United Nations Educational, Scientific and Cultural Organisation (UNESCO)

Returning items of cultural heritage to their country of origin

Research Report

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"Out of this world"

Forum: UNESCO

Issue: Returning items of cultural heritage to their countries of origin

Position: Deputy President

Introduction

Since 1945, the United Nations has helped 80 member states to become independent from former colonial powers. From the 750 million world citizens that lived in colonized territories, only 2 million are left today.[1] But often, these states still experience issues originating from being colonized. The loss of culturally significant items is one of these problems.

Although the issue of looted art often dates back to colonial times or wars involving conquered territories, all regions and nations are affected by the loss of cultural heritage. Besides conflicts there are many ways in which heritage can be stolen, such as theft from museums and illicit excavations.

Even though there is a large amount of information available, and despite the existence of multiple advisory and mediatory organizations, the process of repatriation and restitution can still be very slow and difficult. This is partially due to the absence of proper international legislation. It is important for the cultural identities and rights of nations and communities that the United Nations Educational, Scientific and Cultural Organization (UNESCO) finds a more sustainable solution to this issue.

Definition of Key Terms

Cultural heritage an umbrella term for artefacts and monuments, buildings, sites and museums that have significance to a group of people. This can be any form of significance such as for instance symbolic, historic or scientific[2]

Restitution the return of cultural property to the person or community from which it originally came

Repatriation the return of cultural property to a state after its government has requested for it to be recovered

Looted art art stolen from a nation or an ethnic group, usually during wars or in colonial times, often with violence.

Illicit excavations excavations carried out in a non-professional manner, by unqualified people and without the state's permission. These excavations can damage culturally significant sites and the excavated items.

[1] (United Nations, sd)

[2] (UNESCO Institute for Statistics, 2009)

General Overview

In the 15th century, the era of colonialism began, as a group of European countries started to trade outside of the European continent. The first step was the building of small trade posts and military bases on foreign coasts. Later, the goal of European empires shifted from trade to expanding their power and territories. Imperialistic governments colonized inhabited countries across the Americas, Africa and Asia, where they imposed their cultural practices on the colonies. However, they often also took cultural items of their colonies back to the homeland, where they exhibited them or used them for research. Although sometimes items were obtained by trade, a large amount of cultural heritage was stolen in this period as well. In the last century, many communities and states have expressed the wish to recover such items that were taken without their permission.

The 1970 convention was the first major international step toward repatriation. It was initiated by a group of nations concerned about their cultural heritage. These states submitted it to the 16th session of UNESCO's General Conference in Paris, after which it was signed and adopted by the committee.[3] The 26-article-long treaty was meant to prevent and prohibit the trafficking of cultural property and to promote international cooperation on the issue. During the second half of the 20th century, as more states gained independence during the decolonization period, they were afraid of losing monuments and valuable cultural items. Since 1970, 146 countries have ratified or accepted the convention.

In 1976, six years after the international treaty had been signed, a committee of UNESCO experts met in Venice. After discussing the issue of global restitution, they declared the need for an international mechanism.[4] This intergovernmental body would ensure that more nations actively cooperate to return cultural heritage to their countries of origin. Two years later, the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP) was established. The ICPRCP is a permanent UNESCO organization that acts as an advisory body to promote bilateral negotiations, without having any legal power. It helps states initiate discussions on the return of cultural property.

Despite international efforts, the trend of stolen cultural property has not yet decreased. During the global COVID-19 pandemic, the issue worsened in some areas. In 2020, 854,742 items of cultural heritage were stolen globally, the majority originating from Europe. This shows that even in 'wealthier' regions, where specialized police units are active, these cultural crimes are not uncommon. The International Criminal Police Organization (INTERPOL) has since worked on databases and apps to make it easier for national and local police organizations to cooperate in recovering stolen artefacts.

On December 6, 2021, the United Nations General Assembly adopted a resolution on the return of cultural property without a vote, supported by 111 member states. The purpose of the resolution was to encourage states to participate in committees and organizations established for the issue and to remind nations of the ongoing illicit obtainment and traffic of cultural property.[5]

Restitution cases between communities and museums can often be difficult due to a lack of clear legislation on the issue. Many countries have national laws against looted art, and some even have laws regarding cultural heritage. However, because the laws of the two parties in a case can differ significantly, there can be disagreements about which laws should apply. Not all states have adopted United Nations resolutions on this issue, which complicates matters further. In the absence of clear legislation, decisions are often based solely on ethical considerations. As a result, many museums may choose to keep collections instead of returning them to the regions or ethnic groups of origin.[6]

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[3] (United Nations Educational, Scientific and Cultural Organization, 1970)
[4] (United Nations Educational, Scientific and Cultural Organization, 2024)
[5] (International Institute for the Unification of Private Law, 2021)
[6] (Phelan, 2007)

Another challenge with the repatriation of cultural heritage acquired by colonial powers is the difficulty in finding evidence as time goes by. The exact owners and locations of certain items may be uncertain, as well as the conditions under which the items were obtained.[7] This can provide museums with more reasons to retain collections instead of making efforts to repatriate them.

The International Council of Museums (ICOM) has established a professional ethical code for museums. Article 6.2 of this code expects museums to initiate communication and cooperation with communities for the return of cultural property, while keeping humanitarian principles in mind, in addition to national and international laws. [8]

Major Parties Involved

Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP)

The ICPRCP is a UNESCO committee which works as an advisory body for member states, helping them cooperate with each other to find solutions for cultural heritage repatriation cases. The organization mediates when issues arise and can make suggestions, however it does not have any binding power.[9]

The United Kingdom

The United Kingdom was the largest colonial power in colonial times. In the United Kingdom, regional museums began returning items to India in the 2020s. However, progress of some national collections has been less promising.[10] In the United Kingdom there are museums with thousands of foreign artifacts, a significant portion of which are human remains collected in colonial times, sometimes for racially motivated research.[11]

Germany

The German state has obtained and taken many cultural items under colonial regime and during the World Wars. Germany has been actively returning cultural property since the end of the last century, they have been cooperating with nongovernmental organizations and neighbouring countries.[12]

The Netherlands

The government of the Netherlands has recently started to cooperate more with former colonies, particularly with Indonesia. In Dutch museums, many items of foreign cultural heritage collected during colonial times are still stored and displayed. Although most museums want to return the items, a request must be submitted to the government before it can be accepted. Years can pass between the start of negotiations and the final decision to permit a retrieval.[13]

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[7] (Maastricht University, 2021)
[8] (International Council Of Museums, 1986)
[9] (United Nations Educational, Scientific and Cultural Organization, 2024)
[10] (Brown, 2023)
[11] (Dick, 2024)
[12] (European Center for Constitutional and Human Rights, sd)
[13] (Ministerie van Onderwijs, Cultuur en Wetenschap, 2024)

International Council Of Museums (ICOM)

ICOM is a nongovernmental international organisation established between 1946 and 1974. Its purpose is to create ethical and professional standards for museums around the world.[14] In ICOM's code it puts forward guidelines for a variety of situations, including the repatriation of cultural heritage. ICOM is important in this issue since there is a lack of global binding legislation.

International Institute for the Unification of Private Law (UNIDROIT)

UNIDROIT (French: Institut international pour l'unification du droit privé) is an international organization seated in Rome, in Italy. It was created to help find methods to modernize and coordinate private and commercial laws of member states. This organization is important for the issue, because it regulates national laws on the issue of repatriation and plays a part in cases where legislation in the countries of both parties is too different. UNIDROIT can play a part in possible solutions.

Timeline of Events

1947 The International Council Of Museums is created

1970 The United Nations Educational, Scientific and Cultural Organisation signs a treaty at the 1970 convention, to prevent and prohibit traffic of cultural property

1978 The ICPRCP is established, to act as an advisory body between parties in restitution negotiations

1986 The ICOM General Assembly adopts its Code of Professional Ethics for Museums on November 4th

2019-2021 From 2019 to 2021 the COVID-19 virus caused a global pandemic, during which theft of cultural heritage increased in some sectors

2021 The United Nations General Assembly adopts the resolution: Return or Restitution of Cultural Property to the Countries of Origin on December 6th without a vote

Possible Solutions

In the past, there have been many international attempts to solve the issue of returning cultural heritage to the regions they originated from. There are advisory bodies and committees with member states from all continents and United Nations resolutions are often adopted by many member states. However, the looting of art and heritage has not yet decreased, and it is difficult for communities to ask for their cultural property from museums due to a lack of international legislation.

To speed up the process of repatriation, the United Nations Educational, Scientific and Cultural Organization can decide to establish an international court with international laws with the only purpose of repatriation of cultural heritage. This can turn out to be difficult and may not be the easiest or most effective solution.[15]

[14] (International Council Of Museums, sd)
[15] (Phelan, 2007)

Therefore, a better option might be the creation of a United Nations Arbitration Process for all member states to establish rules and guidelines and can also make it easier for national cases to choose rules to decide by. This solution is less binding than a court, however it might get adopted by more states and easier to establish.

A last option is to provide nations and museums with more education about the significance of cultural heritage, and with even more mediation. This method could be the easiest and most accepted method; however, it also brings the least positive change to the issue. This way it can still turn out to be difficult for communities to get back cultural property.

Additionally, member states could suggest solutions with which the protection of cultural heritage items against possible theft and damage can be ensured. This can protect the possibilities of future repatriations.

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