

Informal Northern Thai Group Bulletin

28 October 2012

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1. **MINUTES of the 353rd Meeting: October 9, 2012: “Restitution of Stolen Works of Art”. A Talk by Manus Brinkman.**

1.1. PRESENT: Mister Bill, John Butt, Martha Butt, Ann Cann, Guy Cardinal, Richard Chase, Dorothy Engmann, Annelise Etienne, Louis Gabaude, Austin Gillanders, Louis Gooren, Verity Gotein, Carol Grodzins, Penelope Hall, Sjon Hauser, Annelie Hendricks, Celeste J. Holland, Janet Illeni, Jaratporn Jantham, Wararat Kaowsaen, Warren Kinston, Bennet Lerner, Jon Manning, Peter Redding Maurer, Richard Nelson-Jones, Thomas Ohlson, Jacques Op de Laak, Colin Stratford, Stuart Land, Suriya Smutkypt, Alfons van der Kraan, Willem van Gogh, Edward van Tuyll, Jan Verwers, Renoe Vines, Victoria Vorreiter, Ricky Ward, Wattana Wattapun, Rebecca Weldon. A total of 39 at least.

2.2. **THE 353rd TALK: “Restitution of Stolen Works of Art” by Manus Brinkman**

The illegal art trade is a trade not to be neglected. Drugs and illegal arms are bigger but art takes an uncontested third place.

The illegality can take several forms:

- a. Straight “ordinary” theft: from a temple, a museum or a private person.
- b. Extortion by occupying armies or governments.
- c. Smuggling of archaeological objects illegally dup up.
- d. Fraud by forging false documents
- e. Trading fake artworks.

And there is a variety of issues and questions that arises when considering this illegal trade, because there often are no legal instruments in place and conflicts can only be solved on ethical arguments or by negotiations. Often governments and institutions like museums are involved.

To let you consider the issues at state I give you four cases where an individual could be involved. Please consider on each of the cases whether you would take the option a or b. You will recognize the dilemmas further on in my lecture.

Case 1: Somebody steals your jewelry. You go to the police. One year later it is discovered, owned by somebody a little but further in your street and now you want to have it back.

- a. It is logic that the object is returned to you, after all it has been stolen.
- b. The current owner might have bought the object in good faith and is now the legal owner.

Case 2: You inherited some beautiful and valuable bronze objects. They are originally from Nigeria. The Nigerian government claims them back because your grand-grand father has taken them from Nigeria during the colonial times. What would be your first reaction?

- a. The colonial times are a long time ago; times and morals were different then and besides there is no proof at all that my grand-grand father did anything illegally. I am the rightful owner and do not intend to give the objects back.
- b. You consider the case and argue that Nigeria can make a reasonable claim on ethical grounds. Colonialism can be considered as an illegal activity in the first place and almost all actions were forced upon the people in the colonies.

Case 3: You inherited a painting created by a famous artist. You know it is worth more than 500 000 dollars and it is part of your investment scheme for your pension plan. Now somebody claims that the Nazis in the 1930's confiscated it from a Jewish art collector whose granddaughter now claims it back. Besides, the granddaughter is not interested in the artwork at all, only the value it represents.

- a. No way, you are the rightful owner, no matter the horrible events during the Nazi area. I cannot be held responsible for what people did to each other seventy years ago.
- b. She may have a point in case, maybe you should return it. After all, her family was robbed of their possessions. Seventy years is not that long ago.

Case 4: A rich businessman has cheated your parents into selling him all their valuable antique furniture for a pittance.

- a. You bring the case to court arguing that the businessman was cheating. He did not inform your ignorant parents about the real value of their furniture.
- b. You do nothing, because your parents sold the furniture in a legally binding way. The cheater is not at fault, your parents should have known better.

These are a few cases that have a lot of parallels in the art world. The difference is maybe that the battles are fought on a higher, many times governmental level.

I will now present some famous cases which will have some of the aspects of the dilemma's you had to deal with earlier on.

The marbles of the Parthenon (or Elgin marbles).

Made by the famous sculptor Pheidias in 449 BC;

A big part of the Parthenon exploded in 17th Century during a Venetian invasion, so it was mostly a collection of ruins.

Lord Elgin recognized the value of the remaining marbles and removed them with the consent of the Sultan of the Ottoman empire in 1801. He paid a considerable sum to the Sultan.

The first marbles were transported in 1804 and the last in 1812. When Elgin landed in financial troubles, he offered to sell them to the British Museum. In 1816 they were bought by the British government and transferred to and now owned by the British Museum, who constructed a special room for them.

Since Greek independence in 1830 it has regularly requested the return. Maybe you remember Melina Mercouri who was Minister of Culture in the 1980's. She was very active and created new momentum.

However the trustees of the British Museum refused to return them and in 2002 the British Museum together with other famous European and American museums stated they were "universal museums".

Greece in the meantime built a museum on the Acropolis opened in 2009 with a special room for the marbles.

It is impossible to solve on legal or even ethical grounds. Who is right and who is wrong? The only issue in court is the interpretation of the letter of the Sultan. The sultan never wrote a letter to Lord Elgin, but at the

request of the Lord, because Greeks were interfering with his work at the Parthenon. In the letter the Sultan forbid interference with Lord Elgin's work. He clearly stated that nobody was allowed to hinder Lord Elgin with his works and that nobody should illegally export the objects from the Parthenon. Was "nobody" in this case including Lord Elgin or not? In any case, the sultan did not actively hinder the transportation activities.

Solution? Some years in London, some years in Athens? Return to Athens, in which the British Museum remains owner but grants the Greek a long term loan? In return the British museum will receive other important antiquities.

Aurel Stein and Dunhuang

Aurel Stein, a Hungarian in the British service in India and a devoted scholar and archaeologist, made three expeditions to the lands of the Silk Road, in 1900, 1906 and 1913. On his second expedition he arrived at "The Caves of the Thousand Buddhas" in Dunhuang.

One Buddhist monk had started hewing a cave there in the year 353. For hundreds of years after him others continued to cut shrines in the rocks. It was the time of the export of Buddhism to China. Pilgrims passing by made paintings in many of the caves.

The caves with their treasures were long forgotten only to be rediscovered in the beginning of the 20th Century by a monk, who discovered behind a hidden wall an enormous amount of manuscripts, all more than thousand years old, the oldest being 1600 years.

They were almost all sold to foreign expeditions. Aurel Stein bought most of them. He acquired 24 cases of manuscripts, which were evenly distributed to the British Library and the British Museum in London and the National Museum of India in New Delhi (then part of the British Empire). Some argue Stein did not buy the objects, but bribed the Abbot in charge of Dunhuang and smuggled the treasures out of the country. For the British Stein became a famous archaeologist, for the Chinese a looter of heritage.

Even more difficult to solve. If somebody offers to sell something of which he obviously does not know the real value and the buyer acquires it as such, who is right?

Rat and rabbithead from Yves Saint Laurent collection.

In 2009 a big part of the collection of Yves Saint Laurent and Pierre Berge was sold at an auction at Christies in Paris. Among the thousands of objects were a bronze head of a rat and a rabbit. They were part of an ensemble of twelve bronze animal heads, symbolizing the zodiac of the Chinese years. They were made in Italy by a French Jesuit Guiseppe Castiglione for the summer palace of emperor Qianlong (1735-1795).

The Old Summer Palace (not what is presently called the Summer Palace, but East of it) was plundered by Western forces at the end of the Second Opium War in 1860. China was not willing to surrender. Two British envoys, a journalist for The Times their small escort of British and Indian troopers met with the Royal Prince to negotiate. They were imprisoned and tortured, resulting in twenty deaths. The British High Commissioner to China, Lord Elgin (the son of the lord Elgin of the Elgin marbles) retaliated by ordering the destruction of the palace, which was then carried out by British and French troops. The Old Summer Palace was fired by 3,500 British troops and burned for three days. Elgin and his troops also managed to loot many treasures from the Yuan Ming Yuan imperial gardens and took them to Britain. Artworks were later scattered all over the world.

A Chinese association, (backed behind the scenes by China) asked for the return of the two heads to China. At the auction an anonymous buyer bought the two heads for about 30 million Euros. It appeared to be Cai Minghao, a Chinese art dealer indicating that he would never pay for the heads, but that he only wanted to prevent the sale to go ahead. Cai was supported by the Chinese government although he seemed not have informed them beforehand. Christies and Pierre Berge decided not to auction the heads again and they are now at home with Pierre Berge.

In a certain sense it was an exceptional case, because China is quietly buying back many objects that come on the market via the Cultural Relics Recovery Fund and The Poly Museum, part of the Military industrial conglomerate Poly. China has thus chosen a different approach from Italy, Greece or Turkey. China buys when and what it can. Any legal case would be very difficult for the Chinese government, because there was almost no legislation to prevent objects leaving the country. In 1950 all export of cultural goods was prohibited unless special approval had been given. This law however was almost never enforced, especially not during the times of the Cultural Revolution.

The Chinese practice to buy back artworks whenever they come on the market is maybe the best possible solution, especially now when China can afford it. However every once in a while the nationalist sentiment comes into play leading to “them” against “us” and only aggravating the situation and preventing a solution.

Metropolitan and Getty Museum

The Metropolitan Museum: the Euphronios Crater and the Getty Venus Morgantine.

Italy: carabinieri special department for art (theft, looting). They discovered that a certain Giacomo Medici had warehouses in the Freeport of Geneva where he kept antiquities illegally dug up by the tomboroli. When the Italian Carabinieri raided Giacomo Medici’s warehouse in the they recovered 3,800 objects and more than 4,000 photographs of objects that had previously passed through Medici’s hands.

His close partner was Robert Hecht a famous American art dealer with whom the Getty curator Marion True had a close relationship. She bought many objects, as did the Metropolitan Museum in New York and the Boston Museum of Fine Arts. Italy brought the case to court and in 2010 it was more or less solved after all three museums signed agreements to return important antiquities to Italy.

There is now an exhibition in Rome (open 29 September, close 15 December) of a few hundreds of returned objects among which the Euphronios crater.

Here was a case made by the Italian police in which it was proven that the objects were illegally dug up and exported. Archaeological digging without permission, not notifying the authorities of finds and export these outside the country are a crime under Italian law. The case was well constructed and relatively recent. Besides, Italy has a lot of cloud with respect to loans of artworks. Therefore, a deal with the museums in the USA solved the case.

The success of Italy has led to much activity in other countries: one could speak of a new wave of demands for restitution.

Especially Turkey has become very active in this respect, so much so that museum directors start to call it cultural blackmail. The Turkish government turns the case around. It identifies objects of Turkish (or Ottoman) origin and asks museums to proof that they hold a legal title to the object. This is one step further and will be difficult, because many museums bought the objects from art-dealers. Whether they were or were not aware of the provenance or should be aware of the provenance is the big issue. Nowadays they are more careful.

Museum directors say the repatriation drive seeks to alter accepted practices, like a widely embraced Unesco Convention that lets museums acquire objects that were outside their countries of origin before 1970. Although Turkey ratified the convention in 1981, it is now citing a 1906 Ottoman-era law — one that banned the export of artifacts — to claim any object removed after that date as its own.

Turkey itself could be the object of claims as well. One example is a prized sarcophagus named for Alexander the Great, discovered in Sidon, Lebanon, in 1887, and now in Istanbul’s Archaeological Museum. Mr. Suslu said the sarcophagus was legally Turkey’s because it had been excavated on territory that belonged to Turkey at the time.

UNESCO Convention 1970 (and Unidroit 1995). UNESCO: an object that has been illegally excavated and exported should be returned. But if the owner bought it in good faith nothing can be done unless he wants to sell or give it back. Plus: everything that has been illegally exported before 1970 do not fall under the Treaty, so a kind of laundering. Many countries signed the UNESCO Convention. UNIDROIT: if an object has been found illegally exported, it should be returned. The owner in good faith however should be fairly compensated. No wonder few countries signed UNIDROIT, especially not the importing countries (with the

exception of Netherlands, Denmark, Switzerland and Finland (and the source countries Italy, Greece and Spain). In Asia only China, Cambodia and Pakistan.

South East Asia with the exception of Cambodia and Vietnam never showed a special interest in both conventions. In Thailand the UNESCO Convention has never been the object of serious debate.

Back to some other examples: **Benin Bronzes; Nok sculptures.**

Benin bronzes.

In 1896 Nigeria was under British influence. There were many conflicts and one ended in a trap set by the king Oba of Edo (now Benin City). 200 British soldiers were killed. In a punitive raid in 1897 thousands of objects were taken by the British and many of them were sent to the British museum. Most of them were bas reliefs from the palace. An important part that was left came over the years in the possession of private collectors and museums all over the world. The director of the British Museum Neil Macgregor was quoted in the French journal Liberation: "Of course it was horrible, but in the international context of that time one could judge that the British Museum acquired the objects legally." Between 1950 and 1970 some 50 bronzes were returned to Nigeria, but its independent government has ever since claimed the others as well. Neil MacGregor: "But because these beautiful artworks were available for the whole world to see and visit, it changed the perception of these ancient cultures and it led to people starting to doubt their ideas about European superiority."

Nok terracotta statues.

The Nok culture started around 1000 BC and vanished around 500 AD. The culture produced many terracottas of which only fragments are left, mostly heads. These are one of the oldest statues in Sub Saharan Africa. The first Nok statue was found in 1928 during mining operations in the city of Nok on the Jos Plateau. Over the years others have been found; in 1977 at a site 153 statues were found. Since 1953 a law was in place that prohibited unauthorized digging and export of archaeological objects. However over the years and especially from the late seventies to the early nineties there was massive looting of the sites and even the museums in Nigeria were not spared. Nowadays one can find Nok statues all over the world and, by the way, my estimate would be that over half of them are fakes, which is yet another problem.

These are two different cases.

The Benin bronzes have been taken by colonial force so to say, the Nok statues have been illicitly dug up and exported. Many Nok objects fall under proper legislation and the UNESCO Convention of 1970. There is no question that these statues should be returned. In fact one could argue that 99% of the Nok objects have been illicitly traded and a collector or museum that possesses it, is seriously wrong. The argument that they did not know or could not know does not hold. Therefore it was a real surprise (or maybe not a real surprise) when the Louvre bought some Nok statues from a Belgian dealer in 2000 with the idea to transfer them to the new Musée de l'Homme, the museum of ethnology that was opened in 2006 with the strong support of President Chirac. There was much press attention. The terracottas had been bought and the purchase it appeared had been retrospectively authorized by the Nigerian Minister of Culture in February 2000 after Chirac had personally intervened with the president of Nigeria. However, the Nigerian embassy in Paris maintained that the authorization was invalid because it had not been approved by the NCMM, and the terracottas had not been licensed for export. In March 2002, a settlement was reached whereby Nigeria agreed to loan the pieces to France for a renewable period of twenty-five years and in 2005 this period was extended to thirty-seven years. It is definitely a very dubious case, although ownership of the statues is definitively Nigerian, which is progress.

The case of the Benin bronzes is more of an ethical issue, because proper legislation was not in place at that time.

Nigeria and many others argue that the bronzes should be returned, others argue differently, especially a group of important museums which signed a declaration called "The Universal Museum". The essence of the declaration is the following:

"The international museum community shares the conviction that illegal traffic in archaeological, artistic,

and ethnic objects must be firmly discouraged. We should, however, recognize that objects acquired in earlier times must be viewed in the light of different sensitivities and values, reflective of that earlier era. The objects and monumental works that were installed decades and even centuries ago in museums throughout Europe and America were acquired under conditions that are not comparable with current ones... Although each case has to be judged individually, we should acknowledge that museums serve not just the citizens of one nation but the people of every nation."

It is indeed a difficult issue: how far does one need to go back in history and what responsibility have current generations for their ancestors past. This is especially difficult when elements of guilt, the gap between the rich and the poor and the pride of the nation come into play.

These were different times indeed. In 1894 the Dutch looted the palace of the Radja of Lombok (on Bali). The treasure, a huge amount of jewellery, silver daggers (kris) and other valuables was shipped to the Netherlands. It was exhibited in 1898 in the National Museum in Amsterdam. It was hailed as an exemplary result. One could see with one's own eyes how the local radja plundered their people and amassed huge treasures only for their own delight while their people were suffering. Hundred years later the argument was of course very different. The majority of the treasure has been restituted to Indonesia, but many objects are still in the possession of two Dutch museums. However the Indonesian government does not claim them anymore after the return of the biggest part of the treasure.

Thailand:

Several dealers, collectors and museums in California, USA were accused of illegally importing archaeological objects, many of them Ban Chiang pottery from Ban Chiang, Thailand. Apart from the fact that the collectors undervalued the objects for tax reasons, they did not owe proper papers and had not done due diligence. The US Archaeological Resources Protection Act from 1979 recognises other countries legislation. Thailand has a law forbidding export of archaeological finds.

The contested objects are far less valuable than those returned by the Getty but they are far more numerous, and some of the alleged conduct by museum officials, contained in hours of tape-recorded meetings, appears equally troubling.

Many come from the ancient civilization of the Ban Chiang, which occupied northeastern Thailand from 1000 BC to AD 200. The original location where Ban Chiang culture was discovered was named a World Heritage Site in 1992 and is considered the most important prehistoric settlement yet discovered in Southeast Asia.

The warrants allege that the Ban Chiang objects are probably looted because they were first excavated by archeologists in 1967, six years after Thailand banned the export of antiquities.

The smuggled antiquities were affixed with "Made in Thailand" labels, and sometimes painted over, to make them look to U.S. customs officials like modern replicas, Olson allegedly told the agent.

In March 2000 Thailand returned looted art to Cambodia which was smuggled into Thailand, but there are still a lot of illicitly traded artifacts on the market in Bangkok. Beware however of copies !

Maria Altmann, niece of Ferdinand Bloch Bauer, rich entrepreneur in Austria with a huge collection, among others of Klimt. The Nazi's confiscated all his possessions. He fled Austria to Switzerland, died in 1945 and left all his possession to his nephews and nieces. One of these nieces and the last surviving, Maria Altmann, started to claim the artworks in Austria were most of them were in the possession of the Belvedere Museum. She went there herself with the help of a journalist and the Jewish community who discovered many of the works of her uncle. Initially Austria did not move ; later in 2006 it returned six paintings, which were exhibited for a few months in Los Angeles and later sold by Maria for 192 million US\$. The money was distributed among the heirs. (this irritated many museum curators, but why exactly?)

Another Maria, Maria von Saher, managed to get 202 artworks returned from the Dutch government. It had been the collection of the Dutch businessman Jacques Goudstikker and was confiscated by the Nazis. He tried to flee, but was killed. His widow tried to retrieve parts of the collection but this was refused by the Dutch Government who received the collection after the war. Maria von Saher was the widow of the only

son of Jacques Goldstikker. She reopened the case and although initially the Dutch government refused again, it created an committee, the Restituion Committee” in 2001, which finally agreed to return the artworks, many of which had a prominent place in the national museums. This happened in 2005. The Goudstikker collection counted thousands of objects and the search in the whole of Europe is continuing thanks to this success.

Why refused? Because the Dutch government argued that he had sold the artworks to the Germans, which was indeed the case, but this was a forced sell for little money.

But it was the portrait of Wally by Egon Schiele (his mistress for a long time) that created the biggest fuss. The portrait had been confiscated during the war and had come in the possession of the Austrian collector Leopold, whose thousands of artworks have been transferred to the Leopold museum, a new museum built by the Austrian state. Leopold sent 55 artworks by Schiele to the US for an exhibition in 1997. The family of the owner of the artgallery that had been confiscated, Bondi, brought the case for the US court and the portrait of Wally was seized by the State of New York for the time of the process. This led to a kind of panic among many museums, who were afraid that international exchange of artworks would come to a standstill because of the risks involved. Russia for instance decided not to send a collection of impressionist paintings to London because the collection had been confiscated from a Russian art collector during the Russian Revolution.

The case of Wally has been settled (the Leopold museum bought it for 19 million dollar, much less that the market value) and international exchange has not come to a standstill. It led however to much activity to dig deeper into the provenance of a lot of artworks. A conference of American museum directors in 1998 in Washington started it all.

How far do you go back? And what arguments does one use? Fortunately much historical documentation still existed in the Nazi loot cases, but in colonial times this may be more difficult.

2. NEXT MEETING: 354th Meeting: November 6, 2012: “The Right Wing Capture of American Politics”. A talk by Gary Suwannarat

The rightward drift of US politics over the past 40-50 years has its origins in opposition to the "New Deal" introduced by Pres. Franklin Roosevelt to pull the US out of the Great Depression. The religious right, funded by some of the same big money names funding efforts to defeat Pres. Obama, the National Rifle Association, and the anti-government (including anti-social safety net) groups have shared financial and think tank "conceptual" support. The synergy of these groups and the avid commitment of at least some of their members have drastically changed US politics, aided and abetted by an incurious and poorly informed press. The talk will briefly lay out this history, and then turn to the current Presidential race, Congress and the Senate, and, briefly, to state and local politics..

Gary Suwannarat is representative of Democrats Abroad in Thailand. She attended the 2012 Democratic National Convention in early September in Charlotte, North Carolina.

3. DECEMBER MEETING: 355th Meeting: December 11, 2012: “Chavoret Jaruboon: The Last Executioner”

The Last Executioner is the title of a 2007 autobiography by Chavoret Jaruboon, the last person in Thailand whose job it was to execute by gun. In 20 years as executioner, from 1993 to 2003, he executed 55 people, including one woman. However, Khun Chavoret was not at all what one might expect of an executioner. In his youth, he was a rock and roller who played the border bars for the American GIs during the Vietnam War. He gave up his rock and roll career after marrying his teenage sweetheart, Khun Tew, to take a “respectable” job in order to support a family, and the spent the remainder of his years attempting to reconcile the good and bad karma which resulted from his decision.

Don Linder befriended and interviewed Khun Chavoret, his family, friends, and even his early band mates, and is now writing a film of his life which will go into production in March 2013.

4. FUTURE MEETINGS

354th Meeting: November 6, 2012: “The Right Wing Capture of American Politics”. A talk by Gary Suwannarat.

355th Meeting: December 11, 2012: “Chavoret Jaruboon: The Last Executioner”. A talk by Don Linder

356th Meeting: January 15, 2013: A talk on the Hmong by Dr. Chia Youyee VANG, Dept of History, University of Wisconsin, Milwaukee. Specific topic to be announced.

5. MAILING PROBLEMS

The following addresses do not work and have been phased out of the INTG mailing list. If you know a working address for these addressees, please sent it to gabaudel@yahoo.com.

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6. INTG CONTACTS: Convenor, Secretary, Website

1) Convenor : Rebecca Weldon: e-mail: <rebecca.weldon@gmail.com>. Mobile: **087 193 67 67**; Home: **053 227272**. Address: Gerard Habitat, Room 204 - 8/2 Soi 3 Nimmanhemmin Rd. - T. Suthep - A. Muang CHIANG MAI 50200 – THAILAND

2) Secretary: Louis Gabaude: e-mail: <gabaudel@yahoo.com>. Mobile: **087 188 50 99**. Address: 28/64 Laguna Home 10 - T. Sansai Noi - Mu 8 - A. SANSAI - CHIANG MAI 50210.

3) INTG Website: <http://www.intgcm.thehostserver.com>

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Informal Northern Thai Group (INTG)

27 years of Talks!

**The
Right Wing
Capture
Of
American
Politics**

A Talk by **Gary Suwannarat**

Tuesday 6 November 2012 : 19:30

At the **ALLIANCE FRANÇAISE – Chiang Mai**

138, Charoen Prathet Road, opposite Wat Chaimongkhon & EFEO

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**CHAVORET
JARUBOON:
The Last
Executioner**

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