Bringing the gods home

Oped

• Nepal needs to actively make repatriation claims of cultural properties trafficked abroad

- Saurav Karki

Jan 3, 2017- When Dharahara’s rubble lied scattered after the massive earthquake, people were taking away its historical bricks, forcing the Nepal Police to intervene. It is but one example of how susceptible to theft the country’s cultural properties are. Cultural properties are important to particular cultural groups as well as to the state as they are part of the country’s identity. As such, they have been a target of belligerents in wars since early human civilisation.

Modern international law is clear about dissuading the destruction of cultural properties during wars. But the protection of cultural properties during peacetime remains a daunting task, with its illicit trade estimated to be worth up to $6 billion worldwide.
Recognising the increased theft of cultural properties towards the end of the 1960s, the Unesco adopted the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property in 1970. The Convention requires state parties to return the cultural property detained or found in their territory that had been stolen, or was exported from another state or the country of origin without a licence.

Although cultural properties, regardless of their country of origin, are considered important to the whole human civilisation, the post-colonisation practice of states suggests that cultural properties, however taken out of the country of origin, need to be returned.

**Nepal's plight**

Nepal’s long history and the diverse cultural groups that have been living here have endowed it with many cultural properties. However, while Nepal enjoys this privilege of being culturally rich, many of our cultural properties have, to our dismay, been stolen and trafficked out of the country.

People’s affinity with cultural items in their daily lives and the necessity for the items to be in publicly accessible places make Nepal's cultural properties more vulnerable to theft and illicit trafficking. Further, lack of adequate resources and sophisticated machinery adds to the challenges of preventing theft. Theft of cultural properties in Nepal was noticed in the 1960s along with the growth in the Hippie culture and tourism. Although the Ancient Monument Preservation Act was enacted in 1956 to criminalise the act of theft or destruction of cultural properties, Nepal has not enforced it well.

Nepal’s practice of documenting its history has been poor. As a result, we have to rely on scholarly works to state our claims. Importantly, Lain Singh Bangdel's ‘Stolen Images of Nepal’ (1989) and Jurgen Schick’s ‘Gods are leaving the Country: Art Theft from Nepal’ (1997), stand out as important records of arts and cultural properties we have lost to trafficking.

**Overcoming possible challenges**

Nepal had initiated the process of reclaiming the antiquities that were being sold at an auction overseas in 2013. Likewise, Nathalie Bazin, Chief Curator of the Himalayan Section at Musée Guimet, France, had announced that the museum was willing to return the 12th century stone statues of Vishnu, Laxmi and Garuda that were reportedly stolen from Patan in late 1970s and the 13th century statue of Shiva-Uma stolen from Bhaktapur in 1984. Although there might be hurdles on the way, Nepal should be proactive in initiating the repatriation process. According to the spirit of cultural internationalism, cultural properties belong to the world and should remain for the world to see when the country of origin lacks a mechanism to protect them from deterioration. However, such claims do not have legal backups and practices.

In 2015, the Unesco had urged Nepal to make inventories to house the antiquities for their protection. With some urgency and seriousness, this should not be a problem for a country which values its cultures to a great extent.

The 1970 Unesco Convention requires the country of origin demanding repatriation to compensate an innocent buyer. This might cause authorities to hesitate from making repatriation claims since such compensation may amount to a huge sum of money. However, there are a number of cases where countries holding antiquities have voluntarily returned them to the country of origin after the claims were made.

To make the return of lost and stolen properties possible, and to prevent their theft and illegal trafficking, Nepal first needs to work on documentation and record-keeping. Further, it needs to strengthen security and develop protection mechanisms around cultural heritage sites. Nepal should do all it can to bring the stolen cultural properties where they belong.

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