits. For one, the agreement does not require the museum to admit liability for acquiring objects determined to have been looted. Another stipulation also allows the MMA to conduct authorized excavations at its own expense in Italy, the fruits of which would be lent to the MMA "for the time necessary for their study and restoration."³⁸ In recent interviews, Mr. de Montebello has conceded that, on occasion, in the past the museum had received artifacts that may have been obtained in an "improper" way.³⁹ "We're no longer in an era where you ask no questions. Now we look before we buy; the world has changed," de Montebello said in a news conference in 2006.⁴⁰

Although the MMA has become transparent about the ways in which it received the restituted Italian antiquities, the Museum has not changed its acquisition policies⁴¹ nor has it exercised transparency in the acquisition of other collections that were obtained in culturally damaging ways. Perhaps because other countries have not pursued the MMA

³⁸ "Italy and U.S. Sign Antiquities Accord," New York Times, 21 Feb. 2006: E7.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Christopher Reynolds, "Getty toughens up its rules for acquisition: An item's history must be clean since 1970. The move is not retroactive," LATimes.com 27 Oct. 2006; Los Angeles Times, 27 Oct. 2006 <<http://www.latimes.com>>.

as forcefully and publicly as Italy has, it does not want to explain the history of its collections out of fear of having to retribute even more objects. For example, when asked about the repatriation of objects to Italy, Philippe de Montebello said that “although he remained against restitution, he knew that, in this case, the request for repatriation was not ‘going to go away.’ ”⁴²

But the fact remains that there are many collections in the MMA which were taken out of their countries in a way that exploited the poverty and lack of control over their cultural heritage. For example, the MMA proudly displays a large Chinese fresco in its Asian Art gallery entitled “Pure Land of Bhaishajguru, the Buddha of Medicine.” This fresco came from a wall in the Lower Temple of a Buddhist monastery, Guangsheng Si, in Shanxi Province, China.⁴³ It depicts Buddha in a teaching pose flanked by bodhisattvas, and the faithful looking to him for enlightenment. The monks had sold this fresco and others in the monastery complex in the 1920s in order to raise money for renovations. The MMA’s fresco was bought by Arthur M. Sackler and donated to the Museum in 1954. In the gallery in which the fresco is displayed, the wall text reads: “‘Pure Land of Bhaishajguru, the Buddha of Medicine.’ Yuan Dynasty, ca. 1319.

⁴² Smith, Helena. “Missing Their Marbles.” New Statesman 23 Oct. 2006. 30 Oct. 2006 <<http://www.newstatesman.com/200610230026>>.

⁴³ Anning Jing, “The Yuan Buddhist Mural of the Paradise of Bhaisajyaguru,” Metropolitan Museum Journal 26 (1991): 147. JSTOR. 26 Nov. 2006 <<http://links.jstor.org>>.

Accession number 65.29.2."⁴⁴ Within the gallery, the MMA does not feature any information on the object's provenance and its importance to Buddhism, nor the way in which Sackler received it. In its Central Catalog, accessible only through museum staff, the MMA lists the provenance as a 1965 gift from Arthur M. Sackler in honor of his parents, and that the fresco came from the Lower Temple of the "Monastery of Vast Triumph" in Shansi in China.⁴⁵ Also listed are the mediums used for the fresco. But that is the only information publicly available about this magnificent fresco. Why not explain that this fresco came from a monastery that dates back to 147 A.D. and is closely associated with Chinese royalty?⁴⁶ Why not divulge that after the Guangsheng Si monastery was discovered by outsiders, the monks sold the priceless 700 year-old frescoes in order to make structural renovations? The story of how Western explorers took advantage of impoverished communities by offering funds to help their immediate needs, but stripping them of their material cultural heritage, should be shared with the public, because it is an integral part of the history of the museum.

Therefore, although the MMA has had to exercise transparency about the history of its Italian antiquities collections due to the amount of media attention on the trial and

⁴⁴ John Lindaman, "RE: Inquiry about an object displayed in the Asian Art gallery - Sackler Gallery," E-mail to the author, 21 Nov. 2006.

⁴⁵ Ibid.

⁴⁶ Anning Jing, "The Yuan Buddhist Mural of the Paradise of Bhaisajyaguru," Metropolitan Museum Journal 26 (1991): 147. JSTOR. 26 Nov. 2006 <<http://links.jstor.org>>.

its strained relations with Italy, it still needs to make public the unethical origins of some of its other collections. Perhaps the institution does not feel the need to be transparent now if other countries have not demanded for restitution as publicly or tenaciously as Italy has. But as many developing countries such as China and India become more politically and financially stable, they may look towards Western museums such as the MMA to retribute the objects that were acquired in ways that were unethical and, in some cases, even illegal by today's standards.

3. The Museum of Fine Arts, Boston, Massachusetts, USA

The Museum of Fine Arts, Boston (MFA) was founded in 1870 and has become one of America's leading cultural institutions. Like the Metropolitan Museum of Art, the MFA holds a collection spanning ancient to contemporary times that exceeds over 450,000 objects representing nearly every continent and genre. The MFA aims to instill an appreciation and in-depth knowledge of art and art history, and to "encourage inquiry" from its diverse public.⁴⁷

Although the MFA's collections stimulate curiosity from over one million visitors each year, the acquisition history of some of those collections have also shrouded the Museum in controversy. Because of the dubious provenance of certain objects, the MFA has come under scrutiny from the international community. One particular piece, the head and torso of a marble copy of a *Weary Herakles* sculpture, believed to have been created during the 2nd century A.D., has incited controversy since its acquisition in 1981. The original *Weary Herakles*, now lost, was probably made of bronze and sculpted by the Greek master Lysippos of Sikyon in the 4th century B.C. Numerous marble copies of the statue were made by the Romans in antiquity. They show the deity holding apples in his

⁴⁷ "Mission Statement," 1991, Museum of Fine Arts Boston, 24 Oct. 2006, <<http://www.mfa.org/about/index.asp?key=53>>.

right hand behind his back, and leaning on a club draped with a lion's skin and cloak.⁴⁸ With disheveled hair and furrowed brow, Herakles looks preoccupied, tired and old, a contradiction to the generally powerful depictions of the mighty Greek god.

If Herakles was "weary" in ancient times, then he has even more reason to feel fatigued now. Since 1991, the Turkish government has been trying to reunite Herakles' bottom and top halves. The bottom half, showing Herakles' lower torso and legs, is in the Antalya Museum in Turkey, and the country claims that the fragment of the sculpture in Boston was illegally excavated and smuggled into the United States. The controversy began in 1980, when Jale Inan, a Turkish archaeologist and the director of excavations at Perge, Turkey, heard rumors that an "important object" had been looted from the site, but did not know what it was.⁴⁹ Later that year, the bottom half of a *Weary Herakles* sculpture was excavated in pieces in the same site.

Following that discovery, on December 30, 1981, the MFA, using funds from the Jerome Levy Foundation, and two well-known American antiquities collectors, Shelby White and her husband Leon Levy, shared the cost to buy a fragment of a *Weary Herakles*, including the head and torso, in Germany from Mohammad Yeganeh, an art

⁴⁸ "Weary Herakles ('Herakles Farnese' type)," 2006, Museum of Fine Arts Boston, 5 Nov. 2006, <<http://www.mfa.org/>>.

⁴⁹ Staffan Lundén, "Illegal archaeology?" *Proceedings of the International conference about future problems with illicit traffic in antiquities, Berlin, Germany, 23-25, May 2003*, (Berlin: International Association for Archaeology Association, 2003). <http://www.aiac.org/Aiac_News/AiacNews37/Lunden.html>.

dealer.⁵⁰ In 1991, Turkish government officials heard that this fragment was being exhibited at the Metropolitan Museum of Art in New York. They believed that it matched the lower half of the statue that had been excavated in 1980, and suspected that it was the “important object” stolen by thieves from the site in Perge the same year.

But the MFA insisted that no evidence existed to prove that the statue was looted and taken illegally out of Turkey. Cornelius C. Vermeule III, curator of classical art at the MFA, claimed that so many *Weary Herakles* statues were made in antiquity that this top half could match any bottom half. In order to prove that he was wrong, Turkish Cultural Minister Enzin Ozgen decided to settle the matter by having a cast made of the bottom half in Turkey. The cast was sent to the MFA in 1992 and fitted to the top half of the sculpture under the supervision of curators, Turkish government officials, and attorneys. The two pieces fit together perfectly.⁵¹

Although the pieces join together flawlessly, the MFA still asserts that the top half could have been broken and taken out of Turkey as far back as antiquity. However, scholars have claimed that the break is fresh, which is the only physical evidence to suggest it was excavated recently.⁵² Also, if the bottom half of the statue was unearthed

⁵⁰ “Weary Herakles (“Herakles Farnese” type),” 2006, Museum of Fine Arts Boston, 5 Nov. 2006, <<http://www.mfa.org/>>.

⁵¹ Roger Atwood, *Stealing History: Tomb Raiders, Smugglers, and the Looting of the Ancient World*, (New York: St. Martin’s Press, 2004) 151.

⁵² *Ibid.*

in the same year the MFA and the Levy-Whites bought the matching half, the circumstantial evidence could show that perhaps the Herakles statue had been intact until 1980 and not broken or looted in antiquity.

The Boston MFA still maintains that it has committed no wrongdoing in the acquisition of the piece. According to the sculpture's provenance history listed on the MFA's website, the Herakles came from Yeganeh's mother's personal collection, which she purchased from a dealer in Germany around 1950.⁵³ Beyond that, there is no other provenance history recorded for the object, such as where it was excavated, by whom, and when. No public record or eyewitness accounts of the upper half of this sculpture exist before it was bought in 1980.⁵⁴

Many dealers selling looted art and artifacts have used the excuse that their elderly relatives kept the fascinating antiquities locked up in their attics for years, in order to explain their uncertain provenance. But such a valuable find as the *Weary Herakles* would have certainly made headlines, and the piece would have been on the market immediately, if it was found and removed from a country properly. It certainly leads one to suspect impropriety when the *Weary Herakles*' more valuable half (his head and torso)

⁵³ Roger Atwood, *Stealing History: Tomb Raiders, Smugglers, and the Looting of the Ancient World*, (New York: St. Martin's Press, 2004) 151.

⁵⁴ *Ibid.*, 145.

suddenly surfaces on the art market in the same year as its lower half was excavated out of Turkey.

Despite much circumstantial evidence that the *Herakles* was taken improperly from Turkey, Enzin Ozgen has made several offers on behalf of Turkey to share the whole statue with the MFA as an alternative to restitution. But the museum has rebuffed any kind of negotiations.⁵⁵ This unwillingness to compromise has received an angry response from Turkish citizens and the archaeological community. For example, inside the entrance of the Antalya Museum, Herakles' lower half stands by itself, with signs explaining the controversial plight of this half-statue. On a nearby kiosk visitors have angrily scribbled: "Boston - Give it back now!" and "Stop crime in archeology!"⁵⁶ Another, more drastic, example of Turkish condemnation of the MFA's actions came from Jale Inan, who was so distraught over the statue that she planned a hunger strike on the steps of the MFA.⁵⁷ But it was canceled after Shelby White called Enzin Ozgen at home, threatening to have Armenians demonstrate against Turkey in front of the consulate. Such passionate responses to the MFA's controversial decision to not negotiate with Turkey show that its actions have an international effect.

⁵⁵ "Getting to the Bottom of Split Statue," The Boston Globe 4 Aug. 1998: A30.

⁵⁶ Ibid.

⁵⁷ Ibid.

Although much of the MFA's curatorial work occurs behind gallery walls, it is still a public institution whose mission is to "encourage inquiry and to heighten public understanding and appreciation of the visual world."⁵⁸ The MFA mentions in its catalogue description of the *Weary Herakles* that the lower part of the statue is in the Antalya Museum, but neglects to acknowledge its controversial provenance or appeals from Turkey to restitute the sculpture. Not making the history of its collections transparent tarnishes the reputation of the MFA and erodes public trust in the institution. In order for the MFA to be transparent about its decision to not negotiate with Turkey or restitute the sculpture, the Museum needs to explain to the public why it does not want to return it. If the museum has acknowledged that the lower half of Herakles' torso exists, then it should explain why the two are not joined together.

In September of 2006, the MFA announced that it would transfer thirteen antiquities to Italy, following negotiations with the Italian Ministry of Culture. The agreement is very similar to the one that the Metropolitan Museum of Art made in February of that year, which included borrowing objects from Italy of equal aesthetic and cultural value, and collaborating with the country on future exhibitions, research, and

⁵⁸ "Mission Statement," 1991, Museum of Fine Arts Boston, 24 Oct. 2006, <<http://www.mfa.org/about/index.asp?key=53>>.

archaeological excavations.⁵⁹ Perhaps it can utilize this opportunity to carry out another aspect of its mission: “The Museum has obligations to the people of Boston and New England, across the nation and abroad ... [T]o [stimulate] in its visitors a sense of pleasure, pride and discovery which provides aesthetic challenge and leads to a greater cultural awareness and discernment.”⁶⁰

⁵⁹ “Museum of Fine Arts, Boston and Italian Ministry of Culture Sign Agreement Marking New Era of Cultural Exchange,” 2006, Museum of Fine Arts Boston, 24 Oct. 2006, <<http://www.mfa.org/about/sub.asp?key=82&subkey=3444>>.

⁶⁰ “Mission Statement,” 1991, Museum of Fine Arts Boston, 24 Oct. 2006, <<http://www.mfa.org/about/index.asp?key=53>>.

Cases of Transparent Museums

While some museums are not transparent about their collecting policies, there are others that have discovered that by being transparent about the improper ways in which their collections were amassed, and by creating partnerships with countries and indigenous communities, part of whose cultural heritage they possess, they can develop a more cohesive and multi-dimensional approach to educating their public. For instance, the Melbourne Museum in Australia has created an Aboriginal center that makes transparent its involvement in the past atrocities inflicted on the Aboriginal community through its collection of indigenous art and artifacts. Additionally, the South African Museum worked to make visible the way in which it obtained a popular yet controversial collection of casts of indigenous African people. Finally, the Fine Arts Museums of San Francisco worked with Mexico to share a bequeathed collection of murals with a dubious provenance, and in turn developed a mutually beneficial partnership with the country. The process of becoming transparent was not always easy for these museums, but the underlying themes that made each course of action successful was having an open dialogue with native people, source countries, and the public, as well as volition to find the best practices in cultural and historical representation.

1. Melbourne Museum, a campus of Museum Victoria, Melbourne, Australia

For over 60,000 years, the original inhabitants of Australia and the Torres Strait Islands lived undisturbed. Then, in the 18th century, Great Britain established legal control over the continent. Hundreds of indigenous nations were subordinated to the crown, which controlled every aspect of their lives. The “Aborigines” were considered a nuisance, a hindrance to the effective exploitation of Australia, and it was hoped that one day they would all die out.⁶¹ Aboriginal people were harmed by British colonization mentally, physically, and spiritually; they were poisoned, clubbed, shot, raped and cleared from their own lands.⁶² Their material culture was either sold or destroyed by Western missionaries and colonizers trying to eradicate the Aboriginal way of life.

The Central Board to Watch Over the Interests of the Aborigines, established in 1860, assumed control of Aboriginal peoples’ lives and living conditions. The Board developed policies and expected mission and reserve managers to implement them. This regime was organized around the principles of erasing Aboriginality and inculcating white values such as settled life, individualism, European gender roles and work

⁶¹ “Yarns We Tell,” 2003, Museum Victoria Australia, 2 Apr. 2006, <http://melbourne.museum.vic.gov.au/bunjilaka/yarns_show.asp?ID=560418>.

⁶² Phillip Knightley, *Australia: A Biography of a Nation* (London: Jonathan Cape, 2000) 108.

patterns.⁶³ Aboriginal children, especially those that had any white blood in them, were ripped from their families and sent to missions in order to be “civilized.”⁶⁴ In addition to the wholesale severing of familial bonds, the material and visual Aboriginal culture was destroyed by colonizers or sold to European scientists and academics eager to salvage the tangible evidence of this dying culture.⁶⁵ Much of their art was exported to museums and universities in Great Britain and Germany. For example, Professor Alfred Cort Haddon of England removed thousands of indigenous cultural artifacts in 1898 because he believed that the Aboriginal culture would eventually die without leaving a trace of its existence. The objects ranged from spears to musical instruments, shoes, jewelry, baskets, and even ear weights. Haddon brought the objects to the Museum of Archaeology and Anthropology at the University of Cambridge in England for research and safe-keeping.⁶⁶

Contrary to the European enthusiasm for collecting artifacts from the aboriginal inhabitants of Australia, the majority of mid-19th century Australian museums showed little interest in collecting their material and focused instead on collecting the natural flora and fauna from the continent, which they believed would soon be largely extinct

⁶³ “Material Histories,” 2002, Museum Victoria Australia, 2 Apr. 2006
<<http://www.museum.vic.gov.au/material/>>.

⁶⁴ Phillip Knightley, *Australia: A Biography of a Nation* (London: Jonathan Cape, 2000) 108.

⁶⁵ Louise Jury, News, 2001, European Network for Indigenous Australian News, 7 July 2005,
<<http://www.eniar.org/news/repat4.html>>.

⁶⁶ Ibid.

due to European land exploitation.⁶⁷ Aboriginal cultural material, such as weaponry, was traded and sold in the public marketplace, mostly as trophies, showing that there was a higher regard for plants than for Aboriginal cultural artifacts. The latter were considered primitive and lacking in ornamentation, therefore worthless to art collectors who, along with scientists of the day, placed their creators at the bottom of the evolutionary ladder.⁶⁸

Although there was a common indifference among Australian museums to collect the material culture of the Aborigines, Dr. George Bennett, the first secretary and curator of the Australian Museum in Sydney in the mid 19th century,⁶⁹ believed that the Museum should focus on collecting physical remains of native people. As a physician influenced by the theories of Darwin, he believed that a collection of physical remains as well as careful drawings of “peculiar” characteristics of native peoples would be a very valuable resource for progressive evolutionary research.⁷⁰ Bennett’s suggestion to collect physical “evidence” of native people showed not only that he agreed with the common theory of the imminent extinction of aboriginal peoples, but also that native human remains received the same objective treatment as flora and fauna. Bennett and his contemporaries

⁶⁷ Margaret Anderson and Andrew Reeves, “Museums and the Nation in Australia,” *Museums and the Making of Ourselves*, ed. Flora Kaplan (London, England: Leicester University Press, 1996) 86.

⁶⁸ *Ibid.* 88.

⁶⁹ “A Brief History of the Australian Museum,” 1999, Australian Museum Archives, 25 Nov. 2006 <<http://www.amonline.net.au/archives/fact01.htm>>.

⁷⁰ Margaret Anderson and Andrew Reeves, “Museums and the Nation in Australia,” *Museums and the Making of Ourselves*, ed. Flora Kaplan (London, England: Leicester University Press, 1996) 86.

were especially interested in studying the physical properties of native peoples because they believed them to represent a missing link between modern humans and their less advanced ancestors. This erroneous belief had a profound effect on the descendants of the "specimens" and on the way in which they were regarded in modern Australia.

Although Europeans would not have featured their own ancestors' remains in public exhibits, they had no such qualms where Aboriginal physical remains were concerned. The supposed scientific value of the remains overrode moral considerations.⁷¹ In some cases these displays went against the specific wishes of the persons whose remains were shown. One such case involved Truganini, the daughter of Mangerner, a chief of the Recherche Bay people, and considered to be the last full-blooded Aboriginal Tasmanian. She did everything in her power to prevent her body's desecration after death. She frequently expressed fears that she would be cut up like other Tasmanian Aborigines and placed in a museum.⁷² She wanted to be interred in the deepest part of the D'Entrecasteaux Channel, in her traditional lands. Instead, she was buried in the grounds of the Female Convict Factory in Tasmania in 1876.

However, two years later, the Museum of the Royal Society of Tasmania (now the Tasmanian Museum) exhumed Truganini's body, prepared it as a specimen, and exhibited

⁷¹ Sharon Sullivan, "Repatriation," 1999, J. Paul Getty Trust, 6 Jun 2006, <http://www.getty.edu/conservation/publications/newsletters/14_3/feature1_6.html>.

⁷² Margaret Anderson and Andrew Reeves, "Museums and the Nation in Australia," *Museums and the Making of Ourselves*, ed. Flora Kaplan (London, England: Leicester University Press, 1996) 87.

it. Many of Truganini's Aboriginal contemporaries were similarly treated.⁷³ Truganini's skeleton was soon after transported to the National Museum of Victoria and stayed on display until 1947. It was not until 1974, following legal proceedings and the passing of special legislation, that the Aboriginal community in Tasmania succeeded in achieving the cremation of the remains and the scattering of the ashes in the D'Entrecasteaux Channel to finally consummate Truganini's last wishes.

Inhumane treatment of Aboriginal people was rampant throughout the Australian continent until the early 1970s, when Aboriginal people finally were given the same rights as Anglo-Australians. The Racial Discrimination Act in 1975 and the Land Rights Act in 1976 granted land as well as political and human rights to the Aboriginal people in Australia. Although they finally received the same legal status as their white counterparts, the evils inflicted on the Aboriginal people could not be easily forgotten. On the contrary, the institution of these landmark laws brought widespread attention to the atrocities of the past. There was a need to publicly make up for past injustices not only through legal means, but through cultural policy changes as well. Finding an identity in a country where their culture was nearly obliterated through genocide and art theft proved to be a challenge for Aboriginal Australians.

⁷³ Sharon Sullivan, "Repatriation," 1999, J. Paul Getty Trust, 6 Jun 2006, <http://www.getty.edu/conservation/publications/newsletters/14_3/feature1_6.html>.

In 1993, during the International Year of Indigenous People, a set of guidelines called *Previous Possessions, New Obligations: Policies for Museums in Australia and Aboriginal and Torres Strait Islander People*, was adopted by the Council of Australian Museum Associations (now known as Museums Australia).⁷⁴ A historically significant document, *Previous Possessions, New Obligations* clearly defined the role of the museums and galleries sector with respect to Aboriginal and Torres Strait Islander peoples' cultural patrimony. It addressed past museum practices and outlined new ones, which were marked by respect for, and cooperation with, Indigenous Australians in relation to the treatment of their material heritage in museums and galleries.⁷⁵ As the title of the document indicated, *Previous Possessions, New Obligations* was an acknowledgement that museum approaches of the future were to be significantly different from those of the past.

Since its inception, *Previous Possessions, New Obligations* has changed both the culture and practice in major Australian museums and galleries, particularly in the highly sensitive areas of the treatment of collections of Aboriginal ancestral remains and sacred materials. It has also had an impact on the ways in which Aboriginal and Torres Strait Islander peoples are represented in these institutions. As a general consequence of

⁷⁴ "Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage," 2005, Museums Australia, Inc., 1 Sept. 2006 <http://www.museumsaustralia.org.au/dbdoc/ccor_final_feb_05.pdf>.

⁷⁵ Ibid.

applying *Previous Possessions, New Obligations*, Aboriginal and Torres Strait Islander people have achieved substantially greater access to and influence over collections and other aspects of museum and gallery activities. For the first time, Aboriginal people are not just subject and object of museum exhibitions, but also staff members. In this role they are effective in bridging museums and the Indigenous community by creating spaces where they can explain the significance of artifacts and rituals to visitors.

Recognizing the positive impact of *Previous Possessions, New Obligations* in the museums and galleries sector and acknowledging the real change it helped bring about, Museums Australia revised the guidelines in 2003, renaming them “*Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage.*” This document acknowledges that museums and galleries have modified their approach to indigenous cultural material and collections by substituting custodianship and care-taking for mere ownership and by recognizing the value of stories and other intangibles associated with objects.⁷⁶ Australian museums have strived to create lasting relationships with the

⁷⁶ “Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage,” 2005, Museums Australia, Inc., 1 Sept. 2006 <http://www.museumsaustralia.org.au/dbdoc/ccor_final_feb_05.pdf>.

Aboriginal community and to represent not only their heritage but the Aboriginal and Torres Strait Islander cultural practices of today.⁷⁷

One museum that has been at the forefront of maintaining an ongoing relationship with the Aboriginal community is the Melbourne Museum, a campus of Museum Victoria, in Melbourne Australia. Although the museum does not have a mission statement, it claims to be

“a broad-based State museum with a national and international focus that covers the natural and physical sciences as well as social history and cultures... Melbourne Museum aims to provide an interactive and exciting visitor experience to the broadest possible audience. Melbourne Museum promotes public debate on concepts and issues relating to the natural environment, new technology and other changes occurring in our society.”⁷⁸

Melbourne Museum not only is transparent about the ways in which it has obtained its collection of indigenous art and artifacts but also highlights the past atrocities inflicted on the Aboriginal community. The museum developed an Aboriginal Centre called “Bunjilaka,” which empowers Aboriginal people to interpret their own cultural

⁷⁷ “Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage,” 2005, Museums Australia, Inc., 1 Sept. 2006 <http://www.museumsaustralia.org.au/dbdoc/ccor_final_feb_05.pdf>.

⁷⁸ “Review of Campus Operations,” *Museum Victoria*, 2003, Museums Board of Victoria, 25 Nov.2006 <http://www.museum.vic.gov.au/about/docs/2002_2003reviewMM.pdf>.

heritage for both indigenous and non-indigenous people through ceremonies, education, and handling their own cultural objects.⁷⁹

Melbourne Museum has also been at the helm of creating a dialogue between the Aboriginal and white communities regarding Australia's racially divisive history and finding ways to bring about reconciliation. From the initial conception of Bunjilaka, six years before it was built in 2000, community consultation ensured that Bunjilaka's spaces, exhibitions and events, represented the aspirations of Aboriginal communities in Victoria. For instance, the Wurundjeri Aboriginal people, supported by Melbourne Museum and the state government, held a smoking ceremony on the site of the new Museum to "cleanse" and "heal"⁸⁰ the site before building the new museum. In Aboriginal culture, the earth has a spiritual, maternal connection to humans. The destruction and deforestation of the environment and development of urban landscapes since the colonial invasion has bruised the relationship between mother earth and humans, which can only be healed by reinstating a culture of respect with the smoking ceremony. This ceremony was a historic step in the state government's recognition of not only the desecration of spiritual, practical and cultural bonds with the land that occurred during invasion, but also the importance of reconciliation with the Aboriginal

⁷⁹ "What is Bunjilaka?," 2003, Museum Victoria Australia, 4 Feb. 2006, <<http://melbourne.museum.vic.gov.au/bunjilaka/bunjilaka.asp>>.

⁸⁰ Ibid.

community.⁸¹ The name “Bunjilaka” was selected for the Aboriginal center after consulting with the local Aboriginal people from the Wurundjeri and Boonwurung groups who are the traditional owners of Melbourne and surrounding suburbs. “Bunjilaka” is derived from the Woiwurung word “Bunjil.” “Bunjil” was a significant Creation Ancestor for some south-eastern Australian Aboriginal language groups. “Aka,” from the Boonwurung language, means “land” or “place.”

As its name is a combination of Aboriginal words, the Bunjilaka gallery is also divided into sections with names from different Aboriginal languages.⁸² Each space introduces visitors to a different perspective or tradition of Aboriginal culture using mixed media such as artwork, video, writings, photography and artifacts. For example, “Jumbunna” is the exhibition space which houses the main exhibitions, traveling exhibitions and temporary displays. “Wurreka” (“to speak” in the Wamba Wamba language) is the name given to zinc wall panels etched by Judy Watson, an Aboriginal artist, which feature abstract landscapes and figures leading into Jumbunna. Her artwork, inspired by meetings with the Victorian Aboriginal community and viewing Victorian Aboriginal artifacts, gives an individualized visual imprint of the Aboriginal community

⁸¹ “Aboriginal Smoking Ceremony,” 2003, Museum Victoria Australia, 1 Sept. 2006, <<http://melbourne.museum.vic.gov.au/bunjilaka/bunjilaka.asp>>. <http://melbourne.museum.vic.gov.au/bunjilaka/ceremony.asp>.

⁸² “Bunjilaka Spaces,” 2003, Museum Victoria Australia, 4 Feb. 2006, <<http://melbourne.museum.vic.gov.au/bunjilaka/spaces.asp>>.

on the museum space. The museum takes making Bunjilaka an Aboriginal space one step further with a “Wilam Liwik” (meaning “camp of the elders” in Woiwurrung language), the Elders Meeting room, a sacred room closed to the general public and used strictly by Aboriginal community members.⁸³ In addition, a “Keeping Place” allows other Aboriginal community members to meet and view their cultural heritage material privately.

Since the inception of Bunjilaka, its permanent exhibitions have consistently included the input of the Aboriginal community in its programming and policies by means of consulting local people indigenous to the greater Melbourne area and hiring full time staff of Aboriginal descent.⁸⁴ Choosing to make Bunjilaka a space for and by the indigenous community not only empowers them to control and embrace their heritage, but also allows non-Aboriginal visitors to interpret the past and present relationship between the white and Aboriginal communities and get a first-hand, authentic interpretation of the Aboriginal community and history. For example, the permanent exhibition, “Koori Voices” recounts and celebrates the stories and survival of Aboriginal people in Victoria after the British invasion and subsequent colonization in the 19th century. Through photos, audio-visual components, and protest signs, these objects tell a

⁸³ “Bunjilaka Spaces,” 2003, Museum Victoria Australia, 4 Feb. 2006, <<http://melbourne.museum.vic.gov.au/bunjilaka/spaces.asp>>.

⁸⁴ “What is Bunjilaka?,” 2003, Museum Victoria Australia, 4 Feb. 2006, <<http://melbourne.museum.vic.gov.au/bunjilaka/bunjilaka.asp>>.

history that has been hidden, even denied, of the indigenous community of Victoria, which has continually sought to maintain an autonomous lifestyle.⁸⁵ “Belonging to Country” is an object-centered exhibition which features indigenous art that explores the identities of Aboriginal people, their relationship to the land, and their interpretation of Australian history.⁸⁶

In terms of transparency about the ways in which museums have established their collections, one of the most progressive permanent exhibitions in Bunjilaka is “Two Laws” which explores Aboriginal and Anglo-Australian perspectives on knowledge and property, and how these are defined in law. Although Aboriginal people have gained many rights since the colonial invasion, they still must surmount many hurdles to make the Australian government recognize their laws within their own territories and communities. Artwork, artifacts and a dramatized video discussion between 19th century British zoologist and anthropologist Walter Baldwin Spencer and Irrapmwe, the late-19th century Arrernte peoples’ leader, present the differences between Indigenous and non-Indigenous perceptions and laws which still may influence Anglo-Australian government policy today. The video, entitled, “Central Dialogue,” features an imaginary conversation between Spencer and Irrapmwe. Spencer was originally Professor of Zoology at

⁸⁵ “What is Bunjilaka?,” 2003, Museum Victoria Australia, 4 Feb. 2006, <<http://melbourne.museum.vic.gov.au/bunjilaka/bunjilaka.asp>>.

⁸⁶ “Belonging to Country,” 2002, Museum Victoria Australia, 25 Aug. 2006, <http://melbourne.museum.vic.gov.au/exhibitions/exh_bunjilaka.asp?ID=560417>.

Melbourne University in 1887 until he traveled to central Australia in 1894. He then became actively interested in cultural anthropology after meeting with and studying the Aboriginal peoples of Southern Australia and the Northern Territory.⁸⁷ “Central Dialogue,” looks at the relationship between Aboriginal Australians and white colonizers, anthropologists, and government institutions of the 19th century from a 21st century perspective. The dramatized discussion between Irrapmwe and Spencer features ideas and issues that could only have occurred if Irrapmwe had the hindsight that his descendents now have. Irrapmwe befriended the famed British anthropologist as well as the white settlers who invaded his country, welcoming them, guiding them to water sources and generally working in concert with them.

Although his legacy is that of a friend to the Anglo-Australians, Irrapmwe’s character in the video discussion speaks from the perspective of his descendents today and criticizes the belief systems and treatment by the white community. For example, Irrapmwe mentions that Spencer’s written accounts of the Aboriginal people were that they were “naked, howling savages.”⁸⁸ Irrapmwe’s character in the video discussion angrily accuses Spencer of creating a historically inaccurate perspective in order to satisfy his own needs and dishonoring the friendship that he and Spencer shared. Spencer,

⁸⁷ David Jay, “Bunjilaka for Years 4 – 10. A Teacher Resource Package,” 2006, Melbourne Museum Victoria 2 Dec. 2006: <http://melbourne.museum.vic.gov.au/pdf/bunjilaka_teacher_notes.pdf>.

⁸⁸ Central Dialogue, Bunjilaka Melbourne Museum, NTSC VHS, Light Image PTY LTD, 2001.

like other anthropologists of the time, believed that the Aboriginal people would eventually die out. But as a native Englishman who became Director of Melbourne Museum (then known as Museum Victoria) in 1899, Spencer, unlike other white settlers, thought it important to collect Aboriginal material culture before their “inevitable” disappearance. The anthropologist played a crucial role in forming the ethnographic collection of Melbourne Museum. Spencer received many objects from Irrapmwe and eventually increased the museum’s ethnographic collection from 1,000 items to 36,000.⁸⁹

Although Spencer befriended Irrapmwe, he presented the Arremte as primitive people in his writings and in museum display descriptions. Their objects were put in Melbourne Museum, among others, without input from the indigenous community. Tools such as spears and adzes, as well as sacred objects that should never be shown publicly, were put on display without any type of cultural sensitivity to the Aboriginal belief systems. It therefore did not matter to the museum or the general public how these cultural artifacts were treated. By creating a savage image of the Aboriginal people, and disregarding their entire belief system, customs, ceremonies – everything that distinguished their culture from all others – allowed the museum and surrounding community to ignore all thought process that went into creating indigenous art and

⁸⁹ “Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage,” 2005, Museums Australia, Inc., 1 Sept. 2006 <http://www.museumsaustralia.org.au/dbdoc/ccor_final_feb_05.pdf>.

artifacts and to show their work as that of a dying, inferior people, perhaps no more sophisticated than the Neanderthal.

While this history is too familiar to indigenous communities across the world, what makes Melbourne Museum so unique is that it makes transparent through its exhibition materials, displays, educational texts, and wall labels, the damage done to indigenous-settler relations by the collecting of Aboriginal material culture. For example, the schoolteacher's guide, "A Teacher Resource Package," developed by "Indigenous Cultures" and Bunjilaka staff to accompany Bunjilaka exhibitions, mentions that Aboriginal property was sometimes bought with money or traded for tea or tobacco.⁹⁰ But other cultural material, like stone artifacts and skeletal remains were taken from deserted locations or through grave-robbing. The guide clearly states, "Through this combination of trade, scavenging and theft, individuals and public bodies, like museums, built up massive collections of Aboriginal and Torres Strait Islander artefacts, particularly during the latter part of the nineteenth century and the earlier part of the twentieth century."⁹¹

The museum also comments on how the massive collecting process, by Europeans as well as Australian settlers, that was rampant in Australia added to the degradation and

⁹⁰ David Jay, "Bunjilaka for Years 4 – 10. A Teacher Resource Package," 2006, Melbourne Museum Victoria 2 Dec. 2006: <http://melbourne.museum.vic.gov.au/pdf/bunjilaka_teacher_notes.pdf>.

⁹¹ Ibid.

loss of Aboriginal material cultural heritage. Over time, objects or their significance were lost. Melbourne Museum highlights an attractive pelican feather apron as an object that was probably collected for its aesthetic value but that, due to its missing provenance history, has entirely lost its cultural value.

“The Culture Trade” exhibit within Bunjilaka also highlights how the Melbourne Museum used to trade Aboriginal items in its collection with other institutions or collectors. For example, a large reindeer sleigh was acquired from Russia in exchange for 160 indigenous items, mostly of Australian origin.⁹² The museum shows that because it had exercised unethical collecting practices in the past, it is very difficult now to repatriate any of the dispersed Aboriginal objects, much to the detriment of Australian indigenous cultural heritage.

Despite the fact that the Melbourne Museum has had to repatriate some Aboriginal material culture, opening up the museum (essentially a western construct) to the input of the indigenous community has mutually benefited the museum and its public, both aboriginal and immigrant. The thought of transparency about its past collecting practices, including the admittance that museums might have done things we now would consider wrong, causes many museums to worry that it will necessitate a mass repatriation of indigenous artifacts. However, Irrapmwe’s character as well as his great-

⁹² David Jay, “Bunjilaka for Years 4 – 10. A Teacher Resource Package,” 2006, Melbourne Museum Victoria 2 Dec. 2006: <http://melbourne.museum.vic.gov.au/pdf/bunjilaka_teacher_notes.pdf>.

great granddaughter, who appears in real life in the “Central Dialogue” video, believe that the tools and artifacts that were taken from them and their people belong to the museum now. But they argue that the Arrernte people should be a part of telling their story in the museum. Irrapmwe does not want the museum to talk about his people as if they aren’t there, especially since they are still a thriving community. Irrapmwe’s great-great granddaughter insists that the ways in which museums keep and show these objects must conform to Aboriginal law, thereby allowing the museum and Aboriginal communities to come to a reconciliation and educate the general public on Aboriginal laws and customs.

Also, another example of a museum that works with its country’s indigenous community to create and interpret exhibitions is the National Museum of the American Indian (NMAI) in Washington D.C. Its president, Rick West, has said that his museum has been influenced by Melbourne Museum’s Bunjilaka gallery and policies.⁹³ The NMAI contains a private space away from the public eye where tribal members may use objects from the museum’s collection for ceremonial purposes. The NMAI is not only a place for the Native American community to celebrate their own culture, but for visitors

⁹³ R. West, (2006, March 22), “Journeys in the Post-Colonial World,” Seton Hall University, South Orange, NJ.

to learn about the diverse tribes, and their historic and contemporary lives.⁹⁴ Although the museum, like many other Native American museums, feared mass repatriation when the 1990 Native American Graves Protection and Repatriation Act (NAGPRA) passed in the United States allowed Native Americans to reclaim cultural artifacts which had been stolen from tribes during colonization,⁹⁵ the fact remains that less than 1% of the 800,000 objects the NMAI holds in its collection were actually repatriated.⁹⁶ Therefore, bringing these sensitive issues of what property belongs to whom, and working with indigenous communities to help them celebrate and retain their culture, can only benefit the museum community and enrich the public's understanding about the history surrounding the acquisition of museum collections. Displaying stolen property without opening a dialogue about its history can do more harm to the reputation of museums and cause continuous rifts between cultural institutions and the public's trust.

By creating an interpretive permanent exhibition that explains how its museum collections were not always acquired by honest means, or that interpretation of cultures has not always been objective, Melbourne Museum is now at the forefront of creating a new dimension of transparency in collection policies and histories. Melbourne Museum's

⁹⁴ "About the National Museum of the American Indian," 2006, Smithsonian Institution, 17 Sept. 2006 <<http://www.nmai.si.edu/subpage.cfm?subpage=visitor&second=about&third=about>>.

⁹⁵ "National NAGPRA Home," 2006, National Park Service, 17 Sept. 2006 <http://www.cr.nps.gov/nagpra/>.

⁹⁶ R. West, (2006, March 22), "Journeys in the Post-Colonial World," Seton Hall University, South Orange, NJ.

determination to paint an accurate, culturally sensitive picture of historical events between the Anglo-Australians and Aboriginal and Torres Strait Islander people by hiring staff of Aboriginal descent and consulting with their community on how objects should be displayed according to their laws, has benefited them as well as the museum's public. Through transparency, the Melbourne Museum shows that although it obtained its collections in ways that harmed and disrespected the Aboriginal community, it is now working toward improved race relations between Aboriginal and white Australians.

2. South African Museum (SAM) in Cape Town, South Africa

In 1652, European colonizers first landed at the Cape of Good Hope on the southern tip of Africa. Although the area (later to be known as South Africa) had been home to modern humans for 100,000 years,⁹⁷ Jan van Riebeeck took control of the land to create a port for the Dutch East India Company. This became a gateway into South Africa for more European colonizers who, after arrival to this strange land, encountered the “San” hunter-gatherers and the “Khoekhoen” herders who raised domestic animals.⁹⁸ This collision of ethnicities forever changed that land’s cultural, political, and social framework.

Although the San and Khoekhoen were two distinctly different ethnic groups, their names were blended together by colonizers to create the term “khoisan,” which has now become a general term for African people whose languages use click sounds to substitute consonants.⁹⁹ Besides their dark skin color, strange “click” language, and the fact that they wore loincloths as clothing, the khoisan people had a few physical attributes that made them seem very different to the colonizers. For example, the genitalia of

⁹⁷ “A World in One Country,” 2006, *The Warsaw Voice*, 3 Oct. 2006
<<http://www.warsawvoice.pl/view/11168>>.

⁹⁸ “The Khoisan,” 2006, *Future Perfect Corporation*, 8 Oct. 2006,
<<http://khoisan.org/>>.

⁹⁹ Although the term “khoisan” does not acknowledge the differences and complexities of these ethnic groups, for the purpose of remaining within the scope of this thesis about museum practices, I will use the term “khoisan” to refer to the San and Khoekhoe people of southern Africa.

females were exceptionally elongated in comparison to their European counterparts' and their unusually large buttocks projected out at a 90 degree angle (known as steatopygia). The male khoisan's penis also was mildly erect even in a relaxed state. Although these aspects of the bodies of khoisan people should not make them seem less human, the Dutch, simultaneously fascinated and disgusted by them, derisively referred to the khoisan as "bushmen" or "Hottentots" (referring to their mode of speech) believing that they were a savage, inhuman, highly-evolved breed of monkey.¹⁰⁰

If the Dutch response to these foreign land dwellers was one of repugnance, the native response was one of apprehension and anger. Initially, the Dutch had a barter system with the native people of southern Africa. When it became apparent that these foreigners were not going to leave their land, the khoisan did everything they could, from raids and cattle-theft to calling upon magical powers, to get rid of these unwanted colonizers.¹⁰¹ But their spears and arrows were no match for the guns and swords of the Europeans. This open hostility on the part of the khoisan gave colonizers even more reason to defend themselves in these unbalanced battles.

By painting a blatantly false picture of khoisan as a cannibalistic, primitive race, the Dutch (and later, the British) justified their aggressive tactics as self-defense, to

¹⁰⁰ Pippa Skotnes, "Civilised off the Face of the Earth: Museum display and the silencing of the /Xam," *Poetics Today* 22 (2001): 300.

¹⁰¹ Paul Lane, "Breaking the Mould? Exhibiting Khoisan in Southern African museums," *Anthropology Today* 12 (1996): 1.

themselves and to the world, and their elimination of native people went unchecked for many years.¹⁰² The khoisan lost much ground to colonizers and many were forced into slavery or indentured servitude. Violence, starvation, and the introduction of smallpox and other foreign-borne diseases decimated the khoisan population.

In the early 19th century, when the British gained control of South Africa, many khoisan were brought to England against their will to be exhibited in traveling exhibitions or freak shows, to show the British public their new, strange fellow countrymen.¹⁰³

Physical remains of the khoisan, mostly their genitalia, skulls, and skeletons, were also bought, sold, and used for scientific study or exhibition. Khoisan were killed for sport, their heads stuffed and displayed as trophies, while women's breasts were made into tobacco pouches.¹⁰⁴ One well-documented early experience of the fascination with khoisan bodies includes Saartje Baartman, who became infamously known as the "Hottentot Venus." She was taken to England to be exhibited naked in public as a type of human specimen in 1810. After her death in Paris in 1816, Napoleon's surgeon, George Cuvier, made a cast of her body, pickled her genitals and brain, and put her skeleton on

¹⁰² "Who Views Who?", 2006, Future Perfect Corporation, 8 Oct. 2006, <<http://khoisan.org/whoviewswho.htm>>.

¹⁰³ Pippa Skotnes, "Civilised off the Face of the Earth: Museum display and the silencing of the /Xam," Poetics Today 22 (2001): 319

¹⁰⁴ *Ibid*, 303.

display in a museum.¹⁰⁵ Until 1974, her body parts were exhibited at the *Musée de l'Homme* in Paris, and in 2002, they were finally repatriated and buried in South Africa.¹⁰⁶

Not only European museums were interested in exhibiting the physical remains of khoisan people, but also the South African Museum (SAM), which was founded as early as 1825 by Lord Charles Somerset and Andrew Smith. The original museum collection consisted of trophies of the animal and human variety,¹⁰⁷ minerals, shells, and ethnographic material.¹⁰⁸ By the late 19th century, the museum's collection resembled those of the Museum of Natural History in New York and the Field Museum in Chicago, which combined natural history with ethnographic collections. It was systematized and categorized to show a hierarchy of life and material culture. The SAM's natural history collection, with taxidermized animals and specimens of exotic minerals and flora, was shown in the same gallery as the ethnographic collection of khoisan tools and weaponry.¹⁰⁹

¹⁰⁵ Chris McGreal, "Coming Home," *The Guardian* 21 February 2002: 6, *Academic Universe*, Lexis-Nexis, Seton Hall University Main Library Database, NJ., 3 March 2006 <<http://web.lexis-nexis.com.ezproxy.shu.edu/universe>>.

¹⁰⁶ Thabo Mbeki, "Diverse People Unite - the South African Motto," 2000, *Prevent Genocide International*, 9 Aug. 2006, <http://www.preventgenocide.org/africa/>.

¹⁰⁷ Annie Coombes, *History After Apartheid* (Durham: Duke University Press, 2003) 214.

¹⁰⁸ "History of the South African Museum," 2006, Iziko Museums of Cape Town, 8 Oct. 2006, <<http://www.iziko.org.za/sam/muse/hist/headline.htm>>.

¹⁰⁹ Annie Coombes, *History After Apartheid* (Durham: Duke University Press, 2003) 214.

In the early 20th century, the expansion of the SAM's collection coincided with the widespread interest in Europe, the United States, and South Africa to study physical anthropology, or the "direct correlation between physical type and evolutionary status."¹¹⁰ To physical anthropologists, the genitalia and buttocks of the khoisan people, in addition to their dark skin and other general physical dissimilarities from Caucasians, meant that they were lower on the evolutionary chain than white South Africans. Because of the widespread belief in the scientific community in South Africa and Europe that the khoisan were actually closer to prehistoric man than their white counterparts, there was a sudden urgency to preserve their likeness before they died out. Louis Peringuey, director of the SAM from 1906 – 1924, requested permission from the colonial undersecretary of the Cape to embark on a project to cast from life khoisan bodies for the SAM.¹¹¹ The reason for which Peringuey asked permission was because much of the khoisan population was incarcerated, usually for petty crimes.¹¹² Peringuey assured the under secretary that the casting process would be quick and painless, and when he was granted access to jails across the country, he sent museum modeler James Drury to find the purest specimens of the khoisan race.¹¹³

¹¹⁰ Annie Coombes, *History After Apartheid* (Durham: Duke University Press, 2003) 215.

¹¹¹ *Ibid.*, 216.

¹¹² *Ibid.*

¹¹³ *Ibid.*

Although body casting is usually a physically painless procedure, for the khoisan people it was humiliating and extremely uncomfortable. The SAM created an *Anthropological Measurements* form with instructions to measure every single part of the body. Peringuey gave further instructions to Drury to be sure to cast the labia of the female khoisans and the genitals of the males in order to preserve these unique aspects of the khoisan race in perpetuity.¹¹⁴ This undoubtedly was a procedure that was invasive, degrading, and would have caused a certain degree of pain and discomfort when removing the hardened plaster in such sensitive areas. There were reports of the difficulty of getting some of the khoisan women to remove their clothing. Once they did, their bodies were subjected to as much prodding as was necessary for Drury to accurately measure and model their bodies, which included the painful pulling on the *labia minora* with forceps for measurement and inspection. Some khoisan people were mentioned in Drury's papers as not being able to "stand the modeling."¹¹⁵ Ironically, the fact that the khoisan expressed these emotions and tried to keep their dignity during this process did not deter Peringuey, Drury, and others in the scientific world from pursuing their quest to document and preserve this dying race of "primitive" man.

¹¹⁴ Pippa Skotnes, "Civilised off the Face of the Earth: Museum display and the silencing of the /Xam," *Poetics Today* 22 (2001): 311.

¹¹⁵ Annie Coombes, *History After Apartheid* (Durham: Duke University Press, 2003) 217.

In total, Drury made 68 casts which went on display in the SAM in 1911. The figures were situated in a display that focused more on physical anthropology and racial type than on the individual and his or her relation to the greater khoisan social and cultural network.¹¹⁶ Documentary photos show that the women were usually placed in profile in order to emphasize their steatopygia. A wall label from 1911 reflects the scientific community's interest in studying the khoisan, who were considered

“pure-blooded representatives of the Bushman stock... one of the most interesting races in the world. There are strong grounds for suspecting they are of the same stock as the remote Upper Paleolithic period. This cannot yet be definitely asserted but recent discoveries in North and East Africa have tended to strengthen the probability considerably.”

The label also talked about them in the past tense even though they still existed.¹¹⁷ Thus, it not only reflected the then commonly accepted notion that the khoisan were less evolved than the Caucasian race, but also implied that their extinction was a *fait accompli*.

In 1960, the SAM created a new display for the khoisan casts that was to become infamously known as the “Bushman Diorama.” Under the racist apartheid laws implemented in the 1950s, the new legislation initiatives not only literally segregated black and white South Africans in public and private, but also caused a segregation in the

¹¹⁶ Annie Coombes, History After Apartheid (Durham: Duke University Press, 2003) 220.

¹¹⁷ Ibid.

way that South Africans were meant to see and think about the world. For example, museum exhibits were divided into two categories: "Own Affairs" focused on European culture and history and "General Affairs," included natural history, animals, and black history and culture.¹¹⁸ The "Bushman Diorama" was situated in the natural history gallery near dinosaur fossils and taxidermized African animals such as antelope.¹¹⁹ This placement encouraged the public to view the people depicted in the exhibition in the same way as the animal specimens found on the same continent. The absence of a display of casts of white South Africans in this section of the SAM reinforced the thought that the black South African was the ethnographic "other." The notion of inferiority was implied.

Despite its racist implications, the "Bushman Diorama" quickly became the museum's main tourist attraction. The casts of the khoisan people stood motionless and silent in a scene based on an aquatint by Samuel Daniell called "African Scenery and Animals, 1804-5."¹²⁰ It depicted the "bushmen" resting in a primitive tent or standing with a bow and arrow in a hunter's stance. An old man sat on his haunches, trying to make fire by rubbing a stick between both hands, while staring intently at something viewers cannot see. All figures were naked except for loincloths, a garment that the

¹¹⁸ "After apartheid, a fresh look at history," *Christian Science Monitor*, 6 June 2001: 9.

¹¹⁹ *Ibid.*

¹²⁰ Annie Coombes, *History After Apartheid* (Durham: Duke University Press, 2003) 221.

khoisan stopped wearing by the 20th century when they were cast.¹²¹ The accompanying wall text for the diorama asked the viewer to imagine that a flock of birds is flying past the “group” and has caught their attention.¹²² It described the ages of the cast “bushmen” in the diorama as being between 18 – 100 years old and mentioned that they were a hunter-gatherer culture that no longer exist in the Cape of South Africa. The labels did not give ages, names, or any personally identifiable information about the people in the display which could easily be obtained from James Drury’s *Anthropological Measurements* from the casting process and still in the museum’s archives. The label also mentioned that Drury cast them but did not describe the painful process it involved. The museum did not put these people in any sort of cultural context, or give a hierarchical structure to the group depicted. It neglected to mention if they were a family or tribe, or what the social/cultural role of each person was. The tone of the description of these people was suited for the description of a group of alligators, lions, or taxidermized animals. It also neglected to mention that the scene was based on an artwork from over 150 years ago.

It was not until 28 years later, in 1988, that Dr. Patricia Davison, Deputy Director of the SAM, took steps to contextualize not only the diorama but also the history of the

¹²¹ Patricia Davison, “Museums and the re-shaping of memory,” *Heritage, Museums and Galleries: An Introductory Reader*, ed. Gerard Corsane. (New York, NY: Routledge, 2005) 184-194.

¹²² Annie Coombes, *History After Apartheid* (Durham: Duke University Press, 2003) 221.

khoisan people and the casting process. The first step to creating a transparent history of the casts in the diorama was to change the wall text to put this seemingly timeless scene into a greater narrative of the life of native people in South Africa. The text mentioned that this scene from the early 19th century depicted “/Xam” hunter-gatherers of the Karoo and described their hunting and dietary habits. The text also explains that “by the mid-19th century, most hunter-gatherers had been killed by advancing colonists or displaced khoikhoi. The survivors were drawn into colonial society as labourers and servants.”¹²³ Although this text painted a more accurate picture of what happened to the /Xam people because of colonization, it still put them into a context of extinction and did not fully describe what they went through historically as well as during the painful casting process commissioned by the museum.

However, Dr. Davison then decided to use the diorama to educate the public on museum practice and it became a central part of beginning a new dialogue about the ideas behind its history and its relation to that of the native South African people. The SAM accompanied the diorama with storyboard panels about the casting process, with photos of the khoisan people who were cast. The nude shots of these people, with their clothing (Western and not loin cloths, as worn by the people in the diorama) lay in heaps nearby, and their timid, fearful expressions show the faces and stories behind the plaster. One

¹²³ Annie Coombes, History After Apartheid (Durham: Duke University Press, 2003) 225.

display case shows the steps taken during the casting process and gives an explicit idea of how painful the procedure was for the “subjects.”¹²⁴

Another very innovative change to the anthropology gallery occurred in 1993 when a series of “dilemma labels” were installed in the galleries under the heading, “Out of Touch.”¹²⁵ Instead of removing information and objects from galleries, the SAM added contrasting images on existing showcases of historically-inaccurate depictions of traditional khoisan life.¹²⁶ For example, photos of black South African men and women wearing contemporary clothing and uniforms were placed over exhibits of hunter-gatherer material culture or contrasted with exhibits of traditional clothing.¹²⁷ An introduction to “Out of Touch” explained that the anthropology gallery presented an inaccurate, anachronistic view of the daily life of black South Africans because much of the black material culture was from 1800-1950.¹²⁸

Changing the narrative of the anthropology gallery with “Out of Touch” also occurred after the apartheid laws ended, so the SAM fused the history of the khoisan people with representations of contemporary black South Africans. In some cases, museum visitors found in the contrasting images a way to reflect on the sensitive issues

¹²⁴ Annie Coombes, *History After Apartheid* (Durham: Duke University Press, 2003) 227.

¹²⁵ Patricia Davison, “Museums and the re-shaping of memory,” *Heritage, Museums and Galleries: An Introductory Reader*, ed. Gerard Corsane. (New York, NY: Routledge, 2005) 184-194.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

involved in interpreting cultural difference. But in other cases, visitors found the exhibit confusing. Perhaps integrating a few new extra text labels and images to contrast with the older artifacts and representations of khoisan people so soon after apartheid ended was not enough to penetrate the collective consciousness and prejudices of the white South African public and their knowledge about black South Africans. Therefore, in order for the SAM to create a more cohesive history of black South Africans, something more drastic had to be done.

In 2001, the “Bushman Diorama” was closed to the public. It still exists inside the museum, but it and its accompanying display cases are no longer on view. Chief Executive Officer Jack Lohman of Iziko Museums (the umbrella organization which comprises museums of Cape Town) has said that the decision to remove the diorama was in part due to the need to make the SAM more democratic. The awful treatment endured by the khoisan who were treated like natural history specimens when they were cast, as well as the racial stereotyping and misrepresentation of black South Africans promoted by the Bushmen Diorama, only added to the decision to shut down the exhibit.¹²⁹ Although a group of southern African Bushmen condemned the closure (perhaps because closing the diorama could be seen as hiding the history of mistreatment of khoisan people and racial science exhibited in the museum), other leaders in the khoisan community

¹²⁹ “Museum defends closure of 'Bushmen' exhibition,” Daily Dispatch, 6 Apr. 2001, South Africa Press Association, 26 Aug. 2006 <<http://www.dispatch.co.za/2001/04/06/southafrica/MUSEUM.HTM>>.

applauded the decision to shut down the exhibition which they said was “vulgar” because it “did not depict indigenous people as human.”¹³⁰

Although the subsequent removal of the diorama garnered mixed reactions from khoisan groups and the general public which ranged from anger to approval, it was necessary to do so because the “Out of Touch” exhibition ineffectually sought to contradict the erroneous, racist information already presented in the SAM with new text labels. The exhibition confused visitors and created a feel of a constant “work-in-progress” gallery. Perhaps the wounds of apartheid still needed to heal before the SAM attempted to become transparent about the past evils of its collecting practices. Therefore, transparency can be advantageous for museums, but it needs to happen in the right way at the right time.

Therefore, I think that removing the diorama from public view was a very smart move on behalf of the museum, but it should now work to start a public dialogue about representing the “new” South Africa while still addressing the past. In the future, the South African Museum could still show the khoisan casts and perhaps the diorama again, but it would need to incorporate it into an exhibition that would feature the multi-faceted culture and diverse people of South Africa. In 1997, Patricia Davison had already hinted

¹³⁰ “Sa Museum Closes ‘Bushman’ Diorama as Transformational Move,” Global News Wire [South Africa] 3 Apr. 2001, Lexis-Nexis, VALE, Seton Hall University, Main Library Database, 9 Oct. 2006 <<http://web.lexis-nexis.com.ezproxy.shu.edu/>>.

at ideas to create an exhibition to represent South Africans in “Museums and the re-shaping of memory.” She says that museums are:

“well-placed to take long-term perspectives on complex issues surrounding the shaping of cultural identities. Instead of assuming in advance that identities are fixed, museums can demonstrate how people shape their identities through cultural strategies. Culture is a resource that people draw on every day in relation to ever-changing circumstances and shifting identities. A single individual may embody a range of identities, communicated in dress, language, or any other form of cultural expression... By posing questions such as ‘What does it mean to be Zulu?’, museums could explore complex issues.” (Davison, 189-190)

But since 2001, the SAM has been quiet about its plans for the future of its ethnographic collection. After so many years of painful memories, misrepresentation, and changing politics and communal beliefs, it will certainly be a difficult process to begin a new ideology for the cultural representation of all South Africans of yesterday and today. A resolution from a 2001 National Khoisan Consultative Conference declared that a review process involving the khoisan community should be established and implemented. Jack Lohman said the museum endorsed this motion but cautioned that although a positive outcome would benefit all parties involved, working with communities who were misrepresented or excluded from the displays might be painful.¹³¹ But by becoming transparent about the ways in which the SAM received the plaster casts, the SAM is now

¹³¹ “Sa Museum Closes ‘Bushman’ Diorama as Transformational Move,” Global News Wire [South Africa] 3 Apr. 2001, Lexis-Nexis, VALE, Seton Hall University, Main Library Database, 9 Oct. 2006 <<http://web.lexis-nexis.com.ezproxy.shu.edu/>>.

poised to open up a new dialogue centered on best practices in museum policies and their relationship to shaping cultural identity.

3. Fine Arts Museums of San Francisco, San Francisco, California, USA

Mexico, a country whose history spans millennia, has a culturally rich, sophisticated indigenous past that is not only its greatest pride, but its most vulnerable resource. Looting and illegal excavations of precious artifacts of Mexico's ancient past have degraded its tangible cultural heritage and destroyed research sites that archaeologists work to preserve and study.

Teotihuacán, a city located in Central Mexico, famous for its city-wide murals, is just one of many cultural centers that have fallen prey to the lucrative business of looting. Having had a population that reached about 150,000 inhabitants, Teotihuacán was one of the largest cities in the world from 0-600AD, before the Spanish conquest. Since its inhabitants did not use written or glyphic language, their colorful, visually stunning, yet symbolically complicated mural art has been essential to understanding the mysteries of this Mexican city.¹³²

Despite their historical and cultural importance, Teotihuacán's murals are just some of the many treasures taken from Mexico each year. Fragments of these murals ripped from walls have made their way into private collectors' homes and museums

¹³² James Jacobs, "Teotihuacan Mural Art: Assessing the Accuracy of its Interpretation," 2001, James Q. Jacobs, 18 Oct. 2006, <http://www.jqjacobs.net/mesoamerica/teo_murals.html>.

across the world. In 1976, the Fine Arts Museums of San Francisco (FAMSF) had the dubious fortune of receiving a large collection of Teotihuacán mural fragments bequeathed to it by Harald Wagner, a San Francisco architect and avid art collector.¹³³ In his hand-written will, Wagner offered the FAMSF the mural collection in exchange for paying all of his estate taxes.¹³⁴

Although the FAMSF did not want to give up such a precious collection of artifacts, because of the stipulations of the will and the collection's size and importance (it was the largest outside of Mexico¹³⁵), it was necessary to first find out if these had indeed been taken illegally from Mexico. To pay for the estate taxes in exchange for the collection of such dubious provenance would potentially put the Museums in the awkward position of having paid for stolen artifacts.

Though the U.S. had not yet signed on to the UNESCO "Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property" of 1970, in 1971 the "Treaty of Cooperation Providing for the Recovery and Return of Stolen Archaeological, Historical and Cultural Properties

¹³³ Lesley Bone, "Teotihuacan Mural Project," Western Association for Art Conservation 8.3 (1986), 26 Aug. 2006 <<http://palimpsest.stanford.edu/waac/wn/wn08/wn08-3/wn08-301.html>>.

¹³⁴ Jeanette Greenfield, The Return of Cultural Treasures (New York: Cambridge University Press, 1996) 270.

¹³⁵ Lesley Bone, "Teotihuacan Mural Project," Western Association for Art Conservation 8.3 (1986), 26 Aug. 2006 <<http://palimpsest.stanford.edu/waac/wn/wn08/wn08-3/wn08-301.html>>.

between the United States of America and the United Mexican States” was passed.¹³⁶

This treaty was meant to protect pre-Columbian art and artifacts, including wall art, in both the U.S. and Mexico and to foster a mutually beneficial relationship of legally sharing cultural heritage. The treaty was not retroactive, however, so anything taken before 1970 did not have to be returned to the source country.

In light of these global cultural heritage protection initiatives, and because the situation with the Teotihuacán murals was without similar precedent,¹³⁷ the FAMSF embarked on a lengthy process to verify the history and provenance of the murals. Harald Wagner, who had previously been a resident of Mexico, left no documentation which dated the removal of the murals, nor described the area of the city from which they had been taken.¹³⁸ He did, however, leave sales receipts from Mexico and a sworn and notarized affidavit which documented that the murals were in his possession in San Francisco in 1970 (six years prior to his death).¹³⁹ The collection had been seen in the

¹³⁶ United States Department of State, U.S. and International Laws, 2001, U.S. State Department Bureau of Educational and Cultural Affairs, 10 Oct. 2006 <<http://exchanges.state.gov/culprop/treaty01.html>>.

¹³⁷ Thomas Seligman, “The Murals of Teotihuacán: A Case Study of Negotiated Restitution,” The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 73-84.

¹³⁸ Lesley Bone, “Teotihuacan Mural Project,” Western Association for Art Conservation 8.3 (1986), 26 Aug. 2006 <<http://palimpsest.stanford.edu/waac/wn/wn08/wn08-3/wn08-301.html>>.

¹³⁹ Thomas Seligman, “The Murals of Teotihuacán: A Case Study of Negotiated Restitution,” The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 73-84.

San Francisco area by several people including a local curator during the late 1960s,¹⁴⁰ and they had also been offered for sale through a couple of well-known Pre-Columbian art dealers in southern California.¹⁴¹

So although there was evidence to support that the murals had been removed from Mexico and bought by Wagner prior to the treaty of 1971 between the U.S. and Mexico, there was still not enough evidence that the works had been taken from Teotihuacán through legal means. The fact that the location and date of removal of the artifacts were unknown could have meant that the murals were stripped from the walls at random by looters; only a formal archaeological excavation would have recorded the pertinent provenance data.

Therefore, when the FAMSF contacted the Mexican Consul General in San Francisco, as well as the National Institute of Anthropology and History (INAH), which has authority over all pre-Columbian sites and objects in Mexico,¹⁴² the Mexican government became very interested in the mural collection. In July 1978, under terms of the 1971 “Treaty of Cooperations,” the Mexican government requested that the U.S. Attorney General block the probate of Wagner’s will and assist Mexico in their

¹⁴⁰ Lesley Bone, “Teotihuacan Mural Project,” Western Association for Art Conservation 8.3 (1986), 26 Aug. 2006 <<http://palimpsest.stanford.edu/waac/wn/wn08/wn08-3/wn08-301.htm>>.

¹⁴¹ Thomas Seligman, “The Murals of Teotihuacán: A Case Study of Negotiated Restitution,” The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 73-84.

¹⁴² *Ibid.*, 78.

recovery of the murals.¹⁴³ But because the treaty was not retroactive, and there was significant evidence that the murals had entered the U.S. in the 1960s, the court rejected Mexico's claim to the artifacts. The murals then became property of the City and County of San Francisco under the jurisdiction of the Fine Arts Museums of San Francisco.

Because of the court ruling, the City of San Francisco thereby owned the Teotihuacán murals. Since the California Constitution considered it illegal to make a "gift" of public funds or other assets, unless the transfer served a public purpose, the FAMSF could not just give away city property to Mexico without receiving something of public benefit in return.¹⁴⁴ Therefore, the Museums were put in the awkward position of holding a collection of potentially stolen artifacts that could not be returned to its source country.¹⁴⁵ Mexico's laws and beliefs stated that the murals belonged to it, but U.S. law contradicted that notion. Many museums, if in the same situation, could have accepted this rare, historically important collection and used the court's decision and the non-retroactive "Treaty of Cooperations" as the justification for keeping the murals. This would have been the easiest route.

¹⁴³ Thomas Seligman, "The Murals of Teotihuacán: A Case Study of Negotiated Restitution," The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 78.

¹⁴⁴ Berrin, Kathleen, "FW: Another question about the Teo. murals acquisition," E-mail to the author, 6 Dec. 2006.

¹⁴⁵ Thomas Seligman, "The Murals of Teotihuacán: A Case Study of Negotiated Restitution," The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 79.

But the FAMSF, in the interest of the preservation of the artifacts and the creation of a relationship with Mexico, decided to develop a strategy with lawyers, state officials, and the Museums' trustees to work out an agreement with INAH that would include the joint care and return of some of the murals. Judith Teichman, as the Deputy City Attorney advising the Fine Arts Museums, and the City Attorney who approved of her advice, believed that the assistance of INAH in the conservation of all of the murals, plus the benefit that would flow from good relations with INAH over time, was sufficient to meet the public purpose test and the FAMSF Board could legitimately approve the exchange of a percentage of its murals for conservation services.¹⁴⁶ Therefore, since the transfer served a legitimate public purpose, and the transfer was not considered a gift, it was a legal exchange according to the California Constitution.

INAH, however, without warning, abruptly ended the year-long negotiation process in February of 1980 and wanted all the murals returned, with the costs of conservation and transport back to Mexico paid by the FAMSF.¹⁴⁷ This was in direct conflict with the 1970 UNESCO Convention which requires the country requesting restitution to pay for all costs involved. Not only that, the "Study on the Principles,

¹⁴⁶ Berrin, Kathleen, "FW: Another question about the Teo. murals acquisition," E-mail to the author, 6 Dec. 2006.

¹⁴⁷ Thomas Seligman, "The Murals of Teotihuacán: A Case Study of Negotiated Restitution," The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 73-84.

Conditions, and Means for the Restitution or Return of Cultural Property in View of Reconstituting Dispersed Heritages” conducted by International Council on Museums (ICOM) in 1979 found that, unless an object is essential for people to understand their origin and culture, it should not be subject for request for restitution, especially because of the many legal proceedings that would occur if every source country wanted its material culture returned.¹⁴⁸ ICOM’s study and the 1970 UNESCO convention further supported the FAMSF’s decision not to return the entire collection to Mexico.

By citing the guidelines of ethical practice in museums set by the international museum community, the FAMSF felt confident that it could create a mutually beneficial situation with Mexico regarding the murals. After another year of negotiations, in 1981 a “Joint Agreement” was reached: INAH and the FAMSF would collaborate to preserve the murals¹⁴⁹ and present an exhibition not only about the preservation and history of the murals, but also about the involvement that the two parties had in the process. The FAMSF agreed to return a percentage of the murals to Mexico once the conservation process ended; INAH would send some of its own staff to help with the conservation of the murals and pay for transportation of the artifacts once conservation was complete. A

¹⁴⁸ Thomas Seligman, “The Murals of Teotihuacán: A Case Study of Negotiated Restitution,” The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 73-84.

¹⁴⁹ “Hands Across the Border: Conservation, Politics, and Ensuing Dilemmas.” Papers documenting the “Care and Preservation of Ethnological Materials,” Symposium, Ottawa, 1986. Canadian Conservation Institute, 1988. 90-96.

celebration with high-ranking civic leaders and the Mexican team inaugurated this laudable Joint Agreement in May of 1984.¹⁵⁰

In addition to publicly honoring the cooperative collaboration with Mexico, the FAMSF used the situation to literally be transparent about the stipulations of the Joint Agreement and the lengthy process involved in conserving the murals. It created an exhibition for visitors to watch conservators preserve the murals in a glass-enclosed conservation lab. An adjacent gallery explained the history of Teotihuacán, the conservation process, and most importantly, the issues involved in the restitution of the collection. Wall labels accompanying the exhibition which ran from May 2, 1984 to April 30, 1985 explained to readers that the Wagner bequest was an unexpected surprise to the Museums and that this was the largest known collection of Teotihuacán murals outside of Mexico. A brochure also helped the Museums justify how a large percentage of the murals, essentially property of the City of San Francisco, would be restituted to Mexico by affirming that “Because of the size and importance of the donation and ethical issues regarding cultural patrimony, the Museums approached officials in Mexico to discuss a cooperative program of conservation and care, and the voluntary return of at least fifty percent of the murals to Mexico upon completion of conservation.” Other wall

¹⁵⁰ “Hands Across the Border: Conservation, Politics, and Ensuing Dilemmas.” Papers documenting the “Care and Preservation of Ethnological Materials,” Symposium, Ottawa, 1986. Canadian Conservation Institute, 1988. 90-96.

text explained that because of the murals' fragile state, and the Museums' conservation staff's limited knowledge of preserving such a special type of artifact, by working with INAH, the UNESCO International Center for Conservation in Rome, and experts in the fields of art history, conservation, and archaeology, the FAMSF was able to create a cooperative program for custody and care of the murals.

Wall text labels also call attention to the fact that the murals were taken from Teotihuacán in an unethical way which included cutting the most visually-appealing and marketable sections from walls and leaving other sections behind in such a way that in their current state it would be impossible to fit them all together completely.

Documentation of where the fragments were located within the ancient city was also not a priority to those who removed them, which added to the loss of the city's heritage.

Two years later, once the murals were stable enough for transport, about seventy percent of the murals were returned to Mexico. Even though Mexico received the higher percentage of mural fragments, the decision of which pieces were kept by each country occurred on a qualitative rather than quantitative basis. The most important art historical examples based on quality, rarity, and condition were retained by the FAMSF.¹⁵¹

The bilateral agreements between the FAMSF and Mexico set an important precedent for museums around the world. What could have been a potentially disastrous

¹⁵¹ Berrin, Kathleen. "FW: Another question about the Teo. murals acquisition." E-mail to the author. 6 Dec. 2006.

situation in international cultural relations worked out to be beneficial for all involved. In the spirit of the times, with the 1970 UNESCO treaty and the “Treaty of Cooperations” between Mexico and the U.S. passed in 1971, the FAMSF took pains to proactively practice the guidelines set by the international community and to make sure that the murals had a legal provenance before accessioning them.

Although it was a difficult and lengthy process spanning more than a decade, without the controversy surrounding the acquisition of the murals and their dubious provenance, the FAMSF probably would never have created an innovative “transparent” exhibition about object conservation and collection acquisition processes which opened up a new dimension to museum exhibitions. Thomas Seligman, who was the curator-in-charge of Africa, Oceania, and the Americas of the FAMSF during the acquisition process of the murals, said that when Mexico rescinded from the original negotiations in 1980, it would have been easy for the museum to permanently end discussions and keep the collection. But what kind of precedent would that have set? Who would have won? Seligman believed that museums have the moral responsibility to negotiate in good faith with the communities and countries of which they want to obtain and exhibit cultural heritage.¹⁵²

¹⁵² Thomas Seligman, “The Murals of Teotihuacán: A Case Study of Negotiated Restitution,” The Ethics of Collecting Cultural Property, ed. Phyllis Mauch Messenger, (Albuquerque: University of New Mexico Press, 1999) 73-84.

Kathleen Berrin, who has been the FAMSF's Curator-in-charge of Africa, Oceania, and the Americas since 1987, and who was directly involved with the conservation project of the murals,¹⁵³ also felt that collaborating with Mexico was difficult but necessary for the protection of the murals. In terms of the conservation project, she explains that "it does not necessarily follow that collaboration is synonymous with *agreement*" and that "...given the provisions of the Joint Agreement and the openness of exchange, this conservation project produced the best possible treatment for the murals collection."¹⁵⁴ A language barrier and cultural differences in approaches to conservation hampered the project, but after many lengthy discussions and much patience, the end result benefited all involved. Many subsequent collaborative projects between the museum and Mexico occurred after the murals project, a result of having first built an initial positive rapport.

Because of a collaborative conservation effort between the FAMSF and INAH, the fragile murals survived to become not only the largest collection of Teotihuacán murals outside Mexico, but they also served as important educational tools for both countries about the largely unexcavated city and its role in Mexican history. The

¹⁵³ "Curator Receives Peruvian National Decoration: Order of "Al Merito por Servicios Distinguidos" Conferred on Kathleen Berrin," 1998, Fine Arts Museums of San Francisco, 28 Oct. 2006 <<http://www.thinker.org/fam/press/press.asp?presskey=55>>.

¹⁵⁴ "Hands Across the Border: Conservation, Politics, and Ensuing Dilemmas." Papers documenting the "Care and Preservation of Ethnological Materials," Symposium, Ottawa, 1986. Canadian Conservation Institute, 1988. 90-96.

FAMSF's public also received a dual education in Teotihuacán history and collaborations between museums and international institutions.

Additionally, Kathleen Berrin clearly prides the Museums' decision to be as transparent as possible with regards to obtaining the murals and having set a precedent for itself and other museums for the future. As late as 1999, the negotiations between Mexico and the FAMSF still resonated with Berrin's decision-making as curator to obtain cultural objects legally while consulting with a source country. She says of the FAMSF:

“We are the institution that voluntarily returned two-thirds of a major Teotihuacán mural collection that was legally in California according to United States law. In the process of intimately collaborating with Mexico, which took about 17 years from beginning to end, we learned a great deal about joining hands with foreign governments... We learned the importance of honesty and open dialogue, and that there are certain issues over which we may never agree, such as Western ownership of art versus national patrimony. But we learned that there is a bottom line, and that is that museums and foreign governments must work together to protect, preserve, and enlighten people about cultural objects.” (Berrin, 1999)

As a primarily educational institution, the FAMSF transformed what could have been a reputation-tarnishing situation into an educational exhibition about an important civilization and the museum acquisition process, as well as a precedent for other museums to follow. Therefore, a cultural institution's vested interest in preservation and education overrode national sovereignty, and allowed it to legally acquire a unique collection of material cultural heritage as well as maintain cultural ties and a prosperous relationship between the FAMSF and Mexico.

Conclusion

Although the path to transparency about the history of museum collections can be fraught with problems, fears, and frustrations, museums that have chosen it generally have benefited and so have their constituents. Museums such as the Melbourne Museum, the South African Museum, and the Fine Arts Museums of San Francisco have re-conceptualized the collection process as well as their exhibition strategies by inviting source communities to participate in the exhibition and interpretation of their cultures.

But the future has yet to determine whether their “transparent” strategy will ultimately be preferable to the “don’t ask don’t tell” policy of museums such as the J. Paul Getty Museum, the Metropolitan Museum of Art and the Boston Museum of Fine Arts, which are hesitant to be too transparent about the sometimes unethical means by which they have received their collections for fear that they will be called to return them. Their secrecy notwithstanding, each museum has already had to return objects in their collections to Italy, often after extensive law suits that have tarnished their reputations. It is unclear whether or not they would have to retribute more of their collections if, in the future, they were to decide to be more transparent about their collecting history. Although the museums did not have to admit any wrongdoing, the public must have questioned the

integrity of those institutions because they were either on trial or had to retribute objects at the behest of the Italian government.

It would seem that now is the best time for museums to begin talking about their collecting history, a subject about which the public is ill informed. When a museum must repatriate objects, it not only jeopardizes the institution, but its constituents may lose faith in it because they do not understand the issues involved. Thus, it would behoove museums to make clear that before international treaties such as the 1970 UNESCO convention, importing undocumented artifacts was not a crime. It was also not seen as unethical to take advantage of the poverty in the developing world to acquire precious artifacts in lopsided trades. But laws and ethical standards have changed and museums have a responsibility to rectify past ills by becoming transparent about the means by which they obtained their collections. They should make clear how its collections were obtained since the history of an object is as equally important as its artistic and cultural value. Why not share with the public that there was a time in the recent past when museums collected objects without any consideration of their cultural value to the objects' source communities, all in the name of their public and to gain institutional clout?

Although I advocate for greater transparency in the history and acquisition of museum collections, I oppose mass restitution of museum objects. Museums should, of course, retribute objects obtained in unethical or illegal ways, to clear their names from wrongdoing. They should do so, I believe, even if the source country makes no demand or cannot prove that laws have been broken. For instance, I believe the Boston Museum of Fine Arts should retribute the *Weary Herakles* to Turkey, or at least share ownership of the fragment with the country, because by stubbornly refusing to even acknowledge the controversy surrounding the object's illicit acquisition makes the Museum appear cavalier. But I am not advocating that the British Museum return the Elgin Marbles or the Rosetta Stone, since it has made transparent its reasons for keeping those objects.

Would drawing attention to objects obtained under controversial circumstances, such as the *Weary Herakles* put museums at risk of demands of mass restitution? Would the public understand that although museums, in the past, collected objects in ways that would now be considered illegal, today they work toward making sure that they have a legal title to objects? How would the public feel about giving money or donating objects to museums that had deleterious collecting policies in the past? Clearly, there are no easy answers to these questions; with that in mind, we can understand the reluctance of museums to divulge their collecting secrets.

From the case studies of the Melbourne Museum and the Fine Arts Museums of San Francisco, it is apparent that museums can actually share the history of their collections honestly and openly without having to divest their collections or lose public confidence. Finding creative solutions to restitution and working with source communities can actually benefit an institution and its public.

On the other hand, for the South African Museum, which had done well to try to develop the “Out of Touch” exhibition as a way to explain its controversial khoisan casts and Bushmen Diorama, becoming transparent only had a dubiously beneficial effect for the institution. Perhaps because it lacked proper planning, input from the khoisan community, and a vision for the future of its ethnographic collection, the South African Museum did not have an integrated approach to becoming transparent, thereby failing to solve its predicament.

Therefore, although transparency has benefited museums such as the Fine Arts Museums of San Francisco and the Melbourne Museum, for others, just exercising transparency is not enough. If that situation arises, then it is the museum’s responsibility to work with source countries and communities from where its collections came to find a creative solution that attempts to please all parties involved, as well as continue to be held in the public’s trust. This would save the institutions from going through expensive trials

or a public relations dilemma, and add a positive dimension to public debates about restituting cultural patrimony.

Of course, in an ideal world, museums in these situations would have the money, time, and staff to work with countries and communities to develop partnerships and programs similar to those of the previously-mentioned transparent museums. But even though every museum cannot run such involved programs as the FAMSF or the Melbourne Museum, museums owe it to their public to be transparent about how they, in the past, received or bought objects that were collected in ways that would be considered illicit and against ethical museum practice today. Only with an open dialogue can museums be transparent and continue to uphold the public's trust. Although the process to become transparent will be difficult, and the reasons why museums want to exercise transparency about the history of their collections may not be initially understood by all of their constituents, it is my hope that the fears of mass restitution will not hinder a path to mutual cooperation between museums and the international community.

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