Examining Restitution and Repatriation Options for Cultural Artefacts: An Empirical Enquiry in South Africa

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This paper examines some of the ethical issues and repatriation options relating to the return of museum artefacts taken from African countries, mostly during the colonial era. In the context of a relatively new democracy, like South Africa, determining the value of cultural artefacts held in foreign collections, and thus the urgency and priority of their repatriation, may be important. Using a value-based approach this paper details the design and results of an empirical enquiry into a range of repatriation and restitution options intended to affect the return of cultural artefacts to South Africa. An invited online survey and focus group approach was deployed to investigate attitudes, experiences and the nature of the demand for repatriation amongst South African museum curators and collection managers. Findings showed that acceptable repatriation options depend crucially on the class of artefact being discussed, as well as the values being sought.

Keywords: museum artefacts; repatriation; South Africa; heritage professionals; survey

1. Introduction

There has been renewed interest in the debates around the issues related to the repatriation of museum artefacts taken from African countries in the colonial era (Ankoma 2020; Sarr and Savoy 2018). The arguments for and against repatriation, and the experiences of both successful and unsuccessful repatriation requests have been reviewed (X et al, 2021; Opoku, 2018; Shyllon 2014). However, there is little direct information about the views of African cultural heritage professionals themselves on what constitutes "valuable" artefacts, and which repatriation options they might find acceptable.

South Africa is in the early stages of identifying how it might go about a process of repatriation, with a Draft policy on "Regulations on the Restitution of Heritage

Objects" (Government Gazette, 2018) currently under discussion. Practical progress requires an inventory of artefacts held abroad, and an examination of domestic and international legislative and institutional tools required to bring about repatriation. Accordingly, in support of informing this process of identification an empirical enquiry is presented that examines the determinants of cultural value, and attitudes to various restitution and repatriation options. For clarity, claims for return based on transgressed property rights properly constitute restitution cases, though the abuse of property rights are not formally criminal without specific legislation. However, claims for return based purely on moral or ethical arguments comprise repatriation cases. Clearly, for restitution there is a legal route to effect a return (either due to illegal exporting of artworks and/or due to looting). However, statutes of limitations may apply depending on when the offences took place. Thus, restitution cases may become reparation claims for which there is no existing legal route unless source and displaying countries have signed and adhere to some international treaties or conventions.

In the context of one country seeking to establish its repatriation priorities – South Africa – attitudes, experience and demand for repatriation were explored via an invited online survey and a focus group discussion. Participants comprised museum curators or collection managers, those working in private or government institutions dealing with the sale, promotion or protection of African cultural objects, and researchers in the field.

Findings from this survey work were used to help develop a values-based approach to establishing and analysing restitution and repatriation priorities and options. In so doing we show that, at least for the case of South Africa, a wide range of repatriation options (other than unconditional return) could be considered as underpinning social and cultural or economic arguments for repatriation. These options

are shown to apply more readily if the object in question is 'interesting' and 'important', but not a unique part of the national estate. Other repatriation options may include return with the payment of royalties to the country of origin, permanent loan, touring (if funds are shared), and mutually beneficial repatriation agreements (MBRAs). The study distils a few recommendations on the way forward for countries such as South Africa, including establishing fundamental precursors to repatriation and restitution such as identifying consensus on 'national estate' artefact priorities and enhancing the resource commitment necessary to maintain exhibition of returned artefacts.

This paper is organized in the following manner. The next section sets out the conceptual dimensions and features of cultural value and their connectivity to the various restitution and repatriation options generally available. Section 3 provides an exposition of the South African context and policy development related to the return of cultural artefacts held abroad. The research design to elicit the experience and views of professionals working in heritage and museum cognate fields is set out in section 4 with detailed findings presented in the following section. The final section provides conclusions and recommendations informed by the empirical enquiry phase.

2. Cultural Value, Restitution and Repatriation

X et al (2021) review the many kinds of cultural, social, and economic values associated with cultural artefacts. Values can be derived from the unchanging intrinsic value inherent in the artefact itself, and/or because of the physical, social and cultural context of the object (Klamer, 2013; Throsby, 2013). While there is no single accepted typography of the attributes of cultural value, there are some commonly mentioned categories of value associated with cultural artefacts: aesthetic values (associated with qualities of beauty or harmony); social values (where the object represents shared community values or beliefs); historical values (where the object's age and historical

associations give it particular significance or meaning); authenticity (value related to the object being "original"); and symbolic value (where the object conveys meanings or links to identities significant to people) (Throsby, 2001; 2013; Klamer, 2013).

A challenge for a multicultural society, like South Africa, is to determine the overall value of specific cultural artefacts as a way of determining repatriation priorities. Throsby (2013) suggests a method of 'direct rating', where scores are assigned to the various value categories and then combined (weighted or unweighted) to provide a quantitative assessment of overall 'significance' or value. Weighting is decided by determining the relative importance of any particular attribute. Throsby (2013) notes that this valuation method is more suitable for heritage experts or professionals, who are used to making these kinds of implicit value judgements in their day-to-day work. The purpose of assigning value is also important, since rankings imply trade-offs between different kinds of artefacts, which not everyone might agree with. However, in a situation of limited resources (financial and social capital), such a ranking could be extremely useful in determining for which artefacts countries should seek most urgent repatriation.

'Restitution' means literally that an item will be returned to its legitimate owner (Sarr and Savoy 2018). The term itself acknowledges the illegitimate circumstances under which it was obtained, and restitution thus not only implies a change of ownership, but also has political and symbolic meanings. Repatriation on the other hand often does not involve a change of ownership but access to the looted artefacts guided by ethical considerations. Bienkowski (2013) makes a more nuanced distinction between restitution and repatriation: restitution involves return to legitimate owners based on property rights, while repatriation often involves return to a country or sub-state group, based on ethical considerations. In practice, there seem to be very soft and

fluid boundaries between restitution and repatriation appeals. For example, the different forms of repatriation and restitution can include symbolical return where countries of origin are granted access to the artefacts in foreign museums. Such symbolic returns include permanent loan, touring, and digital repatriation. These options to recover museum artefacts are not mutually exclusive. Indeed, it may be that a sequential, staged, or multiple option approach may prove appropriate or more successful for ultimately eliciting repatriation from a particular source (artefact holding) national museum. That said, some of the options outlined below are not wholly in the typical remit of the work, competence or domain of museum staff. This is because the option may require substantial central governmental inputs or diplomatic leadership, action, or active support. Each of the options described in turn have different associated benefits, costs, and potential shortcomings in meeting a declared set of repatriation objectives.

For some cultural artefacts, unconditional physical repatriation may be deemed the only possible acceptable means of return, in which case the appeal on ethical grounds requires a strong underpinning moral argument. To persuade individuals, museums, and groups or nations to do something without the application of any associated enforceable rules or the distribution of any actual incentives or disincentives is undoubtedly challenging. Yet there are many policy contexts, such as environmental causes and human rights issues, where a moral case for action in one country can be persuasively formed by citizens, pressure groups and/or the government of another country. Multiple (and perhaps coordinated) country actions could even potentially work to heighten the force of moral suasion. Over time they may elicit concessions or greater transparency of the issue in focus and eventually change the climate of concern, such that more interest-affecting subsequent actions (for example, consumer boycotts) become more publicly acceptable and garner wider support in the requesting and,

possibly, the holding nation.

Activating moral suasion would take the form of campaigns, media communications, cultural diplomacy and the development or deepening of international cultural relations (see, for example Wang, 2018; Yu, 2018).

In the domain of central governmental level diplomatic and negotiation channels, 'issue linkage' would likely feature. Poast (2013) describes this as the simultaneous discussion of two or more unrelated issues considered for joint settlement. Essentially, issue linkage is largely a bargaining tactic intended both to increase the probability of states reaching a negotiated agreement and to motivate states to sustain commitment to the eventual outcome of an agreement. So in the museum context, some concessions on cultural artefacts might be invited to yield, for example, some period of favourable trade terms, or progress in some completing defence sector contracts.

There are several options for repatriation[1], other than unconditional legal and physical return, examples of which are extremely rare. Alternatives include Mutually Beneficial Repatriation Agreements (MBRAs), digital repatriation, and touring. While not addressing ownership issues, such alternatives do increase access (acknowledging the public good nature of the artefacts), and can be a solution to the sometimes extremely protracted process of legal return.

The thesis of the article is that the acceptability of restitution or repatriation options to people in the country of origin depends crucially on the values associated with the artefact in question. Different repatriation options offer different outcomes, such as asserting a moral right to ownership, access for education and research; access

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[1] For an alternative, but largely overlapping overview of the options see Yu (2018).

for local communities for whom the artefact may be of religious, symbolic or social importance; or economic reasons related to tourism. The following sections review the various restitution and repatriation types that have been applied internationally.

2.1 Mutually Beneficial Repatriation Agreements (MBRAs)

MBRAs are negotiated outcomes devised to help address cultural property disputes. By such agreements, previously looted or illegally exported cultural artefacts may be returned to the requesting nation (museum) over an agreed timescale. In exchange, the requesting nation (museum) offers on an agreed long-term loan basis or cycle of loans, other works of equivalent importance and interest to the holding nation (museum) or indeed potentially at some point in the future, the repatriated work itself for a fixed agreed period of exhibition. In this way, mutual benefits arise from the agreement to both requesting and holding nations (museums). A constituent element of the mutual benefit might also involve dropping formal legal charges of illegal exporting of cultural artefacts, although this might be considered as helping to incentivise the continuation of illegal exporting of such artefacts (Falkoff 2008).

Essentially MBRAs are a means to help bypass typically large litigation costs when a source nation (or individual owner) signals an intention to reclaim what they believe to be improperly acquired cultural property that is currently in possession of a museum. In some cases, MBRAs would involve allowing museums to avoid potential scandal from theft and smuggling. If this can be countenanced, then positive benefits may arise from the goodwill and future cooperation (reciprocity in activities) that an MBRA may help foster.

2.2 Digital Repatriation

This approach to addressing a desire or demand for the return of cultural artefacts critically hinges on the assumption that digitised images and descriptive text can serve as an effective substitute for the physical return of those artefacts. Even if this is not entirely the case, there are some potentially positive aspects to a digital repatriation exercise. It may, for example, help to raise awareness of the cultural significance of the artefacts, stimulate reinvigorated research effort that may highlight other related artefacts of interest, and garner additional public support for campaigns for the eventual physical return of the artefacts.

Yet if the communities from which the artefacts were originally plundered are not strongly digitally engaged, then this would form an obstacle to harnessing any linked benefits from digital repatriation. An additional obstacle is the potential cost of such endeavours, particularly if dealing with substantial collections of work. For example, Crouch (2010) describes the enormous technical complexities and extensive resources required to digitise all of the artefacts and photographs in the Smithsonian National Museum of the American Indian. Resta et al. (2002) also set out a digital repatriation approach to connect with indigenous peoples in a country. In an explicitly international context and with a single artefact focus, Hess et al. (2009) detail the three dimensional (3D) digital documentation of a Western Solomons Islands war canoe, which forms part of the ethnographic collections of the British Museum. The digitisation project was intended 'to deliver a holistic virtual 3D reconstruction and multimedia interactive delivery of the boat for digital repatriation to the source community'.

Digital repatriation is fraught with legal challenges that arise because of a tension between the vested interests/rights of museums and the ownership claims of

African communities of origin.   The legal and ethical issues that arise from the claims of African countries in addition to obligations found in treaties such as the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property have led to stakeholder concerns (Pavis and Wallace 2019). In the main stakeholders have counselled caution and recommended negotiation with and consent of African communities of origin in the process of digitisation of their art.

2.3 Touring Exhibitions

Touring exhibitions of plundered artefacts may form part of reciprocal arrangements that stand alone or are linked to MBRAs. Like digital repatriation, this approach to addressing a desire or demand for the return of cultural artefacts critically hinges on the extent to which a time-limited tour of the artefacts back in their source country would serve as an effective substitute for the permanent return of the artefacts in focus. Again, the veracity of this assumption is amenable to empirical verification through survey exercises, and even if found not to hold, there remain some potential positive aspects to the touring, as in the case of digital repatriation. There is also a potential concern that for reasons of distance to exhibition venue(s), the price of entry to the exhibition, and limited awareness, any such tour of cultural artefacts may not engage with the specific historical communities from which the artefacts were sourced or plundered.

3.   The South African Context

As discussed in X *et al* (2021) South African cultural heritage is protected by the South African Heritage Resources Agency (SAHRA), established by the National Heritage Resources Act (1999). There is also a Gazetted description of objects deemed to be part of the 'National Estate', which may not be exported without a permit from SAHRA. The National Estate is very broadly defined, and includes intangible cultural heritage,

natural landscapes, archaeological sites, graves of historical figures and historical settlements, as well as 'objects of historical and cultural significance'.

Other than permitting, SAHRA has a number of roles, including the establishment of a system for the management of national heritage resources. This is done via an online database and GIS (Geographical Information Systems) mapping facility that tracks heritage sites and objects, called SAHRIS (South African Heritage Resource Information System) . The database also lists 256 stolen art and heritage objects including sculptures, paintings, coins, vases, and commemorative medals.

SAHRA is also mandated to 'investigate and advise the Council on…the repatriation of heritage resources which have been removed from South Africa and which SAHRA considers to be significant as part of the national estate' (Government Gazette 1999, 27). The limited capacity of SAHRA has not allowed this work to take place to date. However, the SAHRIS database would seem to be an ideal working platform on which to also host a developing list of cultural heritage objects held in foreign museums which may be subject to restitution and repatriation requests.

As an exploration of what could inform the process of compiling a list of artefacts that may be subject to repatriation requests, this research explored the nexus between determinants of cultural value, and the acceptability of various repatriation types from the point of view of South African heritage professionals themselves.

4. **Research Design and Methods: Soliciting the Views of Heritage Professionals**

In linking possible repatriation options to value types, the argument is that what is regarded as an acceptable repatriation option depends crucially on the kind of object, and the values it embodies, that is being considered.

In arguing for (or against) particular repatriation options, the *purpose* of the repatriation thus needs to form part of the debate. For example, if what is primarily being sought through repatriation is access to the artefact, to enable appreciation, education, and research, then touring exhibitions, permanent loans, or digital repatriation may be acceptable options. However, if what is primarily being sought is an assertion and recognition of the moral rights of ownership, then these repatriation options may not be acceptable.

The acceptability of repatriation options also interacts with the specific kind of artefact and the value it embodies. For example, for artefacts that are regarded as having very high overall value (which could be made up of a combination of the value categories suggested by Throsby (2013)), it may be that only unconditional legal return would be acceptable. However, for less valuable artefacts, a wider range of repatriation options could be considered, opening the way for negotiation.

To solicit the views of South African cultural heritage practitioners on various restitution and reparation options, an online questionnaire was distributed, and an expert focus group discussion was convened. The purpose of the research was to answer three related questions: (i) What are the views of heritage professionals regarding the validity of arguments for and against repatriation? (ii) What are the attributes of cultural artefacts that make them more, or less, valuable? And (iii) How does the value attributed to cultural artefacts affect the acceptability of different repatriation or restitution options?

A range of professionals working in the area were invited to participate, including museum curators or collection managers, those working in private or government institutions dealing with the sale, promotion or protection of African cultural objects, and researchers.

The online survey was open for three weeks in August 2020, and 39 responses were received. Respondents included museum curators, and representatives from public institutions and researchers, amongst others (Table 1).

[Table 1 here]

Excluding the research team, and two students who requested observer status, there were 12 focus group participants, representing curators, museum directors, researchers, and public and private institutions. The focus group discussion was informal, structured loosely around the same questions as the online survey. It included the discussion of some online survey results. Broadly speaking, the focus group contributions were very similar to the results from the online questionnaire, providing a useful way of verifying, and expanding on, this data. For this reason, the results of both research methods are reported on together in the following sections.

5. Findings

5.1 The Attributes of Cultural Value

In order to make the discussion of cultural value more concrete, a randomly chosen example of a South African cultural artefact currently held in the British Museum was chosen for discussion purposes and some information provided. The artefact showed a small (18cm high) wooden carving of a woman carrying a child on her back in the traditional Zulu manner. It included decorative beadwork and resin. It was collected by Sir Theophilus Shepstone, whose secretary was Rider Haggard, in 1939 and was later donated to the British Museum (British Museum Online Archive, Registration number Af1939,36.4).

Respondents were then asked to rate the value of the artefact on a 1 to 10 scale,

and then to explain their rating in terms of the attributes that made it more or less valuable 'in your professional opinion'. The largest group of respondents (35%) rated the article as a 9 or 10 out of ten (very valuable); another third (32%) gave it a rating of 7 or 8; 26% rated it a 5 or 6, and 6% rated its value as less than 5 (not very valuable).

Attributes that made the object more valuable included its representation of Zulu culture and heritage (the traditional way in which women carried their children), its age and historical value, its rarity, and its potential educational or archival value. Some respondents also noted its aesthetic and artistic value, with one stating that 'The sculptural artistry is very high in my opinion. The way the artist resolved the composition, very streamlined, yet expressive, yet practical. Beautiful finish.' Several respondents mentioned that its provenance, particularly the links to the collector, Shepstone, and his secretary Rider Haggard, made it a more interesting piece.

Attributes that made the object less valuable were mostly related to its lack of rarity or uniqueness, with some commenting that it was 'of interest', but not unusual, and that objects of a similar type were already in South African collections. Two respondents referred to its lack of authenticity, in the sense that such carvings were made to be sold, rather than for use by local people.

Returning to the more theoretical discussion of the attributes that make up cultural value, and linking those to repatriation, respondents were asked to rank a list of attributes in terms of how important they are in deciding which artefacts should be the subject of repatriation (Figure 1).

[Figure 1 here]

The attributes were listed as:

- Uniqueness or rarity: there are no other artefacts like this one.

- Historical significance: age and historical associations.

- Fame, beauty or popular appeal.

- Authenticity: The object is original and unique, not fake, altered, or defaced.

- Symbolic meanings: the object conveys meaning and narratives linked to cultural identity.

- Monetary value: The object is worth a great deal of money if it should ever be sold.

The most important attributes were very clearly historical value, symbolic value and uniqueness or rarity. Next most important was authenticity, although some respondents noted that this was a contested and complex concept. Least important were attributes related to fame or beauty of the object, and its monetary value.

The categorical responses were followed by an open-ended question, asking if there were any other characteristics that respondents would consider important in determining if a cultural object should be repatriated. About half of the respondents added attributes to the list. These were broadly in three groups: Those who wished to emphasise the importance of some objects to specific communities and histories (regardless of the other attributes); those who wanted to include the ethical and moral circumstances associated with the acquisition of the object; and those who mentioned the scientific or technical importance of the object (what it was made of, how it was made, if it represented a technical advance at the time), and how it might 'fill a gap' in current collections.

The desire to include the circumstances in which the object was obtained as an attribute of cultural value and repatriation considerations became a strong theme for some respondents in both the online questionnaire and the focus group discussion, which became strongly apparent when arguments for and against repatriation were further explored.

5.2 Exploring Arguments for Repatriation

Following the questions relating to the value of the example artefact (the Zulu wooden sculpture), a question was asked about repatriating the artefact (Box 1).

Box 1: Further information provided on the artefact example

'The artefact was obtained during colonial times (1939) before the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) put in place stricter guidelines on the required provenance for legal cultural artefact acquisition. Would you consider this artefact a candidate for a repatriation request? Why or why not?'

For those who felt that the object was not a candidate for repatriation (23% of respondents), reasons given for this were the object's lack of uniqueness or rarity (there are many examples already in South African collections); its lack of authenticity (produced for sale to 'tourists'); its lack of historical significance ('The object does not tell a story'); and a lack of certainty that it would be properly 'documented and cared for' in South Africa.

Those who felt it might be a candidate for repatriation made up the largest group (41%). Many said that they would need more information about the specific significance, history and context of the acquisition: 'It appears that the specimen is being well curated and cared for. The question is whether it was unethically obtained. If it was purchased or swapped, then the deal was an agreement between the relevant

parties and is valid'. This group also said it depended on the presence of similar objects already in South African collections, as well as the value and significance that the particular community might place on the object (even if it was not of national significance).

36% of respondents said they would consider the object a candidate for a repatriation request. As found in other responses (and also in the 'maybe' group), many of these respondents referred to the way in which the artefact was obtained, regardless of its other value characteristics. 'We must demand [the return of] all items that were stolen. This is our heritage.' Some felt that, even if it was legally bought, 'it was transferred into British ownership under colonial pressures', and should thus be returned.

Others referred to its potential historical significance, also related to who collected it: 'The link with Shepstone, whose 'native reserves policy' profoundly impacted on our country's history, makes it a significant object'. Some respondents also pointed to community significance and symbolism, even if the object was not of national importance, and making it accessible to people in the region where it was produced. Linked to this were mentions of its potential research and educational value in a specific regional (KwaZulu-Natal province) context.

While no new categories of value were identified (other than those discussed in the literature considered and in relation to what determines if something is part of the 'national estate'), the results reveal the great importance of the context in which things were acquired. It also revealed two extreme positions, where repatriation decisions would not depend on the characteristics of the object itself. The first is those who demand repatriation on the grounds that any object, however obtained, acquired during

periods of colonial rule should be returned. Such objects are regarded as 'stolen' and must be returned to the rightful owners as a matter of justice. The second category were those who argued against repatriation of any object on the grounds that South Africa does not have the resources to properly curate and protect them.

5.3 Exploring Arguments against Repatriation

Returning to broader, conceptual issues related to repatriation, some of the arguments against repatriation were explored in the online questionnaire, starting with the idea of the 'universal museum'. Respondents were given the following information, and asked for their opinion (Box 2).

Box 2: Universal Museum discussion

UNESCO (1982, cited in Matthes, 2015) states that some parts of world heritage value 'Cannot be confined to one nation or one people, but are there to be shared by every man, woman and child'. Foreign museums that have African cultural artefacts in their collections argue that some cultural heritage objects are so important to humanity that it is justified to keep them, even if obtained during colonial times or times of war, in order to promote or protect this value. How would you respond to this argument? Why did you choose this option?

The most frequently cited reason for those who agreed with the idea of the 'universal museum' and that some objects should not be repatriated (25% of respondents) was the perceived inability of South African museums to effectively protect and preserve the artefacts once they were returned. South African museums were described as 'grossly under-funded', 'incompetent in managing valuable cultural resources', and being 'in a downward spiral'. While it was sometimes pointed out that there are exceptions (both in terms of museums themselves, as well as in some dedicated and competent staff), respondents in this group expressed worries about collections being 'looted, stolen, misplaced, misfiled' and being subject to 'looting,

theft, neglect and consequent destruction'.

Another group in this category spoke to the increased value and prestige of objects in a particular class, if objects representative of the class were part of the collections of international museums. As one curator put it: 'Our museum has worked hard to position traditional attire and adornment as art…it would be prestigious if we had representations of these art forms in art and design collections around the world'. Linked to such responses were others who mentioned the large number of people who have access to artefacts in universal museums.

On a more negative note, some respondents cited the lack of interest by local communities, South Africans in general, and curators in displaying and visiting exhibitions of historical African artefacts. 'There are critical questions related to the conditions into which artefacts might be returned; whether African institutions have either the capacity or inclination to look after them; and whether the local communities to which they are returned have any interest in engaging in 'reconfigured' post-colonial displays of these artefacts'.

For those who disagreed with the universal museum argument (22% of respondents), the most common reasons related to the false claims of 'universality', especially in relation to the fact that most Africans lack the resources to travel to such museums. Others felt that the display of such artefacts represented an ongoing power dynamic in that they were seen as 'war trophies'. In terms of value, some respondents felt that African countries could use the artefacts more effectively to 'tell their own stories' and that the objects would have more value and meaning to people in the country of origin.

For the group who partly agreed with the idea of universal museums (53% of

respondents), there was acknowledgement of the value of 'sharing knowledge' and reaching larger audiences. However, this was tempered with concerns about ensuring the accessibility of objects for both research and general public viewing, and careful protection and curation of the object (in particular, that its context and significance should be understood). There were also those who felt that artefacts that had been unethically obtained ('looted' or 'stolen') should be returned. Members of this group also indicated that repatriation could be a time-consuming process, involving changing legislation in some cases, and that could cause conflict. Even those who felt strongly that objects should be returned were open to various options, such as legal return, or long loan. The importance of the object itself was also a factor: 'I feel that South African heritage objects in foreign institutions can be of large benefit to South Africa. However, it is important that objects be examined on a case-by-case basis. Some objects may be too significant to South Africa and should be returned.'

To further explore concerns about repatriation, respondents were asked to evaluate the validity of various arguments against repatriation, such as a shift in interest towards more modern artefacts, a lack of museum resources, the value of African artefacts being in other countries, and the risk that repatriated artefacts would be sold.

[Table 2 here]

The greatest concern about repatriation was the lack of resources to properly curate and protect returned artefacts (78% of respondents indicated that this was 'a very real concern'), followed by the risk of having them sold back into foreign markets (51%), given their greater monetary value in these contexts. Smaller groups were worried about a lack of interest in heritage, or that the artefact is more valuable in the foreign location (42% indicated that this was 'not a concern'). When shown these

results, focus group participants generally also agreed with them, particularly those related to concerns about the lack of resources of museums: 'One of the biggest problems with our national and municipal museum groups and collections is that they simply don't have the funding to be able to put those artworks on display because of the insurance. I think something that would go a long way to support those institutions to actually be able to make better use of their existing collections, and therefore bring that message to the public, is for the government to actually underwrite the insurance of those collections' (Focus group participant, 2020).

5.4 Responses to Repatriation Options

To explore which repatriation options were most preferred, respondents were given information about the various repatriation options uncovered through the literature review: Touring exhibitions to the country of origin; MBRAs; Digital exhibitions and archives; Return of legal ownership to the country of origin, while the artefact itself remains in the foreign museum; and the unconditional legal and physical return of the artefacts to the country of origin.

Acknowledging that the repatriation options would depend on the nature of the artefact in question, three categories of objects were described. Category 1 objects were descried as unique objects of national significance; Category 2 objects were of cultural, aesthetic and historical importance, but not deemed to be unique; and Category 3 objects were of interest, but not unique or nationally significant (Category 3).

Respondents were then asked to rank the various repatriation options on a scale from 1 (not acceptable at all) to 5 (most preferred) for each category of objects.

[Table 3 here]

For category 1 objects (unique artefacts of national importance), the option most frequently chosen as most preferred was, unsurprisingly, unconditional legal and physical return (65%), followed by legal, if not physical, return (56%). This result clearly speaks to the importance of ownership of such objects reverting to the country of origin as a matter of preserving and owning their cultural capital . The small group of respondents who regarded these options as 'unacceptable' (22% in the case of legal return, and 24% in the case of unconditional return) were those who had misgivings about the ability of the country to properly protect and curate objects.

A surprisingly high percentage (53%) also indicated that touring would be an acceptable option, speaking to the importance of enabling access to the artefacts for local populations. Smaller groups were positive about options such as digital repatriation (43%) and mutually beneficial repatriation agreements (MBRAs).

For category 2 objects (important, but not unique), the focus shifts to access, rather than permanent return and ownership. In this category, the largest groups of respondents chose touring (59%) and digital repatriation (50%) as most preferred. About half of the respondents still indicated that legal and unconditional return were their most preferred options.

For category 3 artefacts (of interest, but not unique or of national importance), the focus shifts further towards access (touring, 59%; and digital repatriation, 55%), and quite significantly away from ownership (legal, 27%; unconditional 32%). This is also indicated in a marked increase in those who would find legal or unconditional repatriation unacceptable.

The focus group participants were shown these results, and agreed that they could be regarded as reasonable, although there was a small group who felt that the only

acceptable option was unconditional return.

From a repatriation point of view, these results indicate that, especially for category 2 and 3 objects, there is more of a focus on access through touring, or through digital archives, than on ownership. Even for Category 1 objects, there was a surprisingly high willingness to consider options other than unconditional repatriation, even amongst those who thought repatriation should take place. This opens the way for potential negotiation with foreign institutions.

Most (62%) of respondents to the online survey did not know of any South African artefacts that could be subject to repatriation requests. For most of those who did think there were such objects, they were non-specific, including such responses as relating to cultural objects collected during colonial times, 'traditional attire', human remains, and grave goods. The lack of specific knowledge about South African artefacts that might be subject to repatriation was also reflected in the relatively small group of heritage professionals who had any experience of repatriation as part of their professional work. More than half of the respondents to the online questionnaire had had no experience of such repatriation deals at all. The next largest group (about a third) had been involved in touring exhibitions, and about 15% had been involved in digital repatriation projects. Only one person mentioned being involved in both unconditional return and MBRAs.

Nevertheless, focus group participants were very aware of the practical difficulties of repatriation related to both legal issues and resources required: 'What is the incentive for an institution in Europe or in America who has an object of national significance that we want back? If there are no policy instruments or no legal instruments to compel these institutions to do anything, then it becomes difficult

because it has these huge funding and resource implications because those institutions without those objects would face funding challenges because then their main attractions are not there anymore.'

6. Conclusions and Recommendations

Engagements with heritage professionals show that, if the main argument for repatriation is justice and the moral rights of ownership, there is a group who regard all heritage objects acquired during colonial times as 'looted' or 'stolen' and demand their return regardless of the significance of the object, or the conditions under which it was obtained. However, most respondents were willing to negotiate, especially with regard to artefacts that were not unique, acknowledging the practical (resource) and legal difficulties of repatriation, and the benefits of having some African artefacts as part of foreign collections (Table 2).

The second argument for repatriation is that the social and cultural value of the object to the people of the country of origin is greater than to those in the foreign country. This is particularly the case with objects of important cultural or spiritual significance (such as religious or funerary goods), or objects related to kings and queens. Some objects of 'national importance' may be regarded as part of the cultural capital of the country and of great importance to the heritage and identity of its people. Arguments about the cultural significance and meaning of an artefact are directly linked to access – while 'universal museums' argue that they are open to all, they are *de facto* not accessible to the vast majority of African people, or to researchers. The main values sought in this case are cultural, educational and research activities, and appreciation by people in the country of origin. Repatriation options that could enable these values include Unconditional return, but also Permanent Loan, Digital Repatriation, MBRAs,

and Touring (which provides at least temporary access).

[Table 4 here]

The argument least often used is the economic one – centring on the fact that the location of significant cultural artefacts contributes to the national and international prestige of museums, which in turn attracts tourists and research grants. The main values sought in this case are financial (and possibly those related to research status). Repatriation options (other than unconditional return) may include legal return with the payment of royalties to the country of origin, permanent loan, touring (if funds are shared), and MBRAs.

As indicated in the results of the online questionnaire and focus group with heritage professionals, the type and cultural significance of the object is important in determining which kinds of repatriation options are acceptable. For objects of national significance, for example, issues of ownership are dominant, leading to unconditional and legal return being most preferred. For objects that are interesting and significant, but not unique, access is most important, opening the field of possible repatriation types that would be regarded as acceptable, such as touring and digitisation.

A challenge is deciding which artefacts should be subject to repatriation requests. South Africa already has a comprehensive description of the attributes of an artefact regarded as part of the 'national estate', and there was a relatively high level of agreement amongst heritage professionals on what` these attributes were, and how important they were. It is recommended that engagements like this be used to develop a scoring system that could be used to divide artefacts into categories via a series of expert panels, to help to answer the question of what should be repatriated.

Nevertheless, there is some danger in relying completely on expert options, especially since our findings show that attributes that tend to enhance popular appeal (aesthetic appeal and monetary value) were of least importance to curators and other cultural heritage professionals. A fruitful direction for future research would be to find metrics related to popular or public appeal to complement expert views, for example, media reports or popular press attention.

One of the most frequently cited arguments against repatriation (by foreign museums, but also by heritage professionals themselves), was the lack of resources to properly curate and protect the artefacts that may be returned. This refers to both the financial capital needed, as well as the human capital (skills and experience). As recommended by the African Council of Museums (AFRICOM) as well as the AU report (Dandaura et al. 2014), the digitisation of South African museum archives will be an important step both in demonstrating the ability to curate valuable collections and in ensuring the proper curation of any repatriated items.

Repatriation requests and negotiations are complex and cut across the remit of various private sector and government departments. To take the project forward effectively, the establishment of an inter-ministerial task team to drive cooperation towards the repatriation of artefacts of national significance held in foreign collections should be deemed a minimal requirement.

Acknowledgements

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Table 1. Online questionnaire respondents

	N (39)	Percentage
Museum Curator, Collection manager, Directors	20	51%
Government institution dealing with the promotion and protection of cultural artefacts	9	23%
Private institution dealing with the sale and promotion of cultural artefacts	2	5%
Researcher (market or academic) in the field of art and cultural artefacts	6	15%
Research degree students (museums studies)	2	5%

Source: Authors' own data collection and analysis.

Table 2. Responses to concerns about repatriation

Concerns about repatriation	Not a concern	Might be a concern	Very real concern
Shift in focus	42%	28%	31%
Lack of resources	10%	12%	78%
More value in foreign countries	42%	34%	24%
Risk of resale	18%	31%	51%

Source: Authors' own data collection and analysis.

Table 3. Rating of repatriation options by object type

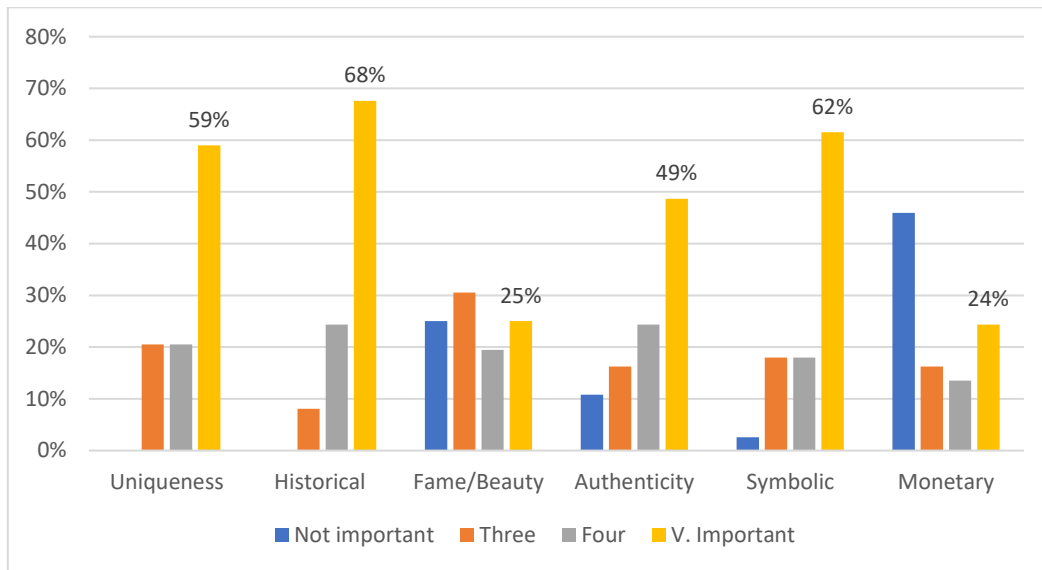| **Category 1 Artefact**	Unacceptable	Acceptable	Most preferred
Touring	23%	23%	53%
Digital	30%	27%	43%
MBRA	35%	23%	42%
Legal	22%	22%	56%
Unconditional	24%	12%	65%
Category 2 Artefact	Unacceptable	Acceptable	Most preferred
Touring	6%	35%	59%
Digital	30%	20%	50%
MBRA	30%	30%	39%
Legal	30%	23%	47%
Unconditional	29%	23%	48%
Category 3 Artefact	Unacceptable	Acceptable	Most preferred
Touring	9%	31%	59%
Digital	24%	21%	55%
MBRA	35%	42%	23%
Legal	43%	30%	27%
Unconditional	42%	26%	32%

Source: Authors' own data collection and analysis.

Table 4. Linking arguments for repatriation to repatriation types

Arguments for repatriation	Main value sought	Potential repatriation options
Justice and moral rights of ownership	Acknowledgement of ownership; Redress for past injustice.	Unconditional or Legal Return
Social and cultural significance and value	Intrinsic and Social value through access to enable appreciation, education and research	Unconditional return; Permanent Loan; Digital Repatriation; Touring, MBRAs
Economic values	Financial value (through tourism) and reputation (increasing grants)	Unconditional return; Legal return; Permanent Loan; Touring; MBRAs

Source: Authors' own data collection and analysis.

Figure 1. The importance of different components of cultural value in determining if an artefact should be subject to repatriation requests

Source: Authors' own data collection and analysis.