Cultural Property and Colonialism

Syllabus

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What is cultural property? Can culture be owned and if so how? What does making culture into a form of property do to concepts of heritage and identity? Are all cultures or all claims to culture the same? How are institutions that hold cultural property responding? As debates and contests over cultural heritage and cultural property increase, this course introduces students to the field of heritage and cultural property. It explores the emergence of these concepts, their contemporary politics and the multiple interventions that inform this area. A general analysis of concepts of culture, property and rights will be provided and extended by looking at how these are circulated within different local, national and institutional sites. Specific focus will include: the impact of colonialism on the formations of cultural property; indigenous rights movements; the way cultural institutions are responding to cultural property claims; and how disputes over cultural property are being resolved. It is designed for undergraduate students interested in exploring inter-disciplinary approaches and scholarship. It provides an intersection across disciplines including anthropology, archaeology, legal studies; philosophy and politics.

This course is organized in three units:

- The Emergence of Cultural Property – considers the history of the concept of cultural property and how it is used in popular, legal, academic and policy contexts.
- Politics and Property – explores what happens when culture becomes understood as a type of property that can be claimed and exclusively owned. Focusing on the differences in tangible and intangible property claims, it will consider the different types of politics that also emerge.
- Cultural Property in Practice – considers how cultural property issues are being dealt with in museums and other institutional contexts. It will also look at what kinds of options for resolving disputes over cultural property are being developed and with what effect.

**Course Objectives:**

Upon the completion of this course, students will have an understanding of the emergence of debates about cultural property, what the conjunction of ‘culture’ and ‘property’ entails in law and politics, and how this concept is being mobilized by specific communities and in specific contexts. By engaging with international conventions and legal arguments, students will also develop legal and policy literacy skills. These skills are increasingly critical in areas of cultural property practice and engagement. The course will also build inter-disciplinary competence – enabling students to make strengthened linkages across law, anthropology, history, policy and philosophy.

**Assessment:**

1. Class attendance and participation – 5%
2. Small Assignment – 10%
3. Research Project – 30% (15% group/15% individual)
4. Mid-term Exam – 20%
5. Response Papers/Questions – 15%
6. Final Exam – 20%
Assignment:
1. Culture in Context
For this assignment, I want you to read any newspaper from the day you were born and get a sense of the larger national and international issues that were happening at the time. You can choose which newspaper to look at, and it can be an international newspaper not from the country you were born in. I want you to write a one page description of what you found was happening in the world this day, or rather what was being represented as happening in the world, and how you understand the cultural and political dynamics that are present at this moment, and to what extent you can see these carried into the present. We are all born into specific time-periods with events and politics which then both actively and subtly influence us. This assignment is to prompt thinking about our own relationships to the idea of culture within context, and to also think about how we are situated within the world and the issues that revolve around us. The grade for this assignment is based on its completion and delivery to me by 8am, 14 September. I want to read these before our class that day.

Research Project:
See Appendix to Syllabus with a full explanation of this project, possible options for outcomes/products as well as how assessment for the group research project will be made.

Mid-Term Exam:
The mid-term exam will be a take-home exam. You will have four days to complete it. There will be one question that you will be asked to answer in 2,500 words. Assessment will be on capacity to answer the question, clarity of expression and argument as well as use of course readings.

Response Papers and Questions:
• Each student needs to do five, one-page response papers throughout the course. These can be done any week of the student’s choosing. Response papers are individual reactions to the readings and the topic of the week. What do they make you think about, do you see connections to other readings or issues, do you have an opinion about the way the author/authors positions themselves?
• Each student needs to develop five discussion questions over the course. These can be done any week of the student's choosing. The questions will be used in the weeks when we have a planned discussion. (Please look for the asterix in the class schedule below which will designate when we are having a class discussion.) Each question needs to be thoughtful and engage with the readings directly. We will be using these as a point of departure for our class discussion.

How the weekly classes will run:
Each week we have two classes. Since this is a small class, we will have the opportunity to run it more like a seminar which is great, as it enhances the learning and the engagement that can happen over the arc of the semester. The first class on Mondays will be largely dedicated to explaining the issues and the theory that impact the subject of the week. This will include explaining larger framing questions, using examples from case studies and in certain instance we will also utilize documentaries where appropriate. The Wednesday class will begin with material we didn’t get to in the first class but will largely be dedicated to discussion of the readings and linking together of the politics and issues that are unfolding.
SYLLABUS

Week 1: Introductions
This week we begin our exploration of the complexities, complicities and conundrums of cultural property. We will get a sampling of the various issues through two recent case studies: the opening of a new exhibition about Aboriginal Australians at the British Museum and the recent looting and destruction of cultural sites by ISIS/ISIL in Nimrud and in the last few weeks in Palymra Syria which UNESCO Director-General Irina Brokova has described as a war crime.

Classes:
2 September (weds): Introductions
9 September (weds): Is Culture Owned?

Readings
2. Raymond Williams, (1976) ‘Culture’ and ‘Civilization’ in Keywords: A Vocabulary of Culture and Society Oxford University Press.

Week 2: Property and Culture
In this class we start to interrogate more closely the ideas of culture and property, especially thinking about where they have come from and what kinds of social and cultural influences are infused within their definitions and their operation within society. When culture is evoked as a kind of property, what kinds of boundaries and perimeters to that property are produced, who becomes its owners, who gets included and excluded, and what are the short and long term consequences of making culture into some kind of object that can be exclusively owned and sold.

Classes:
14 September: Library visit for Research Project
16 September: The Nature of Property

Readings

Week 3: What does colonialism have to do with it?
We live in a world that has been produced through colonial relationships of power. Colonialism has conditioned many of the economic, social and cultural relationships we have to land, to objects, to peoples and importantly, in how we think about the world and our place within it. To really think about the dilemmas that cultural property produce: for instance in what kinds of locations cultural property is held, as well as what kinds of claims are made and how these are resisted or dismissed, we
have to understand the function and reach of colonialism not only as a past practice, but one that is also deeply entwined in our contemporary present.

**Classes:**
21 September: Imperialism, Colonialism and the Arts of Colonization
23 September: The Anthropology of Colonialism

**Readings**

**Week 4: Cultural Property: To steal, to loot, to lose, to hold, to keep, to preserve, to display**

If you mention you are doing a class on cultural property, the case of the Elgin Marbles might just come up. It is the primary example that is cited as the centerpiece for disputes over and about cultural property. In these classes we are going to explore this case a little more and think about the various perspectives that one of the key thinkers in the field of cultural property John Merryman has put forward for considering the relative merits of return and/or the justifications for it remaining in the British Museum.

**Classes**
28 September: The Elgin/Parthenon Marbles
30 September: The Multiple Ways of Thinking about Cultural Property

**Readings**
1. *The Leiber Code* 1863

**Week 5: International Law and Policy: Conventions**

There are so many stakeholders in debates on cultural property, it only makes sense that the most powerful would try to come together to create international policy on the issue. Of course, this leads to a range of further disagreements about definition, scope, international reach, jurisdictional control and the extent of national policy implementation. This week we consider the primary international conventions on cultural property and try to decipher what the key objectives are, who is pushing for these and for what kinds of outcomes. The international policy arena is deeply political, and this can be read within the conventions too if you look closely.

**Classes**
5 October: The Making of International Policy
7 October: Slipping Between Terms: Cultural Property and Cultural Heritage
Readings
3. UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects 1995.

Week 6: Spoils of War I: Nazi Art
One of the biggest catalysts for a reinvigorated focus on cultural property and international policy in the post WWII period was the extensive looting, stealing and confiscating of precious national and Jewish art and iconography by the Nazis. During the war period an extensive collection was acquired for the exclusive use of the Nazi elite. For example in the occupation of Paris over 100,000 artworks were confiscated and transported to Germany. For the Allies, the questions post war became what actually to do with these collection, how to return it as well as how to preserve and remedy the destruction to Europe’s monuments and buildings. This week and next week we will consider some of the implications for the different parties involved in what has been termed the largest large-scale art theft in our century.

Classes
13 October (Tuesday): The Rape of Europa: The Fate of Europe’s Treasures in the Third Reich and the Second World War
14 October: Stolen Art as the Catalyst for International Policy

Readings
4. Please also look at this site, Commission for Looted Art in Europe: http://www.lootedartcommission.com/home

Week 7: Spoils of War II: The Case of the Woman in Gold
This week we look more closely at one specific case that involved the restitution of Nazi looted art, Republic of Austria v Altmann. This case is interesting because it was heard in the US where Maria Altmann had been a citizen since 1945. The case raises various questions of jurisdiction, and highlights the burden of proof for claimants. It is also interesting because it reveals the politics of ownership of ‘national treasures’ and how this is constructed, alongside the efforts by institutions to conceal or otherwise obscure the way in which these came into their possession. This remains a live issue as Raymond Dowd explores in his article, in his cases and in his blog.

Classes
19 October: Republic of Austria v Altmann
21 October: What are the implications for US institutions?

Readings
1. DVD: The Woman in Gold
2. Republic of Austria v Altmann, US Supreme Court

Week 8: Colonial Dilemmas I: Indigenous Rights, NAGPRA and Repatriation
The issues that arise for Indigenous peoples and cultural property are numerous, extensive and like Nazi looted art, ongoing. This week we will consider some of these within a US perspective especially in relation to the looting of Native American graves and burial sites over the last 150 years. We will think about the one piece of US cultural property legislation dedicated to Native American issues: the 1990 Native American Graves Protection and Repatriation Act, as well as what successes it has had. We will also think about what options are available for Native American and Indigenous material that this legislation does not cover, some of which might otherwise fall into another category of law: intellectual property.

Classes
26 October: Dark Science 2007 (Johan Gabrielsson and Warwick Thornton)
28 October: When Cultural Property Includes Human Remains or Ancestors

Readings

Week 9: Colonial Dilemmas II: The Politics of Return
The question of repatriation and return of Indigenous cultural property in tangible and intangible form are current and live issues, especially within settler colonial contexts like the US. The questions are not only about getting access to vital cultural heritage, but also the inherent mistakes that are embedded in the documentation that accompanies these collections. A quick visit to the American Museum of Natural History and the Indian dioramas illustrates how the misrepresentation of Native American peoples continues, and this affects how an American and international publics can even understand the complexity and nuance of Native American cultures and peoples. This week we extend our consideration to objects not included within NAGPRA and think about some initiatives trying to get at these problems in practice.

Classes
2 November: Captives of the Archive
4 November: Lessons and Legacies of the Colonial Encounter

Readings
1. Cara Krmpotich and Laura Peers, (2014), ‘Moments of Encounter’ in This is Our Life: Haida Material Heritage and changing Museum Practice University of British Columbia Press. [up to p125]

**Week 10: Exporting, Importing, Looting, Trading: The Iraq Museum and the Potential of ISIS**

The licit and illicit trade in cultural property speaks to the economic value that objects of the past hold. In the 2003 invasion of Iraq, it seems no-one was prepared for the systemic, strategic and organized looting of the Iraq Museum. 12 years later, the Iraq Museum has re-opened, but a significant amount of its collections remain missing. Looting remains a problem because this kind of cultural property is valuable, and there are strong markets for it. The parallel dilemma is in the destruction of important sites of cultural heritage like that which occurred to the Buddhas of Bamiyan by the Afghanistan Taliban in 2011. This wholesale destruction reflects a different kind of ideological battle where cultural property holds a special place. Between looting for financial gain and outright destruction we now find ISIS, which uses looted cultural property as a source of financing, and at the same time is intent on the destruction of special sites in the Middle East.

**Classes**

9 November: The Markets for Looted Cultural Property
11 November: The Cultural Threat that is ISIS

**Readings**


**Week 11: What does International Policy Failure Look Like?**

With the current situation in Syria and ISIS, it is difficult not to think that international policy in this area has radically failed. There is absolutely nothing that can stop the looting or the destruction of invaluable cultural heritage in areas and/or countries that are in conflict. This raises really important questions about what international policy has achieved, what has been translated into national legislation, what this actually gets at and what it can’t get at. As international policy is always driven by the politics of the time, and we are in a new period, perhaps new policy needs to be developed. But what would this look like? And who would be the parties and the interests that it serves?

16 November: A Radical Failure?
18 November: Is it time for new policy?

**Readings**

**Week 12: The Inevitability of Disputes**

With the complex histories of remixed Nation States, wars, looting and the international movement of objects, it is inevitable that disputes about ownership and control of cultural property emerge. The media is full of such stories. This week we start thinking about the inevitability of disputes, what their central features are, and what kinds of options and ideas for remedy and resolution exist.

**Classes**

23 November: One Case in Many: Republic of Peru v Yale University 2010
Thanksgiving Recess


**Week 13: Remedy and Restitution: What does it take?**

There is no agreed upon way to remedy cultural property disputes. Largely the courts have been the places where disputes have been heard but this is not always the right place, or an appropriate place for the complexity of a dispute about the ownership of cultural properties to be heard. This is because the law itself, and the courts, limit what can be understood and what can be presented by the parties. This week we start thinking about remedy, restitution and resolution, and ask if there are alternatives that need to be created to deal with intra-national disputes as well as international disputes.

**Classes**

30 November: What Does Negotiation Look Like in a Cultural Property Dispute?
2 December: Towards Resolution*

**Readings**

**Week 14: Cultural Property Futures?**

It feels like more and more things are being pulled into the property orbit. Objects and non-objects that were never previously considered as property now appear property-like in the sense that there are exclusive forms of ownership and control that operate around the circulation of these new things. The recent case of the artist Richard Prince taking Instagram photos and enlarging them and selling them as his raises a whole new range of questions about what is and what might be considered cultural property into the future. At the same time there is the alternate axis of ‘commons’ and access to knowledge, where making things consistently and perpetually available opens a range of new ideological frames for action. This week we think a little about these new domains of cultural property and look at what they have in ‘common’ with historical domains of cultural property. What is being shifted, what is changing as our world becomes more technological and dependent on the production and movement of digital objects, and what kinds of ideological arguments are being folded back into each other.

**Classes**

7 December: Against Cultural Property: The Cultural Commons
8 December: Are Your Facebook and Instagram Photos Cultural Property or a New Commons?

**Readings**


**Week 15: Cultural Property in Review**

This last week we review what we now know about the matrix of cultural property, present the products of the Research Project and discuss the Final Exam. The individual paper

**Class**

14 December

**Readings**

TBD (I am keeping this open so as to choose a reading that reflects our collective class discussion and trajectory over the course of the semester.)
Appendix to Syllabus

Research Project:

Background
In this research project I want you to do a discourse analysis of cultural property in the media and through the seminal cultural property journal International Journal of Cultural Property. In this project I am referring to ‘discourse analysis’ as an approach to understanding the way specific kinds of language can be used to affect patterns of knowledge production and relationships of power. For instance, how does the way in which the very term ‘cultural property’ get transformed over time; who uses this term and what does its use implicitly designate or signify; are there specific regions or places in the world where this term gets used and to what extent is this in response to larger social-political events; can tracing the use and iterations give us a clearer sense of how ideas of ‘culture’ and ‘property’ are converging or separating? These are just some of the questions that I hope our discourse analysis can reveal.

For this project we have two primary sites:
1. Media such as newspapers and other digital media commentary
2. The journal International Journal of Cultural Property

Media has been and remains a primary site for discussing and circulating the term cultural property. It is rarely explained, and there is presumption about what it designates. It is interesting to see if this was always the case, especially during and post WWII when some of the most important international conventions were created, or whether this is a product of international policy producing a term that becomes naturalized within the everyday. Newspapers also give us a good sense of what we might describe as cultural property “hotspots” where major questions about preservation/destruction (and hence ideological ideas about culture) are occurring. We could easily see that these “hotspots” are in Iraq and Syria at the moment, as this is where a lot of coverage and concern about cultural property destruction is occurring. In situations where cultural property issues are playing out, but that are less ‘exciting’ and ‘newsworthy’, it is interesting to see the downplay of claims, and a reduction in the urgency to remedy the problems. Because of this what starts to get produced is a hierarchy of cultural property – where some instances register as critical and others as just inevitable. International policy is being developed to try and deal with the critical, when perhaps it should also be focused on the inevitable. The multiple ways in which cultural property is represented mobilizes a range of different parties, and that is also interesting for our purposes.

International Journal of Cultural Property has existed since 1992 and has become one of the primary sites for academic inquiry into the diversity of cultural property. Some of the most important theorists have written pieces for this journal, so we might say this is the site for a specific kind of academic production of cultural property. Importantly this journal is inter-disciplinary, and this allows a certain possibility to trace the different disciplinary movements (law, anthropology, heritage studies, policy) over time, as well as when and where one or another discipline assumes a certain authority over the framing and the discourse (this is most often law). The articles themselves also give a sense of the geographic locations of cultural property issues/disputes/debates, as well as to what extent these change or have not changed over time. For instance, it is interesting that the director of UNESCO is calling the destruction of cultural property by ISIS a war crime. Similarly, it has been interesting in the last 5 years to see the convergence of cultural property with ideas of human rights.

Research Project
In groups of two, three or four I want you to choose one of the below ‘projects’ and work together to identify the data as well as a way to represent it visually – for instance through digital mapping, a wordle, a graph, or any other visualization technique of your choosing. As an incentive, I would be interested in thinking about the possible publication of these as part of the new Routledge Reader in Cultural Property that I am editing with Haidy Geismar and that will go to press in January 2016.

Project 1: Emergence of Cultural Property 1935-1960
In this project I want the group to look at media, mainly within newspaper reporting in 5 major international newspapers about how cultural property is being defined, interpreted and understood. Do these early representations map onto our current usage, or is it largely based around objects or places or monuments for example. Since this is new language are there any attempts to make the concept of cultural property clearer – and if so, how? Can we see an emergence here that influences the Hague Convention of 1954 and beyond?

Project 2: Cultural Property HotSpots Pre-1970
In this project I want you to look at media, mainly within newspaper reporting in 5 major newspapers internationally, for the locations of cultural property hotspots. It is interesting to explore where these locations are, how they change over this period, and through the complimentary project below, whether these sites are the same in the post 1970 period. Can the location of cultural property hotspots in this period tell us anything about some of the primary politics, ideas and ideologies that are built into this concept?

Project 3: Cultural Property HotSpots Post-1970
In this project, like the above project, I want you to look at media, mainly within newspaper reporting in 5 major newspapers internationally, for the locations of cultural property hotspots post 1970. This period is interesting because of the global decolonizing that is happening which opens up countries to make new claims to material held in previous colonial institutions, as well as the emergence of new conflicts in regions that are considered to be rich in cultural property and cultural heritage.

Project 4: Disciplines of Cultural Property
Using the International Journal of Cultural Property as the research site, I want you to develop a sense of the different disciplines that this journal represents as well as which disciplines are dominant in taking on responsibility for defining terms, and which focus more on case studies and examples of cultural property issues in action. Tracking this disciplinary movement across the life of the journal gives a very good sense of who it serves and what kinds of cultural property issues it seeks to represent.

Project 4: Cultural Property Popularism
The Elgin Marbles must be one of the most popular examples of cultural property. Why? When did this begin? How many times has it been discussed and debated in the contemporary media. Does anything really shift in these discussions or do they retain the same ‘internationalist’ and ‘nationalist’ ideological framing that John Merryman advances in his work. Where is this case the most discussed and how is it used to index colonialism, or histories of Empire? Is there another example that is more popular than the Elgin Marbles? Is there one that should be?

Assessment
Assessment for this project has two components, individual and a group. Each are weighted equally (15%).

Group: As part of a small group you are expected to work together to develop your project including the research necessary to produce certain data sets and to collectively decide on the best way of
visualizing this material. Assessment here will focus on the quality of the research and the clarity in the form of representation/visualization.

**Individual:** In any group research project, it is important that individual work and thinking that contributes to the whole is also recognized and assessed. This helps avoid the problem of one person doing the bulk of the work in a group project. For the purposes of this part of the project, I want you to each submit a 4 page analysis of the project detailing how it unfolded and your own interpretation of the data, as well as the decisions underpinning the visualization. I want you to reflect on this project at large and think about what it actually reveals in relation to the production of a field called cultural property as well as what its potential limits are for understanding claims, disputes and political histories outside of a property regime.

**Consulting with me on project**
I am available for discussion and consulting on this project, individually or as part of the group. I am excited by what you might uncover, and the best way you might make that available to larger audiences.