Nationalism *versus* "identity pluralism"?

Preserving and valorizing archeological heritage

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This article discusses how archeological objects' "pluralistic identity"—defined as the archeological relic's life in the ancient world and its afterlife, including its reuse and potential return to its original national context—complicate the protection of archeological heritage on the Italian territory in the shadow of the cultural property nationalism/internationalism dialectic. It begins by reconstructing and discussing the debate underscoring the first retentionist cultural property law in post-Unity Italy. The article then analyzes a series of case studies testifying to the (in)efficacy of such a law—for instance, vis-à-vis political interests—the impact of bilateral agreements for the repatriation of looted archeological property from "universal museums" to Italy as the Nation of origin, and the dilemma over the state's functions of preservation and fruition. The paper asks whether archeological relics which are understood as State property are indeed the "national(ist)" heritage of one national past and whether and how the national identity that they are thought to epitomize can coexist with an inclusive valorization of their "pluralistic identity" in our contemporary society.

1. Introduction

> Mortal nature is capable of immortality only in this way, the way of generation (τῇ γενέσει), because it is always leaving behind another that is young to replace the old. For while each one of the animals is said to live and be the same (for example, one is spoken of as the same from the time one is a child until one is an old man; and though he never has the same things in himself, nevertheless, he is called the same), he is forever becoming young in some respects as he suffers losses in other respects: his hair, flesh, bones, blood, and his whole body. And this is so not only in terms of the body but also in terms of the soul: his ways, character, opinions, desires, pleasures, pains, fears, each of these things is never present as the same for each, but they are partly coming to be and partly perishing. And what is far stranger still is that in the case of our sciences too (καὶ αἱ ἐπιστῆμαι) not only are some coming to be while others are perishing (and we are never the same in terms of the sciences

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> either); but also each single one of the sciences is affected in the same way. For studying (μελετᾶν), as it is called, is done on the grounds that the science is passing out from us; for forgetfulness is the exiting of science; and studying, by instilling a fresh memory again to replace the departing one, preserves the science, so that it may be thought to be the same. For in this way every mortal thing is preserved; not by being absolutely the same forever, as the divine is, but by the fact that that which is departing and growing old leaves behind another young thing that is as it was (οἷον αὐτὸ ἦν). By this device, Socrates,' she said, 'the mortal shares in immortality, both body and all the rest; but the immortal has a different way. So do not be amazed if everything honors by nature its own offshoot; for it is for the sake of immortality that this zeal and eros attend everything.'[1]

This reflection from the *Symposium* should resonate in our minds whenever we deal with the notion of identity. "Identity" uses the Latin root of *idem* (Greek *αὐτός/ταὐτό*), which means he himself/it itself, the very same. Plato observes that no living being actually stays the same throughout its lifetime, even if we adopt the convention of considering it the same thing. Its "identity," Plato argues, is actually conventional, while its fundamental nature is continuous change: living organisms go through a perpetual process of loss and substitution of parts that make them just said to be the same. This process, Plato continues, also affects science so that the action of "cultivating science" comes to mean a continuous process of replacement and integration of what is lost with new knowledge.

In this article, Plato's observation is applied to archeological objects and the national identity attached to them. Indeed, to perform its function(s), and in the process that detached it from the context that had initially produced it, so as to hand it down to us—that is, to (and through) contexts characterized by very different practices, interpretative frameworks, sets of values, and needs—the archeological object itself, like any living organism, has undergone a process of change. Change can relate to both the archeological object's life in the ancient world—its production, use, displacement, reuse, and abandonment or burial—and its "afterlife," defined as the events surrounding the object after its discovery, including its restoration, collecting, replication, exhibition, theft, looting, and return, at successive stages in its history.

Therefore, questions arise about what and whose (national) identity the archeological objects can be thought to epitomize. The case of the *Victorious Youth* is an exemplary one (Figure 1). A fourth-century BCE bronze statue of an athlete crowning himself with an olive wreath, likely a

[1] Plato, *Symposium*, *in* PLATO'S «SYMPOSIUM» 38, 207d–208b (Seth Benardete trans., Univ. Chicago Press, 2001).

sanctuary *ex voto* for a victory in the Panhellenic Games, is attributed to the Greek sculptor Lysippus.[2] The Romans had probably taken the statue from its original location in Greece between the first century BCE and the first century CE, and it may have been aboard a vessel shipwrecked on its way to Rome. The statue was retrieved in 1964 from the Adriatic Sea by a fishing vessel flying the Italian flag. After being illicitly brought to, and exported from, the Italian territory, in 1977, the *Victorious Youth* was finally purchased by the Getty Museum of Los Angeles, and its ownership has been contested ever since. Therefore, in light of the "pluralistic identity" thesis, the *Victorious Youth* might be considered as part of the Greek, Italian, and American identities—without considering that Classical art and civilization, in their turn, are at the root of the Western culture as a whole.

On the other hand, the legislation on protection of cultural heritage, that is, the set of national laws, international conventions, bilateral agreements, policies, and case law, can be regarded as the litmus test of a nation's attitude towards both its archeological property and national identity. A close analysis of the legislative history and the exceptions to, failures of, and changes to the law allows us to observe and explore the cultural heritage's perceived role in society and its way to express and embody societal values and practices, cultures, and priorities.

The dilemma between cultural property nationalism and internationalism championed by John H. Merryman illustrates this complex paradigm.[3] Italy represents an archetypal case: whereas the emergence of the tensions between state retention and free international circulation of cultural

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[2] *See, e.g.*, CAROL C. MATTUSCH, THE VICTORIOUS YOUTH (1997); Jerry Podany & David Scott, *The Getty Victorious Youth Reconsidered*, S39 J. ROMAN ARCHAEOLOGY (Special Issue: *From the Parts to the Whole: Acta of the 13th International Bronze Conference, May 28–June 1, 1996)* 178 (2000); POWER AND PATHOS: BRONZE SCULPTURE OF THE HELLENISTIC WORLD (Jens M. Daehner & Kenneth Lapatin eds., 2015).

[3] John H. Merryman, *Thinking about the Elgin Marbles*, 83 MICH. L. REV. 1880 (1985); John H. Merryman, *Two Ways of Thinking About Cultural Property*, 80 AM. J. INT'L L. 831 (1986); John H. Merryman, *Cultural Property Internationalism*, 12 INT'L J. CULTURAL PROP. 11 (2005). *See also* Lorenzo Casini, *"Italian Hours": The Globalization of Cultural Property Law*, 9 INT'L J. CONST. L. 369 (2011); LORENZO CASINI, EREDITARE IL FUTURO: DILEMMI SUL PATRIMONIO CULTURALE (2016); Lorenzo Casini, *The Future of (International) Cultural Heritage Law*, 16 INT'L J. CONST. L. 1 (2018).

heritage in the global arena has been dated to the postwar period,[4] in Italy, this dichotomy emerged earlier, just after National Unification in the second half of the nineteenth century.

Drawing on a series of case studies, this article reconstructs and discusses the archeological, historical, and political debate underscoring the first law on the protection of cultural heritage in Italy, and its circumvention, the impact of bilateral agreements, and the implementation of sustainable loan policies in the shadow of the cultural property nationalism/internationalism dilemma. It asks whether archeological relics understood as state property are indeed "national(ist)" vestiges, legacies of one national past, or if they can coexist with a "democratic" preservation and valorization of "pluralistic identities" in contemporary societies.

1. Beyond the legislative history debate: Protecting archeological heritage in post-Unity Italy

Since the second decade after the Unification of Italy, archeologists, historians, and politicians have debated the protection of archeological artifacts.[5] In this critical moment of the construction of the new state's functions, including the organization of public education and museum institutions (both sectors were under the aegis of the State Department of Public Education), two opposite views concerning archeological heritage confronted each other, and are best represented by the actions of two archeologists: Giuseppe Fiorelli[6] and Giancarlo Conestabile della Staffa.[7] They may be

[4] *Contra* Atti del Parlamento italiano—Camera dei Deputati, XXI Legislatura, Sessione 1902–1903, *Discussioni*, 28 aprile 1903, 7058.

[5] *See, e.g.*, Atti del Parlamento italiano—Camera dei Deputati, VIII Legislatura, Sessione 1861–1862, *Discussioni*, 19 luglio 1862, 3416.

[6] *See, e.g.*, Francesco De Angelis, *Giuseppe Fiorelli: la vecchia antiquaria di fronte allo scavo*, *in* 50 RICERCHE DI STORIA DELL'ARTE 6 (1993); Gianluca Kannes, *Fiorelli, Giuseppe, in* 48 DIZIONARIO BIOGRAFICO DEGLI ITALIANI (1997), https://www.treccani.it/enciclopedia/giuseppe-fiorelli_%28Dizionario-Biografico%29/; A GIUSEPPE FIORELLI NEL PRIMO CENTENARIO DELLA MORTE. ATTI DEL CONVEGNO, NAPOLI 19–20 MARZO 1997 (Stefano De Caro & Pier Giovanni Guzzo eds., 1999); MARCELLO BARBANERA, STORIA DELL'ARCHEOLOGIA CLASSICA IN ITALIA: DAL 1764 AI GIORNI NOSTRI, e.g. 60–73 (2015).

[7] *See, e.g.*, Roberto Volpi, *Conestabile della Staffa, Carlo*, 27 DIZIONARIO BIOGRAFICO DEGLI ITALIANI (1982), https://www.treccani.it/enciclopedia/conestabile-della-staffa-giovanni-carlo_%28Dizionario-Biografico%29/.

regarded as the forerunners of the tensions between cultural property nationalism and internationalism, respectively.

According to both Fiorelli and Conestabile, it was not the archeological objects per se that the state should protect; rather, it should preserve their "real value"—in Fiorelli's words—defined not only by those objects' intrinsic quality but, rather, by the "circumstances"[8] of their retrieval and their "respective arrangement."[9] Nonetheless, while Fiorelli considered that this thorough approach, not only to the object but also to its immediate context, would be aimed at preserving that object's historical documentary value, in Conestabile's view, it would also serve to prove to a foreign purchaser that object's provenance and authenticity.[10]

Conestabile claimed that in the case where an object found on the Italian territory had been eventually displaced either within or beyond the state's borders, the archeological science would still nonetheless be broadly known.[11] Also, "the possibility of intellectual reconstruction of the complex of the single findings" would allow reuniting the *disiecta membra* in any event.[12]

For Fiorelli, by contrast, only state retention of the archeological object on the Italian territory would assure protection of its "real value," to "direct advantage of universal culture."[13] He also maintained that archeological objects should be preserved and displayed close to their context

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[8] Giuseppe Fiorelli, *Intorno al servizio archeologico del regno, relazione del direttore generale delle antichità e belle arti a S. E. il Ministro della Istruzione Pubblica*, 12 BOLLETTINO UFFICIALE DEL MINISTERO DELLA PUBBLICA ISTRUZIONE 536, 567 (1886). The translations are by author, unless otherwise specified.

[9] Gian Carlo Conestabile della Staffa, *Scavi, monumenti, musei e insegnamento della scienza delle antichità in Italia. Lettera al comm. Ruggero Bonghi [con appendice: lettera del ch. Prof. G. R. Gamurrini a Giancarlo Conestabile]*, 27 NUOVA ANTOLOGIA 345, 347 (1874). *See also* Ruggero Bonghi, *Gli scavi e gli oggetti d'arte in Italia*, 26 NUOVA ANTOLOGIA 322, 323 & 326–27 (1874); Atti del Parlamento italiano—Camera dei Deputati, XII Legislatura, Sessione 1874–1875, *Discussioni*, 9 febbraio 1975, 1127; Atti del Parlamento italiano—Camera dei Deputati, XII Legislatura, Sessione 1876, *Discussioni*, 26 aprile 1876, 296.

[10] Conestabile, *supra* note 9, at 348–9.

[11] *See also* ANTONINO SALINAS, DELLO STATO ATTUALE DEGLI STUDI ARCHEOLOGICI IN ITALIA E DEL LORO AVVENIRE. PROLUSIONE LETTA ADDÌ 12 DICEMBRE 1865 NELLA R. UNIVERSITÀ DI PALERMO 37 (Palermo, 1866).

[12] Conestabile, *supra* note 9, at 347.

[13] Fiorelli, *supra* note 8, at 565.

and "prove the exactness with which the survey had been conducted, providing through the arrangement of the exhibits the material necessary for the study."[14]

For this very reason, Fiorelli wished that state museums would blossom at a regional and sub-regional level, and that Provinces and Municipalities would also establish their own museums,[15] thereby fostering a proliferation of local museums that has taken place all over Italy since the end of the nineteenth century, a proliferation highly criticized by both archeologists and politicians.[16]

Instead, Conestabile conceived museums' function as analogous to natural science research laboratories', mainly aimed at education and research.[17] His proposal of free circulation and exchange of originals, duplicates, plaster casts, and other reproductions[18] can be seen as one of the most immediate consequences of such a conception of museum. Furthermore, Conestabile

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[14] Fiorelli, *supra* note 8, at 569.

[15] GIUSEPPE FIORELLI, SULL'ORDINAMENTO DEL SERVIZIO ARCHEOLOGICO: RELAZIONE DEL DIRETTORE GENERALE DELLE ANTICHITÀ E BELLE ARTI A S. E. IL MINISTRO DELLA ISTRUZIONE PUBBLICA, e.g. 12, 14–19 (1883); Fiorelli, *supra* note 8, e.g. at 569–70, 578. On the debate over museums' distribution on the national territory, see also Atti del Parlamento italiano—Camera dei Deputati, XVI Legislatura, Sessione 1887–1888, *Discussioni*, 23 novembre 1887, 49–57; Atti del Parlamento italiano—Senato del Regno, XVI Legislatura, Sessione 1887–1888, *Discussioni*, 31 gennaio 1888, 528–536.

[16] *See* ANTONINO SALINAS, DEL MUSEO NAZIONALE DI PALERMO E DEL SUO AVVENIRE 18–19, 29 (1874); Atti del Parlamento italiano—Senato del Regno, XVI Legislatura, Sessione 1887–1888, *Documenti: Progetti di Legge e Relazioni, Relazione dell'Ufficio Centrale composto dei senatori Prinetti, Puccioni, Guerrieri-Gonzaga, Barraco G. e Vitelleschi, relatore, sul Progetto di Legge "Conservazione dei Monumenti e degli oggetti d'arte e di antichità,"* 5–6.

[17] Conestabile, *supra* note 9, at 370, 373. *See also* Bonghi, *supra* note 9, at 322; ETTORE DE RUGGIERO, LO STATO E I MONUMENTI DELL'ANTICHITÀ IN ITALIA, 76 (1874). On the debate over the organization of public education and museum institutions in Post-Unity Italy, see Maria Luisa Catoni, *Fra "scuola" e "custodia": La nascita degli organismi di tutela artistica*, 50 RICERCHE DI STORIA DELL'ARTE 41 (1993).

[18] Conestabile, *supra* note 9, at 365–73. *See also* Bonghi, *supra* note 9, at 323, 330; DE RUGGIERO, *supra* note 17, at 76–77, 80–81; SALINAS, *supra* note 11, e.g. at 42; SALINAS, *supra* note 16, at 12–22; Atti del Parlamento italiano—Senato del Regno, XVI Legislatura, Sessione 1887–1888, *Discussioni*, 31 gennaio 1888, 532.

maintained that Italy's archeological museums lacking collections of allogenous, namely Oriental, antiquities should acquire Assyrian and Babylonian relics, and the like, to illustrate "the relationships between East and West."[19] This is the reason why the archeologist bemoaned, for instance, the failed state acquisition of the Cesnola Collection of Cypriote antiquities for the University Archaeological Museum of Turin. It would have fit the Egyptian collection therein,[20] which Conestabile also wished would be completed through facsimiles after originals in the Egyptian Museums of Berlin, Paris, and Cairo.[21]

By contrast, Fiorelli did not consider museums as "teaching cabinets to be designed through exchanges or even completely renovated."[22] He criticized, for instance, the State acquisition of the Etruscan Casuccini Collection from Chiusi in Tuscany for the Royal Archaeological Museum of Palermo in Sicily.[23] In the 1860s, the collection was offered for sale by the heirs of Pietro Bonci Casuccini, who in the early 1900s had gathered a vast collection of archeological relics by conducting excavations on his land. Casuccini had even opened his eponymous museum to the public.[24] Not only did the acquisition of the collection by the Museum in Palermo preserve it from a likely dispersal abroad, but it also boosted the self-image of the young Italian Nation as a whole—the archeological heritage of any Italian region becoming the legacy of a single super-regional

[19] Conestabile, *supra* note 9, at 368–369.

[20] *Id.* at 359.

[21] *Id.* at 370–2, 375.

[22] FIORELLI, *supra* note 15, at 13–14. *See also* Fiorelli, *supra* note 8, e.g. at 558–565.

[23] FIORELLI, *supra* note 15, at 13–14. Conestabile tried to keep the Casuccini Museum in Tuscany as well and make it the linchpin of a State Etruscan Musuem in Florence. *See* letter of Giancarlo Conestabile to the Minister of Public Education Pasquale Villari (21 November 1869) and letter of Enrico Brunn to Giancarlo Conestabile (10 November 1869), Ministero della Pubblica Istruzione, Direzione Generale Antichità e Belle Arti, Archivio Generale, 1860–1890, I vers., b. 285, fasc. 152, s.fasc. 19, Archivio Centrale dello Stato, Rome, Italy.

[24] On the Casuccini Collection, see, e.g., GEORGE DENNIS, THE CITIES AND CEMETERIES OF ETRURIA 314–19 (1883); CHIUSI SIENA PALERMO, ETRUSCHI: LA COLLEZIONE BONCI CASUCCINI (Debora Barbagli & Mario Iozzo eds., 2007); GLI ETRUSCHI A PALERMO: IL MUSEO CASUCCINI (Agata Villa ed., 2012).

Italian past.[25] Nonetheless, according to Fiorelli, the relationship between the objects and their context crumbled, even though they have remained within the national borders. This decontextualization maimed—according to Fiorelli—both the objects and the original context, harming universal culture.

However, at this early stage,[26] no one, not even Fiorelli, considered that the exportation of any archeological object found in Italy should be forbidden;[27] there was only the wish to preserve for the state "only what scientific reason and good method require."[28] The rest could be let go to "rouse in the foreigners' minds another image which could put them in connection with us and [. . .] show them how much of us there is in their past and present life," in the words of the historian Ruggero Bonghi.[29]

The legislator has eventually followed Fiorelli's recommendation: the state had to exercise control over excavation, circulation, and exportation of archeological objects, create catalogs of public and private objects of supreme historical value to be preserved by the state, and limit the

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[25] *See* Conestabile, *supra* note 9, at 366–9: he wished that a selection of, for instance, the countless duplicate bronzes found in Pompeii would be sent out to State Museums owning none, for other Italians to have "a real idea" of the shared culture to which they once belonged.

[26] Pursuant to Legge 28 giugno 1871, n.286, G.U. 28 Jun., 1871, n.174 (It.), the pre-Unity norms concerning monuments and art objects preservation were extended up until one national law had entered into force.

[27] But see Francesco Di Giovanni's proposal to forbid, *sic et simpliciter*, the exportation of Italy's archeological property "for one of the highest moral interests [. . .] that of saving for Italy the evidence of its glorious past and the miracle of its arts." Atti del Parlamento italiano—Senato del regno, XI Legislatura, Sessione 1871–1872, *Documenti: Disegni di Legge e Relazioni, Relazione della commissione composta dai Senatori Amari, Tabarrini, Miraglia, Di Giovanni e Brioschi, sul Progetto di Legge per la "Conservazione dei monumenti e degli oggetti d'arte e di archeologia*," 20 gennaio 1873, 9. Di Giovanni was the *deus ex machina* of the transfer of the Casuccini Collection to Palermo. *See* Ministero della Pubblica Istruzione, Direzione Generale Antichità e Belle Arti, Archivio Generale, 1860–1890, I vers., b. 285, fasc. 152, s.fasc. 19, Archivio Centrale dello Stato, Rome, Italy.

[28] Fiorelli, *supra* note 8, at 574. *See also id*. at 566, 580.

[29] Bonghi, *supra* note 9, at 324. On Ruggiero Bonghi, see Pietro Scoppola, *Bonghi, Ruggero*, in 12 DIZIONARIO BIOGRAFICO DEGLI ITALIANI (1971), https://www.treccani.it/enciclopedia/ruggiero-bonghi_%28Dizionario-Biografico%29/.

alienability of cultural property, while, at the same time, giving the State a property right over any cultural property found after the date of the law no. 364 of June 20, 1909.[30]

This Law seems to have favored the interest of cultural property nationalism over internationalism.

2. The (in)efficacy of the law: The case of the *Lancellotti Discobulos*

The application and efficacy of the nationalist retentionist cultural property law have occasionally failed in the history of the Italian state. During the Fascist period, although leveraging cultural heritage as an epitome of a single national (imperialistic) identity for the purposes of propaganda, the regime did not hesitate to sacrifice its own identity on the altar of political interests.

The cult of *romanità* was very useful in supporting the case that Fascist Italy was making history and warming its way into world civilization and power.[31] From the 1920s, "the healing

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[30] For an overview of the evolution of Italian Cultural Heritage legislation, see, e.g., ANDREA EMILIANI, UNA POLITICA DEI BENI CULTURALI (1973); 1 EMANUELE MATTALIANNO, IL MOVIMENTO LEGISLATIVO PER LA TUTELA DELLE COSE DI INTERESSE ARTISTICO E STORICO DAL 1861 AL 1939 (1975); ROBERTO BALZANI, PER LE ANTICHITÀ E LE BELLE ARTI, LA LEGGE N. 364 DEL 20 GIUGNO 1909: DIBATTICI STORICI IN PARLAMENTO (2003); ANTONELLA GIOLI, STORIA, DIBATTITI E ATTUALITÀ DELLA TUTELA DEL PATRIMONIO ARTISTICO: FONTI E MATERIALI (2003); ELISABETTA FUSAR POLI, LA CAUSA DELLA CONSERVAZIONE DEL BELLO: MODELLI TEORICI E STATUTI GIURIDICI PER IL PATRIMONIO STORICO-ARTISTICO ITALIANO NEL SECONDO OTTOCENTO (2006); ANDREA RAGUSA, ALLE ORIGINI DELLO STATO CONTEMPORANEO: POLITICHE DI GESTIONE DEI BENI CULTURALI E AMBIENTALI TRA OTTOCENTO E NOVECENTO (2011). On pre-Unity legislation, see LUIGI PARPAGLIOLO, CODICE DELLE ANTICHITÀ E DEGLI OGGETTI DI ARTE: RACCOLTA DI LEGGI, DECRETI, REGOLAMENTI, CIRCOLARI RELATIVI ALLA CONSERVAZIONE DEI MONUMENTI E DEGLI OGGETTI DI ANTICHITÀ E DI ARTE CON RICHIAMI ALLA GIURISPRUDENZA E AI PRECEDENTI STORICI E LEGISLATIVI (1913); ANDREA EMILIANI, LEGGI, BANDI E PROVVEDIMENTI PER LA TUTELA DEI BENI ARTISTICI E CULTURALI NEGLI ANTICHI STATI ITALIANI 1571–1860 (1978).

[31] On the cult of *romanità*, see, e.g., Romke Visser, *Fascist Doctrine and the Cult of the "Romanità,"* 27 J. CONTEMP. HIST. 5 (1992); JAN NELIS, FROM ANCIENT TO MODERN: THE MYTH OF *ROMANITÀ* DURING THE VENTENNIO FASCISTA. THE WRITTEN IMPRINT OF MUSSOLINI'S CULT OF THE "THIRD ROME" (2011). On archeology and urbanism in the Fascist era, see JOSHUA ARTHURS, EXCAVATING MODERNITY: THE ROMAN PAST IN FASCIST ITALY (2012); Joshua Arthurs, *The Excavatory Intervention: Archaeology and the Chronopolitics of Roman Antiquity in Fascist Italy*,

pick"[32] isolated the Eternal City's Roman and Christian remains from later structures built on or next to them.[33] At the same time, archeological exhibitions, including the *Exposition Coloniale de Paris* (1931) and the *Mostra Augustea della Romanità* (1937),[34] painted a picture of the Roman world that developed from a strong, unified Italy and gave rise to a civilization. At the Parisian exhibition, Armando Brasini's syncretistic reconstruction of the *Basilica* of Septimius Severus in *Leptis Magna* displayed archeological relics looted from Northern Africa, including the famous *Venus of Cyrene* (second century CE, Roman copy), extracted from Italian Libya in the 1910s. The *Basilica* became an icon for Fascist Italy's nationalistic and imperialistic policy.[35]

Several exhibitions of Italian Art on tour in Europe—in London (1930), Paris (1935), Berlin (1937), and Belgrade (1939)—and the United States—New York, Chicago, and San Francisco

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13 J. MOD. EUR. HIST. 44 (2015); STEPHEN L. DYSON, *Archaeology and Urbanism in Fascist Rome, in* ARCHAEOLOGY, IDEOLOGY, AND URBANISM IN ROME FROM THE GRAND TOUR TO BERLUSCONI 154 (2019).

[32] Mussolini's own oratory and Fascist literature in general are full of references to "*il piccone risanatore*" or "his Majesty the pick" (*sua Maestà il piccone*). *See e.g.* Spiro Kostof, *His Majesty the Pick The Aesthetics of Demolition*, in STREETS: CRITICAL PERSPECTIVES ON PUBLIC SPACE 9 (Zeynep Çelik al. eds., 2020).

[33] The case of the Mausoleum of Augustus is a paradigmatic one. *See, e.g.*, Susan L. Fugate Brangers, *Political Propaganda and Archaeology: The Mausoleum of Augustus in the Fascist Era*, 3 INT'L J. HUMANITIES SOC. SCI. 125 (2013).

[34] *See, e.g.*, ARTHURS, *supra* note 31, at 91–124; Barbanera, *supra* note 6, at 139–141; Marco Giuman & Ciro Parodo, *La Mostra Augustea della Romanità e il mito di Roma antica in epoca fascista, in* AUGUSTUS IST TOT—LANG LEBE DER KAISER! 605 (Manuel Fleckeret al. eds., 2017).

[35] On the Italian pavilion at the Exposition Coloniale de Paris of 1931, see Maddalena Carli, *Ri/produrre l'Africa romana: I padiglioni italiani all'Exposition coloniale internazionale, Parigi 1931*, 17 MEMORIA E RICERCA 212 (2005); Viviana Gravano, *La Romanità dell'Italia coloniale e fascista. La partecipazione Italiana alla Exposition Coloniale de Paris del 1931*, 8 ROOTS&ROUTES (2018), www.roots-routes.org/la-romanita-dellitalia-coloniale-fascista-la-partecipazione-italiana-alla-exposition-coloniale-de-paris-del-1931-viviana-gravano/. On Fascist colonialism and archeology, see Alfredo González-Ruibal, *Fascist Colonialism: The Archaeology of Italian Outposts in Western Ethiopia (1936–41)*, 14 INT'L J. HIST. ARCHAEOLOGY 547 (2010).

(1939–40)—celebrated Italy's universal *genius.*[36] They put the very preservation of the loaned works of art loaned in jeopardy though, due not only to their continuously unsafe (and uninsured) transfers but also to the intrigues of some ghost middlemen.

Although Fascist propaganda glorified the myth of *romanità* to an extent not seen before,[37] during the Fascist era, Italian cultural property was also an *Iphigenia in Aulis* on the stage of foreign policy. The *Lancellotti Discobulos*, which was sold to the Führer and exported to Germany, despite being listed as inalienable pursuant to Law no. 364/1909, is a case in point (Figure 2).[38]

A second-century CE Roman marble copy after Myron's fifth-century BCE bronze original, the statue was discovered in 1781 in Rome on the Esquilino, at the Palombara Palace, and soon entered the eponymous collection of Massimo Lancellotti at the Coronari Palace.[39] Here, it happened to enchant the Führer. Adolf Hitler was taking a tour of Italy along with the special commission appointed to run the planned Führermuseum in Linz, his hometown, to collect masterpieces from all over Europe, and immediately yearned to stage the *Discobulos* in his collections.

Prince Filippo Lancellotti, who owned the marble, asked for permission to sell and export it to Germany, but his request was denied. Following further persistent requests, the Consiglio Superiore di Antichità e Belle Arti set up a special commission, composed of the archeologists Biagio Pace, Amedeo Maiuri, and Carlo Anti,[40] who repeated that the exportation of the statue

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[36] *See, e.g.*, FRANCIS HASKELL, THE EPHEMERAL MUSEUM: OLD MASTER PAINTINGS AND THE RISE OF THE ART EXHIBITION *passim* (2000); LORENZO CARLETTI & CRISTIANO GIOMETTI, RAFFAELLO ON THE ROAD: RINASCIMENTO E PROPAGANDA FASCISTA IN AMERICA (1938–40) (2016).

[37] On the propagandistic use of the Roman past in post-Unity Rome, see L'ARCHEOLOGIA IN ROMA CAPITALE TRA STERRO E SCAVO (1983); BARBANERA, *supra* note 6, at 52–59. On nationalism and archeology in Italy from the Unification to World War II, see Andrew P. McFeaters, *Nationalism and Archaeology in Italy from Unification to WWII*, 33 NEBRASKA ANTHROPOLOGIST 49 (2007).

[38] Francesca Coccolo, *Law no. 1089 of 1 June 1939: The Origin and Consequences of Italian Legislation on the Protection of the National Cultural Heritage in the Twentieth Century*, *in* CULTURAL HERITAGE: SCENARIOS 2015–2017, at 195, 198–200 (Simona Pinton & Lauso Zagato eds., 2017); FRANCESCA COCCOLO, I CAPOLAVORI E LA PACE: LE RESTITUZIONI DI OPERE D'ARTE ALL'ITALIA DOPO LA SECONDA GUERRA MONDIALE (2021).

[39] 1 ANTONIO GIULIANO, MUSEO NAZIONALE ROMANO: LE SCULTURE 184–6 (1979).

[40] On Biagio Pace, see Fabrizio Vistoli, *Pace, Biagio, in* 80 DIZIONARIO BIOGRAFICO DEGLI ITALIANI (2014), https://www.treccani.it/enciclopedia/biagio-pace_(Dizionario-Biografico)/; on

"would constitute a very serious detriment to the national artistic patrimony,"[41] which led to the Council's refusal. When a note from Germany once more pointed out the Führer's interest in the statue, asking for its export,[42] and thanks to the pressure the Minister of Foreign Affairs, Galeazzo Ciano, put on the Minister of Public Education Giuseppe Bottai,[43] as well as thanks to Mussolini's personal intervention,[44] in June 1938, the *Discobulos* left Italy.[45] Following this unlawful "procedure," several artifacts and artworks were transferred to Germany at the Führer's or his infamous Reich Marshall's whim.

Amedeo Maiuri, see Pier Giovanni Guzzo, *Maiuri, Amedeo, in* 67 DIZIONARIO BIOGRAFICO DEGLI ITALIANI (2006), https://www.treccani.it/enciclopedia/amedeo-maiuri_(Dizionario-Biografico)/; on Carlo Anti, see CARLO ANTI: GIORNATE DI STUDIO NEL CENTENARIO DELLA NASCITA: VERONA-PADOVA-VENEZIA, 6–8 MARZO 1990 (1992); GIROLAMO ZAMPIERI, I DIARI DI CARLO ANTI, RETTORE DELL'UNIVERSITÀ DI PADOVA E DIRETTORE GENERALE DELLE ARTI DELLA REPUBBLICA SOCIALE ITALIANA (2011); ANTI, ARCHEOLOGIA, ARCHIVI (Irene Favaretto et al. eds., 2019).

[41] *Italy Claims: Receipts: Exceptional Returns and Restitution*, *in* RECORDS CONCERNING THE CENTRAL COLLECTING POINTS ("ARDELIA HALL COLLECTION"): MUNICH CENTRAL COLLECTING POINT, 1945–1951, at 317, 334 (2009), www.fold3.com/title/753/ardelia-hall-collection-munich-administrative-records/browse/hFmE5NRe53IKmmLLDSl_g5EHP.

[42] *Id.* at 338–40.

[43] *Id.* at 341–3. Bottai had repeatedly refused to fulfil the request, also denouncing the dramatic cultural drain insured by the (ab)use of mischievous exchanges and donations prompted by personal and political interests and even suggested that the State exercise the pre-emption (as per Legge 20 giugno 1909, n.364, G.U. 28 Jun. 1909, n.150) and buy the *Discobulos*, given that the owner was also in touch with the Metropolitan Museum of Art in New York. See Italy Claims: Correspondence, *in* RECORDS CONCERNING THE CENTRAL COLLECTING POINTS ("ARDELIA HALL COLLECTION"): MUNICH CENTRAL COLLECTING POINT, 1945–1951, *supra* note 41, at 118, 150, www.fold3.com/title/753/ardelia-hall-collection-munich-administrative-records/browse/hFmE5NRe53IKmmLLDuZvZRj3w.

[44] *Id.* at 86–7, 189.

[45] It is worth underlining that earlier in March 1938, Giuseppe Bottai had discussed, before the Senate, his Ministry's annual report, calling for a shift from the nationalist retentionist cultural property law to a more exploitable one—possibly aiming to be able to resort to art as a means of cultural diplomacy—which would have wormed its way into Legge 1° giugno 1939 n.1089, G.U. 8 Aug, 19039, n.184. See Coccolo, *supra* note 38, at 204–206.

Although, after the war, the transfer of cultural property to Germany prior to the Nazi occupation could not be regarded as a direct violation of state law, but as a case of collusion, the *Lancellotti Discobulos* was eventually returned to Italy in 1948, along with other cultural property which had been transferred to Germany as extraordinary exceptions to the general rule.[46] The work entered state property and is kept at the National Roman Museum, Palazzo Massimo alle Terme.

3. The impact of bilateral agreements on the repatriation of looted archeological property: The case of the *Euphronios Krater*

The pillage, and later repatriation, of Italian national property is a recurring pattern in Italy's ongoing, decades-long fight against illicit excavation and trade in archeological artifacts.[47] The 2006 "Met–Italy Euphronios Accord" illustrates this pattern.

An Attic calyx-krater dating to circa 510 BCE, signed by the potter Euxitheos and the painter Euphronios,[48] the *Krater* represents, on the obverse, Hypnos and Thanatos carrying the corpse of the Trojan hero Sarpedon, one of the sons of Priam, before Hermes Psychopomps; on the reverse, warriors arming themselves for the battle. The Metropolitan Museum of New York purchased it in February 1972 (Figure 3).[49] As rumors started to circulate that the unprovenanced relic had been

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[46] *See* COCCOLO, *supra* note 38.

[47] Italy had already experienced dramatic pillages, as Cesare Cantù highlights when dealing with Napoleon's pillage of Milan in Atti del Parlamento italiano—Camera dei Deputati, VIII Legislatura, Sessione 1863–1865, *Discussioni*, 22 novembre 1864, 6828.

[48] On the *Krater*, see PAOLO ENRICO ARIAS, IL GRANDE CRATERE DI EUPHRONIOS DI NEW YORK (1972); Pierre Devambez, *Le nouveau cratère d'Euphronios au Metropolitan Museum*, 117 COMPTES RENDUS DES SÉANCES—ACADÉMIE DES INSCRIPTIONS 370 (1973); JENIFER NEILS, THE "UNHEROIC" CORPSE: RE-READING THE SARPEDON KRATER (2009). On Euphronios, see EUPHRONIOS DER MALER: EINE AUSSTELLUNG IN DER SONDERAUSSTELLUNGSHALLE DER STAATLICHE MUSEEN PREUSSISCHER KULTURBESITZ (BERLIN–DAHLEM 20.3.–26.5.1991) (1991); EUPHRONIOS (Mario Cygielman et al. eds., 1992); EUPHRONIOS, PEINTRE: ACTES DE LA JOURNÉE D'ÉTUDES (ECOLE DU LOUVRE—DÉPARTEMENT DES ANTIQUITÉS GRECQUES, ÉTRUSQUES ET ROMAINES DU MUSÉE DU LOUVRE, 10 OCTOBRE 1990) (Martine Denoyelle ed., 1992).

[49] For an accurate reconstruction of the question, see Ashton Hawkins, *The Euphronios Krater at the Metropolitan Museum: A Question of Provenance*, 27 HASTINGS L.J. 1163 (1976); Aaron K. Briggs, *Consequences of the Met-Italy Accord for the International Restitution of Cultural Property*, 7 CHI. J. INT'L L. 623 (2007); PETER WATSON & CECILIA TODESCHINI, THE MEDICI

looted in Italy, Italian officials launched an investigation. They concluded that the *Krater* had been illegally excavated in the Etruscan necropolis of Greppe Sant'Angelo, near Cerveteri, Italy, in December 1971, by a gang of *tombaroli.*[50] A decades-old international property dispute arose straightaway,[51] culminating in the February 2006 Italy–Met Euphronios Accord, an unprecedented, privately negotiated, voluntary restitution by a museum. The *Krater*, which was allowed to remain at the Met for a few years under the label "Lent by the Republic of Italy," was eventually returned in exchange for rotating four-years loans of archeological artifacts of "equivalent beauty and artistic/historical significance" from Italian collections. Furthermore, the Accord stated that the Met would conduct excavations in Italy. The discovered artifacts would be allowed to leave Italy for the time necessary for their study and restoration, and be loaned to the Museum for temporary exhibition for a period of four years.

The Accord is acknowledged to have done justice to both the *Krater* and the national (and local) context that the illicit excavation, looting, and subsequent displacement of the object had damaged. Also, the Accord promoted understanding and appreciation of the object's "real value"—in the words of Fiorelli—and the importance of its conservation in the "origin context." It also underpinned the recognition of the museum's role as a "reception context"[52] for the preservation, study, and exhibition of the artistic and cultural patrimony of humanity. Furthermore, the Accord has fostered a spirit of cooperation between "universal museums" and "source nations." In fact, it prompted further bilateral agreements for the repatriation of archeological objects between the

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CONSPIRACY: THE ILLICIT JOURNEY OF LOOTED ANTIQUITIES FROM ITALY'S TOMB RAIDERS TO THE WORLD'S GREATEST MUSEUMS (2016).

[50] Pursuant to L. n. 1089/1939, any archeological property found in Italy belongs to the state; any property stolen or looted and illegally exported after that date is then called for recover and return according to Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 Nov. 1970, 823 U.N.T.S. 231.

[51] *See, e.g.*, WATSON & TODESCHINI, *supra* note 49; David Gill & Christos Tsirogiannis, *Polaroids from the Medici Dossier: Continued Sightings on the Market*, 5 J. ART CRIME 27 (2011). On the illicit trade journey of looted pottery from Italy, see generally Ricardo Elia, *Analysis of the Looting, Selling and Collecting of Apulian Red-Figure Vases: A Quantitative Approach*, 150 TRADE ILLICIT ANTIQUITIES 145 (2001); VIENNIE NØRSKOV, GREEK VASES IN NEW CONTEXTS (2002).

[52] The concept of the "reception context" draws on Hans R. Jauss and the Constance School's theoretical reflection over the *Rezeptionsästhetik* (aesthetics of reception). *See* HANS R. JAUSS, TOWARD AN AESTHETIC OF RECEPTION (Timothy Bahti trans., Minn. Univ. Press, 1982).

Italian state and other US institutions,[53] as well as between Italy and other nations.[54] The Accord even contributed to boosting stricter museum acquisition and loan policies and due diligence procedures. The object's "real value," and the identity attached to it, in turn, are compromised by the impossibility to document the archeological record.[55]

Nonetheless, we should ask how can archeological heritage best serve the interests of fruition and valorization. The *Krater* was returned to Italy in 2007 and was displayed at the Quirinale Palace,[56] and then at the Etruscan Museum of Villa Giulia in Rome, before ending up in Cerveteri's small archeological museum. This is a far cry from its display at a "universal museum" like the Met.[57]

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[53] Including, for example, the Boston Museum of Fine Arts (2006), the Getty Museum of Los Angeles (2007), the Princeton University Art Museum (2007), the University of Virginia (2008), the Minneapolis Institute of Arts (2011), and, most recently, the Toledo Museum of Art (2019). Also, following the return of objects, some museums have developed long-term partnerships with Italian institutions. That of the Getty Museum of Los Angeles is a case in point. *See, e.g.*, *Apollo from Pompeii: Investigating an Ancient Bronze: March 2–September 12, 2011*, J. PAUL GETTY MUSEUM, www.getty.edu/art/exhibitions/apollo_pompeii/ (last visited Sept. 26, 2021); *Tiberius: Portrait of an Emperor*, J. PAUL GETTY MUSEUM, www.getty.edu/art/exhibitions/tiberius/ (last visited Sept. 26, 2021); *Who's for Release from Cares and Troubles? —Charon, Ferryman of the Dead, in Aristophanes' Frogs*, J. PAUL GETTY MUSEUM, www.getty.edu/art/exhibitions/ancient_underworld/ (last visited Sept. 26, 2021).

[54] The *Venus of Cyrene* mentioned before, for instance, was returned to Libya, from where it had been removed, following the Italian invasion of 1911, and transferred to the National Museum of Rome, in 2008. *See* Alessandro Chechi, *The Return of Cultural Objects Removed in Times of Colonial Domination and International Law: The Case of the Venus of Cyrene*, 18 IT. Y.B. INT'L L. ONLINE 159 (2008); Simona Troilo, *Casta e bianca: La Venere di Cirene tra Italia e Libia (1913–2008)*, 1 MEMORIA E RICERCA, RIVISTA DI STORIA CONTEMPORANEA 133 (2018).

[55] *See* Briggs, *supra* note 49, e.g. at 643.

[56] NOSTOI: CAPOLAVORI RITROVATI (Louis Godart & Stefano De Caro eds., 2007).

[57] *See, e.g.*, Michael Kimmelman, *Stolen Beauty: A Greek Urn's Underworld*, N.Y. TIMES (July 9, 2009), www.nytimes.com/2009/07/08/arts/design/08abroad.html. On universal museums and the debate on repatriation, see the Declaration on the Importance and Value of Universal Museums (2003); Neil G.W. Curtis, *"A continuous process of reinterpretation": The Challenge of the Universal and Rational Museum*, 4 PUB. ARCHAEOLOGY 50 (2005); Neil G.W. Curtis, *Universal*

4. The *Dancing Satyr* of Mazara del Vallo: Preservation, fruition, and sustainable loan policies

Tensions between preservation and fruition (which Fiorelli did not actually address in the late 1800s) and the "museum atomism" in Italy (which Fiorelli foresaw) have recently flared around many other masterpieces, such as the *Morgantina Goddess*[58] and the *Riace Bronzes.*[59] The case of the *Dancing Satyr* of Mazara del Vallo, which emerged from the sea off the western Sicilian coast in the late 1990s and is on view at the eponymous museum in Mazara, illustrates this dilemma.[60]

The *Satyr* is a fourth-century BCE bronze statue attributed to the Greek sculptor Praxiteles (Figure 4).[61] After being restored by the Istituto Centrale del Restauro in 1999–2003, the bronze

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Museums, Museum Objects and Repatriation: The Tangled Stories of Things, 21 MUSEUM MGMT. CURATORSHIP 117 (2006); JAMES CUNO, MUSEUMS MATTER: IN PRAISE OF THE ENCYCLOPAEDIC MUSEUM (2011); JAMES CUNO, WHOSE CULTURE? THE PROMISE OF MUSEUMS AND THE DEBATE OVER ANTIQUITIES (2012); TOM FLYNN, THE UNIVERSAL MUSEUM: A VALID MODEL FOR THE 21ST CENTURY? (2012).

[58] The statue was returned in 2010 and eventually installed in the museum of Aidone. *See The Venus of Morgantina divides Sicily*, CULTURA ITALIA (Dec. 1, 2010), www.culturaitalia.it/opencms/en/contenuti/focus/focus_0889.html.

[59] SALVATORE SETTIS & MAURIZIO PAOLETTI, SUL BUONO E SUL CATTIVO USO DEI BRONZI DI RIACE (2005).

[60] On the *Satyr*, see Luana Lovisetto, *Scheda sul Satiro di Mazara del Vallo: Dati e interpretazioni*, 28 LA RIVISTA DI ENGRAMMA (2003), www.engramma.it/eOS/index.php?id_articolo=2541; IL SATIRO DANZANTE (Roberto Petriaggi ed., 2003); Carmela A. Di Stefano, *Il Satiro di Mazara del Vallo. Dal mare al museo*, 1 SICILIA ANTIQUA 81 (2004); Nicola Bonacasa, *Il Satiro bronzeo di Mazara tra realtà e utopia*, 1 SICILIA ANTIQUA 87 (2004); IL SATIRO DANZANTE DI MAZARA DEL VALLO, IL RESTAURO E L'IMMAGINE (Roberto Petraggi ed., 2005).

[61] Although scholars agree that the statue represents an inebriated satyr performing a Dionysian dance, different interpretations have been proposed: Paolo Moreno dates the bronze to the late fourth century CE and suggests it is Praxiteles's bronze *periboetos* Satyr mentioned by Plinius as part of a group with Dionysus and Methe; see Paolo Moreno, *Il Derviscio di Prassitele*, 13 KALOS, ARTE IN SICILIA 4 (2001); Paolo Moreno, *L'estasi del Satiro e l'arte di Prassitele*, 3 ARCHEO 110 (2003); Paolo Moreno, *Satiro di Prassitele*, *in* IL SATIRO DANZANTE, *supra* note 60, at 102; Paolo Moreno, *Satiro in estasi di Prassitele*, *in* IL SATIRO DANZANTE DI MAZARA DEL VALLO, *supra* note

was exhibited at Montecitorio Palace and the Capitolini Museums in Rome before ending up in Mazara.[62] It has become the centerpiece of a new *ad hoc* museum on underwater archeology and the history of ancient navigation off western Sicily.

The statue was occasionally loaned as part of international exhibitions, including *Praxitèle* (Louvre, Paris 2007)[63] and *Bronze* (The Royal Academy of Arts, London, 2012);[64] a portion of the latter exhibition went on loan to Mazara and Palermo in 2013. The *Dancing Satyr* was also displayed in the Italian Pavilion at the 2005 Aichi World Expo (Japan) as a symbol of "The [Italian] Art of Living." A proposal to loan the statue to Sicilian Pavilion at the 2018 Verona Vinitaly (the annual International Wine & Spirits Exhibition) was, however, denied. This denial revived the polemic around the apparent dichotomy of preservation/fruition and temporary loans of Italian archeological relics, which actually may successfully manage the tensions between cultural nationalism and internationalism.[65]

One may ask whether the *Satyr* should stay at Mazara's small and peripheral museum, to which it was assigned due to territorial jurisdiction, or whether it would be better to put it on permanent display in a city with a more significant touristic flow.[66] As Fiorelli had foreseen, removing the statue from its own "original context" (even if that context is itself de-contextualized)

60, at 198. Bernard Andreae agrees with Moreno's identification and suggests the statue was a part of king Alarico's loot after the plunder of Rome in 476 CE was shipwrecked: *see* BERNARD ANDREAE, DER TANZENDE SATYR VON MAZARA DEL VALLO UND PRAXITELES (2009). By contrast, Eugenio La Rocca dates the statue between the second half of the third century and the early second century BCE: *see* Eugenio La Rocca, *Il satiro di Mazara e il ritmo incontrollato della danza*, 101 SICILIA ARCHEOLOGICA 41 (2003). According to Antonino Di Vita, the *Satyr* was the figurehead embellishing the stern or the mast of a fourth-century BCE ship: *see* Antonino Di Vita, *Il Satiro di Mazara era una "tutela"?*, *in* ARCHEOLOGIA DEL MEDITERRANEO. STUDI IN ONORE DI ERNESTO DE MIRO 293 (Graziella Fiorentini et al. eds., 2003).

[62] REGIONE SICILIANA, MUSEO DEL SATIRO: BRANI DI ARCHEOLOGIA DAL MARE (2003).

[63] PRAXITÈLE (Jean-Luc Martinez & Alain Pasquier eds., 2007).

[64] *Bronze*, ROYAL ACAD. ARTS, www.royalacademy.org.uk/exhibition/bronze (last visited Sept. 26, 2021).

[65] A similar debate was sparked around the staging of the *Riace Bronzes* at the 2015 Milan World Expo. *See* Salvatore Settis, *Ma Sbandierare le Opere Superstar non Salverà la Nostra Cultura. Sono fragili: Non portiamo all'Expo i Bronzi di Riace*, LA REPUBBLICA (Aug. 18, 2014).

[66] *See* SALINAS, *supra* note 16, at 17–19, 29.

would enhance its beauty and intrinsic artistic value to the detriment of its "real value," that is, its scientific and historical documentary value. This "museal paradox," defined as the impossibility of satisfying the conflicting interests of preservation and fruition, clashes with the "context paradox," which is transforming Italy into a plethora of micro-museums. The splintering of Italian museum collections into micro-museums seems to still protect the interest of cultural nationalism (and "localism") over internationalism (or, one may say, "universalism"), where "the science cannot be hampered or halted by 'municipalistic' ideas,"[67] as a modern-day Conestabile might say.

Yet it is undeniable that, if allowed to travel around the world, the *Satyr* would bring Classical art, with its universal value, to a global audience, while, at the same time, becoming an ambassador of Italy and its archeological treasures. Also, "glocal" strategies of cultural heritage management and sustainable loan policies might enhance Mazara's cultural vitality and brand image, thereby making the Dancing Satyr Museum a linchpin of cultural, social, and economic development. Nonetheless, this would involve costs and put the conservation of the artifact in jeopardy[68]—issues that it might be possible to manage, for example, by creating copies,[69] as in the recent case of the replica of Michelangelo's *David* at Dubai's Expo 2020 Italian Pavillon.[70] The indiscriminate loaning of the work would also compromise the statue's own identity, since it would be nothing but an icon to be uncritically worshipped out of its "original context."[71]

5. Concluding remarks and opening questions

The conflict between cultural-property nationalism and internationalism has shaped Italy's identification and protection of its archeological heritage from national unification onward. After Law 364/1909 established state retention of archeological objects (which Fiorelli had foreseen in the late 1800s), cultural-property nationalism seemed to win the struggle against internationalism.

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[67] Conestabile, *supra* note 9, at 366.

[68] For the 2015 Aichi Expo, for instance, EUR 1 million has been allocated for "Operation Satyr," including funds for equipping the statue with a framework that supports it, an internal shell and external armor, and an anti-seismic base.

[69] Conestabile, *supra* note 9, at 365–73; Bonghi, *supra* note 9, at 323, 330; DE RUGGIERO, *supra* note 17, at 76–77, 80–81; SALINAS, *supra* note 11, e.g. at 42; SALINAS, *supra* note 16, at 12–22.

[70] *Memory and Future: Michelangelo's David at Expo 2020 Dubai*, ITALIA: EXPO 2020 DUBAI, https://italyexpo2020.it/en/memory-and-future-michelangelos-david-at-expo-2020-dubai/ (last visited Sep. 26, 2021).

[71] *See* Settis, *supra* note 65.

However, in the history of the Italian state, the law sometimes proved ineffective. During the Fascist era, the sale and exportation of Italy's cultural property catered to political interests and cultural diplomacy. More recently, the repatriation of Italy's looted national cultural property through bilateral agreements has revived the tension between nationalism and internationalism: the return of objects to their national context seems to favor once again the interest of cultural nationalism over internationalism, and, we might say, (Western) "universalism." As Fiorelli had predicted, the very return of the artifacts to their "original context" revives their "real value," promoting "universal culture," which, in turn, is threatened by illegal excavations. However, the "local(ist)" fundamentalism generated by globalization has added fuel to the tensions between the apparent dichotomic interests of protection and fruition.

In conclusion to this article, some reflections might guide further discussion on the subject. First, it may not be wise for the Italian state to retain any archeological object found on its territory. As Fiorelli himself suggested in the 1880s, the state might consider only keeping what "seems to be useful and necessary to it." State property and preemption are not important as theoretical matters; rather, they are essential to the preservation regime. For the state to exercise control over the excavation, circulation, exportation, alienation, and conservation of the archeological patrimony, and for it to be able to claim the return of looted antiquities, it must protect the "real value" of the artifacts. A more flexible and exploitable retention regime might allow foreign public institutions to access, study, and exhibit valuable material for education's sake (as Conestabile wished), as the bilateral agreements between the Italian State and American institutions have aptly shown.

Second, if the Italian state associates archeological artifacts retrieved on its territory with national identity, it should further consider how it perceives the "exotic archeological artifacts" within its borders (the importation of which Fiorelli opposed in the late 1800s). For instance, how do the nineteenth and twentieth-century importation and current display of Egyptian archeological artifacts at the Egyptian Museum of Turin inform Italian identity? On the one hand, Italy has provided the Egyptian collections with an open context of reception. These collections have thus become part of Italy's historical culture as evidence of the history of archeology, collecting, connoisseurship, and curatorship.[72] The Museum's galleries dedicated to the meta-history of the Museum literally exposes this point. On the other hand, the display of the finds from documented

[72] MUSEO EGIZIO (Museo Egizio ed.,2015); BEPPE MOISO, LA STORIA DEL MUSEO EGIZIO (2016); MISSIONE EGITTO 1903–1920: L'AVVENTURA ARCHEOLOGICA M.A.I. RACCONTATA (Paolo Del Vesco & Beppe Moiso eds., 2017).

excavations to "reproduce" the original context (as envisaged by Fiorelli) returns to the objects some of their "real value," despite the distance from that original context.

National diasporas and the changes in societies' composite physiognomies, migration patterns, and resurgence of ethnic and territorial claims complicate our contemporary, globalized scenario. In particular, given the cosmopolitan nature of contemporary Italian society, the museum might become a trans-cultural, trans-religious, and trans-ethnic meeting ground, providing recently immigrated Egyptian and Arab communities with an institution integrated into the identity of the Italian state.[73] However, one might wonder whether this may not also apply to American "universal museums" and the "Italian" objects therein. Their identity, too, is pluralistic.

Third, if conservation of artworks in their original (national/local) context is crucial to their protection and valorization, the Italian state should consider what happens when objects and museums are shared online across territorial boundaries and beyond such original context. May or may not digital "impossible museums" that gather the *disjecta membra* virtually contribute to "reconstruct the complex of the single findings," thereby returning to the displaced objects some of their lost "real value" (as foreseen by Conestabile)? What is the role of digital museums in translating the knowledge of (national?) heritage to a global audience, and how can they concretely show the multiplicity, diversity, and the multidimensional and multilingual nature of heritage—in a nutshell, its "pluralistic identity"?

However, questions remain as to who owns the past and what, or whose, interests prevail. Further complicating such questions, and thus state protection of archeological heritage, is the "living objects' pluralistic identity": archeological artifacts make it possible to unlock multiple narratives and contribute to the reconstruction of histories and contexts across a whole spectrum of time and space significant to a global audience.

The *Victorious Youth* mentioned in the introduction is an exemplary case. A public debate has recently been sparked following Italy's Supreme Court ruling, in December 2018, calling for the Getty Museum to return the statue to Italy.[74] Time will tell whether and how the judgment might

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[73] *See*, *e.g.*, *Special Projects*, MUSEO EGIZIO, https://museoegizio.it/en/discover/special-projects/ (last visited Sep. 26, 2021) (including projects such as "Museo Egizio per Balon Mundial," "Io sono Benvenuto," "Il mio museo," "Fortunato chi parla Arabo," "Torino la mia città," "Dal Nilo al Po . . . e ritorno," "Teenagers egiziani e Museo," "Miramar: due mondi uno schermo." and "Percorsi").

[74] *See, e.g.*, Alessandra Lanciotti, *Il Getty Bronze: Prima un giallo archeologico, poi un rebus giuridico. Profili internazionalistici*, 1 ARCHIVIO PENALE (2019), https://archiviopenale.it/il-getty-

be enforced in the United States,[75] but some reflections might be offered here. While an in-depth analysis of the arguments put forward by the parties is beyond the scope of this article,[76] one might ask what is the artwork's "real value" to be preserved by the state.

Without the statue's context, we cannot know its "real value" or identity. The *Victorious Youth* has become but a beautiful object, not a historic document with a universal or even national value. At the same time, we need to prevent illicit trafficking which obliterates context. If we do not, we will have museums full of beautiful things that lack documentary value. And restitutions will, in some way, be therefore thwarted.

The case of the *Victorious Youth* once more underscores the importance of artifacts' archeological context and its documentation to unlocking their "identity" beyond sheer aesthetic appreciation. The case also shows the limits of law and its inefficiency vis-à-vis extra-legal interests; the historical lack of transparent acquisition policies and due diligence practices; and the challenge to the harmonization of domestic and international law and cultural-property nationalism

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bronze-prima-un-giallo-archeologico-poi-un-rebus-giuridico-profili-internazionalistici/articoli/19609; Tullio Scovazzi, *Un atleta non ancora giunto a destinazione*, 102 RIVISTA DI DIRITTO INTERNAZIONALE 511 (2019).

[75] *See, e.g.*, Maximilíano Durón, *"We Will Continue to Defend Our Legal Right to the Statue": Getty Trust Responds to Italian Court Calling for Return of "Victorious Youth" Bronze*, ARTNEWS (Apr. 12, 2018), www.artnews.com/2018/12/04/will-continue-defend-legal-right-statue-getty-trust-responds-italian-court-ruling-calling-return-victorious-youth-bronze/; Angela Giuffrida, *Getty Museum Must Return 2,000-Year-Old Statue, Italian Court Rules*, GUARDIAN (Dec. 5, 2018), www.theguardian.com/artanddesign/2018/dec/05/italy-rules-getty-museum-must-return-2000-year-old-victorious-youth-statue; Elisabetta Povoledo, *Italy Still Wants the Getty Bronze, and Perhaps More*, N.Y. TIMES (Mar. 24, 2019), www.nytimes.com/2010/12/06/arts/design/06silver.html.

[76] For a penetrating analysis, see Alessandro Chechi, Raphael Contel & Marc-André Renold, *Case Victoriuos Youth—Italy vs. J. Paul Getty Museum*, PLATFORM ARTHEMIS ART LAW CENTRE, UNIVERSITY OF GENEVA (2019), https://plone.unige.ch/art-adr/cases-affaires/victorious-youth-2013-italy-v-j-paul-getty-museum (last visited Nov. 27, 2021); for an overview, see Luis Li & Amelia L. Sargent, *The Getty Bronze and the Limits of Restitution*, 20 CHAPMAN L. REV. (2017), https://digitalcommons.chapman.edu/chapman-law-review/vol20/iss1/2; UN ATLETA VENUTO DAL MARE: CRITICITÀ E PROSPETTIVE DI UN RITORNO (Jessica Clementiet al. eds., 2021).

and internationalism. Today, far from reaching their latest bilateral agreement on the repatriation of cultural property, Italy and the Getty rather seem to engage in an end-less "heritage feud."[77]

However, rhetorical questions remain. Whose (anachronistic) "identity" does the "identityless" statue represent: a single Greek identity? Or Italian? Or is the statue part of an American cultural identity? Is its identity simply "universal"?[78] We should also ask who would best preserve the statue, and where the statue might best serve the interests of fruition and valorization: in the latest *ad hoc* museum to be open in Fano, a small seaside town on Italy's east coast, where the statue was first brought ashore, or in a "universal museum" like the Getty? Would sustainable loan plans negotiate such interests? Would transparent exhibition and narrative strategies accounting for the statue's life and afterlife, wherever they may be, restore to the *Victorious Youth* some of its pluralistic identity, "to the advantage of universal culture"? In this way, perhaps the statue might also warn the public against the threat of archeological context loss or destruction.

Protecting archeological heritage against the cultural-property nationalism/internationalism dilemma may mean fostering alongside the law a continuous reinterpretation of the objects: museums should unlock the objects' "real value" and pluralistic identity through the display of those objects and the museum narrative. Furthermore, "glocal" strategies of cultural heritage management and sustainable international loan policies might foster a spirit of cooperation between nations and emphasize the universal or even national and local value of the objects as part of a shared "universal culture" of humanity. The use of replicas as well as digital collections might further this approach. Although being substitutes of the originals, physical and digital replicas might embody, heighten, and reflect, like many shards of a broken mirror, those originals' memory and (pluralistic) identity by promoting access to the public.[79]

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[77] Povoledo, *supra* note 75; James Imam, *Italy Passes Restitution Resolution Amid Renewed Calls for Return of the "Victorious Youth" Bronze from Getty Museum*, ART NEWSPAPER (July 19, 2021), www.theartnewspaper.com/news/victorious-youth-getty-italian-senate.

[78] *See* Chechi, Contel & Renold, *supra* note 76, at 6.

[79] The arguments made in this article regarding the repatriation of looted archeological property and the nationalism/internationalism dilemma will be further refined, verified, and tested through a different case study in Elisa Bernard, *The Repatriation of Archaeological Property and Its Dilemmas: Reflections on the Italian Case*, *in* ANTHROPOLOGY OF FORGERY: COLLECTING, AUTHENTICATION AND PROTECTION OF CULTURAL HERITAGE (Monica Salvadori et al. eds., forthcoming 2021).

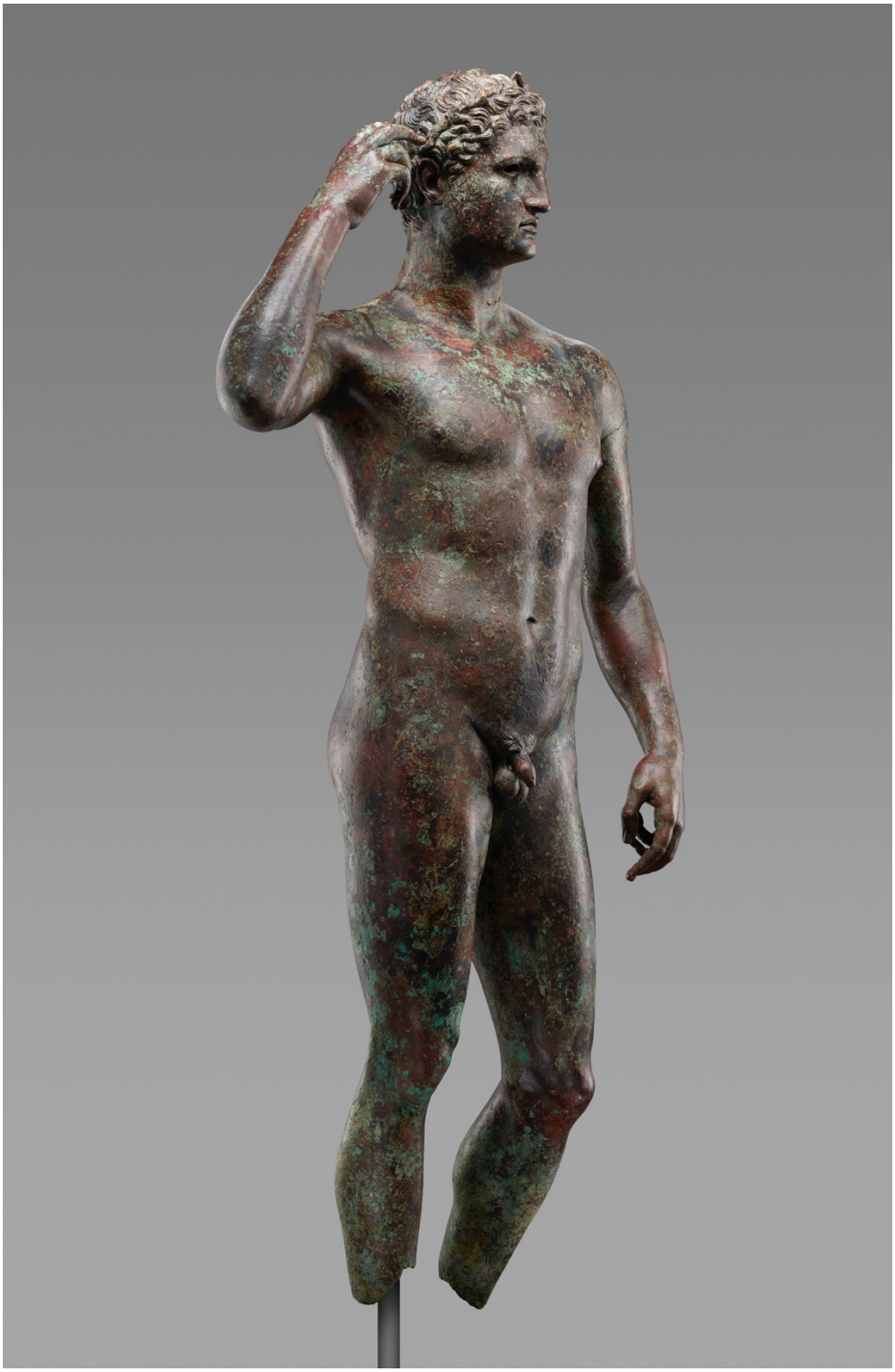

Figure 1. *Victorious Youth* ("Getty Bronze") (*c.*320–310 BCE). Los Angeles, J. Paul Getty Museum. Digital image courtesy of the Getty's Open Content Program.

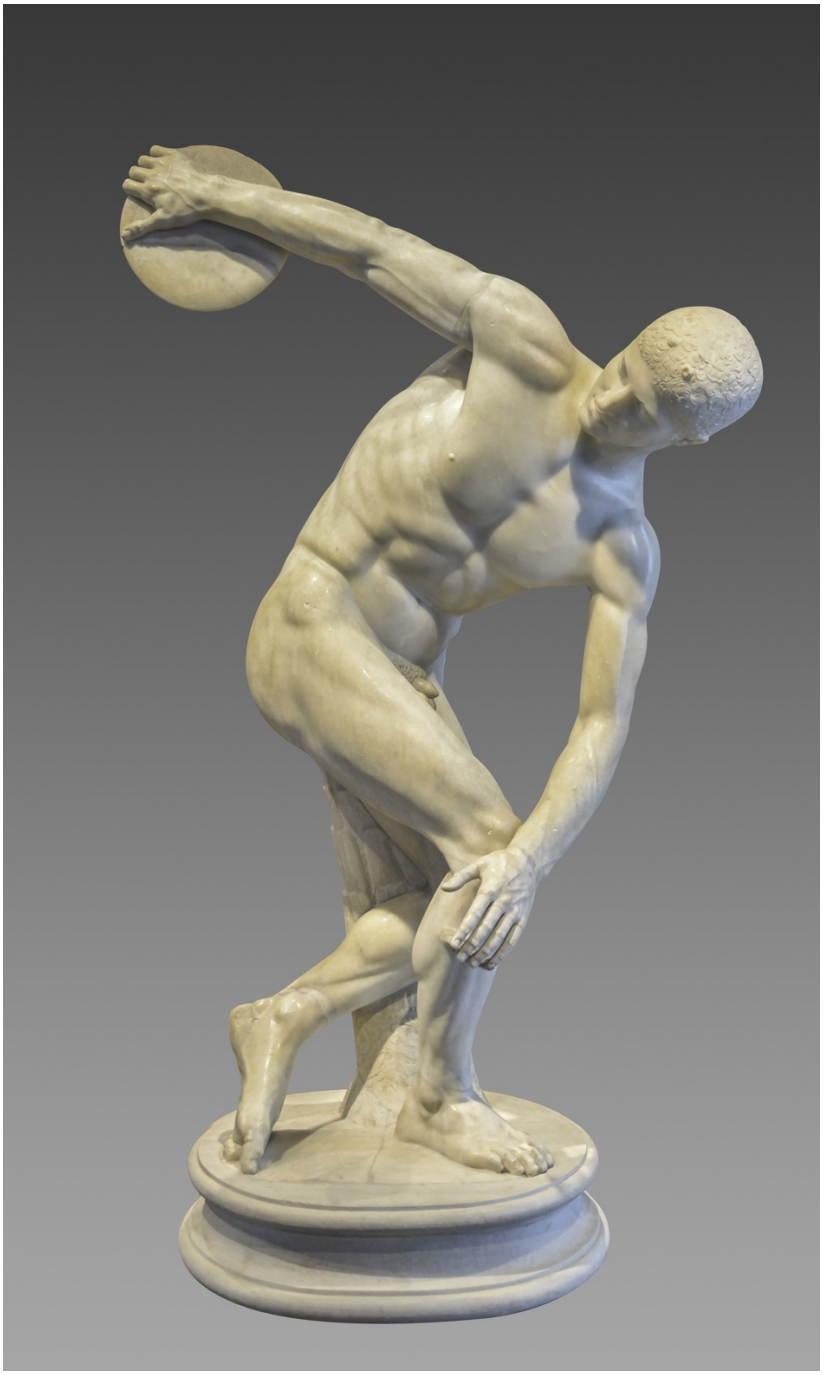

Figure 2. *Lancellotti Discobulos*, Roman copy of a work by Myron (bronze original *c.*450 BCE); marble copy probably second century CE. Rome, Museo Nazionale Romano, Palazzo Massimo alle Terme. Image licensed under the Creative Commons Attribution-Share Alike 4.0 International license, https://commons.wikimedia.org/wiki/File:Discobolus_in_National_Roman_Museum_Palazzo_Massimo_alle_Terme.JPG, background modification by Elisa Bernard.

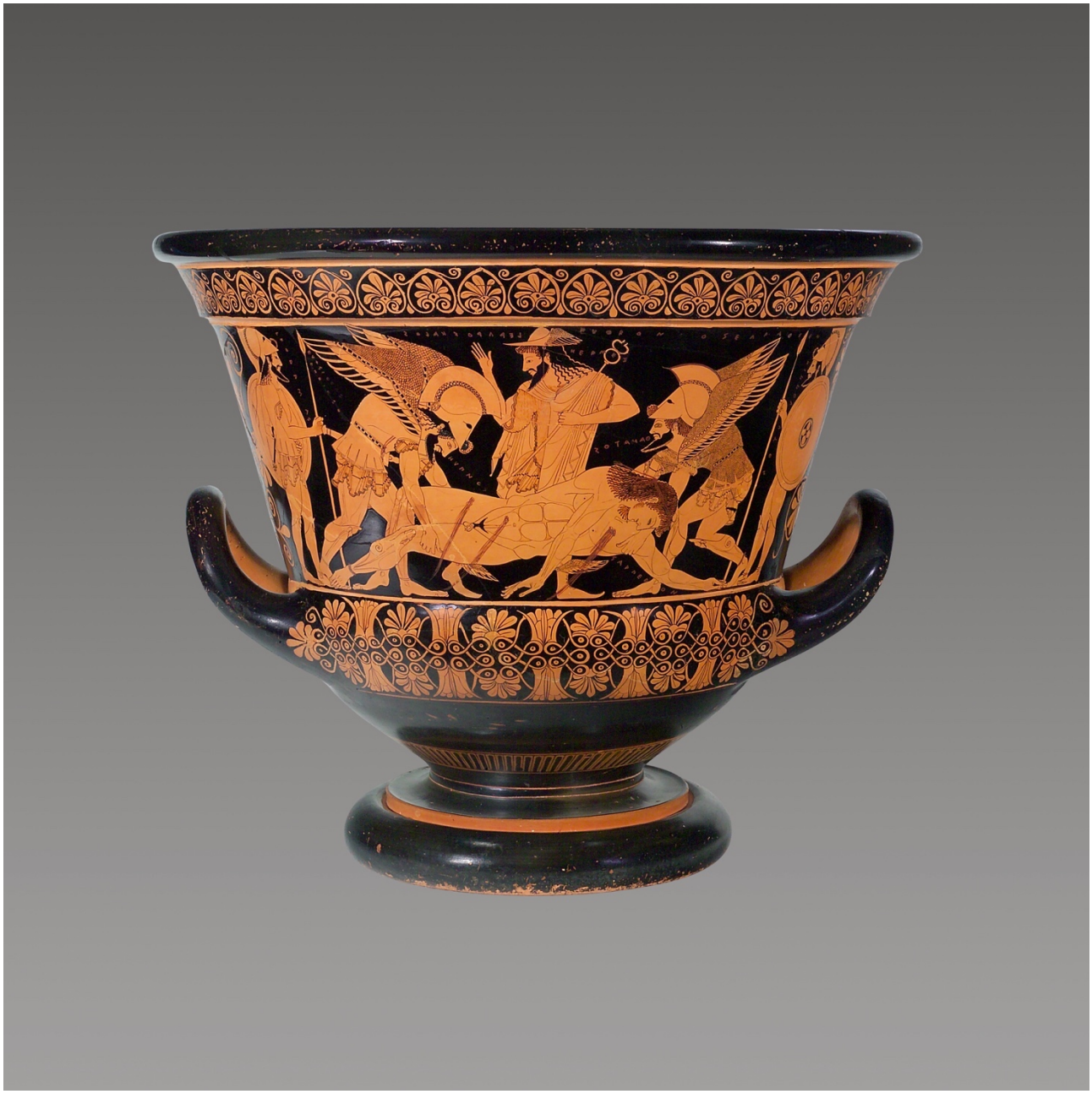

Figure 3. Euphronios and Euxitheos, *Calyx-krater* (bowl for mixing wine and water) *c.*515 BCE. Cerveteri, Museo Nazionale Cerite. Image under license from MiC - Direzione Regionale Musei Lazio - Museo Nazionale Archologico di Cerveteri (RM).

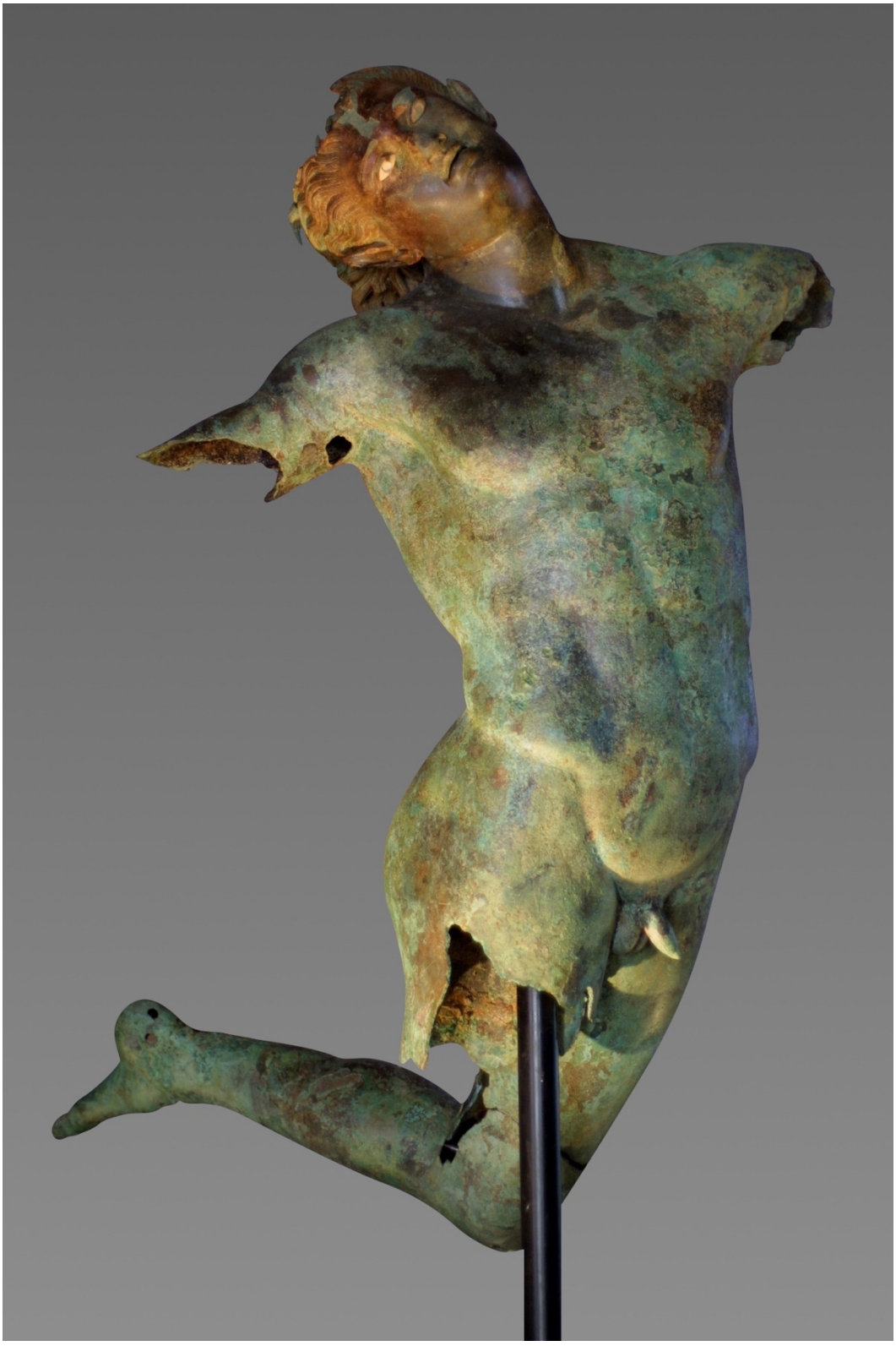

Figure 4. Praxiteles [attrib.], *Statue of a Dancing Satyr*, circa fourth century BCE. Mazara del Vallo, Museo del Satiro danzante. Image licensed under the Creative Commons Attribution-Share Alike 4.0 International license, https://commons.wikimedia.org/wiki/File:Satiro_danzante.jpg, background modification by Elisa Bernard.