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Cross-border title claims to cultural objects: property or heritage?

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Cross-border claims to cultural objects

Cross-border claims to cultural objects
Property or heritage?

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For Dimitri

Σα βγεις στον πηγαιμό για την Ιθάκη, να εύχεται να 'ναι μακρύς
ο δρόμος, γεμάτος περιπέτειες, γεμάτος γνώσεις.
Κ. Καβάφης

*As you set out for Ithaka may your road be a long one,
full of adventure, full of discovery.*
C. Cavafy

Preface / acknowledgments

The seed for this dissertation was planted while I was living in Greece and became intrigued by the conflict over the Parthenon Marbles: what rules existed for such claims? Later, in my capacity as general secretary to the Dutch Restitutions Committee, I was involved in the research and procedures in relation to claims to Nazi-looted art. This provided me with insights into the prevailing interests and approaches to the topic of looted art in various countries. I also became acquainted with the problems that may arise when there is an absence of clear standards. In 2016, my long-held idea to write a PhD on the topic became possible thanks to the support for this research from the Dutch Ministry of Education, Culture and Science. This gave me the opportunity to investigate whether claims to involuntarily lost cultural objects can be seen as a matter of justice and the law.

The support, inspiration and motivation of numerous people was key to this project, many more than I can mention here. Special thanks go to my *promotores* Nico Schrijver and Wouter Veraart for their enthusiasm from the moment I approached them. Their guidance and patience were essential in making it to this final stage. It truly was a learning process. I am also grateful to the members of the promotion committee Alex Geert Castermans, Helen Duffy, Francesco Francioni, Hildegard Schneider, and Amy Strecker for their time and efforts, and for their valuable comments on the May version of this dissertation.

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Inspiration and insights came from many encounters over the years, notably during discussions with colleagues from the Cultural Heritage Committee of the International Law Association, the Ethical Committee of the Dutch Museums Association and the Centre for Global Heritage and Environment. Furthermore, I thank Jos van Beurden and Charlotte van Rappard for their support over the years, and I thank Pieter ter Keurs and my colleagues at the Museums, Collections and Society research group and the Leiden University Centre for the Arts in Society for their support during the final stage of this project.

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Amsterdam, 8 September 2021

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Table of abbreviations

ADR	Alternative Dispute Resolution
AiA	Authentication in Art Foundation
ARC	Autonomous Republic of Crimea
ARSIWA	Articles on Responsibility of States for Internationally Wrongful Acts
CAfA	Court of Arbitration for Art
CETS	Council of Europe Treaty Series
CIVS	Commission pour l'indemnisation des victimes de spoliations
ECHR	European Convention of Human Rights
ECLI	European Case Law Identifier
ECtHR	European Court of Human Rights
EEC	European Economic Community
ETS	European Treaty Series
EP	European Parliament
ERR	Einsatzstab Reichsleiter Rosenberg
EU	European Union
FSIA	Foreign Sovereign Immunity Act
GATT	General Agreement on Tariffs and Trade
HEAR	Holocaust Expropriated Art Recovery
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICOM	International Council of Museums
ICOM-WIPO	International Council of Museums - World Intellectual Property Organization Arbitration and Mediation Center
ICPRCP	Intergovernmental Committee for Promoting the Return of Cultural Property or its Restitution in Case of Illicit Appropriation
IDI	Institut de Droit international
ILA	International Law Association
ILC	International Law Commission
ILM	International Legal Materials
KB	Koninklijk Besluit
MNR	Musées Nationaux Récupération
NAGPRA	Native American Graves Protection and Repatriation Act
NAI	Netherlands Arbitration Institute
NIOD	Netherlands Institute for War Documentation
OCW	Onderwijs Cultuur, Wetenschap
PCA	Permanent Court of Arbitration
RC	(Dutch) Restitutions Committee

SAP	Spoilation Advisory Panel
TFEU	Treaty on the Functioning of the European Union
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNIDROIT	International Institute for the Unification of Private Law
UNSC	United Nations Security Council
UNTS	United Nations Treaty Series
US	United States
WIPO	World Intellectual Property Organization
WTO	World Trade Organization