

Authenticity and Repatriation: The Case of Low-Priced Antiquities

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From Authenticity to Origin: Provenance, Cultural Property, and the Question of Return

The antiquities market operates through a fundamental dichotomy rarely articulated with clarity: authenticity versus provenance. While authenticity is a technical question about what an object is, provenance is a legal and political/moral question involving the wherefrom, whereat, the temporal and geographical trip and ultimately whereto. The former can, in principle, be resolved in a laboratory. The latter requires archival research, legal scrutiny, and, increasingly, a willingness to engage with questions about sovereignty, collective memory, and the rights of communities to the objects that constitute their cultural heritage. This essay traces the line from provenance documentation in the lower end of the art market through to the broader scholastic and theoretical debates about what possession and return of a valuable object—culturally, historically, artistic or socially—implies for stakeholders and the public.

Provenance and Authenticity: Two Different Questions

In the sub-€10,000 market, provenance documentation is systemically inadequate, for several compounding reasons. Major trade bodies—the ADA, AIAD, and IADAA—only require database checks against the Art Loss Register or INTERPOL’s stolen property records above financial thresholds that exclude the vast majority of transactions by volume. The provenance formulas that fill this vacuum, such as “old European collection” or “acquired before 1970,” derive their authority from the widely accepted standards of the 1970 UNESCO Convention, yet rest on remarkably thin evidentiary foundations. Compounding this, there is “little evidence” that the art and antiquities market is exploited for money laundering or terrorism financing in the

specific ways the relevant regulation purported to address—a problem the EU Commission openly acknowledged when drafting Regulation (EU) 2019/880.¹ That same regulation introduces a further structural difficulty: importers and customs authorities must establish the “country of creation or discovery” as the anchor for all provenance claims, yet the older the object, the less likely that origin can be determined with any precision.² Taken together, these overlapping gaps in the framework incentivise avoidance and obstruct verification rather than encouraging genuine compliance.

The Supply Chain and Its Document Trail

To understand what adequate provenance documentation must establish, it helps to first understand how the antiquities supply chain operates. At its base stands the *tombarolo*, the field looter who works excavation zones with metal probes to locate burial chambers at sites such as Veii, Cerveteri, and the Apulian necropolises, typically at night to avoid the Carabinieri. For this labour and risk, the *tombarolo* receives the smallest fraction of the object’s ultimate market value—sometimes as little as €50 to €200 at the moment of excavation. The object then passes to a middleman who aggregates finds, arranges their smuggling across borders concealed in legitimate cargo, and delivers them to upper-tier dealers in jurisdictions chosen for permissive oversight.³ At this stage, provenance is fabricated or strategically obscured, and the phrase “from an old private collection” is substituted for any genuine ownership history. Crucially, a looted assemblage of fifty objects worth €1,000 each attracts far less scrutiny and travels more easily

¹ Jong, “The Cultural Goods Import Regime of Regulation (EU) 2019/880,” 35.

² Jong, “The Cultural Goods Import Regime of Regulation (EU) 2019/880,” 42–44.

³ Ruiz, “‘My Life as a Tombarolo.’ The Art Newspaper Goes Underground in the World of Illicit Archaeology.”

through borders and markets than a single piece worth €50,000.⁴ The high-value piece triggers due diligence; the low-value lot passes unexamined.

Adequate provenance documentation in this context must establish more than the age of an object or its broad European origins before a given date. It must demonstrate that the object's removal from the ground, and each subsequent transfer of ownership, were lawful under the applicable jurisdiction at the relevant time. For Italian objects, this bar is set clearly by articles 826–827 of the *Codice Civile*, which declare that all archaeological finds in Italian soil belong to the State, regardless of who owns the land. An object excavated in Italy without State authorisation is therefore illegally possessed from the moment of its removal, and every subsequent transaction constitutes an exchange of stolen property—a situation further aggravated when the object is smuggled across international borders.

From Provenance to Return: The Theoretical Fault Lines

The gap between provenance documentation in the lower art market and the larger debates about repatriation and restitution is narrower than it appears. Both are animated by the same foundational question: what gives anyone the right to hold a cultural object? The provenance record is the instrument through which that right is either established or contested, and when provenance fails, the question of rightful ownership remains open.

Sadowski offers a useful conceptual clarification by distinguishing restitution from repatriation as legally and morally distinct operations. Restitution concerns the return of objects removed through armed conflict or illicit trafficking—contexts in which legal remedies, however difficult to pursue, are at least nominally available. Repatriation belongs to the post-colonial

⁴ Ruiz, “‘My Life as a Tombarolo.’ The Art Newspaper Goes Underground in the World of Illicit Archaeology.”

context, where the removal of objects was frequently lawful under contemporary Western law, even when it amounted to what Sadowski characterises as “forceful taking and stealing.”⁵ The distinction matters because it identifies what kind of wrong is being addressed. Restitution is essentially a property law remedy: the object was wrongly taken, and return can in principle correct that wrong. Repatriation involves a different kind of claim—one rooted in identity, collective memory, and the ongoing effects of historical power imbalances that law alone is poorly equipped to address.

Merryman’s framework provides the ideological coordinates for this debate. Cultural nationalism holds that objects belong in the source country, and that their removal is a wrong to be remedied by return. Cultural internationalism holds that cultural property belongs to humanity as a whole, and that the relevant question is not where an object is held but whether it is preserved, studied, and made accessible. In practice, as Merryman observes, cultural nationalism dominated the discourse of the 1970s and 1980s, with UNESCO providing an institutional home for source-nation claims, while the case for cultural internationalism went largely unheard.⁶ The result was a system of export controls that, empirically, did not reduce the illicit trade but merely redirected its routes—while simultaneously suppressing the licit trade in objects that source nations had no realistic capacity to display or conserve.

These questions grow considerably more complicated when the object in question predates the modern state now claiming it. An Etruscan fibula, a Greek krater, a Mesopotamian cylinder seal—these objects were made by communities that bear no straightforward relationship to the governments now asserting sovereign ownership over them.

⁵ Sadowski, “From Freedom to Return. Restitution and Repatriation of Cultural Objects After Subjugation,” 16.

⁶ Merryman, “Two Ways of Thinking about Cultural Property,” 850.

Where Objects Go: The Community Problem

Even accepting that an object should be returned, the harder question is where. The high-profile repatriation cases—the Euphronios Krater to Italy, the Morgantina silver, the Parthenon Marbles debate—all assume that return to the modern nation-state is equivalent to return to the culture of origin. This assumption rarely holds. An object produced in ancient Persia, for instance, might plausibly correspond to several modern states with competing claims. The Benin Bronzes, taken by the British in the 1890s from the Kingdom of Benin in present-day Nigeria, illustrate the problem further: meaningful claims can be advanced by several contemporary governments, Dahomey, Nigeria, Benin. Finally, it is not theoretically supported that the goods would belong to the State or its Government rather than to scholarly universities or museums. Nor is it self-evident that repatriated objects should pass to the state at all, rather than to universities, museums, or communities with a more direct cultural connection to the material.

A coherent framework for navigating these competing claims remains elusive, but Sadowski's distinction between restitution and repatriation offers a useful starting point. In his account, restitution primarily affects identity through changes to collective memory—the wrong is historical and the remedy is symbolic as much as material. Repatriation, by contrast, impacts identity directly, with collective memory shifting as a consequence.⁷ The distinction does not resolve the question of where objects should go, but it clarifies what is at stake in each type of claim, and why the two demand different kinds of institutional and legal responses.

⁷ Sadowski, "From Freedom to Return. Restitution and Repatriation of Cultural Objects After Subjugation," 25.

Conclusion

In light of this distinction, the one pitfall we should not fall into is trivialising the problem, as doing so does not help the debate even when at first glance it appears to contribute to raising public awareness of it. Although having the spotlight enormously helps the propagation of a very important and current issue, we as a society must be careful about how we engage with such topics. As this essay has argued, the nuances and layers of this discourse are not only interdisciplinary, but also incredibly dense. Pointedly, earlier this year a group of South African developers launched *Relooted*, a game which vividly and engagingly helps popularize the problem and the terms of the debate. AWith its motto “It’s not just a heist – it’s a rescue mission,” the game invites ordinary citizens to devise the repatriation of African artworks from Western museums, “liberating” them and having them returned to their countries of origin—alla Robin Hood.⁸ The concept is certainly intriguing and helps engage wider audiences with complex repatriation and provenance questions in an attractive context. On the other hand, it suggests the problem is amenable to Rambo-like individualistic, rather than socio-political-cultural, solutions.⁹

⁸ *Relooted* – Nyamakop.

⁹ Chipangura, *The Benin Tusk and Zulu Beadwork: Practicing Decolonial Work at Manchester Museum through Shared Authority*.

The limitations of individualised or gamified approaches to repatriation become clearer when set against the institutional decolonial practice described by Njabulo Chipangura in “The Benin Tusk and Zulu Beadwork: Practicing Decolonial Work at Manchester Museum through Shared Authority.” Drawing on ongoing work at the Manchester Museum, Chipangura argues that decolonisation demands a relational practice grounded in dialogue, multivocal collaboration, and shared authority in knowledge production—applied, among other cases, to objects looted from Benin in 1897 and to Zulu beadwork held in the living cultures collection. The approach is explicitly empirical rather than symbolic, and Chipangura is candid about its limits: decolonial practice is itself shaped by the power imbalances and tensions between curators and communities that it seeks to address. The contrast with *Relooted* can help shed some light on different perspectives—where the game resolves the problem through individual action and narrative, Chipangura’s framework insists on the irreducibly institutional and relational character of cultural restitution.

In sum, all attempts at open, public discussion are steps—large or small—towards a more socially responsible allocation of antiquities, as opposed to the current *status quo* fed by naked force and wrapped in hush-hush deals.

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