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Debate

Committee on the Illicit Trade in Cultural Material

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During recent years, especially with the increasing political crisis in the Near East, we have observed a growing concern and urge to act and to take a firm stand against illicit trade in cultural heritage, especially as Europe is one of the main markets for illicit archaeological objects. The ‘hottest investment’ ([TIME-Magazine, 12/12/2007](#)) is, aside from unauthorised buildings development, climate change, and deliberate destruction in times of conflict, one of the biggest problems for archaeology. Reasons for investing in archaeological objects include fascination with the past, ‘great showpieces’ for display, and the limited quantity available since museums and private collectors purchase objects, removing them from the reach of both scientific community and the commercial market, often permanently.

Finds deriving from illegal excavations, artefact hunting, theft from museums/public collections, and archaeological material originating from armed conflicts taking place in various parts of the world, appear on the Western market. Often they appear with faked provenience, for example deriving from so-called ‘old collections’, and are sold apparently legitimately. Only occasionally are these acts prosecuted (Brodie 2015), and then only on a case-by-case basis with often only minor consequences for the offenders. Moreover, a significant increase of new buyers from emerging markets has been noted in recent years. Often these new markets are within the borders of unstable countries, outside of the jurisdiction of international charters, which makes the prosecution challenging if not impossible.

There is *no* universal policy for control and recording of publically-made finds. In rare cases, illegal/illicit finds are ultimately recovered through legal action (as happened to the Bronze Age Nebra Sky Disc, Germany), or non-professional finds are eventually acquired and recovered by public authorities or museums, with the aid of public funding, so that they can be properly studied (as in the case of the Anglo-Saxon Staffordshire Hoard, United Kingdom). Also, several finds have been repatriated from US museums and collections since 2005 (mainly to Italy and Greece, see links below), which further exposed the wrongdoings of the market. This was made possible in particular through negotiations under the pressure of existing international charters.

However, the majority of less-spectacular artefacts are routinely advertised and sold without interruption, usually through the internet, as well as through antique fairs and auction houses, or through personal connections.

The existence of these ‘private’ finds, unless already published as part of an antiquarian collection, is often ignored by many archaeologists. This is perhaps partly a consequence of the lack of firm provenances for the origins of such artefacts, and lost contextual relations which could have been used to interpret these materials, or as an attempt to disassociate themselves from such finds and their collectors. Another aspect might be the wish not to raise the commercial value of the object (see Harding 2011 for a detailed discussion on the topic), as well as for practical reasons, given the labour involved in gathering information on such finds from the large number of media through which they are routinely advertised and sold.

Especially during the past few years, a significant increase in illegal excavations and trafficking of archaeological material was noted not only in the Middle East (see e.g. the links below about detecting looting by satellite images), but also in Europe. This became easier (and also more easily traceable) through the growing use of the internet and its different platforms supporting trade. These sales would have happened before through antique or flea markets, or dealers, but increasingly these sales are now facilitated by the internet (in addition to these traditional outlets), blurring the lines between local private collectors, public platforms, and (inter)national dealers. With the beginning of the 21st century, the internet has grown exponentially also in its commercial impact, providing access

to worldwide markets for trade and exchange, which has significantly contributed to the demand for archaeological artefacts. Large numbers of these sales, particularly of ‘mundane’ finds, can be documented online.

The sheer quantity of these artefacts on the legal selling market should raise considerable concern within the archaeological community. Thousands of prehistoric artefacts are presented on a daily basis as fresh finds on the internet through mediums and platforms such as ‘treasure hunter’ internet platforms (e.g. violity.com; kladoiskateli.com), advertised and sold online through outlets such as *eBay* or *liveauctioneers.com* and sold through licensed auction houses, such as *Sotheby’s* and *Bonhams* (see links at the end of the article), as well as ‘private’ auctions and transaction without any public record. Increasingly over the last decade, the internet has offered an easy, accessible and growing platform for the rapid exchange and trade of archaeological artefacts, the sheer volume of sales making it hard to keep track of newly-advertised finds and sales. This is not only due to political crisis or growing poverty, but also due to technological improvements and hence a greater ease of finding and looting archaeological sites.

Trafficking in archaeological materials constitutes a violation of the archaeological record, interest, and informational value, and consequently contributes to the destruction of our common history. Now is the time to become more active, and to vigorously support and help the protection of world archaeological heritage.

The *Committee on the Illicit Trade in Cultural Material* supports the following codes of principles concerning stewardship (note here Hamilakis 1999 and 2003 for a critical view on the topic) and commercialisation of archaeological material:

Stewardship

The general archaeological record is unique and irreplaceable. It is therefore the duty and responsibility of every archaeologist to protect and contribute to the long-term preservation of world archaeological heritage. This includes a duty to prevent, report, and raise public and especially institutional awareness, of criminal activities such as the damage, destruction or devastation of cultural heritage, and the illegal trafficking and selling of cultural heritage.

We endeavour to protect all material culture and its context of past people and societies on the basis of the social memory of them, and not on the basis of a selectively constructed record. We have ethical responsibilities to the materials we study, the people with whom we work, and especially to the people living where we study those materials. We act with political awareness, not only to protect the cultural heritage for the future, but also with responsibility for the present, and question political decisions which result in human suffering and destruction of cultural heritage.

Commercialisation

Europe is one of the leading regions in the international trade of illegally acquired cultural heritage. This results in the vast destruction of archaeological sites and the loss of the material culture and connected information, all of which is essential to understanding the archaeological record. Archaeologists should consequently

- raise public awareness of the legal consequences of the damage and destruction of cultural heritage, and the resulting loss of information;
- report any illegal activity, or trade of potentially illegally-acquired material culture;
- never act as an expert for auction houses, antiquaries, or private collections if the find concerned is not going to be part of a collection open to public and research and does not have a proven pre-1970 collecting history (UNESCO convention 1970; in Italy, the date is even 1939), or anyway clearly preceding the legal date for free marketing, as assumed by the country of origin;
- contribute, in any form, to discourage commercialisation of archaeological material. The publication of illicit or doubtful goods shall be accepted only if the find concerned is not legitimized and the doubtful provenance or illicit background clearly pointed out and problematized.

Aims

The *Committee on the Illicit Trade in Cultural Material* aims to:

1. prevent and contrast looting and illegal excavations;
2. limit trafficking and accept selling of cultural heritage to those objects that have a certificate of legal and ethical origin (e.g. pre-1970 known and proven as valid origin, or/and as in the UNIDROIT convention (1995), or the *Kulturgüterrückgabegesetz*, Germany (1999 and 2007), which is planned to be even stricter in 2016);
3. develop strategies for a common European legal basis for the protection of archaeological sites and material culture;
4. develop an European standardization for the protection of cultural heritage and archaeological finds;
5. establish partnerships with specialists and enforcement agencies working in similar issues (e.g. UNESCO, Italian Carabinieri, UK Art and Antiques Unit);
6. raise public and institutional awareness of the impact of the destruction of cultural heritage and the legal consequences of doing so.

We aim to prevent and reduce looting and illegal excavations by a variety of far-reaching strategies, including organising public activities and raising of public awareness of the negative consequences of illegal excavations for the public, such as loss of cultural value, common history, identity, and touristic potential. Also, we aim to raise public awareness of the value of archaeological finds, and their context for everyone (information at schools, exhibitions, information material, brochures, collecting and publishing of information in a public database and web map). We will do this through such strategic use of press, TV, and social media.

A special focus will be on so-called 'high end' collectors; we hope to raise ethical issues, making it more difficult to justify their collecting practices in light of the impact it has on archaeological sites, and the loss of contextual information of the find in general. Significant attention will be also drawn to effective regulation of and engagement with legal artefact hunters (e.g. metal detectorists in countries where this hobby is legal), such as raising awareness about avoiding going on protected land, better routes for recording finds, and better advice for preserving assemblages (rather than breaking them up for resale).

Moreover, we plan to offer cooperation with local and international police officers, government agencies, and specialists working in similar issues (UNESCO, Interpol, *Italian Carabinieri*, and others). This will also raise the profile of 'heritage crimes', and result in partnerships with enforcement authorities (including advising export licensing authorities, customs and border control, and others). Consequently, we support a call for more coordinated sharing of information across Europe, from intelligence on sales and crime trends through to more coordinated data sharing (i.e. compatible software to enable cross-comparisons and transnational research between national and international databases). Examples of such databases can be found in Israel and Egypt (see below).

The committee moreover aims to provide a holistic overview and publish regularly reports on the current situation on heritage crime in every membership country. Over time we will kindly ask EAA-members to contribute to our studies with information about their country. Another aspiration is the creation of country-specific brochures both for archaeologists and the interested public, summarizing the current legal status, and the negative effects for all of us of unauthorised excavations, artefact hunting, theft from museums/public collections, and archaeological material originating from armed conflicts taking place in various parts of the world.

We aim to limit trafficking and accept selling of cultural heritage to those objects that have a certificate of origin as e.g. noted in the EU-directive 2014/60 and the *Berliner Erklärung* (1988; see Thorn 2005, Anhang 2, 407-408) by supporting the establishment of an (inter)national database in order to register finds with photo and identifier number. For example, the Israeli high court announced recently that all antiquities dealers will have to allocate every artefact an identification number and picture, which will be stored on an electronic database. Egypt is going to follow this example (see the links below in the references). Another issue will be to encourage more museums to join ICOM, and

consequently to adhere to the ICOM codes of ethics, especially articles 2, 7, and 8 (see link below). We refer to the critical statement of C. Renfrew (2006) on museum acquisitions and the therewith connected responsibilities for the illicit trade in antiquities.

We urge all colleagues to use every communication channel, from social media and encounters with the press, to guided tours for schools, to spread information about archaeologist's ethical standpoint and why it is important to protect our cultural heritage.

Organisation

Marianne Mödlinger and Matija Črešnar are currently acting head and vice of the committee, in order to take care of organizational issues.

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Forthcoming

The committee is organising a round table discussion on 'Illicit trafficking of Cultural Heritage: different strategies to fight it' at this year's annual meeting of the EAA in Vilnius, Lithuania, and a connected Session on '*Heritage Crime: Definition, Development and Duty-based ethics*' will be held right after the round table discussion in the same room.

We aim to build up a Code of Ethics, standards for 'responsible' private collections and museums, and will discuss about further strategies on how to prevent illicit trafficking. We would very much appreciate the participation and contribution of everyone interested!

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Links (updated on May 10, 2016)

Doubtful objects at Christies's and Bonham's

<http://traffickingculture.org/news/more-antiquities-withdrawn-after-identification-in-christies-and-sothebys-auctions-in-new-york/>
<http://art-crime.blogspot.it/2014/04/christies-and-bonhams-withdraw-two.html>
<http://www.scottishlegal.com/2015/04/14/christies-withdraws-over-1-2m-in-ancient-artefacts-after-glasgow-academic-identifies-them-as-stolen/>

EU-directive 2014/60

<http://eur-lex.europa.eu/legal-content/DE/ALL/?uri=CELEX%3A32014L0060>

ICOM code of ethics (2013)

http://icom.museum/fileadmin/user_upload/pdf/Codes/code_ethics2013_eng.pdf

Repatriation from the US to Italy

<http://archaeologynewsnetwork.blogspot.it/2015/05/us-returns-25-looted-artefacts-to-italy.html>
<https://plone.unige.ch/art-adr/cases-affaires/euphronios-krater-and-other-archaeological-objects-2013-italy-and-metropolitan-museum-of-art>

Amendment for the protection of cultural heritage in Germany

https://www.bundesregierung.de/Webs/Breg/DE/Bundesregierung/BeauftragtefuerKulturundMedien/kultur/kulturgutschutz/_node.html

About Israel's high court decision for antiquity dealers of December 2015:

<http://ht.ly/uRr6300eL27>
<http://theartnewspaper.com/news/israeli-high-court-says-antiquities-dealers-must-document-all-artefacts-online/>

About Egypt's establishment of an object database for antiquity dealers:

<http://theartnewspaper.com/news/museums/egypt-to-launch-antiquities-database-to-track-public-collections-and-combat-smuggling/>

UNIDROIT convention 1995

<http://www.unidroit.org/instruments/cultural-property/1995-convention>

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 November 1970: signatory states undertake to prevent illegal trade in antiquities and art objects. Cultural property that unlawfully enters one of the signatory states must be returned.

<http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/1970-convention>

Directive 93/7/EEC of the Council of the European Union: it provides for the return of cultural objects that have been unlawfully removed from the territory of a member state of the European Union.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0007:en:HTML>

Sarah H. Parcak on detecting looting via satellite:

http://www.nytimes.com/2015/11/09/arts/international/ted-grant-goes-to-archaeologist-who-combats-looting-with-satellite-technology.html?_r=5

Satellite images used for detecting looting in the Middle East:

[http://www.slate.com/articles/technology/future_tense/2015/03/satellite_images_show_isis_other_gro ups_destroying_archaeological_sites.single.html?wp_login_redirect=0](http://www.slate.com/articles/technology/future_tense/2015/03/satellite_images_show_isis_other_groups_destroying_archaeological_sites.single.html?wp_login_redirect=0)