

Links: going beyond cultural property

Carman, John

DOI:

[10.1007/s11759-018-9337-y](https://doi.org/10.1007/s11759-018-9337-y)

License:

Creative Commons: Attribution (CC BY)

Document Version

Publisher's PDF, also known as Version of record

Citation for published version (Harvard):

Carman, J 2018, 'Links: going beyond cultural property', *Archaeologies: Journal of the World Archaeological Congress*, vol. 14, no. 1, pp. 164-183. <https://doi.org/10.1007/s11759-018-9337-y>

[Link to publication on Research at Birmingham portal](#)

Publisher Rights Statement:

Checked for eligibility: 26/04/2018

<https://link.springer.com/article/10.1007%2Fs11759-018-9337-y>

<https://doi.org/10.1007/s11759-018-9337-y>

General rights

Unless a licence is specified above, all rights (including copyright and moral rights) in this document are retained by the authors and/or the copyright holders. The express permission of the copyright holder must be obtained for any use of this material other than for purposes permitted by law.

- Users may freely distribute the URL that is used to identify this publication.
- Users may download and/or print one copy of the publication from the University of Birmingham research portal for the purpose of private study or non-commercial research.
- User may use extracts from the document in line with the concept of 'fair dealing' under the Copyright, Designs and Patents Act 1988 (?)
- Users may not further distribute the material nor use it for the purposes of commercial gain.

Where a licence is displayed above, please note the terms and conditions of the licence govern your use of this document.

When citing, please reference the published version.

Take down policy

While the University of Birmingham exercises care and attention in making items available there are rare occasions when an item has been uploaded in error or has been deemed to be commercially or otherwise sensitive.

If you believe that this is the case for this document, please contact UBIRA@lists.bham.ac.uk providing details and we will remove access to the work immediately and investigate.



Links: Going Beyond Cultural Property

John Carman, Ironbridge International Institute for Cultural Heritage, University of Birmingham, Edgbaston, Birmingham, B15 2TT, UK
E-mail: j.carman@bham.ac.uk

ABSTRACT

Taking as its start-point a radical intervention in the field of archaeology and heritage—one that laid down a direct challenge to the unspoken discourse of property relations inherent in our management of cultural resources—this article considers how much has changed since that intervention. In particular, the article considers developments in the manner of legal regulation of archaeological heritage, the adoption of ideas from economics, and relations with communities that have taken place in archaeology. It identifies differences between the rhetoric of commentators and practitioners and their actual practice that we need to address if we seek truly to turn our field into one that serves the wider community rather than merely telling others how to be.

Résumé: En partant d'une intervention radicale dans le domaine de l'archéologie et du patrimoine, une intervention qui contredit directement le discours tacite des rapports patrimoniaux inhérents à la façon dont nous gérons les ressources culturelles, le présent article mesure les changements survenus depuis. Il tient précisément compte des développements observés dans le champ des règlements juridiques en matière de patrimoine archéologique, de l'adoption de concepts économiques et des rapports avec les communautés dans le contexte de l'archéologie. L'article identifie des différences entre la rhétorique des commentateurs et des praticiens et leur pratique réelle en soulevant la nécessité de les adresser si nous cherchons vraiment à mettre notre discipline au service de la communauté globale au lieu de dicter de simples façons d'être.

Resumen: Tomando como punto de partida una intervención radical en el campo de la arqueología y del patrimonio, la que planteó un desafío directo al discurso tácito de las relaciones de propiedad inherentes a nuestra gestión de los recursos culturales, este artículo considera cuánto ha cambiado desde esa intervención. En particular, el artículo considera los cambios en la regulación legal del patrimonio arqueológico, la adopción de ideas de economía y las relaciones con las comunidades que han ocurrido en la arqueología. Identifica diferencias entre la retórica de los

comentaristas y de los profesionales y su práctica real, lo que debemos abordar si realmente queremos convertir a nuestro campo en uno que sirva a la comunidad en general, en lugar de simplemente decirles a los demás cómo deben ser.

KEY WORDS

Cultural property, Ownership, Law, Economics' community

Introduction

The book *Against Cultural Property* (Carman 2005a) examined the role of property relations in respect of the cultural heritage. It did so by focusing on the *property* half of the 'cultural property' equation, which has been the part conventionally omitted in discussions of cultural property which largely focus on justifying the designation of such material as *cultural* (see eg. Greenfield 1989, 252–255) or providing challenges to private ownership (see eg. Rowlands 2004; Brown 2003). Drawing on a longstanding interest in issues of value (as reflected in Carman 1990, 1995, 1996a, b, 1998, 1999, 2000, 2005b, 2009, 2010a, b) and preliminary statements on the consequences for heritage of ownership made elsewhere (Carman 2002, 195–199), the book was based on the following principles:

- (a) That the discourse of 'stewardship' and 'custodianship' that dominates the field of heritage masks a different reality, in particular that institutions responsible for the heritage exercise rights of ownership;
- (b) That insofar as issues of property are included in the heritage discourse, it is limited to debates concerning only two alternatives: private ownership and state ownership, both of which are by their nature exclusionary and authoritarian rather than inclusive and permissive; they collapse to a power to exclude others from access;
- (c) That this is a limiting discourse because it ignores alternatives that may be better suited to the heritage which is claimed by the rhetoric of the field to be a communal property, and it is on behalf of those communities that heritage institutions and managers claim to act.

Accordingly, the book sought to examine those alternative forms of property relation—especially communal property and 'open access' or non-property—as alternative approaches to the management of our heritage. In terms of communal property, the book drew on ideas from institutional economics (Eggertsson 1990; but especially Ostrom 1990) that

identified the means by which successful communal property regimes operated, and the mechanisms in place to ensure their success. These were then compared with a number of community projects in archaeology from around the globe, and it was found that successful community archaeology projects operated in exactly the same way. In other words, there was no need to invent a new way of managing heritage places to match the rhetoric of communal ownership to heritage practice, but merely to recognise the need to operate heritage management as a community project and to apply mechanisms already tested and proved in other contexts.

In terms of open access regimes, the book drew on models of voluntary restraint, especially anarchist approaches to ownership (eg. Kropotkin 1972), the international treaties regulating use of Antarctica and Outer Space (UN 1961, 1967) and especially ideas about ‘cognitive ownership’ (Boyd et al. 2005, 2012). The latter derive from experiences in Australia where very diverse communities each lay claim to particular places but in a non-exclusive manner so that each can take from it as they choose so long as this does not affect the use by another; the outcome is overlapping and complementary sets of divergent interests who collectively serve to protect and preserve their heritage despite their differences. The experience also emphasises the role of scholars in creating the value that is recognised by these communities of stakeholders and thereby the communities themselves (see also Carman 2011; McGhee 2012). Such notions—grounded in practical experience—are in direct contrast to the mobilisation of ideas concerning ‘the tragedy of the commons’ more frequently encountered in discussions by heritage managers on behalf of their institutions which are utilised to justify the close regulation of heritage (eg. Thurley 2014).

Despite the reasonably wide citation of the book since its publication, it remains difficult to shift us from the idea that protection of material from the past requires regulation and imposed systems of control. A talk given in Sweden included a discussion of the ‘cognitive ownership’ idea as an alternative to current regimes of heritage management. The talk was kindly tweeted to a wider audience by a colleague, and questions from online ‘listeners’ passed to me as part of the discussion after the speech was completed. Such a listener enquired if there was any “legal basis” for the idea and how it could be applied without legislation. The answer of course is that it has no legal basis: by definition, it is an alternative to regulation, not a product of—or can be made subject to—law. The idea that “heritage is [inevitably] governed by legislation” (Cleere 1989, 10) therefore persists, even when discussion turns to alternatives that challenge the very basis of categorising cultural objects and places as any form of ‘property’. Therein lies the continuing problem that is at the heart of heritage practices: as put in *Against Cultural Property*, “it is the notion of ownership itself which is the problem in our treatment of ancient remains” (Carman 2005a, 28).

Law and Ownership: A Link Unbroken

The earliest laws to affect what we now recognise as ‘cultural property’—promulgated by Popes in the 14th and 15th centuries—were all about establishing rights of ownership and control but not of the material as especially ‘cultural’. Instead, the stones of Roman ruins were seen as a resource for building purposes, and the laws simply reserved their use to the Pope and his agents (see Carman 2012, 16). Later rival Danish and Swedish royal initiatives sought to locate ancient remains within developing proto-national narratives and thus declared them property of the respective crowns (Carman 2012, 18), while the emergence of the newly independent and unified states of Greece and Italy in the 19th century saw the invention of the idea of heritage as a national patrimony (Carman 2012, 20–23), an idea that has since spread across the world. The link between regulation and ownership is both close and indissoluble: to regulate cultural heritage is to declare a claim of ownership, and a claim of ownership requires regulation to enforce it. While there are multiple forms of control available to be applied to heritage (O’Keefe and Prott 1984, 191), the fact of regulation establishes that claim of ownership. This ‘nationalisation’ of the cultural heritage has a number of advantages:

- it is a coherent and transparent process applied equally to all;
- it ensures full control by appropriate agencies over the fate of material;
- it associates such material with the entire community as represented by the nation state; and
- it is simple to understand.

However, it remains a claim of ownership and is therefore in defiance of the principle that heritage is managed *on behalf of* the community (however defined) that is its true owner.

It is a widespread and common claim made by agencies of all kinds—national agencies, museums, independent trusts, and others—that they do not own the material for which they are responsible but merely act as stewards for a wider community. That wider community may be limited to a list of ‘stakeholders’ who are deemed to have a direct interest in the material which is being held on their behalf, but specific identification of such interests can be difficult and any such list will include not only differing kinds of interests, but also those that conflict (eg. Carman 2005a, 83–85; Groarke and Warrick 2006, 164–167). One alternative is a vague formulation such as ‘the common heritage of [hu]mankind’ which, as Dingli (2006) argues, has a number of advantages:

- It distributes responsibility globally;
- It recognises the global and local nature of archaeology;
- It emphasises its role in enhancing the quality of life; and
- It removes heritage from the realm of narrow interests and political decision-making.

As emphasised by a number of commentators (eg. Askew 2010; Omland 2006), however, the idea of ‘global’ interest collapses to the concerns of particular interests, especially that of nation states because they are the agencies most able to claim the ability to act in the name of collectivities, and the institution generally granted the legitimacy to do so (Green 1990). Other alternatives (conveniently outlined in Young 2006, 15–16) are ownership by individuals, by cultures, and by the nation (defined not as the state but as a community of people). While Young (2006) is specifically concerned to examine the claim of cultural ownership—and the difficulties that arise of defining a specific ‘culture’ and its membership—Leaman (2006) in the same volume (Scarre and Scarre 2006) examine the ethics of collecting and the care for the collected material that is implied by the act of possession. On a broader note, Groarke and Warrick (2006) examine the specific injunction placed upon members of the Society for American Archaeology to promote and practice “stewardship of the archaeological record” (SAA 2000). They suggest this vague formulation, which does not specify on whose behalf archaeologists are acting, should be replaced by a form of words that focuses on the relationships of archaeologists with those whose their work affects and recognises the authority of others to regulate archaeology in others’ interests (Groarke and Warrick 2006, 176). They suggest this definition of what stewardship means—not control over material, but a recognition of the duties owed to others—should be paired with an obligation to “act in a way that adheres to reasonable standards of research and investigation” (Groarke and Warrick 2006, 177) and that this will override any particular duty to any specific interest group.

The idea that heritage managers act towards the heritage as stewards on behalf of others has its attractions, in particular that it gives reason to deny any claims of exclusive ownership. However, as Groarke and Warrick (2006) and Smith and Waterton (2009) both make clear in their discussions of how heritage managers interact with the world beyond them, heritage managers also constitute a community with interests of its own. As Zimmerman (1998, 2000, 72) has pointed out in the case of managing archaeological remains, the appointment of archaeologists as stewards of their material assumes that only they have valid expertise to deal with such material, thus privileging a particular form of professional knowledge and giving authority to it. In this sense, archaeologists are agents of what Smith has termed the ‘authorised heritage discourse’ (Smith 2006)—indeed the

primary agents (Smith and Waterton 2009, 43)—which serves effectively to deny to those for whom archaeologists notionally work direct access and knowledge of their own pasts. Accordingly, the idea of ‘stewardship’ or ‘custodianship’ of the past is in essence a lie: it serves to mask the fact of effective control over the material and—more crucially—the meanings of the past, limiting them to those sanctioned by professional consensus. The practical and material expression of this control is represented by the various means employed to preserve the past, all of which directly involve and indeed depend upon heritage managers.

The point about the relationship of law to ownership came briefly to the fore in England in 1989, on the discovery as a result of building work of the remains of Shakespeare’s first custom-built theatre on the south bank of the Thames in London. While it was universally agreed that the remains were of national importance—both because of their association with a major national figure and the rarity of remains from early theatres—it was disputed whether the remains should be preserved under the legal provisions allowing this, or buried under the development. Preservation would have required the payment to the developer of a huge amount in compensation, and the then government was unwilling to do this, in part because of the precedent it would set. Activists urging preservation took the matter to court to force the issue, but the judge refused to rule in their favour: citing the legislation, he pointed out that the law did not require the preservation of sites of national importance, but merely empowered the relevant government minister to do so at discretion. Furthermore, although ‘public interest’ was a factor to be taken into account in such cases, “the ordinary citizen does not have sufficient interest” to provide them with legal standing in challenging such decisions. In other words, so far as the law is concerned, individual citizens have no direct interest in ‘national’ property: all rights belong to the State and its agents as distinct from the citizenry (Carman 1996a, 146–148).

Elsewhere (Carman 2002, 194–199, 2005a, 73–77) in developing that argument, I have considered how state ownership of heritage constitutes an appropriation of that material for the benefit of the state as an institution. This is in part a critique of the nation state as a dominant political form: the state subsumes all its population into a single category of ‘citizen’, thereby eroding cultural variety. The same is true in respect of material that is the heritage of particular groups: Aranda (2010) makes it clear how state ownership in Mexico, exercised by the agency of INAH (the Mexican National Institute of Anthropology and History), denies Indigenous communities access to or control over material that they consider to be ancestral. State ownership of material in Mexico—as elsewhere—is seen as a hindrance to commercial development, and so the discovery of objects or sites goes unreported to the authorities as required by law; while some

communities take action to protect such material and are recognised by staff of INAH as their allies in preserving Mexico's past, the communities are rarely involved in future decision-making or gain any benefits and may see the material they have cared for removed to a distant location (Aranda 2010). In a contrasting example, however, Nuttall (1997, 233) reports on how Indigenous Alaskan people are using ownership of their cultural heritage to develop a tourist industry.

Economics and Ownership: A Link Weakly Forged

Against Cultural Property (Carman 2005a) made an explicit connection between ideas from economics and the management of heritage. In particular by drawing upon economic studies of successful communal ownership regimes carried out in other areas of the world (eg. Ostrom 1990) and comparing this to successful 'community' archaeology projects, a model of their application to heritage more generally was derived. The idea was in part to encourage economists and students of heritage to draw upon each other's knowledge and experience for the benefit of both (ideas since developed in Carman 2014; forthcoming). While ideas from economics have since found their way into the discourse of heritage, it has not been with a view to develop new ways of understanding heritage, nor to challenge conventional management strategies. Instead, it has been a rather conservative set of interventions concerning the measurement of the values accruing to and from heritage.

The approach of economists to heritage often takes a very particular stance. In 2005, for instance, the UK-based environmental economics consultancy group *eftec* published a report for a number of British heritage agencies on *The Valuation of the Historic Environment* that advocated the view that "heritage assets" are inevitably economic phenomena because they provided "flows of wellbeing" (*Eftec* 2005, 7) and are therefore amenable to analysis from an economic perspective. Works such as Throsby's (2001) *Economics and Culture* have also been taken up within the heritage field (Clark 2006) as significant contributions to understanding the phenomenon of heritage. In 2008, UK economist Alan Peacock and his Italian colleague Ilde Rizzo published *The Heritage Game* in an effort to "outline the contribution economics can make to the present public concern to conserve... a country's cultural patrimony" (Peacock and Rizzo 2008, xiii). It is on the basis of commentators such as these that Randall Mason (2008) based a call for conservationists to pay attention to economic ideas. He argued for those working in 'heritage conservation' to take note of ideas in the field of 'cultural economics' and to "[incorporate] economic values into conservation" (Mason 2008, 315) in order that conservationists

can gain a greater understanding of the place of heritage in contemporary society.

It is interesting to see how different economists comprehend the phenomenon of heritage. Essentially, there seem to be two opposed positions available to them, depending on how they perceive the means by which heritage objects can be considered ‘valuable’:

- that heritage objects represent economic goods like any other because of the benefits that accrue from them and that their cultural value is seen as the reason for ascribing them economic worth (*Eftec* 2005; Peacock and Rizzo 2008);
- that heritage objects represent a store of cultural value that is different from that of economic goods and that these value schemes operate entirely independently (Throsby 2001; Mason 2008).

None of course deny the availability or usefulness of economic analysis to cultural goods: it is a question of the relationship between these two value ‘realms’ and whether the two are causally related, or quite independent.

The interest that economists have in heritage lies in its status as a ‘public good’. These are items that are understood not to be tradeable and therefore can acquire no market value. They are also held to provide ‘flows of wellbeing’ that accrue not to individuals, but to the community at large. They are frequently also items that can be ‘consumed’ by many individuals at the same time without diminution of the stock—a recognition that ‘heritage’ is an abundant phenomenon, at once local and universal. For Mason (2008), the key ‘public good’ aspects of heritage objects are their non-tradeability in the market and the benefits to wider society they provide.

The quantification of particular components of the heritage is the approach advocated for so-called ‘heritage assets’ in the UK (ASB 2006), whereby these assets would be assessed for their financial value in order that this information could be included in the annual reports of the bodies responsible for them—museums for their collections, heritage agencies for sites, monuments, buildings, and so on. This approach was strongly criticised on a number of grounds, some philosophical and some practical, by academics, heritage bodies, and by accounting professionals, but nevertheless it remains a scheme to be implemented at some future time. The philosophical objections have been published elsewhere (eg. Carman et al. 1999, 2005a), but practical objections focus on the precise methods of valuation to be applied. The most widely accepted method is that of Contingent Valuation, but that too is recognised to be faulty in some respects. Accordingly, efforts have been made to rectify the method to assure its greater effectiveness, such as by Gibson (2011) or Klamer (2014) who

argued for Contingent Valuation to be supplemented by a process that records the kinds of values that accrue to stakeholders. Taking a slightly different perspective, Carnegie and Wolnizer (1996) argued for an approach that evaluated heritage places—especially museums—on the basis of how well their activities reflected or contributed to achieving their objectives as set out in their own mission statements.

It is clear that there is value in borrowing ideas from economics to assist those of us who wish to understand the phenomenon of heritage. Economics—as a serious and mature social science—can offer much in making sense of the difficult concepts we encounter while trying to comprehend the heritage as a contemporary social fact (see the index entries for ‘economics’ in eg. Carman 1996a, 2002, 2005a; Fairclough et al. 2008; Sørensen and Carman 2009). In particular, as the field *sine qua non* of the study of value and valuation, economics has a great deal to offer those of us on the ‘cultural’ and more anthropological side of things to help us grapple with the issues that interest us. We are, however, limited in the types of value we on the ‘cultural’ side of the heritage field can apply, and discussions of value in the field frequently collapse into one of three modes:

- Mere description of qualities that heritage objects are deemed to possess—such as architectural or artistic merit, archaeological or historical interest, age, and condition (eg. the criteria for designating sites of importance in the UK, DoE 1990);
- A discussion *about* value and what it means and perhaps derives from (eg. Lipe 1984; Carver 1996; Carman 2002, 148–176); or
- The listing of the kinds of uses heritage objects and sites can be put to (eg. Darvill 1995).

The limitations of economics, however, lie in the particular methods of valuation that have been advocated. All are primarily quantitative, reducing heritage values to amounts of currency. As mentioned above, the most common approach to valuing heritage objects for which there is no market value is that of Contingent Valuation. This—in essence—is a measure of how much people are willing to pay for the maintenance or availability to them of a resource. This has the effect of reducing the ‘public’ who are the owners and beneficiaries of heritage to ‘consumers’ who can express preferences as to their ‘willingness to pay’ for particular sets of goods or services—either directly or (more commonly) through some sort of taxation (Peacock and Rizzo 2008, 125–135). It is also clear from the work of *Eftec* (2005) in England that applying data from one study to a different but apparently similar context is fraught with difficulties: therefore in order to make meaningful value assessments for heritage objects, economists are

forced either to carry out expensive contingent valuation studies for each different context, or to simplify the collection of data to a few simple variables (which may never be the key variables) to allow transfer to a different context.

In both these cases, economics and heritage studies can be seen to be equally deficient. Economics lacks a capacity to understand and evaluate the heritage as a cultural phenomenon. At the same time, the cultural approach to heritage lacks a language in which to express the values the heritage holds. By working together, such a language could be developed to the mutual benefit of both: for economists, to gain an insight into a phenomenon effectively opaque to them; for students of heritage studies, to communicate effectively the nature of the phenomenon we struggle to describe. At the same time, both will step outside their mutual ‘comfort zones’. Mason (2008) rightly called for conservationists to take notice of economics: a parallel process would call upon economists to take notice of heritage—not as an economic phenomenon, but as a cultural one.

Community and Ownership: A Link Forged

The launch in 2014 of the *Journal of Community Archaeology and Heritage* indicated the rising interest in recognising the authority and role of non-experts in relation to heritage. This is a move away from a traditional view that heritage professionals are acting on behalf of a wider community to offer a “wise use of resources” (Bender and Smith 2000, 34) that others cannot provide. This shift has been noted very recently by Hollowell (2013), who commented upon several effective critiques of the stewardship model [including that contained in *Against Cultural Property* (Carman 2005a, 75–76)], but noted the lack “of a reenvisioning of stewardship among the majority of practicing archaeologists” in response. However, she also noted the parallel rise of a series of alternative kinds of stewardship, including:

- Shared stewardship, including arrangements for co-management by both professionals and community, and repatriation of material to descendant communities;
- Collaborative stewardship, including active recognition of the rights of others in relation to heritage;
- Community-based stewardship, which is collaborative stewardship, but guided by community-identified needs;
- Knowledge stewardship, which recognises the rights of others over certain classes of—especially ritual—knowledge;

- Indigenous heritage stewardship, which is a specific version of community-based and knowledge stewardship, recognising the particular status of Indigenous peoples; and
- “Deliberative democracy” (Shoup and Monteiro 2008, 331) which adopts a ‘listening’ approach and a willingness to include local needs and interests into decision-making.

All of these represent different versions of the kind of approach that challenges the idea of cultural material as the exclusive concern of heritage professionals and opens the door to the consideration of alternative forms of its management. All involve the abrogation by professionals of some of the rights of control they have traditionally exercised and treated as theirs. The editors of the *Journal of Community Archaeology and Heritage* specifically make the point: “we see all community and heritage projects as... *conversations* [in which participants are] engaged in a conversation from which new ideas and even more conversation will emerge” (Thomas et al. 2014; emphasis in original). In such arrangements, stewardship *on behalf of others* becomes a process of mutual engagement.

For these archaeologists, presenting the results of their work is central to their purpose and so mere preservation of sites is not enough. Instead, archaeological practice as they see it is at the service of a wider community and a wider agenda than the mere study of the past. Here, the practice of archaeology is itself the ‘conversation’ that is central to the interaction with others (and see e.g. Carman 1997; Dalglish 2013; Harrison and Schofield 2010; McDavid 2009; Moshenska and Dhanjal 2011).

Issues of ownership and property relations, at least as conventionally understood, do not arise overtly here. In treating not only archaeological remains but also archaeological practice as a topic for debate, however, there is an attempt at abandonment of any claim to exclusive rights taking place, both of rights of physical control over material and of rights to determine the very nature of one’s work. These are—although often denied—in practice claims of ownership: if archaeologists are the only ones with the right to determine what constitutes archaeological practice, they are making a claim of ownership of archaeology as a practice in the same way as the traditional ‘stewardship’ model makes claims over the material with which archaeologists deal. Such notions resonate with a recent recognition—most cogently summarised by Smith and Waterton (2009)—that heritage professionals themselves represent a community of interest, but only one such community among the many. A recognition of others’ interests in their heritage immediately raises the issue of whether the kind of interest that heritage professions represent should be treated as anything different from those of other interested groups. The traditional ‘stewardship’ model would argue that the expertise offered by professionals would

give them a prior role in deciding the fate of material, but critics would counter with the argument that the material does not ultimately belong to the professionals. This opens to direct scrutiny the claims of ownership that lie unspoken at the heart of the stewardship model. In acknowledgement of this, some recent writing (eg. Auclair and Fairclough 2015, 13) manages address the issue while at the same time providing a justification for the managerial *status quo*.

While experiments in shared responsibility and community engagement represent developments in the region of ‘communal ownership’ explored in *Against Cultural Property* (Carman 2005a, 81–99), they leave the topic of ‘open access’ unexamined. This matters because any claim that the past “belongs to all” (such as by Merriman 1991, 1) denies any rights of special interest or claim. This applies as much to Indigenous or other claims of descent, or to local associations, as it does to claims of professional expertise or special knowledge. While we in the heritage field commit to such a view, it becomes incumbent upon us to operationalise concepts such as that of ‘cognitive ownership’ (Boyd et al. 2005, 2012). While some (eg. Norman 2009) share my own view (Carman 2005a, 111–115) that cognitive ownership claims inevitably imply the acceptance of reciprocal obligations to preserve the heritage from harm, Boyd (2012, 192–193) is more sceptical: he cites Norman (2009) who points out that “bureaucrats do not welcome the concept of ‘ownership’... they do not seem to see that with ownership comes obligation”. As Hollowell (2013) also points out, there is some doubt as to what or whom duties of ‘stewardship’ are owed: if to the material alone, then this authorises the exercise of authority; if to communities of interest, then responsibility to preserve the material takes second place in contravention of basic disciplinary imperatives. Where professionals are seen as merely one community among many laying claim to cultural material, and where all have equal rights and obligations, our power to act is proportionately diminished.

The focus remains, however, upon obligation. The exercise of stewardship is in practice the exercise of authority, and discussions of obligations towards heritage are too often confused with those of authority over heritage. The notion of ‘cognitive ownership’ serves to emphasise the place of ‘community’ in any consideration of heritage, since “community access to heritage is legitimized through the recognition of interest” and this is all that is required (Boyd 2012, 180). It also recognises the fluidity of community as new cognitive owners emerge from within and without existing communities of interest. Finally, it offers the opportunity to recognise all those who lay claim to heritage without imposing a restriction on the type of interest recognised or placing them in a hierarchy. The obligation is to accord that recognition to all who require it with no restrictions.

Conclusion: Beyond Cultural Property

The purposes of *Against Cultural Property* (Carman 2005a) were to integrate ideas from economics into heritage thinking, to challenge the assumption of authority held by heritage managers, and on these bases to promote a way forward for those involved in the field of heritage. The book was of course not alone in the first two of these aims: earlier texts had considered heritage value from an economic perspective and continue to do so (eg. Mason 2008; Gibson 2011; Klamer 2014); similarly, challenges to the authority of heritage managers and assertion of community interest also predate the book and post-date it (eg. Marshall 2002; Skeates et al. 2012). Because of these, the development of a way forward for treating the heritage has developed not so much because of the book as in parallel with it. The underlying aim—to expose the discourse of *ownership* that underlies so much of our attitude towards heritage and its treatment—is perhaps the one element that has not been picked up by others.

This is, however, a crucial aspect. Heritage practitioners and the theorists that support heritage work lack a discourse of ownership that will effectively counter those who make claims for the exclusive appropriation of heritage. Our rhetoric is that heritage belongs to everyone equally, but our practice denies this. When faced with others—such as private collectors, acquisitive institutions, looters of sites and museums—we have no answer to their claims of ownership except that we act for the collective rights of all: but our practice in denying access to heritage material and places offers direct proof of the falseness of this claim. There is some recognition that we represent a particular interest group in relation to heritage (see eg. Smith and Waterton 2009; Groarke and Warrick 2006), but we also need to go beyond this to refute our own claims on heritage. We need to develop an effective response to those who make claims of ownership in defiance of the universal character of heritage and to support this in practice. This means creating a discourse of ownership that runs counter to that of exclusivity. At present, we do not have one. The ideas contained in *Against Cultural Property* were offered as a first stage in that process. We still need to act upon them to move us beyond the damaging idea that cultural material represents any kind of *property*.

Open Access

This article is distributed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>).

0/), which permits unrestricted use, distribution, and reproduction in any medium, provided you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license, and indicate if changes were made.

References

- Accounting Standards Board.
(2006). *Heritage assets: Can accounting do better?* Accounting Standards Board 2006 discussion paper. London: Accounting Standards Board.
- Aranda, L. L.
(2010). Heritage values and Mexican cultural policies: Dispossession of the 'other's' culture by the Mexican archaeological system. In G. Smith, P. M. Messenger, & H. A. Soderland (Eds.), *Heritage values in contemporary society* (pp. 225–238). Walnut Creek: Left Coast Press.
- Askew, M.
(2010). The magic list of global status: UNESCO, world heritage and the agendas of states. In S. Labadi & C. Long (Eds.), *Heritage and globalisation, Key issues in cultural heritage* (pp. 19–44). London: Routledge.
- Auclair, E., & Fairclough, G.
(2015). Living between past and future: An introduction to heritage and cultural sustainability. In E. Auclair & G. Fairclough (Eds.), *Theory and practice in heritage and sustainability: Between past and future* (pp. 1–22). London: Routledge.
- Bender, S. J., & Smith, G. S.
(2000). *Teaching archaeology in the 21st century*. Washington, DC: Society for American Archaeology.
- Boyd, W. E.
(2012). 'A frame to hang clouds on': Cognitive ownership, landscape, and heritage management. In R. Skeates, C. McDavid, & Carman (Eds.), *The Oxford handbook of public archaeology* (pp. 172–198). Oxford: Oxford University Press.
- Boyd, W. E., Cotter, M. M., Gardiner, J., & Taylor, G.
(2005). 'Rigidity and a changing order... disorder, degeneracy and daemonic repetition': Fluidity of cultural values and cultural heritage management. In C. Mathers, T. Darvill, & B. J. Little (Eds.), *Heritage of value, archaeology of renown: Reshaping archaeological assessment and significance* (pp. 43–57). Gainesville: University Press of Florida.
- Brown, M. F.
(2003). *Who owns native culture?*. Cambridge: Harvard University Press.

Links: Going Beyond Cultural Property

Carman, J.

- (1990). Commodities, rubbish and treasure: Valuing archaeological objects. *Archaeological Review from Cambridge*, 9(2), 195–207.
- (1995). The importance of things: Archaeology and the law. In M. A. Cooper, A. Firth, J. Carman, & D. Wheatley (Eds.), *Managing archaeology* (pp. 19–32). London: Routledge.
- (1996a). *Valuing ancient things: Archaeology and law in England*. London: Leicester University Press.
- (1996b). Data for the future or an amenity for the present: The values of the natural and historic wetland environment. In M. Cox, V. Straker, & D. Taylor (Eds.), *Wetland archaeology and nature conservation* (pp. 18–29). London: HMSO.
- (1997). Archaeology, politics and legislation: The British experience. In G. Mora & M. Diaz-Andreu (Eds.), *La Cristalización del Pasado: Genesis y Desarrollo del Marco Institucional de la Arqueología en España* (pp. 125–132). Malaga: University of Malaga Press.
- (1998). Object values: Landscapes and their contents. In M. Jones & D. Rotherham (Eds.), *Landscapes—Perception, recognition and management: reconciling the impossible? Landscape archaeology and ecology* (Vol. 2, pp. 31–34). Sheffield: Landscape Conservation Forum.
- (1999). Rozważania teoretyczne nad praktyka zarządzania dziedzictwem archeologicznym. In Z. Kobylinski (Ed.), *Ochrona dziedzictwa archeologicznego w Europi* (pp. 36–48). Warsaw: Generalny Konserwator Zabytków/Stowarzyszenie Naukowe Archeologów Polskich. **(translated from the English by Paul Barford)**.
- (2000). Theorising the practice of archaeological heritage management. *Archaeologia Polona*, 38, 5–21.
- (2002). *Archaeology and heritage: An introduction*. London & New York: Continuum.
- (2005a). *Against cultural property: Archaeology, heritage and ownership*. London: Duckworth Debates in Archaeology.

JOHN CARMAN

- (2005b). Good citizens and sound economics: The trajectory of archaeology in Britain from 'heritage' to 'resource'. In C. Mathers, T. Darvill, & B. J. Little (Eds.), *Heritage of value, archaeology of renown: Reshaping archaeological assessment and significance* (pp. 43–57). Gainesville: University Press of Florida.
- (2009). Coming full circle: Public archaeology as a liberal social programme, then and now. In S. Koerner & I. Russell (Eds.), *The unquiet past: Risk society, lived cultural heritage, re-designing reflexivity* (pp. 151–160). Farnham: Ashgate.
- (2010a). Monuments of light and air: The intangibility of the tangible. In S. Lira & R. Amoêda (Eds.), *Constructing intangible heritage* (pp. 45–54). Barcelos: Greenlines Institute for Sustainable Development.
- (2010b). Where the value lies: The importance of materiality to the immaterial aspects of heritage. In L. Smith & E. Waterton (Eds.), *Taking archaeology out of heritage* (pp. 192–208). Cambridge: Cambridge Scholars Press.
- (2011). Stories we tell: Myths at the heart of 'community archaeology'. *Archaeologies: Journal of the World Archaeological Congress*, 7(3), 490–501.
- (2012). Towards an international comparative history of Archaeological Heritage Management. In R. Skeates, C. McDavid, & J. Carman (Eds.), *The Oxford handbook of public archaeology* (pp. 13–35). Oxford: Oxford University Press.
- (2014). *Heritage value: Combining culture and economics*. London: AHRC. <http://www.ahrc.ac.uk/Funded-Research/Funded-themes-and-programmes/Cultural-Value-Project/Current-and-Past-Research-Activities/Documents/EW%20Carman%20-%20Heritage%20Value%20Combining%20Culture%20and%20Economics.pdf>. Accessed 1 May 2014.
- Carman, J. (forthcoming). Heritage and economics: A view from the 'cultural' side. *International Journal of Heritage Studies*.
- Carman, J., Carnegie, G. D., & Wolnizer, P.
(1999). Is archaeological value an accounting matter? *Antiquity*, 73, 143–148.
- Carnegie, G. D., & Wolnizer, P. M.
(1996). Enabling accountability in museums. *Museum Management and Curatorship*, 15(4), 371–386.

Links: Going Beyond Cultural Property

- Carver, M.
(1996). On archaeological value. *Antiquity*, 70, 45–56.
- Clark, K.
(2006). *Capturing the public value of heritage: The proceedings of the London conference 25–26 January 2006*. London: English Heritage.
- Cleere, H. F.
(1989). Introduction: The rationale of archaeological heritage management. In H. F. Cleere (Ed.), *Archaeological heritage management in the modern world. One world archaeology* (Vol. 9, pp. 1–19). London: Unwin Hyman.
- DalGLISH, C.
(2013). *Archaeology, the public and the recent past*. Woodbridge: Boydell Press.
- Darvill, T.
(1995). Value systems in archaeology. In M. A. Cooper, A. Firth, J. Carman, & D. Wheatley (Eds.), *Managing archaeology* (pp. 40–50). London: Routledge.
- Department of the Environment.
(1990). *Planning policy guideline note 16: Archaeology and planning*. London: Department of the Environment.
- Dingli, S. M.
(2006). A plea for responsibility towards the common heritage of mankind. In C. Scarre & G. Scarre (Eds.), *The ethics of archaeology: Philosophical perspectives on archaeological practice* (pp. 219–241). Cambridge: Cambridge University Press.
- Eftec.
(2005). *Valuation of the historic environment: The scope for using results of valuation studies in the appraisal and assessment of heritage-related projects and programmes*. London: efttec.
- Eggertsson, T.
(1990). *Economic behaviour and institutions*. Cambridge: Cambridge Surveys of Economic Literature Cambridge University Press.
- Fairclough, G., Harrison, R., Jameson, J. H., Jr., & Schofield, J. (Eds.).
(2008). *The heritage reader*. Routledge: London.
- Gibson, K.
(2011). Intangible heritage and the claim to value. In S. Lira, R. Amoêda, & C. Pinheiro (Eds.), *Sharing cultures 2011: Proceedings of the 2nd international conference on intangible heritage, Tomar, Portugal, 3–6 July 2011* (pp. 405–412). Lisbon: Greenlines Institute for Sustainable Development.
- Green, L.
(1990). *The authority of the state*. Oxford: Clarendon.

JOHN CARMAN

- Greenfield, J.
(1989). *The return of cultural treasures*. Cambridge: Cambridge University Press.
- Groarke, L., & Warrick, G.
(2006). Stewardship gone astray? Ethics and the SAA. In C. Scarre & G. Scarre (Eds.), *The ethics of archaeology: Philosophical perspectives on archaeological practice* (pp. 163–177). Cambridge: Cambridge University Press.
- Harrison, R., & Schofield, J.
(2010). *After modernity: Archaeological approaches to the contemporary past*. Oxford: Oxford University Press.
- Hollowell, J.
(2013). Archaeological stewardship. In Smith, C. (Ed.), *Encyclopaedia of global archaeology*. New York: Springer. https://doi.org/10.1007/978-1-4419-0465-2_299. Accessed 1st May 2015.
- Klamer, A.
(2014). The values of archaeological and heritage sites. *Public Archaeology*, 13(1–3), 59–70.
- Kropotkin, P.
(1972). *The conquest of bread*. London: Allen Lane.
- Leaman, O.
(2006). Who guards the guardians? In C. Scarre & G. Scarre (Eds.), *The ethics of archaeology: Philosophical perspectives on archaeological practice* (pp. 32–45). Cambridge: Cambridge University Press.
- Lipe, W. D.
(1984). Value and meaning in cultural resources. In H. F. Cleere (Ed.), *Approaches to the archaeological heritage* (pp. 1–11). Cambridge: Cambridge University Press.
- Marshall, Y.
(2002). What is community archaeology? *World Archaeology*, 34(2), 211–219.
- Mason, R.
(2008). Be interested and beware: Joining economic valuation and heritage conservation. *International Journal of Heritage Studies*, 14(4), 303–318.
- McDavid, C.
(2009). The public archaeology of African America: Reflections on pragmatic methods and their results. In M. L. S. S. Sørensen & J. Carman (Eds.), *Heritage studies: Methods and approaches* (pp. 217–234). London: Routledge.
- McGhee, F. L.
(2012). Participatory action research and archaeology. In R. Skeates, C. McDavid, & J. Carman (Eds.), *The Oxford handbook of public archaeology* (pp. 213–230). Oxford: Oxford University Press.

Links: Going Beyond Cultural Property

Merriman, N.

(1991). *Beyond the glass case: The past, the heritage, and the public in Britain*. Leicester: Leicester University Press.

Moshenska, G., & Dhanjal, S. (Eds.).

(2011). *Community archaeology: Themes, methods and practices*. Oxford: Oxbow Books.

Norman, R.

(2009). *Mapping landscape ownerships: A conversation to do with placedness and the cultural dynamics that shape places and our cultural realities*. <http://www.ownedlandscapes.blogspot.com/>. Accessed 5th May 2015.

Nuttall, M.

(1997). Packaging the wild: Tourism development in Alaska. In S. Abram, J. Waldren, & D. Macleod (Eds.), *Tourists and tourism: Identifying people with places* (pp. 223–238). Berg: Oxford University Press.

O'Keefe, P. J., & Prott, L. V.

(1984). *Law and the cultural heritage: Discovery and excavation* (Vol. 1). Abingdon: Professional Books.

Omland, A.

(2006). The ethics of the world heritage concept. In C. Scarre & G. Scarre (Eds.), *The ethics of archaeology: Philosophical perspectives on archaeological practice* (pp. 242–259). Cambridge: Cambridge University Press.

Ostrom, E.

(1990). *Governing the commons: The evolution of institutions for collective action*. Cambridge: Cambridge University Press.

Peacock, A., & Rizzo, I.

(2008). *The heritage game: Economics, policy and practice*. Oxford: Oxford University Press.

Rowlands, M.

(2004). Cultural rights and wrongs: Uses of the concept of property. In C. Humphrey (Ed.), *VERdery, K* (pp. 207–226)., *Property in question: Value transformations in the global economy*. Wenner-Gren international symposia series. Berg: Oxford University Press.

Scarre, C., & Scarre, G. (Eds.).

(2006). *The ethics of archaeology: Philosophical perspectives on archaeological practice*. Cambridge: Cambridge University Press.

Shoup, D., & Monteiro, L.

(2008). When past and present collide: The ethics of archaeological stewardship. *Public Archaeology*, 49(23), 328–333.

Skeates, R., McDavid, C., & Carman, J.

(2012). *The Oxford handbook of public archaeology*. Oxford: Oxford University Press.

JOHN CARMAN

- Smith, L.
(2006). *Uses of heritage*. London: Routledge.
- Smith, L., & Waterton, E.
(2009). *Heritage, communities and archaeology. Duckworth debates in archaeology*. London: Duckworth.
- Society for American Archaeology (SAA).
(2000). Principles of archaeological ethics. In M. J. Lynott & A. Wylie (Eds.), *Ethics in American archaeology* (2nd ed., pp. 11–12). Washington DC: Society for American Archaeology.
- Sørensen, M. L. S., & Carman, J. (Eds.).
(2009). *Heritage studies: Methods and approaches*. London: Routledge.
- Thomas, S., McDavid, C., & Gutteridge, D.
(2014). Editorial. *Journal of Community Archaeology & Heritage*, 1(1), 1–4.
- Throsby, D.
(2001). *Economics and culture*. Cambridge: Cambridge University Press.
- Thurley, S.
(2014). *The value of heritage and the heritage of value*. Ironbridge annual lecture, delivered at the University of Birmingham 18th November 2014. <http://www.birmingham.ac.uk/schools/historycultures/departments/ironbridge/news/2014/simon-thurley.aspx>. Accessed 1st May 2015.
- United Nations.
(1961). *The antarctic treaty*. <http://www.nti.org/treaties-and-regimes/antarctic-treaty/>. Accessed 1st May 2015.
- United Nations.
(1967). *Treaty on principles governing the activities of states in the exploration and use of outer space, including the moon and other celestial bodies*. <http://www.state.gov/t/isn/5181.htm>. Accessed 1st May 2015.
- Young, J. O.
(2006). Cultures and the ownership of archaeological finds. In C. Scarre & G. Scarre (Eds.), *The ethics of archaeology: Philosophical perspectives on archaeological practice* (pp. 15–31). Cambridge: Cambridge University Press.
- Zimmerman, L. J.
(1998). When data becomes people: Archaeological ethics, reburial and the past as public heritage. *International Journal of Cultural Property*, 7(1), 69–88.
- (2000). Regaining our nerve: Ethics, values and the transformation of archaeology. In M. J. Lynott & A. Wylie (Eds.), *Ethics in American archaeology* (2nd ed., pp. 71–74). Washington DC: Society for American Archaeology.