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The Ongoing Quest to Return Nepal's Looted Cultural Heritage

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Abstract: Nepal's living cultural heritage is under continuous threat from looting, theft, and trafficking. As a result, many of its cultural objects have ended up in foreign private and public collections. Now, activists both from within and outside of Nepal are collectively demanding their return. Contested cultural objects should always be repatriated to their rightful owners when claimed, but those possessing these contested cultural objects should also proactively seek other ways to work towards restorative justice.

Cultural objects can be admired in countless museums, galleries, and dealerships around the world. Many visitors walk around these spaces, never wondering if the communities from which the cultural objects on display originated know that they are there, have access to them, and are comfortable with their exhibition. Many were taken by colonial powers or acquired through other unethical or illegal means, and so these cultural objects continue to be symbols of colonial violence, injustice, exploitation, and exclusion.

For centuries, cultural objects have been looted, stolen, and trafficked—ending up in private and public collections far removed from their communities of origin and worship. In the process, these communities are denied access and agency over their own material culture. For example, demand for “exotic,” “oriental”, “Asian art” has caused the extensive looting and trafficking of sacred Asian cultural objects. Although strict legal frameworks are in place that protect cultural objects, they continue to be ripped from pedestals, chiseled from carved walls, or stolen from inner shrines, eventually ending up for sale on the international marketplace. These are not art objects that should be for sale; they are living cultural objects at the core of ongoing worshipping practices involving festivals, rituals, dance, food, stories, and other expressions of the rich cultural diversity of the Asian continent. They belong both legally and morally in their countries of origin, and so many are demanding their return.

The repatriation of cultural objects has gained momentum since the Second World War. Initially, restitution efforts for Nazi-looted art raised questions around the meaning and shape of restorative justice. Further debates around the possession and display of sacred indigenous cultural heritage in North America and Australasia provided a broader understanding of its importance to individual and cultural identity as well as how (living) heritage and culture should be defined. Such debates are emotive topics, inciting powerful sentiments regarding individual and collective identity, morality, and belonging. This is reflected in several relevant UNESCO Conventions recognizing culture and cultural

diversity—including its tangible and intangible aspects—as a human right.¹ More recently, it was the publication of the ground-breaking Sarr-Savoy report on the restitution of African cultural heritage that reignited the debate around display, custodianship, and ownership of (colonial) looted cultural objects.² Private and public dealers and collectors around the world are now taking long-overdue steps to engage with the problematic narratives that surround their collections.

For decades, countries of origin have requested the return of their cultural objects. These repatriation claims are based on law: national legislation and international agreements, such as the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which facilitate the protection and repatriation of a nation's cultural heritage and prevent its illegal removal, export, import, or trade. However, they are also based on ethical arguments: the desire to right a past or ongoing wrong. This makes repatriation claims extremely difficult, as countries, institutions, and individuals are rarely willing to admit wrongdoing.

In the past year, Nepal has accelerated its pursuit for the repatriation of its foreign-held cultural objects. Social media has been particularly helpful in connecting activists, local and abroad, to pressure museums and other collectors to return the looted deities, worshipping items, architectural elements, and other cultural objects in their possession. Policymakers, experts, activists, and law enforcement both from within and outside of Nepal have united to make a wave of repatriation claims and with success, as dozens of objects were repatriated to Nepal from various countries in 2021. But more needs to be done by the international community to proactively strive for restorative justice.

Looting Nepal's Cultural Heritage

Nepal is a multi-ethnic, multilingual, and multi-cultural nation landlocked between Tibet and India. The country is famous for its Himalayan mountain range and rich cultural heritage. So abundant is Nepal's sacred art and architecture, including statues of deities, shrines, temples, monasteries, and other monuments, that celebrated art historian Lain Singh Bangdel likened it to an enormous open-air museum.³ This cultural heritage has been protected by a strict legal framework since 1956, yet it has proven irresistible to foreign buyers.⁴ Consequently, Nepal's cultural objects have been looted continuously since 1950.

After Nepal opened to foreign travel in 1950, it soon became a hotspot for tourism. Wealthy, retired, North American travelers on post-war round-the-world tours wanted to experience the many heritage sites of the Kathmandu Valley.⁵ At the same time, young people from Europe and North America traveled along the Hippie Trail from Istanbul through Iran and Afghanistan to Nepal, and even further to India and Southeast Asia, in search of enlightenment and spiritual authenticity.⁶ Nepal's capital Kathmandu became known as the perfect escapist hideout: "To the road-store travelers, medieval Kathmandu was a kind of promised land, a paradise lost and rediscovered."⁷ Through pop culture

references, Kathmandu became the focus of Western projections of otherness, orientalism, and counterculturalism.⁸

During this time, Kathmandu also became a hideout for Tibetan refugees fleeing persecution during the annexation and subsequent cultural genocide of Tibet by the People's Republic of China.⁹ These refugees carried a range of cultural objects with them, including textiles, statues, jewelry, manuscripts, furniture, sacred objects, and costumes, which were ultimately sold for sustenance.¹⁰ They were met with a very willing market, and so Kathmandu Valley was a regional hotspot for all kinds of cultural objects. As a well-known dealer of Tibetan cultural objects stated, it was “the place to be” for suppliers to the London and American art markets based on the “flood of material coming in from Nepal and Tibet.”¹¹ As a result, Nepal's cultural heritage rapidly started disappearing from its pedestals, temples, and communities, dispossessed from Nepal as mementos of a countercultural pilgrimage or the start of a “gentleman's collection.”

Most of the architectural structures such as temples and monasteries from which cultural objects were removed were—and still are—in use in Nepal. They are an integral part of the country's rich cultural and spiritual life, which is difficult to miss when walking around any Nepali neighborhood. It is therefore no surprise that Kathmandu Valley, one of Nepal's most iconic areas, contains seven UNESCO World Heritage Sites.¹² Together with accompanying intangible heritage, such as rituals, stories, music, and dance, these objects are a key part of Nepal's living cultural heritage. Once removed, no museum, gallery, or mantelpiece could ever do justice to their original context and the ongoing cultural and worshipping practices that surround them.

Illegal and Immoral: The Trafficking of Nepal's Sacred Objects

The global trade in cultural objects is often described as a “gray” market, as it relies on a variety of practices and narratives that make it difficult to identify the legal and moral basis for an object's ownership, trade, and movement across borders.¹³ Differences in legal frameworks, enforcement strategies, and moral attitudes create loopholes which those involved in the trade of cultural objects take advantage of. Along the way, looted and stolen cultural objects are provided with paperwork and surrounding narratives that offer them an air of legitimacy, for example, through publication in art volumes and shipping documentation that mask their true origin in order to “launder” the objects' appearance on the market.¹⁴ Meanwhile, the due diligence performed by market participants is insufficient to ensure the legal and genuine ownership history, or so-called provenance, of cultural objects.¹⁵ The global trade in cultural objects, therefore, thrives on opacity and lack of accountability.

The outpour of Nepali cultural objects to satisfy market demand became so alarming in the 1970s and 1980s that two both German lawyer Jürgen Schick and Nepali scholar Laing Singh Bangdel started photographing statues of deities and evidence of their theft independent of

each other.¹⁶ So dire was the rapid disappearance of Nepal's cultural heritage during this time that a journalist noted that "the gods are being torn from Nepal to adorn Western homes and museums, leaving behind weeping devotees and depriving the Himalayan kingdom of some of its most precious art objects."¹⁷ As a result of this large-scale looting, prompted by foreign demand, Schick warned that "the land of the gods" would quickly be "emptied to the point where nothing remains," urging collectors to reflect on the looted nature of their collecting practices.¹⁸

Demand for Nepal's cultural heritage from foreign art collectors and museums in North America and Europe steadily continued as tourism in the country catapulted. The scale of looting and trafficking of cultural objects since 1950 is evidenced by the sheer quantity and quality of private collections established during the latter part of the twentieth century. Provenance for these collections is commonly withheld or does not paint a full picture of how the objects were removed from their country of origin. Take, for example, the collecting practices of renowned Chicago art collectors James and Marilynn Alsdorf. They donated several items to the Art Institute of Chicago during the 1970s and 1980s, the heydays of looting in Nepal.¹⁹ In September 2020, international auction house Christie's offered part of their collection for sale in New York. This ironically titled "Sacred and Imperial" auction contained several Nepali and Himalayan cultural objects. All sold for several times their estimate prices despite vague provenances such as "acquired prior to 1981."²⁰ Others were bought from art dealer Subhash Kapoor, who was convicted of heading a global trafficking network of Asian cultural objects.²¹ Clearly, it is still acceptable to sell (Nepali) cultural objects with incomplete, unreliable, or tainted provenances through public auction houses or to donate them to renowned museums.²² The market for looted cultural objects therefore continues to be poorly regulated, yet highly lucrative.

It is important to note the significant role academics play in creating, facilitating, and stimulating a wider market for Nepali objects. Art historians like Dr. Pratapaditya Pal, Dr. Mary Slusser, and Professor Denman Ross are well-known to have worked closely with American museums and private collectors, assisting them in building their collections, authenticating and validating potentially looted cultural objects in the process, and even buying and selling cultural objects themselves. Pal noted when he saw a stunning set of four Chola bronzes for sale by his dear friend, art dealer Robert H. Ellsworth, "they had the usual accretions from being buried in the ground" —yet Pal did not notify authorities and instead purchased the bronzes for the Los Angeles County Museum of Art and proceeded to publish a monograph about them.²³ The ecosystem of market participants in the illicit trade of cultural objects, therefore, stretches from museums, private collectors, dealers, and auction houses to facilitators such as academics, authenticators, banks, and others who profit off the demand for looted and stolen cultural objects.

Protecting Nepal's Cultural Heritage

Nepal, like many archaeologically rich countries, has a strict legal framework in place to protect the cultural heritage within its borders, whether it is movable or immovable, or located above or below ground.²⁴ This means that any object excavated in or exported from Nepal after its 1956 Antiquities Ordinance without governmental permission is illegal and should not be on the market. Private and communal custodianship of cultural heritage is recognized under law, supported by preservation efforts of Nepal's Department of Archaeology. As a result, protecting living heritage primarily falls on its patrons; local communities are at the forefront of crime prevention by way of harboring and preserving cultural heritage through day-to-day use of sacred sites.

Despite these laws and community crime prevention measures, Nepali cultural objects regularly appear on the international marketplace. Many cultural objects that were once excavated, traded, or exported contrary to relevant legislation are not recorded in official databases, because they originate from remote structures or archaeological sites. It is therefore extremely challenging for archaeologically rich countries like Nepal to protect all their movable and immovable heritage against the relentless demand of collectors, dealers, auction houses, museums, and other market actors. Once cultural objects are removed from their country of origin, it is very difficult to trace provenance and provide evidence of theft, looting, and trafficking, particularly without documented evidence. This complicates the repatriation of illicit cultural objects, unless the possessor chooses to do so voluntarily, for example, based on moral arguments.

Today, the illicit global trade in cultural objects continues. This is despite several international agreements that provide guidance to State Parties on how to protect their own heritage and on how to cooperate with other State Parties to stem illegal trade and repatriate looted cultural objects, and despite comprehensive local regulatory frameworks.²⁵ However, recent stricter market regulations—including anti-money laundering regulations—and an increased awareness among market participants regarding the problematic narratives that can accompany cultural objects have brought slow but promising change, particularly after the widely publicized prosecutions of renowned dealers and collectors of looted Asian art.²⁶

Nepal's recent efforts to repatriate its stolen heritage have raised international interest.²⁷ For example, last year, the Government of Nepal requested that the Dallas Museum of Art return a statue of the androgynous form of the Hindu god Vishnu and his consort Laxmi: Laxmi-Narayan.²⁸ The statue – also referred to as a living god due to its religious significance – was part of the above-mentioned collection of photographs from the 1980s and therefore known to be stolen in 1984.²⁹ The deity then became part of the museum's collection as a donation by a renowned Asian art collector. It took the combined efforts of various governmental and diplomatic channels, as well as local and foreign activists, to effectuate seizure of the statue and its repatriation to Nepal. In November 2021, it was reinstated in its

original temple and can finally be worshipped by its devotees again after nearly forty years.³⁰

Civil activism plays a key role in the efforts to return looted and stolen cultural objects. Since 2015, the anonymous account “Lost Arts of Nepal” has used social media to spread awareness of the dispossession of Nepal’s cultural objects, highlighting the illegal and immoral origins of Nepali cultural objects in foreign collections. Similarly, the “India Pride Project”—consisting of a global team of volunteers, headed by two Singapore-based co-founders—has been extremely successful in employing research, lobbying, and advocacy to identify stolen and looted cultural objects in foreign private and public collections and in returning them to communities across India.³¹ Comparable efforts are ongoing in Thailand and Mexico.³² Activists in these countries have harnessed the global reach of social media to campaign for the repatriation of their foreign-held cultural heritage, putting pressure on public and private collections to return (colonial) looted cultural objects while spreading awareness about their origins and the individual and collective harms that looting has caused and continues to cause. Arguably, these recent activist efforts have been far more effective than diplomatic negotiations and legal claims, as they are democratizing the search for and claim over foreign-held cultural objects.

In Nepal, these activist efforts have now been formalized into a non-governmental organization that is specifically focused on the return of looted cultural objects. Building on previous efforts of activists such as art historian Lain Singh Bangdel and curator Dina Bangdel,³³ the Nepal Heritage Recovery Campaign (NHRC) was founded in 2021.³⁴ It consists of activists and advisors from within and outside of Nepal dedicated to returning foreign-held sacred cultural objects to Nepal and reinstating ownership, access, and power to local communities. The recent push for online engagement by museums and other institutions as a result of the global pandemic facilitates these efforts, as collections and object provenances are now easily searchable online from anywhere in the world so that “activists in Kathmandu can see where their heritage has gone, and they can claim it.”³⁵ In the past year, NHRC has assisted in the repatriation and reinstating of more than forty cultural objects, including the aforementioned Laxmi-Narayan statue, with dozens more ongoing cases.³⁶

Providing an inspiring example for neighboring countries, Nepal’s activists are finally holding market participants accountable for the harms that their practices have caused and continue to cause. These harms do not just pertain to ongoing looting. For example, many foreign-held looted objects like the aforementioned objects in the Art Institute of Chicago are not even on display. Insultingly, instead of being used in the daily worshipping practices of the communities they originated from, they are collecting dust in museum storage facilities far away from home. To curb the ongoing demand for Nepal’s cultural objects, the (inter)national market needs to be regulated more effectively—without relying on self-

regulating and accountability efforts—while supporting community crime prevention measures within Nepal.

A Global Reckoning...?

Undoubtedly, many actors still treat the material culture of archaeologically rich countries as just another resource to be preyed upon in an ongoing, international, extractive trade. The ultimate beneficiaries have been the museums, dealers, auction houses, collectors, and facilitators of the wealthy culture-consuming countries, often the very same former imperial powers that are guilty of colonial exploitation of land, people, and resources off which they have profited for so long.

The looting and trafficking of these invaluable objects is finally receiving increasing public attention, and so the harms that the global trade in looted cultural objects continues to cause are well-known, making any justification provided in favor of such continued exploitation now obsolete. Moreover, museums are investing in provenance research and new ways to “decolonize” their collections, slowly acknowledging the harms caused by denying origin communities agency over their dispossessed material culture. But conversations around the return of cultural objects have been dominated by market countries. These conversations have centered only around the object, assuming that with the repatriation of a cultural objects, “restorative justice” and restitution of agency and power have been achieved.

Instead, a lot more can proactively be done in former colonizing countries and market countries to address the problematic narratives attached to the private and public collections within their borders. Strict market regulation should be enforced to ensure the legal trade of material culture. But in order to work toward restorative justice, access to, ownership of, and agency over looted and stolen objects needs to be reinstated to their communities of origin. Moreover, repatriation does not end with the object: access, ownership and agency also need to be reinstated in relation to the knowledge and other (financial) benefits that these objects generate, have generated, and perhaps will generate in the future, as well as the visual imagery and intellectual property attached to these objects.

In short, repatriation should serve as the starting point for long-overdue equitable and sustainable collaborations and other efforts that seek to address past and ongoing harms. The key here is to listen to those underrepresented voices that have been left out of the ‘ownership debate’ for so long, and to not assume that repatriation of cultural material – whether their physical or digital presence – is always the desired outcome. However, sacred, contested heritage should always be returned to its rightful place of origin when requested.

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