

TESTIMONY BEFORE THE CULTURAL PROPERTY ADVISORY COMMITTEE

BY JAMES CUNO, PRESIDENT AND ELOISE W. MARTIN DIRECTOR OF THE  
ART INSTITUTE OF CHICAGO

ON BEHALF OF THE ART INSTITUTE OF CHICAGO AND THE ASSOCIATION  
OF ART MUSEUM DIRECTORS

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My name is James Cuno. I hold a Ph.D. in the history of art and architecture from Harvard University and am the President and Eloise W. Martin Director of The Art Institute of Chicago. Previously I have served as Professor and Director of the Courtauld Institute of Art, University of London and Professor and Director of the Harvard University Art Museums. I have served as Trustee and President of the Association of Art Museum Directors, and am a Fellow of the American Academy of Arts and Sciences. I have written and lectured frequently on the subject of U.S. art museums and the ethical, legal, and political circumstances of collecting antiquities; many of these lectures and publications were sponsored by law schools, including Harvard, the University of Connecticut, The Benjamin Cardozo School of Law, Yeshiva University, and Washington University. I edited and contributed an essay to Whose Muse? Art Museums and the Public Trust (Princeton University Press, 2004).

I am writing in response to the request from the Government of the People's Republic of China to the Government of the United States of America under Article 9 of 1970 UNESCO Convention for the implementation of import restrictions of archaeological artifacts proposed to have been pillaged from archaeological sites.

It is my belief that the request is unreasonable and should be rejected for being too broad (including but not limited to all metal, ceramic, stone, painting and calligraphy, textiles, lacquer, bone, ivory, and horn objects from the Paleolithic Period to the Qing Dynasty, or nearly 2 million years of human artistic production), unenforceable, and unlikely to achieve its stated goal.

The request states that the pillaging and smuggling of cultural artifacts (it does not distinguish between archaeological and cultural artifacts) is rampant and destructive to Chinese and world heritage. In so doing it assumes that all such material was pillaged from and caused damage to archaeological sites resulting in the loss of knowledge. The latter may not be the case, as such material, particularly the easily transportable material like textiles, ceramics, painting and calligraphy, were often made for the market and have circulated in the trade since at Han Dynasty more than 2000 years ago.

Equally, it presumes that restricting imports of such material to the U.S. will stop or at least significantly reduce such pillaging and smuggling. This will not be the case so long as there are markets for such material elsewhere in the world, including within the People's Republic of China. The booming trade within China for the material covered by

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the request is well known and has been reported widely in the world's press. Only a few major collectors need be mentioned here to make the point: Mr. Xu, an eel tycoon is reported to be negotiating with the Ningbo government to exhibit his collection of Chinese artifacts worth an estimated 12 million GBP. Chen Lihua, chairman of the real estate company, Fu Wah International Group, has built a private museum to house her collection of furniture. The Beijing Huaye Real Estate property developer is reportedly planning to open a museum for its collection. Perhaps the best known is the Poly Museum, which opened a few years ago and has ties to the Chinese military. These domestic collections are having an effect. They are diminishing the export of Chinese cultural artifacts abroad, reversing the trend of the past century, which saw much of this material going to public and private collections in Europe and North America. But they are not diminishing the alleged pillaging and smuggling. As long as there is a market for such material somewhere, and certainly as long that market is within the borders of China, restricting the import of such material into the United States will not have the effect desired by the Chinese government's request.

The request will have one effect: it will reduce the opportunities U.S. citizens have to study carefully and frequently the art and cultural production of China, one of the worlds oldest, largest, and soon once again richest and most powerful cultural, economic, and political forces. Restricting the international trade in such material is to promote nationalist retentionist cultural policies. These hold that whatever one country claims to be its vital cultural patrimony should by rights remain within the borders of that country (a modern political entity). The irony of this with regard to China is obvious. Over millennia, "China" has increased and decreased in territorial size and enlarged and reduced the number of ethnic groups that comprises "China". China today is very different from the "China" of most of the periods covered by the Chinese government's request. For thousands of years, China has been a particularly potent example of what anthropologists call "hybridity," or the ways that peoples in a developing society grab ideas, objects, and technologies from a more developed society and reshape them to suit their local needs.

Hybridity acknowledges the political construction of identity. What is "Chinese" is what the current Chinese government claims it to be. For students and scholars, identity is much more complicated and dynamic. As Edward Said has written, 'every domain is linked to every other one, and...nothing that goes on in our world has ever been isolated and pure of any outside influence.' Said makes this point in the 2003 preface to his book, Orientalism. There he also makes the very powerful point that we "who by force of circumstance actually live the pluri-cultural life...it is incumbent upon us to complicate and/or dismantle the reductive formulae and the abstract but potent kinds of thought that leads the mind away from concrete human history and experience and into the realms of ideological fiction, metaphysical confrontation and collective passion. Our role is to widen the field of discussion, not set limits in accord with the prevailing authority."

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This is the role played by museums, such as those in the United States most likely to be affected by the Chinese request for import restrictions. Art museums in the United States are public trusts working to acquire, preserve, and present the world's artistic legacy for the public's benefit. In acquiring works of art, such as those on the Chinese government's list, U.S. art museums are bringing into the public domain works of art that are already alienated from their "find spots" (should they have ever had them, in an archaeological sense) and that would otherwise remain in private circulation. By acquiring, presenting, and publishing them, U.S. art museums encourage knowledge of them and their location. By holding them in the public's trust, U.S. art museums are preserving them for all of time.

U.S. art museums have proclaimed their opposition to the pillaging of archaeological sites and the illicit trade in cultural property and antiquities. Yet, U.S. art museums are dedicated to the proposition of collecting representative examples of the world's artistic legacy for the benefit of U.S. residents and foreign visitors to U.S. art museums to study individual traditions within the context of other traditions. To restrict the licit international trade in works of art is to diminish the possibilities of this benefit. Of course, temporary exhibitions can be mounted (and the Chinese government, as it points out in its request, has been generous in this regard). But such exhibitions are indeed temporary, and the millions of visitors to U.S. art museums, a very high percentage of which are school children, are likely not to have seen them. The benefit of a museum's permanent collection is just that: it is permanent, always there for repeat visits over the course of a life time. Of course, too, U.S. citizens can go to China to see the objects included in the request. But, realistically, what percentage of our citizens will be able to make such a visit and, in any case, what is the benefit of seeing those objects in isolation from related objects from other cultural traditions as one can in our encyclopedic museums (Tang ceramics and sculpture in the company of Mayan, Byzantine, and classical Indian art, as an example)?

As Neil MacGregor, director of the British Museum wrote recently: "All great works of art are surely the common inheritance of humanity... This is a truth that is surely more important to proclaim now than ever before. In a world increasingly fractured by ethnic and religious identities, it is essential that there are places where the great creations of all civilizations can be seen together, and where the visitor can focus on what unites rather than what divides us."

In order to protect archeological sites in China and promote international understanding, I suggest that the Chinese government actively encourage joint excavations and the tradition of sharing of finds (*partage*). Since the middle of the 20<sup>th</sup> century, most "source" countries have passed legislation prohibiting the exportation of excavated objects, claiming them to be state property. The recent, excellent exhibition, *Treasures from the Royal Tombs of Ur* from the collections of the University of Pennsylvania Museum of Archaeology and Anthropology and the British Museum, comprised objects excavated in what is now Iraq and acquired through *partage* some eighty years ago. The

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great Assyrian and Mesopotamian collections of the University of Chicago's Oriental Institute Museum are the result of *partage*: very little has been added to them since Iraqi laws put an end to sharing archaeological finds around 1970. American museums are eager and willing to share expertise, technology and costs with source countries that will allow for scientific excavation and documentation of important sites in exchange for a sharing of the findings.

In response to the Chinese government's request that the U.S. government limit the importation of the categories of objects cited in its request, I propose that rather than requesting sweeping import restrictions, the Chinese government request protection only for those objects in danger of pillage and only on the condition that it establish and show evidence of encouraging collaborative excavations and the sharing of finds with U.S. teams and museums.