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The Role of Cultural Diplomacy in Addressing Loss of Cultural Property: Perspectives from Sri Lanka

An LKI Roundtable with Dr. Naazima Kamardeen
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Three key takeaways from the roundtable discussion with Dr. Naazima Kamardeen -

- 1. There are two main times during which cultural property was lost in Sri Lanka; during the colonial era, and during conflict.**
 - 2. Currently, neither international law nor domestic law in Sri Lanka supports the return of cultural property that was taken in the colonial era.**
 - 3. Cultural diplomacy efforts should be broadened to include education on the unique value of cultural objects to their countries of origin, and to begin negotiations to have these objects returned and safely preserved in their ‘home’ countries.**
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Introduction

- Dr. Naazima Kamardeen, Professor in the Department of Commercial Law at the University of Colombo, addressed a roundtable discussion on ‘The Role of Cultural Diplomacy in Addressing Loss of Cultural Property: Perspectives from Sri Lanka’ on 8 October 2019, at the Lakshman Kadirgamar Institute (LKI). This event was held with the support of The Asia Foundation.
- The presentation was followed by a discussion moderated by Dr. Dinusha Panditaratne, Nonresident Fellow at LKI.
- The roundtable was attended by Mr. P. Amza, Additional Secretary to the Ministry of Foreign Affairs; HE Rita Giuliana Mannella, Ambassador of Italy in Sri Lanka; and Mr. Premalal Ratnaweera, Secretary General of Sri Lanka National Commission for UNESCO, as well as other government officials, representatives of the media, think tanks, academia, and private sector.

Takeaways from Dr. Kamardeen’s Presentation:

Loss of Cultural Property in Sri Lanka

- The looting and destruction of cultural property has been a feature of colonisation and armed conflict in Sri Lanka.
 - The largest removal of Sri Lankan cultural property occurred during the British era. There are more than 3,000 recorded items in 16 UK museums.
 - A notable example is the 10th century bronze statue of Tara, who is considered an embodiment of the female Buddha. This statue was taken from the last King of Kandy and given to the British Museum by Governor Brownrigg in 1830.
 - Sri Lanka also lost cultural heritage as collateral damage during the 30 years of civil war and the LTTE reportedly traded in cultural objects to raise funds.
- However, the loss of cultural property has also occurred at times other than colonisation and conflict. In 2012, a number of artefacts were stolen from the Colombo National Museum, including swords from the Kandyan era and ancient coins.

International Legal Regime Governing the Return of Cultural Property

- Sri Lanka, Portugal, the Netherlands, and the UK are all state parties to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970). This contains provisions mandating that state parties help each other to recover and return stolen property when requested to do so by the source country.
 - However, the convention only covers the movement of objects after 1970, and therefore does not have any bearing on objects stolen during the colonial era.
- The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995) provides a maximum time limit of 50 years for the return of a cultural object from the date its location and possessor become known.
 - Whether this convention would help Sri Lanka to recover objects taken during the colonial era is open for interpretation. Currently, neither Sri Lanka nor the UK is a party to the convention. The Netherlands and Portugal are parties.
- The current international legal regime is Eurocentric and does not support the legal right the return of cultural property lost during the colonial era.
 - Initiatives like the ‘UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation’ instead seek restitution based on principles of justice, rather than on the rules of international law.

Sri Lanka’s Domestic Legal Regime for Cultural Property

- The Antiquities Ordinance (1940), provides for the preservation of antiquities, sites and buildings of historical or archaeological importance. However, it only contains provisions for cultural objects “discovered” in Sri Lanka and not those held abroad.
- The Cultural Property Act No. 73 of 1988 provides for control over the export of cultural property through a licencing scheme for dealing in cultural property.
 - This is welcome legislation but it has no retrospective effect and only regulates activities that took place after 1988.

Initiatives for the Return of Sri Lanka’s Cultural Property

- The UK has not responded positively to requests made by the Sri Lankan government in 1970 and again in 2013 to return property taken during the colonial era.
 - This may be due to a concern that this will encourage requests from many other former colonies. The British Museum Act (1963) also forbids the museum from disposing of its holdings, except in a small number of special circumstances.
- In regard to the Netherlands, the Rijksmuseum recently initiated talks with the Sri Lankan government to discuss the potential return of items removed during the Dutch colonial era. This may have a positive ripple effect on the UK’s willingness to engage.

The Potential Role for Cultural Diplomacy

- Cultural diplomacy can be defined as the deployment of a state's culture in support of its foreign policy goals or diplomacy.
 - This has not necessarily included the use of diplomacy to regain lost cultural property because most requests for restitution have been demands.
- Examples of cultural diplomacy involving restitution of property have often been linked to other (e.g. economic) interests that may be detrimental to the affected country.
 - For example, Belgium was willing to return objects to the Democratic Republic of Congo, provided that its mineral interests in the DRC were protected.
- The cultural diplomacy dialogue should be broadened to include education on the unique value of cultural objects to their countries of origin, and to begin negotiations on how these objects may be returned.

Takeaways from the Discussion:

- There are over one hundred museums in Sri Lanka, revealing a strong interest in the preservation of cultural heritage. However, a lack of uniformity, and scientific approaches to the preservation of cultural objects in those museums is a concern.
- As well as seeking the return of lost cultural property, Sri Lanka should engage former colonial powers to strengthen its capacity to preserve cultural property in the country and ensure it is accessible to a broad audience – both local residents and foreign tourists.
- Civil society, including influential organisations abroad, can play an important role in educating people about the importance of lost cultural property. This will help to raise the profile of restitution efforts and increase pressure on host countries to return items.
- International law evolves. Sri Lanka can work with other former colonies (perhaps starting with SAARC) to initiate a change of mindset, with a view to changing the law. Meanwhile, digital museums can be created to show objects that belong to Sri Lanka.

Suggested Readings:

Boffey, D. (2019). *Rijksmuseum laments Dutch failure to return stolen colonial art*. [Online] The Guardian. Available at: <https://www.theguardian.com/world/2019/mar/13/rijksmuseum-laments-dutch-failure-to-return-stolen-colonial-art> [Accessed 1 November 2019].

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Rambukwella, C. (2018). *Museums: time stands still*. [Online] The Sunday Observer. Available at: <https://www.sundayobserver.lk/2018/01/07/features/museums-times-stand-still> [Accessed 1 November 2019].

Hunt, T. (2019). *Should museums return their colonial artefacts?* [Online] The Guardian. Available at: <https://www.theguardian.com/culture/2019/jun/29/should-museums-return-their-colonial-artefacts> [Accessed 1 November 2019].

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