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# Scrutiny Modern Day Museums and the Legal and Social Structures That Criticize Them

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**Disciplines**  
Anthropology

# Scrutiny

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Structures That Criticize Them*

Samantha Osborne

Senior Honors Thesis

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Samantha Osborne

## **Introduction**

In 2011, James Felch and Ralph Frammolino's Chasing Aphrodite: The Hunt for Looted Antiquities at the World's Richest Museum hit bookstores around the world. On countless shelves and online bookstores, the hardcover displayed two vicious griffins beginning to tear into an innocent doe with their teeth and talons. There can be a number of interpretations for this choice of imagery. The simple interpretation is that the slipcover captures one of the infamous pieces that the J. Paul Getty Museum acquired from businessman Maurice Tempelsman ("Looting Matters", Online). However, I believe that Felch and Frammolino chose this statue to represent the Getty's pursuit of illegal objects over several decades. Adding emphasis to this idea, the book designer cunningly encloses "hunt" between the griffins' wings. Summarizing, Felch and Frammolino boast, "Chasing Aphrodite exposes the layer of dirt beneath the polished façade of the museum business" ("Chasing Aphrodite: NPR", Online). And so it does.

Italy indicted Marion True for trafficking looted antiquities in 2005, shaking the art intellectual world in unimaginable ways. The reverberations are still felt today as institutions strive for transparency and über-ethical programming. As these non-profits scramble to restore public trust, this Getty's exposé is published and met with great polarity:

Archaeological looting is a terrible menace, and the extent to which museums appear to have abetted the problem is particularly disturbing. But facts matter. In reducing the Aphrodite case to a story of "curatorial avarice," Felch and Frammolino end up sacrificing some of the truth. (What Went Wrong at the Getty?", Online)

An irresistible, hair-raising tour of looting, smuggling, corruption and cover-ups set in the dazzling, billion-dollar enclave of the J. Paul Getty Museum. (“Reviews”, Online)

Chasing Aphrodite was not the first exposé of its kind, but was certainly the most provocative. The story went beyond a standard museum history book; no figure was presented without a scandal or dramatic revelation. Many of the anecdotes seemed just as illicit as the antiquities. It is clear that the two reporters, Ralph Frammolino and James Felch, are writing this story from a point of view that challenges the museum’s actions. The conclusion—ironically, the least biased part of the book—gives the reader much to think about. One prominent message that the reader can take away is that wealthy museums like the Getty might require legal interventions because there is the possibility of an ulterior motive unbeknownst to its. The release of Chasing Aphrodite highlights a shift in American sentiment towards museums.

It is not simply illegal acquisitions that have changed the nature of museums. Numerous public scandals indicate an overall shift in American museum culture. Following one of the worst economic downturns in American history, institutions across the country were soon forced into an era of revelation and finger pointing. Such scandals included the opening of the Crystal Bridges Museum and the aforementioned Getty Museum’s illegal acquisitions. No matter the issue, the public was dissatisfied with some aspect of non-profits, leading to an overall relationship of distrust between museums and their cities. Public criticism soon echoed throughout hollow galleries, spinning public relations departments to a flurry. Nonetheless, museums continued to defend their actions. For example, following the decision to relocate the Barnes Foundation from Lower Merion to Center City,

Philadelphia, many expressed concerns over the legality of such a move. After all, it was a violation of Albert C. Barnes' will, which specifically states, "...the artwork could never be relocated, sold, or loaned out to museums." ("Albert C. Barnes", Online)

Since the filing of the original petition, rarely a day has gone by without a letter or phone call arriving at the [Court of Common Pleas, Montgomery County, Pennsylvania Orphans' Court] from someone wanting to weigh in on this matter. Politicians, art scholars, financial experts, and former students...major newspapers...legal scholars, attorneys, and law professors...the court has studiously avoided being influenced by these outside forces... (Gerstenblith, p. 279)

Nonetheless, the Board of Trustees successfully petitioned an amendment in the Foundation's charter. The Barnes is currently preparing to open its new doors on Benjamin Franklin Parkway in Philadelphia, but not without opposition. Since these plans have taken flight, numerous protests online and on the streets of Philadelphia have ensued. An anti-relocation documentary, *The Art of the Steal* was released in 2009, following the organizational and individual efforts to defend Barnes' will and prevent the move ("The Art of the Steal", Online). Grossing \$544,890, the film was not remarkably successful in mainstream terms, but members of the art community were soon enveloped in its discourse ("The Art of the Steal", Online).

Museum funding has proven to be quite scandalous as well. In 2005, art collector Shelby White and the recently deceased Leon Levy were accused of possessing objects that had been illegally excavated. The Italian cultural officials that made the accusation pinpointed some illegal works that sat in the Metropolitan Museum of Art—the museum of which White is a trustee—and have since issued

subpoenas to the New York City landmark. By January of 2008, the Shelby White collection returned 10 antiquities that she and her husband purchased:

“Ms. White said, ‘From the beginning, Leon and I collected with the intention of preserving the past, so that people around the world could learn more about their history . . . In the case of the returned objects I believe I have taken the appropriate action’ (“Shelby White, the Returns to Italy, and the Geneva Polaroids”, Online)

Her “appropriate actions” did not mean that Levy and White escaped the scandal unscathed. The Met’s newly opened “Leon Levy and Shelby White Court” was met with great criticism, accusing the board of praising a pair that financially supported looting. The couple were big name philanthropists in New York City, even donating “\$200 million in cash and real estate for the founding of an ancient studies institute” at New York University (“\$200 Million Gift Prompts a Debate Over Antiquities”, Online). The generous donation made news as the NYU community protested—one professor even resigned. Neighboring institutions also shook their heads at NYU’s acceptance of such money, including the University of Pennsylvania, University of Cincinnati and Bryn Mawr College (“\$200 Million Gift Prompts a Debate Over Antiquities”, Online). The Leon Levy and Shelby White scandal was so large that even their benefactors succumbed to scrutiny.

The public has been quite vocal about these issues in ways they have never been before in terms of museum activities. Some, like Frammolino and Felch, have written books. Others have organized protests, debates, and boycotts. The criticisms have become so large-scale, government agencies have interceded museum decisions. At a time when distrust and economic uncertainty runs high,



there appears to be a legal and social sensitivity surrounding cultural heritage. Now museums are forced to adapt their handling of large-scale ethical issues.

Acquisitions, or newly acquired objects, are the issue that generates the most debate in particular and opposition has led to drastic changes in programming, initiatives, and museum practices as a whole. Given, the mission statements they commit to, directors needed to undergo great changes.

### **HISTORY**

History has shown us that museums are in a constant and rapid state of evolution. The 1773, building of the Charleston Museum of Charleston, South Carolina was (Alexander, p. 6) the first American Museum, but the concept of museums, as we know it today, did not develop until the Charles Wilson Peale creates the Peale Museum ten years later. Institutions that preceded the Peale's were solely reserved for the privileged as sites of philosophical exploration with a few public access opportunities. Charles Wilson Peale sought to make museums more than that, becoming a primarily public museum filled with his "specimens of animals, birds, and insects with realistic backgrounds and displayed portraits of nearly three hundred Founding Fathers . . ." (Alexander, p. 6). By the 20<sup>th</sup> century, museums were viewed as centers of information. Americans sought museums in the hopes of becoming enlightened. In addition to the education, museums offered amazement. Be that the dioramas of a natural history museum, the technological advancements of a science museum, or the period pieces of an art museum. At best, it was as though the World Fair had made a home in America's backyards.

The American museum was evolving at a rapid rate. With a public audience, the threat of theft quickly heightened the need for security to become mandatory. Furthermore, the Industrial Revolution introduced the need for conservation, as precious objects were exposed to the toxic pollution that technological innovation produced. American museums were met with the task of funding operational improvements. Fortunately, also in thanks to the Industrial Revolution, conservation research had improved greatly by this time. The 20<sup>th</sup> century saw a new need for financial source of funding.

Funding by donation was nothing new; the Medici family is best known for their financial encouragement in art and academia in the 16<sup>th</sup> and 17<sup>th</sup> centuries (King, p. 6). However, the need for financial support became an urgent matter in the 20<sup>th</sup> century. The first government involvement comes from the National Commission of Fine Arts in 1850, which eventually dissolved. Council of Fine Arts in 1909 soon followed along with several other councils, commissions, and programs that would be plagued by the Great Depression, Recessions, and the World Wars (DuBoff, P. 8). Wealthy families were no longer a reliable resource either. Financial events affected them just as well, the most pivotal being the start of the income tax in 1913 (King, P. 6). The Morgan's, Carnegie's and Rockefeller's were quickly disappearing from non-profit institutions. The movement towards fundraising is introduced in 1932 by Alfred Barr of the Museum of Modern Art and thrown into full gear following World War II. Museum funding would become a stronger and stronger determinant of how museums would operate and exhibit in the 20<sup>th</sup> and 21<sup>st</sup> centuries.

Many early museums displayed replicas of ancient objects and art pieces. But as prominence rose, the desire for authenticity and legitimacy did as well. Museums, generally defined by what they possess, were in search of the various ways they could expand their inventory. For example, personal collectors would often entrust their prized investments in the hands of museum conservation departments. Transactions took place among individuals and institutions exchanging objects for other objects or money. This soon opened the doors for art trafficking, which was soon becoming a practice amongst those most desperate to condition their galleries. A platform was forming for the modern-day critic.

As museums became more and more public, so did the expectation of their mission to be public-oriented. In 1889, George Brown Goode of the Smithsonian stated:

The museums of the future in this democratic land should be adapted to the needs of the mechanic, the factory operator, the day laborer, the salesman, and the clerk, as much as to those of the professional man and the man of leisure . . . In short, the public museum is, first of all, for the benefit of the public. (“Code of Ethics for Museums”, Online)

American museums had to operate in a way that was mindful of the public. They were after all, representative of the country—a country known for its democracy and equality. It was no longer acceptable to reserve museums as a societal privilege or an extension of a wealthy person’s collection. Others soon echoed Goode’s statement, the most notable being the American Association of Museum. In 1925, as direct as George Brown Goode’s declaration, AAM’s “Code of Ethics for Museum Workers” stated:

Museums, in the broadest sense, are institutions, which hold their possessions in trust for mankind and for the future welfare or the [human] race. Their value is in direct proportion to the service they render the emotional and intellectual life of the people. The life of a museum worker is essentially one of service. (“Code of Ethics for Museums”, Online)

Fast-forward to the end of the 20<sup>th</sup> century and we find a dramatic change in public and institutional sentiment. The Guggenheim Museum introduced the world to their new and long-awaited building in Bilbao, Spain on October 19, 1997. In one swoop, the art museum opened to the public, revitalized the city as a cultural Mecca for Spain, and sparked an era best known as the “Museum Bubble” (“History”, Online). Practically an overnight success; the phenomenon coined the term “the Bilbao effect”. The Bilbao effect is the theory that if a cultural heritage institution is built or enhanced in a culturally depressed area, the construction will lead to an increase in tourism and future funding (“The Bilbao Effect”, Online). For the next decade, countless museums around the world took the same fiscal leap in the hopes of attaining the same success. Ben Davis, associate editor of Artnet Magazine, described the period as “super-charged, risk fueled craziness” (“The Museum Bubble”, Online). Somehow, the non-profit world allowed the museum bubble to be very large. There are many reasons for this. Frank Gehry’s Guggenheim attracted tourists on an international scale, sparking competition throughout the museum world. After all, if this museum is new and capable of raising an entire city from the ashes, why couldn't an already-established one do the same? Donors shared similar sentiment and encouraged museums to mirror the Guggenheim’s expansion. For the first several years, individual donors donated millions of dollars in the hopes of seeing their names on new wings. Foundations like the Rockefeller Foundation and

government agencies like the National Endowment for the Arts funded these organizations through arts initiatives designed to increase awareness of the arts in local communities. (“The Museum Bubble”, Online)

Unsurprisingly, the “burst” of the Museum Bubble coincided with the start of America’s recession in 2008 and the consequences were quite disastrous. For organizations that were in the midst of construction, projects either came to an abrupt halt or were postponed until further funding could be found. Those that completed construction before achieving their fundraising campaigns had to make up their losses by dipping into their endowments or making administrative and programmatic cuts. Many of the museums that boasted of their expansion plans several years earlier were now attacked for their layoffs, hire freezes, and pay cuts. Donors were no longer supporting these institutions as they once had. The government and foundations were forced to shift their focus and money on “more pressing” issues unless museums could demonstrate sound strategic planning. Art needed to protect itself from harsh criticism. (“Museum Funding Crisis”, “The Museum Bubble”, Online). The criticisms would often stem from legal and social structures.

### **The Basis of Legality and Morality in Museums**

Aside from socio-historical factors that urge people to curb museum behavior, there are laws and codes that all non-profit organizations must abide by. In fact, the law can discern which museums *are* non-profit in the first place. Because of this structure, a museum is legally defined by how they earn money, accept and dispel

objects, and respect cultures. Tobie S. Stein and Jessica Bathurst, explains such stipulations in their guidebook Performing Arts Management: A Handbook of

Professional Practices:

Nonprofit organizations are structured as corporations. The corporate status is granted by the state of the government, and the tax-exempt status is a federal designation, which is approved in turn by the state . . . As part of their incorporation, nonprofit organizations are governed by a board of directors (or trustees), who are usually volunteers and don't receive compensation. (Stein & Bathurst, p. 4) . . . Also, after an organization is incorporated, it must hold its first official organizational meeting to create the organizational mission statement and craft the by laws. (Stein & Bathurst, p. 85)

These laws are in part to maintain financially stable institutions, but also to reserve museums as societal property. With 850 million visitors every year, cultural heritage institutions belong to a diverse population of museum goers. The pressure to remain within their ethical bounds becomes that much difficult.

Museum ethics are as elusive as the path to attaining them. The topic has only occupied non-profit discourse for a few decades, but we can see that it played a key role in the evolution of museums since their beginning. American institutions face the highest pressure, as they must not only reflect the values of the government, but also of their funders, and the general public. With this logic, museum professionals do not have to behave ethically towards the objects, but towards the people that the objects for which they are intended. Tristram Besterman, a museum adviser, works to better understand this new term of the museum vernacular:

Ethics is an expression of social responsibility, which necessarily concerns relationships between people . . . Putting the public interest of the museum before personal interest should be the prime ethic for everyone involved with the museum because the potential for conflicts of interest is always present. (MacDonald, p. 431-438)

He uses the terms “public” and “private” interests to demonstrate that a museum always has the option to behave in the favor of the trustee or the director, but must always function as a support for the population it was assigned.

The most influential doctrine that deeply affected art institutions was the UNESCO treaty of 1970. The United Nations Educational, Scientific and Cultural Organization was formed in response to the Second World War. It was important for the Allied powers restore peace and “prevent the outbreak of another world war” (“History”, Online). In response, 44 countries convened in 1945 to sign the Constitution of UNESCO. And have held conferences ever since. In 1970, representatives of approximately 115 countries participated in the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (“Background: U.S. Implementation of the 1970 UNESCO Convention”, Online). The countries recognized that:

“ . . . the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that the international co-operation constitutes one of the most efficient means of protecting each country’s cultural property against all the dangers resulting there from.” (“Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970”, Online)

The Convention was not only a model on how institutions should handle acquisitions; it highlighted a shift in institutional practices from an international point. Since this Convention, American museums have been held at a higher level of accountability. Acquisitional abuses and other offenses have been highly scrutinized, providing a new set of checks and balances to museum behaviors.

### **The Vocal Age**

*The museum world's dirty little secret came to light amid revelations about pedophile priests in the Catholic Church and widespread steroid use in major league baseball. Like those stories, the truth about museums and looting . . . redefined some of America's most cherished institutions in the public mind. (Felch and Frammolino, Prologue)*

Many of the concerns that people have against museums are issues that are not fairly new. In fact, “unethical” practices such as illegal acquisitions and misrepresentation of cultures were the foundations on which many institutions established their reputations. The critics of today established their voices through a catalyst of generational opportunity. Post-Millennium America granted individuals the voice to oppose museum actions.

It is important to recognize that this shift in attitudes against non-profit organizations is not an isolated trend. In fact, one can see that numerous American institutions have lost some credibility and faith. The Catholic Church has been plagued with countless charges against its priests committing unspeakable acts against children. Whether true or not, many wondered how the men of such faith and ethic could behave so poorly. How many athletes in the twenty-first century have been revealed to take bribes and use illegal drugs? How many *more* athletes



have engaged in jaw-dropping scandals, including dog fights, sexual violence, and murder? Politics shows the strongest shift in public views. The Richard Nixon presidency changed the way Americans viewed politicians and government agencies. Prior to his entrance, the public was either unaware or indifferent to them. Then the Vietnam War began *and* the Watergate Scandal occurred, heightening suspicions about the actions of the White House and weakening nationalism. Soon to follow, Washington D.C. Mayor Marion Barry was filmed smoking crack in a hotel with a woman who was not his wife. Shortly thereafter, Bill Clinton was impeached after lying about an extramarital affair with a White House intern. Most recently, it was revealed that Anthony Weiner had sent a Twitter follower a “Twitpic” of his private area. As more and more of these scandals come to light, more and more generations are born into a cloud of doubt.

Technology has served as a strong weapon for museum “scandalization”. It is, of course, the introduction of television broadcasting in the 1950s and 1960s that accelerated the Civil Rights Movement and protests against the Vietnam War. Today, the accelerator for similar movements is the Internet. It has hardly been two decades since the World Wide Web entered households, but Americans now use it for all virtual needs. There is a website for almost any and every aspect of a museum. One can take a virtual tour, listen to a curatorial lecture, and even donate money to an institute of his choosing. On the other hand, one can read an expose of a museum’s illegal activities, write a scathing review about a blockbuster exhibit, and attack the Board of Trustees for poor decision making. With technology, the options are endless.

America being a democracy permits people the opportunity to contest what they find unethical. We are currently a post-colonialist society, striving to rectify past inequalities. No longer a facilitator of slavery, internment camps, or Native American reservations, the U.S. is now a country of refuge and pride for all who resides here. It is for this reason many institutions have needed to repatriate objects of sacred value to indigenous communities after much complaint. This transition in museum practice also signifies a transition in public response—an exercise of the democratic right to speak against authoritative institutions. The first affirmation of this right came with the end of the American Revolution and the signing of the Declaration of Independence in 1776. Revolt against authoritative power is not only a continuation force from America's fight for independence, but it is also an expansion of this initial idea. From 1776, minority efforts have achieved religious, sexual, racial, and disability rights. With each battle for equality in America, there has been a larger platform to openly express concerns surrounding the imbalances within the very institutions that represent it. America is very diverse and public, non-profit institutions must behave within its diverse ideals.

With museums, there is also a romantic element when considering how people view them. They are the largest structures in the world and also happen to hold the most ancient, valuable pieces. As a result, there is always an element of mystery and the unknown. Cinema has profited from this idea for years, transforming institutions like the Metropolitan Museum of Art and the New York Public Library into sites of action, suspense, romance, and drama. Franchises like *Indiana Jones* (1981) and *National Treasure* (2004) led us to believe that behind

every museum wall was a trap door and for every love interest there was a Femme Fatale, who could steal the riches with a bat of her eyelids. *The Thomas Crown Affair* (1968/1999) showed us that works of art were not only invaluable, but one had to be suave and charming to steal them. *Night at the Museum* (2006) and *The Da Vinci Code* (2003) showed us that museums were so much more than a room full of objects: those objects could come to life or even help solve a murder mystery. Finally documentaries like *Rape of Europa* (2006) and *Art of the Steal* (2009) emotionally rallied viewers into art advocacy. Present-day America has grown up on these films and therefore, it naturally feeds off of museums' real-life scandals. For the museum issues we see today, it is easy to pinpoint a villain, a femme fatale, a victim, and a hero. Museums are no longer centers of information; they are magical, mysterious, sexual, and powerful.

The Vocal Age's most notable contributor is probably the financial crises of the 21<sup>st</sup> century. Within the last 12 years, Americans wrestled through some of the largest scandals in this country's history. 2001 brought the Enron scandal to light, revealing a \$60 billion scheme of fraudulency ("Called to Account", Online). The company's pristine façade was stripped, showing a long history of faking numbers and misleading investors. Even worse, the employees that were unaware of these practices lost their jobs and no longer had pension plans ("What the Enron Scandal Means to You", Online). Eight years later, the entire world let out a collective gasp of disbelief when Bernie Madoff pled guilty for the orchestration of his infamous Ponzi scheme. Posing as a wealth investment firm, Madoff attracted a slew of individuals, companies, and families who entrusted him their money. He would then pass that

money onto people who asked for their returns earlier. Cue the 2008 recession, and now, Bernie Madoff's Ponzi scheme has been brought to light. The theft affected countless people, many of whom will never recuperate from the loss. America as a whole was affected—it was a firm reminder that even the institutions with the most trusting façade could have an ulterior motive.

### **Notable Mediums of Criticism**

As public institutions, museums must face criticism through various mediums. These mediums tend to vary in legitimacy and bias, but researchers of museums flock to them for latest news. There are first the news sources that disperse information through print, television, and the Internet. The leading mainstream news source has been the *New York Times*, though it tends to print scarce amounts of operation-related museum news (versus art-related museum news). Museum news has generated a great deal of interpretations and opinions. Many felt that museums were not receiving as much consistent coverage in spite of the large-scale scandals surrounding them. In response to this gap in representation and the opinionated sources, blogs and grassroots news sources have sprouted all over the web. One of the most notable sites has included *CultureGrrl's* webjournal who not only writes blog posts on *ArtsJournal*, but also columns for some of the leading mainstream news sources. *Artfagcity* is another site, which—as the provocative site name implies—captures the more eye-catching topics in the art world. Sites like *CultureGrrl*, *Artfagcity*, and *Looting Matters* have

been wonderful refuge in a world of news that does not provide full coverage of museum issues.

The government has also proven to be an informational extension of museum actions. Though rare, government agencies can and have played a major role in how museums operate. As mentioned in History, they may not have successfully established a sound and stable program to financially equip museums as public institutions. In fact, when considering the amount of federal aid put towards museums versus other programs, government should have very little say.

Nonetheless, a political official can pull much weight and alter the nature of the museum world. Senator Charles Grassley, (D-IA), is the museum whistleblower of Capitol Hill. His platform is one of institutional accountability, which he has used to scrutinize the Red Cross, United Way, and the American Cross. He describes his apprehensions about museums in an interview with the American Association of Museums:

I'm just making sure that the tax laws are enforced, that tax exemption is not being abused, that boards of directors are doing their job. In fact, if you looked at one thing in common in all these, it tended to be that boards of directors were not really doing their job of running the organization and having an arms-length relationship...I'm making sure that organizations that receive tax-exempt money...--that they're good trustees of the money they receive. ("Grassley's Roots: The Man (Some) Museums Love to Hate", Online)

Like many doubtful Americans, he suspected an abuse of funding and wanted museums to claim more responsibility. Even the White House also urged museums to adopt a more patriotic role in America by moving artists and art organizations to participate in the United We Serve campaign as well as other public service

initiatives (“United We Serve’: Should the Arts Be Politically Exploited?”, Online). Governmental involvement is not always felt, but when the issue is that of ethics, they can often pull a great deal of weight.

Regulatory museum organizations encompass the standards of ethical and legal behavior that institutions should embody. It is no surprise then that they are often the *legitimate* voices of criticism—especially when comparing them to bloggers and politicians during election year. There are hundreds of museum associations around the world, the fewest having international representation, the most having representation at city level. The organizations range in mission; serving as umbrellas for regions (Western Museums Association), cultures (Council of American Jewish Museums), specific departments (Visitor Studies Association), and other themes of exclusivity. The most commanding museum associations have been the American Association of Museums and the American Association of Museum Directors. Both founded in the early 20<sup>th</sup> century, AAM and AAMD represents over 21,000 members collectively (“History”, Online). This, of course, only includes those who make a financial commitment. There are still the numerous others who utilize their free resources and follow their activities in the museum industry. News sources often turn to them as determinants of right and wrong in museum cases.

### **Questions to Explore**

Legality and morality have not always been a question that museums had to defend. However, after a series of very notable events, museums have been held to

a significantly higher standard than ever before. Thomas Hoving of the Metropolitan Museum of Art coined the term “Age of Piracy” for the period of time in the second half of the 20<sup>th</sup> century (“Stolen Artworks and the Lawyers Who Reclaim Them”, Online). It is during this time that looting antiquities was at its worst, quenching the collector’s desire to expand without accountability. The objects sooner or later ended up in a museum, which was UNESCO’s cue to assemble the attendees of their 1970 convention for a treaty putting an end to these actions. It is this convention that ends the age of piracy in a technical sense. The Age of Piracy brought much to light and sparked many questions about what exactly sits on display in these large cultural heritage institutions. Many today search for the “real story,” believing institutions may have an ulterior motive unbeknownst and unrelated to the public. More disconcerting is that some of the most reliable figures in the art world can and have been involved in the stickiest scandals. There are so many realms of unknowns that transparency initiatives have not begun to grapple with.

Nonetheless, when dissecting the ethical issues surrounding museums, it is important for critics to keep track of the issues at hand. Legality and morality should be the initial concern. Was the committed offense illegal or immoral? Two very different debates take place when there is a statue that was illegally acquired and a statue that was legally acquired, but critics do not believe the owner to be appropriate. A second question that presents itself: how does the background story of each problem alter the way people view the situation. The provenance of an object can spark great concern, for example. As we will soon see, the personal lives

of people involved can too influence public opposition. The final question that we must ask is why these concerns are significant in the first place. If nothing illegal has taken place, if the museum's actions do not affect the public or government in any overt way, if even a regulatory organization's code of ethics does not extend towards the actions of a museum—why is there an issue to be had? These three questions will serve as my tools for navigating and interpreting the two case studies related to the Getty Museum and the Crystal Bridges Museum.

### **First Case Study: Marion True of the J. Paul Getty Museum**

#### *Original Story*

The J. Paul Getty Museum has graced the museum world since founder, J. Paul Getty, made the economically savvy decision to display his personal collection in 1953 (Felch & Frammolino, p. 21). Heir to a wealthy oil company and Forbes' wealthiest man of 1957, Getty found that art had become a passion and an investment (Felch & Frammolino, p. 16). This passion would soon turn into the best tax exemption a miser could ask for. After years of collection, his small museum opened to the Los Angeles public and ever since its questionable beginnings, the J. Paul Getty Museum has continued to walk the thin rope of ethical behavior. At one point, "...the single biggest buyer of [Giacomo] Medici's antiquities appeared to be the world's richest cultural institution..." (Felch & Frammolino, p. 176) This includes not only the illicit antiquities that slithered into the storage and galleries, but also a multi-decade tax scheme, and hypocritical policy on museum reform.



By the time Marion True attained the title Curator of Antiquities in 1986, she was already aware of the looted objects under her control (Felch & Frammolino, p. 79). Her predecessor, Arthur Houghton strongly advised her to turn a blind eye and avoid acknowledging this information. Instead, in what would soon become true *True* fashion, Marion True walked the issue across tight rope. In no time, the curator began to navigate the art world duplicitously. Her public image showed a woman of the law. She was ironically an advocate for the UNESCO Convention of 1970 and the Berlin Declaration of 1988. The Declaration:

“urged museums to investigate the ownership of objects to make sure they weren’t illegal and called on antiquities-rich countries to loosen their grip on artifacts in their vast inventories . . . for long-term study. (Felch & Frammolino, p. 115)

Cunningly navigating through the new wave of museum ethics, True sought the emergence of the Berlin Declaration as an opportunity to organize and host a summit at the Getty about this very matter. She was quickly becoming “the model of curatorial ethics”, attending conferences and even testifying against her colleagues in court as the face of justice. (Felch & Frammolino, p. 118).

The other half of her two-facedness embarked on a completely different path. She quickly became a thread in the web of the illicit antiquities trade. Her quick-wittedness helped her to weed out the illegitimate markets and pinpoint the authentic spoils. In addition to her participation in illicit antiquities, she developed personal relationships with some of the Getty’s prized clients. Lawrence and Barbara Fleischman were two of such clients, whom True not only befriended, but also turned to for private loans and board in New York. She was well aware that

“accepting favors or gifts from someone with whom the Getty did business was expressly prohibited...” (Felch & Frammolino, p. 128)

True met her demise when Giacomo Medici was indicted for his dirty dealings in 2003. One year later in December, the antiquities dealer was found guilty of “trafficking hundreds of antiquities that had been looted from Italy” (Felch & Frammolino, p.253). His business of looting and smuggling was revealed to have an extensive network of clientele. Though Medici denied it, True of the Getty Museum was one of such clients. In fact, “the Getty was known in the Swiss Trade as the Museum of the *Tombaroli*” (Tomb raiders) (Watson & Todeschini, p. 99)

As the liaison between Medici and the museum, True orchestrated these purchases, often corresponding through private letters. In 1992, True writes:

*I was also very grateful to have the information on the provenance of our three fragmentary proto-Corinthian olpai . . . To know that they came from Cerveteri and the area of Monte Abatone is very helpful to the research of one of my staff members...*

*I intend to be in Rome Together [with] John Walsh on February 19<sup>th</sup> through the 23<sup>rd</sup>. I will be back in Rome again from March 8<sup>th</sup> through approximately March 12<sup>th</sup>. During one of these visits, I hope that we will be able to get together and have some further discussion about future acquisitions. (Watson & Todeschini, p. 98)*

Two years later, after many years of investigation, Italy’s Carabinieri finally found Medici’s art warehouse in Switzerland—the most infamous and dramatic discovery in the history of looting.

It was a pool...but this pool wasn’t used for swimming. Standing in the water, in rows, like so many giant chess pieces, was a score or more of ancient vases and jars...There was no hiding what the pool room was used for. (Watson & Todeschini, p.8-9)

With this discovery and the incriminating Polaroid pictures Medici took of himself with his sales, Italian officials had enough to indict the art dealer. True too had to serve time in Italian court for “receiving artifacts stolen from Italy and conspiring to deal in them” (“Rome Trial of Ex-Getty Curator Marion True Ends”, Online). Eventually, five years had passed since the start of the trial, and by October 2010, the statute of limitations had expired on the charges against Marion True. The trial ended without any type of resolution and the ex-curator of the J. Paul Getty Museum was free to return to her now-devastated life and career. (Felch & Frammolino, p. 312)

### *Case Study Analysis*

I’ve chosen the trial against Marion True as my first case study for several reasons. First, there is much research surrounding the scandal giving me a hefty portion of meat to cut. This is one of the largest, richest institutions in the world and fortunately (for me), nearly every detail of their operations and public response has been documented. Medici Conspiracy and Chasing Aphrodite have not only been commanding resources on the subject, but also proof that public and governmental scrutiny has commanded change in museum operation. Marion True committed an immoral act, but was her involvement in the trade *illegal*?

In relation to the previously mentioned “Vocal Age”, Marion True is the only museum official who has faced the backlash of a public trial *and* invalidation of her previous career. That is not to say that others did not commit the same fault. One must understand that Marion True is far from an individual case. In fact, it would

not be surprising that her toughest critics were also her fellow conspirators. Patty Gerstenblith, a law professor and director of DePaul University's Center for Art, Museum and Cultural Heritage Law, provides numerical information to support this theory:

Archaeologists who have studied the market in antiquities estimate that approximately 85-90 percent of antiquities on the market do not have documented provenance...they suggest the likelihood that most of these antiquities are the product of recent site looting. (MacDonald, P. 451)

This does not fare well when thinking of the number of new acquisitions that a museum can make in a year. There is no defending her actions, but to label her solely as a villainous human being would be a disservice and complete oversight to a constant problem. In that same breath, if she is to be held morally accountable for these purchases, more individuals should have been as well. After all, this was not simply Marion True acquiring these objects independently. She made the correspondences, but there were far more individuals involved than the media chose to reveal.

Since ethics is concerned with human behavior, its application starts and ends with the individual. Whilst institutions must have ethical policies in place, it is the individual's commitment to those institutional values--from members of the board to every member of staff--on which the museum's ethical credentials rely. That in turn depends on a well-resourced policy of professional development throughout the organization. (Macdonald, P. 438)

She did not have the final say on each purchase like the Board of Trustees had, and she did not fund the purchase like the finance department. Chasing Aphrodite and Medici Conspiracy do not seem to recognize this fact either, placing a large moral weight on True.

When a museum acquires an object for its collection, it must be certain that it is able to acquire valid legal title, that other legal rules... are not violated, and that the works are authentic. (Gerstenblith, p. 297)

Legally, Marion True was at fault for her involvement in the illicit antiquities market. The objects could not attain legal titles or be proven to be authentic because their provenance was erased when it was looted from Italian soil. Acknowledging the lack of provenance is more difficult for museum professionals than people would think. To concede to speculation is to admit wrongdoing. By admitting to wrongdoing, museum officials could be opening the door to newer speculations surrounding object provenance. The more questions museums face, the less credibility they have as centers of knowledge—and so the domino effect continues. "...it is highly unethical for a museum to support the illicit market in any way, directly or indirectly" (Gerstenblith, p. 298). Institutions that succumb to denying accusations provenance is one of the reasons museums have such a bad reputation.

#### *Post-Research Analysis*

It is near impossible to read The Medici Conspiracy and Chasing Aphrodite: The Hunt for Looted Antiquities at the World's Richest Museum with a blind eye and neutral opinion about Marion True. Interestingly, the authors of each publication portray the curator with very biased language. When talking about the acquisitions, the utmost emphasis was placed on True, when really it was a multi-departmental effort. Coincidentally, Marion True recognizes this imbalance from the angle of personnel when writing to her Getty superiors:

In the letter, which was read in court, she accused the Getty Trust of having left her to “carry the burden” of the institution’s collecting practices, even though her superiors at the museum and the trust had “approved all the acquisitions made during my tenure.” . . . She allowed prosecutors in Rome and Greece to “place squarely on my shoulder the blame for all American collecting institutions and the illicit market. (Watson & Todeschini p. 304)

True might not only have been recognizing the betrayal of her employer, but also highlighting the gender politics that coined her as the face illicit antiquities. It is for this reason, True is debatably the most identifiable face amidst this scandal—more so than the male Giacomo Medici and male Robert Hecht. Italian prosecutor, Paolo Ferri even admits that:

[The case’s] outcome was largely irrelevant. Ferri told the press that he had no interest in putting the platinum-haired curator in jail. His goal had been to change the behavior of American museums, and that battle had been won. Marion True had been collateral damage, a means to an end, Ferri admitted. (Watson & Todeschini, p. 306)

Jason Felch, Ralph Frammolino, Peter Watson, and Cecilia Todeschini also seem to pluck True out of a sea of misfits.

True is portrayed in a very negative and villainous light. Painting her as the undeserving social climber, the reader rejoices in each misfortune she stumbles upon. Every aspect of her life is up for scrutiny—including her “buxom figure”, “air of unreality”, and “affectionate and almost intimate” correspondences with men (Felch & Frammolino, p. 77-78). I am obviously implying that there is a gender bias—similar to the treatment and portrayal of Shelby White following her acquisition of illicit antiquities—taking place in both bestsellers, and audiences are converted believers. While the men are defined by their resumes, True is defined by her emotions and relationships with men surrounding her. Perhaps she is the real

life “Femme Fatale”, tainting a male-dominated world with her destructive agenda. In the romanticized world of museums that I have previously mentioned, Chasing Aphrodite’s portrayal of Marion True would be a perfect fit.

### **Second Case Study: Alice Walton of The Crystal Bridges Museum**

#### *Original Story*

It is not even a year, and the Crystal Bridges Museum has proven to be an overnight success for Bentonville, Arkansas—the birthplace of Wal-Mart. Within a month and a half of its opening in November, the institution attracted over 61,000 visitors—most local and some international (“Crystal Bridges draws patrons from multiple states”, Online). Its success is in huge part due to its content, an exclusive and *extensive* collection of art by American artists. The roster includes works by Jasper Johns, Andy Warhol, and Norman Rockwell. “I never would have thought of collecting anything but American, truly...this is the heartland of the country. It’s what should be her” (Alice Walton on Her Crystal Bridges Museum of American Art”, Online). The Arkansas economy has also benefited from the success with a hike in tourism numbers. In conjunction with the museum, there is “the 21c Museum Hotel now under construction and the expansion of Wal-Mart Visitors Center on the downtown square”, as well as a sprout of new businesses to host the wave of tourism (“Crystal Bridges helps Bentonville boom in 2011”, Online). Given the huge transformation that has taken place in the city of Bentonville, Crystal Bridges may very well be the second coming of the Bilbao Guggenheim Museum.

Alice Walton, heiress of Wal-Mart, pursued her dream of creating an institution that solely housed American art. Expanding her collection at a rapid rate, the budding museum founder both frightened and excited the art market in the same way that the J. Paul Getty Museum did during its first appearance.

For years I've been thinking about what we could do as a family that could really make a difference in this part of world . . . I thought this is something we desperately need, and what a difference it would have made were it here when I was growing up. ("Alice Walton on Her Crystal Bridges Museum of American Art", Online)

Interestingly, the name of the museum comes from the bridging of two ponds from the body of water, Crystal Springs. The overall motif is nature-based, placing the 201,000-square-foot museum in the middle of a Bentonville park with large windows and walkways overlooking the trees ("American Art, Alice Walton's", Online). The museum is surely one of national pride in the form of art.

While the Crystal Bridges has had a fairly positive reception, critics against its erection have seemed to sprout up all over the country. Some were very disappointed by the collection. Others didn't fancy the museum's founder. The rest took issue with the institution as a whole. Well before its opening, newspapers and blogs buzzed about Walton's plans, showing many skeptics about the venture. One such attack came from Michael Kimmelman in May of 2005. In a New York Times article titled, "Civic Treasure: A Need for Transparency, Not Secrecy", the columnist and prized author expresses his anger over New York institutions selling objects in spite of their invaluable nature. He keeps the article fairly general, pinpointing nonprofits like the Metropolitan and the Guggenheim—each selling pieces despite



public outcry. However he intimates that the motivation behind his publishing the article was Walton's purchase of Asher B. Durand's "Kindred Spirits". Kimmelman's anger over the New York Public Library-Walton deal implied that the value of the painting—"integral to the city's heritage", as he puts it--surpassed Crystal Bridges' status (Civic Treasure: A Need for Transparency, Not Secrecy", Online).

Alice Walton continued to step on toes as she worked to expand her collection for the Crystal Bridges Museum. A year after the Durand purchase, the heiress and the National Gallery of Art had plans to purchase Thomas Eakins's "The Gross Clinic" from Thomas Jefferson University. Aware of the value of the painting, the Philadelphia Museum of Art and Pennsylvania Academy of Fine Arts collaborated to outbid the Crystal Bridges Museum and share ownership. "...Securing "The Gross Clinic" became a point of civic pride in Philadelphia", a competition between two historical institutions and an heiress' un-established collection ("Philadelphia Raises Enough Money To Retain 'The Gross Clinic,' an Eakins Masterpiece", Online). The city came together for the cause and successfully raised enough money, even selling less valuable pieces to make up the difference. There once again seemed to be a dark cloud, looming over Alice Walton's endeavors.

The Crystal Bridges Museum was fighting a losing battle against the art world as it tried to carve a place for itself. Its introduction irked large populations of people, many of whom have no investment in its content or the city of Arkansas. Even worse, the buildup surrounding the museum's opening was quickly shadowed by Alice Walton's arrest. She was charged with driving under the influence on

October 7<sup>th</sup>, 2011—just weeks before The Crystal Bridge’s Museum’s debut. She was quickly released on bail, but reports soon showed that this was not her first DUI offense—having been involved in at least one more, as well as an unexplained car crash that resulted in a woman’s death (“Alice Walton Arrested for DUI in Texas”, Online). Needless to say, the Crystal Bridges Museum has dealt with many a pothole even in its few months of existence. There could be many reasons for its mixed reviews, but all can be summed up as an issue of conflicting ethics.

### *Case Study Analysis*

It is difficult to pinpoint the bone that critics have to pick with Alice Walton’s Crystal Bridges Museum. After all, no law has been broken, to the best of our knowledge. Even the sticky topic of provenance can be avoided because it is an *American Art* institution whose pieces have been acquired in recent decades. Walton’s programming for this institution should be a model for American institutions. The admission is free, thanks to a \$20 million donation from the Walmart Family Foundation (“How Alice Walton’s Crystal Bridges Exposes The Foolishness of Occupy Wall Street”, Online). The building has supported the local economy by hiring local labor and boosting tourism. Finally, the education program is very large for its recent founding. Initiatives include collaborations with local universities, a free field trip program for all local elementary schools, an internship program, high-tech art studios, and even a library (“American Art, Alice Walton’s Way”, Online). Coincidentally or intentionally, the Museum also has a diverse selection of art *and* museum professionals, fairly representing the American

identity. Finally, the Crystal Bridges Museum is “the first major institution in 50 years dedicated to the vast spectrum of American art” with a mission that differs from any other. So what is the problem here? (“American Art, Alice Walton’s Way”, Online)

The elephant in the room is, of course, Alice Walton’s ties to Wal-Mart. Daughter of its founder, Sam Walton, Alice is best known as an heiress with the net worth of \$21 billion (“Alice Walton on Her Crystal Bridges Museum of American Art”, Online). Perhaps, she opened a museum for the tax exemption on the paintings. Rebecca Solnit caustically alludes to this idea when writing about Crystal Bridges’ unpopular acquisition of *Kindred Spirits*:

...something about Wal-Mart and *Kindred Spirits* is more peculiar than all the robber barons and their chapels, galleries and collections ever were, perhaps because, more than most works of art, Durand’s painting is a touchstone for a set of American ideals that Wal-Mart has been savaging” (“Alice Walton’s Fig Leaf”, Online)

The issue at hand is a moral one, primarily stemming from Walton’s connection to Wal-Mart, Incorporation. In recent years, the chain of general stores has battled accusations of various proportions. Reports have included the mistreatment of employees, the poor pay, unsupportive benefits packages, and the practice of outsourcing (“Wal-Mart Heiress’s Art museum a Moral Blight”, Online). It does not seem to help that the Walton Family Foundation gifted the museum with \$800 million to put towards operational expenses (“Alice Walton on Her Crystal Bridges Museum of American Art”, Online). This did not even include the \$10 million the foundation put towards education programming (“American Art, Alice Walton’s

Way”, Online). Columnist, Jeffrey Goldberg sees this as “...a moral tragedy, very much like the corporation that provided Walton with the money to build a billion-dollar art museum during a terrifying recession” (“Wal-Mart Heiress’s Art Museum a Moral Blight”, Online). Many speculate that Wal-Mart is using the museum as a shield of being an un-American corporation.

With Alice Walton as the Chair of the Board *and* the benefactor of an exploitative corporation, the unavoidable question is this: Is there a conflict of interest? Wal-Mart, in a way, has monopolized this institution through the financial commitment it made upon its opening. The simple answer to this question is no: there is no conflict of interest evident. Financially, “the trustee should not benefit in a monetary way from the position of trustee” (Gerstenblith, P. 271). Alice Walton has not financially benefited since the opening of this museum. She and the Walton family, in fact, have not only behaved in accordance with the law, but have operated “in the interest of the public” (Gerstenblith, P. 271).

Given the external circumstances surrounding the Crystal Bridges Museum, there is a large population that may never be converted into believers. For those who take issue with Alice Walton’s collection, the general attitude seems to be that she is robbing treasures of national value. Many of her most recent acquisitions have been international news, demonstrating a lack of trust for the Wal-Mart heiress.

### *Post-Research Analysis*

Regardless of any wrongdoings that take place at Wal-mart, Alice Walton's museum is independent cannot be the brunt of America's criticism. Acquisitions are a key component to the evolution of museums. Expressing anger over her acquisitions is neither beneficial nor grounded. If an unethical act had taken place with purchases like *Kindred Spirit*, it was not on the part of the organizations that sold the pieces. Not coincidentally, New York Public Library made this sale during a time when they were publicly struggling with budget cuts in the millions, layoffs, and other drastic measures ("Upheaval at the New York Public Library", Online). In the museum realm, NYPL would legally be more at fault here. The Association of Art Museum Directors states:

Because development of the collection was the initial intent of the donor of an object or the funds for acquisition the monies ...received from the sale of any accessioned work of art must be used only to acquire other works of art. (Gerstenblith, p. 301)

Deaccessioning for financial benefit has become more and more of an issue, most notably surrounding Fisk University's as it tries to sell Walton 50% ownership of their Stieglitz Collection. However, these are institutions that may not stay afloat otherwise. If Walton saved that many more jobs and kept that many branches open and running, could her purchase of *Kindred Spirit* be considered more justifiable?

It is also unfair to paint Alice Walton as an unfit founder for the museums founding. It wasn't an out-of-the blue attempt to subsidize her collection, but a decade-old plan that required great research and strong knowledge of art and its market. To discredit Walton for her financial background would be to discredit Gertrude Vanderbilt Whitney for the Whitney Museum of American Art or J. Paul

Getty for his institution. In the few months of its opening Crystal Bridges has excelled in comparison to these established museums and is doing so ethically.

### **Conclusion**

Museums across the country are hounded for the difficult question, “What is the future of museums”. To ask such a question implies that there is some shift in museum activities that threatens the norms of a non-profit institution. One such threat is technology or, as Charles Saumarez Smith calls it, “The Technophiliac’s Dream”.

The most extreme manifestation of technological determinism is the idea . . . that museums may simply be swept aside by the tide of new technology: that there is no point in looking at a pile of old bones if you can study them just as well, if not better, on the worldwide web. (Macdonald, P. 544)

In addition to the threat of technology, there are financial and political challenges that may be more than the occasional speed bumps that museums have dealt with in the past. In recent years, museums have been more transparent about how they prepare for these oncoming challenges.

If the J. Paul Getty Museum and the Crystal Bridges Museum have risen from the negative criticisms in recent years, they can certainly withstand these new tests. Because Marion True was indicted as an individual, Getty officials were able to wipe their hands of the incident and chalk it up to poor communication. Ultimately, the Getty had to return approximately forty pieces, causing a huge dip in their once-praised collection, but they nonetheless continue to acquire new pieces as they had before (“Felch & Frammolino, p. 309). The difference now, however, is that they

have been very transparent about every object's provenance. This is in large part due to the Marion True trial, but also because of the shift in attitudes towards illicit antiquities. A newer generation of museum scholars takes place of an older and with that exchange, there is a newer school of thought being ushered into American institutions.

The Crystal Bridges Museum has been an overnight success for Bentonville, Arkansas. The reviews have been fairly positive, even from those who do not find the founding favorable. It is too soon to say how its story will unroll in the coming years, but considering its very public-conscious beginnings—free admission, local labor, a strong education program, etc.—one can only hope that the museum continues this practice.

As quickly as museums evolve, so do their policies. Scandals like the Getty's and Crystal Bridges' have introduced a new discourse about the world of museums. It's clear that the topic of museum ethics appears in various hubs of communication. Of course, museum associations and news sources discuss it, but so do politicians, economists, historians, and the average museumgoer. As long as museums operate, there will always be a conference, legislation, or protest challenging their decisions. Thereafter, it is the museum's choice how to respond to this criticism.

It will be interesting to see how much attention is given to museum ethics in the coming years. The term is difficult to define and certainly difficult to standardize, but it is at the core of every scandal at American institutions. Strategic planning must indicate that actions are being taken towards a more ethical attitude.

Training must be improved—in the classroom or the workforce—to ensure that as newer and newer generations are introduced to museums we are not repeating old offenses. Greater transparency is also a must as a means of negating as much speculation as possible. Finally, there needs to be a return to the mission of museums. Institutions are working so hard to keep their heads above water, some places are slowly transforming into shopping malls and pit stops for the black market.

What is interesting about museums as buildings is that they never change. They stay the same way from their founding, with the exception of a café or gift shop. The factors of a museum structure that does change are the people and objects. Ever so often, the waves of people and objects also generate new standards of ethics. Provenance had not been a public issue until 1970, for example. “Museums operate in the public realm, which is itself subject to change. This means on the one hand, that they must be sensitive to the changing context” (Macdonald, p. 435). Remaining sensitive to these changes could be the difference between a museum that loses relevancy than the museum that survives.



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