

Patrimony as Inalienability in Nineteenth-Century Algeria: The Paradox of Keeping-While-Destroying and the Promise of Comparison

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Abstract: This article brings Annette Weiner's thought on inalienable possessions, developed in relation to her work in Melanesia, into dialogue with the dynamics of colonial state patrimony in nineteenth-century Algeria. While the paradox of keeping-while-giving that Weiner proposed as a replacement for traditional anthropological models of reciprocity has occasionally been applied to the nation-state idiom of patrimony, the colonial context complicates such an extension by often introducing a disconnect between the collective to whom the inalienable possessions are attached and the state that would conserve them. Through an exploration of the establishment of a "Hispano-Mauresque" patrimonial apparatus in nineteenth-century Algeria, this article affirms that Weiner's theorization can be useful for thinking about colonial contexts. However, this requires attention to what I call the paradox of keeping-while-destroying, as well as a finer-grained picture of the colonial state – one in which patrimonial actors understand themselves to stand in part outside the state. These seemingly contradictory adjustments in perspective come together particularly vividly in the relationship between state patrimony and the Islamic regime of inalienable endowments known as *ḥubūs* or *waqf*: even as the colonial state ultimately oversaw the dismantling of *waqf*, the founder of the colonial patrimonial apparatus in Algeria viewed his own work as in part a continuation of its spirit. This colonial claim of continuity and subsumption leads me to conclude with a consideration of *waqf* through Weiner's framework. I suggest that the theory of inalienable possessions offers a comparative framework for thinking about patrimony and *waqf* – one that ultimately underlines their differences, nineteenth-century officials' claims notwithstanding. At the same time, this comparison permits us to revisit some of the fundamental claims of Weiner's theory by suggesting that a kind of temporally distant reciprocity may in fact be central to the concept and practice of inalienability after all.

Keywords: Inalienable Possessions, Patrimony and Heritage, Colonial Algeria, Hispano-Mauresque, the State, *Ḥubūs* and *Waqf*, Reciprocity, Anthropological Comparison.

In the late 1840s, French soldiers in the western Algerian city of Tlemcen disrupted a vast, ancient cemetery while building a road near the fourteenth-century Mosque of Sidi Brahim. The cemetery held the remains of the city's historic elites: the members of the Zayyanid dynasty, who beginning in the thirteenth century had transformed Tlemcen into a center of power and learning, and the Ottoman-allied forces who had displaced them three centuries later. For the new administrators, however, the cemetery was not a potential burial ground for their dead but an obstacle to the city's rationalization according to French needs. Six centuries of engraved stones were dispersed.

In the process, it was also deemed necessary to demolish several homes along the cemetery's edge. In dismantling one of them, soldiers uncovered a large piece of onyx bearing an inscription. It was not unlike the stones from the adjoining cemetery except for its location on the threshold of the condemned house. It bore a deep hole where the hinge of the door had been, and the writing was partly worn away from centuries of foot traffic. The stone was odd enough to be saved by the authorities and found its way to the local military headquarters. For years, it rested in a corner.

In the mid-1850s, a new civil commissioner came to the city, quickly rising to the rank of mayor and then sub-prefect. Charles Brosselard already had long experience in the country, having served as secretary to the civil commissioner in several cities near Algiers, and as head of the *bureau arabe* in the department of Constantine.¹ Not unusually for a colonial official, he also came to Tlemcen with a reputation as a linguist and archaeologist. Upon his arrival, Brosselard continued to launch new scientific projects alongside his administrative duties, including a plan for a municipal museum to be housed in the town hall and a request to the French-appointed mufti, Si Hammou Ben Rostan, to catalogue the surviving stone inscriptions scattered across the city.

The commanding general for the region, on hearing about the plans for a museum, presented Brosselard with the worn onyx slab stored in the military headquarters. It soon found its way into the sub-prefect's epigraphic activities. Working from Ben Rostan's handwritten transcriptions of notable inscriptions, Brosselard published a series of articles on the city's epigraphy that appeared in the columns of the prestigious colonial publication *Revue africaine*.² It was in a letter from October 1859 that Brosselard announced his and the mufti's startling conclusion concerning the unusual stone: it was the marker of the grave of none other than Boabdil (Abu 'Abdallah Muhammad XII), fabled last Muslim king of Granada. Contrary to dominant tradition, which made Fes the resting-place of the exiled monarch of the last bastion of Muslim Iberia, Brosselard maintained that it was the final generation of the Zayyanids who gave Boabdil refuge. In 1876, Brosselard, now retired, would speculate in the pages of the Paris-based *Journal asiatique* that the stone had found its way from the cemetery to the threshold of the adjacent house sometime in the sixteenth century, when Spanish Christian forces, exporting the crusader zeal of the *reconquista* to the Mediterranean's southern shores,

1. Nabila Oulebsir, *Les usages du patrimoine: Monuments, musées et politique coloniale en Algérie, 1830-1930* (Paris: Maison des sciences de l'homme, 2004), 149n4.

2. The transcriptions are found in the Bibliothèque nationale de France, Département des manuscrits, Arabe 5254, *Tuḥfat al-i'tibār fīmā wujida min al-athār bi-madd al-jidār*.

captured the nearby port of Oran. Enraged locals, he speculated, uprooted the tomb of Boabdil – himself a symbol of Muslim capitulation – and condemned its face to be walked on in perpetuity.³

A year after the account in *Journal asiatique*, Brosselard was named commissioner of the Algeria exhibit at the Universal Exposition in Paris. At the request of some of his readers, the retired officer transported several of the stones that he had discussed in his communications, including the slab he and the mufti attributed to Boabdil. The stones were displayed in the entrance to the Algeria Hall at Trocadero. On closer inspection, scholars who had read Brosselard's translation and account came to a somewhat tamer conclusion: it was not the tombstone of Boabdil himself, but rather of Boabdil's paternal uncle. Following the exhibition, the slightly demoted stone returned to Tlemcen. By 1893, however, it had disappeared.⁴ In 1906, William Marçais, the Paris-trained Orientalist and director of Tlemcen's college for Muslim notables that was attached to the municipal museum, would lament its loss:

“The ravages of vandalism at the beginning of the occupation were, at Tlemcen as in all of Algeria, considerable. Bargès from 1846 and Berbrugger in 1858 already complained that the Latin inscriptions only just recovered disappeared again and forever into the paving-stones of the roads and the parapets of the bridges.⁵ Brosselard in turn took note of the unfortunate dispersion of the numerous funerary stones of aghas and janissaries brought to light around the Mosque of Sidi Brahim when, in 1847, began the Arab town's dismemberment, the latest misdeeds of which are being carried out before our very eyes (...). [Everyone] has been able to see that the sidewalks of the town, the courtyards of the European houses, the terraces of the cafés display, to the great scandal of the Muslim population, Arabic inscriptions half erased under the feet of the passersby (...). Personally, while deploring [these destructions], I find that they were excusable (...). At that time one hardly had the leisure to choose one's building materials (...). What seems less justifiable is

3. Charles Brosselard, *Memoire épigraphique et historique sur les tombeaux de émirs Beni-Zeiyan, et de Boabdil, dernier roi de Grenade, découverts à Tlemcen* (Paris: Imprimerie Nationale, 1876), 195-6. For Brosselard's initial published statement on the inscription, see Charles Brosselard, “Épitaphe d'un roi grenadin mort à Tlemcen,” *La Revue africaine* 17, (1859): 66-71.

4. William Marçais, *Musées et collections archéologiques de l'Algérie et de la Tunisie. Musée de Tlemcen* (Paris: Ernest Leroux, 1906), v-vi.

5. The Abbé Bargès, Professor of Hebrew at the Sorbonne, published his impressions of Tlemcen in *Tlemcen, ancienne capitale du royaume de ce nom, sa topographie, son histoire, description de ses principaux monuments, anecdotes, légendes et récits divers* (Paris: Imprimerie orientale, 1859). Louis Adrien Berbrugger was founder of the Algiers Museum and Library and first director of the *Revue africaine*.

when, in a collection already assembled, brought to the attention of the scholarly world, and charged to the care of public government, certain principal pieces have disappeared without anybody having the slightest idea where they might have gone. When I began to look after the Tlemcen museum in 1898, and I undertook to audit the collection with Brosselard's works in hand, I noticed the complete loss of several of the inscriptions uncovered by the scholar...[including the famous epitaph of Boabdil]. The incontestable historic worth of this last inscription, the scholarly polemic that it gave rise to (...) make it necessary to consider it the capital piece of the Tlemcen museum, and to undertake to carefully watch over it (...). Was it stolen? Was it shipped off to an art exposition – of which no trace remains in the Tlemcen town hall? Judged to be of proper shape and substance, was it used to cover a municipal gutter? This palpable loss remains a mystery to this day. Perhaps in the future, chance will bring us to recover Brosselard's finest discovery."⁶

The preceding narrative is a miniature “allegory of patrimony” in colonial Algeria.⁷ It tracks one inscribed stone's movement over half a century: from the threshold of a razed house to local military headquarters to a municipal museum to the metropolitan grounds of the World's Fair, before returning to the colony, only to disappear from view if not from mind. Marçais's retrospective embarrassment vividly expresses the tight link between the state and its patrimonial holdings, as well as the anxiety that could surround the fragility and even outright failure of the patrimonial vessel. It is a specifically colonial anxiety in its concern over the depredations of the initial conquest, the leakiness of the patrimonial apparatus that allegedly countered the earlier excess, and perhaps what all this might mean for the permanence of the colonial state itself. And in this discourse, there is a striking mimesis between the French colonizers and the indigenous Algerians (both of whom are said to have desecrated tombstones through reuse), as well as in the irony that it was French deconstruction of Tlemcen that precipitated the short-lived recovery of Boabdil's stone.

Or is it irony after all? If “destruction and loss are constitutive of heritage,”⁸ there was plenty of destruction and loss to be had in the decades

6. Ibid, iii-v.

7. Françoise Choay, *L'Allégorie du patrimoine* (Paris: Le Seuil, 1996).

8. Kuutma, Kristin. “Between Arbitration and Engineering: Concepts and Contingencies in the Shaping of Heritage Regimes,” in *Heritage Regimes and the State* (Göttingen: Göttingen University Press, 2013), 21.

following the initial 1830 French capture of Algiers, when, in the words of Bonnie Effros, “French interest in modernizing North Africa raised the destruction of antiquities (...) to a level never heretofore experienced.”⁹ Alongside ubiquitous destruction ran an obsession with archaeology, epigraphy, philology, and museum collection among the officer corps of nineteenth-century colonial Algeria. A rich vein of scholarship has shown how Roman antiquities held pride of place in this milieu, with the French conquerors sometimes viewing themselves as inheritors of Rome’s imperial reach across North Africa.¹⁰ Whereas this project was focused on an ostensible self, Nabila Oulebsir’s work has also detailed the French attention to an Algerian Other in the overlapping (if smaller-scale) project of constructing a Hispano-Mauresque patrimony focused on Algeria’s Muslim past, whether Berber, Arab (including Andalusian), or Ottoman.

Both sides of the colonial patrimonial coin – the first Occidentalizer, the second Orientalist – are susceptible to a reading through a Saidian lens.¹¹ The first project separated the Roman heritage from the rest of the North African past, thereby marking a sharp boundary between the categories of European and non-European. Meanwhile, in the Hispano-Mauresque, the colonial state could portray itself as the discoverer, conserver, and even reviver of a Muslim heritage that, in the colonial view, had been rendered moribund by Oriental lassitude, most recently represented in three centuries of Ottoman rule. However, such a reading misses the degree to which key patrimonial agents in nineteenth-century Algeria conceived of the colonial state itself as a threat. As suggested by the following analysis of some of the unpublished writings of Louis Adrien Berbrugger (1801-1869), a founding figure within the colonial patrimonial apparatus, the intertwining of destruction and conservation was vividly present to state actors, particularly when concerning Hispano-Mauresque objects that had such an intimate connection to the Algerian population. While not unrelated to the “discourse on the extinction of primitive races” entangled with early anthropology, the

9. Bonnie Effros, *Incidental Archaeologists: French Officers and the Rediscovery of Roman North Africa* (Ithaca: Cornell University Press, 2018), 76.

10. See, for example, Jacques Frémeaux, “Souvenirs de Rome et présence française au Maghreb: Essai d’investigation,” in *Connaissances du Maghreb – Sciences sociales et colonisation*, ed. Jean-Claude Vatin et al (Paris: CNRS, 1984), 29-46. Patricia M. E. Lorcin, “Rome and France in Africa: Recovering Colonial Algeria’s Latin Past,” *French Historical Studies* 25 (2002): 295-329; Monique Dondin-Payre, “L’archéologie en Algérie à partir de 1830: Une politique patrimoniale?” in *Pour une histoire des politiques du patrimoine*, ed. Philippe Poirrier and Loïc Vadelorge, (Paris: Fondation Maison des sciences de l’homme, 2003), 145-70; Camille Risler, *La politique culturelle de la France en Algérie: Les objectifs et les limites (1830-1962)* (Paris: L’Harmattan, 2004), 146-7; Effros, *Incidental Archaeologists*.

11. Edward W. Said, *Orientalism* (London: Routledge and Kegan Paul Ltd, 1978).

story of the stone attributed to Boabdil already hints how this anxiety-ridden intimacy between colonizer and colonized by way of objects fell short of extinctionism even while remaining profoundly colonialist.¹² Likewise, such anxious intimacy contrasts with a classic Saidian approach that would treat the Hispano-Mauresque chiefly in terms of the production of control over the other. To make sense of Hispano-Mauresque patrimonial practice, we need an approach that can take into account both the broad power dynamics at play and the forms of intimacy, contradiction, and colonial self-awareness that permeated the patrimonial milieu.

At first glance, the work of Annette Weiner on inalienable possessions may not be an obvious guide through such turbulent terrain. Although the framework that Weiner developed to explain the keeping of certain valuable objects from the demands of reciprocal exchange in the Trobriand and wider Melanesian (and still wider Pacific) context has been extended to the concept and practice of patrimony or heritage in nation-state contexts, it has not been applied to so baldly a colonial context as this, where there is a sharp disconnect between the state doing the keeping and the population whose ancestors are conceived as the source of the object. Yet with proper adjustment, there are several ways in which Weiner's approach to inalienable possessions is helpful in making sense of the Hispano-Mauresque patrimonial practice in colonial Algeria. Her "paradox of keeping-while-giving" captures some of the anxiety that surrounded the Hispano-Mauresque and helps to map in more specific terms how destruction and conservation were intertwined in the early colonial context in Algeria. And Weiner's work helps to make sense of how colonial agents were able to conceive of their patrimonial project largely in terms of continuity with the Algerian state they destroyed.

After first detailing the way in which the concept of inalienable possessions has been applied in the anthropological literature on patrimony, I work through some of the writings of Louis Adrien Berbrugger that help to elucidate the dynamics of the Hispano-Mauresque project in the early colonial period, keeping Weiner's framework in mind. Thus, what follows is an exercise in seeing how far from its site of formulation Weiner's discussion of inalienable possessions can travel. But the early colonial Algerian case ultimately provides a somewhat unexpected sequel to this exercise, in that

12. Patrick Brantlinger, *Dark Vanishings: Discourse on the Extinction of Primitive Races, 1800-1920* (Ithaca: Cornell University Press, 2003), 5. On "salvage ethnography" in colonial Algeria in the second half of the nineteenth century, see George R. Trumbull IV, *An Empire of Facts: Colonial Power, Cultural Knowledge and Islam in Algeria, 1870-1914* (Cambridge: Cambridge University Press, 2009).

discussion of the Hispano-Mauresque patrimony at times blended with discussion of the Islamic regime of inalienable endowments known as *hubūs* or *waqf*. This allows me to end with an extended exploration of what treating both patrimony and *waqf* as cases of inalienable possession can do for understanding the contrasts and commonalities between these phenomena, as well as for reevaluating an aspect of the Weinerian framework itself.

Inalienable Possessions, State Patrimony, and the Question of Translation

What does it mean to study patrimony? For many people, from university-based scholars to the crafters of UNESCO's landmark 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (*patrimoine culturel immatériel*), patrimony is synonymous with heritage. In this respect, research on patrimony fits comfortably within the interdisciplinary literature known as heritage studies. This literature is varied in emphasis, but at least in its anthropological instantiation has tended to emphasize the notion of heritage as a flexible and contested resource of collective self-imagining within the nation-state framework.¹³ In this way, it is part of the broad anthropological stream of recent decades, with its emphasis on social construction, the use of the past in the present, and questions of state power.

Yet there are ways in which we can read patrimony as being not quite synonymous with heritage. For some scholars, patrimony is somewhat more specific, with both Deborah Kapchan and Sidi Mohamed el Habib Benkoula suggesting that it is more closely tied to state institutions and official discourse, and the former pointing out its masculinist associations as well.¹⁴ For those who opt for patrimony rather than heritage in their writing, it seems to be largely a question of insider discourse in the context under study: heritage may be the dominant term in English-speaking countries, but *patrimonio* or *patrimoine* or another variant is the term of art in those places (including the Maghrib) where a Romance language holds sway or shares power. On the whole, those who consciously opt for patrimony or its equivalent suggest that it includes what is covered by heritage but that it carries both a broader semantic range and a particular conjuncture of meanings that renders it more specific: as Sandra Rozental describes in her work on pre-Hispanic carvings

13. Haidy Geismar, "Anthropology and Heritage Regimes," *Annual Review of Anthropology* 44 (2015): 71-85. For an example, see Amy Cox Hall, "Heritage Prospecting and the Past as Future(s) in Peru," *The Journal of Latin American and Caribbean Anthropology* 24/2 (2019): 331-50.

14. Deborah Kapchan, "Intangible Heritage in Transit: Goytisolo's Rescue and Moroccan Cultural Rights," in *Cultural Heritage in Transit: Intangible Rights as Human Rights*, ed. Deborah Kapchan (Philadelphia: University of Pennsylvania Press, 2014), 180-1.

in Mexico's National Anthropology Museum, "[the] Spanish term *patrimonio* joins its English equivalents 'heritage' and 'inheritance,' while also indexing the existence of an enduring and deeply hierarchical State – the *patria*."¹⁵

In other words, patrimony and its variants are not simply a Romance equivalent of heritage; they carry a force and ubiquity that the English term heritage lacks. It is difficult to exaggerate just how common the term patrimony is in societies where it has currency, as compared to the narrower use of heritage in Anglophone countries. In France, *patrimoine* is used for the familiar national treasures such as state-owned art and buildings, but also for real estate, the gains of social movements, and practically any architectural trace of historical significance. In Algeria, Morocco, and Tunisia, *patrimoine* and its somewhat rarer Arabic gloss, *turāth*, also frequently include poetic and musical repertoires marked as old, anonymous, and of national significance.¹⁶ And in all these places, patrimony is loaded, almost to breaking, with collective meaning.

In light of this contrast, it is worth noting that the work of Annette Weiner on inalienable possessions, while marginal to the broad stream of work that fits under the rubric of heritage studies, has been central to a smaller body of anthropological literature focusing on such matters in societies where patrimony or its cognates predominate.¹⁷ How can we explain this attraction? On its face, Weiner's work feels rather distant from the world of national patrimonies, notwithstanding her own nods to the Elgin/Parthenon Marbles and the British crown jewels.¹⁸ In a discipline in which "theory" tends to

15. Sandra Rozental, "Stone Replicas: The Iteration and Itinerancy of Mexican *Patrimonio*," *The Journal of Latin American and Caribbean Anthropology* 19, 2 (2014): 336.

16. For Algeria, see Jonathan Glasser, *The Lost Paradise: Andalusí Music in Urban North Africa* (Chicago: University of Chicago Press, 2016). Less frequently remarked upon is a certain difference in tangibility, as well, between the terms heritage and patrimony. The idealist valence of heritage is detectable in the American English idiom, "It is part of my heritage," or the question, "What is your heritage," and is reflected in the French "héritage," which can be glossed as legacy or inheritance. In contrast, while patrimony is certainly something inherited, it is also actual things, both individually and in aggregate. Notre Dame cathedral is part of the national patrimony of France, but is also a patrimony, and is, even more essentially, simply patrimony. In this respect, in UNESCO's translation of "intangible cultural heritage" as "patrimoine culturel immatériel," it is the latter that is more jarring. We could say that heritage is comparatively less tangible than patrimony.

17. Claudio Lomnitz-Adler, *Deep Mexico Silent Mexico: An Anthropology of Nationalism* (Minneapolis: University of Minnesota Press, 2001); Elizabeth Ferry, *Not Ours Alone* and "Inalienable Commodities: The Production and Circulation of Silver and Patrimony in a Mexican Mining Cooperative," *Cultural Anthropology* 17, 3 (2002): 331-58; Jaume Franquesa, "On Keeping and Selling: The Political Economy of Heritage Making in Contemporary Spain," *Current Anthropology* 54, 3 (2013): 346-69; Glasser, *The Lost Paradise*; Roger Sansi, "Miracles, Rituals, Heritage: The Invention of nature in Candomblé," *The Journal of Latin American and Caribbean Anthropology* 21, 1 (2016): 61-82.

18. Weiner, *Inalienable Possessions*, 6, 37, 45. Franquesa, "On Keeping and Selling," 349n4.

be most easily accepted when largely denuded of a close connection to the ethnographic context that provided the occasion for its formulation, Weiner's work is deeply rooted in the Melanesian and broader Pacific context in which she worked. Based on long-term fieldwork in the Trobriand Islands that focused on the level of lineages, villages, and long-distance *kula* networks, Weiner's mature writing critiques two partly intertwined aspects of Bronislaw Malinowski's legacy. One is his lack of attention to the symbolic and material work of women in the process of social reproduction. The other is an overemphasis in the work of Malinowski, Marcel Mauss, and others on a somewhat mechanistic vision of reciprocity as the basis of exchange theory, and, therewith, of society more broadly. In Weiner's reading, this tradition presents gift exchange as inaugural to the social contract, through which bonds of basically egalitarian sociality are built up in acts of giving, receiving, and reciprocating the prestation. For her, such an emphasis on giving misses another, deeper dynamic at work: the ongoing attempt to withhold certain precious objects from exchange and thereby to build up distinction and hierarchy. According to Weiner, much of the exchange emphasized in the Malinowskian and Maussian tradition is better understood as part of a strategy to maintain the inalienability of the precious object, which often comes to stand for the identity or subjectivity of the individual or (more often) collective possessor.

The specific attraction of Weiner's thought for anthropologists writing about societies where patrimony is the operative term may come in part from the fact that Weiner herself was drawing on a Roman legal distinction between moveable and immoveable goods – in other words, that there is a way in which Weiner's vocabulary might be returning home in its application to Romance-speaking societies. A less recondite but compatible explanation is that calling patrimony a kind of inalienable possession gets at some of the seriousness and pathos of the enterprise, much of which can be read as “a theory (...) of object relations” that echoes the Maussian erosion of the “distinction between things and persons.”¹⁹ In Weiner's words,

“The primary value of inalienability (...) is expressed through the power these objects have to define who one is in an historical sense. The object acts as a vehicle for bringing past time into the present, so that the

19. On “*Inalienable Possessions* as a theory, of sorts, of object relations,” see James F. Weiner, “Beyond the Possession Principle: An Energetics of Massim Exchange,” *Pacific Studies* 18, 1 (1995): 128. On things and persons, see Maurice Godelier, “Some Things You Give, Some Things You Sell, but Some Things You Must Keep for Yourselves: What Mauss Did Not Say about Sacred Objects,” in *The Enigma of Gift and Sacrifice*, eds. Edith Wyschogrod, Jean-Joseph Goux and Eric Boynton (New York: Fordham University Press, 2002), 27-28.

histories of ancestors, titles, or mythological events become an intimate part of a person's present identity. To lose this claim to the past is to lose part of who one is in the present."²⁰

Put in slightly different terms, patrimonial holdings are a way in which a transhistorical subject is objectified: in maintaining and transmitting the object, the collective maintains and transmits and even, in a sense, creates itself through time despite the loss of its constituent members. In Maurice Godelier's gloss on Weiner, such "sacred objects" are not entirely different from gifts, but they are "gifts that the gods or the spirits are supposed to have given to the ancestors of men, and that their present-day descendants must keep safely stored away and neither sell nor give. Consequently, they are presented as an essential component of the identities of the groups and the individuals who have received them into their care."²¹ Whereas gifts for Godelier are "inalienable but alienated," in the sense that the connection to the giver cannot be severed even while the object itself leaves and is ultimately replaced by another roughly equivalent object, the sacred object is both "inalienable and unalienated" in that it is tied to the possessor in both spirit and letter, and is therefore irreplaceable.

While the attraction of Weiner's work for some anthropological students of patrimony lies in its ability to capture much of the pathos and subjectivity attached to inalienable possession, the shift to the nation-state context and market exchange changes much of the texture of the analysis. The work of Elizabeth Emma Ferry on cooperative silver mining in Guanajuato, Mexico, for example, underlines the way in which the "idiom of patrimony" at both the national and local associative level is invoked in terms of the collective rights of cooperative members, their descendants, and the place they inhabit.²² Ferry's work also confronts the question of what to do with the dominance of the commodity form, in the face of the dominance of the gift form in Weiner's work. If the latter framework centers on the "paradox of keeping-while-giving," what are we to do with a situation in which the collective patrimony is a commodity that is to be sold like any other? The answer Ferry offers is that the source of the commodity is conceived by cooperative members as inalienable, and the returns on the sale of silver are meant to be returned to the mining community itself and to its process of social reproduction, notwithstanding a nagging knowledge that the veins of silver will one day be exhausted. In a related manner, Jaume Franquesa reimagines

20. Annette B. Weiner, "Inalienable Wealth," *American Ethnologist* 12, 2 (1985): 210.

21. Godelier, "Some Things You Give," 30-31.

22. Ferry, *Not Ours Alone* as well as "Inalienable Commodities."

Weiner in terms of a dynamic of “keeping-for-selling” in the case of buildings marked as heritage (or, to be more specific, patrimony) in Majorca, Spain, in which preservation becomes a strategy for both the sale of real estate and the valorization of a certain vision of public space. Hence, like Ferry, Franquesa complicates a sharp distinction between gifts and commodities, while also paying close attention to the “general contradiction unleashed” by keeping-while-selling, in that “the more heritage is celebrated, the more central it is in the developers’ ability to sell, the less heritage elements there are to celebrate.”²³ This parallels the “agonistic, frantic, and somewhat tragic character of the picture” offered by Weiner, in which the growing fame of inalienable possessions eventually makes it difficult for their possessors to resist the demands put upon them through others’ gifts.²⁴

In certain respects, state patrimony of the “cultural” variety is a more stable formation than either the real estate market or the silver commodities market. With some exceptions, the kinds of objects that lie at the center of the patrimonial category stand as a fairly solid bulwark against the pull of the market, even while there remains a certain undertow of danger, indebtedness, and guilt associated with the threat of loss. If anything, the Weinerian reading of such state-centered patrimony can be faulted for being too close to nationalist notions of a unitary, organic whole, thereby magnifying a danger that was already pointed out in an early critique of *Inalienable Possessions* for treating “[groups] of persons (...) as individual or bounded units of agency.”²⁵ However, as the following analysis of some of Louis Adrien Berbrugger’s unpublished writings demonstrates, the colonial context plunges us back into the realm of instability and complicates the neat object relations of the nation-state model. But instead of keeping-while-selling, the early colonial context in Algeria requires us to think through a dynamic of keeping-while-destroying. In this respect, I find it useful to situate keeping-while-giving, keeping-for-selling, and keeping-while-destroying within a broader rubric of binding versus fraying proposed in James Weiner’s psychoanalytic reading of *Inalienable Possessions*.²⁶ And instead of a nationalist model that would take for granted the joining of nation and state, the colonial context demands close attention to the relationship among state, citizens, subjects, and patrimonial objects. If “Weiner teaches us that the process of making inalienable possessions creates not only objects but collectives with more or less legitimate claims

23. Franquesa, “On Keeping and Selling,” 353.

24. Ibid.

25. Mark S. Mosko, “Inalienable Ethnography: Keeping-While-Giving and the Trobriand Case,” *The Journal of the Royal Anthropological Institute* 6, 3 (2000): 379.

26. James F. Weiner, “Beyond the Possession Principle.”

to those objects,”²⁷ what are we to make of a specifically colonial case of the patrimonial process?

The Paradox of Keeping-While-Destroying and the Problem of the State

The career of Louis Adrien Berbrugger is closely tied to the story of patrimonial pursuits in early colonial Algeria. A utopian socialist arriving in Algeria as secretary to General Clauzel just a few years after the initial French capture of Algiers, Berbrugger quickly threw himself into a dizzying array of scholarly and curatorial pursuits that touched on the broad range of what would become nineteenth-century patrimonial practice in Algeria. This was not only a personal passion, but also closely linked to institutions: Berbrugger was the founding director of the Algiers Library and Museum, which would become the heart of the state scientific collection in Algeria, the founding president of the Société historique algérienne and editor of its journal, *Revue africaine*, as well as the Inspector General of Historical Monuments in Algeria.

Berbrugger was one of an array of early colonial officials and military officers for whom Algeria seemed a land strewn with antiquities. Ruins of ancient structures dotted the countryside, and the ground seemed to continually offer up signs of earlier inhabitants. The terms that a mid-century French official used to describe the eastern city of Constantine could have easily been extended to the whole country: a land where “Phoenician, Roman, and Vandal rule passed one after the other (...) [leaving] the trace of their passage on marble and stone; [a land] where their memory is found at every step in inscriptions, mosaics, and medallions, buried as if in an immense underground museum.”²⁸

Algeria’s apparent richness in precious objects of historical significance helped feed an appetite for the French practice of patrimony, an idea that had emerged in its familiar form in the transformation of the Louvre from a royal palace to a public museum during the Revolution, and that by the middle of the nineteenth century had been codified into some of the first laws concerning the state collection and protection of artworks.²⁹ But as we have already seen, this richness was not simply a characteristic of Algeria’s soil, an uncomplicated reflection of the region’s deep layers of human habitation. Over decades, the slowly unfolding conquest brought vast swathes of rural

27. Elizabeth Emma Ferry, “Comments,” in Franquesa, “On Keeping and Selling,” 364.

28. Letter from the Prefect of Constantine to the Governor General, 5 Apr. 1854, Centre d’archives d’outre-mer F80/1587.

29. Yvon Lamy, “Patrimoine et culture: L’institutionnalisation,” in *Pour une histoire des politiques du patrimoine*, ed. Philippe Poirrier and Loïc Vadelorge (Paris: Fondation Maison des sciences de l’homme, 2003), 49.

and urban space under French control, and with it plunder at all levels, even if the many mid-level officers with archaeological and epigraphic interests were quick to differentiate their own, allegedly more scientific actions from what they considered the mere looting of their soldiers.³⁰

The objects uncovered in these spaces could be useful in various ways. For some soldiers, they could be souvenirs or objects for sale. For officers committed to building up scientific collections, they could be ballast for their storehouses and sources of prestige. They could also have more specific forms of ideological significance. I have already mentioned how the uncovered traces of past empires – particularly that of the Romans – were sometimes viewed as portents of France’s own colonial mission in Algeria, and in this milieu, Berbrugger’s work as an archaeologist, writer, editor, collector, and institution-builder was crucial.³¹ However, the importance of Roman patrimony in the colonial context can overshadow the place of the Hispano-Mauresque, and Berbrugger’s own career is testament to the coexistence of these two strands. Vis-à-vis the indigenous population, Hispano-Mauresque patrimony in many ways involved close proximity, in that it brought the French ruling apparatus into possession of objects that were unambiguously valued by the Algerian elite and that often required their cooperation in interpreting, as suggested by the story of Brosselard’s solicitation of Si Hammou Ben Rostan to decipher the tombstone that they attributed to Boabdil.³² It also meant that the assimilation of such objects into state patrimonial collections could often be a more intimate and more obviously violent expropriation. Writing in 1845, Berbrugger lamented the loss of opportunities as the resistance movement and nascent post-Ottoman state led by Emir Abdelkader began to weaken and French control of the country solidified:

“What gives an especially useful character to the Library and Museum, what makes this a truly Algerian establishment, is that the conservator has himself done the searching, sometimes under the protection of our columns, other times under less reassuring conditions. Manuscripts were rarely offered us for sale, and were outright given even less. Therefore, if we want to take advantage of the [military] occasions that are becoming more and more infrequent and that will completely disappear sooner than we might imagine, we must resume the approach that once worked so well.”³³

30. On looting, see Effros, *Incidental Archaeologists*, 56.

31. Effros, *Incidental Archaeologists*, 175.

32. Note, however, that Effros points out that Algerians may have been far more aware of and engaged with Roman remains than was believed by colonial officials.

33. “Notes sur la Bibliothèque et sur le musée d’Alger, Envoyé par M. Berbrugger, 1845,” CAOM/F80/1733.

What are we to make of Berbrugger's and others' passion for Hispano-Mauresque artifacts? While instrumentalist ends can be found, they are not as immediately evident as in the Roman case, even if the Hispano-Mauresque can be broadly understood as part of a larger Orientalist project. And it may be that the obviousness of the Roman case conceals some more basic aspects of the patrimonial dynamic. One might not need to have a direct line between object and subject to make keeping a compelling act after all. Indeed, in Weiner's work, one sometimes gets the sense that the significance of the object for the collective subject is not so much the cause of keeping but rather its effect. The significance of establishing patrimonial collections in early colonial Algeria may have had less to do with the specific "symbolic relevance" of the Roman or Hispano-Mauresque than with the power and permanence that establishing a collection could express.³⁴ In this sense, we can think about patrimony as a rudimentary state-building act.

Yet the specifics of patrimonial objects did matter, and the attachment of the Hispano-Mauresque to indigenous Algerians was significant. While not everything marked as Hispano-Mauresque patrimony by the French had been so understood by Algerians, much of the appropriation of objects into the colonial patrimonial regime can be read in a way that fits closely with Weiner's argument that "[individuals] and groups (...) try to build or alter political hierarchy by capturing the 'inalienable' possessions of others."³⁵ In other words, what may have been compelling about building up a Hispano-Mauresque patrimonial repertoire in colonial Algeria was that it allowed for the incorporation of certain valued objects of the conquered. In many respects, this is very much in keeping with Yassine Ouagueni's characterization of French exhibitions of things and people drawn from the colonies as "exhibit[s] of trophies," in that we are dealing with the hierarchical incorporation of the conquered by way of their precious objects, rather than a humanistic acknowledgment of the "'Other' and its culture."³⁶

When we think about the instrumentalist ends, however, as reflected in Berbrugger's and others' writings, it does start to look like a kind of humanistic acknowledgment of at least Algerian urban elites, even if turned squarely to colonial ends. Like Roman monuments, Hispano-Mauresque patrimony could be put to useful political ends, such as imagining links between France and Arab-Islamic civilization by way of the medieval past,

34. On "symbolic relevance," see Effros, *Incidental Archaeologists*, 55.

35. Maria Lepowsky, "Exchange, Gender, and Inalienable Possessions," *Pacific Studies* 18, 1 (1995): 104.

36. Yassine Ouagueni, "The birth of the notion of patrimoine (through the generations) in Algeria," *The Journal of North African Studies* 25 (5) (2019): 8, DOI: 10.1080/13629387.2019.1644888.

and in picturing alliances between French and Arab Muslim elites at various moments of colonial rule, including in Berbrugger's own prodigious output as writer and speaker.³⁷ The notion of alliance is evident in the widespread call among utopian military officers for "cultural and racial fusion" in the early colonial period³⁸ – a position that we can read into Berbrugger's 1841 acknowledgment of paternity of the newborn daughter of a young Muslim woman, Zohor Mohammed el-Ouali, whose Janissary father had died during Clauzel's initial seizure of Mascara in 1830. Berbrugger and she subsequently married, with him raising their daughter after her mother's early death.³⁹

It is, then, possible to think about the early colonial interest in establishing Hispano-Mauresque patrimonial collections as a utopian, future-oriented act: whereas Roman patrimony represents objects of the conquerors' forebears as well as a blueprint for the future,⁴⁰ the Hispano-Mauresque represents objects that belong to the conquered as well as to the future issue of the union between conquerors and the conquered. In other words, the Hispano-Mauresque gestures toward the fashioning of a collective that subsumes the colonized as a component. It is also possible to think about the Hispano-Mauresque patrimonial collections in less utopian but still future-oriented and paternalist terms: the state is acting as steward of that which is valuable to the indigenous Muslim elite. And we might also think about such collections through an overarching nineteenth-century ideal of scientific inquiry around whose apparatus European Orientalists and indigenous learned elites might converge.

It is also possible to think about Berbrugger's Hispano-Mauresque interventions as a compensatory act, and it is here that we find ourselves closest to the paradox surrounding such patrimonial activity in the early colonial context. As Effros has shown for Roman antiquities in this period, conquest not only brought objects under colonial control, but also unleashed destructive power that led to the obliteration of objects and monuments and

37. See the 1872 mission of architect Edmond Duthoit, detailed in Oulebsir, *Les usages du patrimoine*, 140-48. On the tenor of Berbrugger's talks, see Raymund F. Wood, "Berbrugger, Forgotten Founder of Algerian Librarianship," *The Journal of Library History* 5, 3 (1970): 250.

38. Osama W. Abi-Mershed, *Apostles of Modernity: Saint-Simonians and the Civilizing Mission in Algeria* (Stanford: Stanford University Press, 2010), 138.

39. Etat civil, Centre d'archives d'outre-mer, birth record for Marie Louise Eugenie Berbrugger, 2 nov. 1841; Ibid, marriage record for Louis Adrien Berbrugger and Zohor Mohammed-el-Ouali, 20 nov. 1841; Ibid, death record for Zohor Mohammed-el-Ouali, 16 dec. 1843; Robert Dournon, *Autour du tombeau de la chrétienne: Documents pour servir à l'histoire de l'Afrique du Nord* (Algiers: Charlot, 1946).

40. Effros, *Incidental Archaeologists*, 175.

created opportunities for saving some of them from loss.⁴¹ In Carl Schmitt's terms, patrimony here is an expression of sovereignty, in the sense of the power to decide on that which is to be excepted from the norm – here, the wartime “norm” of destruction.⁴² In this way, we can add sheer devastation to the image of giving and of selling as forms of fraying to which the binding action of patrimony might serve as counter.⁴³

This introduces a strong note of bad faith into Hispano-Mauresque patrimonial efforts. But one does not have to dig deep in Berbrugger's writings to find an explicit acknowledgment of the dilemmas underlying his project and the conflicted, polymorphous nature of state practice. In this respect, William Marçais's implicit understanding of himself as an embattled steward of precious objects some of which belonged ultimately to the colonized turns out to be a turn-of-the-century echo of a much earlier discourse.⁴⁴ In his 1845 account cited above, Berbrugger laments the lack of a budget that has made him reliant upon military expeditions to assemble his collection, but also suggests that the drying up of such expeditions militates for a more regulated and institutionalized partnership between science and the military:

“If, therefore, when an expedition sets out on march for some as yet unexplored spot where there is the chance of collecting manuscripts and antiquities, a representative of science were to be found there, authorized, helped, even, to engage in the entirely peaceful razzias that he would have occasion to undertake, then in little time there would be a great enlargement in the collection of the library and museum. During the taking of the smala [*zamāla*; encampment] of Abdelkader thousands of Arabic manuscripts were seized. At most, some twenty arrived to us; the rest served to feed the campfires or were carelessly abandoned along the road for booty that the soldiers viewed as more valuable.”⁴⁵

This is not unrelated to colonial officers' critique of soldiers' looting of Roman antiquities, and the image of the fires fueled with Arabic manuscripts echoes the observations a few years earlier of Edmond Pelissier de Reynaud, a military official who shortly after the seizure of Algiers reported that “[in]

41. *Ibid.*, 52.

42. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago: University of Chicago Press, 2005).

43. James F. Weiner, “Beyond the Possession Principle,” 131.

44. Similar conflicts around Roman patrimony are described by Effros, *Incidental Archaeologists*, 49-50.

45. “Notes sur la Bibliothèque et sur le musée d'Alger, Envoyé par M. Berbrugger, 1845,” CAOM/F80/1733. Passage cited in Effros, *Incidental Archaeologists*, 58. Translation mine. On the *razzia* (in Algerian Arabic, *ghāziya*) in French colonial practice in Algeria, see Effros, *Incidental Archaeologists*, 84-85.

the Casbah itself (...). I saw soldiers light their pipes with government papers strewn here and there over the ground.”⁴⁶ This is to say, figures like Berbrugger saw themselves as agents of a state whose military force was simultaneously boon, curse, and ground of action. This dynamic of keeping-while-destroying is vividly summarized in Berbrugger’s longer account written just after the French conquest of Constantine in October 1837, during which time he gathered what would become the core of the Algiers collection:

“(...) the Captain of the Zouaves L’Amirault alerted me that in a house that his company had just seized they had noticed a rather large quantity of beautiful manuscripts (...). I learned that this was the residence of Ben-Aïssa, Lieutenant to Ahmed Bey [the ruler of Constantine], and that of his brother, Sid Mohammed El-Arbi, qadi of Constantine. Chance could not have brought me to stumble upon a better place. Indeed, on crossing the threshold of this home, I perceived in the courtyard a great quantity of books thrown pell-mell amidst a crowd of other objects whose contact with the books was often unfortunate. The Kabyles who had defended this house, before leaving it, had knocked in the chests full of manuscripts in the hope of finding something more valuable for themselves there. Our soldiers had continued this work of devastation. I was required to search laboriously amidst pots of butter, jars of oil, honey, semolina, carpets, mattresses, and other accumulated objects in the most strange confusion (a confusion that the incessant arrival of new investigators augmented at each instant) to save the few manuscripts whose leaves had not been scattered to the wind and that had rested whole amidst all these causes of destruction.

I immediately seized upon a little study located in a corner of the courtyard and I made it the depository for my valuable booty. By dint of entreaties and by means of a sizeable reward, (the soldiers’ time was at that moment precious), I obtained an orderly willing to guard the door of my improvised library, because, from the beginning, while I searched in the courtyard, a rapacious crowd had rushed forward into the little room where my manuscripts were, and had upset them in hopes of finding money (...). During the first moments, I had no need of money to procure

46. E. Pelissier de Reynaud, *Annales algériennes*, vol. 1 (Paris: Anselin et Taultier-Laguione, 1836-1839), 79, quoted in John Ruedy, *Land Policy in Colonial Algeria*, 14. Translation is by Ruedy. The trope of soldiers lighting fires using leaves from manuscripts continued to crop up into the twentieth century, eventually being picked up by the forerunners of the nationalist movement. See the early twentieth-century Lyons-educated Tlemcani lawyer Benali Fekkar, quoted in Benali El Hassar, *Tlemcen: Cité des grands maîtres de la musique arabo-andalouse* (Alger: Editions Dalimen, 2002), 31.

manuscripts for myself. The soldiers did not take the trouble to load themselves up with them; however, when the more precious loot was exhausted, they began to think to the books. Everyone wanted to have his own Quran, and every Arabic book became a Quran in the hands of the buyers and sellers who did not know the difference between one and the other. A competitive market that was formidable for me began to be organized, and I was required to pay, sometimes even quite dearly, for things that I had at first been given outright. At the end of our stay in Constantine, the craze of which I just spoke was pushed to such a point that manuscripts containing a few illustrations, a few gold letters, were had for fifty francs and often much more. Happily for the mission with which I was charged, the connoisseurs did not make attacks on anything but luxury books (which are almost always religious works), and modest volumes that recommended themselves far more by their contents than by their covers were scorned by them, and came to usefully enlarge my collection at little cost."⁴⁷

This long passage is striking for its vivid illustration of the “indissociable” quality of acts of destruction and acts of conservation in colonial patrimonial practice.⁴⁸ Furthermore, it underscores the way in which the market can emerge from and accelerate the fraying work of destruction. But it is precisely inside and against these impulses that Berbrugger situates himself, contrasting his actions with those of the soldiers on both sides who seized the manuscripts for their enrichment.⁴⁹ The state here carries different faces: there are the forces of destruction unleashed by war, and there are the forces of rescue that pluck certain objects from the fire. In a familiar Orientalist alliance between science and empire, what distinguishes Berbrugger’s seizure of such objects in his eyes is his attention to their scientific worth and his aim of adding them to the embryonic collection in Algiers.⁵⁰

Even though he places himself on the margins of the state, Berbrugger’s narrative, like the story of the rescue of Boabdil’s tombstone from both obscurity and loss, evokes the way patrimonial practice ideally represents an arena removed from violent change, a more lasting part of the state that steps outside the flow of events, that shelters itself and rests on the promise of

47. Section marked “Manuscrits,” in “Rapport préliminaire sur la mission de Mr. A. Berbrugger, à Constantine,” Algiers, 30 Nov. 1837, CAOM/F80/1733. Interestingly enough, Berbrugger reports that only 8 of the thirteen boxes of material that he collected in Constantine made it back to Algiers.

48. Oulebsir, *Les usages du patrimoine*, 136.

49. It is interesting to note that the accusation of looting levelled against the soldiers was frequently levelled against Muslim civilians as well. Effros, *Incidental Archaeologists*, 160.

50. Said, *Orientalism*.

permanent containment.⁵¹ The image of the small study in which Berbrugger locks himself away from the chaos of the soldiers feels particularly significant here; in a sense, it is a concrete spatialization of the patrimonial category and enterprise that evokes the surprising fragility of the space in which the sovereign exception to the norm may here be made. In this way, the patrimonialist's state parallels the patrimonial object, in that it, too, is set aside and thereby excepted.

***Waqf*, Patrimony, and the Question of Continuity**

The linchpin of Berbrugger's 1837 account, however, is in the three sentences that follow the preceding passage:

“A large number of the manuscripts that I bought from the soldiers come from the Schools and the [libraries?] consecrated to worship. Most are marked at the beginning with the Seal of Salah Bey, who rendered them *habous* (a circumstance worthy of notice) and were presented as gifts to the great mosque of Constantine *the well-guarded* (the nickname of this city). The act of gift-giving which is written next to the Seal expresses that this gift is made on the condition that the offered work will *never* leave the mosque to which it is accorded. In an odd way, the accidents of war joined with the donor's intentions of perpetuity.”⁵²

Berbrugger is directly asserting a continuity between the patrimonial regime of the colonial state and the Islamic regime of inalienability known locally as *hubūs* (pl. *aḥbās*; in French, *habous*), and more widely as *waqf* (pl. *awqāf*): property (usually land or buildings) dedicated by its proprietor for eventual use in perpetuity to a religiously commendable end, such as religion in the case of a mosque or support for the poor. In this instance, Salah Bey's designation of the manuscripts as *hubūs* reflects the Ḥanafī school of jurisprudence followed by Algeria's Ottoman elite, according to which some mobile goods considered essential to a space of learning and religion can also be rendered inalienable.⁵³ Whether mobile or not, devolution of the property or its fruits to the ultimate beneficiary is often preceded by a line of descendants specified by the original donor; within their lifetimes, these descendants may enjoy the benefits of the property on the condition that it not be sold. As such,

51. For the distancing of state actors from the state in contemporary Algeria, see Jane E. Goodman, “The Man Behind the Curtain: Theatrics of the State in Algeria,” *The Journal of North African Studies* 18, 5 (2013): 779-95.

52. Section marked “Manuscripts,” in “Rapport préliminaire sur la mission de Mr. A. Berbrugger, à Constantine,” Algiers, 30 Nov. 1837, CAOM/F80/1733.

53. Rudolph Peters, “Waqf in Classical Islamic Law,” in *Encyclopedia of Islam* (Leiden: Brill, 2000): I.2.b

the object's alienability is curtailed – the object is barred, arrested, or halted, as the terms *ḥubūs* and *waqf* denote.

In broad strokes, the story of *ḥubūs* properties under French colonialism fits into the dynamic of keeping-while-destroying outlined in the previous section. Despite initial French promises to respect Islamic property law, urban *ḥubūs* properties were quickly bought up by speculators, and the colonial administration in Algeria soon assumed the power to administer *ḥubūs* religious establishments. Legal dismemberment of *ḥubūs* climaxed with 1844 legislation that allowed for the alienation of such inalienable properties whenever a European was party to the transaction – a move that advocates of elimination of the *ḥubūs* regime viewed as essential to freeing up the real estate market to capitalist accumulative practices.⁵⁴ Although *ḥubūs* furnished only a small percentage of total alienations to the colonial domain in this period, it accounted for a large segment of urban properties. Its ubiquity in the cities, coupled with its Islamic legal basis and considerable symbolic weight, meant that its alienation to the French authorities prompted more outcry than any other colonial action concerning property in the early period of conquest and colonization.⁵⁵ In keeping with the paradox of keeping-while-destroying, it was the dismantling of such a regime that led the Société historique algérienne, with Berbrugger at its head, to launch some of the first lobbying attempts for the conservation of Hispano-Mauresque architectural examples.⁵⁶

Despite the overall arc of this history, recent scholarship has somewhat complicated the picture of a steady colonial march toward the dismantling of *ḥubūs* in Algeria. Nacereddine Saidouni and Maaouia Saidouni have identified important countercurrents in the colonial administration who advocated reform rather than abolition, and Berbrugger's remark raises the question of his stance in this debate.⁵⁷ But how seriously ought we take such a claim of continuity? Berbrugger's reading of the situation fits quite comfortably within the patterns established in the preceding section and in this article's opening scenario: there is a project of state-based salvage within the context of state-sponsored destruction, and by implication a paternalist identification by particular colonial officials with Algerian Muslim elites. What makes this

54. John Ruedy, *Land Policy in Colonial Algeria: The Origins of the Rural Public Domain* (Berkeley: University of California Press, 1967), 77; David S. Powers, "Orientalism, Colonialism, and Legal History: The Attack on Muslim Family Endowments in Algeria and India," *Comparative Studies in Society and History* 31/3 (1989): 568.

55. *Ibid.*, 67.

56. Oulebsir, *Les usages du patrimoine*, 134-8.

57. Nacereddine Saidouni and Maaouia Saidouni, "Il 'waqf' in Algeria e l'amministrazione francese: il caso della fondazione degli 'Haramayn' (Algeri 1830-1873)," *Quaderni storici* 44, 132/3 (2009): 687-726.

case somewhat different is that it includes an explicit assertion of continuity of purpose between *hubūs* and the patrimonial project. One way to interpret this discursive move is to say that it adds yet another layer of colonial appropriation – Berbrugger is laying claim not only to the object, but to the indigenous institutions of inalienability in which they were embedded. That is to say that these claims of continuity are very much ideological claims that need to be read within the context of a larger early colonial field. We should take Berbrugger’s claim of continuity seriously as an expression of a certain political logic, but we should not assume that Algerians bought into such claims.

Nor should we be too credulous of the specific claim of continuity. In fact, when we start to think about *hubūs* and state patrimonial practices comparatively, Berbrugger’s claim starts to look quite farfetched. Berbrugger’s patrimonial project is clearly centered on the state, albeit a state that is multidimensional. *Hubūs*, however, is emphatically not centered on the state, even if Muslim states normally presented themselves as committed to the integrity of Islamic law. Instead, the *waqf* concept is centered on a notion of the individual, non-mythical founder. Even in the many instances in which rulers established *waqf* foundations for public benefit (as seems to be the case in Salah Bey’s gift of the manuscripts), they did so as pious individuals, and not as a direct expression of state power. In fact, an important strategic function of *waqf* endowments was the avoidance of the state confiscation of valuables.⁵⁸ This is in keeping with a broad historiographical point in the recent literature on *waqf*: that in many Muslim societies, it constituted the core of what might be called the public sphere, defined as “a zone of autonomous social activity between the family and the ruling authorities.”⁵⁹ An ironic aspect of Berbrugger’s assertion of continuity is that it glosses over the fact that in this instance the colonial state was taking over *waqf* objects while erasing the *waqf* public sphere that had traditionally been in part a bulwark against the state. This is a clear way in which the colonial patrimonial project represented an *étatization* of a system that had been far more complex and horizontal. In this sense, despite his own claims, Berbrugger was building “a colonial society *ex nihilo* with the materials of the Other.”⁶⁰

Another striking difference lies in the qualities of the things bound by patrimony and by *waqf*. In the classic case of state patrimonial holdings, the

58. See, for example, Saidouni and Saidouni, “Il ‘waqf’ in Algeria e l’amministrazione francese,” 691.

59. Miriam Hoexter, “The *Waqf* and the Public Sphere,” in *The Public Sphere in Muslim Societies*, eds. Miriam Hoexter et al. (Albany: State University of New York Press, 2002), 119.

60. Ouagueni, “The birth of the notion of patrimoine,” 8.

objects treated as inalienable are said to have a certain intrinsic value for a collective. They often teach about the collective past or at least embody something irreplaceable derived from a particular historical moment. In that sense, the patrimonial object typically carries the patina of age, and in many cases no longer serves the use for which it was made. In an even more basic sense, the intrinsic value of the object is evident in the fact that one cannot switch out one patrimonial object for another. In *waqf*, on the other hand, the dedicated object, whether land, a building, or (less commonly) mobile things, has a certain value for the beneficiaries, but this usually derives from the proceeds accrued through the normal use of the object (such as rent or agricultural produce), rather than from its age, historical significance, or aesthetic qualities. Furthermore, in some interpretations of Islamic law, it is possible to replace a *waqf* object with another should the original property be damaged or destroyed.⁶¹ These elements lend *waqf* a decidedly this-worldly quality, even as the good it does for the living redounds to the soul of the departed founder, thereby transforming *waqf* into an act of worship.⁶² In Godelier's terms, if the patrimonial object is a sacred object, in that it is truly kept, the object that is *waqf* is not intrinsically sacred, even if other aspects of the institution are. It just happens to be that in Berbrugger's case, the manuscripts he was dealing with were associated with a sacred space, and the benefit to be traditionally derived from them stemmed from their textual content rather than from rent. It was perhaps the resemblance to the idea of scientific benefit, so central to Berbrugger's collecting project, that allowed him to convince himself, and perhaps his governmental readers as well, that he was engaging in an act of continuity rather than of rupture.

Coda: Comparing Regimes of Inalienability and the Question of Reciprocity

Berbrugger may have been wrong about continuity between *waqf* and patrimony, but he was also right that both are regimes of inalienability. Therefore, if the Weinerian conversation offers a way to think not just about patrimony but about inalienability, it ought to have something to say about *waqf*. In other words, theory ought not simply be convenient for talking about a particular case but should be able to hold up when that case suddenly opens onto another. This concluding, admittedly ideal-typical thought experiment sketches out what this might be, and what it might mean for thinking about patrimony as inalienability.

61. Peters, "Wakf in Classical Islamic Law," 13.

62. Nada Moutaz, "From Forgiveness to Foreclosure: Waqf, Debt, and the Remaking of the Hanafi Legal Subject in Late Ottoman Mount Lebanon," *The Muslim World* (2018): 599.

The colonial situation complicates the image of an organic connection between collective subject and sacred object that we can get from a hasty application of Weiner's framework. Nevertheless, I have suggested that even in the colonial context Berbrugger was writing about, it is possible to retain a notion of a collective subject, or, better, set of subjects. In thinking about *waqf*, however, who or what is the possessor, and where is the collective dimension? The answer is not entirely evident. Recall that the act of endowment that establishes something as *waqf* is inherently individual, albeit done on behalf of a collective of beneficiaries, ultimate as well as sometimes intermediate. The identity of the possessor after this inaugural act depends on the tradition of Islamic law. In the Mālikī tradition, which has long been the dominant school of jurisprudence in the Maghrib, the founder remains the owner of the *waqf* property even in death, but without the powers of ownership. For other schools, including the Ḥanafī that predominated among Algeria's Ottoman elite, the beneficiaries are the owners but without right of disposal; alternatively, the owner is God.⁶³ In none of these interpretations do we find a collective possessor whose subjectivity rests upon the object in any obvious sense, even if we do find publics and social categories whose members may lay claim to the benefits of those objects.

Nevertheless, there are three striking continuities that the use of Weiner's work to think simultaneously about *waqf* and state patrimony broadly conceived brings to the fore. First, the Mālikī notion of an owner who remains an owner in death but without the powers of ownership resonates with the discourse of patrimony. Berbrugger's account gestures toward the way in which in *waqf* and patrimony, the transmitted thing is dual: there is the object that is transmitted as well as the intention to transmit it. This differentiation allows us to draw out a largely implicit argument in Weiner's work regarding subject-object relations. On the one hand, it is possible to simply think in terms of the group as subject and the inalienable possession as object. On the other hand, there is an agentic quality to the inalienable possessions, a way in which, as "symbolic repositories," they densely accumulate meaning and carry a certain demand.⁶⁴ This agentic quality is closely tied to the intention of inalienability attached to them: this intention derives from a past subject (in the case of *waqf*) or quasi-mythical subjects (in the case of patrimony), gets tied to the object (and, in the case of *waqf*, its fruits), and is transmitted along with the object. In this way, the idea of inalienability is part of or contained

63. Peters, "Wakf in Classical Islamic Law," 13.

64. Weiner, *Inalienable Possessions*, 33, cited in Lepowsky, "Exchange, Gender, and Inalienable Possessions," 107.

in the inalienable good, an integral component of what is transmitted. In turn, a living agent must heed the interpellative call to acknowledge and transmit the inalienable good. In this sense, the inalienable object is a vehicle for a temporally extended subjectivity, but a subjectivity that cannot act on its own behalf but rather requires a living agent to do so for it – to defend it and its possession, so to speak. The living subject assumes responsibility for the thing, and thereby takes up and revitalizes the speech act of the founder, which would otherwise be dispersed along with the object to which it was attached. The permanence of the thing is tied to the permanence of the subject, and this tying takes place through embedding the thing in a permanent container – either the state or, more radically, in God and God’s law.

The second continuity lies in the way in which both *waqf* and patrimony counter forms of fraying. In the latter, the fraying can come in many forms: looting, selling, or simply the “hazards of time.”⁶⁵ In *waqf*, leaving aside colonial and modernist abolition of the institution itself, the fraying primarily comes in two forms: sale and inheritance. *Waqf* provides a way out of the fractionalization of Islamic inheritance law. In this sense, there is an anti-genealogical aspect to *waqf*: when it comes to its ultimate beneficiaries, it can invoke a generalized public, or a non-genealogical social category within that generalized public.⁶⁶ In a similar way, there is an anti-genealogical element in patrimony in the nation-state, in the sense that such patrimony is meant to belong to a public defined by generations rather than by lineages. The classic ideal of national patrimony envisions the nation or public as a permanent kindred, and in this way is allied with the old association of descent with permanence;⁶⁷ however, it is a kindred that somehow escapes the fractionalization that comes with alliance and the attendant elaboration of descent.⁶⁸

This question of generations is important as we move into the third and final continuity between *waqf* and patrimony that Weiner’s framework points toward and that it is affected by in turn: the question of reciprocity. Weiner’s emphasis was on the contrast between inalienable possession and reciprocity: the former resists the demands of the latter. But in Godelier’s reading of inalienability, the contrast between gifts and sacred objects is both

65. Franquesa, “On Keeping and Selling,” 349.

66. Nevertheless, there are also ways in which the notion of charity to the founder’s agnates can persist in strong form. Peters, “Wakf in Classical Islamic Law,” 13c.

67. On the nation as patriarchal family, see Elizabeth Emma Ferry, “Inalienable Commodities: The Production and Circulation of Silver and Patrimony in a Mexican Mining Cooperative,” *Cultural Anthropology* 17, 3 (2002): 331.

68. Jonathan Friedman, “The Paradox of Keeping-While Giving,” *Pacific Studies* 18, 1 (1995): 121.

more specific and more subtle: recall that both are inalienable in the sense that they cannot be separated from the person who is source, but the gift is alienated in that the object itself leaves the hands of the giver, while in the case of the sacred object it remains both inalienable and unalienated. In the case of *waqf*, the connection between gifts and sacred objects is even closer. The inalienable good is specifically presented as a gift – a Maussian “total prestation” in that it produces and reproduces “the very conditions for social existence”⁶⁹ – and it is this gift-giving that brings the object out of the commodity realm of alienability and alienation. The act of giving as *waqf*, therefore, is a strategy for keeping it from dispersion. In turn, the kept thing gives in three intertwined ways. One is through the rent or other benefit derived from the property; another is through memory of the founder among the living; and the third is blessing from God in the afterlife. If Weiner’s approach is to be fruitful, then *waqf* requires us to revise inalienability not as a sharp alternative to reciprocity but rather as reciprocity from afar. It is the unbridgeable distance of the recipient that makes this form of reciprocity “inalienable and unalienated” and therefore sacred in Godelier’s sense.

But can we find something similar in the case of state patrimony? I would make the case that indeed we can. Compared to God in the case of *waqf*, the distance between the primary giver and receiver is smaller, but it is still a good deal larger than the narrower time-envelope associated with classic discussions of reciprocity. The fundamental allegory of patrimony is that of the gift between generations – one that takes place in, around, and through the state, but that is not synonymous with the state. The gift of the patrimonial object cannot be directly reciprocated because the process of giving is embedded in the slow rhythm of intergenerational transmission.⁷⁰ Instead, the obligation to repay the gift can only be passed along to future generations, whereby it takes on the appearance of debt. The slowness of this transmission is also what obviates the need to replace the gift with something else of equal value; we can even speculate that the incalculable value of the object is tied in some way to the notion that it is commensurable to an entire collective subjectivity. It is this counterpoint – between generations that change, an object that does not except in growing still heavier, and a commitment to its transmission – that points to the quality of subject-object relations that makes

69. Godelier, “Some Things You Give,” 24.

70. On this point, see Ferry, “Inalienable Commodities,” 349: “Furthermore, unlike many commodities, inalienable commodities operate within constraints on their exchange. They can only be exchanged with certain parties, including those who do not yet exist (insofar as the veins of silver are to be passed down to future generations).” Note that it is not difficult to read the situation Guanajuato in terms very similar to *waqf*.

patrimonial practice so compelling and complex for many of its participants, and that, as alleged by some Enlightenment critics of substitutions, can lead it to threaten to privilege the dead over the living.⁷¹

This thought experiment has taken a rather generic national patrimonial framework as its model. But does this have any implication for thinking about the question of Hispano-Mauresque patrimony in the colonial context? In a way it does, if only indirectly. If we take colonial actors like Berbrugger as having been either stewards or usurpers of Algerian patrimony, then the objects were never really theirs. But if they stood largely outside the chain of generations linked by an impossible reciprocity, such actors were very much part of the state, notwithstanding their complex positionings vis-à-vis this structure. The colonial nature of that state allows us to see the hyphen in nation-state more sharply than usual: here the state is something distinct from the generations implicated by the allegory of patrimony. Instead, we can see more clearly the way that the state stands as guarantor, not unlike in the case of *waqf*. In fact, from some angles, the state here looks less like a subject than it does an object – a container, to be exact. And in this sense, the state itself is an object that is passed along, a kind of meta-patrimonial object standing in complex, interpellative relations with a collective, in some instances internally variegated, subject.

This coda is speculative, and leaves aside the complex questions of the relationship between the colonial and the postcolonial with regard to the state patrimony question. Despite these gaps, in bringing us to rethink the hard distinction between reciprocity and inalienability as found in Weiner's work, the foregoing discussion has brought another kind of reciprocity back into focus: the reciprocity between theory and the empirical, and the way in which a broad, regionally comparative approach is crucial to the expansion of that relationship. In a way, the distinction between the theoretical and the empirical is a false one. Theory *is* thinking across contexts. It was Weiner's expansion beyond the Trobriand context into the wider Pacific region that pushed her to formulate her argument around inalienability. In turn, my attempt here to apply her thought to the context at hand in light of the anthropological literature on patrimony as inalienability, and the comparative excursus that has resulted, suggests ways to rethink elements of that argument. The ambition here is not to turn the Maghrib into either a geographic or thematic "prestige zone"

71. Nada Moumtaz, "'Is the Family Waqf a Religious Institution?' Charity, Religion, and Economy in French Mandate Lebanon," *Islamic Law and Society* 25 (2018): 63.

of anthropological theory⁷² – an undesirable goal in my view, considering that anthropology should be concerned with all the world. Instead, the aim is to bring contexts into dialogue, and thereby to refine and expand the conversation. Said in other terms, the aim is anthropology.

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72. Arjun Appadurai, “Theory in Anthropology: Center and Periphery.” *Comparative Studies in Society and History* 28/2 (1986): 357; Lila Abu-Lughod. “Zones of Theory in the Anthropology of the Arab World,” *Annual Review of Anthropology* 18 (1989): 279, 285.

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الموروث المعماري باعتباره غير قابل للتصرف أو التفويت في الجزائر خلال القرن التاسع عشر: مفارقة الحفظ والتدمير والوعد بالمقارنة

ملخص: يحاول هذا المقال مناقشة وجهة نظر أنيت وينر حول الممتلكات غير القابلة للتصرف أو التفويت، والتي تم تطويرها في علاقة بعملها في ميلانيزيا، في حوار مع ديناميكيات موروث الدولة الاستعمارية في الجزائر إبان القرن التاسع عشر. في حين أن مفارقة الحفظ والعطاء التي اقترحتها وينر بديلاً للنماذج الأنثروبولوجية التقليدية للمعاملة بالمثل قد تم تطبيقها أحياناً على لغة الدولة القومية للموروث، فإن السياق الاستعماري يعقد مثل هذا الامتداد عبر إحداث انفصال بين الذين تعلق عليهم الممتلكات غير القابلة للتصرف والدولة التي تحفظها. من خلال استكشاف إنشاء جهاز الموروث "الإسباني-الموريسكي" بالجزائر في القرن التاسع عشر، تؤكد هذه المقالة أن محاولة التنظير لصاحبها وينر يمكن أن تبدو مفيدة للتفكير في السياقات الاستعمارية. ومع ذلك، يتطلب هذا الأمر الانتباه إلى ما أسماه تناقضات الحفاظ أثناء التدمير، فضلاً عن الصورة الدقيقة للدولة الاستعمارية - صورة يفهم فيها الفاعلون في حقل الموروث أنفسهم على أنهم يتموقعون جزئياً خارج الدولة. وتلتقي هذه التعديلات المتناقضة في المنظور بشكل واضح وبصفة خاصة مع العلاقة بين موروث الدولة والنظام الإسلامي للأوقاف غير القابل للتصرف والمعروف باسم الحبوس أو الوقف: حتى عندما أشرفت الدولة الاستعمارية في النهاية على تفكيك الوقف، مؤسس الجهاز الموروثي الاستعماري في الجزائر، فقد اعتبر عمله كجزء من الاستمرار لروحه الدينية. ويقودني هذا الادعاء الاستعماري بالاستمرارية والاستيعاب إلى أن أحتتم بالنظر في الوقف من خلال إطار عمل وينر. وأقترح أن نظرية الممتلكات غير القابلة للتصرف أو التفويت تقدم إطاراً مقارناً للتفكير في الموروث والوقف - إطار يؤكد في النهاية على الاختلافات بينهما، على الرغم من ادعاءات مسؤولي القرن التاسع عشر. وفي الوقت نفسه، تسمح لنا هذه المقارنة بإعادة النظر في بعض الادعاءات الأساسية لنظرية وينر من خلال تقديم اقتراح مفاده أن نوعاً من المعاملة بالمثل البعيدة مؤقتاً قد يكون في الواقع مركزياً لمفهوم وممارسة عدم القابلية للتصرف أو التفويت بعد كل شيء.

الكلمات المفتاحية: الممتلكات غير القابلة للتصرف، الإرث والتراث، مستعمرة الجزائر، الإسباني-الموريسكي، الدولة، الحبوس والوقف، المعاملة بالمثل، المقارنة الأنثروبولوجية.

Le patrimoine comme inaliénabilité dans l'Algérie du XIXe siècle: Le paradoxe de garder tout en détruisant et la promesse de comparaison

Résumé: Cet article met en dialogue la réflexion d'Annette Weiner sur les biens inaliénables, développée en relation avec son travail en Mélanésie, avec la dynamique du patrimoine colonial de l'État dans l'Algérie du XIX^e siècle. Alors que le paradoxe de garder en donnant que Weiner a proposé en remplacement des modèles anthropologiques traditionnels de réciprocité a parfois été appliqué à l'idiome de l'État-nation du patrimoine, le contexte colonial complique une telle extension en introduisant souvent une déconnexion entre le collectif à qui les biens inaliénables sont attachés et l'État qui les conserverait. À travers une exploration de la mise en place d'un appareil patrimonial "hispano-mauresque" dans l'Algérie du XIX^e siècle, cet article affirme que la théorisation de Weiner peut être utile pour réfléchir aux contextes coloniaux. Cependant, cela nécessite une attention à ce que j'appelle le paradoxe de la conservation en détruisant, ainsi qu'une image plus fine de l'État colonial - une image dans laquelle les acteurs patrimoniaux se comprennent en partie en dehors de l'État. Ces ajustements de perspective apparemment contradictoires se rejoignent particulièrement vivement dans la relation entre le patrimoine étatique et le régime islamique des dotations inaliénables connu sous le nom de *hubūs* ou *waqf*: alors même que l'État colonial a finalement supervisé le démantèlement du *waqf*, le fondateur de l'appareil patrimonial colonial en Algérie considérait son propre travail comme une continuation

de son esprit. Cette revendication coloniale de continuité et de subsomption m'amène à conclure par un examen du *waqf* à travers le cadre de Weiner. Je suggère que la théorie des possessions inaliénables offre un cadre comparatif pour la réflexion sur le patrimoine et le *waqf* – un cadre qui souligne finalement leurs différences, nonobstant les affirmations des fonctionnaires du XIX^e siècle. En même temps, cette comparaison nous permet de revenir sur certaines des affirmations fondamentales de la théorie de Weiner en suggérant qu'une sorte de réciprocité temporellement distante peut en fait être au centre du concept et de la pratique de l'inaliénabilité après tout.

Mots-clés: Propriétés inaliénables, héritage et patrimoine, Algérie coloniale, hispano-mauresque, état, *ḥubūs* et *waqf*, réciprocité, comparaison anthropologique.