



The Archaeological Institute of America has issued the following statement concerning cultural objects on loan to U.S. institutions and calls for Congressional action to assure the security of international loans and exhibitions from attachment.

February 9, 2009

On the Attachment of Cultural Objects to Compensate Victims of Terrorism

Statement

The Archaeological Institute of America believes that loans of cultural objects from foreign nations to U.S. cultural institutions serve the best interests of the people of the United States. We are concerned that legal actions and the threat of legal action on behalf of victims of terrorism now jeopardize the participation of American institutions in international cultural exchanges. These legal actions seek to force the sale of cultural artifacts on loan to or in U.S. institutions to satisfy court judgments obtained by these victims. The AIA strongly condemns all acts of international terrorism and supports efforts by victims of terrorism to obtain compensation. However, we believe that archaeological artifacts should not be sold to satisfy a court judgment, *regardless of the actions of a particular regime*, and that it should be possible for nations to share their cultural heritage without fear of loss.

In light of our concern that archaeological and other cultural objects should be part of cultural exchanges that benefit the American public, the Archaeological Institute of America calls on the U.S. Congress to enact new legislation to ensure that such cultural exchanges can take place. This legislation should prevent the sale of cultural objects to compensate those who have obtained court judgments under anti-terrorism provisions of the Foreign Sovereign Immunities Act and would apply to cultural objects on loan from other nations to U.S. nonprofit institutions as part of public exhibitions that have a cultural and educational purpose.

Background

In 1996, the U.S. Congress amended the Foreign Sovereign Immunities Act (FSIA), narrowing the traditional immunity that had been granted to foreign sovereigns and allowing individual victims of terrorist acts to sue those countries that the United States has listed as state sponsors of terrorism. In January 2008, the Congress amended the FSIA, in order to facilitate recovery of judgments that had been awarded to terrorism victims. Both before and after the 2008 amendments were enacted, cultural artifacts on loan to or present in U.S. institutions were under threat.

A group of plaintiffs, who were the victims of a Hamas bombing in Jerusalem, won a judgment against Iran, which defaulted in the proceedings. Having difficulty locating Iranian assets in the United States, in 2004 this group sued the Oriental Institute of the University of Chicago, the Field Museum of Natural History, the Boston Museum of Fine Arts, Harvard University, the University of Michigan and the Detroit Institute of Art under both the FSIA and the Terrorism Risk Insurance Act. The plaintiffs sought to attach (that is, obtain for purpose of sale to satisfy a judgment) two collections of cuneiform tablets (the Persepolis Fortification Tablets and the Choga Mish tablets) that had been on loan to the Oriental Institute from Iran since the 1930s and the 1960s, respectively. The plaintiffs are also seeking to attach additional artifacts in the collections of these institutions, alleging that the artifacts are stolen property and therefore belong to Iran. While this litigation was ongoing, a second group of plaintiffs, the

relatives of U.S. military personnel killed in the Beirut barracks bombing, who had also won a default judgment against Iran, intervened in the attachment proceedings and are now also claiming a right to the monetary value of the artifacts.

In 2008, when the Metropolitan Museum of Art in New York was organizing its major exhibition "Beyond Babylon: Art, Trade and Diplomacy in the Second Millennium B.C.," Syria gave the museum permission to borrow 55 objects. Under the Immunity from Seizure Act, the U.S. State Department can grant immunity from seizure to objects brought into the U.S. on temporary loan for exhibition purposes. However, when the Metropolitan Museum requested immunity for the objects to be loaned by Syria, which is standard procedure for international loans, there was concern that, in light of the 2008 amendments, even a State Department grant of immunity might not protect the objects from attachment by individuals who have claims against Syria for supporting terrorist activity. According to a statement by The Metropolitan Museum of Art, it was therefore not possible for these objects to be part of the exhibit.

The ability of nations and institutions throughout the world to loan objects is crucial to achieving international cultural exchange and increasing understanding of different places, different times, and different people. Such archaeological artifacts should not be sold to satisfy claims that are unrelated to the objects themselves. While the earlier litigation related to Iran had already indicated some threat to cultural interchanges, the Metropolitan's inability to borrow objects from Syria for an exhibition indicates the danger this legislation and litigation pose to cultural exchange. American citizens have been deprived of the opportunity of appreciating and learning from archaeological artifacts and works of art from one of the world's oldest civilizations. The actions in question therefore pose a serious threat to cultural exchange and cultural diplomacy, which are extremely important in building understanding among peoples.

If the United States is in the practice of confiscating artifacts that belong to other nations, then other nations will be unlikely to lend objects to U.S. cultural institutions. In addition, the U.S. will make itself vulnerable to the confiscation of its own cultural objects on loan in foreign nations. In the suit against the Oriental Institute, the Justice Department has, in fact, recommended against attachment of the tablets, presumably in part because of the bad precedent it would set for U.S. interests elsewhere. We call on Congress to enact legislation to preserve the principle that objects of cultural heritage should be made available for public viewing and cultural exchange in the interest of promoting greater understanding of our shared past.