



PERSPECTIVE: restitution of cultural heritage

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Removal and return of cultural objects have informed human relations since antiquity. From the foundation of the United Nations, newly independent states have consistently called for restitution of cultural heritage removed during foreign occupation. Restitution was viewed as integral to decolonization, the New International Economic Order and the right to development. Indigenous peoples' claims for restitution of culture (land and sites, ancestral remains, cultural objects, and knowledge and language) infuse every aspect of the 2007 UN Declaration on the Rights of Indigenous Peoples. The Declaration draws on the civil rights movement and human rights informing Indigenous responses to ongoing foreign occupation. More recently, UN Security Council Resolution 2347 of 2017 - the first dedicated to cultural heritage - recognises the threat that cultural loss and dislocation poses to international peace and security, and the centrality of effective international cooperation to facilitate restitution to address its effects. The "fil rouge" of these restitution claims is that the right of peoples to self-determination and economic, social and cultural development must encompass culture and cultural heritage.

Calls to address restitution claims and stem ongoing cultural losses has elicited manifold responses. The UNESCO 1970 Convention seeks to encourage international cooperation among states in regulating the trade in cultural objects and facilitating restitution claims, whilst the 1995 UNIDROIT Convention aims to harmonise private international law rules addressing restitution claims by States and non-state actors. Like-minded initiatives by regional organisations also exist, while multilateral efforts through the Security Council's sanction regime, UN Office of Drugs and Crime, and International Criminal Court emphasise international cooperation on criminal accountability for cultural losses due to the illicit trade in cultural objects. Yet these treaties do not have retroactive effect. Following the call of then UNESCO Secretary-General in 1978, the ICPRCP was established to facilitate so-called 'historic' claims for restitution of cultural objects. In response to Indigenous peoples' advocacy, the General Assembly have sanctioned the establishment of 'fair, transparent and effective mechanisms for access to and repatriation' of ceremonial objects and ancestral remains. Over the last half century, multilateral responses to the ongoing, adverse impact of cultural loss on peoples has moved beyond market regulation of trade in cultural goods to a human rights-based approach to restitution claims as effective remedies related to living cultures.

Claims for restitution of cultural heritage, from newly independent states to Indigenous peoples, to victims of armed conflict, belligerent occupation or disasters, emphasise that it is not simply an act of returning a cultural object but a process of redefining relations between peoples, within and across countries and generations. This shift is reflected in the contentious debate within the International Council of Museums about the definition and function of museums and collecting institutions; constitutional reform being negotiated in several states; and the growing momentum at the regional and multilateral level for mechanisms to facilitate international restitution of cultural objects removed during colonisation and Indigenous ancestral remains and sacred objects.

It is important to recall that these responses and mechanisms must accord with the right of self-determination and be developed and operate with the effective participation and free prior and informed consent of the victims of serious cultural losses, past and present.