

Committee: UN Educational, Scientific and Cultural Organization (UNESCO)

Issue: The return and restitution of cultural property to the countries of origin

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Position: President

PERSONAL INTRODUCTION

Dear delegates,

My name is Panagiota Argyri and I have the honor to serve as the President of the UN Educational, Scientific and Cultural Organization (UNESCO) at the 3rd session of ACG MUN. I am currently a senior student at Pierce -The American College of Greece, sitting for the Panhellenic exams.

I started my MUN career as a delegate two years ago, and since then I have participated in 11 conferences. Model United Nations came to my life unexpectedly, but managed to stay permanently until today. I hope I could give you a glimpse of my passion for the conferences and inspire you to achieve more and develop through your MUN career.

It will be my 4th time as a Student Officer and I am more than happy that I would be with all of you in the UNESCO committee. UNESCO is an organization founded in 1945 with the sole purpose of uniting humankind under the principles of education, science, and culture. By ensuring the access in education of every citizen, coordinating scientific programs, and promoting the cultural heritage of each nation, UNESCO seeks to sustain peace through the “intellectual and moral solidarity of humanity”.

The topic of “The return and reinstatement of cultural property to the countries of origin” is current and complicated. It demands the delegates’ full attention to their countries policies and interests. Thus, it is crucial that, after reading this study guide and getting a clearer image of the situation, you do your own research regarding your country and any latest updates.

Please do not hesitate to contact me for any related questions about the committee or the topics on my email: penny.argyri@gmail.com. I would be more than willing to help you prior and during the conference. I hope that along with my fellow co-chairs I will make this 3-day ACGMUN conference an unforgettable experience for you.

Best regards,

Panagiota (Penny) Argyri

TOPIC INTRODUCTION

Culture is indicated as a characteristic of each society and is directly connected with its history, and thus its national identity. Culture strengthens people's sense of belonging in a community and saves them from their existential insecurities because they feel connected to their ancestors, as well as obliged to their descendants for the continuation of the same culture.

Humanity, after suffering two world wars, and hundreds of conflicts, living thousands of years of civilization, has managed to develop diverse cultures, shared amongst people of the same community. However, armed conflicts, colonization or imperialism resulted in the looting of cultural objects, destroying ancient monuments, and disconnecting the people from their cultural bonds.

Years later, an official request has been made from the countries of origin to reconnect with their past and ensure the unification of their cultural property. There is an increasing need to decide which treasures need to be returned and to whom. For this purpose, many resolutions have been signed and ratified, and many organizations have been supporters of the value of culture for each civilization. Currently, some cases have ended successfully although the majority of them is still



on hold.

An example of these international attempts is UNESCO's role in each case. UNESCO has been acting as a mediator between the nations in order to settle each case peacefully and diplomatically. UNESCO has formed two complementary bodies to assist in the restoration of cultural heritage, namely the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM) and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP). By drafting resolutions and keeping the pressure upon the international community to resolve the issues, UN bodies have managed to constantly draw attention of the global community to the significance of each case.

Since the 19th century, illicit removal of cultural property has been one of the most profitable businesses worldwide, and in the 1980's it was ranked 2nd, after

trafficking of narcotics.¹ Thus, the return or restoration of cultural property to the countries of origin has been discussed throughout the years on the United Nations headquarters as it affects the majority of nations.

DEFINITION OF KEY TERMS

Loot

The action of looting; goods usually of considerable value taken in war.²

Repartition of cultural property

Repartition at this context means the return of art or cultural heritage, usually referring to ancient or looted art, to their country of origin or former owners (or their heirs).

Cultural Heritage

Cultural heritage is the legacy of physical artifacts and intangible attributes of a group or society that are inherited from past generations, maintained in the present and bestowed for the benefit of future generations.³

UN International Institute for the Unification of Private Law (UNIDROIT)

The International Institute for the Unification of Private Law (UNIDROIT) is an independent intergovernmental Organization formed initially in 1926. Its purpose is to study needs and methods for modernizing, harmonizing and coordinating private law as between States and groups of States and to formulate uniform law instruments, principles and rules to achieve those objectives.⁴

BACKGROUND INFORMATION

Historical Elements

The reasons that led to today's requests for the return of cultural heritage are mainly the lootings that took place during wars, colonization or imperialistic policies. Firstly, it should be noted that the first stolen cultural objects were recorded in antiquity. One of them called The Stele of King Naram-Sin of Akkad can now be found in Louvre Museum, Paris.

¹ "Repatriation of Cultural Property to Its State of Origin as International Customary Law." Artlaw Online, 25 Aug. 2017, www.artlaw.online/en/read-it/articles/repatriation-of-cultural-property-to-its-state-of-origin-as-international-customary-law.

² "Loot." Merriam-Webster, Merriam-Webster, www.merriam-webster.com/dictionary/loot.

³ "Tangible Cultural Heritage." United Nations Educational, Scientific and Cultural Organization, Discovery Channel, Producer., www.unesco.org/new/en/cairo/culture/tangible-cultural-heritage/.

⁴ User, Super. "90th ANNIVERSARY." UNIDROIT - News and Events, 29 Aug. 2018, www.unidroit.org/about-unidroit/overview.

During wars, it was a common phenomenon that the victors, after ravaging many of the monuments of the region, would steal moveable property, artifacts (such as sculptures, archaeological remains etc.), skeletal remains, grave goods and parts of still standing monuments (temple facades, etc.) considered as spoils. Especially during the World War II, Nazis destroyed many churches, museums and private collections, and the looting took place throughout Europe and Russia.

The effects of colonization, mainly in the African continent, were huge and directly related to the loss of humans' cultural identity. Appropriated by colonial powers during their often-brutal reigns, many objects of cultural significance are found around the world with no available root to come back. The problems lie in the lack of legal framework of the countries of origin and in the fact that their multiple requests continue to be ignored by the European powers, such as Germany and France.

Imperialistic policies are to blame as well, since they are the reason the nations involved in the matter do not allow the repartition and return of cultural heritage to the countries of origin. By keeping the cultural heritage of another nation, the former tend to enjoy the benefits of art and culture in their museums, thus gaining power through international promotion and attempting to exploit and control smaller countries.

Cases of Restitution of cultural heritage

Ingenious people

The case of ingenious people is rather interesting and special. Aboriginal art is on the verge of becoming extinct, as the people representing it have become a minority. Their continuous attempts, however, to get back what they once owned seem meaningless. Since there are no legal frameworks in place, museums and galleries all over the world have been exhibiting sacred objects, in most cases without even paying the pertinent respect. Despite the existing international documents such as the Declaration of the Rights of Indigenous Peoples, their right to their ancestor's cultural heritage is still not recognized.

African Countries

Due to the colonization and imperialistic policy of many European countries, the cultural heritage of African countries suffered many destructions as well as segregation of its pieces. It is unbelievable that years later, the situation is not fully restored, and African countries, such as Nigeria, Mali, Ghana, and Zimbabwe, are still missing important artifacts.

Specifically, in Nigeria, a looting that took place in 1897 by British expeditors, resulted in the removal of priceless cultural objects from the palace. The main reason for this incident is believed to be the lack of a proper legislation system which would prevent the exportation of art and the ignorance of the officials to enforce the rules. The Nigerian Civil War only worsened the problem, while at the same time the demands of the art market only increased. Generally, the Nigerian authorities seem unable to protect the cultural heritage and that's why the UNIDROIT's and UNESCO's Convention have become life-saviors.

In Mali, where European missions were in search of antiquities, similar incidents occurred. Ancient Mali's artworks drew the attention of various European and American galleries and museums and thus, through colonization, the plundering of the ancient sites was made easier. Although the need to get back all the removed cultural objects is a reality, most of them have already been destroyed and their values is underestimated.

As in Mali, Ghana faced the same issue with illicit trafficking of goods of historical value that travelled in museums all around the world. The Netherlands is considered the destination country where the lack of proper legislation, once more, causes complexity and has led to unresolved cases up until today.

Lastly, in Zimbabwe, the millions of artifacts taken from the nation's heritage are the result of thefts, smuggling, and illicit appropriation. Mainly European countries are involved in this such as Belgium, Switzerland, and the Netherlands.

Temple of Preah Vihear (Cambodia v. Thailand)

The case of the Temple of Preah Vihear was brought before the International Court of Justice (ICJ). The region where the Temple of Preah Bihear is located is between Cambodia and Thailand and it is divided by a watershed. After the temple was recognized by UNESCO as a world heritage, Cambodia complained that Thailand



had occupied its territory, namely the surroundings of the ruins of the Temple of Preah Vihear, a sacred place for the former country. Thailand claimed the territory near the temple, after having accepted the Franco-Siamese Treaty of 1904 and the current borders. However, afterwards, the

authorities declared the map's lack of binding character and attempted to reclaim the region. Although the issue seems rather territorial and could be characterized as a border dispute between two neighboring countries, the area included is of artistic and historical interest and significance.

In the end, the Court found that Thailand had indeed accepted the map and concluded that the Temple was situated on Cambodian territory, and thus decided that Thailand was under an obligation to withdraw all military forces from the borders and to restore to Cambodia any objects removed from the ruins since 1954.

Parthenon Sculptures

The so-called Elgin Marbles were taken from the Parthenon in Athens from Lord Elgin in the early 19th century when Greece was still part of the Ottoman Empire. It is supported that Lord Elgin



had an official document signed by the Sultan to remove the 96 sculptures, which he did violently and disrespectfully towards the ancient monument. Afterwards, the marbles now part of his private collection were sold to the British Museum.

Part of the Parthenon Marbles taken from Lord Elgin in the 1800's that are currently exhibited in the British Museum.

Constant attempts have been made from Greece since 1925 for the repatriation of the Elgin Marbles. However, the issue is more complicated than it may seem, initially due to the involvement of diplomatic procedures as well as to the interests of each country. Each side is arguing based on different criteria; Britain claims that the removal of the marbles was done legally at the time and Greece supports that such a document was never found, and thus the parts taken from the Parthenon must be immediately brought back.

On 3rd August 1982, the member states of UNESCO voted for the return of the Elgin marbles in Greece, and the UN General Assembly decided to include the cultural objects in the "Return or Restitution of cultural property to the countries of origin" initiative.

Other point of views: Who owns cultural property?

The restitution of cultural property to the countries of origin has caused heated debate over the years. There are supporters of the idea that cultural

property must be returned in the country of origin as it is a matter of possession of a nation and reflects its past. On the other hand, there are people who consider that cultural property, being the outcome of years of civilization, belongs to all humankind. Since a “universal museum” is still far from reality, the two sides have to compromise by respecting the cultural sensitivity.

This question is especially addressed to indigenous people (for example Australian aboriginals) who don't belong to a specific nation, but they have developed their own distinct culture over the years. However, works of art from their civilization are currently exhibited in many different places of the world. The cooperation between some museums and the indigenous people has proven to be effective, whereas in other cases the attempt of cross-cultural communication has been completely in vain.

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

Egypt

Because of its bright past and unique civilization, Egypt is one of the most affected countries in the issue of return of cultural property. Thousands of artifacts related to ancient Egyptian culture are found in museums all over the world. However, there have been many organized attempts by the ICPRCP for the objects' recovery. More specifically, in 2005, at a meeting of ICPRCP in Paris, a list of the 5 most important cultural objects taken from Egypt was created, and then the claims were specified. With threats to cut off cooperation with museums globally, the Secretary General of Supreme Council of Antiquities (SCA) achieved the return of up to 3000 artifacts to Egypt.

United Kingdom (UK)

The United Kingdom has signed the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, but has not put into force the 1995 UNIDROIT Convention on Stolen or Illicitly Exported Cultural Object. Despite the belief that UK still has open cases with only Greece and Italy, other countries such as Egypt and India are also asking for the restoration of the cultural objects from, mainly, the British Museum. Specifically, the famous “Rosetta Stone” is to be repatriated to Egypt and the priceless artifacts "Kohinoor Diamond" and "Sultanganj Buddha” are to be returned to India. There are arguments for and against the type of museums that carry the international heritage, with Britain supporting that artifacts being in the national museums are protected and exhibited to a much larger audience.

The International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM)

Being an intergovernmental organization operating in regard to 2001 UNESCO Universal Declaration on Cultural Diversity, ICCROM was founded in order to preserve the cultural heritage of each state, after the emergency caused in the aftermath of World War II. Interested in training, informing, and doing research upon the issues concerning culture, the International Centre has been working closely with all its member states along with UNESCO.

Its mandate is to reduce the risk of a possible disaster of any piece of the international heritage as well as preserve the cultural values of each nation during times of conflict. Created in 1959 in Rome, the ICCROM's challenge is still in force; to ensure the correct preservation and restoration of cultural property to where it



initially belonged.

The map shows the cultural connections between regions all over the world. It was created by a resource website, "Heritage Science", an additional tool for ICCROM. Its goal is to research issues that address conservation, care and management of cultural heritage.

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

The Intergovernmental Committee was founded in 1978 at the 20th session of the UNESCO General Conference with the mandate to achieve the return or reinstatement of cultural property to the countries of origin. By finding ways to establish negotiations between the related countries and to inspire cooperation among the nations for this cause, ICPRCP has managed to effectively solve several cases; Italy – Ecuador (1983) USA – Jordan (1986), Former German Democratic

Republic – Turkey (1987), USA –Thailand (1988), Switzerland – United Republic of Tanzania (2010), Germany – Turkey (2011).

The procedure used to make a request to the Intergovernmental Committee is rather simple. Firstly, it is necessary that any case be brought to the committee, only after negotiations and discussions between the requesting country and the country where property is located have failed. Then, a Standard Form Concerning Requests for Return or Restitution, created in 1981, is essential to be signed by both parties. Lastly, it should be taken into consideration that the request must be submitted six months prior to the next session of the ICPRCP for it to be considered.

TIMELINE OF EVENTS

Date	Description of event
1801-1812	Lord Elgin removes part of the Parthenon Sculptures and various pieces of the Acropolis and transfers them in the United Kingdom.
1959	The International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM) was founded.
1970	UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property was signed by all UN Member States.
1978	Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP) was created as a UNESCO body.
1995	UNIDROIT (International Institute for the Unification of Private Law) Convention on Stolen or Illicitly Exported Cultural Object was signed, which assisted in the return of cultural objects mainly in the countries of Africa.
1999	The Fund for the Intergovernmental Committee was established.
2013-2014	Several cultural objects, mainly statues, from the Neolithic period were returned to Nigeria from France after extensive research had been conducted to determine the exact country of origin.

2018	The United Nations General Assembly votes again in favor of the return of the Elgin marbles in Greece, after Greek representatives' requests.
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RELEVANT RESOLUTIONS, TREATIES AND EVENTS

- 1954 The Hague Convention on the Protection of Cultural property: It is the first international treaty focusing exclusively on the protection of cultural heritage in the event of World War II.
- 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property: Includes measures to prevent the illicit transport of cultural objects, ways to achieve restitution of cultural property to the country of origin and international cooperation.
- Resolution 3148 (XXVIII) (14 December 1973): Adopted by the General Assembly, the resolution focuses on cultural values, which must be transferred to future generations through educational programs, the respect each nation must show to the existing legislation regarding the issue and proposes the planning of a program for the purpose of informing the public.
- 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects: This treaty includes the improvements of 1970 UNESCO Convention and specifically establishes conditions for claims of restitution of stolen or illegally exported cultural objects.
- Resolution 1483 of Security Council (22 May 2003): Specifically, clause 7 refers to the reinstatement of the objects of cultural and historical importance to Iraqi people, with the contribution of UNESCO and INTERPOL.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

The international organizations along with each nation's governments are in constant search of the best way to put into effect the multiple resolutions, decisions, and measures that have been the result of thousand meetings, conferences, and sessions. The Hague Convention of 1907 was aimed to forbid pillaging and sought to make wartime plunder the subject of legal proceedings, although in practice the defeated countries did not gain any leverage in their demands for repatriation.

The UNIDROIT (International Institute for the Unification of Private Law) Convention on Stolen or Illicitly Exported Cultural Objects of 1995 focused on the return of illegally exported cultural objects.

The Secretariat of the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of

Illicit Appropriation (ICPRCP) carried out research and studies on the best way to establish a database on return and restitution cases, following which it suggested to support and consolidate the already existing database, establishing a strengthened partnership with the University of Geneva.

The latest attempts to tackle the issue are organized by the national governments in cooperation with each Ministry of Culture and Communication and the National Museum of Natural History by contacting researchers to find out the exact origin of the cultural objects and ensure that the restitution process is done properly and according to the current legal framework.

POSSIBLE SOLUTIONS

The return and restitution of cultural property to the countries of origin has been an issue discussed thoroughly over the years. A certain solution has not been found yet, and delegates are called to discuss all proposed ideas. Although the interests of the nations related to the exhibition of cultural property might vary, international cooperation is essential and must be achieved.

With the active role of UNESCO and ICPRCP in cooperation with the national governments, favourable terms for both the country of origin of the cultural property and the country that had purchased it could be agreed. To be more effective, the international organizations involved should impose penalties or sanctions, as well as demand compensation to be given to the countries of origin. Before that, however, international studies should be conducted, and the appropriate mechanisms should be taken into force so as to ensure that the claims are based on unjust acquisition and the process is legally followed. Other alternatives would be to provide compensation to the country which has suffered the loss or to negotiate for the lack of the property.

Another extremely important aspect of the topic is education. Educational programs emphasizing on history and culture of each nation should be organized in order to raise public awareness on the issue and prevent misinformation and propaganda.

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