



Doonesbury, 2 May 2003; Jeff and Zipper take ownership of an ancient Iraqi scroll.  
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## *Introduction*

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Who owns cultural objects? And who has the right to own them? *Doonesbury* characters Jeff and Zipper, in the cartoon opposite, clearly treat them as commodities whose only value is in the quick profit of an online auction. Indeed, it is their utter indifference to morality and legality that makes the cartoon so darkly funny. By contrast, all the contributors to this book have thought long and hard about the ethics and politics of collecting, from various professional standpoints. While none of them would see Jeff and Zipper's actions as anything but unethical and illegal, the conclusions they come to often differ radically from one another. There are no easy answers.

But questions about the right to collect and own cultural artefacts are not simply matters of personal morality. Institutions from museums to governments to international agencies also have roles to play in establishing and maintaining a workable legal and ethical framework. Garry Trudeau wrote this strip in early May 2003, less than a month after the looting of the Iraq Museum in Baghdad and while archaeological sites in the south of the country were being thoroughly pillaged (as shown on the front cover). The cartoon can thus be read as an oblique comment on the occupying forces' attitude to the protection and preservation of Iraq's cultural heritage.

It was during the culturally devastating aftermath of the Iraq War that the question 'Who owns objects?' became particularly urgent. Many within the archaeology and museum communities and the legal antiquities trade espoused strong and often conflicting opinions on the most appropriate responses to the challenges raised by these events. As museum curators, specialists in the material culture of Iraq, or both, we three editors were centrally involved in passionate exchanges with colleagues, journalists, and friends, yet there was no existing forum in which to conduct a balanced debate on the full range of ethical, legal, and practical issues surrounding the topic.

We thus decided to set up a series of eight lectures in which we invited speakers to address the question 'Who owns objects?' from a variety of professional perspectives: archaeologist, museum curator, antiquities dealer, collector, legislator. We ourselves would try, as far as possible, to maintain neutrality, letting the lecturers have their say and allowing the audience to form their own opinions. Thanks to the generous support of a number of donor bodies across the University of Oxford, listed in the acknowledgements below, the series ran at St Cross College, Oxford in October and November

2004. It concluded in early December 2004 with a one-day workshop at All Souls College, Oxford, attended by both speakers and audience members, to further explore the main topics raised during the talks. Each workshop session was started by a nominated respondent, who opened the discussion by summarising and reacting to two of the lectures in the series.

This book is the outcome of those stimulating and often provocative talks and debates. We hope that it will bring some of the issues raised and opinions expressed to a wide-ranging audience who may not otherwise have the opportunity to hear and reflect on all of them. Archaeology and cultural heritage students rarely come into contact with antiquities dealers or collectors, for instance; museum curators rarely get to know the production processes and rationales behind the legislation and ethical codes that they have to abide by (for the texts of such codes see ARI 2006; Hoffmann 2006, 489–518). There are many excellent books now available on, say, the ethics of archaeology (*e.g.*, Vitelli 1996; Zimmerman *et al.* 2003; Scarre and Scarre 2006) or international cultural property law (*e.g.*, Fitz Gibbon 2005; Mackenzie 2005; Hoffman 2006) but none that crosses the disciplinary and professional boundaries quite like we have aimed to do. While the contributors themselves have strong and often opposing opinions, we have allowed their voices to be heard without ourselves editorialising: this is a book to provoke thought and debate, not to present received opinions or uniformity of response.

The *Who Owns Objects?* lecture series was structured to examine issues of ownership, ethics and politics from a variety of perspectives. A provocative opening overview posited that collecting cultural objects is essentially immoral — the so-called radical archaeologists' stance. The two following lectures focused on the problems and practicalities of excavation and museum work in two Middle Eastern 'source countries' from the point of view of two archaeologists with long experience of working there. For a variety of reasons, none of the first three speakers was able to contribute to the book but as many of the contributors allude to their talks directly or indirectly, we summarise their contents here.

Professor Sir Colin Renfrew, recently retired from the post of Director of the MacDonald Institute for Archaeological Research at the University of Cambridge, opened the series with a lecture called 'Collecting and looting the past: the effects of self-indulgence' (see also Renfrew 2000). His abstract began:

The world crisis in archaeology, namely the widespread looting of ancient sites to provide saleable objects for private collectors and museums, is rapidly destroying the

available record of the past and hence negating the hope of understanding adequately the origins of human societies. This should be the concern of us all. While international legislation may help, it is argued that the ethics of collecting can only be improved if museums lived up to their responsibilities by declining to accept or acquire unprovenanced antiquities.

In the lecture itself, Renfrew discussed specific museums' collecting ethics, and their relationships with private collectors. As a model of good practice he held up the University of Pennsylvania's Museum of Archaeology and Anthropology, which has been operating an ethical collecting policy since the 1970s. At the other extreme, the Miho Museum in Japan has no published code of ethics at the time of writing, whether for acquisitions or for any other of its activities. Renfrew deplored some American museums' corrupting relationships with wealthy collectors, who gain both socially and financially through tax-free donation of unprovenanced artefacts. He argued that museums are in a strong position to direct wealthy patrons away from collecting and to channel their energies and funds into more constructive projects such as gallery development or user education. Renfrew's place in the volume is taken by his colleague Neil Brodie (chapter 1).

The second lecture in the series was given by Dr Lamia Al-Gailani Werr, an Iraqi archaeologist based in the UK who has spent considerable time working in the Iraq Museum in Baghdad since the war of 2003. In 'Archaeological theft in Iraq' she surveyed the range of war damage inflicted on her country. The looting of the Iraq Museum — both professional, targeted thefts and opportunistic stealing — has been the subject of much international publicity and debate. Less widely known are the wholesale pillaging of archaeological sites in the south of the country and the burning of national archives and academic libraries. Major post-war problems include the contamination and partial destruction of ancient cities such as Babylon, Samarra, Hatra, and Ur through military occupation and the continued neglect of heritage infrastructure — buildings, resources, staff — through extreme political instability and financial chaos.

Al-Gailani traced the recent history of Iraqi attitudes to the ancient past, emphasising the chronic under-funding of professional heritage services since the first Gulf War, antiquities smuggling by gangs close to the former regime, and propagandistic appropriation of images of ancient kingship by Saddam Hussein. In this light, theft and vandalism of Iraqi cultural heritage by Iraqis, whether criminal, political or financial in motive, becomes comprehensible as

part of a larger historical picture, not simply to be dismissed as the wilful actions of ignorant zealots (see also Matthews *et al.* 2003).

In the third lecture, Dr Konstantinos Politis addressed 'The political and economic realities of looting ancient sites' through the example of his long-term excavations at the Byzantine monastery of St Lot in southern Jordan (Politis forthcoming). He introduced the topic in his abstract as follows:

The damage done by illicit excavations is obvious to scholars of the ancient world and the well-educated public. To those engaged in the act of looting the issue is not as clear; it is often clouded in harsh economic realities. The socio-political situation may also not contribute to an enlightened antiquity policy. Although education, legislation and economic development can help alleviate the looting of ancient sites, national priorities may conflict.

The ruined monastery of St Lot is situated in one of the most economically deprived areas of southern Jordan, where Italian water contractors had earlier stimulated a local market in looted antiquities. Politis developed a strategy to help the local workers feel that the site belonged to them, despite its apparently Christian-Greek character. He stressed the ancient Arabic, Muslim graffiti at the mouth of the cave in front of which the church had been built, Aramaic parchment fragments found inside, and most importantly Lot's role as prophet in the Qu'ran. The locals protected the site without the need for guards, mosque and church groups came to visit, and in 1995 the Jordanian Cultural Secretary, Prince Ghazi, proclaimed it a holy site for Islam. A site museum has recently opened — an entirely Jordanian initiative — employing local people, while others who developed specialist excavation skills during the course of the dig are now employed by the Jordanian Department of Antiquities. The project thus contributes significantly to the local economy.

Meanwhile, in the nearby town of Zoara tomb-robbing was becoming rampant as occupiers of housing plots officially allocated on ancient cemetery land discovered that digging in their own back yards could be more profitable than agriculture. Politis interviewed the diggers — mostly women and children — to get as much information about the finds as possible, and bought up a lot of the finds, especially glass vessels and tombstones, for the new museum. He acknowledged the moral dilemma involved: whether he was really saving cultural objects for the local community, or simply stimulating the looting. Most recently he has begun excavations at Zoara itself, of an ancient cemetery and a medieval sugar factory, in the hope of replicating some of the economic benefits of the successful monastery project.

Al-Gailani Werr and Politis both start from the premise that local communities have ownership rights — and knowledge rights — to cultural artefacts. Looting is often motivated, they argue, by financial necessity and cultural alienation. The removal of excavated objects to national museums or private collections on the grounds that they will be better protected and understood in those contexts solves neither of the root causes of looting. Rather, archaeological expeditions and museum services have an ethical obligation to involve communities both economically and educationally in cultural projects, to the mutual benefit of professionals, locals, and the objects themselves.

But for better or worse, many cultural artefacts do leave their places of manufacture, use, or rediscovery, passing through many different hands on the way to their final destination. It became clear over the course of the lectures and workshop that western experts view cultural artefacts through two fundamentally different — and perhaps even incommensurate — paradigms. Archaeologists such as Renfrew, Politis, and Al-Gailani Werr primarily see objects as *social* products. They aim for the holistic interpretation of the cultures they study: not just artefacts themselves (which encompass everything from kitchen floor-sweepings to monumental buildings) but also the contexts in which they were created, used, discarded, and ultimately rediscovered. Objects, in this view, are not privileged an aesthetic grounds but all play a part in the reconstruction of inhabited and cognitive worlds. On the other hand, collectors such as George Ortiz (chapter 2) describe cultural artefacts in relation to a universal aesthetic, in which objects are *artistic* products, to be valued in the same terms as a Monet or a Rodin (see also Cuno 2004, 49–76). In this view, the aim is the interpretation of the artefact itself, often through reference to other art objects.

One could constructively think of this dichotomy of approach in terms of literary studies: whereas some critics are primarily concerned with the recovery of authorial intention (what did the writer mean?/How did the society operate?) others assert that texts accrue meaning and value only through the reception and interpretation that readers give them (what do I get out of this poem?/why does this statue give me pleasure?). One pursues the first goal by finding out as much about the author and their context as possible; one pursues the latter by relating the text to others of its genre and style. Also at issue is another fundamental problem of interpretation that besets all cultural, historical, and anthropological studies: is it more productive to understand concepts and objects in the terms used by their

producers (so-called ‘actor’s categories’) or to fit them into the genres and classifications used by academic observers? Such debates are heard right across the humanities and social sciences, but never with such acrimony and apparent irreconcilability as across the archaeology–collecting divide.

Perhaps what makes the cultural object debate so fierce is that it is not just about theoretical interpretations of artefacts but also about who, if anyone, has the right to own them. Therefore trade becomes central to the debate. John Boardman (chapter 3), James Ede (chapter 6), Ursula Kampmann (chapter 5), and Ortiz all insist on the right to a legal trade in cultural artefacts, highlighting a number of benefits that they see it bringing to the academic community. Brodie, Politis, and Renfrew, however, all stress the porosity of the boundaries between legitimacy and illegitimacy in the marketplace and thus its inherent dangers. The two workshop commentators who wrote for this volume — Boardman and Nicholas Mayhew (chapter 7) — have both long careers collaborating with all sides: archaeologists, collectors, dealers, and museum curators. Boardman argues that the radical archaeologists have closed down museums’ opportunities to collect according to their needs, while Mayhew questions the future role of museums if they are no longer able to buy from the market, except under the most stringent conditions.

In recent years the legal trade has been forced to account more transparently for its actions by the government legislation discussed by David Gaimster (chapter 8). The new concept of ‘due diligence’ in checking and documenting the provenance of cultural artefacts, described by Mayhew and by Paul Roberts (chapter 7), aims to give museums appropriate and realistic ethical guidelines to follow in recording transfers of ownership. Western collections do not have to be the final resting place of cultural artefacts, however. Mark O’Neill (chapter 9) concludes the volume by addressing the question of returning such objects to their original communities, or to their descendants. Through a detailed case study he lays out useful criteria for assessing and negotiating cultural property claims. He demonstrates that clear thinking, openness, tolerance, dialogue, and compromise are key ingredients in the successful resolution of the question ‘Who owns objects?’ As we said at the beginning, there are no easy answers but there may be piecemeal solutions.

Given the tangled and intractable set of issues surrounding the looting and sale of cultural property, together with the fact that in poorer parts of the world ancient objects represent a possible resource once avenues for sale are opened up, it is easy to become pessimistic about the level and scale of the

problems. However, possibilities for positive change do exist. Each situation is different in its mix of cultural, legal and economic factors so that an approach that might work in northern China might not be viable in the Middle East. Our intent is not to be too prescriptive about solutions, but to indicate some avenues for hope. Our starting premise is that cultural items are important to local people, so that even artefacts from the distant past are key to cultivating a sense of self and community in the present. Furthermore, even for impoverished communities ancient artefacts will not be seen primarily or solely as potential commodities, but can be valued in other, more cultural, ways. A key element to any solution is to give power to local communities to protect and cherish their local heritage. This is very much the approach taken by Politis and al-Gailani (as outlined above), who show that even in areas of economic deprivation people can come to care for and help curate local objects. Such approaches put an emphasis not just on local communities, but also on professionals, who can potentially and actually, as Politis has shown, put their skills of excavation, interpretation and curation at the disposal of local communities to encourage the setting up of local museums or cultural centres in which objects can be displayed and debated. The communities of the world outnumber professional archaeologists, art historians or museum curators, but that does not mean that a start cannot be made, funds sought and structures created.

Some initiatives already exist, which can be built on (Hoffmann 2006, 427–462). One such example is the network of Culture Banks that have grown up in Mali in West Africa. These banks work by giving loans to local people who use locally significant cultural items as collateral. The monetary value of the objects is determined not by their black market value, but rather by the depth of knowledge the owner has of the object and how reliable this information is deemed. The object is then documented and displayed in a local cultural centre, where it can act as a focus for discussion of local history and a means of education. The person lending the object retains ownership and the right to access their object(s) for the period of the loan. At present, rates of redeeming objects are around 95 per cent and the money is used for a range of local business initiatives. If it is acceptable to the owner the information attached to the object is retained in the local cultural centre after the object has been redeemed, so that the Culture Bank also helps curate culturally significant information. The scheme is funded by the World Bank and more details can be obtained through their website.

The scheme is not without its problems — people could become over-extended and find it impossible to pay back their loans; the scheme relies to a considerable extent to the good judgement and discretion of those administering the scheme locally; not all objects in all contexts can be made public and in some cases neither can the knowledge attached to them. The costs of administration might also have a tendency to grow, although at the moment the Malian scheme has a head office in the capital Bamako with a series of rural centres, which carry out the real work. This scheme is obviously culturally possible and effective and has been able to attract support from the World Bank. It might well be possible to replicate elsewhere.

Such schemes start from the implicit premise that heritage is as much a local matter as a global one and that local communities are the natural curators of heritage, rather than (or in addition to) large northern hemisphere museums, galleries or rich private individuals claiming to be custodians of world heritage. As well as being potentially effective, such locally based schemes also allow for a diversity of opinion as to what constitutes culturally important objects and landscapes and not all of these views fit easily into a Western notion of what is important and what not. The instance of the Ghost Dance shirt, discussed by O'Neill, makes this point very clearly.

The global market in antiquities and more recent objects is huge and voracious and it would be naïve in the extreme to believe that it can be stopped or curtailed. However, the difficulties in implementing change should not lead to inaction, especially when positive examples exist and can be built on.

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