

State Ownership of Cultural Artifacts and the Inadequacy of 1970 as a Legal and Ethical Marker

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Compliance with the 1970 guideline, commemorating adoption of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, has been taken by museum associations, individual cultural institutions, and professional associations as a marker to determine ethical or acceptable conduct, such as acquisition and publication, with respect to cultural objects. Adoption of this standard in the early 1970s, soon after promulgation of the Convention, preceded judicial decisions in the United States that recognized foreign State ownership of cultural, particularly archaeological, objects. The 1970 standard does not therefore consider the implications of foreign State ownership that pre-dates 1970. Furthermore, to the extent that the ethical guidelines of museum association, the Association of Art Museum Directors, in particular, purport to follow the 1970 standard, recent case studies may demonstrate their evasion of this requirement through the mechanism of long term loans, which seem to be exempt. This paper will explore what changes are needed in current codes of conduct and ethical policies to ensure that these, at a minimum, comply with legal requirements and, preferably, exceed legal requirements.