

# 1

## INTRODUCTION

*Jane Anderson and Haidy Geismar*

### **The many faces of cultural property**

This book is both a reader and an extended argument for how to think about cultural property today. Cultural property is a term that has different meanings across scholarly disciplines, governmental and policy environments, within museums and collections, and within communities of practice. A curious hybrid of culture (the evanescent and immaterial systems and structures of knowledge that bind human beings together) and property (the ideologies, political regulations, customs and popular consensus that establish entitlement and sovereignty, and determine claims and power over a range of tangible and intangible resources), cultural property is an evolving category used to describe ways of talking about collective entitlement, shared inheritance, the material nature of identity, and in more recent years, to debate the ethics of the commoditization of culture.

This collection of commissioned essays demonstrates how cultural property is more than valuable artefacts embedded within varied forms of control and allocations of rights. Collectively, the chapters in this volume argue that cultural property is also popular discourse, a way of describing culture, a form of sovereignty, a unit of power, a measure of value, a political instrument, and that it refers to a wide range of different things, both material and immaterial. This book is therefore primarily an argument for *multiple* perspectives on cultural property. Our ambition has been to curate a selection of chapters that reflect the ways in which cultural property is described and discussed from different vantage places, academic disciplines, forms of governance, and practice. Taken together, these essays demonstrate how cultural property's collective nature, as well as the ways in which relationships of rights and authority are activated, emerges around the world in many different ways. We recognize that the volume reflects the ways we are situated in this landscape, as scholars who work and teach in the United Kingdom and North America, with research backgrounds in Australia and the Pacific, and with disciplinary backgrounds in anthropology, critical legal studies, and Indigenous studies.

For the purposes of this Introduction we define cultural property very broadly as the recognition of collective rights in both material and intangible culture within international policy, national law, cultural institutions, local contexts, and everyday practices. As the history of cultural property we present in this Introduction demonstrates, cultural property as an idea, as a legal category, and as something tangible in need of protection has emerged historically

out of armed conflict and has been conceptually embedded within the modern nation-state. The threat, through the violence of warfare to churches, libraries, works of art, and monuments, both demanded and constituted a new category of national property, which needed international recognition in order to be preserved. The language of cultural property therefore emerged predominantly in the nineteenth century as a means to position the nation-state as the *owner* of particular kinds of artefacts and institutions. Breaking open a space between traditional ideas of private property and of public property, this category of national property produced a new understanding of the inalienable relationship between the state and its possessions. However, by the end of the twentieth century, challenges to this jurisdiction had emerged from many directions. The language of cultural property has been adopted and adapted by collectivities that actively resist the authority of the state over diverse cultural resources.

The essays in this volume demonstrate that the rights and relations of cultural property are multiple and need to be understood as engaging a range of actors with varied power and agency. Despite its history, nation-states and national institutions are not the only arbiters of the definition and value of cultural property. As such we must also be attentive to the ways in which cultural property has been able to offer itself as a vehicle to articulate complex identity politics and painful histories of exploitation and appropriation both within and between states. We are committed here to exploring the diverse languages, interpretations, materialities, and politics of cultural property and to understanding the power of global concepts and values as well as local differences in both the implementation and interpretation of cultural property. It is crucial to recognize that whilst cultural property policy and legislation, particularly from within Anglophone traditions, may be seen to be relatively similar across the globe, the interpretation and implementation of cultural property vary from place to place, and are in turn continually altering mainstream understandings and definitions (see Coombe 2009; Geismar 2013b; Myers 2005). Canonical contests over cultural property such as the destruction of the Bamiyan Buddhas by the Taliban in 2001; the restitution of art stolen from Jewish families during the Holocaust; the loss of cultural heritage in the building of the Aswan High Dam in the 1960s; the 2012 settlement by Yale University over artefacts collected from Machu Picchu in Peru in 1912–1915; the appropriation of Navajo designs by Urban Outfitters in the United States; the fight by the British Museum to justify keeping the Greek Elgin/Pantheon Marbles; and Indigenous anxieties over the distortion of Quileute tribal narratives by Stephanie Myers in the *Twilight* trilogy demonstrate how it is vital to pay attention to local differences as well as global histories, to appreciate the discontent with the assumption of national sovereignty from both within and across nation-states, and to understand that the phrase ‘cultural property’ does not simply reference an international category and bureaucratic order, but is itself an active site of claim making that is about political recognition, cultural memory, and identity formation.

### **Genealogies of cultural property**

To understand the diverse strands of engagement and the questions provoked by cultural property, it is important to understand the key historical moments that constitute a genealogy of mainstream understandings of cultural property. Despite the complex global history of cultural property, inflected by multiple locations and histories, the category and concept has historically been bound to elite institutions and the emergence of (largely European) nation-states. This history has established an authoritative and disciplinary framework,

grounded in cultural institutions such as museums, in material culture that is monumental, sacred, and antique, and in languages of law, policy, and governance.

As the very term itself suggests, cultural property develops out of longstanding traditions of property theory, but it also departs from mainstream trajectories of property thinking, pushing against familiar ideas of private property and possessive individualism whilst marking interests in collective identities, social relationships with tangible and intangible objects, and discourses of cultural rights. Property is traditionally understood as a right or ‘an enforceable claim to some use or benefit of something’ (Macpherson 1978: 3). Just what this right is, how it is developed, justified, and elaborated has been the primary focus of property and social theorists at least since the seventeenth century.

It is possible to trace a pre-history of cultural property as Marcel Mauss does in his classic essay *The Gift* (1990 [1925]) into Roman codes of patronage; as Merryman (2005) does to the writings of Polybius of Athens about plunder in ancient Greece; and to medieval discourses of the commons (Boyle 2008). However, for the purposes of this volume, we focus on the emergence of modern cultural property thinking as it emerged from the seventeenth century onwards in response to a variety of social, economic, and cultural factors, including the interests and effects of colonization, concerns for articulations of nascent national and ethnic collectivities and the increasing technological capacity for the destruction of valuable sites of memory and identity. The modern definition of property is usually recognized to have emerged during the European Enlightenment (Macpherson 1978; Macpherson, Parel and Flanagan 1979). Enlightenment philosophies posited that property was an exclusive right of individuals over the things that were produced through their own efforts or labour. Property and personhood were thus intimately entangled from the very beginning (Radin 1993). This position was argued most famously by the philosopher and political theorist John Locke in his *Two Treatises of Government* (2011, first published in 1689). Locke’s description of property posited it as a natural right – that is, an inherent and original right existing by virtue of human existence. The key point of the natural right thesis expanded by political theorists in this period is that certain rights exist automatically in distinction from those established through government. As a natural right, property pre-exists government and therefore the state. Locke argued that government should not, and could not wind back, reduce, or take away already existing rights to property for individuals.

Lockean ideas about ‘first possession’ and that property is produced through the active action of individual labour still have influence within the debates and claims of a range of modern property theorists, including in the domain of cultural property (e.g. Rose 1994). These European, and later North American, understandings of property were exported around the world during the nineteenth century through colonial expansion, and via international law and policy within the twentieth century. In fact, these theories of property were crucial for the colonial appropriation of territory and resources, especially from peoples whose lands were not perceived to be noticeably transformed through culturally specific ideas of what exerting labour on lands (for instance cultivation) looked like. As a result, these peoples were deemed to be without property, and therefore without history or culture (Wolf 1982). These legal definitions were bolstered by a nascent evolutionary anthropology (not without its critics) and by contemporary theories of race (Pels 1997; Asad 1973). For instance, when the British first arrived in Australia in 1788, they claimed the territory on behalf of the British Crown as *terra nullius* – the political concept that ‘previously empty “waste” lands could be settled without conquest’ (Benton 2001: 168). Whilst this legal doctrine was a strategy built out of prior histories of colonialism, it was maintained effectively because it was based upon a narrow cultural understanding of how property in land was acquired and justified. The

doctrine of *terra nullius* in Australia was only overturned, through the famous Mabo case brought by Torres Strait Islander Eddie Mabo, in 1992. The consequences of this form of settler colonialism reached much further than just the taking of lands. In Australia, it included the taking and disciplining of Aboriginal and Torres Strait Islander bodies and targeted attempts to destroy complex social relationships and cultural practices through directed governmental policy (Nakata 2007). Aboriginal and Torres Strait Islanders only became legal citizens of the nation in 1967; prior to that they were considered ‘wards of the state’ with almost no rights. Eileen Moreton-Robinson has thoughtfully observed that the Australian nation, once it became a white possession, was renamed and mapped according to prevailing European logic of ownership. It is this logic of ownership that has produced invisible borders that continue to deny Indigenous sovereignty (Moreton-Robinson 2015).

### Cultural property as political theory

Locke’s natural rights thesis for the foundation and justification of property emerged within complex political debates about the nature of existence and the authority of the Crown. Yet Locke’s idea of the individual and his property, which was implicitly gendered and racialized (Harris 1993), generated a parallel conversation around the form of the collective rights that were necessary to support the rights of individuals. Colonial expansion enabled European social theorists to contemplate the telos of their own social forms by placing them in both comparative and historical context. The English philosopher Thomas Hobbes argued in *Leviathan* (1996 [1651]) that rights were not natural but rather produced by the sovereign state. Later, French philosopher Jean-Jacques Rousseau who also started from a natural rights position, modified and refined his ideas of property as an unlimited right through his own emergent ideas of evolutionary change and equity. He developed Hobbes’ notion of a ‘social contract’, in order to explore the ways in which the natural rights of man could be consensually organized into enlightened government in order to combat the inequalities enshrined within the more individualistic orientation of commerce and property theory (1998 [1762]). Rousseau’s concern was that the idea of an unlimited property right (like the one that Locke had advanced) actually deprived most people of property: unequal private property enslaved some men to others. Importantly for our purposes, the archetypal property form, the ‘thing’ in these theories, was still largely land, which became property through the application of a culturally specific idea of human labour and organization, and through an increasingly naturalized relation between territory and political authority (Hann 1998b).

Lockean ideas of property were also picked up, adapted and moved into other areas of developing property law which was influential on emerging understandings of cultural property. For instance, in the literary property and copyright debates of the eighteenth century, Locke’s ideas of first occupancy (of property) and natural rights were strategically deployed by the English jurist William Blackstone who was a central figure in arguing these cases and in producing one of the most significant corpus of legal writing that influenced both English and colonial jurists and lawyers – the 1797 *Commentaries of the Laws of England*. In the cases that are foundational to our modern idea of copyright, Blackstone strategically redeployed Lockean concepts, arguing how the original work of an author was akin to the first occupancy of an idea, and that therefore very specific legal protections were necessary (Drahos 1996).

These emerging European ideas of property inevitably engaged questions around who could constitute a property owner, the governance of one’s body and labour, and of territory, establishing a link through property to many different kinds of rights: human, cultural, and political. This specific genealogy of property directly connects to the emergence of discourses

of human and cultural rights (Cowan et al. 2001; Goodale and Merry 2007). As Margaret Radin makes clear in her seminal work on property and personhood, it is because a person can be bound up with an external ‘thing’ in intricate and intimate ways that questions of personal liberty and the capacity to exert control over that ‘thing’ arise (Radin 1982).

Theories of property are deeply entangled with ideas about political sovereignty (Agamben 1998). Property rights are therefore by definition human rights, framed increasingly as the rights of citizens. During the Enlightenment discussions of natural rights displaced discourses about spiritual authorization of inheritance by God. By the nineteenth century, as property became institutionalized at the level of the state and with regard to law and legislation, it also opened up new conceptions of public and private property and notions of collective inheritance became linked to burgeoning theories of cultural identity and cultural progress.

Social theorists have continued to be concerned around the inequities embedded within the institution of property. For instance Karl Marx’s ‘law of value’ (1992 [1847]), which owes a significant debt to Locke’s original conceptualization of the relationship between labour and property, focused on the ways in which value was produced through both human labour and the political systems that emerged to regulate it. His writing, influenced by legal theorists such as Louis Henry Morgan (1877), explored how different political and economic systems constitute the relationships between people, labour, and things. Marx detailed how capitalism had emerged in the nineteenth century to dominate political and economic theories of ownership, entitlement, and rights, and his influential writing (e.g. 1976 [1867]) exposes the salience of the commodity form in modern understandings about value, property, and ownership. Marx’s notion of ‘commodity fetishism’ exposed how capitalism displaced value from the physical labour and social relations of production to the site of the commodity itself. People become subordinate in their relations to these commodities and in this sense, ‘under capitalism, property itself is anti-personhood’ (Radin 1982: x). Marx, and Marxist perspectives on property also highlight the ways in which very particular capitalist interests in protecting private property inform and are upheld within modern legal systems, with their emphasis on the exclusive rights of individual owners (whether they be people or corporations). The genealogy of thinking about property as the exercise of exclusive ownership has been famously termed by Macpherson (2010 [1962]) as ‘possessive individualism’, a political theory that in turn increasingly underpins a liberal political system which focuses on protecting the rights of individuals, potentially at the expense of broader definitions of collective rights and obligations. This privileging of the individual as both the human and singular owner of property is not a universally held position. The 2007 *United Nations Declaration on the Rights of Indigenous Peoples* makes this very clear in its articulation of the multiple cultural and political subjectivities that influence and condition ideas of property:

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

([http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf))

## The nation and other collectives

In the nineteenth century, the concept of cultural property emerged as a way to think about social orders of entitlement and ownership that could not be encapsulated through either the model of pre-modern collectives, exclusive rights, or individual ownership. Cultural property became one way to articulate a political theory of society that was constituted not simply by the recognition of individual rights, but by the recognition of collective entitlements triangulated through ethnicity, territory, and citizenship in the context of the modern nation-state. In turn, cultural property, in the form of museum collections, libraries, monuments, and the archaeological record, became a crucial form with which to imagine, and communicate, the idea of the nation (Anderson 1991). Cultural property as a distinct category of objects with accompanying sets of obligations, emerged as a way to theorize the ethics of relationship between polities, and an important discourse of diplomacy and respect between nations. The triangulation of sovereignty, national identity, and anthropological notions of culture (see the section on culture below), underpinned by entangled articulations of race, ethnicity and territory, framed the emergence of the nation-state in the nineteenth century and started to forge the very notion of the modern international community (Gellner 1983; Hobsbawm 2012; Kuper 2000; Stocking 1982).

The common coupling and indeed production of cultural property for the European-modelled nation-state can, however, obscure alternative histories and ways of framing cultural property both between and within nations, and the critique of cultural property from *within* the nation-state is an important theme in this volume. For instance, the Treaty of Waitangi, signed in 1840 between some Māori chiefs and representatives of the British Crown, brought the state of New Zealand as a British colony into being, and at the same time, established in two versions, English and Māori, that Māori would retain ‘tino rangatiratanga’ – full sovereign authority – over their lands, forests, fisheries, and ‘me o rātau taonga katoa’, everything that they valued (Henare 2007). The term ‘taonga’ which is now used colloquially to refer to Māori cultural property or treasured cultural possessions (exemplified by the incorporation of the category Nga taonga tūturu as one of nine kinds of object in need of protection in the New Zealand Protected Objects Act of 2012 [1975]), referred, in the nineteenth century, in a much broader sense to the Māori estate (Henare 2003; Tapsell 1997). This historical framing in both European and Māori registers informs contemporary debates, about sovereignty and the property rights that it enables, for instance, recent claims to the Waitangi Tribunal (the agency set up in 1975 to evaluate treaty violations) about whether the radio spectrum is a taonga (and therefore part of the Māori estate) and if indigenous flora and fauna and the intellectual property related to them are also Māori cultural property (Van Meijl 2009). These contestations over the definition and scope of sovereignty have very real ramifications for the evaluation of how to redress violations of the Treaty as well as how to recognize the responsibilities of the state to uphold specifically Māori rights (Belgrave et al. 2005; Rata 2003). The example of New Zealand shows that from the beginning the concept of cultural property has contained the stakes of sovereignty in both intra- and inter-national frameworks, and emphasizes the power of the category to colonize alternative frameworks of collective ownership, authority and entitlement.

Cultural property, allied with discourses of the ‘commons’ or ‘public domain’ has also emerged as a zone of idealized collective entitlement that transcend the interests of individuals (Ostrom 1990; Hardt and Negri 2009; Hyde 2012a and 2012b). Like the notion of the public domain, which emerges in the spaces opened by the expiration, or rejection, of intellectual property rights (Boyle 2010), cultural property theory builds on the traditions of

both property law and state sovereignty in order to constitute a genre of property owned by collectives, defined through identities and values described using the notion of culture, ethnicity, race, and heritage, that transcends the interests of private property for the benefit of the public sphere. One of our arguments here is that cultural property operates as a 'third space' between private and public property, by bringing national property and international community together, forging an international and global ethical environment emphasizing an idea of shared cultural resources and values (Merryman 1998). This builds explicitly on more anthropological understandings of the ways in which property constitutes identity through culture.

Whilst the reference point for this collective inheritance and entitlement has been the nation-state, cultural property is increasingly used as a way to discuss the sovereignty and rights of non-state groups. In present-day theorizing, a stringent body of work has emerged which critiques and unpacks property theory from the vantage point of culture. Legal scholars such as Carpenter, Katyal, and Riley (2009) and Sunder (2012), and anthropologists such as Handler (1988, 2003) and Myers (1989, 2005, 2012) have argued for recognition of the collective and cultural rights that underscore all property regimes. At the same time, theorists such as John and Jean Comaroff highlight the growing move towards what they term 'Ethnicity, Inc.', the 'process of cultural commodification, and the incorporation of identity in which it is imbricated ... the rendering of ethnicized population into corporations or one kind or another ... the creeping commodification of their cultural products and practices' (2009: 20–21) that characterizes the global expansion of neo-liberal property theory (see also Coombe and Weiss 2015; Coombe 2011). Carpenter, Katyal, and Riley (2009, 2010) argue that cultural property extends property logics away from personhood towards the construction of 'peoplehood'. Within this third space of property, the singular relationship between a person and a thing is displaced in favour of collective interests and rights. For the nation, cultural property protections and claim-making serve an agenda that shores up very precise boundaries and legitimacies of the state. Many Indigenous claims to cultural property function as a necessary mechanism for political recognition within and beyond the state whilst at the same time offer a refusal of state control and its varied attempts at legitimization.

### **Codifying cultural property**

The language of cultural property was from the outset an expression of collective entitlement and identity referencing the borders of state sovereignty and focused on high culture: art, architecture, classically valued artefacts. One of the first formal codifications of the idea of cultural property can be found in the Leiber Code (1863), or the *Instructions for the Government of Armies of the United States in the Field*, which was established by Abraham Lincoln to govern the ethical behaviour of soldiers in the United States Civil War. The Leiber Code was the first modern instance in which 'public moveable property' referring specifically to religious and art objects, was reified as a category of protection and an ethical frame of reference in situations of conflict between polities showing a concern for managing the expectations over 'spoils of war'. This way of thinking about cultural property was continued into key legislation that aimed to ameliorate the potential for total destruction within the wars that originated in twentieth-century Europe. The Leiber Code was used as the template for the Hague Conventions of 1899, 1907, and 1954, which were the first multilateral and international efforts to develop codes of conduct and law during international conflict.

While we have been using the term cultural property to signify a discourse of rights and ownership through collectively owned practices and artefacts throughout this genealogy, it is important to realize that the term is relatively recent. Neither the Leiber Code nor the 1899

or 1907 Hague Conventions explicitly utilize the phrase ‘cultural property’. Instead the concept is expressed in the following way in Article 56 of the 1899 Hague Convention (with very little change in language):

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

Naming this kind of property as a correlated, but distinct from, private property marks the turn towards a new language of ‘cultural property’. It is only in the 1954 Hague Convention that the first international definition of cultural property is found. The *Convention for the Protection of Cultural Property in the Event of Armed Conflict* reflects the emergence of cultural property as a political concept and new quasi-legal category in the aftermath of World War Two. For nation-states there had not previously been such a scale of destruction, looting, and loss of life with a deliberate ‘cultural’ focus over such a short period of time in the modern era. Crafted as a response to these recent events, cultural property emerged as a category that constituted a new sense of international community forged through the recognition of shared material values. The first international definition of cultural property, enshrined in the Hague Convention thus reads:

Article 1. Definition of cultural property

For the purposes of the present Convention, the term ‘cultural property’ shall cover, irrespective of origin or ownership:

- (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
- (c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as ‘centers containing monuments’.

As an international convention emanating from the United Nations, this document establishes relationships of obligation and care for material culture between nations. Each state retains authority to designate which material is of concern to the state and consequently where it is willing to take action.

Since the drafting of the Leiber Code, this particular codification of cultural property has been at the heart of imaginaries of international community and consensus, and has been

used as a shorthand to signal both the rights of nations and their global obligations to one another, not just in terms of economic and political entitlement but in terms of cultural recognition and respect. This sense of ethical obligation to the international community began its circulation in 1954. Since then however it has been redirected and stewarded most prominently by another UN agency, the United Nations Educational, Scientific and Cultural Organization. The UNESCO 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* has perhaps more than any other single law or convention moulded official cultural property discourse and practice into the present day. In this Convention, again developed for quite specific concerns about the non-state-sanctioned movement of items of collective cultural value, the scope of what constitutes cultural property is substantially expanded and the role of the state in making particular designations is affirmed. So expansive is the new list of what cultural property could entail – including rare collections and specimens of flora and fauna; antiquities; historical monuments, postage and archives – that it is no surprise that the Convention has been influential in defining and broadening the scope of tangible and moveable cultural property.

### From the Hague to UNESCO

The shift within cultural property thinking away from definitions that focus only on fine art and antiquities can be tracked most visibly in the reworking of UNESCO definitions of cultural property as it is increasingly entangled with notions of heritage. Following the Hague Conventions which set a focus on art and antiquities and largely moveable cultural property, they have grown to include site-specific heritage, the natural as well as cultural, in the form of the 1972 UNESCO *Convention Concerning the Protection of the World Cultural and Natural Heritage*, and finally shifted to a focus on the immaterial in the 1994 *Nara Document on Authenticity* and the 2003 UNESCO *Convention for the Safeguarding of Intangible Cultural Heritage*. In particular these later Conventions shift the emphasis of cultural property discourse and policy ‘from historical monuments, archaeological sites and natural parks to living traditions, embodied skills and oral expressions ... widely heralded as more inclusive and people oriented’ (Alivizatou 2012: 15; Hafstein 2009; Alivizatou 2011; Smith and Akagawa 2009). UNESCO increasingly galvanizes relations of authority and ownership over embodied skills, expressions, and practices, and these conventions mark an important shift from the singular (building or property owner for instance) to the collective, stretching definitions of cultural property into rights and relationships around a notion of ‘peoplehood’ as developed by Riley, Carpenter and Katyal (noted above).

In the latter part of the twentieth century, UNESCO continued as one of the principal agents producing international consensus around cultural property ensuring that ideas of cultural property and cultural heritage have blurred together becoming almost synonymous with the idea of international community (Di Giovine 2009; Meskell et al. 2015). During this same period the calibration of UNESCO to the scale of the nation also started to unravel. The claims of Indigenous groups and to some extent unrecognized states, such as Palestine, have found increasing voice within this international bureaucratic domain, with the Permanent Forum on Indigenous Issues, the World Intellectual Property Organization, and the 1993 Convention of Biological Diversity operating as the primary sites of direct dialogue and engagement on issues of cultural property and heritage protection. There is a new kind of political power offered via these sites, which is evident in the way that Indigenous peoples, for instance, have been using them (Simpson 2014).

Perhaps because of these shifts in who is able to participate within international political spaces as well as an opening up, post-World War Two, of who constitutes the ‘international community’, United Nations agencies are increasingly incorporating cultural rights within their remit. For instance, the United Nations now has a special Cultural Rights Rapporteur charged with reporting on cultural rights and their various vulnerabilities. The reports that have been generated since the inception of this position set through the Human Rights Council resolution 10/23 have included themes that easily map onto the terrain of cultural property. They include issues around access to cultural heritage, the right to artistic freedom, history and memory, intellectual property regimes, and since 2016 the intentional destruction of cultural heritage. Here we have an almost full circle return to the concerns of the 1954 Hague Convention that mobilize cultural property as a recognized vulnerability and consequence of armed conflict, except the focus here is less on the ways in which nation-states should be accountable to one another, than on how to manage the claims to sovereignty by non-state entities such as Daesh (or Islamic State). This has been exemplified by the concern expressed by UNESCO Director Irina Bokova about the destruction and illegal trading of antiquities by Daesh which rejects the international norms around cultural property that have been developed by UNESCO (Abu-Fadil 2013). The return to tangible property as a priority of state concern shows how important these forms are to the very idea of cultural property and highlights the anxieties about cultural property that emerge at the edge of state sovereignties.

### **Cultural property and intellectual property**

If there are questions about the relationship between cultural rights, human rights, and cultural property, so too are there further questions about the intersections of cultural property and intellectual property. Like cultural property and heritage, intellectual property and cultural property are increasingly allied as concepts. In legal and policy domains, intellectual property is a space where the rights and sovereignties of cultural collectives are also being claimed and recognized.

For instance, in Australia, Aboriginal artists in the 1990s successfully used copyright law to secure protection for their cultural expressions as recognized works of ‘art’. Initiated in the early 1960s by specialized in-country meetings by UNESCO about heritage and taken up and strategically re-positioned by Aboriginal advocates like Wandjuk Marika and Lin Onus in the 1970s and early 1980s, the artists, their communities, their lawyers, and their expert witnesses consistently expressed their complaint against the copying of styles, designs, and stories as a distinct form of cultural property, as a breach of legal rights that derived from their collective interests and community relationships and obligations. The key in understanding this move was that copyright actually provided legal redress and a very specific kind of public recognition of Aboriginal rights. The argument presented in court and in the popular writing available at the time explained that alternative structures of ownership and entitlement, based on ritual, spiritual authorization and kinship, already regulated the transmission of Aboriginal images (Myers 2005). The success of artists such as Banduk Marika, Johnny Bulun Bulun, and George Milpurruru in getting the Australian courts to recognize Aboriginal law managing the circulation of culture, led to substantial governmental policy discussion within Australia about how and to what extent intellectual property law could be used as a tool to protect Aboriginal cultural works that were collectively and inter-generationally produced (Anderson 2009). This question was later picked up by the World Intellectual Property Organization, where the experience in Australia provided an important national ‘case study’. Within Australia, these cases led to the new terminology, ‘Indigenous

intellectual and cultural property’, which merged both ideas and expectations of intellectual property and cultural property together for a new political agenda that continues to hold significant traction. The strategic shifts between cultural property – which offered no specific legislation to leverage for direct action, and intellectual property – which offered the legal paradigm of copyright, speaks to the complex manoeuvring required at a local level to make concerns about cultural property legible and recognizable at a national and later international level.

Broad national attention to Indigenous intellectual and cultural property in Australia has had significant consequences. One example has been the development of the domain of cultural protocols as a non-legal way of articulating cultural property rights. Cultural protocols offer a paradigm for recognizing pre-existing, non-state-held rights and responsibilities towards Aboriginal cultural production and transmission. Illustrating the capacity of movement from the local to the international, there has been an increased pick-up of cultural protocols outside Australia as a deliberate mechanism for establishing and managing rights and relationships around cultural property, especially for making visible different cultural expectations for access and sharing particular kinds of cultural material (Myers 2011, 2014, 2015; Raven 2006, 2010; Anderson and Younging 2015). The adoption of cultural protocols within contexts like museums and archives that hold collections of Indigenous tangible and intangible cultural property highlights the multiple trajectories that localized concerns for appropriate recognition of, ongoing sovereignty over and acknowledgement of the conditions that led to the taking of this kind of cultural property to start with have produced.

The concern for Indigenous interests in the protection of culture has also been carried into the international arena and has led to the emergence of new categories such as ‘Traditional Knowledge’, ‘Traditional Cultural Expressions’, and ‘Intangible Cultural Heritage’. In addition to UNESCO, the World Intellectual Property Organization’s 15-year Intergovernmental Committee on Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions has worked to develop the triangle of culture as a resource, a vehicle for articulations of sovereignty, and as a form of property. In these articulations there is a fusing of models as well as the development of what might be termed a legal creole – the various strategic manoeuvring around national legislation on one hand and international conventions on another – that understands cultural property as integral to the collective sovereignty of a people (modelled on the nation but extended to other polities) *and* those who draw on the constitution of culture as a commercial as well as spiritual resource to be managed and protected (Anderson 2010; Geismar 2013b).

Despite the expansion of definitions of cultural property, especially in UN policy contexts, there are many slippages between discourses of cultural property, cultural heritage, and intellectual property. By considering the motivations behind using one term or another, as well as what each enables (a certain kind of claim-making for example), it is possible to see various social and political strategies at play. For instance, when the nature of the claim being made is one of return, the return of an item of cultural significance to a community, cultural *property* offers a strategically powerful language for that claim as well as access into legal spaces where it reverberates. Claims for preservation of an item, a monument or a natural site, for instance, tend to harness the language of cultural *heritage*, which offers a different register of safeguarding and/or preserving a ‘common’ and universal good (see Hafstein and Skrydstrup this volume).

### **Cultural property and the market**

Alongside the destruction of cultural property during armed conflict, the other major arena for cultural property policy and law has been controlling the market for cultural property.

John Merryman's influential piece, *Two Ways of Thinking About Cultural Property* (1986, 2005), summarizes the tensions that emerge between international conventions and their translation into national legislation by contrasting theories of 'cultural nationalism' (in which cultural property belongs first and foremost of the territories in which it was found) with theories of 'cultural internationalism' (the assertion that cultural property transcends such nationalistic claims to ownership and belongs to global communities as a shared inheritance of humanity). In addition to provoking tensions regarding collective entitlement – both within the nation and between national and international interests – cultural property may be seen as a commentary on the relationship between the market and the state. These legacies are challenged not just through the international community, but by models of private property that work to unravel nationalistic models of governance and regulation of the marketplace, and promote a 'free market' perspective on the regulation of both culture and identity. Museums, sitting between the two constituencies of private collector and public institution have had to carefully re-calibrate their collecting practices, especially in the wake of a number of high profile scandals at key institutions such as the Getty, whose curator Marion True was tried by the Italian courts after it came to light that she knowingly purchased illegally trafficked antiquities (Watson and Todeschini 2006). In the context of economic markets, cultural property thinking still tends to fall into binaries (national/international; free-market/state-regulated market) even as national borders are increasingly disrupted by supranational entities, and as communities within the nation contest whether this entity has ever really had their interests in mind.

A significant body of cultural property law beyond UNESCO 1970 focuses on the constitution and management of markets for cultural property. The UNIDROIT 1995 *Convention on Stolen or Illegally Exported Cultural Objects* recognizes a need to develop more private law controls over the circulation of cultural property not just within and between nation-states, but especially also within the private marketplace. In the 25 years after the passing of UNESCO 1970, the theft of cultural objects from museums, private collections, churches, and archaeological sites radically increased, especially in light of the growing standards around preservation, protection, and export. As Lyndel Prott has clearly explained, the UNIDROIT Convention focuses on private law-making which allows for a claim of 'theft' of a cultural object to be 'brought before a court or other competent tribunal ... [t]his means that a private owner may make use of the normal legal channels available in the country where the object is located' (Prott 1996: 65). In shifting the legislative framework beyond UNESCO to UNIDROIT, ratifying states increasingly understood the necessity of developing more refined processes of addressing the complex networks that cultural property circulates within. The UNIDROIT Convention is also the first international cultural property convention that explicitly identifies Indigenous peoples as having unique types of claims that could require a private law response from states. With the expansion of markets for Native, First Nation, Aboriginal, and Indigenous artefacts, and for artefacts from the generally under-resourced global south, UNIDROIT begins to acknowledge some of the unequal and largely unethical circumstances of collection and exchange. It is, however, noticeable that there is not yet one instance where UNIDROIT has been used by a state to circumvent the sale of Native, First Nation, or Indigenous artefacts despite an increase in public auctions and private sales.

In another instance of increasing regulation of cultural property markets, the 1994 *Agreement on Trade Related Aspects of Intellectual Property Rights* (TRIPS), brought into being through the World Trade Organization (WTO) strategically tied trade to the international regulation of intellectual property. In mandating an international consensus around intellectual property rights which have expanded globally to include geographical indicators, new plant varieties, trade dress and so on – all of which in many contexts are also understood as cultural

property – new markets as well as new property have been created. The growing acceptance of culture as a profit-generating resource crosscuts the rights and entitlements claimed by the state on behalf of its citizens. As Marama Muru Lanning discusses in this volume, the privatization of water rights in New Zealand has joined discussion about whether water, fisheries, the radio spectrum, and the foreshore and seabed are Māori taonga (Māori cultural property), state cultural property, Māori private property, or simply private property (see Goldsmith 2009).

The genealogy and current trajectories of cultural property thus lie within the broader history of thinking about the entanglement of property rights and national social orders, the tension between collective and individual rights, and the place for ethics and accountability within a global conversation about international community, value and international markets for culture. As well as becoming a shorthand for talking about systems of governance, especially within the frame of the nation-state, cultural property has also become a way of describing culture and cultural identities. Tensions around culture as a commodity versus culture as a common good continue to inflect understandings of culture as property, as does the acknowledgement that all property is cultural (Bodenhorn 2004).

### **Disciplinary engagements as sites of meaning**

We have so far established the genealogy of cultural property as both a series of ideas and ideologies about how different kinds of collective identity authorize ownership over cultural resources, as well as a set of practical engagements in law and policy. We have focused on some of the key discourses, philosophical questions, conventions, and laws that have brought cultural property into being in both national and international contexts, and have highlighted some of the conceptual underpinnings around culture, nationalism, and property that are built into them. A primary objective of this volume is to allow the reader to appreciate how cultural property is brought into being in a wide number of different contexts, most especially through varied disciplinary and academic engagements, through policy and governance, and within particular sites of meaning (predominantly law courts, museums, archaeological sites, communities, and international organizations).

One of our aims in this Introduction and in the reader as a whole, including the accompanying website, is to provide a resource that transcends the assumptions and perspectives of any single academic discipline, and to draw different disciplines into conversation with one another. There are long traditions of thinking about cultural property that emerge from the key disciplines of law, anthropology, archaeology, economics, art history, and philosophy, amongst others, that are supplemented by work within the newer fields of museum studies, heritage studies, and cultural policy and management. It is often the case that these disciplines bound conversations and may talk about very similar issues in completely different languages, diminishing the opportunity to learn from, and communicate with, one another. For example, a specific legal case around cultural property might lead anthropologists to discuss the dynamics of the courtroom, the way in which particular claims are phrased, the performative nature of the actors and their various representatives, the regimes of value circulating and produced around the ‘object’ that is the centre of the case and the hierarchies of power in any legal decision making. A legal analyst might instead focus on the way the case is itself presented, the different jurisdictional questions that arise and the specific technicalities in the law that is being presented before the court. Both these approaches are rich with insight, but they do different work for their different audiences. As such they are bound by certain kinds of disciplinary logics and conventions. Journals such as the *International Journal of Cultural*

*Property* and the *International Journal of Heritage Studies* have been crucial in creating spaces to facilitate a conversation across disciplines, and in linking academic scholarship to law, policy, and practice. In this section, we focus particularly on the fields of anthropology, law, and archaeology, as they have been particularly dominant in creating a vibrant academic field for cultural property. We hope that students and scholars reading this volume will be able to develop a fluency in reading from the vantage point of different disciplinary perspectives and develop their own hybrid voice with regards to cultural property.

### **Anthropology**

Anthropological engagements with cultural property have unravelled many of the often ethnocentric assumptions that are built into the term. These works question the very idea that culture can be owned in any tangible and fungible sense, as well as the models of ownership that underpin this claim. Marcel Mauss' influential writing on *The Gift* exemplifies an analytic trajectory in which cross-cultural and comparative cultural histories of exchange have been used to critique and denaturalize modern-day logics of private property, commodity exchange, and the relation between politics and economics that they suggest. Drawing on examples of global exchange from the potlatch of North-West Coast British Columbia, Māori understandings of the spirit of exchange (*hau*) in New Zealand, and traditions from the Ancient and Eastern world, Mauss demonstrated the cultural nature of all property relations and emphasized that capitalist commodity exchange was not simply the most evolved form of property relation but existed in tandem with a parallel tradition that emphasized social obligation and ethics of connection (Hart 2007). Recent influential works of economic and social theory have continued this tradition, with David Graeber demonstrating in his book *Debt: The First Five Thousand Years* (2013) that millennia of social relations organized around debt and obligation underpin the foundations of the modern credit economy (see also Graeber 2001).

A large body of literature focused specifically on cultural property develops this relative and comparative perspective, expanding our lexicon of exchange and value (e.g. Appadurai 1988; Myers 2001). Volumes such as Verdery and Humphrey (2004) and Strang and Busse (2011) present cultural property as an analytic frame that has come to have a wide variety of different meanings in different parts of the world, in many cases instantiating a form of what Lisa Breglia has termed 'monumental ambivalence' (2006) to the systems of governance, law, and policy that constitute official, often colonial, cultural property. The anthropological commitment to challenging analytic frameworks for property that normalize the values and modes of exchange within capitalism has led to a reframing of some of the conventional vocabularies of cultural property, often from the perspective of different contexts. For instance, engagements with Indigenous communities and museums has led to the development of new languages of 'stewardship' and 'guardianship' as substitutes for the commodity logic of ownership with regards to cultural material. In turn this has altered the normative practices of collections management in institutions with these collections (Brown 2006; Marstine 2011).

Anthropologists, drawing on the primary methodology of the discipline, participant-observation, also use ethnography to present the everyday experiences of people living within cultural property regimes. Many ethnographies present how people work to interpret and implement cultural property laws and policies on the ground (Breglia 2006; Butler 2007; Hviding and Rio 2011). Other accounts focus on how cultural property frameworks become avenues for those seeking to appropriate the economic and political capital that comes from

having one's cultural artefacts and practices recognized in this framework and on the international stage (see Byrne 2014; Comaroff and Comaroff 2009; Hayden 2003; Geismar 2008; Geismar 2015a). The contribution that anthropological accounts of property have made really point to a shift in meaning and focus, where cultural property is not something that is owned, but rather functions to mark difference and identity. This moves beyond an assumed use-value of an object, and helps explain the multiple politics folded into the cultural property category and how this is rendered meaningful in diverse contexts (see Myers this volume).

The contributions of Melanesian/Polynesian ethnography to the rethinking of property relations from Mauss onwards cannot be underestimated. In particular, the work of Marilyn Strathern (e.g. 1999) and her students (e.g. Kalinoe and Leach 2001; Strathern and Hirsch 2004) have interrogated notions of rights, entitlement, and property from the vantage point of Melanesian exchange, ritual, and kinship. For instance, James Leach's ethnography of Nekgini articulations of cultural property (2003) argues that ideas about owning creativity in Papua New Guinea are incompatible with the objectifying language of cultural property and the ways cultural traditions are promoted by UNESCO. For Nekgini speakers, the term 'kastom' (a *tok pisin* transliteration of custom) signifies a far greater flexibility and fluidity of cultural practice that is located within local systems of entitlement and accountability and which cannot be codified or objectified. Leach's work signifies an important trend in anthropology that asserts that local terms do not map onto global terms such as cultural property, and which also accentuates the risks of local values and concepts being overwritten or ignored (see also Errington and Gewertz 2001).

An anthropological focus insists that we pay attention to the politics and the differences between local and global definitions of cultural property as well as local understandings of ownership and entitlements to culture in the creation and the production of new laws (see Aragon and Leach 2008). Many anthropologists are also critical of the bureaucracies that emerge to bolster state control of cultural property as well as promoting an official discourse and language. Michael Brown, for instance has developed a corpus of work that is critical of the application of legal frameworks to the sphere of cultural production and exchange, asking 'Can Culture be Copyrighted?' (1998) and exploring the 'heritage trouble' inherent in global policy and bureaucracies (2005). In particular, Brown took on the question of ownership over Native American culture and analysed various kinds of claim-making, arguing that culture should be managed through the civility of the cultural commons, rather than being subjected to an intensification of legal and bureaucratic protections. In a trenchant review, Mohawk anthropologist Audra Simpson accuses Brown of perpetuating a kind of cultural *terra nullius* by normalizing what are in fact colonial notions of the cultural commons (Simpson 2007). Here she points to the already erased complexities of Indigenous sovereignty over cultural sharing that make the idea of the cultural commons open and free (and without history) to start with. The opening up of anthropology to new generations of Indigenous anthropologists has also added a new layer of deconstruction and critique of the category of cultural property. This has helped re-position questions of sovereignty, control, and the difficult negotiations that Indigenous peoples must engage in within this discourse (Tsosie 1997; Mihesuah 2000; Deloria 2004).

### Law

If anthropology can be glossed as a relativizing discipline, it might be easy to gloss law as a universalizing discipline and practice, committed to developing standardized languages for

cultural property that can transcend local differences. However, the field of law has, often in close dialogue with anthropology, been committed to not only creating a series of normative definitions for cultural property, but to exploring cultural property in the context of both legal pluralism and alternative cultural systems (Merry 2000; Brenneis and Merry 2004; Carpenter, Katyal and Riley 2009; Riley 2004; Coombe 1998; Anderson 2009; Boateng 2011). At the same time, there are still tensions between critical legal studies, the field that emerged in the 1970s to analyse the cultural frameworks of law, and the branches of law that bring cultural property into being as an index of national and international interest in protecting and valorizing rights to culture.

Depending on where they study, law students may or may not be trained to think critically about law as a social phenomenon that may be implemented imperfectly and in continual dialogue with other social and cultural mores, including the agenda of elected politicians, minority interest groups, and the media. By criminalizing certain activities (such as the illicit trafficking of cultural heritage), defining the objects of cultural property, and laying out the rules of ownership, law implements core definitions of cultural property and supports certain cultural, social, and political values. Law is a distributed system made up of many different sites of articulation and dispensation, and with multiple actors who participate, produce, refine, and recirculate legal meaning. Each site, whether it be national or international for instance, carries its own internal logics of operation and of authority. How legal reasoning and decision making is made is largely dependent upon different principles and traditions within each locale – for instance in common law jurisdictions (like England, Australia, Canada (except Quebec), and India) the primary source and authority for law is found in case law and the establishment of precedent which treats legislation as something that is open to interpretation. This is different to how civil law jurisdictions (like France, Germany, Russia, and Turkey) approach legislation and the interpretative capacities of judges and of courts. Countries that have a blend of both common law and civil law do not necessarily find contradiction here, but instead have refined their ideas about the source and authority of law and how this impacts the various modalities of legal decision making.

At an international level, law functions to set global standards at the level of the nation, rather than regulating individual behaviour – the purview of private law making in each country. Treaties, conventions, and declarations all seek to affect forms of legal ordering in different ways. Treaties for instance set particular standards to be incorporated at the national level and are binding upon nations that are signatories. Conventions are agreements to act in certain ways and are also binding upon signatories but are less prescriptive, open to each state's own interpretation of action. Declarations are documents where nation-states agree to appropriate standards, but they are not legally binding. Conventions such as UNESCO 1970 attempt to create international consensus by developing requirements to adopt certain standards within national law. The implementation of international conventions reveals some of the social and political tensions that surround processes of claim-making as they are activated within legal fields. This is especially the case for cultural property disputes that are often international in their make-up. What is interesting in these instances is where the initial claims are made, how previous jurisdiction and control over the property is accommodated, and how competing state and non-state positions are recognized.

One rich site for thinking about this interplay is in the context of increasing cultural property suits around art looted during World War Two. The case of the restitution of Gustav Klimt's portrait of Adele Bloch-Bauer to Maria Altmann from the Austrian National

Collection is complicated not only because of the original facts surrounding the case, namely that the systematic looting and stealing of Jewish private property was legal and sanctioned at the German and Austrian state level when the painting was taken from the Bloch-Bauer family during the Nazi era. But also because this case proceeded through the US courts rather than courts in Austria because the filing fee for this kind of lawsuit in Austria, a portion of what would be understood as the recoverable amount of how much the paintings were worth, was impossible for Altmann to raise. As a US citizen Altmann instead made a claim against the Austrian government within the US court and so first had to make an argument under the Federal Sovereign Immunities Act – wherein a claim against one state can be made by another on behalf of an individual. Altmann won this case and it allowed her to file against the Austrian government. Following this decision, Altmann and Austria decided against further litigation and instead entered into a binding arbitration with three Austrian judges. The ruling in 2006 was that Austria was legally required to return the art to Altmann. What makes this case, and others like it, so interesting is the intersection of state claims; the different kinds of strategy and manoeuvring around national legislation; the changing social and political environments as Austria re-evaluated its relationship to its Nazi past; and the upholding of Altmann's private property rights that enabled her to sell the paintings upon their return to her in the US (*Republic of Austria v. Altmann*, 541 U.S. 677 (2004)).

Other high profile cases dealing with artwork stolen during the Holocaust from Jewish families have been heard in US courts partly because many of these artworks have ended up, through various legal and illegal channels, in the US (see also for instance *United States v. Portrait of Wally*, 105 F. Supp. 2d 288 (Southern District of New York 2000)). This has led to the US, especially New York City, becoming an amenable environment for debating and interpreting international law, as well as a global site of economic power particularly within the art market and museum world (Gerstenblith 2012). By way of contrast, it has taken nearly the same amount of time, forty years, for New Zealand claims for the restitution of the Māori carvings illegally exported to Switzerland by George Ortiz in 1973 to be upheld. This was, in part, a result of a lack of familiarity in the courtroom with Māori framings of cultural property as well as confusions around the status of New Zealand law in the UK during this period (Prott 2005). These cases demonstrate that cultural property claims need to develop the right combination of international community, agreed-upon logics and languages and recognizable national law in order to be successful. The situatedness, or place, of law, like the historical moments of its emergence and subsequent enforcement, therefore adds much nuance to its effectiveness, even though this may not be made explicit in discussions of legal suits and decisions about cultural property.

Law continues to shape cultural property debates in very particular ways. It structures fields of action, and affects how claims are imagined and then made, where they are legitimated and also where they are heard. Law is also involved in circulating phrases and generating meaning, and this includes the consistent reworking of the concept of cultural property itself.

### ***Archaeological sites of meaning***

Archaeologists, through their work on the ground in excavation and site management, and in the publication of site reports and archaeological analyses, have been at the forefront of many core issues and debates around cultural property. This has also been because of increased questions about where the 'objects' that come out of the ground reside, how they are documented and classified within museums/archives, how they enter into public, private, and other markets of exchange, and whose histories, identities, and memories they represent.

The archaeological record has historically been used as the very definition of what cultural property is, the paradigmatic ‘object lesson’ within legislation, and archaeological sites are often the primary domains of conflict and contestation over cultural property (see Brodie this volume; Renfrew 2000). Archaeologists, by defining and evaluating the archaeological record, play a vital role in establishing the scientific validation of space, time, and location and thus the very possibility of both provenance and provenience. They are in a privileged position to document the illicit trafficking of artefacts and the multiple claims that different stakeholders bring to questions of ownership of archaeological material (LaRoche and Blakey 1997; Harrison 1991; Agbe-Davies 2003; Battle-Baptiste 2011). The challenges of looting, illicit export, wilful destruction, fossicking, and balancing the interests of different communities (from collectors and curators through to people living on and around archaeological sites) have informed much recent archaeological commentary (Atalay 2012; Bruchac, Hart and Wobst 2010; Brodie, Kersel, Luke and Tubb 2006; Zimmerman 1997; Watkins 2001). Archaeologists have been active within debates (in policy environments, law courts, museums, universities, and in the media) around the efficacy of national and international law, often passionately advocating for regulation and education to prevent the destruction of artefacts and their promiscuous circulation within a free market (Brodie et al. 2000, 2008). Archaeological writing on illicit trafficking and collecting, and on the relationships between the state and the valuation of the archaeological record frames cultural property as a series of contests around the boundaries of both law and the valuing of objects from the past. This literature also engages with the tensions around the free market that underscore the terms of thinking that inhabit categories such as ‘cultural nationalism’ and ‘cultural internationalism’ (Bauer 2008).

There is a striking connection between advocates of cultural internationalism in cultural property legislation, theories of universal cultural heritage, and proponents of market deregulation (e.g. Appiah 2006; Cuno 2008). In his influential book *Against Cultural Property* (2005) John Carman argues that the very category of cultural property perpetuates the exploitation of heritage and the looting and expropriation of archaeological material and antiquities because of the dominant assumptions about private property, value, and commoditization he reads as being built into the language of property. In the UK context, prominent archaeologists such as Neil Brodie, Colin Renfrew, David Gill, and Christopher Chippindale have argued strongly in favour of regulation of the marketplace for antiquities, arguing that managing the collector’s market fundamentally influences the production of archaeological knowledge and the preservation of archaeological sites (Renfrew 2000; Chippindale and Gill 2000). Chippindale’s discussion of Stonehenge (1990), for instance, explores the interpretive frameworks that lead to understandings of ownership as they change over time, shifting a sense of entitlement through the state, and working in part to constitute organs of governmentality including the National Trust, English Heritage (now Heritage England) and even the public (see also Bender 1999). Part of his argument is to articulate strong collective interests in heritage and for a turn away from the market to support the maintenance of key heritage sites and cultural property. In more mainstream heritage environments, this approach has not been borne out in the ways in which heritage increasingly relies on consumer markets for direct financial support.

The significance of an archaeological mediation of cultural property comes through most clearly in the emergence of a new role for the archaeologist as an expert witness within land claim cases. Within the confines of the court, archaeologists (and anthropologists) have come to hold a specialized knowledge about Indigenous pasts and presents in places like the US and Australia, mediating these knowledges in ways that the (non-Native) court could hear and accommodate. Much more than the testimony from claimants themselves, archaeologists and

anthropologists came to occupy a privileged if not also uncomfortable position for the possibility of the recognition of different land titles (Edmond 2004). This position speaks to inherent exclusions embedded within the law, and especially property law. Both anthropologists and archaeologists have played pivotal roles in Aboriginal land claims in Australia (see Layton 1994; Watkins 2001), for example being used to both legitimate and de-legitimate the notion of traditional Aboriginal culture in a suit to recognize Aboriginal cultural and political rights in claims to areas such as Alligator River (Tatz and Lambert 2006) and Hindmarsh Island (Kenny 1996; Bell 2008). Archaeologists have also been at the forefront of a critical turn towards the notion of heritage in which they unpack the core values, structures of government, and modes of practice that constitute both cultural heritage and cultural property (Smith 2006; Meskell 2015a; Harrison 2013).

Both cultural property and heritage are understood to be the collective belongings and patrimony of a described polity, the base unit of which is still that of the nation-state even as the ethnic tensions underpinning the formation of the nineteenth-century state remain as volatile today as they were two hundred years ago. Much of these debates focus on the ancient past, but a growing archaeology of the contemporary inscribes these issues into present-day contests over authority and ownership (Dawdy 2016; Harrison 2011; Byrne 2014; Atalay 2012). For instance, Rathje (2002) draws on his long-standing garbage project to argue that using the theories and methods of archaeology to analyse the things we throw away can open us up to new understandings of value, and new modes of analysis for understanding the relation of cultural practices to the artefactual world. Archaeology continues to inflect our understanding of cultural property, highlighting tensions between the material and the immaterial, the past and the present, and the social and political construction of value. Nadia Abu El Haj's work on the history and practice of archaeology in Israel demonstrates how archaeological practice 'inscribes the landscape with the concrete signs of particular histories and historicities ... producing an archaeological record for those eras considered central to a Jewish national heritage' (1998: 168–169). In Israel, the convergence of heritage regimes and material culture therefore becomes 'facts on the ground.'

### **The museum life of cultural property**

Museums are critical sites in which cultural property is brought into being and given multiple meanings. Museum collections have been a primary reference point for the establishment of international definitions of cultural property, with a particular focus on archaeology and antiquities (Barkan and Bush 2003). In addition to providing an object lesson in the construction of national cultural property, museums have in the present day become sites of critique of nineteenth-century legacies of colonial collecting, of the national appropriation of cultures (Deloria 1969; Krech and Hail 1999; Jacknis 1985; Peers and Brown 2003; Clifford 1997, 2013; Turnbull and Pickering 2010; Silverman 2015; Krmpotich and Peers 2013).

Museums and their collections provide key venues for thinking through different models of cultural property. Some of the earliest cultural property laws (from the National Antiquities Act that was passed in the United States in 1906 (16 USC 431–433) through to the 1954 Hague Convention) were drafted with explicit reference to museum collections, as well as monuments and other moveable items. Yet there is an ongoing debate about the legitimacy of museums as the 'owners' of cultural property (e.g. Ames 1992; Cooper 2008; Tapsell 2006). The extensive critical writing about museums and communities and the various re-assemblage of collections *viz* community rights and expectations of inclusion, participation, and co-management mark a new and distinct turn in questions about exhibiting and display,

and who gets to speak and has the right to do so. It has also opened up extensive dialogue about collaboration and who the ‘publics’ of museums are and have been presumed to be (Karp, Kreamer and Lavine 1992; Edwards et al. 2006; Golding and Modest 2013; Harrison et al. 2013; see also Anderson and Montenegro in this volume).

In response to this interrogation of the function and status of museums and the nature of their relationship to their collections, in 2003 the directors of several major art museums including the Chicago Art Institute, the Metropolitan Museum, and the British Museum published the *Declaration on the Importance and Value of Universal Museums*. They asserted that:

Over time, objects so acquired – whether by purchase, gift, or partage – have become part of the museums that have cared for them, and by extension part of the heritage of the nations which house them. Today we are especially sensitive to the subject of a work’s original context, but we should not lose sight of the fact that museums too provide a valid and valuable context for objects that were long ago displaced from their original source. The universal admiration for ancient civilizations would not be so deeply established today were it not for the influence exercised by the artifacts of these cultures, widely available to an international public in major museums.

(ICOM 2004)

This argument was a direct response to paradigmatic shifts in the formulation of museum collections as cultural property. UNESCO 1970 demanded an unprecedented level of accountability and transparency in the collection of cultural property, requiring proof of export after 1970 and proof of provenance before 1970 in order to legitimate the transfer of ownership of cultural property. The passing of the 1990 *Native American Grave Protection and Repatriation Act* (NAGPRA) in the United States required all federal institutions to inventory their holdings of Native American human remains, materials collected from graves, and other associated items of cultural patrimony, and to make these inventories publicly available to federally recognized tribes for repatriation requests (Mihesuah 2000; Fine-Dare 2002; Chari and Lavallee 2013). This piece of national legislation has inculcated more accountability for the recognition of histories of colonial exploitation and dispossession, looting, theft, and straight-up dodgy dealing, and has situated the process and practice of repatriation of museum collections as one of the biggest issues for both cultural property law and policy as well as museums confronting the colonial legacies of many cultural property claims (e.g. Coombes 2003). Even the most conservative of museums are entering into negotiations around the ownership of collections focusing on relations of reciprocity and exchange rather than finite ownership, with long-term loans becoming a new norm in the return of cultural property. The language and practice of the ‘loan’ is important here and should also alert us to how rights are being negotiated and the way in which the very idea of property itself is also being both troubled and perpetuated. Paradigmatic tangible returns such as the returned potlatch treasures that founded the U’mista Cultural Centre (Clifford 1991, 2013), the return of the G’psgolox pole from Stockholm to British Columbia (Jessiman 2011), the return of Icelandic manuscripts from Denmark (Hafstein and Skysdrup this volume), and the return of the Euphronios Krater to Italy from the Metropolitan Museum of Art (Geismar 2008), signify new paradigms for the circulation of cultural property. All of these objects were collected in times of conflict or duress, or were exported illegally, and their return highlights the development of an international moral consensus embodied in national repatriation legislation and in conventions such as UNESCO 1970.

In turn, NAGPRA has also signalled a shift in the classification of human remains as collections. Cultural property, which challenges the alienability of material, and the domination of private property rights, has been a crucial part of claim-making to resist the cooption of human remains as collections, precipitating all kinds of contestations about the interpretation of human remains as ancestors in contradistinction to objects of scientific enquiry (Jenkins 2014; Fforde et al. 2004; Gould this volume). It is striking how cultural property law has developed alongside ethical guidelines and protocols facilitating a changing culture of respect and practice within museum collecting as well as in display and curation. This speaks to the complex matrix of formal and informal law that is required for shifting expectations and behaviour towards collections as well as to the communities from which they derived and continue to maintain meaning and memory.

This ethical framework is by no means universal and is contested from a number of different perspectives. Recent efforts by the Hopi Nation to block the sale of sacred Kachina or Katsinam were stymied by the French courts, who continued to frame Kachina as commodities rather than sacred material, upholding the rights of private property, and excusing private collectors from the responsibilities now increasingly demanded of state-run collections (*New York Times* 29 June 2014, and Association on American Indian Affairs Press Release 2016). Moreover, and to further highlight the very different registers of legitimacy that are a product of settler colonialism, French judges continue to reject the Hopi Nation as having any legal standing in France. This leaves the Hopi and the other tribes like the Zuni, Navajo, and Acoma Pueblo that are recognized in the US as sovereign nations requesting intervention by the US State Department in matters of international repatriation. From the very beginning of NAGPRA, private collections were recognized as a problem that this legislation could not address or regulate. In the wake of this reality and the contest of value around private collections, noted art collector and philanthropist Elizabeth Sackler founded the American Indian Ritual Object Repatriation Foundation, which aimed to reunite objects with their descendent communities through, rather than despite, the art market (American Indian Ritual Object Repatriation Foundation 1996). Restitution, the return of stolen property to its rightful owner, intersects with repatriation (the return of property to its rightful owner *in place*) around claims to stolen art, most famously the return of artwork looted or appropriated during World War Two (Nicholas 2009; Woodhead 2014).

Glass (2004) argues that there are many similarities between Native American and Jewish claims to museum collections as their cultural property in that both repatriation and restitution redress historical injustice in the present, allowing for closure for both individuals and communities. However, most cases of restitution are heavily mediated by the art market, and many works end up being re-sold, highlighting the alienability of their definition of property rather than the enduring relations drawn through the discourse of culture. Stolen art is recognized as the property of individuals first and cultural groups who were discriminated against second, and it is rarely produced by those groups. Glass asks why some collections might be recognized as cultural property and others as stolen works of art? There is a politics of recognition that generally still tends to gloss over cultural communities as individual owners, and privileges social and economic capital in the recognition of ownership rights.

This is the context within which the declaration of universal museums must be read: a context in which individual rights are presented as alternative to collective rights, and the entitlements of private property are still in tension with the requirements of a 'public good'. In response to a shifting legislative climate and a shift in the ethics of collection and display (Marstine 2011), and also the thrust of decolonization, the self-defined encyclopaedic or

universal survey art museums assert that collecting practices of the past should not be judged by the morals of the present and highlight, as then-director Neil Macgregor commented on behalf of the British Museum, that they themselves were centres of world culture, rather than partisans of nationalist sentiment (Macgregor 2004). The idea that these institutions are uniquely situated as holders of world culture, however, is tempered by the emergence of new museums and cultural centres that establish sites of ownership and responsibility outside national capital cities. New museums such as the U'mista Cultural Centre in British Columbia, founded using a repatriated potlatch collection as mentioned above (Webster 1990), numerous tribal museums in North and South America like the Zii'biwing Center for Anishinabe Culture and Lifeways (Lonetree 2012), and local memory initiatives such as the District Six Museum in Cape Town in South Africa (Rassool 2006a) highlight a decentralizing and decolonizing move which has, in many instances, been supported by repatriation. These institutions have become vibrant community centres demonstrating the significance of historical collections to source communities (see Karp et al. 2006; Karp, Kreamer, and Lavine 1992).

There remain ongoing tensions that the framework of cultural property inculcates in museums. In addition to playing a crucial role in a new politics of restitution, reparation, and repatriation, museum practices of exhibition and display have become primary interlocutors themselves in debates about cultural property. Exhibitions – weaving objects, narratives, and representational technologies together – are increasingly recognized as a kind of cultural property, reflected in the growing recognition that sharing representational and curatorial authority is a form of self-determination, or even sovereignty in museum contexts, that may be as important as the repatriation of objects (Shannon 2014). For instance, the landmark controversy around the exhibition *The Spirit Sings* held at the Glenbow Museum in Calgary during the 1988 Winter Olympics continues to reverberate (Cooper 2008). The protests of the Lubicon Lake Band of Cree of Peace River were against the sponsorship of the exhibition by Shell Oil, a company they perceived to be directly damaging to the communities that the exhibition was celebrating through their art and material culture. The protests caused several sponsors and lenders to withdraw from the exhibition and damaged the relations between the museum and the community for many years. They also highlighted how self-determination over land and resources was tied to the politics of representing First Nation cultural collections or cultural property (Kisin 2013). The idea that representational frameworks within museums are themselves constitutive of cultural property continues to resonate, for example in recent protests surrounding the installation piece *Exhibit B*, by South African artist Brett Bailey, which continues a long trajectory of using the tactics of exhibitions to critique past politics of exhibitions, presenting a self-styled 'human zoo' referencing the colonial history of collecting and displaying African people. *Exhibit B* was eventually cancelled by the Barbican Gallery in London in the wake of an intense boycott movement by protestors who argued that the exhibition continued the racist oppression of past museum displays (Ogunlami and Andrews 2014).

Digital technology in museums has become a space that unites these two domains – repatriation and the ownership of representational narratives – bringing together important conversations about ethics, ownership, and the materiality of cultural property. It also extends the reach of ideas around cultural property into other kinds of material, for instance ethnographic collections of sound and audio-visual materials. Field-notes that contain the documentation of language material, for instance, are increasingly a site for claim-making and for negotiations around ownership and control (Henderson et al. 2006; Anderson 2005; Anderson and Francis forthcoming). The emergence of new practices of

digital ‘repatriation’ (Bell 2003; Christen 2011), ‘return’ (Bell et al. 2013), and ‘e-patriation’ (Glass 2015) demonstrates how definitions of cultural property continue to oscillate between a focus on material culture and a focus on immaterial knowledge and practice. Boast and Enote (2012) are stringently critical of the term ‘digital repatriation’ to refer to the return of digital versions of collections to communities. They argue ‘the appropriation of *virtual repatriation* for projects of data sharing confuses the context of sharing with programs of restitution, thus potentially playing into the hands of those voices which seek to maintain the centralized, universal enlightenment collection’ (2012: 111). The circulation of cultural property in digital form has raised a number of provocative questions: does the return of digital material count as repatriation? What issues of power, skills, and knowledge are exposed within these projects? What does it mean to ‘own’ digital files of cultural forms and practices? What exactly is the property and how is it regulated? And how can digital connectivity facilitate a more expansive definition of ownership, facilitating practices of guardianship, and extending custodial care beyond the borders of the museum (Geismar 2015b; Were 2014; Hogsden and Poulter 2012; Ngata et al. 2012; Anderson and Christen 2013; Isaac 2015)?

### **Cultural property into the future**

If the years prior to the end of World War Two in 1945 signified an investment in the nation as owner of cultural property, the end of World War, the beginning and end of the Cold War era, the era of decolonization, and the emergence of diverse rights movements around the world challenged the supremacy of national interests from both the standpoint of a nascent international community but also from within nation-states. The nation has re-fractured into interest groups defined by categories of race and ethnicity. This complex cultural framework can only be summarized here: important trajectories of critique within the spectrum of cultural property discourse have been mounted by Indigenous peoples in settler-colonies such as Brazil, New Zealand, Canada, United States, Australia, and South Africa (e.g. Barker 2011; Cadena and Starn 2007); the descendants of African slaves in the Americas (Teye and Timothy 2004); and Queer activists who have all challenged the representational authority of the state and its right to mobilize and speak for them through the material record and archive (Vincent 2014; Marshall et al. 2014; Drabinski 2013). The legitimacy of national ownership of museum collections, national parks, and public spaces has been challenged from a number of different directions: through student protests and popular revolutions, the globally reaching Women’s Rights Movements, the Civil Rights Movements, including the Black and Red Power Movement and the American Indian Movement in the USA (Message 2014). Projects to assert or reclaim memory politics in spaces of historical trauma (Williams 2007) have all challenged state ownership of cultural property, and by extension of the power to make and represent history. Core concerns of cultural property – to establish state recognition and governance through the channelling of rights to cultural forms and practices; to create collective modes of engagement through entitlement; and, for many, to instantiate a critique of private property – are now extended to a perhaps surprising array of new forms. For instance, Lee Douglas’ contribution to this volume explores the ways in which ordinary Spaniards seek to construct a new genre of cultural property – evidence in documentation, oral testimony, and forensic material – to reassert historical memory in Post-Franco Spain. There, cultural property increasingly becomes a way to resist and reclaim the representational authority of the State’s monopoly over the past.

From the start, cultural property as a category emerged at moments of conflict, and out of tensions of global engagement across often contested national and local borders. As we move towards the third decade of the twenty-first century, familiar models of national authority and sovereignty over cultural properties are starting to break down under pressure from groups within states who call into question this authority and its operating logics, challenging the remit and boundaries of the nation-state itself. The challenge to the authority of the nation emerges not only from within states but also within the global arena as the recent destruction of specific world heritage sites in Afghanistan and Syria demonstrates. Debates around the preservation of cultural property sit squarely at the centre of theorizations of the powers of ‘international community’, global consensus, and the limits of international policy (see Flood 2002). The emergence of new political entities such as Daesh, that reject existing parameters of nation-states and international conventions, and the uncertainties about supra-national alliances (from NATO to the European Union) are slowly unravelling the traditional forums for the definition and recognition of cultural property – the nation, or the international community (Byrne 2014). If World War Two strongly influenced our current international and national regimes, we may well ask what the effect of this new kind of non-state conflict and politics will produce, what kinds of new models and formulations for cultural property governance will be developed, and what the changing nature of cultural property will be? Within the current flux and decomposition of the nation-state as the ultimate unit of economic and political authority, the different policies and orders informing the international governance of cultural property may need to be remade. As such, future lives for cultural property claims and constituents are in motion. This volume sits at a moment in which cultural property is being redefined, its borders (economic, political, and material) reconfigured. We hope that the collection of essays here will provide a blueprint for understanding cultural property in relation to its past and taking account for its present as we steadily move into unanticipated and unpredictable futures.

### Acknowledgements

Sincere thanks to Alex Bauer, Joshua Bell, Rosemary Coombe, Fred Myers, and David Wengrow for critical readings and advice on framing what is a broad and unruly field. Thanks to Faye Ginsburg, Sonia Das, Emily Martin, Mathilde Cohen, John Hadfield, Maria Montenegro and Andrea Geyer. Thanks to Ryan O’Byrne and Anna Weinreich for their research assistance.

### Bibliography

- Abu El-Haj, Nadia. 1998. “Translating Truths: Nationalism, the Practice of Archaeology, and the Remaking of Past and Present in Contemporary Jerusalem.” *American Ethnologist* 25(2): 166–188.
- Abu-Fadil, Magda. 1 November 2013. “War Threatens Palmyra, UNESCO Pleads for Syrian Heritage Protection.” *Huffington Post*.
- Agamben, Giorgio. 1998. *Homo Sacer: Sovereign Power and Bare Life*. Stanford, CA: Stanford University Press.
- Agbie-Davis, Anna. 2003. “Archaeology of the Old Elliott School.” *Bermuda Journal of Archaeology and Maritime History* 13: 129–154.
- Alvizatou, Marilena. 2011. “Intangible Cultural Heritage and Erasure: Rethinking Cultural Preservation and Contemporary Museum Practice.” *International Journal of Cultural Property* 18: 37–60.
- Alvizatou, Marilena. 2012. *Intangible Heritage and the Museum: New Perspectives on Cultural Preservation*. Walnut Creek, CA: Routledge.
- American Indian Ritual Object Repatriation Foundation, and United States, eds. 1996. *Mending the Circle: A Native American Repatriation Guide: Understanding and Implementing NAGPRA and the Official Smithsonian and Other Repatriation Policies*. New York: American Indian Ritual Object Repatriation Foundation.

## Introduction

- Ames, Michael M. 1992. *Cannibal Tours and Glass Boxes: The Anthropology of Museums*. Vancouver, BC: University of British Columbia Press.
- Anderson, Benedict. 1991. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London and New York: Verso.
- Anderson, Jane. 2005. "Access and Control of Indigenous Knowledge in Libraries and Archives: Ownership and Future Use." American Library Association and The MacArthur Foundation. Correcting Course: Copyright for Libraries in the National and International arena. [www.ccnmtl.columbia.edu/projects/alaconf2005/paper\\_anderson.pdf](http://www.ccnmtl.columbia.edu/projects/alaconf2005/paper_anderson.pdf).
- Anderson, Jane. 2009. *Law, Knowledge, Culture: The Production of Indigenous Knowledge in Intellectual Property Law*. Cheltenham: Edward Elgar.
- Anderson, Jane. 2010. "Indigenous/Traditional Knowledge and Intellectual Property." Durham, NC: Duke University School of Law.
- Anderson, Jane, and Kimberly Christen. 2013. "'Chuck a Copyright on It': Dilemmas of Digital Return and the Possibilities for Traditional Knowledge Licenses and Labels." *Museum Anthropology Review* 7(1–2): 105–126.
- Anderson, Jane, and James Eric Francis, Sr. forthcoming. "Decolonial Futures of Sharing: Protecting Our Voice, Intellectual Property and Penobscot Language Materials." *Proceedings from the American Philosophical Society*.
- Anderson, Jane, and Greg Younging. 2015. "Renegotiated Relationships and New Understandings: Indigenous Protocols." In *Free Knowledge: Confronting the Commodification of Human Discovery*, edited by Patricia Elliott and Daryl Hepting, 180–198. Regina, SK: University of Regina Press.
- Appadurai, Arjun, ed. 1988. *The Social Life of Things: Commodities in Cultural Perspective*. New edition. Cambridge and New York: Cambridge University Press.
- Appiah, Kwame Anthony. 2006. *Cosmopolitanism: Ethics in a World of Strangers*. New York: W.W. Norton.
- Aragon, Lorraine V., and James Leach. 2008. "Arts and Owners: Intellectual Property Law and the Politics of Scale in Indonesian Arts." *American Ethnologist* 35(4): 607–631.
- Asad, Talal. 1973. *Anthropology and the Colonial Encounter*. Ithaca, NY: Ithaca Press.
- Atalay, Sonya. 2012. *Community-Based Archaeology: Research with, by, and for Indigenous and Local Communities*. Berkeley: University of California Press.
- Barkan, Elazar, and Ronald Bush. 2003. *Claiming the Stones, Naming the Bones: Cultural Property and the Negotiation of National and Ethnic Identity*. Los Angeles, CA: Getty Publications.
- Barker, Joanne. 2011. *Native Acts: Law, Recognition, and Cultural Authenticity*. Durham, NC: Duke University Press.
- Battle-Baptiste, Whitney. 2011. *Black Feminist Archaeology*. Walnut Creek, CA: Routledge.
- Bauer, Alex. 2008. "New Ways of Thinking about Cultural Property: A Critical Appraisal of the Antiquities Trade Debate." *Fordham International Law Journal* 31: 690–724.
- Belgrave, Michael, Merata Kawharu, and David Williams. 2005. *Waitangi Revisited: Perspectives on the Treaty of Waitangi*. Oxford: Oxford University Press.
- Bell, Diane, ed. 2009. *Listen to Ngarrindjeri Women Speaking: Kungun Ngarrindjeri Miminar Yunnan*. North Melbourne: Spinifex Press.
- Bell, Joshua A. 2003. "Looking to See: Reflections on Visual Repatriation in the Purari Delta, Gulf Province, Papua New Guinea." In *Museums and Source Communities: A Routledge Reader*, edited by Laura L. Peers and Alison K. Brown, 111–122. London: Routledge.
- Bell, Joshua A., Kimberly A. Christen, and Mark Turin. 2013. "Introduction: After the Return." *Museum Anthropology Review* 7(1–2): 1–21.
- Bender, Barbara. 1999. *Stonehenge: Making Space*. Oxford and New York: Berg 3PL.
- Benton, Lauren. 2001. *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900*. Cambridge and New York: Cambridge University Press.
- Boast, Robin, and Jim Enot. 2012. "Virtual Repatriation: It is Neither Virtual nor Repatriation." In *Heritage in the Context of Globalization, Vol. 8*. Springer, NY: Springer Briefs in Archaeology.
- Boateng, Boatema. 2011. *Copyright Thing Doesn't Work Here: Adinkra and Kente Cloth and Intellectual Property in Ghana*. Minneapolis: University of Minnesota Press.
- Bodenhorn, Barbara. 2004. "Is Being 'Really Inupiaq' a Form of Cultural Property?" In *Properties of Culture – Culture as Property. Pathways to Reform in Post-Soviet Siberia*, 35–50. Berlin: Dietrich Reimer Verlag. <http://www.siberian-studies.org/publications/PDF/cpbodenhorn.pdf>.
- Boyle, James. 2010. *The Public Domain: Enclosing the Commons of the Mind*. New Haven, CT; London: Yale University Press.

- Breglia, Lisa. 2006. *Monumental Ambivalence: The Politics of Heritage*. Austin: University of Texas Press.
- Brenneis, Donald Lawrence, and Sally Engle Merry. 2004. *Law and Empire in the Pacific: Fiji and Hawai'i, Vol. 1*. Oxford: James Currey.
- Brodie, Neil, Jennifer Doole, Peter Watson, and Museums Association. 2000. *Stealing History: The Illicit Trade in Cultural Material*. Cambridge: McDonald Institute for Archaeological Research.
- Brodie, N., M. Kersel, C. Luke and K. W. Tubb. 2006. *Archaeology, Cultural Heritage and the Antiquities Trade*. Gainesville: University of Florida Press.
- Brown, Alison K., and Laura Peers. 2006. *Pictures Bring Us Messages/Sinaakssiksi Aohtsimaahpihkookiyaawa: Photographs and Histories from the Kainai Nation*. Toronto: University of Toronto Press.
- Brown, Deidre. 2006. "Museums as Cultural Guardians." In *South Pacific Museums: Experiments in Culture*, edited by Chris Healy and Andrea Witcomb, 238–260. Clayton: Monash University ePress.
- Brown, Michael F. 2005. "Heritage Trouble: Recent Work on the Protection of Intangible Cultural Property." *International Journal of Cultural Property* 12(01): 40–61.
- Brown, Michael F., J. A. Barnes, David A. Cleveland, Rosemary J. Coombe, Philippe Descola, L. R. Hiatt, Jean Jackson, Bengt Karlsson, Darryl A. Posey, Lawrence Rosen, Fernando S. Granero, Carlo Severi, David Stephenson, Marilyn Strathern, and Donald Tuzin. 1998. "Can Culture Be Copyrighted? [and Comments and Reply]." *Current Anthropology* 39(2): 193–222.
- Bruchac, Margaret, Siobhan Hart, and H. Martin Wobst, eds. 2010. *Indigenous Archaeologies: A Reader on Decolonization*. Reprint edition. Walnut Creek, CA: Routledge.
- Butler, Beverley. 2007. *Return to Alexandria: An Ethnography of Cultural Heritage, Revivalism, and Museum Memory*. Publications of the Institute of Archaeology, University College London. Walnut Creek, CA: Left Coast Press.
- Byrne, Denis. 2014. *Counterheritage: Critical Perspectives on Heritage Conservation in Asia*. New York: Routledge.
- Cadena, Marisol de la, and Orin Starn, eds. 2007. *Indigenous Experience Today*. Oxford: Berg.
- Carman, John. 2005. *Against Cultural Property: Archaeology, Heritage and Ownership*. London and New York: Bloomsbury Academic.
- Carpenter, Kristen A., Sonia K. Katyal, and Angela R. Riley. 2009. "In Defense of Property." *Yale Law Journal* 118(6): 1022–1125.
- Carpenter, Kristen A. 2010. "Clarifying Cultural Property." *International Journal of Cultural Property* 17(3): 581–598.
- Cattellino, Jessica. 2010. "The Double-Bind of American Needs-Based Sovereignty." *Cultural Anthropology* 25(2): 235–262
- Chari, Sangita, and Jaime M. N. Lavallee. 2013. *Accomplishing NAGPRA: Perspectives on the Intent, Impact, and Future of the Native American Graves Protection and Repatriation Act*. Corvallis: Oregon State University Press.
- Chippindale, Christopher. 1990. *Who Owns Stonehenge?* London: Batsford.
- Chippindale, Christopher, and David W. J. Gill. 2000. "Material Consequences of Contemporary Classical Collecting." *American Journal of Archaeology* 104(3): 463.
- Christen, Kimberly. 2011. "Opening Archives: Respectful Repatriation." *American Archivist* 74(1): 185–210.
- Clifford, James. 1991. "Four Northwest Coast Museums: Travel Reflections." In *Exhibiting Cultures: The Poetics and Politics of Museum Display*, 212–254. Washington, DC: Smithsonian Institution Press.
- Clifford, James. 1997. *Routes: Travel and Translation in the Late Twentieth Century*. Cambridge, MA: Harvard University Press.
- Clifford, James. 2013. *Returns*. Cambridge, MA: Harvard University Press.
- Collins, John. 2012. "'But What If I Should Need to Defecate in Your Neighborhood, Madame?': Empire, Redemption, and the 'Tradition of the Oppressed' in a Brazilian World Heritage Site." *Cultural Anthropology* 23(2): 279–238.
- Comaroff, John L., and Jean Comaroff. 2009. *Ethnicity, Inc.* Chicago: University of Chicago Press.
- Coombe, Rosemary J. 1998. *The Cultural Life of Intellectual Properties: Authorship, Appropriation and the Law*. Durham, NC: Duke University Press.
- Coombe, Rosemary J. 2009. "The Expanding Purview of Cultural Properties and Their Politics." *Annual Review of Law and Social Science* 5(1): 393–412.
- Coombe, Rosemary J. 2011. "Possessing Culture: Political Economies of Community Subjects and Their Properties." In *Ownership and Appropriation*, edited by Mark Busse and Veronica Strang, 105–127. London: Berg Publishers.

## Introduction

- Coombe, Rosemary J., and Lindsay M. Weiss. 2015. "Neoliberalism, Heritage Regimes, and Cultural Rights." In *Global Heritage: A Reader*, edited by Lynn Meskell, 43–69. Chichester and Malden, MA: Wiley-Blackwell.
- Coombes, Annie E. 2003. *History after Apartheid: Visual Culture and Public Memory in a Democratic South Africa*. Durham, NC: Duke University Press.
- Cooper, Karen Coody. 2008. *Spirited Encounters: American Indians Protest Museum Policies and Practices*. Lanham, MD: AltaMira Press.
- Cowan, Jane K., Marie-Bénédicte Dembour, and Richard Wilson, eds. 2001. *Culture and Rights: Anthropological Perspectives*. Cambridge and New York: Cambridge University Press.
- Cuno, James B. 2008. *Who Owns Antiquity?: Museums and the Battle over Our Ancient Heritage*. Princeton, NJ: Princeton University Press.
- Dawdy, Shannon Lee. 2016. *Patina: A Profane Archaeology*. Chicago: University of Chicago Press.
- Deloria, Philip J. 2004. *Indians in Unexpected Places*. Lawrence: University Press of Kansas.
- Deloria, Vine. 1969. *Custer Died For Your Sins*. New York: Macmillan.
- Di Giovine, Michael A. 2009. *The Heritage-Scape: UNESCO, World Heritage, and Tourism*. Lanham, MD: Lexington Books.
- Drabinski, Emily. 2013. "Queering the Catalog: Queer Theory and the Politics of Correction." *Library Quarterly*. 3(2): 94–111.
- Drahoš, Peter. 1996. *A Philosophy of Intellectual Property*. New edition. London and New York: Routledge.
- Edmond, Gary. 2004. "Thick Decisions: Expertise, Advocacy and Reasonableness in the Federal Court of Australia." *Oceania* 74(3): 190–230.
- Edwards, Elizabeth, Chris Gosden, and Ruth Phillips, eds. 2006. *Sensible Objects: Colonialism, Museums and Material Culture*. English edition. London and New York: Bloomsbury Academic.
- Eriksen, Thomas Hylland. 2001. "Between Universalism and Relativism: A Critique of the UNESCO Concept of Culture." In *Culture and Rights: Anthropological Perspectives*, 127–148. Cambridge: Cambridge University Press.
- Errington, Frederick, and Deborah Gewertz. 2001. "On the Generification of Culture: From Blow Fish to Melanesian." *Journal of Royal Anthropological Institute* 7(3): 509–525.
- Fforde, Cressida, Jane Hubert, and Paul Turnbull, eds. 2004. *The Dead and Their Possessions: Repatriation in Principle, Policy and Practice*. New York: Routledge.
- Fine-Dare, Kathleen S. 2002. *Grave Injustice: The American Indian Repatriation Movement and NAGPRA*. Lincoln: University of Nebraska Press.
- Flood, Barry. 2002. "Between Cult and Culture: Bamiyan, Islamic Iconoclasm, and the Museum." *The Art Bulletin* 84(4): 641–659.
- Geismar, Haidy. 2008. "Cultural Property, Museums, and the Pacific: Reframing the Debates." *International Journal of Cultural Property* 15(2): 109.
- Geismar, Haidy. 2013a. "Defining the Digital." *Museum Anthropology Review* 7(1–2): 254–263.
- Geismar, Haidy. 2013b. *Treasured Possessions: Indigenous Interventions into Cultural and Intellectual Property*. Durham, NC: Duke University Press.
- Geismar, Haidy. 2015a. "Anthropology and Heritage Regimes." *Annual Review of Anthropology* 44(1): 71–85.
- Geismar, Haidy. 2015b. "Post-Photographic Presences, or How to Wear a Digital Cloak." *Photographies* 8(3): 305–321.
- Gellner, Ernest. 1983. *Nations and Nationalism*. Ithaca, NY: Cornell University Press.
- Gerstenblith, Patty. 2004. "The Licit and Illicit Trade in Antiquities." In *It's Legal but It Ain't Right*, edited by Nikos Passas and Neva Goodwin, 138–167. Ann Arbor: University of Michigan Press.
- Gerstenblith, Patty. 2012. *Art, Cultural Heritage, and the Law: Cases and Materials*. Durham, NC: Carolina Academic Press.
- Gibbon, Kate Fitz. 2005. *Who Owns the Past?: Cultural Policy, Cultural Property, and the Law*. New Brunswick, NJ: Rutgers University Press.
- Glass, Aaron. 2004. "Return to Sender: On the Politics of Cultural Property and the Proper Address of Art." *Journal of Material Culture* 9(2): 115–139.
- Glass, Aaron. 2015. "Indigenous Ontologies, Digital Futures: Plural Provenances and the Kwakwaka'wakw Collection in Berlin and Beyond." In *Museum as Process: Translating Local and Global Knowledges*, edited by Raymond Silverman, 19–44. Oxford and New York: Routledge.
- Golding, Viv, and Wayne Modest, eds. 2013. *Museums and Communities: Curators, Collections and Collaboration*. London and New York: Bloomsbury Academic.

- Goldsmith, Michael. 2009. "Who Owns Native Nature? Discourses of Rights to Land, Culture, and Knowledge in New Zealand." *International Journal of Cultural Property* 16 (Special Issue 03): 325–339.
- Goodale, Mark, and Sally Engle Merry, eds. 2007. *The Practice of Human Rights: Tracking Law Between the Global and the Local*. Cambridge and New York: Cambridge University Press.
- Graeber, David. 2001. *Toward an Anthropological Theory of Value: The False Coin of Our Own Dreams*. New York: Palgrave.
- Graeber, David. 2013. *Debt: The First 5,000 Years*. Reprint edition. Brooklyn, NY: Melville House Publishing.
- Greene, Shane. 2004. "Indigenous People Incorporated?: Culture as Politics, Culture as Property in Pharmaceutical Bioprospecting." *Current Anthropology* 45(2): 211–237.
- Hafstein, Valdimar Tr. 2009. "Intangible Heritage as a List: From Masterpieces to Representation." In *Intangible Heritage*, 93–111. Oxford: Routledge.
- Hamilton, Jennifer A. 2008. *Indigeneity in the Courtroom: Law, Culture, and the Production of Difference in North American Courts*. New York: Routledge.
- Handler, Richard. 1988. *Nationalism and the Politics of Culture in Quebec*. Madison: University of Wisconsin Press.
- Handler, Richard. 2003. "Cultural Property and Culture Theory." *Journal of Social Archaeology* 3(3): 353–365.
- Hann, Chris M. 1998a. "Introduction: The Embeddedness of Property." In *Property Relations: Renewing the Anthropological Tradition*, 1–47. Cambridge: Cambridge University Press.
- Hann, Chris M. 1998b. *Property Relations: Renewing the Anthropological Tradition*. New York: Cambridge University Press.
- Hardt, Michael, and Antonio Negri. 2009. *Commonwealth*. Cambridge, MA: Harvard University Press.
- Harris, Cheryl I. 1993. "Whiteness as Property." *Harvard Law Review* 106(8): 1707–1791
- Harrison, Faye. 1991. *Decolonizing Anthropology: Moving Further Toward an Anthropology of Liberation*. Arlington, VA: American Anthropological Association.
- Harrison, Rodney. 2011. "Surface Assemblages. Towards an Archaeology in and of the Present." *Archaeological Dialogues* 18(2): 141–161.
- Harrison, Rodney. 2013. *Heritage: Critical Approaches*. New York: Routledge.
- Harrison, Rodney, Sarah Byrne, and Anne Clarke, eds. 2013. *Reassembling the Collection: Ethnographic Museums and Indigenous Agency*. Santa Fe, NM: School for Advanced Research Press.
- Hart, Keith. 2007. "Marcel Mauss: In Pursuit of the Whole. A Review Essay." *Comparative Studies in Society and History* 49(2): 473.
- Hayden, Cori. 2003. "From Market to Market: Bioprospecting's Idioms of Inclusion." *American Ethnologist* 30(3): 359–371.
- Henare, Amiria. 2007. "Taonga Maori: Encompassing Rights and Property in New Zealand." In *Thinking Through Things: Theorising Artefacts in Ethnographic Perspective*, edited by Amiria Henare, Martin Holbraad, and Sari Wastell, 57–83. London: University College London.
- Henare, Manuka. 2003. "The Changing Images of Nineteenth Century Māori Society: From Tribes to Nation: A Thesis Submitted to the Victoria University of Wellington in Fulfilment of the Requirements for the Degree of Doctor of Philosophy in Māori Studies." Wellington: Victoria University.
- Henderson, John, Hannah McGlade, Kim Scott, and Denise Smith-Ali. 2006. *A Protocol for Laves' 1931 Noongar Field Notes*. Nedlands: University of Western Australia.
- Hobbes, Thomas. 1996. *Hobbes: Leviathan*. Edited by Richard Tuck. Cambridge: Cambridge University Press.
- Hobsbawm, E. J. 2012. *Nations and Nationalism Since 1780: Programme, Myth, Reality*. Cambridge: Cambridge University Press.
- Hogsden, Carl, and Emma K. Poulter. 2012. "The Real Other? Museum Objects in Digital Contact Networks." *Journal of Material Culture* 17(3): 265–286.
- Hviding, Edvard, and Knut Rio. 2011. *Social Movements, Cultural Heritage and the State in Oceania*. Oxford: Sean Kingston Publishing.
- Hyde, Lewis. 2012a. *Common as Air: Revolution, Art and Ownership*. New York: Farrar, Straus and Giroux.
- Hyde, Lewis. 2012b. *The Gift: How the Creative Spirit Transforms the World*. Edinburgh: Canongate Canons.
- ICOM. 2004. "Declaration on the importance and value of universal museums." ICOM News 1:4. [http://icom.museum/fileadmin/user\\_upload/pdf/ICOM\\_News/2004-1/ENG/p4\\_2004-1.pdf](http://icom.museum/fileadmin/user_upload/pdf/ICOM_News/2004-1/ENG/p4_2004-1.pdf) (accessed 29 March 2017).
- ICTMN Staff. 2015. "Selling the Sacred, Again: Another Auction of Hopi Katsinam Takes Place in Paris." *Indian Country Today Media Network.com*. 1 June. <http://indiancountrytodaymedianetwork.com/2015/06/01/selling-sacred-again-another-auction-hopi-katsinam-takes-place-paris-160568> (accessed 29 March 2017).
- Isaac, Gwyneira. 2015. "Perclusive Alliances." *Current Anthropology* 56(S12): S286–296.

- Jacknis, Ira. 1985. "Franz Boas and Exhibits: On the Limitation of the Museum Method of Anthropology." In *Objects and Others: Essays on Museums and Material Culture*, edited by George Stocking, 75–111. Madison: University of Wisconsin Press.
- Jenkins, Tiffany. 2014. *Contesting Human Remains in Museum Collections: The Crisis of Cultural Authority*. New York: Routledge.
- Jessiman, Stacey R. 2011. "The Repatriation of the G'psgolox Totem Pole: A Study of Its Context, Process, and Outcome." *International Journal of Cultural Property* 18(3): 365–391.
- Kalinoe, Lawrence Kuna, and James Leach. 2001. *Rationales of Ownership: Ethnographic Studies of Transactions and Claims to Ownership in Contemporary Papua New Guinea*. New Delhi: UBS Publishers' Distributors.
- Karp, Ivan, Christine Mullen Kreamer, and Steven Levine, eds. 1992. *Museums and Communities: The Politics of Public Culture*. Washington, DC: Smithsonian Books.
- Karp, Ivan, Corinne A. Kratz, Lynn Szwaja, and Tomas Ybarra-Frausto. 2006. *Museum Frictions: Public Cultures/Global Transformations*. Durham, NC: Duke University Press.
- Kenny, Chris. 1996. *Women's Business*. Potts Point: Duffy & Snellgrove.
- Kirsch, Stuart. 2001. "Lost Worlds: Environmental Disaster, 'Culture Loss,' and the Law." *Current Anthropology* 42(2): 167–198.
- Kisin, Eugenia. 2013. "Unsettling the Contemporary: Critical Indigeneity and Resources in Art." *Settler Colonial Studies* 3(2): 141–156.
- Krech, Shepard and Barbara A. Hail, eds. 1999. *Collecting Native America 1870-1960*. Washington, DC: Smithsonian Institution Press.
- Krpmotich, Cara, and Laura Peers. 2013. *This Is Our Life: Haida Material Heritage and Changing Museum Practice*. Vancouver, BC: University of British Columbia Press.
- Kuper, Adam. 2000. *Culture: The Anthropologists' Account*. New edition. Cambridge, MA: Harvard University Press.
- La Roche, Cheryl J., and Michael L. Blakey. 1997. "Seizing Intellectual Power: The Dialogue at the New York African Burial Ground." *Historical Archaeology* 31(3): 84–106.
- Layton, R. 1994. *Conflict in the Archaeology of Living Traditions*. London: Taylor & Francis.
- Leach, James. 2003. "Owning Creativity: Cultural Property and the Efficacy of Custom on the Rai Coast of Papua New Guinea." *Journal of Material Culture* 8(2): 123–143.
- Locke, John. 2011. *Second Treatise of Government*. Seaside, OR: Watchmaker Publishing.
- Lonetree, Amy. 2012. *Decolonizing Museums: Representing Native America in National and Tribal Museums*. Chapel Hill, NC: UNC Press.
- MacGregor, Neil. 2004. "The Whole World in Our Hands." *The Guardian*, 24 July. <http://www.theguardian.com/artanddesign/2004/jul/24/heritage.art>.
- Macpherson, C. 2010. *The Political Theory of Possessive Individualism: Hobbes to Locke*. Don Mills: Oxford University Press Canada.
- Macpherson, Crawford Brough 1978. *Property: Mainstream and Critical Positions*. Oxford: Blackwell.
- Macpherson, Crawford Brough, Anthony Parel, and Thomas Flanagan. 1979. *Theories of Property: Aristotle to the Present: Essays*. Waterloo: published for the Calgary Institute for the Humanities by Wilfrid Laurier University Press.
- Marshall, Daniel, Kevin Murphy, and Zeb Tortorici. 2014. *Queering Archives: Historical Unravelings*. Durham, NC: Duke University Press.
- Marstine, Janet, ed. 2011. *The Routledge Companion to Museum Ethics: Redefining Ethics for the Twenty-First Century Museum*. Milton Park, Abingdon and New York: Routledge.
- Marx, Karl. 1976. "The Fetishism of Commodities and the Secret Thereof." In *Capital: A Critique of Political Economy, Vol. 1*. New York: Vintage Press.
- Marx, Karl. 1992. *The Poverty of Philosophy*. New York: International Publishers.
- Mashberg, Tom. 2014. "Despite Legal Challenges, Sale of Hopi Religious Artifacts Continues in France." *New York Times*, 29 June. <http://www.nytimes.com/2014/06/30/arts/design/sale-of-hopi-religious-items-continues-despite-us-embassys-efforts.html>.
- Mauss, Marcel. 1990 [1925]. *The Gift: The Form and Reason for Exchange in Archaic Societies*. London: Routledge.
- Merry, Sally Engle. 1988. "Legal Pluralism." *Law and Society Review* 22(5): 869–896.
- Merry, Sally Engle. 2000. *Colonizing Hawai'i: The Cultural Power of Law*. Princeton, NJ: Princeton University Press.
- Merryman, John Henry. 1986. "Two Ways of Thinking about Cultural Property." *American Journal of International Law* 80(4): 831–853.

- Merryman, John Henry. 1998. "Cultural Property Ethics." *International Journal of Cultural Property* 7(1): 21–31.
- Merryman, John Henry. 2005. "Cultural Property Internationalism." *International Journal of Cultural Property* 12(1): 11–39.
- Merryman, John Henry. 2006. *Imperialism, Art and Restitution*. Cambridge: Cambridge University Press.
- Meskill, Lynn. 2015a. *Global Heritage: A Reader*. Hoboken, NJ: John Wiley & Sons.
- Meskill, Lynn, ed. 2015b. *Global Heritage: A Reader*. Chichester: Wiley-Blackwell.
- Meskill, Lynn, Claudia Liuzza, and Nicholas Brown. 2015. "World Heritage Regionalism: UNESCO from Europe to Asia." *International Journal of Cultural Property* 22(04): 437–470.
- Message, Kylie. 2014. *Museums and Social Activism: Engaged Protest*. Museum Meanings. London and New York: Routledge/Taylor & Francis Group.
- Mihesuah, Devon Abbott, ed. 2000. *Repatriation Reader: Who Owns American Indian Remains?* Lincoln, NE: University of Nebraska Press.
- Moreton-Robinson, Aileen. 2015. *The White Possessive: Property, Power, and Indigenous Sovereignty*. Minneapolis: University of Minnesota Press.
- Morgan, Lewis Henry. 1877. *Ancient Society; Or, Researches in the Lines of Human Progress from Savagery, Through Barbarism to Civilization*. New York: H. Holt.
- Myers, Fred. 1989. "Burning the Truck and Holding the Country: Pintupi Forms of Property and Identity." In *We Are Here: Politics of Aboriginal Land Tenure*, edited by Edwin N. Wilmsen, 15–42. Berkeley: University of California Press.
- Myers, Fred, ed. 2001. *The Empire of Things: Regimes of Value and Material Culture*. Santa Fe, NM: School of American Research Press.
- Myers, Fred. 2005. "Some Properties of Art and Culture." In *Materiality*, edited by Daniel Miller, 88–117. Durham, NC: Duke University Press.
- Myers, Fred. 2011. "Translating Indigenous Protocol." In *Tjukurrjtjanu: Origins of Western Desert Art*, edited by Philip Batty and Judith Ryan, ix–xi. Melbourne: National Gallery of Victoria.
- Myers, Fred. 2012. "Censorship from Below: Aboriginal Art in Australian Museums." In *No Deal! Indigenous Arts and the Politics of Possession*, edited by Tressa Berman, 174–187. Santa Fe, NM: School for Advanced Research Press.
- Myers, Fred. 2014. "Showing Too Much or Too Little: Predicaments of Painting Indigenous Presence in Central Australia." In *Performing Indigeneity*, edited by Glenn Penny and Laura Graham, 351–389. Lincoln, NE: University of Nebraska Press.
- Myers, Fred. 2015. "Paintings, Publics, and Protocols: The Early Paintings from Papunya." *Material Culture Review/Revue de la Culture Matérielle* 79 (March): 78–91.
- Nakata, Martin. 2007. *Disciplining the Savages: Savaging the Disciplines*. Canberra: Aboriginal Studies Press.
- Ngata, Wayne, Hera Ngata-Gibson, and Amiria Salmond. 2012. "Te Ataakura: Digital Taonga and Cultural Innovation." *Journal of Material Culture* 17(3): 229–244.
- Nicholas, Lynn H. 2009. *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War*. New York: Knopf Doubleday Publishing Group.
- Odunlami, Stella, and Kehinde Andrews. 2014. "Is Art Installation Exhibit B Racist?" *The Guardian*, 27 September. <https://www.theguardian.com/commentisfree/2014/sep/27/is-art-installation-exhibit-b-racist>.
- Ostrom, Elinor. 1990. *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge and New York: Cambridge University Press.
- Peers, Laura L., and Alison K. Brown. 2003. *Museums and Source Communities: A Routledge Reader*. London and New York: Routledge.
- Pels, Peter. 1997. "The Anthropology of Colonialism: Culture, History, and the Emergence of Western Governmentality." *Annual Review of Anthropology* 26(1): 163–183.
- Prott, Lyndel V. 1996. "UNESCO and UNIDROIT: A Partnership against Trafficking and Cultural Objects." *Uniform Law Review* 1: 59–71.
- Prott, Lyndel V. 2005. "The International Movement of Cultural Objects." *International Journal of Cultural Property* 12(02): 225–248.
- Radin, Margaret Jane. 1982. "Property and Personhood." *Stanford Law Review* 34: 957–1015.
- Radin, Margaret Jane. 1993. *Reinterpreting Property*. Chicago: University of Chicago Press.
- Rassool, Ciraj. 2006a. "Community Museums, Memory Politics, and Social Transformation in South Africa: Histories, Possibilities and Limits." In *Museum Frictions: Public Cultures/Global Transformations*, 286–321. Durham, NC: Duke University Press.
- Rassool, Ciraj. 2006b. "Making the District Six Museum in Cape Town." *Museum International* 58(1–2): 9–18.

## Introduction

- Rata, Elizabeth. 2003. "The Treaty and Neotribal Capitalism." *Public Sector* 26(3): 2–6.
- Rathje, William. 2002. "Integrated Archaeology: A Garbage Paradigm." In *Archaeologies of the Contemporary Past*, edited by Victor Buchli and Gavin Lucas, 63–76. New York: Routledge.
- Raven, Margaret. 2006. "Protocols & ABS: Recognising Indigenous Rights to Knowledge in Australian Bureaucratic Organisations." *Indigenous Law Bulletin* 6(20): 13–16.
- Raven, Margaret. 2010. "Protocols: Devices for Translating Moralities, Controlling Knowledge, Defining Actors in Indigenous Research, and Critical Ethical Reflection." *Australian Aboriginal Studies* Fall(2): 33–47.
- Renfrew, Colin. 2000. *Loot, Legitimacy and Ownership: The Ethical Crisis in Archaeology*. London and New York: Bloomsbury Academic.
- Riley, Mary, ed. 2004. *Indigenous Intellectual Property Rights: Legal Obstacles and Innovative Solutions, Vol. 10*. Walnut Creek, CA: AltaMira Press.
- Rose, Carol M. 1994. *Property and Persuasion: Essays on the History, Theory, and Rhetoric of Ownership*. Boulder, CO: Westview Press.
- Rousseau, Jean-Jacques. 1998. *The Social Contract*. New edition. Ware: Wordsworth Editions.
- Shannon, Jennifer A. 2014. *Our Lives: Collaboration, Native Voice, and the Making of the National Museum of the American Indian*. Santa Fe, NM: School for Advanced Research Press.
- Silverman, Raymond Aaron, ed. 2015. *Museum as Process: Translating Local and Global Knowledges*. Museum Meanings. London and New York: Routledge.
- Simpson, Audra. 2007. "On the Logic of Discernment." *American Quarterly* 60(2): 251–257.
- Simpson, Audra. 2014. *Mohawk Interruptus: Political Life Across the Borders of Settler States*. Durham, NC: Duke University Press.
- Smith, Laurajane. 2006. *Uses of Heritage*. New York: Routledge.
- Smith, Laurajane, and Natsuko Akagawa. 2009. *Intangible Heritage*. London: Routledge.
- Stocking, George W. 1982. *Race, Culture, and Evolution: Essays in the History of Anthropology: With a New Preface*. Chicago: University of Chicago Press.
- Strang, Veronica, and Mark Busse, eds. 2011. *Ownership and Appropriation*. London and New York: Bloomsbury Academic.
- Strathern, Marilyn. 1999. *Property, Substance, and Effect: Anthropological Essays on Persons and Things*. London and New Brunswick, NJ: Athlone Press.
- Strathern, Marilyn, and Eric Hirsch. 2004. *Transactions and Creations: Property Debates and the Stimulus of Melanesia*. New York: Berghahn Books.
- Sullivan, Lawrence Eugene, and Alison Edwards. 2004. *Stewards of the Sacred*. Washington, DC: American Association of Museums in cooperation with the Center for the Study of World Religions, Harvard University.
- Sunder, Madhavi J. 2012. *From Goods to a Good Life: Intellectual Property and Global Justice*. New Haven, CT: Yale University Press.
- Tapsell, Paul. 1997. "The Flight of Pareraututu: An Investigation of Taonga from a Tribal Perspective." *Journal of the Polynesian Society* 106(4): 323–374.
- Tapsell, Paul. 2006. "Taonga, Marae, Whenua – Negotiating Custodianship: A Maori Tribal Response to Te Papa: The Museum of New Zealand." In *Rethinking Settler Colonialism: History and Memory in Australia, Canada, Aotearoa New Zealand and South Africa*, 86–99. Studies in Imperialism. Manchester and New York: Manchester University Press and Palgrave.
- Tatz, Colin, and Jacquie Lambert. 2006. "Eaglehawk and Crow." In *A Future for Archaeology: The Past in the Present*, edited by Robert Layton and Stephen Shennon, 17–30. London: University College London Press.
- Teye, Victor B., and Dallen J. Timothy. 2004. "The Varied Colors of Slave Heritage in West Africa White American Stakeholders." *Space and Culture* 7(2): 145–155.
- Tsosie, Rebecca. 1997. "Indigenous Peoples' Claims to Cultural Property: A Legal Perspective." *Museum Anthropology* 21(3): 5–11.
- Turnbull, Paul, and Michael Pickering. 2010. *The Long Way Home: The Meaning and Values of Repatriation*. New York: Berghahn Books.
- Van Meijl, Toon. 2009. "Māori Intellectual Property Rights and the Formation of Ethnic Boundaries." *International Journal of Cultural Property* 16 (Special Issue 03): 341–355.
- Verdery, Katherine, and Caroline Humphrey. 2004. *Property in Question: Value Transformation in the Global Economy*. Oxford and New York: Berg Publishers.
- Vincent, John. 2014. *LGBT People and the UK Cultural Sector: The Response of Libraries, Museums, Archives and Heritage since 1950*. New York: Ashgate Publishing.

- Watkins, Joe. 2001. *Indigenous Archaeology: American Indian Values and Scientific Practice*. Walnut Creek, CA: AltaMira Press.
- Watson, Peter, and Cecilia Todeschini. 2006. *The Medici Conspiracy: The Illicit Journey of Looted Antiquities, from Italy's Tomb Raiders to the World's Greatest Museums*. New York: BBS Public Affairs.
- Webster, Gloria Cranmer. 1990. "The U'mista Cultural Centre." *The Massachusetts Review* 31(1-2): 132-143.
- Were, Graeme. 2014. "Digital Heritage, Knowledge Networks, and Source Communities: Understanding Digital Objects in a Melanesian Society." *Museum Anthropology* 37(2): 133-143.
- Westfall, Sylvia. 2015. "ISIS' Destruction of Palmyra Temple Is a War Crime, UNESCO Says." *The Huffington Post*, 24 August. [http://www.huffingtonpost.com/entry/isis-palmyra-baal-shamin\\_us\\_55db3a4be4b04ae49703b4ff](http://www.huffingtonpost.com/entry/isis-palmyra-baal-shamin_us_55db3a4be4b04ae49703b4ff).
- Williams, Paul Harvey. 2007. *Memorial Museums: The Global Rush to Commemorate Atrocities*. Oxford and New York: Berg Publishers. <http://www.loc.gov/catdir/enhancements/fy0801/2007039580-b.html>.
- Wolf, Eric R. 1982. *Europe and the People Without History*. Berkeley and Los Angeles: University of California Press.
- Wolfe, Patrick. 2006. "Settler Colonialism and the Elimination of the Native." *Journal of Genocide Research* 8(4): 387-409
- Woodhead, Charlotte. 2014. "Redressing Historic Wrongs, Returning Objects to Their Rightful Owners or Laundering Tainted Objects? 21st-Century UK Remedies for Nazi-Era Injustices." *International Journal of Cultural Property* 21(2): 113-142.
- Zimmerman, Larry. 1997. "Remythologizing the Relationship Between Indians and Archaeologists." In *Native Americans and Archaeologists: Stepping Stones to Common Ground*, edited by Roger Anyon, Nina Swidler, Kurt E. Dongoske, and Alan S. Downer, 44-56. Walnut Creek, CA: AltaMira Press.