

COMST TEAM 5: CONSERVATION AND PRESERVATION

WORKSHOP 4: Legal and illegal circulation of library collections: a study for a better conservation

DATE: January 12, 2012
VENUE: Paris - Faculté Jean Monnet - Salle Georges Vedel - FRANCE
CONVENORS: Stéphane Ipert, Centre de Conservation du Livre (FR)
Raphaële Mouren - Université de Lyon - Ecole Nationale Supérieure des Sciences de l'Information et des Bibliothèques (FR)

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SUMMARY

Organized in close collaboration with project MANUMED¹ and ENSSIB², the 4th Workshop COMST (Team 5) on January 12, 2012 brought together specialists of manuscripts, jurists and library professionals to exchange ideas on the legal and technical challenges of conservation, availability and circulation of manuscripts. Alongside the lawful circulation of manuscripts, the day also focused on the study of illegal international trafficking.

The symposium was structured around three key themes, with particular attention to the second, and speakers made a point of connecting the topics and their impact on conservation issues of manuscript collections:

- The legal circulation of collections from historical and geographical perspectives.
- The illegal circulation of collections and legal solutions for contending with this problem.
- The exchange of concrete experiences between researchers, librarians and collection managers.

Trafficking of cultural property and specifically manuscripts is a predominant variable in the management of collections and recent cases of theft remind us that museums, libraries and places where collections are conserved (notably monastic collections) still suffer widely from the opportunistic or organized impulses of thieves, causing, even today, serious losses in this heritage.

The objective of the workshop was to identify different levers for promoting the reduction of international trafficking of manuscripts, including:

- Strengthening prevention of thefts

¹ Manumed is a project coordinated by the Centre de Conservation du Livre whose objective is to ensure the preservation and the enhancement of Mediterranean manuscript collections.

² ENSSIB: Ecole Nationale Supérieure des Sciences de l'Information et des Bibliothèques (National School for Information and Library Sciences), Lyon, France

- Increasing accountability among owners, curators and scientific managers of collections as well as the buyers of manuscripts.
- Developing thorough documentation of property theft and the creation of catalogues beforehand.
- Improving communication among the parties concerned by this traffic: Ministries, government authorities, jurists, researchers and managers of collections.

DESCRIPTION OF SCIENTIFIC CONTENT AND OF DISCUSSION

Alongside lawful circulation contributing to the appreciation of the diverse forms of cultural expressions and participating directly in the construction and preservation of knowledge, there has always coexisted an international illegal traffic: theft, looting, importation, exportation and all other forms of illegal transfer of cultural property.

This traffic has a direct impact on the conservation of manuscripts as it results in the disappearance of a work or collection. The objective of this workshop was thus to present and discuss, particularly through the presentation of specific cases, the technical and legal methods available to managers of collections for effectively combating this illicit traffic.

However, it was necessary to present the advantages and historic examples of the benefits of the licit circulation of books, in order to avoid resolving the trafficking problem through the immobilisation of collections, which would have a direct impact by ossifying scientific research, and more widely, the circulation of knowledge (closures by private collections managers, especially monastic, for fear of theft, are frequent in Middle Eastern countries).

All of these questions and the solutions introduced have a direct impact on the manner of conserving and enhancing manuscript collections.

§1 The circulation of collections in historical and geographic perspective.

Stéphane Ipert, scientific coordinator of this day with Raphaële Mouren, introduced the topic by reporting the preliminary results of an ongoing study on “the legal status of the circulation of works of art in antiquity”. Through several examples from different periods of Roman history (monarchy, republic, early empire), he made a typology of recorded cases of circulation: spoils recognized as legally acceptable outside of works of art, thefts considered to be illegal, imposed restitutions. S. I. noted that there were few legal texts (laws limiting spoils) and those existing were poorly enforced because the generals recouped for their profit the sales of works of art contained in the spoils. Beyond these examples, the objective of the presentation, an introduction to the discussions, was to demonstrate that the circulation of cultural property has long required regulation- albeit in its infancy during the Roman era –not to impede these exchanges but rather to frame them.

Following on the Roman period, Pedro Rueda, of the University of Barcelona, took us to the sixteenth century addressing the distribution of European books in the exchange network between Spain and Latin America. They were not just any books; works banned by the inquisition indexes were excluded on principle. Despite attempts at control and the enforcement measures accompanying them, the members of the network (printers, publishers, booksellers) developed diverse tactics to smuggle books that promoted the circulation of knowledge between culture and civilisation.

In the modern era, books also circulated a great deal in Europe. Cristina Dondi, from the Bodleian Library (Oxford) showed us how – principally in the 19th century –the collection of incunabula from this library was constituted. Stressing the importance of understanding the origins of works and their

different cultural heritages, C. D. presented the CERL³ (Consortium of European Research Libraries), which provides access to this information and presents itself as an excellent resource centre for collections managers.

§2 The illicit circulation of collections: the legal framework

Dickran Kouymjian introduced the subject of illicit circulation of manuscripts by describing in great detail several cases of disputes concerning Armenian manuscripts that were stolen or in circulation during the period following the Armenian genocide; in an astute transition, D.K. raised – regarding these cases - several legal questions related to the claims. He demonstrated notably that the enforcement of the law is not always the outcome of litigation: it can also be a political process leading to restitution.

It was then the jurists turn to take the floor and present the different judicial frameworks (international, regional or national) to combat the traffic of cultural property. Norman Palmer analysed individual cases relative to the illicit transactions of cultural property and reviewed a number of principles of English law, the manuscripts being treated like any historic object. The disputes presented focused mainly on authenticity, intellectual property, issues of confidentiality, or protecting the privacy of historic documents. He also cited mediation or private transactions as solutions to conflicts.

Marie Cornu shared with us her tour of law “in the making”. Regarding the difficulties encountered in the implementation of an effective and coordinated fight against the illicit traffic of cultural property in the countries of the European Union (results of an international study carried out on behalf of the European Union⁴), she pointed out the distortion of the legislations. Among the numerous recommendations from the findings of the study she presented, we note the need for an increased level of vigilance, the development of cooperation (ratification of international conventions), improvement in methods of information exchange, the creation of spaces facilitating conciliation, mediation or arbitration. These recommendations have recently been adopted by the Council of the European Union in the conclusions concerning the prevention of cultural property crime and the fight against this phenomenon.

Nevertheless, it appears from these discussions, that even if the “legislator” ensures the regulation and implementation of criminal penalties for offenders, the fact remains that many of the disputes are resolved under the leadership of political will. The legal component cannot be the only solution, the implementation of preventive actions and the establishment of prior detailed documentation of the collections are also recommended in order to disrupt and reduce theft and illicit sales:

- Computerized data description system
- Dissemination of catalogues and advice on conservation
- Advice on security particularly for collections open to the public
- Dissemination of descriptions of objects stolen from auction houses, etc.

³ Consortium of European Research Libraries - <http://www.cerl.org>

⁴ “Study on the prevention of and fight against the illicit traffic of cultural property in the European Union”. This report was created for the Directorate-general for Internal Affairs of the European Commission as part of the contract. HOME/2009/ISEC/PL/019-A2.
http://ec.europa.eu/home-affairs/doc_centre/crime/docs/Rapport%20Trafic%20des%20biens%20culturels%20UE%20-%20FR.pdf

§3 Exchange of experiences and the presentation of specific cases from librarians and researchers

To conclude the workshop and illustrate previous discussions of problems and specific examples, the researchers and library curators shared their “field experiences”: J. Moukarzel, director of the Holy Spirit University of Kaslik library described the delicate situation of libraries in the Near East and the need to establish a policy of cataloguing, archiving and digitalization. It is actually through the dissemination of catalogues and digitalized manuscripts (particularly through digital libraries) that we can limit the traffic of manuscripts. Indeed, the publicity of one collection or another has the effect of discouraging theft and encouraging potential buyers to lose interest.

F. Briquel-Chatonnet also evoked the resurgence of counterfeiters in the Middle East region. Regarding fake Syriac manuscripts, she explained how researchers are encouraged to participate in the identification of objects and the adverse effects that can result. Indeed, scientific research (particularly the publication of articles) has the effect of ensuring publicity inciting counterfeiters to continue their work. E. Balicka-Witakowska addressed the same problems in collections of Ethiopian manuscripts. For her, the conservation and protection of manuscripts must be done in consultation with the members of local communities in order to have a real impact.

L. Parodi asked how we talk about cultural heritage in the absence of a dialogue between cultures? She also insisted on the role that can be played today by private collections open to the public, particularly in Gulf countries.

ASSESSMENT OF THE RESULTS AND IMPACT ON THE FUTURE DIRECTION IN THE FIELD

The topics covered included:

- The central role of the movement of cultural objects in the building-up of collections and heritage over the centuries
- The technical and legal methods for sharing and facilitating access to heritage collections while ensuring their protection
- Legal recourse to preserve the integrity of national heritage in the face of increasing pressure for cultural mobility, and ensuring restitution and repatriation in cases of illegal exportation.
- The development of cross border law enforcement agencies in the fight against the depredation of library collections,
- The development of international cooperation initiatives between libraries, public archives, universities and other institutions and studies for a harmonisation of national regulations on this matter.

Nevertheless, it is clear that actions carried out beforehand by the librarians are essential. Without awareness of the threat nor the will to act, there can be no effective protection. Beyond dissecting the regulations in force and the legal and practical means for combating trafficking, one of the major challenges remains raising the awareness of the actors of documentary and manuscript heritage. Indeed, it is necessary to inform the persons concerned of the methods of protecting their collections without leading to the closure of their collections to the public and to researchers. Continuing the dynamic initiated by project Manumed, the objective of this workshop was to foster cooperation between the actors concerned and promote the fight against the traffic of manuscripts as an essential variable in the conservation and preservation of collections.

The proposed solutions – a non-exhaustive list – for the managers of collections, in conclusion of this workshop:

- Ensure the cataloguing of documents or a summary inventory by implementing a computerized data description system
- Promote the dissemination of these catalogues
- Develop and implement procedures to secure collections of manuscripts or archives (access to reserves, areas for public reception, consultations of researchers, documents, etc.)
- Identify stolen or missing property and encourage the actors concerned to perform verifications of origins.

In order to achieve the necessary objective of raising awareness, all of the presentations were filmed and will be available on line. The theme of the traffic of manuscripts will also be the subject of a detailed section in the chapter on the conservation of the publication COMST.

FINAL PROGRAMME OF THE WORKSHOP

9h00

Stéphane Ipert (Centre de Conservation du Livre)

Introduction – The Legal Status of Circulation of Works of Art in Antiquity

9h20

Pedro Rueda (Facultat de Biblioteconomia i Documentació Universitat de Barcelona)

The Circulation of European Books in Latin American Colonies in the Modern Era

10h00

Cristina Dondi (History of Medieval and Modern Languages, University of Oxford)

The Circulation of Books in Europe in the Modern Era: Examples from the Collection of Incunabula from the Bodleian Library (Oxford)

11h00

Dickran Kouymjian (Berberian Professor of Armenian History & Art, emeritus, Calif. State Univ., Fresno)

The Fate of Armenian Manuscripts: From Genocide, Confiscation and Looting to Litigation for Restitution

11h40

Norman Palmer (CBE, FSA, Barrister, Chair of the Treasure Valuation Committee, England and Wales)

Unlocking the Written Heritage: Resolving Title Claims to Ancient Documents and Reversing their Illicit Removal

14h00

Marie Cornu (Centre d'Etudes sur la Coopération Juridique Internationale - CNRS)

Illicit Circulation of European Cultural Property and Space

14h40 Roundtable discussion with professionals presenting their experiences

- **Joseph Moukarzel** (Université Saint Esprit de Kaslik)

The situation of Near Eastern Libraries

- **Françoise Briquel-Chatonnet** (Orient & Méditerranée – Mondes sémitiques, CNRS)

Trafficking of counterfeit Syriac manuscripts

- **Ewa Balicka-Witakowska** (Uppsala University, Suede)

Ethiopian manuscripts and artefacts

- **Laura Parodi** (Research Associate at Harvard University)

Shifting patterns in Eastern collections: problems and opportunities

17h30

Stéphane Ipert and Raphaële Mouren – Closing Statements

LIST OF PARTICIPANTS AND SPEAKERS

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