

## The STOP Act of 2021 Domesticates Tribal Cultural Self-Determination into U.S. Federal Law

Centuries of systemic theft of Native cultural heritage, coupled with a crude romanticization of Native American indigeneity, has produced a market for items that were never intended for commercial trade.<sup>1</sup> The proposed Safeguard Tribal Objects of Patrimony (STOP) Act of 2021<sup>2</sup> offers some welcome clarification and protection to Native American cultural items and archaeological resources in international markets. Tribes can best speak as to what their own cultural heritage is, and whether it should be returned. They merely need the space to do so. This white paper seeks to contextualize the need for the STOP Act, including the need for its provisions and its position within the existing federal and international cultural property frameworks.

Many Native cultural items that are now in the international marketplace were never intended for commercial use or even public display. Rather, many are considered deeply private, and their removal, display, or sale is exceedingly harmful to the tribes from which they originate. There is no comprehensive data on the world market for Native American cultural items. Anecdotally, almost 1,400 items in several auction houses in Paris, France, for example, have been described as being affiliated with U.S. tribes, about half of which were sold for nearly \$7 million from 2012 through 2017.<sup>3</sup> At least 13 tribes have identified important cultural items that were inappropriately slated for sale at Paris auctions.<sup>4</sup> Meanwhile, the Association on American Indian Affairs notes that in its tracking of international auctions, they identified 20 foreign auctions with 146 potentially sensitive items in 2019, and 74 foreign auctions with 274 potentially sensitive items in 2020.<sup>5</sup>

Collectors and artifact hunters have claimed ignorance regarding whether some objects, such as medicine bundles and ceremonial masks, are of contemporary religious and cultural significance to tribes. Yet, there is a troubling hypocrisy that many of these same items have a significant market value because of their purported spiritual power.<sup>6</sup> Meanwhile, some collectors assert that Native people

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<sup>1</sup> Robert Alan Hershey, “Repatriation of Sacred Native American Cultural Belongings from Historical Racism” Arizona Attorney, 42-44 (July/August 2020). Also see H. Cong. Res. 122, 114th Cong. (2016) (enacted) (in which Congress finds that “Tribal cultural items continue to be removed from the possession of Native Americans and sold in black or public markets in violation of Federal and tribal laws, including laws designed to protect Native American cultural property rights.”).

<sup>2</sup> The Safeguard Tribal Objects of Patrimony (STOP) Act of 2021, H.R. 2930 a S. 1471, 117th Con. (2021).

<sup>3</sup> U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-18-537, NATIVE AMERICAN CULTURAL PROPERTY: ADDITIONAL AGENCY ACTIONS NEEDED TO ASSIST TRIBES WITH REPATRIATING ITEMS FROM OVERSEAS AUCTIONS 6 (Aug. 2018).

<sup>4</sup> ID. at 6 (noting that the tribes and other entities that have identified cultural items for sale at overseas auctions include the Pueblo of Acoma, Afognak Native Corporation, Chilkat Indian Village, Chugach Alaska Corporation, Hopi Tribe, Pueblo of Isleta, Hoopa Valley Tribe, Pueblo of Jemez, Pueblo of Laguna, Navajo Nation, Oglala Sioux Tribe, San Carlos Apache Tribe of the San Carlos Reservation, and White Mountain Apache Tribe of the Fort Apache Reservation.). Also see e.g. *Hearing on Tribal-Related Legislation – Including RESPECT and STOP Act Before the S. Comm. for Indigenous Peoples of the United States*, 117th Cong. (May 20, 2021) (testimony of Gov. Brian D. Vallo, Pueblo of Acoma, detailing the tumultuous battle to return “the Acoma Shield” to the Pueblo after being stolen from its caretaker in the 1970s and the set to be auctioned in Paris, France in 2015, and then again in May, 2016; and the return of historic wooden beams and doors from the San Esteban del Rey Mission Church along with 50 other items of cultural items in possession of a French auction house in 2006).

<sup>5</sup> Email from Shannon Keller O’Loughlin, Executive Director, Association on American Indian Affairs (June 20, 2021, 10:38am PST). Also see *Auction Alerts*, ASSOCIATION ON AMERICAN INDIAN AFFAIRS, [www.indian-affairs.org/auction-alerts.html](http://www.indian-affairs.org/auction-alerts.html) (last updated June 20, 2021).

<sup>6</sup> Hershey, *supra* note 1 at 44.

themselves are active players in the marketplace for Native American art, placing jewelry, rugs, and other items for sale alongside and indistinguishable from cultural and ceremonial items. There appears to be some confusion, real or imagined, about what aspects of Native cultural heritage are permissibly placed into commerce as “art”, and which ought to be protected from sale or trade as “cultural property”.<sup>7</sup>

Native cultural heritage transcends the classic Anglo-American legal concepts of markets, titles, and alienability, particularly as those concepts are rooted in liberal individualism and a wealth-maximization mindset.<sup>8</sup> At a minimum, the control of Native cultural heritage must include consideration for human and social values, for group identity and cultural survival, and for the legitimate existence of cultural producers to self-determine their own culture. International law addresses this need by allowing each nation state to designate cultural property under its laws. However, the U.S. has not yet done this. Meanwhile, the U.S. has incorporated tribal law, in addition to federal requirements, to designate cultural property within U.S. borders through the Native American Graves Protection and Repatriation Act (NAGPRA)<sup>9</sup> and the Archaeological Resources Protection Act (ARPA).<sup>10</sup> There is therefore a gap. International law will not recognize tribal law but for federal action. U.S. federal legislation is required.

The STOP Act fills this gap. The STOP Act seeks to stop the export and facilitate the international repatriation of tribal cultural heritage items already protected under federal law. It essentially extends the inter-state trafficking prohibitions regarding “cultural items”<sup>11</sup> under NAGPRA and “archaeological resources”<sup>12</sup> under ARPA to an international export prohibition. Items prohibited from being trafficked as defined by NAGPRA and ARPA would now also be prohibited from export.<sup>13</sup> Meanwhile, cultural items and archaeological resources that are not prohibited from trafficking are eligible for export, so long as the exporter obtains an “export certificate.”<sup>14</sup> Critically, in addition to federal requirements, an export certificate must include a written confirmation from the Department of Interior in consultation with tribes.<sup>15</sup>

In many ways, the provisions of the STOP Act are marginal—simply connecting the procedural dots between domestic federal repatriation law and international export agreements.<sup>16</sup> The sentiments of the STOP Act, that Native peoples have the right to self-determine their access to and ability to protect their own cultural heritage, merely reiterates existing declarations found in both U.S. federal and international law.

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<sup>7</sup> Rebecca Tsosie, *International Trade in Indigenous Cultural Heritage: An Argument for Indigenous Governance of Cultural Property*, in *INTERNATIONAL TRADE IN INDIGENOUS CULTURAL HERITAGE*, 237 (Christoph Beat Graber, Karolina Kuprecht, & Jessica Christine Lai eds. 2012).

<sup>8</sup> Kristen A. Carpenter, Sonia K. Katyal, and Angela R. Riley, *In Defense of Property*, 118 *YALE L. J.* 1022, 1027-28.

<sup>9</sup> 25 U.S.C. §§ 3001–3012, 18 U.S.C. § 1170.

<sup>10</sup> 16 U.S.C. §§ 470aa-470mm.

<sup>11</sup> 25 U.S.C. § 3001(3) (defining “cultural items” to include “associated funerary objects,” “unassociated funerary objects,” “sacred objects,” and “cultural patrimony”).

<sup>12</sup> 16 U.S.C. § 470bb.

<sup>13</sup> H.R. 2930 117th Con. (2021), Sec. 5.(a)(1).

<sup>14</sup> *Id.* at Sec. 5(b).

<sup>15</sup> *Id.* at Sec. 5(b)(3)(D).

<sup>16</sup> Note that the U.S. regularly connects such procedural dots. See e.g. the Endangered Species Act at 16 U.S.C. §1538(d)(3).

## International Conventions and Bi-Lateral Agreements.

The international community has recognized the importance of cultural heritage, the immense loss suffered due to unauthorized use, removal, and destruction of cultural heritage, and the need to collectively stymie this loss.<sup>17</sup> Most germane, the 1970 UNESCO Convention<sup>18</sup> seeks to protect national cultural property from illicit transfer within international trade. The 1970 Convention defines “cultural property” as property which, on religious or secular grounds, is specifically designated by each nation state as being of importance for archaeology, prehistory, history, literature, art, or science. Thus, as of 1970, all items of cultural property must be exported and imported in accordance with the source country’s laws. Additionally, the UN Declaration on the Rights of Indigenous Peoples recognizes that states must ensure the repatriation of Indigenous Peoples’ “ceremonial objects and human remains,” and several UN bodies have called for legal reform to effectuate repatriation in the international arena.

The United States became a party to the Convention in 1983 and Congress enacted the Cultural Property Implementation Act of 1983 (CPIA) to enforce select provisions of the Convention.<sup>19</sup> As of July 2018, the United States has 17 bilateral agreements in effect with other countries to protect their cultural property.<sup>20</sup>

While the U.S. has signed on to a number of international agreements, including the 1970 UNESCO Convention, enforcement of these legal rights typically require that these rights be “domesticated”

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<sup>17</sup> See e.g. Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123; Ninth International Conference of American States, American Declaration of the Rights and Duties of Man, 1948, O.A.S. Res. XXX, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.LiV/II.82, doc. 6 rev: 1 (1992) (recognizing Indigenous rights to property, religion, culture, association, and resources); The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 249 UNTS 240 (adopted on 14 May 1954, entered into force 7 August 1956), Article I (defining “cultural property” as “moveable or immovable property of great importance to the cultural heritage of every people” and emphasizing the importance of preserving cultural heritage during times of armed conflict, stating that any harm to national cultural property is a “harm to the cultural heritage of all mankind”); and UNESCO, Convention Concerning the Protection of the World Cultural and Natural Heritage, 1037 UNTS 151 (adopted on 16 November 1972, entered into force 17 December 1975) (pertaining to natural sites and historic sites within the territorial boundaries of nation states and calling for states to protect natural and historic sites from damage).

<sup>18</sup> UNESCO, Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 823 UNTS 231 (adopted on 14 November 1970, entered into force 24 April 1972).

<sup>19</sup> Cultural Property Implementation Act of 1983, 19 U.S.C. §§ 2601–2613 (2011).

<sup>20</sup> GAO REPORT, *supra* note 3 at 7 (“As of July 2018, the United States has bilateral agreements with Belize, Bolivia, Bulgaria, Cambodia, Colombia, China, Cyprus, Egypt, El Salvador, Greece, Guatemala, Honduras, Italy, Libya, Mali, Nicaragua, and Peru. In 1997, at the request of Canada, the United States entered into a bilateral agreement under the Convention on Cultural Property Implementation Act that included a provision requiring Canada to take reasonable steps to prohibit the importation into Canada of Native American cultural items that were illegally removed from the United States. This agreement expired after 5 years, as required by the act, and was not renewed.”).

within U.S. law.<sup>21</sup> Meanwhile, Indigenous peoples are dependent upon nation states to recognize Indigenous cultural property as part of the nation state's cultural patrimony.<sup>22</sup> Yet, in its 1983 implementation of the 1970 UNESCO Convention, the U.S. Congress *did not* designate any items as cultural property or authorize export controls on cultural property.<sup>23</sup> In effect, while the U.S. has agreed to honor the import and export cultural heritage protections of 17 other nation states, the U.S. asks for no reciprocity to protect the cultural heritage of the Native American tribes to which it owes a trust responsibility.<sup>24</sup>

This lack of federal law explicitly prohibiting the export of Native American cultural items or regulating their export has proved detrimental. For example, a French administrative body ruled that the Hopi Tribe had not demonstrated that the 1970 UNESCO Convention applied because it did not show that the items for auction had been illegally exported from the United States.<sup>25</sup> Federal officials knowledgeable about the Hopi and Acoma Tribes' efforts to repatriate items from France said that a requirement for an export certificate or license would be helpful in clearly demonstrating to overseas authorities that an item was legally exported from the United States.<sup>26</sup>

### **Existing U.S. Federal Cultural Property Framework.**

No federal law explicitly prohibits the export of Native American cultural items.<sup>27</sup> But, there are numerous federal laws that otherwise protect cultural heritage, including Native American cultural heritage under U.S. law. These include the Antiquities Act of 1906,<sup>28</sup> the National Stolen Property Act of 1934,<sup>29</sup> the National Historic Preservation Act of 1966,<sup>30</sup> and the Archaeological Resource Protection Act (ARPA) of 1979.<sup>31</sup> However, these respective statutory protections are largely

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<sup>21</sup> Tsosie, *supra* note 7 at 222.

<sup>22</sup> *Id.* at 236.

<sup>23</sup> GAO REPORT, *supra* note 3 at 16-17.

<sup>24</sup> Cohen's Handbook § 5.04(3)(a), *supra* note 21, at 412-15; see, e.g., President Barack Obama, Memorandum on Tribal Consultation, 74 Fed. Reg. 57,881 (Nov. 5, 2009) ("The United States has a unique legal and political relationship with Indian tribal governments . . .").

<sup>25</sup> *Id.* at 18, *citing* Conseil des ventes volontaires de meubles aux enchères publiques [Voluntary Auction Sales Council], No. DP 2014-61, June 25, 2014 (Fr.).

<sup>26</sup> GAO REPORT, *supra* note 3 at 15.

<sup>27</sup> *Id.* Note, the STOP Act of 2021 purports to fill this exact void.

<sup>28</sup> 16 U.S.C. §§ 431-433. Criminalizes, among other things, the appropriation or excavation, without permission, of any historic or prehistoric ruin or monument or any other object of antiquity situated on land owned or controlled by the federal government.

<sup>29</sup> 18 U.S.C. §§ 2314-2315. Criminalizes, among other things, the transport in interstate and foreign commerce of any good with a value of \$5,000 or more, knowing that the good was stolen or taken in fraud. Note that despite misguided efforts, cultural heritage, by its very nature, eludes monetary valuation. Therefore, efforts to permit the export of cultural heritage below a certain valuation is an inappropriate and unworkable avenue.

<sup>30</sup> 16 U.S.C. §§ 470a-470w-6. Covers historical sites and also protects eligible "Traditional Cultural Properties", including some Native American sacred sites.

<sup>31</sup> 16 U.S.C. §§ 470aa-470mm. Prohibits, among other things, the removal of archaeological resources from public or Indian lands without a permit. Prohibits trafficking in archaeological resources, the excavation or removal of which is wrongful under federal, state, or local law. Specifically, ARPA prohibits the sale, purchase, exchange, transport, receipt, or offer to sell, purchase, or exchange, any archaeological resources excavated or removed without authorization from public or Indian lands. ARPA also prohibits the trafficking in interstate or foreign commerce of archaeological resources, the excavation, removal, sale, purchase, exchange, transportation, or receipt of which is wrongful under state or local law.

confined to cultural resources on federal public and tribal lands or those impacted by federally funded projects.

Most notably, Congress has specifically identified the need to repatriate Native American cultural heritage, at least within the United States. The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990<sup>32</sup> protects Native rights to human remains, funerary objects, sacred objects and objects of cultural patrimony, if the objects are either held by federal agencies or federally funded institutions, or if the objects are commercially “trafficked” within interstate commerce. Under NAGPRA, tribal law is used to delineate the nature of an object as a “sacred object”<sup>33</sup> or “object of cultural patrimony”,<sup>34</sup> and both sets of objects can be accurately designated as tribal cultural property.<sup>35</sup>

Through NAGPRA, tribal governments have the right to regulate the conduct of their members with respect to the rights that are attached to tribal cultural heritage. Tribal governments can enact ordinances that preclude removal of tangible cultural patrimony that is collectively owned by the tribe, and such restrictions are binding upon both members and non-members. Recognized by NAGPRA as well as for archaeological resources under ARPA, tribes can repatriate objects of cultural patrimony and criminalize “trafficking” of protected cultural objects.<sup>36</sup>

In December 2016, citing the continued removal and international export of tribal cultural items for sale in both public and black markets in violation of federal and tribal laws, Congress passed a resolution condemning the trafficking of Native American cultural items.<sup>37</sup> The resolution also called on certain federal agencies to take affirmative action to stop illegal trafficking and secure the repatriation of Native American cultural items.<sup>38</sup> The STOP Act is the answer to that 2016 Congressional resolution. And because of NAGPRA and ARPA, the STOP Act can accomplish this by merely domesticating the rights of protection for tribally determined cultural items and archaeological resources established in NAGPRA and ARPA for purposes of 1970 UNESCO Convention export protection.

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<sup>32</sup> 25 U.S.C. §§ 3001–3012, 18 U.S.C. § 1170.

<sup>33</sup> Under NAGPRA, “sacred objects” are defined as “specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherent”. 25 U.S.C. § 3001(3)(C). This definition requires an active and ongoing use for the object in the cultural and religious life of native practitioners.

<sup>34</sup> “Cultural patrimony”, on the other hand, includes objects “having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual Native American”. 25 U.S.C. § 3001(3)(D).

<sup>35</sup> Tsosie, *supra* note 7 at 240.

<sup>36</sup> *Id.* at 243.

<sup>37</sup> H. Con. Res. 122, 114th Cong. (2016) (enacted).

<sup>38</sup> *Id.*

## **Manifesting Tribal Self-Determination and Human Rights.**

The STOP Act is an intuitive and modest extension of existing tribal cultural heritage protection under U.S. law—extending that protection to the export of items to the international trade market and thereby providing uniformity and clarity to that market. But in doing so, it is also a robust endorsement of tribal self-determination. It is both the domestication of 1970 UNESCO Convention procedural requirements, as well as a domestication of international human rights and Indigenous rights law.

The 2007 U.N Declaration on the Rights of Indigenous Peoples, (Declaration),<sup>39</sup> which the U.S. has endorsed, provides a prescriptive outline for nation states regarding the minimum standards of Indigenous peoples' human rights. The Declaration includes rights to cultural heritage and calls upon nation states to implement these rights through domestic laws.

The Declaration recognizes that Indigenous peoples historically have not been adequately protected by the basic civil and human rights that are guaranteed to all and, therefore, nation states must take actions to specifically protect Indigenous peoples' rights. Articles 11, 12, and 31 of the Declaration are explicitly directed toward the right of Indigenous peoples to protect their cultural heritage, traditional knowledge, and traditional cultural expressions. Indigenous people are entitled to govern their own cultural heritage as one very important feature of the right of self-determination.

### Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

### Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

### Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also

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<sup>39</sup> GA Res. 61/295 (UN Doc. A/61/L.67 and Add.1) (adopted on 13 September 2007).

have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.  
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Moreover, the nation state has an obligation to effectively protect the rights of Indigenous peoples within its domestic law, and ensure that those rights are respected within international accords.<sup>40</sup>

In line with the Declaration and its calls for human rights, Indigenous rights, and Indigenous self-determination, the STOP Act recognizes the federal government's obligation to steward tribal cultural heritage, and to facilitate that stewardship by acknowledging the rights of tribes to certify that which may be alienated. Yet, some have argued that providing such tribal accommodations as prohibiting the export of uncertified tribal cultural items would detrimentally frustrate an otherwise innocent and well-intentioned market.<sup>41</sup> For as long as Native people have sought autonomy over their cultural heritage, there have been non-Native enthusiasts who have subsequently felt threatened.<sup>42</sup> Critics have argued that cultural heritage should not be given preferential treatment. Those who value it most will simply buy it.<sup>43</sup> Others argue that the world, our collective commons, has a superior interest to tribes to access Indigenous cultural heritage,<sup>44</sup> and to ensure the dynamic and free movement of culture.<sup>45</sup>

Despite the eagerness of some non-Native collectors, the STOP Act provides definitive assurance that the plundering of tribal culture is no longer permissible, including within international markets. The STOP Act clarifies the fundamental distinction between “cultural property,” meaning items that are part of the cultural heritage of a tribal government or Native people and which are significant to the tribe's survival as a distinctive people and culture, and “commercial products,” which are items intentionally manufactured and created by Native artists for the purpose of economic development. The STOP Act provides tribes the same ability as nation states to define what constitutes their cultural property and does not force them to accept the “common heritage of mankind” theory for cultural preservation. Harm to Native cultural property threatens the core survival of a living people and is not merely a harm to the “cultural heritage of all mankind.”

The STOP Act also promotes a robust commercial market that can flourish with its own assurance that the items are available with the certification of the tribe. The STOP Act only regulates the

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<sup>40</sup> Tsosie, *supra* note 7 at 228.

<sup>41</sup> See *Hearing on Tribal-Related Legislation – Including RESPECT and STOP Act Before the S. Comm. for Indigenous Peoples of the United States*, 117th Cong. (May 20, 2021) (testimony of Robert Gallegos, Authentic Tribal Art Dealers Association).

<sup>42</sup> See e.g. Carpenter, Katyal, and Riley, *supra* note 8 at 1025-26, 1038-1046 (describing scholarly critiques of Indigenous claims of “ownership” over their cultural heritage, in part out concern that such claims will be used to “exclude others – a practice that would inevitably limit the free flow of culture.”).

<sup>43</sup> *Id.* at 1040, *citing* Eric A. Posner, *The International Protection of Cultural Property: Some Skeptical Observations*, 8 Chi. J. Int'l L. 213 (2007).

<sup>44</sup> Carpenter, Katyal, and Riley, *supra* note 8 at 1044-45, *citing* KWAME ANTHONY APPIAH, *COSMOPOLITANISM: ETHICS IN A WORLD OF STRANGERS* 115-35 (2006).

<sup>45</sup> Carpenter, Katyal, and Riley, *supra* note 8 at 1041-43, *citing* MICHAEL F. BROWN, *WHO OWNS NATIVE CULTURE?* (2003), LAWRENCE LESSIG, *THE FUTURE OF IDEAS: THE FATE OF THE COMMONS IN A CONNECTED WORLD* (2002), and Naomi Mezey, *The Paradoxes of Cultural Property*, 107 COLUM. L. REV. 2004, 2005 (2007).

exportation of cultural items and archaeological resources. Under the proposed legislation, items made solely for commercial purposes are presumed not to require an export certificate.<sup>46</sup> This support for contemporary art carries forward a long trajectory of statutes designed to stem the illicit plunder of cultural sites and trafficking across international borders.<sup>47</sup> Native people have the right to profit from their cultural expressions, if they choose to do so. It is and should be the domain of Native people to differentiate symbols and items as “cultural property” or as “commercial products”.<sup>48</sup>

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<sup>46</sup> H.R. 2930 117th Con. (2021), Sec. 5.(b)(1)(B)(ii)(I).

<sup>47</sup> See e.g. National Stolen Property Act of 1934, 18 U.S.C. §§ 2314–2315.

<sup>48</sup> Tsosie, *supra* note 7 at 237-38.



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