

GENERAL ARTICLES

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Returning the Gods to the People: Heritage Restitution in Nepal

Abstract: Since late 2021, a new development has been taking place in Nepal. Like many governments around the world, the Nepalese authorities are also fully invested in asking for the return of their looted art held in foreign collections. Yet the policy is no longer to keep these in the country's main museums, but rather to bring them back to the communities of origin, where they can fully take up their role as "living Gods". With this move – which fully prioritizes intangible heritage values over tangible – a unique process is taking place that allows for reflection on what the restitution of stolen objects could be all about. In this way the case of Nepal demonstrates that the trafficking of art and its placement in museums abroad, as well as its "typical" return to museums in the source countries, are strongly influenced by Western concepts of art and conservation, often ignoring the local values of this heritage.

Keywords: heritage, intangible heritage, living heritage, Nepal, restitution

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Introduction

In 1982 an Uma-Maheshwor (or Uma-Maheshvara) statue was stolen in the village of Dhulikhel, just outside the valley of Kathmandu (Nepal). When the idol was later recognized in the Museum of Indian Art in Berlin, the German museum cooperated in the return of the Uma-Maheshwor. It was given a prime spot in the Patan Museum, where it still remains today. This story is not all that different from many restitution cases around the world. Once an art work has been identified as illicitly obtained, countries or their institutions negotiate a return, and the returned object is placed in an important museum in the country of origin.

Today in Nepal, things are changing. The Nepalese government and its museums have started to actively implement a specific clause in its Ancient Monuments Preservation Act (1956),¹ according to which communities can ask for their heritage to be returned to its original location. This provision, inspired by the “living” nature of these statues, places intangible heritage values over tangible ones. The return of an important statue in late 2021, active (social) media attention, and a group of local activists have given an unseen momentum to community restitution in Nepal.² Thus the Uma-Maheshwor, too, may be leaving its current museum location in the near future. This article considers how the Nepalese approach offers a refreshing perspective on the restitution of artefacts that have an important meaning for their source communities. Drawing on my fieldwork in Nepal, it reflects on these ongoing developments and on how restitution and the safeguarding of intangible heritage intersect.³ In doing so, this article demonstrates that the trafficking of art and its placement in museums abroad, as well as the “typical” return to museums in the source countries, are strongly influenced by Western concepts of art and conservation,⁴ often ignoring the heritage’s local values.

¹ Ancient Monuments Preservation Act, 2013 (1956), *Nepal Gazette*, 27 July 2013, <https://nepal-tradeportal.gov.np/resources/docs/ancient-monument-preservation-act-2013-1956.pdf> [accessed: 21.07.2022].

² A. Dhakal, *Laxmi-Narayan Is Home*, “Nepali Times”, 4 December 2021, <https://www.nepalitimes.com/banner/laxmi-narayan-is-home/> [accessed: 30.05.2022].

³ Fieldwork was carried out in April and May 2022. In addition, I draw upon information and knowledge of the area compiled when living, working, and doing research in Nepal between 2004 and 2007.

⁴ I refer to the standard approach to material conservation as “Western” because the current professional conservation movement developed primarily in Europe, including key charters like the Athens Charter (1931) and the Venice Charter (1964) as well as organizations like ICOMOS, which have long continued to dominate the conservation field and export their techniques and knowledges around the world. Also, the World Heritage system has been called an extension of this colonial model, in which the West wants to map and control heritage outside of its national borders. L. Meskell, *A Future in Ruins: UNESCO, World Heritage, and the Dream of Peace*, Oxford University Press, Oxford 2018.

The Living Heritage of Kathmandu Valley

The Kathmandu Valley is frequently referred to as an open-air museum. Sculpted objects are everywhere. They are part of temples and shrines, decorate historic buildings, or are found freestanding along roads, in squares, and in courtyards. These religious and historic statues, which are part of the Newari culture that adheres to both Buddhism and Hinduism, are not just sculptures nor are they just objects of worship. It is believed that after certain religious ceremonies (*puja*) are carried out, the Gods they represent live in those statues. In other words, the stones are considered to be “alive”. In this unique situation, the statues are much more than (spiritual) objects. They are considered to be *living Gods*.⁵

As a result, the Gods are worshipped daily. Worshippers pass by to apply vermilion powder, place garlands of marigolds around the neck of the idol and/or bestow flower leaves onto them. Rice grains are provided to the Gods. Likewise, the Gods tend to be touched, mostly on the legs and face, during worshipping. When stolen, it often happens that the remains of the idol or the place where it used to be, continue to be worshipped. Although like all intangible heritage these practices have also changed over time, it is still important to acknowledge this status of living heritage when the Gods return home after having been stolen and moved abroad. In this case, “living heritage” has the dual meaning of the idols being considered as living beings, as well as the more common interpretation of “living heritage” as a practice that is still in use today, implying a continuous link between past, present, and future through heritage.⁶

Ancient Monuments Preservation Act

The Nepalese are well aware of the living status of their heritage, which is reflected in their national cultural policy,⁷ but not in their main heritage legislation. The first, and principal, law regarding heritage in Nepal is the 1956 Ancient Monuments Preservation Act (AMPA).⁸ This Act adopts a standard approach to heritage that

⁵ Nepalese worshippers do not consider these as statues or idols, but rather refer to them by the name of the God that is represented or by the name of the iconography. Only when talking to heritage or museum professionals will references to “statue” or “idol” also be made. In Nepali, the term *murti* is used, which translates as “idol”. For the purpose of this article, and in respect of their local tradition, I will refer as much as possible to Gods or use their name, unless for reasons of clarity more technical terms like “statue” or “idol” are required.

⁶ G. Wijesuriya, *Living Heritage*, in: A. Heritage, J. Copithorne (eds.), *Sharing Conservation Decisions: Current Issues and Future Strategies*, ICCROM, Rome 2018, pp. 43-56.

⁷ National Cultural Policy 2067, 13 July 2010, https://www.tourism.gov.np/files/publication_files/31_1503553165.pdf [accessed: 21.07.2022].

⁸ See footnote 1.

does not seem to consider the living heritage dimension. This is highly unfortunate, although not surprising considering that the AMPA was adopted at a time when the heritage conservation field was not much open to matters of intangible or living heritage.⁹ The original format of the Act, including its title, follows the Anglo-Saxon model of such Acts, for instance the one adopted under British rule in India in 1904.¹⁰ Hence, despite never having been colonized, Nepal's heritage legislation follows the model imposed on the wider region by the British. Taking more consideration of the living nature of Nepal's heritage would require a total overhaul of this legislation, which is currently not on the agenda.¹¹

For moveable heritage, the AMPA distinguishes between “archaeological objects”, which are moveable heritage objects of more than 100 years old, and “curio”, which are objects less than 100 years old. According to the Act, archaeological objects cannot be moved outside of Nepal, nor can they be moved within the country (Article 13). Since Nepal has never been colonized, and the AMPA was in place almost as soon as the country opened to foreign visitors and did not allow any objects to leave the country, Nepalese objects of more than 100 years old which were taken abroad were illicitly obtained.

The AMPA also has provisions for the government to place objects under its protection, even in the case of private property, for instance if there is a risk that they may be damaged (Articles 7 and 14). In 1986, a 5th amendment to the Act added Article 20A,¹² which allows for those objects under government “protection” to be returned and:

To reinstate or put it to its usual place: If the ancient monument or the archaeological object received at the Department of Archaeology pursuant to paragraph (a) of the Proviso to Section 20, is requested by the concerned owner or the trustees to be given back to them for reinstalling or for keeping it in its usual place, a recommendation from the Local Office Chief and the concerned Village Development Committee

⁹ The 1950s were the early days of UNESCO's existence (created in 1945). This was a time when ICOMOS was internationally setting the standards for heritage conservation, through the Athens Charter (1931), which was in 1964 replaced by the Venice Charter. Both documents are very much focused on material conservation and the importance of archaeology. While Europe and North America were the strongholds of this early conservation movement, their influence was already spread internationally, including in Asia. Attention for the non-material heritage in the professional heritage field only really arrived in the late 1990s and early 2000s, for instance through the adoption of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (2003) or ICCROM's Living Heritage Sites Programme (2003).

¹⁰ The Ancient Monuments Preservation Act, 1904, 18 March 1904, https://www.indiacode.nic.in/handle/123456789/2339?sam_handle=123456789/1362 [accessed: 21.07.2022].

¹¹ A sixth amendment of the AMPA has been pending government approval for several years, but it also does not represent a total change of the nature of the present law. (Information obtained in discussion with Bhim Nepal, legal advisor with the Nepalese Government, June 2022.)

¹² This amendment was mainly added to allow the government to return stolen items confiscated within Nepal to the communities, but it can also be applied to the return of objects from foreign collections. (Information obtained in discussion with Bhim Nepal, legal advisor with the Nepalese Government, June 2022.)

or Municipality the Department of Archaeology may, if deemed proper, give back the said object to the concerned owner or the trustee by causing them to enter into a deed as necessary.

This amendment, although added in 1986, is currently at the centre of a recent development within Nepal. The Article in question includes a provision that the original owner(s) of an object – which can also mean “the community” – can ask for the return of an object in the care of the Department of Archaeology (and thus also of the public museums that fall under the responsibility of the Department), provided that it returns the object to its original location. While Article 20A, as well as some other Articles in the AMPA, recognizes private ownership and the role of communities for heritage preservation, it remains focused on the material aspects of heritage, without explicitly acknowledging the living heritage dimension. Specific regulations or procedures to implement this Article are yet to be formulated.¹³

Uma-Maheshwor Stolen from Dhulikhel

To better illustrate how the implementation of the law is changing today, we will look at the case of an Uma-Maheshwor idol from the Wotol area in the village of Dhulikhel. Dhulikhel is a small Newari town on the ancient trade route between central Nepal and Tibet, on the outskirts of the Kathmandu Valley. The 12th century limestone idol of Uma-Maheshwor is a stele or bas-relief, a typical sculptural form in the Kathmandu Valley.¹⁴ The sculpted stones, with a non-sculpted backside, tend to be integrated into temples, small shrines, or waterspouts (*hiti*). They can also be free-standing in public spaces. The Uma-Maheshwor was part of a *hiti*, until it was stolen from there in 1982.

Illicit art trafficking has been a major problem in Nepal, especially in the historic towns and villages of the wider Kathmandu area, where stone sculptures as well as wooden and metal sculptures are everywhere, often in public spaces, making them easy targets for looters. When Nepal, which had long remained closed to foreigners, opened to tourism in 1951, these objects were suddenly exposed

¹³ At the time of writing, efforts are said to be underway to formulate such procedures at the level of the Department of Archaeology.

¹⁴ The Uma-Maheshwor iconography represents Shiva with his consort Parvati at Mount Kailash, surrounded by other deities. Shiva sits cross-legged with Parvati leaning against him. Underneath the Gods are dancers. Usually, such reliefs have a statue of Nanda (bull) in front of them. The two elements form one whole. In this case there is also a Nanda, the original which remained in place after the Uma-Maheshwor was stolen. The Uma-Maheshwor iconography is both sensual and detailed, making it attractive for traffickers (and for the art market). Therefore, there are not many Uma-Maheshwor left in the Kathmandu Valley.

to the interests of an international art market.¹⁵ Kanak Mani Dixit describes how since the 1960s thousands of objects have been trafficked,¹⁶ and Jürgen Schick estimates that 50 to 60% of all art in the Valley has been stolen.¹⁷ Having not suffered the typical colonial looting, Nepal faced serious difficulties when its living heritage was suddenly exposed to a public and an art market that considered the Gods as art objects with a monetary value.

Though trafficking has lessened today, Gods continue to be stolen.¹⁸ The 1970s and 1980s were particularly “busy” in terms of trafficking. It was during this period of intense art trafficking in Nepal that two individuals commenced work on inventories of the art that can be found throughout the Kathmandu Valley: Jürgen Schick, who published his work as *The Gods Are Leaving the Country*; and Lain Singh Bangdel's *Stolen Images of Nepal*.¹⁹ Their careful documentation even allowed them, in some cases, to keep track of the exact dates when objects disappeared, which has created a unique situation that today is very useful when Nepal seeks to claim its idols back. Hence, while this was not their initial objective, these publications would soon become major resources in the fight against trafficking, but even more so in the quest for restitution.

The Uma-Maheshwor from Dhulikhel was also stolen during this period and had been documented by Schick prior to being stolen. Little is known about the whereabouts of the idol in the first years after it left Dhulikhel. Until the Museum of Indian Art in Berlin (now integrated into the Humboldt Forum) bought it from an art dealer in Wiesbaden in 1985 for about 100,000 Deutsch Mark (ca. €51,130),²⁰ the Museum of Indian Art was said to be unaware that the Uma-Maheshwor had been stolen from its original location. Sometime after this purchase, it came to the attention of Nepalese art specialist Lain Singh Bangdel

¹⁵ J. Schick, *The Gods Are Leaving the Country: Art Theft from Nepal*, rev. Eng. ed., Orchid Press, Bangkok 1998.

¹⁶ K.M. Dixit, *Gods in Exile*, “Himal Southasian”, 1 October 1999, <https://www.himalmag.com/gods-in-exile/> [accessed: 30.05.2022].

¹⁷ J. Schick, op. cit.

¹⁸ While it was not the purpose of my fieldwork or my research to look into ongoing trafficking in Nepal, nevertheless, while conducting fieldwork several contacts mentioned that objects were still being stolen. For instance, on 7 December 2021 Roshan Mishra of the Nepal Heritage Recovery Campaign tweeted about the disappearance of a Bhairab statue from Kathmandu the night before (<https://twitter.com/r0shanmishra/status/1468050279174078465> [accessed: 31.05.2022]). See also A. Dhakal, *The Enigma of Arrival of Nepal's Gods*, “Nepali Times”, 2 December 2021, <https://www.nepalitimes.com/banner/the-enigma-of-arrival-of-nepals-gods/> [accessed: 31.05.2022], in which the author refers to a statue being stolen in Godavari in the week he was writing the article.

¹⁹ J. Schick, op. cit.; L.S. Bangdel, *Stolen Images of Nepal*, Royal Nepal Academy, Kathmandu 1989.

²⁰ M. Spice, *Piece by Piece, Pillaged Art Is Sent Home to Nepal*, “The Guardian”, 6 September 2000, <https://www.theguardian.com/world/2000/sep/06/nepal> [accessed: 31.05.2022]; S. Tuladhar, *Return of the Gods*, “Nepali Times”, August 2000, <https://archive.nepalitimes.com/news.php?id=11342#.YkqqrjRZpQ> [accessed: 31.05.2022].

and Götz Hagsmüller, a Nepal-based Austrian architect who at the time was working on the restoration of the Patan Museum, that the Uma-Maheshwor was in Berlin.²¹

The German Museum of Indian Art was very receptive to the request from Nepal. Its director Marianne Yaldiz stated that “once [we] knew the image was stolen we did not hesitate in deciding to return the relief to Nepal [...] it was the only correct decision”.²² The Uma-Maheshwor was formally returned to Nepal on 28 August 2000, and brought directly to the Patan Museum, where it has remained since.²³ The choice of the Patan Museum, instead of the National Museum, can be explained by a number of reasons. First, the Patan Museum was at the time brand new (having opened in 1997) and the most modern museum in the country. Moreover, its renovation had been done with German and Austrian support, designed by Hagsmüller, who also identified the Uma-Maheshwor in Berlin. Hence, it was a logical choice both for the Nepalese and German governments. While the formal decision to move the Uma-Maheshwor to the Patan Museum was taken by the Ministry of Culture, Tourism, and Civil Aviation, it is likely that this was done upon the request of (or at least in coordination with) Germany.²⁴

The return of the Uma-Maheshwor was the first ever bilaterally-negotiated restitution case in which a public institution returned a stolen object to Nepal. It was only predated by the return in 1999 of four statues from a private collection in the United States.²⁵ At the time, there was not yet a formal procedure in place for such returns.²⁶ Nowadays, the formal process dictates that the objects first pass to the Ministry of Culture, Tourism, and Civil Aviation and its Department of Archaeology, to then be handed over to the National Museum. The National Museum then has the discretion to further distribute the objects, for instance to municipal museums or back to the source communities.²⁷ This means that for community restitution the God first passes through this formal channel.

Marianne Yaldiz, director of the Museum of Indian Art in Berlin, accompanied the work upon its return. My search through the documentation available at the

²¹ Interview with Rabindra Puri, Nepalese heritage expert, May 2022.

²² Quoted in M. Spice, *Piece by Piece...*

²³ Interview with Suresh Lakhe, Director of the Patan Museum, April-May 2022; interview with Rabindra Puri, Nepalese heritage expert, May 2022.

²⁴ Interview with Rabindra Puri, Nepalese heritage expert, May 2022; interview with Jürgen Schick, heritage expert, May 2022.

²⁵ This first return concerned a Saraswati head from Parphing, a 9th-century Buddha from Patan, a 14th-century Surya from Panauti, and a 10th-century Garudasana Vishnu from Kathmandu. All these were brought to the National Museum in Chauni. M. Spice, *The Valley Where the Gods Have Vanished (Book Review of “The Gods Are Leaving The Country: Art Theft from Nepal” by J. Schick)*, “South China Morning Post”, 3 September 2000, http://d30021575.purehost.com/book_reviews/gods_leave_scmp.html [accessed: 04.04.2022].

²⁶ Interview with Jayaram Shrestha, Director of the National Museum, April 2022.

²⁷ *Ibidem*.

museum did not reveal any further details about the return process or the reception of the idol in Nepal.²⁸ Interviewees in Nepal spoke of “celebrations” or “a ceremony” having been organized upon its arrival in Patan, but without recalling specific details. The limited memory of the events, including among museum staff, likely indicates that celebrations were rather limited to some more formal events, such as a handing-over ceremony at the Patan Museum. What is clear though is that this process followed the typical conservation approach in which the Gods were treated as “statues” and brought to a museum, where their material nature could be adequately safeguarded. The process was thus little mindful of the living nature of the heritage that was being returned; meaning that the Gods were placed in the guarded environs of a museum, where people could see them but not worship them. Already at that time some Nepalese, such as S. Tuladhar, raised questions about the appropriateness of this conservation approach:

The Uma-Maheshwor was being worshipped by hundreds of Dhulikhel devotees when it was stolen in 1982. In Berlin it was just a piece of sculpture admired by connoisseurs for its artistic finesse. And if it is tucked away in a glass case in the Patan Museum, Uma and Maheswor will be safe, but there won't be much difference between being in Berlin and being in Patan.²⁹

Despite these questions being raised in the local media, the process that was followed in the case of Uma-Maheshwor has remained in place until recently.

A Shift in Approach

Since 2021, Nepal's approach to restitution has changed, and the returned Gods are ever more often finding their way back to their original homes in the community. This new approach follows less the Western conservation models and is more mindful of the Nepalese culture, making these processes more meaningful locally. A pivotal moment triggering this new development was the return of a Laxmi-Narayan idol from the Dallas Art Museum (US) – first to the Patan Museum, and then to its original shrine at Pathko Tole in Patan.³⁰ When the Laxmi-Narayan was returned to Nepal in March 2021, it initially followed the standard procedure. Since it originated from Patan, it was handed over by the government to the Patan Museum,

²⁸ Fieldwork in Nepal, April-May 2022.

²⁹ S. Tuladhar, op. cit.

³⁰ In a blog post for the Nepal Heritage Recovery Campaign, Alisha Sijapati narrates how the pending return of the Laxmi-Narayan already in early 2021 triggered increased interest in various communities throughout the country, including among the residents of Dhulikhel. A. Sijapati, *Nepal's Gods Return from Exile*, NHRC, 28 January 2021, <https://nepalheritagerecoverycampaign.org/news/nepals-gods-return-from-exile/> [accessed: 30.05.2022].

which kept it in storage.³¹ However, at the end of the year it was moved out of the museum and back to its original location in a shrine nearby.³² This return of the Gods was cause for major celebrations. The local newspaper *Nepali Times* quoted a 70-year-old resident of the area: “Laxmi-Narayan travelled to America [sic], but he missed being home”, emphasizing the living nature of the Laxmi-Narayan.³³ Local sources also documented how Bimal Lal Shrestha and his family, whose ancestors had built the shrine, were joined by a priest to perform a special ceremony, and how the family had in its possession copper “clothes” for the Laxmi-Narayan.³⁴ For some four decades, the family had kept the clip-on clothes, hoping that one day they could be fitted to the Gods again.

The fact that the return of the Laxmi-Narayan to its original location received so much media and social media attention was an important stimulus for community returns. It made people throughout the Kathmandu Valley aware of the possibility to request such a return.³⁵ Not only did this lead to increasing pressure from communities to have their Gods back, but equally efforts are being made by the various government institutions to make this happen. Government officials as well as experts have made it clear that, in line with the AMPA, the intent is to bring as many as possible retrieved objects back to their communities.³⁶ Proof of this point is the return of a Buddha figure by the National Museum to Bhinche Bahal, in Patan, in early 2022. Like many other Gods, the idol had been at the National Museum for several years. The celebrations around the return of the Laxmi-Narayan inspired the community of Bhinche Bahal to also request that their idol be returned, a request that was fulfilled a few months later.

This new momentum is supported by a group of citizen activists, who formed the Nepal Heritage Recovery Campaign (NHRC).³⁷ Because official capacities to follow up on the large numbers of cases are sometimes limited, the NHRC helps

³¹ E.L. Thompson, *Returned to Nepal by the FBI, a Sculpture Becomes a God Again*, “Hyperallergic”, 17 December 2021, <http://hyperallergic.com/700760/returned-to-nepal-by-the-fbi-a-sculpture-becomes-a-god-again/> [accessed: 31.05.2022].

³² Press release by the Nepal Heritage Recovery Campaign: NHRC, *Press Release: Laxmi-Narayan’s Return to Patko Tole, Patan*, 4 December 2021, <https://nepalheritagerecoverycampaign.org/news/press-release-laxmi-narayans-return-to-patko-tole-patan/> [accessed: 30.05.2022]. Media coverage of the return to the shrine, including pictures of the celebrations: A. Dhakal, *Laxmi-Narayan...*

³³ A. Dhakal, *Laxmi-Narayan...*

³⁴ Ibidem; E.L. Thompson, op. cit. Both sources also include pictures of the copper clothing applied to the Gods.

³⁵ Various interviews with community members, experts, and museum professionals in Nepal, April-May 2022.

³⁶ Fieldnotes, visit to Nepal, April-May 2022. Interviews with various government officials and heritage experts.

³⁷ Z. Small, *Citizen Activists Lead the Hunt for Antiquities Looted from Nepal*, “The New York Times”, 29 October 2021.

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to identify Nepalese art in foreign collections, prepare documentation, push the authorities to submit formal claims, sustain media attention, and assist with many other aspects of the return process.³⁸ The aims of the NHRC and those of the authorities are largely aligned, allowing them to jointly make significant progress.³⁹ This is not only driven by the need for stolen idols to return to Nepal, but also by a strong belief that these Gods belong in their communities, where they can be worshipped.⁴⁰ On the occasion of the Laxmi-Narayan's return, Riddhi Baba Pradhan, Chair of the NHRC and former Director of the Department of Archaeology, stated that:

The return and restoration of stolen statues to their original temples and plinths is important because they are the centre of focus of communities, besides being a part of our culture and history. Tangible heritage as represented by the statuary is vital in keeping Nepal's intangible heritage intact and vibrant, through associated rituals, processions and festivals. We in the Campaign hope that the return of Laxmi-Narayan to Patko Tole and the security features introduced will encourage other communities to work for the return of their stolen gods and goddesses.⁴¹

The efforts of the NHRC and the government are further aided by social media activism, such as the anonymous Facebook group *Lost Arts of Nepal* that works to identify Nepalese objects in foreign collections. This stimulates ever more requests for return by the Nepalese authorities. Of course, the number of Nepalese Gods abroad remains very high, and the returns are few in comparison, but the change in pace in recent months is marked and visible. With the increased numbers of restituted idols, public attention remains high, which in turn stimulates requests from communities. It is also important to note that most of these returns are from the US, whose ambassador to Nepal is highly supportive of the matter. Moreover, those participating in the returns from the US seem to understand and support Nepal's intent to bring the idols back to their communities. At least insofar as concerns the recent cases, the returning institutions have not imposed demands on the Nepalese authorities in terms of where the idols would be kept. This is an approach that gives the Nepalese government full discretion over what it does with its heritage, and the government has clearly decided to support its return to the communities.

³⁸ Interview with Kanak Mani Dixit, Nepal Heritage Recovery Campaign, April-May 2022.

³⁹ For instance, on 24 May 2022, the Department of Archaeology announced the arrival of five more pieces from the US (announced on social media by the DoA; Press Release issued by the Nepalese Embassy in Washington D.C. on 18 May 2022, on file with author).

⁴⁰ Interviews with various members of the NHRC, April-May 2022.

⁴¹ NHRC, op. cit.

When the Gods Come Home

The Laxmi-Narayan case created momentum in terms of the number of returns to Nepal (at least from the US), similar to developments elsewhere in the world. The case also paved the way for those returned idols to be restituted to their original locations, which is the real novelty of the new Nepalese approach. Perhaps the most noticeable, from an outsider's perspective, is the support for these community returns by the museum community in Nepal. Globally, the restitution debate typically pays a lot of attention to the museum infrastructure in source countries. Having the "adequate" infrastructure and preservation conditions is often an important part of the negotiations. In cases where these infrastructures are lacking or do not exist, projects are often mounted to improve or even build the necessary environments for the artworks that are to be returned.⁴² In Nepal too the National Museum, like the Patan Museum, houses returned objects and is, according to the official strategy, the first place of storage for returned Gods.

However, Nepal's conservators are fully in favour of "emptying" their museums and bringing the returned Gods back to the communities from which they originally came. The National Museum, for instance, has a room specifically dedicated to returned Gods and also invites Nepalese people and heritage experts to help identify their provenance in cases where it is not yet known. While the museum professionals were concerned about security and material conservation, they also believed that in the case of Nepal's Gods the living traditions should prevail and that the Gods belong with the people. One possible explanation could be that Nepal was never colonized and did not inherit museums as colonial institutions with a Western-inspired conservation tradition.⁴³ Those that were established are striving to strike a balance between their conservation role and the living culture that surrounds them.

Hence, Nepal has decided to adopt a very different model, in which the aim is for ever more returned idols to leave its museums and return to the people. Ashish Dhakal quotes the Director of the Patan Museum: "The priority is always full restitution [...]. To install them *in situ* is our priority. The deities become stale and stagnant in museums. Restored to their shrines, the gods can be worshipped again".⁴⁴

⁴² An example is the new museum for restituted art that was recently announced to be built in Senegal. See A. Villa, *Albers Foundation to Launch New Museum in Senegal Aimed at Housing Restituted Artifacts*, "ARTnews", 16 May 2022, <https://www.artnews.com/art-news/news/albers-foundation-launch-new-museum-senegal-restitution-1234628808/> [accessed: 01.06.2022].

⁴³ Based on interviews and informal discussions with Roshan Mishra, Director of the Taragoan Museum; Swothi Kayastha, Nepal Arts Council; Kai Weise, Nepalese heritage expert; and Rabindra Puri, Nepalese heritage expert, April-May 2022.

⁴⁴ A. Dhakal, *The Enigma...*

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The Director of the National Museum confirmed that, according to the AMPA (Article 20A), communities have the right to ask for their Gods back, and that the museum is happy to cooperate when such requests are received. He added that three conditions must be met: 1) The community must demonstrate that the object will be “used”, i.e., worshipped; 2) The community or local authority needs to demonstrate that it can guarantee the security of the object; and 3) Basic preservation standards must be in place.⁴⁵ These provisions are not explicitly part of the AMPA and have not yet been formalized as procedures for the implementation of the law, but they seem to nevertheless be demanded and understood by the communities that are requesting returns.⁴⁶ These provisions are much more considerate of the living heritage status than the AMPA itself.

Of utmost importance is the first condition, namely that the Gods must be worshipped. This means, for instance, that the Gods should not be moved to a local museum. To some extent, Article 20A of the AMPA implies this by referring to “reinstalling or for keeping it to its usual place”. In principle this means that if the God will return to the place where it used to be worshipped and the culture still be very much alive, worshipping will logically follow. Thus, returns to the community first and foremost support living culture.

This prioritization of living heritage is combined with two provisions that take a more standard conservation approach. The community must ensure the security of the returned Gods and commit to their proper material conservation. How to secure the returned Gods remains an important question, because, in earlier decades idols that had been confiscated from looters within Nepal had later been stolen again.⁴⁷ Today, people believe that the risk is lower because the general awareness about the risk of looting is higher and there are tighter controls on illicit trade. In the case of idols that return to the communities, people and local authorities rely on a combination of police, increased awareness, and technological tools like CCTV and alarms. The latter systems however require reliable electricity supply and regular maintenance. There are also ways to better fixate the idols to the shrine, temple, or whatever context and situation they are placed in. Of course, safeguarding the Gods in publicly accessible places will always contain a risk, and the current trend towards bringing the Gods back to the people may be jeopardized if one of the Gods were to be stolen again. For now though a pragmatic approach prevails, while discussions on how to improve security continue.

The provision of material conservation also leads to a complex discussion. Naturally the preservation of the *intangible* heritage – i.e., the application of vermilion powder, leaving rice grains, and the touching of the Gods – impacts the pres-

⁴⁵ Interview with Jayaram Shrestha, Director of the National Museum, April 2022.

⁴⁶ Ibidem. At the time of writing, efforts are said to be underway to formulate procedures at the level of the Department of Archaeology.

⁴⁷ S. Tuladhar, op. cit.

ervation of the *tangible* heritage. At the Nepal Art Council, the message was clear that it is more important to assure “maintenance” of the heritage and to not create conditions which could damage it, and that “preservation” should not imply that the heritage cannot be used.⁴⁸ Roshan Mishra, an expert member of the NHRC, added that while the tangible heritage should be protected as much as possible, the living nature of the traditions should prevail.⁴⁹ After all, the Gods were made to be part of intangible traditions, not for being preserved forever in sterile museum environments. However, many of the people involved with heritage preservation seem to struggle with balancing the preservation of tangible and intangible values, especially in those situations where both cannot be guaranteed at the same time.⁵⁰ These are instances where “Western” approaches to heritage conservation, a system in which most Nepali heritage professionals were educated, are at odds with local values and needs. For the time being a practical approach prevails, in which the Gods are returned to the people and worshipping takes place. It is recognized that a gradual deterioration of the tangible heritage aspects will automatically, albeit slowly, follow.

Restitution and Living Heritage

Upon the return of the Gods, the communities are now also faced with new questions, challenging their intangible traditions in novel ways. In the case of the Laxmi-Narayan, its return to the community was delayed by several months, in part because security measures needed to be installed, but also because there were discussions within the community on the “status” of the Gods.⁵¹ The idols had left the shrine and even the country. While the whereabouts of the Gods were still unknown, a copy had been installed in the shrine, and the necessary rituals had been performed to bring the copy to life.⁵² Moreover, the Laxmi-Narayan had succumbed to some damage. Traditionally, damaged statues tend to no longer be worshipped, and are normally replaced by an intact copy. So what was to happen to those idols that had left the country, had been replaced, and now came back?

⁴⁸ Interview with Swosti Kayastha, Nepal Art Council, May 2022.

⁴⁹ Interview with Roshan Mishra, Director of the Taragaon Museum and Nepal Heritage Rescue Campaign, May 2022.

⁵⁰ *Ibidem*; interview with Suresh Lakhe, Director of the Patan Museum, April-May 2022.

⁵¹ E.L. Thompson, *op. cit.* Fieldnotes, visit to Patan, discussions with community members and those in charge of the Patan Museum, April-May 2022.

⁵² Considering the living nature of the heritage, one could debate whether this is really a “copy” once it is brought to life or whether the living one is the “original”. However, for purposes of clarity, in this article I am using the term “original” to refer to the oldest version of the idol and “copy” to refer to the version that was made after the “original” was stolen.

For the Laxmi-Narayan, the community decided that it wanted the original back, and that both the original and the copy could stay within the shrine. To that end the copy was moved to the side, making space for the original idol in the centre of the temple. A *puja* was conducted to bring the original back to life, which in principle means that there are now two “living” statues side by side. This is something that traditionally would not have happened, since copies were only made when the original needed to be disposed of.⁵³

Also, in the case of the Uma-Maheshwor in Dhulikhel, people had continued to worship the empty niche at the *hiti*. In 2022, a copy was made and installed in the place of the original. At that time the community already knew that the original was safe in the Patan Museum, and discussions were ongoing about its possible return. Hence, the copy has not yet been brought to life.⁵⁴ In my discussions with the community, many believed that the original was still “alive”, and there was no agreement (yet) as to what would happen to the copy in case the original Uma-Maheshwor would return to the *hiti*. Since it has not yet been brought to life, the situation would likely be less complex than in the case of the Laxmi-Narayan.

Both cases demonstrate that communities are not only faced with novel questions regarding their intangible heritage, but that they also come up with different solutions, depending on the case. According to Riddhi Pradhan, former Director-General of the Department of Archaeology and chairperson of the NHRC, there are no fixed rules for these situations since the return of stolen idols poses an entirely new set of questions to a community.⁵⁵ For the time being, communities seem to figure out on a case-by-case basis how they wish to address these new questions. It may be that with an increasing number of returns to communities, new traditions will take shape and will become more standardized than is currently the case.

Is Uma-Maheshwor Going Home?

Back in 2000, the Uma-Maheshwor was not returned to Dhulikhel for several reasons. One of them was that at the time it seemed to be standard practice to transfer the idol to a museum. This practice was little mindful of the needs of the community and instead addressed existing security and preservation concerns. Yet at the same time, worshippers in Dhulikhel would have preferred the Uma-Maheshwor to return home. For instance, interviews conducted in Dhulikhel by Dixit at the time revealed that:

⁵³ If in the past copies were made, for instance to replace a damaged statue, there were traditions in place to dispose of the damaged original. Informal discussions with Kai Weise, Nepalese heritage expert, April-May 2022.

⁵⁴ Fieldnotes, visit to Dhulikhel with Suresh Lakhe, Director of the Patan Museum, May 2022.

⁵⁵ Informal discussions with Riddhi Pradhan, chairperson of the NHRC, May 2022.

[I]n Dhulikhel's Wotol, the locals have no doubt that they want the real thing. "Do everything you can to bring it back, please," said 75-year-old Nanimaya [...]. The mount where the Uma Maheswor stood is presently occupied by a piece of rock, but the vermilion and flower offerings on it show that even the spot is regarded as sacred by local people.⁵⁶

One interviewee in Dhulikhel said that he had seen the Uma-Maheshwor at the Patan Museum over a decade ago and since then it has always been his dream to bring it back to his village. He added that at the time it did not seem possible, but now was hopeful things had changed.⁵⁷

The same group of local activists in Dhulikhel has been active at least since early 2021, asking the Patan Museum for the return of the Uma-Maheshwor. They have interviewed the museum director repeatedly for social media posts, are advocating with local politicians, and at the time of my fieldwork were very actively engaged in finding a workable solution in coordination with the Patan Museum.⁵⁸ Considering that this involves the first bilaterally-negotiated return to Nepal and a top-piece of the museum's collection, moving the Uma-Maheshwor out of the Patan Museum would be a major feat and a symbolically important step in implementing this new approach on the part of the Nepalese government.⁵⁹

During my fieldwork, the Patan Museum was actively engaged in moving the Dhulikhel case forward, in part inspired by the Laxmi-Narayan case and other ongoing community returns; and in part encouraged by the actions from the people in Dhulikhel. I joined a visit to Dhulikhel by the museum director, who indicated that a return of the Uma-Maheshwor may be forthcoming. Only days after our visit, a group of residents from Dhulikhel visited Patan to further advance the return of the Uma-Maheshwor.⁶⁰

However, some issues still need to be addressed, demonstrating that this change in approach by the Nepalese authorities comes with specific matters to be resolved on a case-by-case basis. In this case, the most important matter is where the original Uma-Maheshwor would be brought back to. Locally, not everyone agreed that the Uma-Maheshwor should return to the *hiti*. Some residents preferred to place it in a local museum and keep a copy at the *hiti*. The main

⁵⁶ S. Tuladhar, op. cit.

⁵⁷ Fieldnotes, visit to Dhulikhel with Suresh Lakhe, Director of the Patan Museum, May 2022.

⁵⁸ Sijapati (op. cit.) refers to the group already active in early 2021. During my fieldwork in spring 2022, additional social media posts were being made, and I met the group together with the Director of the Patan Museum in May 2022. Two days after our visit to Dhulikhel, the group also visited the Patan Museum to continue the discussion, which seemed to be in advanced stages at the time of my research.

⁵⁹ Another return that is currently high on the agenda is that of the Saraswathi head from the village of Pharphing, which was the first ever return to Nepal (in 1999) from a private US collection, and has since been housed in the National Museum. Fieldnotes, visit to Nepal, April-May 2022.

⁶⁰ At the time of my fieldwork, local elections were underway (they took place on 13 May 2022), which is one of the main reasons why no final decision was taken yet.

reason for this was concern for the safety of the idol. But in that case worshipping would not be possible, which in principle contravenes the AMPA provisions and the requirements currently imposed by the government. It was clear, however, that a majority wished for the Uma-Maheshwor to be returned to its original location, where they could once again worship it. If the government stays true to its policy of prioritizing living heritage, the Uma-Maheshwor should indeed return to its original location.

A second issue concerns the current state of the *hiti*. Works on the main road in 2021 led to the demolition of the ancient brick *hiti*, which has now been replaced with a stone and cement structure. In addition, in early 2022 a replica of the Uma-Maheshwor was made and added to the new *hiti*. Leaving aside the aesthetic questions, which are ultimately to be addressed locally, the materials were also changed and especially the concrete cement could pose problems for the conservation of the Uma-Maheshwor. The Director of the Patan Museum made clear that returning it to a brick and natural mortar structure would be a precondition for the Uma-Maheshwor's return.⁶¹ These however are specific preservation questions, which can easily be addressed without prioritizing tangible heritage preservation over the safeguarding of intangible traditions. It could be a good example of putting into practice what several interviewees mentioned, i.e. that it is about assuring maintenance and avoiding purposefully damaging the heritage, but not about stopping the daily worshipping and any material changes that this may cause.

A third issue concerns the security of the Uma-Maheshwor. Clearly, returns to a *hiti* are riskier than to a temple or shrine, because the Gods are more exposed, and it is harder to protect them in open space. The fears for the safety of the Uma-Maheshwor were confirmed in a conversation I had with Mr. Shrestha, who lives in the house adjacent to the *hiti*.⁶² He was adamant that while the Uma-Maheshwor should be in Dhulikhel, the original location was likely too risky. However, most other residents I spoke to did not agree with that point of view. They all said that the statue should be put back in its original place, and that there were sufficient ways to ensure its safety. As has already been pointed out, the security of the returned Gods is a major issue. There are indeed many means available today that were not available in the 1980s, or even at the time the Uma-Maheshwor was returned from Germany. At the same time, the current process of returning heritage to the communities is unfolding and avoiding the possibility that one of these Gods is stolen again should be a key priority.

Provided that these issues can be adequately addressed, it seems likely that, two decades after its return to Nepal, the Uma-Maheshwor will be able to soon

⁶¹ This also corresponds to the requirements listed by the National Museum, i.e., that proper conservation conditions need to be in place. Fieldnotes, visit to Dhulikhel with Suresh Lakhe, Director of the Patan Museum, May 2022.

⁶² Fieldnotes, visit to Dhulikhel with Suresh Lakhe, Director of the Patan Museum, May 2022.

return to its original location. It is no coincidence that this is possible today, whereas it was not in 2000, as it is part of the new policy to return Gods to their original homes to the extent possible.

Lessons for the Wider Restitution Debate

The twin questions arise: Why and how does this development in Nepal matter for ongoing developments in the field of restitution, and heritage preservation in general?

First of all, the Nepalese experience demonstrates that it is possible to adopt an approach that is inherently different from returning objects to (national) museums, and to prioritize the needs of communities and their living traditions. Several Nepalese interviewees mentioned that these statues were made for worshipping, not for their preservation in sterile museum environments. By making this clear, also the returning countries and their institutions seem to agree.

Of course, the Nepalese government needs to work on formulating procedures or regulations for the implementation of the law, and there remains a risk of renewed looting. But in the meantime, Gods are returning to the communities, and communities are becoming ever more actively engaged in requesting their Gods back. The size of the festivities upon the return, the extent to which the debate is a lively one within villages throughout the Kathmandu Valley, and the (social) media attention given to the topic all demonstrate that this approach is strongly appreciated and relevant. This means that returns are not a mere political process, but a highly meaningful event for local people. Ultimately, my interviews with authorities, museums, and communities all demonstrated that the current approach is stimulating all of them to invest more in restitution.

Nepal's example also establishes that it is possible for bilaterally-negotiated restitutions to be eventually returned to communities. In many cases around the world, bilateral negotiations that leave communities out result in objects being returned to major institutions and not to the source communities. As a result, there have been calls for restitution "from below" and for museums and States to engage more directly with source communities.⁶³ Nepal's example demonstrates that bilateral negotiations, even if they do not directly involve the source communities, can result in a return of Gods to these source communities, so long as the host country leaves it to the discretion of the source country to decide on the best future for the returned idols.

Moreover, the increasing number of returns in recent months shows that Nepal has chosen its own approach and is encouraging, rather than discouraging,

⁶³ L. Tythacott, K. Arvanitis (eds.), *Museums and Restitution. New Practices, New Approaches*, Ashgate, Farnham 2014.

host countries to engage more in returns.⁶⁴ It is also significant that Nepal is taking a strong position regarding the local meaning of its heritage, and that it is supported in this by local experts and the media. In this way a strong front has been formed that is clear in its approach and its priorities, and it seems that returning institutions are appreciative of this.

Conclusions

The return of stolen idols to their communities of origin highlights how for the first time the government in Nepal is prioritizing living heritage over more traditional conservation standards. At the same time the government is prioritizing Nepalese needs – i.e. for people to be able to worship the Gods – over the more traditional demands that are usually imposed by foreign institutions with whom the returns are negotiated. They are even perhaps at times stretching the limits of the AMPA, which remains much more traditional in its approach. The Nepalese approach is not only innovative, it also seems highly appreciated by the communities themselves, who are actively engaged in seeking the return of their Gods. This in turn has stimulated the authorities to more actively request the return of stolen Gods from foreign institutions.

At the time of this writing, the Uma-Maheshwor is about to make its way back to the village of Dhulikhel, four decades after it was stolen and over two decades since it was returned to the Patan Museum. That Nepal's first bilaterally-negotiated return is about to leave the Patan Museum gives witness of a new approach adopted by the Nepalese authorities and strongly supported by heritage experts throughout the country. The Gods are finally making their way back home, where they can serve the purpose for which they were created: to be worshipped. The discussions around the return of the Uma-Maheshwor demonstrate the complexities involved in balancing the preservation of living heritage with that of tangible heritage. They allow us to raise important questions, which will need to be monitored and debated in the years to come. More importantly, the case of Nepal demonstrates that a different approach to restitution is possible – one in which Western institutions do not impose numerous preconditions, but in which local authorities and communities decide on what works best for them.

⁶⁴ In the case of Nepal, a large majority of these returns are from US-based private cultural institutions (museums, universities, galleries) and a smaller number from European private institutions (like auction houses and galleries). It seems that this matter is more complicated for European national collections, where returns and the associated de-accession are often more legally complex. For instance, two statues in the collection of the Musée Guimet in Paris were identified as stolen objects, leading the museum to agree on a return already in 2013. However, to date both statues remain in France. B. Rai, *Back Where They Belong*, "Nepali Times", December 2013, <http://archive.nepalitimes.com/article/nation/Nepal-needs-to-be-prepared-for-the-return-of-stolen-religious-figures.986> [accessed: 29.05.2022]; *Le Népal réclame au Musée Guimet le retour de deux statues*, "Le Journal des Arts", 23 April 2014, <https://www.lejournaldesarts.fr/le-nepal-reclame-au-musee-guimet-le-retour-de-deux-statues-121620> [accessed: 29.05.2022].

References

- Ancient Monuments Preservation Act, 2013 (1956), *Nepal Gazette*, 27 July 2013, <https://nepal-tradeportal.gov.np/resources/docs/ancient-monument-preservation-act-2013-1956.pdf> [accessed: 21.07.2022].
- Bangdel L.S., *Stolen Images of Nepal*, Royal Nepal Academy, Kathmandu 1989.
- Dhakal A., *Laxmi-Narayan Is Home*, “Nepali Times”, 4 December 2021, <https://www.nepalitimes.com/banner/laxmi-narayan-is-home/> [accessed: 30.05.2022].
- Dhakal A., *The Enigma of Arrival of Nepal's Gods*, “Nepali Times”, 2 December 2021, <https://www.nepalitimes.com/banner/the-enigma-of-arrival-of-nepals-gods/> [accessed: 31.05.2022]
- Dixit K.M., *Gods in Exile*, “Himal Southasian”, 1 October 1999, <https://www.himalmag.com/gods-in-exile/> [accessed: 30.05.2022].
- Le Népal réclame au Musée Guimet le retour de deux statues*, “Le Journal des Arts”, 23 April 2014, <https://www.lejournaldesarts.fr/le-nepal-reclame-au-musee-guimet-le-retour-de-deux-statues-121620> [accessed: 29.05.2022].
- Meskeel L., *A Future in Ruins: UNESCO, World Heritage, and the Dream of Peace*, Oxford University Press, Oxford 2018.
- National Cultural Policy 2067, 13 July 2010, https://www.tourism.gov.np/files/publication_files/31_1503553165.pdf [accessed: 21.07.2022].
- NHRC, *Press Release: Laxmi-Narayan's Return to Patko Tole, Patan*, 4 December 2021, <https://nepalheritagerecoverycampaign.org/news/press-release-laxmi-narayans-return-to-patko-tole-patan/> [accessed: 30.05.2022].
- Rai B., *Back Where They Belong*, “Nepali Times”, December 2013, <http://archive.nepalitimes.com/article/nation/Nepal-needs-to-be-prepared-for-the-return-of-stolen-religious-figures,986> [accessed: 29.05.2022].
- Schick J., *The Gods Are Leaving the Country: Art Theft from Nepal*, rev. Eng. ed., Orchid Press, Bangkok 1998.
- Sijapati A., *Nepal's Gods Return from Exile*, NHRC, 28 January 2021, <https://nepalheritagerecoverycampaign.org/news/nepals-gods-return-from-exile/> [accessed: 30.05.2022].
- Small Z., *Citizen Activists Lead the Hunt for Antiquities Looted from Nepal*, “The New York Times”, 29 October 2021.
- Spice M., *Piece by Piece, Pillaged Art Is Sent Home to Nepal*, “The Guardian”, 6 September 2000, <https://www.theguardian.com/world/2000/sep/06/nepal> [accessed: 31.05.2022].
- Spice M., *The Valley Where the Gods Have Vanished (Book Review of “The Gods Are Leaving The Country: Art Theft from Nepal” by J. Schick)*, “South China Morning Post”, 3 September 2000, http://d30021575.purehost.com/book_reviews/gods_leave_scmp.html [accessed: 04.04.2022].
- The Ancient Monuments Preservation Act, 1904, 18 March 1904, https://www.india-code.nic.in/handle/123456789/2339?sam_handle=123456789/1362 [accessed: 21.07.2022].
- Thompson E.L., *Returned to Nepal by the FBI, a Sculpture Becomes a God Again*, “Hyperallergic”, 17 December 2021, <http://hyperallergic.com/700760/returned-to-nepal-by-the-fbi-a-sculpture-becomes-a-god-again/> [accessed: 31.05.2022].
- Tuladhar S., *Return of the Gods*, “Nepali Times”, August 2000, <https://archive.nepalitimes.com/news.php?id=11342#YkqerjRZpQ> [accessed: 31.05.2022].

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Tythacott L., Arvanitis K. (eds.), *Museums and Restitution. New Practices, New Approaches*, Ashgate, Farnham 2014.

Villa A., *Albers Foundation to Launch New Museum in Senegal Aimed at Housing Restituted Artifacts*, "ARTnews", 16 May 2022, <https://www.artnews.com/art-news/news/albers-foundation-launch-new-museum-senegal-restitution-1234628808/> [accessed: 01.06.2022].

Wijesuriya G., *Living Heritage*, in: A. Heritage, J. Copithorne (eds.), *Sharing Conservation Decisions: Current Issues and Future Strategies*, ICCROM, Rome 2018.