

Cuneiform Exceptionalism?



Justifying the Study and Publication of Unprovenanced Cuneiform Tablets from Iraq

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Abstract Through the 1990s and 2000s thousands of cuneiform tablets were looted from archaeological sites in Iraq and acquired by private collectors. Since then, scholars with expertise in reading cuneiform inscriptions (who call themselves Assyriologists) have been studying and publishing the texts. This scholarly engagement with what is generally understood to be illicitly-traded material has been controversial, and many Assyriologists have made public statements justifying their work. This chapter presents a brief overview of the controversy over publication, before using Luc Boltanski and Laurent Thévenot's theory of justification to examine the justificatory statements of Assyriologists for what they reveal about their reasons for engaging with illicitly-traded material. The chapter concludes by considering the harms such scholarship might cause to Iraq.

1 Introduction

Through the 1990s and 2000s, civil society in Iraq was stretched to breaking by a destructive cycle of war, economic sanctions, invasion, and occupation. Archaeological sites were badly looted for their valuable antiquities that were sold on the international market (Emberling & Hanson, 2008; Rothfield, 2008; Stone & Farchakh Bajjaly, 2008), with on-the-ground reporting and satellite imagery highlighting the desirability of cuneiform tablets (Atwood, 2003; Breikopf, 2006; Farchakh Bajjaly, 2008; Stone, 2008). Cuneiform tablets are made of clay and carry texts written in cuneiform script, which was invented towards the end of the fourth millennium B.C. in the area of what is today is often termed Mesopotamia, centred on Iraq, eastern Syria, and immediately adjacent territories in Turkey and Iran. Over time, cuneiform was used to write a number of languages until its use began to decline in the late first millennium B.C. It was deciphered during the middle years of

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the nineteenth century. Today, scholars who translate and study cuneiform inscriptions are known as cuneiformists or Assyriologists and work within the academic discipline of Assyriology.

The trade in cuneiform tablets from Iraq is, and has been for a long time, illegal (Brodie, 2006, 2008a, 2008b; Foster et al., 2005). Under Iraq's domestic law, unexcavated antiquities have been state property since 1936 (Bernhardsson, 2005, pp. 94–197). After the Iraqi occupation of Kuwait in 1990, United Nations Security Council Resolution (UNSCR) 661 placed trade sanctions on any goods exported from Iraq after 6 August, 1990, including cultural objects such as cuneiform tablets. On 22 May, 2003, UNSCR 1483 lifted general trade sanctions but specifically stated that trade in cultural objects had been prohibited since August 1990 and would continue to be so. Despite these national and international prohibitions on export and trade, by the early 2000s it was clear that many previously undocumented (unprovenanced) and presumed illicitly-traded cuneiform tablets had entered private collections outside Iraq and were being studied and published by Assyriologists (Brodie, 2009, p. 43, Table 3.1), though at the time the true scale of the problem was hard to judge. Since then, the study and publication of privately-held unprovenanced tablets has continued. There is now a burgeoning output of scholarly books and papers and it is becoming possible to appreciate just how many unprovenanced cuneiform tablets have entered private collections since the 1990s. It is generally believed, even by the scholars studying and publishing them, that most were looted and illicitly traded (Dalley, 2014; Friberg, 2007, p. 142; George, 2017, p. 95; Maiocchi, 2010, p. 141; Molina, 2020; Monaco, 2016, p. 1; Westenholz, 2010), though that is rarely admitted in print in relation to a specific object.

Scholarly work on unprovenanced, likely-looted antiquities such as cuneiform tablets is controversial, and some academic journals will not publish it. No doubt in reaction to this prohibition, many scholars who do study unprovenanced cuneiform tablets have stated their reasons for doing so. This chapter proceeds with a brief overview of publication policies as they relate to unprovenanced cuneiform tablets. Next, Luc Boltanski and Laurent Thévenot's theory of justification will be used to examine the justificatory statements of Assyriologists and what they reveal about the controversy over study and publication. The chapter will conclude by considering the harms such scholarship might cause to Iraq.

2 Publication Policies and the Cuneiform Exception

During the closing decades of the twentieth century, mounting archaeological concern over the damage caused to archaeological sites and archaeological research by the antiquities trade caused some professional societies to proscribe any involvement of their members. From an archaeological perspective, it was argued that looted antiquities lose much of their scholarly value when their archaeological context is destroyed by unscientific and unrecorded excavation. David Gill and Christopher Chippindale (1993) described the deleterious “material and intellectual

consequences” of treating antiquities as collectable art objects, thereby encouraging their looting and illicit trade. At the same time, Ricardo Elia (1993) pointed to the “seductive and troubling work” of scholars working with collectors, and how their collaboration could be construed as stimulating market demand for antiquities and again encouraging their looting and illicit trade.

The potentially problematical nature of scholarly engagement with likely-looted antiquities caused some, but by no means all, academic journals and monograph series to adopt policies prohibiting the first publication of antiquities that could not be shown to have a clear, legitimate provenance (Brodie, 2009; Cherry, 2014; Gerstenblith, 2014). Such policies proved controversial and soon faced accusations of censorship (Boardman, 2009), particularly by scholars working with text-bearing antiquities such as cuneiform tablets (Dalley, 2014; Owen, 2009). They argued that looted and illicitly traded text-bearing antiquities would still be of value to scholarship and a refusal to allow publication would be detrimental to the production of historical knowledge. The large numbers of previously undocumented cuneiform tablets and other cuneiform-inscribed objects appearing in private collections outside Iraq gave added urgency to this objection. For one professional organisation at least, the American Schools of Oriental Research (ASOR), the problem was serious enough to prompt a modification to its previously established publication policy. The modification became known as the *cuneiform exception* (Gerstenblith, 2014).

In 1995, ASOR had adopted a policy prohibiting the publication of any antiquity that could not be documented as having been out of its country of origin before 24 April, 1972 (the date of entry into force of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property) or to have left legally after that date. But the large-scale influx into private collections of unprovenanced cuneiform tablets and other inscribed objects from Iraq caused it to revise its policy in 2004. Henceforth, publication of unprovenanced cuneiform tablets in ASOR journals and monographs would be allowed provided the State Board of Antiquities and Heritage (SBAH) of Iraq gave its consent, the tablets were returned to Iraq and the ownership and custody of the SBAH, and publication included a reference to the fact that the published texts were unprovenanced.

In 2015 the cuneiform exception was revised and broadened in application to include material from other conflict areas and was still in place in January 2021, with the enabling conditions listed as:

- a. The author notes that the text-bearing artifact lacks archaeological provenience in a prominent manner in the text of the publication, in the caption of its illustration, and, if intermixed with objects having archaeological provenience, also in the index or catalog.
- b. The author demonstrates that an effort has been made to determine the probable country of origin, which is the location of its final archaeological deposition within a modern nation-state; and prior to publication, the author receives and is willing to transmit to ASOR a written commitment from the owner of the artifact asserting that the artifact will be returned to the Department of Antiquities or equivalent competent authority of the country of origin following any conservation or publication, once permission for its return has been received; or alternatively, that its title has been ceded to the determined country of origin, or to some

other publicly-accessible repository, if return to its country of origin is not feasible (ASOR, 2019).

The cuneiform exception has been weakened since its initial statement. By 2021, there was no longer any requirement for a dispossessed country's antiquities authority, in Iraq's case the SBAH, to approve study and publication. This modified exception is problematical as the scholarly value of a cuneiform tablet resides in its text and not the physical tablet itself. So, as allowed by the 2015 exception, copying and publishing texts without permission while returning the physical tablets themselves can be construed as a mechanism for extracting scholarly value while passing on the long-term curation costs of an exhausted scholarly resource to Iraq (Brodie, 2020).

In reality, publication policies have done little to stop the study and publication of unprovenanced cuneiform tablets. In 2007, for example, the publisher Eisenbrauns, an imprint of Penn State University Press, introduced its series Cornell University Studies in Assyriology and Sumerology (CUSAS). By November 2020, its website listed 41 CUSAS monographs either published or in press. All but five realised the first publication of previously unknown cuneiform tablets from recently formed private collections. The tablets published by CUSAS number in the thousands, and Eisenbrauns is not the only company publishing unprovenanced tablets.

The study and publication of unprovenanced cuneiform tablets has now become commonplace, acknowledged across academia with little adverse comment. Acceptance of study and publication has permeated out into the broader academic ecosystem—universities and public funding bodies are regularly acknowledged in publications for supporting the underlying scholarship. Nevertheless, the existence of publication policies and the continuing international trade embargo on Iraqi cultural objects raise questions about the propriety of engaging with what is generally believed to be looted and illicitly traded material. Many of the Assyriologists publishing these tablets have felt it necessary to defend or justify their actions, either in the publication itself or separately in longer opinion pieces. These justificatory statements imply a sense of moral uncertainty, an understanding that study and publication might be considered wrong or harmful by society at large, or at least some parts of society, and is in need of explanation. There now exists a large number of justificatory statements embedded within publications that can be analysed for what they reveal about the beliefs and moral convictions of Assyriologists who have chosen to study and publish privately-held, unprovenanced cuneiform tablets. Together, they offer the opportunity to make more sense of a debate whose protagonists seem often to be talking past one another, and, standing back, to situate the debate within broader political and sociocultural contexts.

In total, 30 statements by 13 Assyriologists are published here. They are presented as representing the beliefs of "Assyriologists" as a consensual community, though obviously they represent only the beliefs of Assyriologists actually making the statements. Nevertheless, as will be made clear, there are regularities of claims and arguments and it is not unreasonable to suppose that the statements do represent the beliefs of a broad constituency of Assyriologists engaged in publishing

unprovenanced cuneiform tablets. It must be remembered though that many Assyriologists do not countenance study and publication of unprovenanced material and their views are not represented by the reproduced statements. The statements are ordered, and their contents examined, using the justification theory of Luc Boltanski and Laurent Thévenot.

3 Justification Theory

Boltanski and Thévenot developed their theory of justification to explore how civil society disputes can develop, proceed and be resolved without recourse to violence (Boltanski & Thévenot, 1999, 2006; Boltanski, 2011). When engaged in a dispute, protagonists are considered to be offering faithful justifications of their beliefs and actions within a cultural frame of reference that is specific to their social group or reality, in this case the scholarly community of Assyriologists, but these justifications are open to misinterpretation or misunderstanding by disputants situated within a different frame of reference. Central to their theory is the idea of the *common good*. Boltanski and Thévenot isolate what they believe to be six different conceptualisations of the common good, which they term in English *polities* or *worlds*, each one drawn from a foundational work of political philosophy. Within the reality of a polity, persons, things, and actions are valued according to cultural understandings that are specific to the polity concerned yet believed by actors within the polity to be universal and constitutive generally of the common good. Four polities are relevant to this discussion:

Market polity (Adam Smith's *Wealth of Nations*). Market worth is created through market competition and measured by price or wealth. Order is maintained through the general demand for scarce resources and the recognition of private property. The market polity is mobilised within academia when scholars are ranked by their success in securing competitive grant awards.

Industrial polity (Henri de Saint-Simon's *L'Industrie*). Industrial worth is created and maintained through efficiency, productivity and long-term growth. It can be measured through demonstrable scales of production, technical proficiency or competence. Order is maintained through rational organisation (and by rational organisations). Examinations and qualifications of merit or achievement are obvious expressions of industrial worth in academia, as are quantitative or qualitative measures of "output", "outcomes" or "deliverables".

Civic polity (Jean-Jacques Rousseau's *Contrat social*). Civic worth inheres within representational political structures promoting or acting in the public or collective interest. Worth is accorded to social collectives rather than individual persons, and worth is derived through representation, accorded to persons acting on behalf of a collective. Order is maintained through agreed laws, rules, and procedures. The civic order finds expression in universities though representative bodies such as committees and senates.

Domestic polity (Jacques-Bénigne Bossuet's *La politique tirée des propres paroles de l'Écriture sainte*). Domestic worth is created and maintained through positioning in an inherited hierarchy or authority structure, analogous to a family. There is a respect for tradition (the natural order of things) and a person cannot be evaluated apart from the inhabited role. Order is maintained through trust and interpersonal relations. Elements of the domestic order can be glimpsed in academia through the convention of collegiality or respect for one's colleagues and the regard accorded to positions: the opinions of tenured faculty and senior professors are considered to carry more weight than those of temporary researchers or assistant faculty.

Within the cultural understanding of a polity, competence has a moral quality—the good way of doing something is the right way of doing something. This moral logic of action underpins justification. Justifications are open and honest defences of actions believed to be good and right, not dissimulations or rationalisations of hidden or dissonant interests. Across polities, objects, persons and actions will be conceptualised and valued differently, sometimes recognised and qualified using different terminologies. Thus, the cultural understandings of a polity cannot be readily apprehended from outside and constructions of the common good might be incommensurable across polities. Seemingly intractable disputes arise when actors find the propriety of their beliefs or actions under criticism or challenge from facts or value judgments exterior to their cultural understandings or moral logics. These disputes cannot be resolved by appeal to a higher authority—there are no higher authorities, only more polities. In practice, disputes range across polities, with composite justifications drawing upon the cultural resources of more than polity. A public dispute can be triggered when events expose the contrivance of omniscience within a polity or highlight a reality gap between polities. Within academia, the sudden appearance and accessibility of large numbers of unprovenanced though likely-looted and illicitly-traded cuneiform tablets proved to be just such an event.

To a large extent, the debate over study and publication of unprovenanced cuneiform tablets can be understood as a dispute between protagonists situated largely within an industrial polity on the one hand (the Assyriologists) and a civic polity on the other (their critics). Assyriologists might bridle at being described as industrialists, but the label does capture the sense of forward-looking professional endeavour that is characteristic of academia, and it is not hard these days to find academia characterised as a “knowledge industry” (Fish, 2014, p. 45; Miyoshi, 2000, p. 24). The civic polity comprises the world of representational organisations such as UNESCO and the United Nations. These organisations are charged with representing the collective interest of the international community in designing policy for cultural heritage protection. Policy is effectuated by a wide-ranging latticework of laws, conventions, regulations, and standards, most relevantly in this cuneiform context the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and more specifically for Iraq UNSCRs 661 and 1483.

In an industrial polity, “the great persons are the experts” (Boltanski & Thévenot, 1999, p. 373). Defending themselves, it is clear that Assyriologists draw primarily upon their identity as scholarly experts, with the worth of their actions judged and confirmed by the thorough and expeditious study and publication of cuneiform tablets. Publication has a moral quality as a “duty” or a “responsibility”:

I consider it a scholarly duty to assist in publishing whatever can be saved for future generations, whenever an opportunity presents itself (Alster, 2007, p. xi).

... Assyriologists, whose duty, as ever, is to make new material available so that it is not lost to posterity (Dalley, 2009, p. ix).

The undeniable importance of primary sources for the reconstruction of man’s past makes it imperative that all cuneiform tablets be published without prejudice (George, 2009, p. xiv).

I have felt from the outset that it was an obligation of scholars to publish these artifacts before they might disappear (Owen, 2013a, p. xv).

While aware of the controversy behind the study and publication of these texts, I believe that it is our responsibility to do everything in our power not to lose the precious historical, linguistic and cultural information they convey (Molina, 2020, p. 344).

The process of “publication” should not be underestimated. It includes cleaning, conservation, reconstruction, copying, transcribing and translating. The succession of techniques utilised to bring a freshly excavated tablet to publication does literally constitute a small-scale industrial process (Dalley, 2014). The sheer physical effort involved in achieving publication is impressive. Typically, for a CUSAS monograph, a single scholar will publish anything up to several hundred texts.

Accepting and meeting their burden of publication, Assyriologists are critical of the failures of other scholars to publish and of any obstacles to publication, as broadly conceived:

It is ironic that in the more than two decades during which fieldwork in Iraq was rendered impossible, few of the many seasons of previous excavations of Iraqi sites have been published. Unfortunately, archaeologists did not utilize this long hiatus to publish their excavations. Instead, many simply moved to Syria, Turkey, or even Iran to initiate new projects, all the while neglecting their responsibilities to publish their previous excavations (Owen, 2010, pp. ix–x).

If the tablets are left in the hands of poverty-stricken museums or collectors who have neither the knowledge nor the means to conserve them, a good part of them are likely to disintegrate within our lifetime (Westenholz, 2010, p. 258).

The tens of thousands of unpublished and mostly inaccessible tablets in the Iraq Museum. One wonders if these texts will ever be published (Owen, 2013a, p. xvii).

Assyriologists also deploy a secondary line of justification that Boltanski and Thévenot would recognise as rooted in their domestic polity. The study and publication of looted and illicitly-traded tablets has a long history and therefore the actions of Assyriologists today should be viewed only as the most recent expression of a mature tradition and implicitly as legitimate:

... great parts of most collections of non-European cultural heritage ... are unprovenanced texts from the antiquities market or from private collections. ... Now, as then, the task of a serious scholar must be to attempt to make all kinds of texts publicly known and understood ... (Friberg, 2007, p. v).

Responsibility for publishing tablets that have no archaeological provenance has always been accepted by Assyriologists in the past, to salvage as much as possible from the regrettable ancient and modern practice of looting (Dalley, 2009, p. ix).

In what is today the state of Iraq, digging for tablets and other ancient artifacts by the local peasants, in order to sell them to Western purchasers, has been carried out almost since the dawn of Assyriology in the Western world (Westenholz, 2010, p. 258).

Most of the literature on looting emphasizes the negative and tragic destruction of archaeological sites but neglects to mention the enormous contribution to Mesopotamian history and culture that the study and publication of illicitly-excavated inscriptions have provided since the rediscovery of ancient Iraq in the nineteenth century (Owen, 2013a, p. xvi).

They all come from illicit excavations, which, although carried out by looters since the middle of the nineteenth century, had recently attained, as a consequence of the political situation, an unprecedented level of growth (Monaco, 2016, p. 1).

Since the early days of Assyriology, only the minority of cuneiform tablets came from archaeological excavations, whereas the lion's share was acquired through the antiquities market (Földi, 2017, p. 8).

An accusation sometimes levelled at Assyriologists is that their engagement with privately-held cuneiform tablets is financially beneficial for the owners and commercially beneficial for the market—the “seductive and troubling work” of Elia (1993). This accusation can be construed as an attempt to situate the work of Assyriologists within the market polity, something they are at pains to resist. Typically, they claim that the trade is supply-led, driven by the poverty of Iraqis who are forced to dig, or that looting is the outcome of a legal regime placing unrealistic controls on what could otherwise be a legitimate trade in legally-excavated tablets:

It is impossible to undo the disaster that the destruction of the cultural legacy of Iraq, by Iraqis, has created (Owen, 2007, p. vii).

Recent changes in the law have led to the censorship of scholarly activity and created a black market for the distribution of looted material to dealers and collectors (Dalley, 2009, p. ix).

The argument that scholarly publications somehow enhance the value of artifacts while glossy, popular, archaeological publications with titles featuring words like “gold” and “treasure” to glamorize discoveries and to attract more funding somehow do not, is ludicrous (Owen, 2009, p. 129).

... the plundering of Iraq's rural sites increased dramatically after 1990 as a result of the embargo and the ensuing impoverishment of the rural population and the weakening of Iraq's institutions. In other words, it was dictated by the need to supply rather than by foreign demand (Westenholz, 2010, p. 259, note 9).

The argument that, by doing so, the Assyriologist increases the market value of the tablet or somehow “launders” it may have some merit as far as the dealer is concerned, but that remains to be proven (Westenholz, 2010, p. 261).

... the root causes that ultimately lie in the country of origin (Owen, 2013a, p. xviii).

So, to blame museums, collectors, and particularly scholars who publish unprovenanced artifacts and inscriptions for encouraging the looting and destruction of archaeological sites is simply a gross distortion of historical fact. People seeking both precious and utilitarian artifacts pillage archaeological sites regularly (Owen, 2013b, p. 335).

... even members high up in the government, such as Saddam Hussein's son Uday, were instrumental in the looting of their own cultural heritage (Owen, 2013b, p. 335, note 526).

Did publishing those tablets, and thousands of other unprovenanced tablets, help create a market for cuneiform tablets and thus encourage looting and site destruction? I have seen no well-founded answer to this question, and I can't pretend to know what motivates the small number of serious collectors of these rectangular bits of inscribed mud (Cooper, 2014).

Especially after the failure of the Iraqi and Syrian states to protect their cultural heritage, a large number of looted cuneiform tablets and other ancient Mesopotamian artefacts have entered the antiquities market and found their way to private collections in the West (Alstola, 2020, p. 39).

Thus, Assyriologists justify their work by positing the scholarly and ultimately public benefit of publication and claiming legitimacy from tradition, while denying that their work has any commercial impact.

Many of the arguments made against the study and publication of unprovenanced cuneiform tablets derive from the international interest in protecting cultural heritage and are founded in Boltanski and Thévenot's civic polity. Assyriologists do seem to recognise this international interest, but rather than acknowledging it as a settled and legitimate consensus they seek instead to misrepresent or demean it as something antithetical to scholarship, as signalled by their use of the term "politics" or its derivatives to describe it. The international consensus is portrayed as a contested domain of conflicting political interests. Scholarship should not be embroiled with politics:

Those who are not prepared to utilize all sources in their research, including texts available to us through private collections, and certainly those who would presume to limit the access or use in scholarly communications of unprovenanced sources, as has begun to happen with submissions even to such politically neutral editorial boards as those that oversee the publication of papers on the history of mathematics, may want to reconsider the professional choices they have made in their lives (Englund, 2009, p. 6, note 11).

It is a blatant example of the politicization of scholarship that is taking place particularly in certain British and American universities today (Owen, 2013a, p. xv, note 1).

I will leave legal arguments about ownership to others; I am making an ethical argument. (Cooper, 2014).

Scholarship must be separated from political issues and every effort should be made to rescue, record, and publish artifacts without provenance in order to ensure their preservation and publication (Owen, 2015, p. vii).

In this category I include not only national governments but also international organizations like the U.N. As one would expect of politicians, they appear to be quite convinced that they can change reality simply by writing laws, and their historical consciousness is almost non-existent. The here-and-now is all that matters (Westenholz, 2010, p. 262).

In the course of time, there has been a creeping influence of political correctness. (Westenholz, 2010, p. 262).

In essence, Assyriologists frame the debate over publishing unprovenanced cuneiform tablets as one between scholarship (understood as publication) and politics, with scholarship understood to be apart from or superior to politics.

4 Discussion

It is probably fair to say that publication policies were prompted in the first instance by concerns being voiced in the 1990s about compromised scholarship both caused by and responsible for the destruction of archaeological heritage—the “material and intellectual consequences” of the “seductive and troubling work”. Those concerns are still valid and have never been properly addressed. It is notable that Assyriological denials that their work has commercial benefit are never accompanied by any evidential support, and what evidence is available does suggest that scholarly study and publication, as broadly conceived, has commercial value (Brodie, 2011, 2016). Since then, however, understanding has grown of other—political and sociocultural—reasons why the looting and illicit trade of antiquities is considered harmful to a victim country. By the late twentieth century, at the latest, meaningful control over the ownership and management of cultural objects, the principle of cultural self-determination, was recognised internationally as a right among nations (Barkan, 2002). Cultural self-determination is a component of political self-determination and any violation of cultural self-determination is a violation of political self-determination—a violation of sovereignty. Added to that is the more general expectation that each nation will respect the laws and usages of every other nation, what Folarin Shyllon (1998, p. 114) highlighted as the well-established “comity of nations”—mutual respect among nations. Again, any failure to respect a nation’s laws is a challenge to its sovereignty. Thus, the absence of any effective international action to stop the unremitting illicit trade of cuneiform tablets must be construed as a failure on the part of the international community to recognise the sovereignty of Iraq and its right to cultural self-determination.

The cycle of violence and foreign interference that has plagued Iraq since 1990 has foregrounded another set of ultimately conflict-related harms. Through the 1990s and early 2000s, bombing and economic sanctions placed a heavy humanitarian toll upon Iraqi civil society. The situation worsened after the 2003 US-led Coalition occupation, when the United States government set about reducing Iraq to the status of a client state (Cockburn, 2016). The plan was predicated upon weakening Iraqi national identity and reducing its sovereignty through the establishment of a power-sharing, sectarian government, with the aim of creating an ethnically, religiously, and politically divided country that would be compliant with United States interests (Kathem, 2020). One of the first actions of the Coalition Provisional Authority after its establishment in May 2003 was to set in motion a process of de-Baathification,

ostensibly aimed at dismantling the institutional and military infrastructure of Saddam Hussein's government (Sissons & Al-Saiedi, 2013). But although de-Baathification proceeded as a project of political cleansing, it also entailed a cultural cleansing as academics, museum curators, archaeologists, and media professionals were removed from their jobs (Baker et al., 2010). Many were killed or were forced to flee the country. De-Baathification left an intellectual and cultural capacity gap within Iraq that the country was still struggling to close in 2021 (Nabeel, 2021).

This diminishment of intellectual and cultural capacity has left the study of Iraqi history, and particularly pre-Islamic history, largely in the hands of foreign scholars. Not surprisingly, the work of foreign scholars does not always serve the interests of Iraq or Iraqi civil society. Iraq as a geographical region was known to Islamic geographers as early as the tenth century A.D. (Bahrani, 1998, p. 165), but since the nineteenth century Iraqi cuneiform tablets have been considered the product of "Mesopotamian" culture. Mesopotamia is a signifier as much as it is a place, the anchor point for divisive European narratives of "western" civilisation and "oriental" despotism (Bahrani, 1998). The abstraction of Mesopotamia from the deep history of Iraq hinders any attempts to investigate or establish cultural continuities from the past and cultural commonalities in the present (Kathem, 2020). Although Saddam Hussein had appropriated Mesopotamian monumentality to help forge a collective Iraqi consciousness and legitimise his rule, post-2003, the historical agenda has become increasingly sectarian (Isakhan, 2011; Kathem & Ali, 2020). Iraqi history has become subject to a discontinuity that fails to counter the centrifugal tendencies of sectarianism (Kathem, 2020). To paraphrase Gill and Chippindale, Iraqi scholarship is presently constrained by the material conditions of neo-colonialism and the intellectual conditions of orientalism. Such challenges to scholarship are beginning to be understood and described in relation to "cultural rights" (Matthews et al., 2020; Singh, 1998), by UNESCO recommendations dating back as far as the 1960s, and exemplified since 2009 through the work of the United Nations Human Rights Council (UNHRC). In 2013, the UNHRC published a special report into the writing and teaching of history, emphasising its importance for community building and reconciliation (Shaheed, 2013; see also Barkan, 2009). That is especially true for Iraq (Bernhardsson, 2005).

This emergent understanding and disapproval of compromised sovereignty and violated cultural rights contextualises the work of Assyriologists. Their refusal to seek Iraqi approval of their work or to work cooperatively with Iraqi authorities is at the same time an infringement of Iraqi sovereignty and a missed opportunity to help close the intellectual and cultural capacity gap. This line of argumentation might be regarded as tenuous. Assyriological publication does not embargo Iraqi use of its products and by making transcriptions and translations openly available on online resources such as the Cuneiform Digital Library Initiative (CDLI) Assyriologists would not doubt argue that over the long term they are working for the benefit of Iraqi scholarship and by extension Iraqi civil society. But when Assyriologists claim to be the latest manifestation of a long-established scholarly tradition, they are advertising the persistence of a hybrid cuneiform network that was articulated during

the nineteenth century, connecting dollars, collectors, scholars, funders, universities, museums, publishers, dealers, smugglers, diggers, and cuneiform tablets, embedded then as it is now within colonial or neo-colonial relations of political domination. This network acts for the financial, cultural and intellectual benefit of foreigners at the expense of Iraq and Iraqi civil society. Claiming legitimacy from tradition comes perilously close to suspending Iraq within a timeless colonial limbo. Countries that seemingly support the study and publication of unprovenanced cuneiform tablets through funding and institutional acquiescence or assent are the same countries that protect continuing illicit trade through lax law enforcement and that are responsible for the decimation of Iraqi scholarship through military and economic violence. Decomposing this hybrid network into distinct and separate polities or fields of scholarship and politics is what Latour (1993) would consider performative of modernity, acting to disguise or obscure the hidden reality of collective agency. The separation of an industrial polity from a civic polity or of scholarship from politics is a contrivance. Assyriologists maintain it passively with their reductive characterisation of the sovereign and cultural rights of Iraq as politics, but also more actively when they express reluctance to investigate the collecting and trade histories of the tablets they study (Alster, 2007, p. xi; George, 2009, p. iv; Westenholz, 2010, p. 264).

The application of justification theory to the justificatory statements of Assyriologists clarifies the issues at stake when considering the propriety of publishing unprovenanced cuneiform tablets. Assyriological justifications seem trapped within the terms of a debate conducted within ‘western’ academia during the 1990s about interactions among scholars and collectors and the looting of archaeological sites. Concern about these interactions is still salient and although in theory open to empirical resolution the necessary evidence is not always forthcoming. But the justifications take no account of Iraqi grievances arising out of compromised sovereignty and cultural rights violations. When Assyriologists dismiss these grievances as ‘politics’, they betray an anachronistic misunderstanding of what ultimately is considered wrong about their scholarship. They are failing to engage with an emerging international consensus on issues that have been gathered together here as indicative of a civic polity. The segregation of cultural understandings and moral logics into separate industrial and civic polities has stymied meaningful debate and without any common frame of reference has enabled a non-confrontational “business as usual” approach for Assyriologists on the one hand and those arguing in defence of Iraqi sovereignty and cultural rights on the other. Meanwhile, Iraq and Iraqi civil society continue to suffer from the loss of an invaluable cultural and historical resource.

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