



UNIVERSITÉ  
DE GENÈVE

FACULTÉ DE DROIT  
Centre du droit de l'art



United Nations  
Educational, Scientific and  
Cultural Organization

In partnership with  
UNESCO

Lauren Bursey, Alessandro Chechi, Marc-André Renold

July 2015

## Case Parrot Lady Sculpture – Canada and India

*Canada – India/Inde – Antiquity/antiquités – Post 1970 Restitution Claims/demands de restitution post 1970 – Diplomatic channel/voie diplomatique – Negotiation/négociation – Settlement agreement/accord transactionnel – Enforcement of foreign law/applicabilité du droit public étranger – Illicit exportation/exportation illicite – Illicit importation/importation illicite – Unconditional restitution/restitution sans condition*

*“Parrot Lady” is a 800 year old sandstone sculpture from a Khajuraho temple in India. It was returned by Canada to India in 2015 in accordance with the 1970 UNESCO Convention.*

*I. Chronology; II. Dispute Resolution Process; III. Legal Issues; IV. Adopted Solution; V. Comment; VI. Sources.*

ART-LAW CENTER – UNIVERSITY OF GENEVA

PLATFORM ARTHEMIS

[art-adr@unige.ch](mailto:art-adr@unige.ch) – <https://unige.ch/art-adr>

This material is copyright protected.

## I. Chronology

### Post 1970 Restitution Claims

- **2011:** Hindu *nayika* (or heroine) statue of a “voluptuous woman with a parrot on her shoulder” – commonly known today as “Parrot Lady” – was seized by the Department of Canadian Heritage in Edmonton, Alberta, for not having proper documentation.<sup>1</sup> Further details of the seizure were withheld due to privacy laws,<sup>2</sup> but it can be assumed that the statue was intercepted by Canadian customs officials.<sup>3</sup>
- **2014:** The Indian High Commission to Canada formally asked the Department of Canadian Heritage to hand over the sculpture to India<sup>4</sup> in accordance with UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 (“1970 UNESCO Convention”).<sup>5</sup>
- **2015:** Canadian Prime Minister Stephen Harper presented Indian Prime Minister Narendra Modi with “Parrot Lady” sculpture on Parliament Hill, Ottawa, Canada.<sup>6</sup>

## II. Dispute Resolution Process

### Diplomatic channel – Negotiation – Settlement agreement

- The sculpture “Parrot Lady” came into possession of Department of Canadian Heritage in 2011. This wrote to the Indian High Commission in Ottawa notifying them of the sculpture’s whereabouts.<sup>7</sup> Canadian officials claim it took more than three years for the Commission to forward the message to India.<sup>8</sup>
- The Archaeological Survey of India confirmed that the sculpture is of Indian origin and that it was stolen from one of the *Khajuraho* temples situated in the Bundelkhand region.<sup>9</sup> Accordingly, the Indian Government sent a request to Canada to “release and hand over the sculpture to the High Commission of India”.<sup>10</sup>

<sup>1</sup> Douglas Quan, “Canada Balks at Returning Statue Believed Stolen from World Heritage Site in India,” *O.Canada.com*, July 22, 2014, accessed June 1, 2015, <http://o.canada.com/news/national/canada-balks-at-returning-statue-believed-stolen-from-world-heritage-site-in-india>.

<sup>2</sup> “India Wants Parrot Lady: A 12th Century Khajuraho Sculpture that Was Stolen and Landed in Canada,” *The News Minute*, July 23, 2014, accessed June 1, 2015, [http://www.thenewsminute.com/news\\_sections/792](http://www.thenewsminute.com/news_sections/792).

<sup>3</sup> Quan, “Canada Balks at Returning Statue.”

<sup>4</sup> *Ibid.*

<sup>5</sup> Adopted 17 November 1970, entered into force 1972 (823 UNTS 231).

<sup>6</sup> Arielle Follett, “Stephen Harper Returns India’s lost ‘Parrot Lady’ Sculpture to Modi,” *The Star*, April 25, 2015, accessed June 1, 2015, <http://www.thestar.com/news/canada/2015/04/15/stephen-harper-returns-indias-lost-parrot-lady-sculpture-to-modi.html>.

<sup>7</sup> “India Wants Parrot Lady.”

<sup>8</sup> *Ibid.*

<sup>9</sup> *Khajuraho* temples and *nayika* sculptures were produced in sandstone in India by Chandella dynasty, in the 12<sup>th</sup> century, in Bundelkhand region. “India Wants Parrot Lady”.

<sup>10</sup> Quan, “Canada Balks at Returning Statue.”

### III. Legal Issues

#### Enforcement of foreign law – Illicit exportation – Illicit importation

- Under the Canadian Cultural Property Export and Import Act (CPEIA), it is “illegal to import into Canada any foreign cultural property that has been illegally exported from that reciprocating State”.<sup>11</sup> Antiquities or cultural objects with historical significance to their country of origin need appropriate permits and documentation to be brought into Canada.<sup>12</sup>
- CPEIA is the domestic enforcing legislation enacted after Canada ratified the 1970 UNESCO Convention in 1978. Moreover, CPEIA signaled Canada’s intention to enforce the implementing laws enacted by the other State Parties to the UNESCO Convention. This means that Canada enforced Articles 2, 3, 7 of the 1970 UNESCO Convention.
- While the requesting State does not need to demonstrate ownership, it is required to show that the cultural property was illegally exported from that State. India circulated a photo of the statue at all the field offices of the Archaeological Survey to see if anyone had any record of the theft, since proof of the theft is required under the 1987 CPEIA, before Canada could return the statue.<sup>13</sup>
- Negotiations were delayed as a result of the requirements of Article 7, which stated that the requesting party, in this case India, “shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return”. Since India was not previously aware that the statue was missing, in part because the statue was illegally exported, India had little to no documentation on hand to provide Canadian officials.

### IV. Adopted Solution

#### Unconditional Restitution

- The High Commission of India and the Department of Canadian Heritage came to an agreement and the sculpture “Parrot Lady” was returned to India in the spring of 2015.

### V. Comment

- It is important to note that the statue was only returned because Canada notified India of the statue’s seizure. Since the depiction of *nayikas* is common in *Khajuraho* temples, Indian officials were not aware that the statue had even gone missing until they were notified in 2011. Such a state of affairs is unfortunate and highlights the lack of resources that many countries face with regards to cataloguing and archiving their heritage. International groups such as Interpol can only help when an item is reported missing. If a country does not know what

---

<sup>11</sup> Cultural Property Export and Import Act, R.S.C., ch. C-51 (1985) (Can.).

<sup>12</sup> Quan, “Canada Balks at Returning Statue”.

<sup>13</sup> Ibid.

culture objects it has, then how can it possibly aim to protect them? India was very fortunate in this case that the object was found in a State that is party to the 1970 UNESCO Convention and willing to return the sculpture through the proper diplomatic channels.

- However, that is not always the case, and often the objects are not ever found and remain on the black market. Luckily there were multiple other examples on the *Khajuraho* temples of the type of sculpture like the “Parrot Lady”, so it was easy for Canadian officials to confirm the statue’s country of origin.
- In many countries in the Middle East, such as Syria, Iraq, and Egypt, where there is pervasive looting, it is much harder for archaeologists, diplomats, and international organizations to know how much is missing, what was taken, and even if anything was taken, since there is no catalogue of all buried artifacts. Hopefully events like this one will encourage countries to make a better inventory of their culture, or at least show the need for more specialists and funding in the field to carry out the work.

## VI. Sources

### a. Legislation

- Cultural Property Export and Import Act, R.S.C., ch. C-51 (1985) (Canada).
- UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted 17 November 1970, entered into force 1972, 823 UNTS 231.

### b. Media

- Follett, Arielle. “Stephen Harper Returns India’s lost ‘Parrot Lady’ Sculpture to Modi.” *The Star*, April 25, 2015. Accessed June 1, 2015.  
<http://www.thestar.com/news/canada/2015/04/15/stephen-harper-returns-indias-lost-parrot-lady-sculpture-to-modi.html>.
- “India Wants Parrot Lady: A 12th Century Khajuraho Sculpture that Was Stolen and Landed in Canada.” *The News Minute*, July 23, 2014. Accessed June 1, 2015.  
[http://www.thenewsminute.com/news\\_sections/792](http://www.thenewsminute.com/news_sections/792).
- Quan, Douglas. “Canada Balks at Returning Statue Believed Stolen from World Heritage Site in India.” *O.Canada.com*, July 22, 2014. Accessed June 1, 2015.  
<http://o.canada.com/news/national/canada-balks-at-returning-statue-believed-stolen-from-world-heritage-site-in-india>.