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## Letting Farmers be Farmers: Economic Solutions to Subsistence Looting

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# LETTING FARMERS BE FARMERS: ECONOMIC SOLUTIONS TO SUBSISTENCE LOOTING

## I. INTRODUCTION

“They don’t know the history, they’re just looking for bodies and for tombs. They’re just looking for things to sell.”<sup>1</sup> As vocalized by a local shopkeeper in Peru, the core motive behind all forms of looting and pillage of archaeological sites is money. While many other motives are often put forth,<sup>2</sup> at the end of the day, almost all looting is motivated by the potential money to be made selling the looted artifacts. This is especially evident in poor countries of origin, where struggling natives often feel the need to turn to looting to supplement their meager incomes. This looting is exacerbated by the fact that these poor countries of origin often do not have adequate funds to properly protect and develop their archaeological and cultural treasures.

As such, the poor state of the economy in many countries of origin, including Peru, Belize, Guatemala, and Cambodia, results in widespread and epidemic looting and pillaging of archaeological sites. This destruction of cultural heritage is made even more devastating by the fact that these countries are often the countries with incredibly rich cultural histories. Yet they are also often the countries least equipped to preserve the archaeological evidence of their rich cultural pasts.<sup>3</sup> However, the looting and mass destruction of the world’s cultural heritage can be combated by striking at the source of the problem: the financial motivations

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1. Rory Carroll & Matthew Barker, *Looters Strip Latin America of Archaeological Heritage*, THE GUARDIAN, Mar. 21, 2011, available at <http://www.guardian.co.uk/world/2011/mar/21/looters-latin-america-archaeological-heritage>.

2. For a discussion of other motives behind looting, see Morag M. Kersel, *Transcending Borders: Objects on the Move*, 3 ARCHAEOLOGIES: J. WORLD ARCHAEOLOGICAL CONG. 81 (2007).

3. See Milken Institute, *Financial Innovations for Developing Archaeological Discovery and Conservation*, 7 FIN.L INNOVATIONS LAB REP. 1, 2, 5 (2008).

behind the looting. Looting done by indigent locals can be prevented by giving the people who feel compelled to turn to looting a reason not to.

This paper focuses on the financial incentives behind, and economic solutions to, so called “subsistence looting.” Part II addresses the widespread looting of archaeological sites and the devastating effects such looting has. Part III discusses the unique characteristics of subsistence looters and analyzes how weak economies in poor countries of origin lead to subsistence looting. Part IV details the various proposed economic solutions to such looting, while Part V analyzes which economic solutions are best equipped to eradicate subsistence looting. Finally, Part VI concludes, briefly summarizing and addressing the potential of economic development-based initiatives to prevent looting and help ensure the protection of archaeological sites worldwide.

## II. LOOTING IS AN INSIDIOUS EPIDEMIC THAT IS DESTROYING THE WORLD’S CULTURAL HERITAGE

While the looting and plunder of archaeological sites has long been a problem, “[m]odern day looting is greater in scale than any carried out in the past, with results that are usually beyond repair.”<sup>4</sup> As Manus Brinkman, the former Secretary General of the International Council of Museums, stated, looting “is not a new phenomenon: down the ages warriors have destroyed many monuments and sites and thieves have robbed many tombs. But the scale on which the destruction now takes place is unprecedented.”<sup>5</sup> Furthermore, looters motivated by financial gain do not discriminate amongst the world’s archaeological sites, and “looting of archaeological sites and the dismemberment of ancient monuments are problems that afflict countries as wealthy as the United States and the United Kingdom and as poor as Mali and

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4. Neil Brodie, Jenny Doole & Peter Watson, *Stealing History: The Illicit Trade in Cultural Material*, 2000 MCDONALD INST. FOR ARCHAEOLOGICAL RES. 1, 1.

5. *Id.* at 5.

Bolivia.”<sup>6</sup> Poorer regions of the world, however, are often the victims of the most large-scale ransacking of their cultural heritage.

Particularly concerning is the widespread looting of archaeological sites in Latin America, notably in Peru and Guatemala, where a looting epidemic “has sounded alarm bells about the region’s vanishing heritage.”<sup>7</sup> A recent report by the Global Heritage Fund identified almost 200 “at risk” sites in developing nations, many in South and Central America.<sup>8</sup> In Guatemala, “[t]he entire Peten region [the cradle of Mayan civilization in Guatemala] has been sacked in the past 20 years and every year hundreds of archaeological sites are being destroyed.”<sup>9</sup> In Peru, home to the ancient pre-Columbian Moche civilization, “[a]n estimated 100,000 tombs –over half of the country’s known sites– have been systematically looted.”<sup>10</sup>

Besides contributing to the destruction of the world’s important archaeological sites, looting also deprives society as a whole of the ability to learn about our rich cultural past. In archaeology, context is everything. Context, as an archaeological term, usually refers to the “social or stratigraphical relationships” of artifacts.<sup>11</sup> Seeing how the artifact was buried, its spatial relationship to other artifacts or human remains, examining the strata the artifact was found in, all of this helps archaeologists gain knowledge and a true understanding of the past.<sup>12</sup> The information gleaned from such contextual clues allows archaeologists to more accurately

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6. Patty Gerstenblith, *Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past*, 8 CHI. J. INT’L L. 169, 169 (2007).

7. Carroll, *supra* note 1.

8. GLOBAL HERITAGE FUND, SAVING OUR VANISHING HERITAGE: SAFEGUARDING ENDANGERED CULTURAL HERITAGE SITES IN THE DEVELOPING WORLD 6 (2010) [hereinafter GHF REPORT].

9. *Id.* at 27.

10. *Id.* at 23.

11. Brodie, Doole & Watson, *supra* note 4, at 10. As used in the archaeology context, stratigraphical layers refers to “vertical section[s] through the earth showing the relative positions of the human artefacts and therefore the chronology of successive levels of occupation.” *Stratigraphical Definition*, DICTIONARY.COM, [dictionary.reference.com/browse/stratigraphical](http://dictionary.reference.com/browse/stratigraphical) (last visited Oct, 17, 2012).

12. Gerstenblith, *supra* note 6, at 171-72.

reconstruct past cultures and the details of past lives. Once artifacts are removed from this context, society forever loses the ability to fully understand the past. As “[e]veryone in the cultural heritage realm agrees . . . [,] the looting of archaeological sites is devastating to our collective understanding of the past.”<sup>13</sup>

Moreover, in the absence of written records, studying artifacts in their original context is often the only way that archaeologists can illuminate the past.<sup>14</sup> The examination of artifacts in their original context through a scientific excavation allows archaeologists to determine the function and use of such artifacts, their importance to the daily lives of past inhabitants of the region, and other information that can help archaeologists piece together the past.<sup>15</sup> An artifact removed from its context is just a pretty object.<sup>16</sup> As a result, one of the most detrimental effects of looting is the total loss of context that looting results in. As one scholar asked, “[w]hen the adhering soil is washed off a looted pot to reveal its financially valuable surface, how much information about ancient society is lost?”<sup>17</sup>

Not only is valuable information about our past irrevocably lost through the removal of an artifact from its context, but looters also routinely destroy artifacts that cannot be sold in the market for illicit cultural artifacts. These objects have no value to the looter, and thus looted sites are often found littered with pottery fragments and shards, and even bones, carelessly thrown away by

13. Kersel, *supra* note 2, at 85.

14. Carroll, *supra* note 1.

15. Gerstenblith, *supra* note 6, at 170-172.

16. See generally ROGER ATWOOD, *STEALING HISTORY: TOMB RAIDERS, SMUGGLERS, AND THE LOOTING OF THE ANCIENT WORLD* (2004).

17. Brodie, Doole & Watson *supra* note 4, at 13. See also Cristina Ruiz, *My Life as a Tombarolo*, THE ART NEWSPAPER, Mar. 2000, at 36 (underscoring the importance of context by declaring that “[w]hat matters most is saving the archaeological information that burial hoards contain, not the recovery of the artefacts in themselves.”); Adel H. Yahya, *Looting and “Salvaging” the Heritage of Palestine*, 2 PRESENT PASTS 26, (2010), available at <http://www.presentpasts.info/article/view/pp.26/48> (“Today’s archaeology is not about collecting objects but rather about collecting contextual data, which these practices [illegal excavations] are destroying at an alarming rate.”).

a looter searching for financially valuable textiles or gold artifacts. In Palestine, for example,

[a]ntiquities thieves are looking mostly for gold, coins, glassware and ceramic pieces like oil lamps, clay stamps and items bearing written inscriptions. These objects can sell for hundreds, sometimes thousands, of dollars if they are found intact . . . As a result . . . if they come across a skeleton wearing gold or silver jewellery, they will break the skeleton to get the bracelets or necklaces, and in the process destroy significant historical data.<sup>18</sup>

Extensive damage is also done to the archaeological sites themselves as a result of the looter's effort to extract a movable, saleable piece of cultural heritage that can command thousands or even millions on the black market.<sup>19</sup>

### III. WEAK ECONOMIES IN POOR COUNTRIES OF ORIGIN LEAD TO INCREASED LOOTING

#### *A. Subsistence looters and their economic incentives*

The continually growing art market creates an incentive to loot, both for organized looters and for so called subsistence looters. As has been widely argued, "a flourishing \$4 billion black market in art continues to hasten the destruction of archaeological sites worldwide."<sup>20</sup> Record prices at auctions in recent times continue

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18. Yahya, *supra* note 17.

19. GHF REPORT, *supra* note 8, at 23 ("[A]rt monuments are actually being destroyed in order to gain fragments for the market: temple complexes are being looted, sculptures decapitated, frescoes cut up.") (quoting the International Council on Monuments and Sites' 2005 *Heritage@Risk* report) (internal quotation marks omitted).

20. Milken Institute, *supra* note 3, at 1 (citation omitted). Since transactions in the black market in illicit artifacts are not openly reported, it is impossible to accurately estimate the actual scale of this market. Charles Q. Choi, *NY Mummy Smugglers Reveal Vast Antiquities Black Market*, LIVESCIENCE, July 26, 2011, <http://www.livescience.com/15234-ny-mummy-smugglers-reveal-vast->

to motivate looters looking for that one big score.<sup>21</sup> Some argue that so long as this market exists and there are collectors willing to purchase illicit antiquities, looting will always occur because there will always be an economic incentive for it.<sup>22</sup> While it will indeed be very hard to stop the type of looting that is done by organized looters who are acting to supply the illicit market and meet the demands of collectors, there are looters who can be persuaded to turn away from looting.

While today most looting is done by organized looters who are often kept on retainer, subsistence looting is still a problem in many regions of the world.<sup>23</sup> Many of the looters in poor countries of origin are local farmers or villagers who loot to supplement their paltry incomes.<sup>24</sup> For instance, as Adel H. Yahya, the Director of the Palestinian Association for Cultural Exchange, explained, “Palestinian illegal excavators are mostly ‘subsistence

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antiquities-black-market.html. This difficulty is evidenced by widely divergent estimates, ranging from \$2 to \$6 billion. *Id. See, e.g.,* Brodie, Doole & Watson, *supra* note 4, at 23 (noting that “because the trade is clandestine, reliable data is hard to find” and as such, estimates have ranged from \$150 million to \$2 billion).

21. *See, e.g., Ancient Art and Antiquities*, CHRISTIE’S, <http://christies.com/departments/antiquities/> (last visited Apr. 30, 2012) (noting the world record price of \$16,882,500 for a Cycladic figure, sold in New York in 2010).

22. Milken Institute, *supra* note 3, at 23 (“While attempting to quell the desire to own a piece of the past may prove impossible, much can be done to regulate the supply.”). *See also* Yahya, *supra* note 18 (noting that “consumers are the main contributors to this destructive phenomenon [looting]. They encourage looting by creating a market demand for antiquities, and are therefore as guilty, if not more so, as the looters themselves.”).

23. *See* Kimberly L. Alderman, *Honor Amongst Thieves: Organized Crime and the Illicit Antiquities Trade*, 45 IND. L. REV. 601, 607 (2012) (noting that David Matsuda estimated that 97-99% of illicit excavations in Central America are carried out by local subsistence diggers). Organized looting is also the most destructive type of looting, with organized looters using “bulldozers, dynamite, and pneumatic drills” to completely destroy a site in the process of looking for saleable pieces of history. *See* Milken Institute, *supra* note 3, at 7 (quotation marks and citation omitted).

24. *See* Carroll, *supra* note 1; *see generally* ATWOOD, *supra* note 16.

looters' who dig as a way of surviving poverty."<sup>25</sup> In Belize, reports have suggested there are perhaps as many as 30,000 subsistence farmers "picking through the earth for relics" alongside organized looters.<sup>26</sup> One scholar, David Matsuda, who has extensively studied subsistence digging and interviewed more than 400 subsistence diggers, estimates that "upward of 500,000 people conduct unofficial excavations [in El Salvador and Guatemala] to make up for subsistence shortfalls."<sup>27</sup>

However, before analyzing proposed solutions to this type of looting, it is important to understand what is meant by the term "subsistence digging." The term "subsistence digger" is usually used to refer to a "person who uses the proceeds from artifact sales to support his or her traditional subsistence lifestyle."<sup>28</sup> Such subsistence diggers are locals "who hunt and gather artifacts part-time in agricultural off-seasons as part of the 'seasonal round' of traditional food-getting practices."<sup>29</sup> For example, the term "subsistence digging" is often used in connection with St. Lawrence Island in Alaska. St. Lawrence Island is owned by two Alaska Native Corporations,<sup>30</sup> and the people of St. Lawrence

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25. Yahya, *supra* note 18. Yahya also noted that, at least in Palestine, "looting grows at the same rate as unemployment." *Id.*

26. Milken Institute, *supra* note 3, at 2 (citation omitted).

27. David Matsuda, *The Ethics of Archaeology, Subsistence Digging, and Artifact Looting in Latin America: Point, Muted Counterpoint*, 7 INT'L J. CULTURAL PROP. 87, 91 (1998). While many of the available statistics regarding subsistence looting are several years old, the studies by David Matsuda on this subject remain some of the most comprehensive and oft cited studies of subsistence looting, and remain important and valuable resources.

28. *Id.* at 88 n.9.

29. *Id.* at 91.

30. In 1971, the U.S. Congress passed the Alaska Native Claims Settlement Act, which extinguished all present or future claims of aboriginal title by Alaska Natives and replaced it with corporate status. Julie Hollowell, *St. Lawrence Island's Legal Market in Archaeological Goods*, available at [http://www.alaskanartifacts.com/SLI\\_LegalMarket\\_SubstanceDigging.htm](http://www.alaskanartifacts.com/SLI_LegalMarket_SubstanceDigging.htm). Anyone with 25% or more Alaska Native blood was entitled to enroll as a stockholder in one of thirteen regional corporations and in one of 220 village corporations. See generally Richard S. Jones, *Alaska Native Claims Settlement Act of 1971 (Public Law 92-203): History and Analysis Together with Subsequent Amendments, Report No. 81-127 GOV, INST. SOC. & ECON. RES.*, (June 1, 1981) available at



Island are “engaged in a mixed cash and subsistence economy, with the latter being more important.”<sup>31</sup> These two native corporations “manage their archaeological resources as a form of economic capital”<sup>32</sup> and promote the idea of “archaeological sites as economic resources . . . [and] as the source of extractable commodities.”<sup>33</sup> As such, digging for artifacts by indigenous communities is legal in St. Lawrence Island, and is carried out by natives as a means of supplementing traditional subsistence lifestyles.<sup>34</sup>

The natives of St. Lawrence Island don’t consider themselves looters, and as their digging activities are legal, they are not technically stealing archaeological artifacts for illicit sale. This has led to confusion regarding the terms “subsistence diggers” and “subsistence looters;” some prefer to use the term “subsistence looters” to refer to those who have no legal right to dig for artifacts, and others prefer to avoid the negative implications of that term altogether.<sup>35</sup> This confusion is further exacerbated by the fact that the term subsistence looting is sometimes incorrectly

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[http://www.alaskool.org/projects/ancsa/reports/rsjones1981/ancsa\\_history71.htm](http://www.alaskool.org/projects/ancsa/reports/rsjones1981/ancsa_history71.htm). These Native corporations received 40 million acres of land and \$962,500,000, which they were now responsible for investing and managing like any other corporate asset. *Id.* Today this land is private property, and is managed by the Native corporations for the benefit of their indigenous stockholders. *Id.*

31. David P. Staley, *St. Lawrence Island’s Subsistence Diggers: A New Perspective on Human Effects on Archaeological Sites*, 20 J. FIELD ARCHAEOLOGY 347, 348 (1993); Hollowell, *supra* note 30.

32. Hollowell, *supra* note 30.

33. Staley, *supra* note 31, at 349. In land claim negotiations, the two Alaska Native Village corporations of St. Lawrence Island refused a large monetary settlement and chose instead to acquire title to their entire island. Hollowell, *supra* note 30. The entire island is thus privately owned and is managed by the two Alaska Native Village corporations for their indigenous shareholders. *Id.* While some Alaska Native corporations prohibit artifact digging, the two St. Lawrence Island Native Village corporations permit shareholders to dig for artifacts, within the parameter of rules governing how people can stake a claim to sites. *Id.* Some estimates indicate that approximately \$1,000,000 worth of archaeological bone, ivory, and artifacts are sold from St. Lawrence Island every year. *Id.*

34. See Hollowell, *supra* note 30; Staley, *supra* note 31, at 352.

35. See Alderman, *supra* note 23, at 606 n.28; Staley, *supra* note 31, at 348.

applied to those who are not truly looting to provide basic necessities for their families, but rather to obtain extra cash.<sup>36</sup> This paper focuses only on subsistence looting that is done by impoverished locals who are digging to provide basic sustenance for their families, whether done legally or not.

Additionally, this paper uses the terms “subsistence diggers” and “subsistence looters” to refer only to those who loot purely due to poor financial circumstances. This paper does not include within the definition of either term people who engage in “artifact digging” mainly due to a belief that they are entitled to engage in such an activity. Such people, while they may realize economic benefits through the sale of any artifacts they find, are not motivated primarily by dire financial straits to dig, but instead dig for artifacts because it is a tradition or a favored family activity. Since economics is not the primary motivating factor behind such looting, providing an economic alternative to looting will not prevent this type of looting. Accordingly, this paper focuses only on those who loot primarily due to a need to supplement a meager income.<sup>37</sup>

*B. The unique circumstances behind subsistence looting demand a specialized approach to combating it*

Making a distinction between subsistence looters and organized looters is crucial, and will make a difference in formulating effective approaches to combating looting. Subsistence looters command more sympathy, and many argue that the reasons behind subsistence looting are equally as compelling as the reasons for protecting cultural heritage.<sup>38</sup> Understanding who subsistence

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36. See Kersel, *supra* note 2, at 87; Hollowell, *supra* note 30.

37. While this paper focuses only on those who loot due to financial motivations, it will be necessary to understand and discuss the cultural and social aspects of, and justifications for, looting in order to fully understand the subsistence digging phenomenon. Such justifications and societal beliefs, discussed later in the paper, will impact the formulation of an effective solution to subsistence looting done by those with purely financial motivations.

38. See Matsuda, *supra* note 27, at 93; Arthur Miller, *Archaeological Looting: A New Approach to the Problem*, 24 EXPEDITION 35, 38 (1982) (stating that since “local residents of remote areas where archaeological sites are

looters are, their history and culture, and why they feel forced to loot, leads to an understanding that this type of looting can be prevented through education and economic development. Moreover, subsistence looting is often the result of the interplay of many political, economic, and social factors. Hence, the socioeconomic status of the subsistence looter, in addition to an understanding of how history and politics have worked together to put the subsistence looter in such a position, must be considered when discussing how to prevent subsistence looting. As David Matsuda has noted in discussing the political considerations at play in these countries of origin, “[f]or the regimes in El Salvador and Guatemala to admit that artifact looting is really subsistence digging, they must confront the fact that there are indigenous peoples among them—oppressed by land speculation and resource-hungry militaries, constrained from extra-local commerce, and lacking political power—who dig their ancestors’ remains to put food on the table.”<sup>39</sup>

Studying the economic conditions in the countries of origin where such subsistence looting occurs is the first step in understanding why local farmers and villagers are motivated to turn to looting. The countries that are hardest hit by subsistence looting are among some of the poorest countries in the world. A 2010 report by the Global Heritage Fund (GHF) states that “there are more than 500 major archaeological and cultural heritage sites in developing countries and regions where per capita income is under US \$3-5 a day.”<sup>40</sup> In Peru for example, where over half of the known archaeological sites have been looted, approximately 31% of the population lives below the poverty line.<sup>41</sup> This number

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located. . . are usually poor, and may be offered a year’s income for one polychrome vessel, their temptation is not difficult to understand.”).

39. Matsuda, *supra* note 27, at 90.

40. GHF REPORT, *supra* note 8, at 7.

41. *The World Fact Book: Peru*, CENT. INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/pe.html> (last visited Apr. 30, 2012) (2010 estimates). The CIA World Factbook page on Peru also highlights the additional problems that indigenous communities in these developing countries of origin often face. These populations, which are often made up of descendants of those who created these archaeological and cultural sites, are often isolated and face discrimination by the majority governments.

jumps to 43% in Belize, where more than four out of every ten people live in poverty in a country where almost three-quarters of the major Mayan sites have been looted.<sup>42</sup> In Afghanistan, where the living standards are “among the lowest in the world,” 36% of the population lives below the poverty line.<sup>43</sup> Similarly, in Mali, one of the twenty five poorest countries in the world, approximately 36% of the population lives in poverty.<sup>44</sup> Starker numbers come out of Guatemala, where over half of the population lives below the national poverty line, with 13% living in extreme poverty.<sup>45</sup> Indigenous groups, which make up 38% of the Guatemalan population, face even more dire straits, with 73% living in poverty and 28% living in extreme poverty.<sup>46</sup> Similar statistics are available for many other developing countries whose archaeological sites are being ravaged by subsistence looters.

These developing countries of origin often also “grapple with crumbling infrastructures and national debt, and . . . find it hard enough to provide employment opportunities.”<sup>47</sup> Locals, struggling to make an income in this job and resource-scarce environment, turn to looting, lured by the fact that “area residents may derive full- or part-time incomes from selling relics illegally

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Accordingly, while the CIA statistics note that Peru’s economy has been growing, leading to a decrease in its national poverty rate, “[p]oor infrastructure hinders the spread of growth to Peru’s non-coastal areas,” and “inequality persists” in the sharing of the benefits of Peru’s growth. *Id.*

42. *The World Factbook: Belize*, CENT. INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/bh.html> (last visited Apr. 30, 2012) (2010 estimates); GHF REPORT, *supra* note 8, at 23 (stating that “73 percent of major Mayan archaeological sites have been pillaged.”).

43. *The World Factbook: Afghanistan*, CENT. INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/af.html> (last visited Apr. 30, 2012) (2008/2009 estimates).

44. *The World Factbook: Mali*, CENT. INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/ml.html> (last visited Apr. 30, 2012) (2005 estimates).

45. *The World Factbook: Guatemala*, CENT. INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/gt.html> (last visited Apr. 30, 2012) (2011 estimates).

46. *Id.*

47. Milken Institute, *supra* note 3, at 6 (citation omitted).

removed from nearby sites.”<sup>48</sup> Some reports suggest that most of these subsistence diggers are “refugees from civil violence and economic despair” who, faced with environments with “no seed crops, poor soil, and unstable weather patterns[,]” have discovered that “the abundance of uncharted archaeological ruins . . . [are] a viable socioeconomic alternative to starvation.”<sup>49</sup> The economic desperation felt by locals who eventually turn to looting must be addressed with compassion and understanding. Numerous subsistence looters and those who have dealt with them have described the desperation behind their decision to turn to looting in various compelling terms:

[The villagers] tried to earn as much money as possible with their finds, to put food on the table for their children. You don’t do this for fun . . . If you’re not desperate, you never do this.<sup>50</sup>

It makes me sad that our heritage, our Italian history is disappearing like this. I’d like to have an honest job . . . but there’s no alternative for me or my men. We work to put food on the tables for our families. I know I’m stealing from the State, but I don’t know anyone who does this job who is rich. We are all unemployed.<sup>51</sup>

What are you going to do? They are poor, malnourished farmers without money for seed, and without sufficient land to practice subsistence agriculture. They keep, on average about US\$75

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48. *Id.*

49. Matsuda, *supra* note 27, at 91; *see also* Kersel, *infra* note 95, at 263 (listing a “number of factors affecting the decision to loot: high unemployment; a lack of awareness of the importance of cultural heritage; archaeological sites that are viewed as an impediment to growth and development; and the prevailing attitude of local inhabitants that unearthed artifacts are a legitimate source of income.” (citing Ghazi Bisheh, former Director of the Jordanian Department of Antiquities)).

50. Alderman, *supra* note 23, at 607.

51. Ruiz, *supra* note 17.

from the US\$500 a year they earn. With this paltry amount, milperos [traditional farmers] must support large families and contribute to communal ceremonies. This is a land where there is no socialized security or medicine, taxes are usurious, and such things as sinus medicine and antibiotics cost between US\$5 and US\$10 a treatment. Under these conditions, wouldn't you take the US\$0.50 to US\$14 for artifacts tilled from your fields, and the US\$2 to US\$14 a day for work as a clandestine excavator during the off-season? This is equal to or better than the paltry sums they earn as laborers on oppressive plantations with company stores.<sup>52</sup>

The sympathetic plight of subsistence looters leads some to question “[h]ow can someone tell a poor person not to economically exploit a site, even if destructive, without providing a viable economic opportunity that provides income to that person while simultaneously preserving cultural heritage?”<sup>53</sup> The desperate economic plight of subsistence looters demands a solution that places the emphasis not just on protecting cultural objects, but on improving the abysmal financial situation of the people who feel forced to loot these objects.

The traditional cultural values and beliefs of the local communities who turn to looting must also be understood. Some indigenous populations engage in subsistence digging not only “as a means of supporting themselves economically[,]” but also “as a way of connecting themselves to their past and their ancestors who left buried remains as a type of gift to their descendants.”<sup>54</sup> Many indigenous cultures consider artifacts gifts from ancestors, and these indigenous peoples “see themselves as the legitimate heirs to . . . artifacts, which are conceived of as ancestors’ gifts, given to humanity by real or mythological patrons to be . . . excavated . . .

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52. Matsuda, *supra* note 27, at 88.

53. *Sustainable Preservation Initiative*, ARCHAEOLOGICAL INST. AM., <http://www.archaeological.org/sitepreservation/spi> (last visited Apr. 30, 2012).

54. Matsuda, *supra* note 27, at 87.

by later generations.”<sup>55</sup> Many local populations have not only continued these traditional practices, but look forward to carrying on, and passing along to their children, the family tradition of digging for artifacts. Many indigenous populations also believe it is their right to look for and profit from “gifts” left to them by their ancestors. Furthermore, subsistence digging is often viewed as a traditional cultural practice, and locals “excavate artifacts to supplement traditional socioeconomic life ways.”<sup>56</sup> These traditional practices and beliefs must be respected instead of dismissed outright as foolish by archeologists intent on preserving the site. Instead, a better approach would be to convince the local populations that they can reap greater economic benefits from the “gifts” left to them by their ancestors by supporting economic development of the site and community, rather than by selling these “gifts.”

The unique circumstances and motivations of subsistence looters requires a showing of respect and understanding, and the implementation of an educational campaign to show subsistence looters how they can use their communities’ cultural heritage to elevate themselves out of poverty by protecting local archaeological sites instead of looting them. Successfully combating subsistence looting must involve not only educating the local population about the value of preserving their cultural heritage, as well as the superior economic benefits that can come from preserving rather than looting, but must also demonstrate respect for the local community. This respect can be shown by involving the local community in the preservation and development process, giving them the power to make the crucial decisions regarding how to develop their community around the site, and demonstrating an understanding of the sympathetic reasons why they loot, instead of simply characterizing all looters as evil people motivated by greed.

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55. *Id.* at 88.

56. *Id.*

#### IV. ECONOMIC SOLUTIONS TO COMBAT LOOTING IN POOR COUNTRIES OF ORIGIN

##### *A. Sustainable economic community development*

Getting the locals to invest in, and in turn protect, their local archaeological sites will require providing a greater economic incentive than that posed by the financial gains to be had by looting. Combating subsistence looting will thus require demonstrating to looters that they stand to reap much greater, consistent, and sustainable economic benefits from developing the site, rather than looting it. As noted by the McDonald Institute for Archaeological Research, “looting undermines the economic base of a community just as surely as it depletes its history.”<sup>57</sup> Additionally, “[a]ny economic benefit that communities derive from looting is grossly exaggerated—and tiny compared to the benefit those communities would derive from keeping the artifacts in situ.”<sup>58</sup> Demonstrating to local communities that they could reap far greater economic benefits from protecting archaeological sites can be achieved by developing projects that will “bring financial benefit directly to local populations” and that would, “as a result, increase their participation in and appreciation of their cultural heritage.”<sup>59</sup> Such projects should focus on developing archaeological sites in a manner that will both preserve the site and help elevate local communities out of poverty.

Getting local populations to support such projects can be achieved partly by demonstrating to subsistence looters just how much they are losing by looting rather than by protecting and economically developing the site. Many subsistence looters do not even realize that they are not the ones making the real money, but rather are simply enabling the middlemen and dealers who work with collectors to get rich. “[T]he looting of archaeological sites is a well-organized big business motivated primarily by profit[,]”<sup>60</sup> and subsistence looters are stuck at the low-end of the profit scale,

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57. Brodie, Doole & Watson, *supra* note 4, at 14.

58. *Id.*

59. Milken Institute, *supra* note 3, at 19.

60. Gerstenblith, *supra* note 6, at 169.



used by this big business to the advantage of the real moneymakers. Studies by Neil Brodie have demonstrated that the original looter typically makes less than 1% of the final sale price of the looted artifact.<sup>61</sup> By demonstrating that local communities can derive far greater economic benefits, that will be greater in value as well as more sustainable than the meager one-time profits derived from looting, economically-based cultural preservation efforts will be able to provide the necessary economic incentive for subsistence looters to turn away from looting and instead focus on building the community up around the archaeological site.

Initiatives focusing on combining preservation efforts with sustainable economic development have grown in number and scale over the past few years. As Irina Bokova, the Director-General of UNESCO, noted, “[o]ver the past decade, we have seen a welcome new trend evolving, mainly in developing countries. I am speaking about culture as an economic driver: a creator of jobs and revenues; a means of making poverty eradication strategies relevant and more effective at the local level.”<sup>62</sup> The Global Heritage Fund has incorporated this evolving idea of preserving cultural sites while also using them as a driving force for the eradication of poverty into its new preservation strategy.<sup>63</sup> This strategy “goes well beyond traditional monument based approaches to preservation,” and represents “the first attempt to quantify the value of heritage sites as global economic resources to help achieve the UN Millennium Development Goals.”<sup>64</sup> Such initiatives, which focus on the local communities surrounding the

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61. See Milken Institute, *supra* note 3, at 7 (citing Neil Brodie, *Pity the Poor Middleman*, CULTURE WITHOUT CONTEXT (Illicit Antiquities Research Ctr., Cambridge, U.K.), Autumn 1998, at 4, available at <http://www.mcdonald.cam.ac.uk/projects/iarc/culturewithoutcontext/issue3/brodie.htm>). See also Yahya, *supra* note 18 (“It is usually the middlemen and dealers who retain the lion’s share of the profits.”); Ruiz, *supra* note 17 (one Italian tomb-robber was well aware of the disparity in profits made between himself and the middleman, stating “I estimate that this guy sells the stuff for 10 times what he paid me. Let me put it this way: he drives a Mercedes, I drive a Fiat Panda.”).

62. GHF REPORT, *supra* note 8, at 7.

63. *Id.* at 5.

64. *Id.*

site rather than on the site itself, have the potential to not only completely prevent subsistence looting, thus greatly aiding in the preservation of the site, but also to significantly improve the standard of living of thousands of impoverished people worldwide.

### *1. Microloan and grant programs*

Economic development of the local communities based on the archaeological site can offer an incentive for subsistence looters to protect and further develop the site instead of looting it. By helping locals establish craft shops, hotels, restaurants, tour guide services, and other tourism-related businesses focused on the archaeological site itself, locals will want to invest in the site instead of loot it. Similarly, offering funding for community development programs or loans in exchange for protection of the site can also motivate local communities to invest in and protect the site. Encouraging and aiding in the local community's investment in the site can be achieved through the use of grants and loans, conditioned on the protection and development of the site. Several such programs have been initiated in different countries of origin whose cultural heritage is suffering from widespread looting.

One such program was initiated more than a decade ago in Ciudad de Dios, Peru, a small rural town with an approximate population of 360 people.<sup>65</sup> When Brian Billman, founder and director of MOCHE, Inc., and Jesus Briceño began a long-term archaeological project in the Moche Valley in Peru, they encountered the usual difficulties caused by looting and rural poverty.<sup>66</sup> However, instead of employing the typical, and ineffectual, method of hiring one or two people to guard the site during the off-season, in 1998 Billman and Briceño instead hired

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65. *See Who We Are*, MOCHE, INC., <http://www.savethemoche.org/aboutus> (last visited April 30, 2012); *Peru and the Moche Valley*, MOCHE, INC., <http://www.savethemoche.org/peruandthemochevalley.html> (last visited Apr. 30, 2012). There are only about seventy households in Ciudad de Dios. *See Public Health and Sanitation-Summer 2012*, MOCHE, INC., <http://www.savethemoche.org/sanitation2012.html> (last visited Nov. 27, 2012).

66. *Id.*

the entire village of Ciudad de Dios to protect the site.<sup>67</sup> In exchange for the village protecting the archaeological site, Billman and Briceño offered to fund \$1200 worth of development projects for every year the site remained untouched.<sup>68</sup> Since they offered this program, looting at the site has effectively stopped, and several development projects have been completed in Ciudad de Dios.

Building off of this success, in 2006 Billman founded MOCHE, Inc., a nonprofit organization that is “dedicated to protecting, teaching, and studying the rich cultural heritage of Peru by creating partnerships with rural communities.”<sup>69</sup> MOCHE, Inc.’s goal is to “apply entrepreneurial techniques to the intertwined problems of heritage preservation and rural poverty.”<sup>70</sup> The organization aims to achieve this goal by funding “the preservation of archaeological sites, the implementation of sustainable rural development projects, and the furtherance of archaeological research and teaching in Peru.”<sup>71</sup> MOCHE, Inc. has funded, and continues to fund, public health and sanitation programs, health clinics, water programs, and other beneficial programs in Ciudad de Dios and other local communities in Peru.<sup>72</sup> The organization is currently working on completing construction of a medical clinic in Bello Horizonte, one of the larger towns in the area, with a population of approximately 2500.<sup>73</sup> In Cerro Blanco, a small rural town where most families are poor and live on less than \$150 a day, MOCHE, Inc. is helping complete a new water system that will provide a clean, safe, and continuous supply of water to 100

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67. *Id.*

68. *Id.* While \$1200 may seem like an insignificant amount of money, when this program was first started, Ciudad de Dios was so small that it was not recognized by the local government and lacked even basic services, such as sanitation and water services. *Id.* Additionally, “what is considered a small sum in the west might be a substantial amount in a hard-pressed subsistence economy.” Brodie, Doole & Watson, *supra* note 4, at 14.

69. *Id.*

70. *Id.*

71. *Id.*

72. *Id.*

73. *Peru and the Moche Valley*, MOCHE Inc., <http://www.savethemoche.org/peruandthemochevalley> (last visited Apr. 30, 2012).

families.<sup>74</sup> Several similar projects are also currently being undertaken or planned by MOCHE, Inc.

Similar programs are run by the Sustainable Preservation Initiative (SPI), lead by University of Pennsylvania archaeologist Larry Coben. SPI “seeks to save and preserve the world’s cultural heritage by providing transformative and sustainable economic opportunities to poor communities in which cultural heritage sites are located.”<sup>75</sup> As explained by Coben, “[p]eople can’t eat their history. . . we need to provide an alternative to other potential economic uses of archaeological sites, such as looting, agriculture, grazing, residential and commercial uses. That enables us to help people better their lives and gives them a powerful economic incentive to preserve our shared heritage.”<sup>76</sup> SPI seeks to provide this incentive by developing “plans for projects and businesses that will be locally owned and that maximize the spending of dollars in the communities surrounding the sites.”<sup>77</sup> Operating under its motto of “Saving Sites by Transforming Lives,” SPI aims to “provide grants to existing or start up businesses such as tourism, guides, restaurants, hostels, transportation, artisans and site museums[,]” with continued economic support tied to “successful sustainable business and preservation efforts.”<sup>78</sup>

SPI currently operates in Peru and Armenia, and has plans to start similar programs in Bulgaria and Jordan.<sup>79</sup> SPI recently completed a successful project in San José de Moro, Peru, the location of “one of the most important cemeteries and ceremonial

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74. *Cerro Blanco Water Project*, MOCHE, Inc., <http://www.savethemoche.org/cerroblocowater.html> (last visited Apr. 30, 2012).

75. *Sustainable Preservation Initiative*, ARCHAEOLOGICAL INST. AM., <http://www.archaeological.org/sitepreservation/spi> (last visited Apr. 30, 2012). SPI was developed by Larry Coben at the UCLA Cotsen Institute of Archaeology and the Archaeological Institute of America. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

centers of the Mochica culture and subsequent cultures.”<sup>80</sup> While this archaeological site is one of the “largest and most complex cemeteries and ceremonial centers used consecutively by hundreds of civilizations,” the surrounding community of San José de Moro is a small rural community with an approximate population of 5000.<sup>81</sup> The residents of San José de Moro are largely engaged in an agricultural-based economy, with most residents living on an average daily income of \$9.25.<sup>82</sup>

In March 2010, SPI awarded the San José de Moro community a \$48,000 grant for “artisanal and touristic development.”<sup>83</sup> With this grant, the community built a visitor and training center, which included a crafts workshop, store, and exhibition area.<sup>84</sup> Tourists visiting the site can watch local artisans create their wares, buy the finished artisanal products, and also participate in the ceramic making process.<sup>85</sup> The SPI grant money was also used to construct a new entrance to the Moche site, toilet facilities, a picnic and rest area, and a small snack bar, all adjacent to the exhibition center.<sup>86</sup> During construction of this workshop, which took six months to complete, supplies were purchased locally and twenty temporary jobs were created.<sup>87</sup> Since its construction, the center has resulted in twelve permanent jobs for local residents and has generated significant income for the community through the sale of artisan wares and guidebooks, with local artisans selling almost \$2000 worth of wares in one record-setting day in July 2011.<sup>88</sup> Through this and similar projects, “SPI is helping to turn an important archaeological site into a source of tourism-related cash for a poor

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80. *San José de Moro Water, Peru*, SUSTAINABLE PRESERVATION INITIATIVE, <http://sustainablepreservation.org/projects/san-jose-de-moro-peru/> (last visited Nov. 27, 2012).

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. *San José de Moro Water, Peru*, SUSTAINABLE PRESERVATION INITIATIVE, <http://sustainablepreservation.org/projects/san-jose-de-moro-peru/> (last visited Nov. 27, 2012).

87. *Id.*

88. *Id.*

local community, thereby creating an enormous incentive to protect that site rather than looting it or building on it. And, of course, creating jobs, too.”<sup>89</sup> SPI recently launched a new “People Not Stones” initiative at the Pampas Gramalote site in Huanchaco, Peru.

The Archaeological Institute of America (AIA) also funds programs in local communities. The AIA runs a Site Preservation program that provides grants to “innovative projects that preserve archaeological sites through conservation efforts and also emphasize outreach, education, and community involvement.”<sup>90</sup> The AIA has funded such programs in Turkey, Crete, Cambodia, Chile, Mexico, Belize, Jordan, Syria, Kenya and many other countries.<sup>91</sup> Similarly, the U.S. Department of State helps train local artisans and craft makers as part of its cultural heritage conservation efforts funded through its Ambassadors Fund for Cultural Preservation. Since its inception more than ten years ago, the Ambassadors Fund has provided almost \$33 million to help fund more than 700 cultural preservation projects in more than 100 countries.<sup>92</sup> Through this funding, the U.S. Department of State has helped train, fund, and employ local craftsmakers in Mauritania, Egypt, Paraguay, Pakistan, Madagascar, and other countries.<sup>93</sup> Such programs not only help provide jobs and reduce local poverty, but also raise awareness about the need to preserve cultural heritage.

Another innovative economic development program was initiated in 1997 in Mali, where “more than half the archaeological

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89. *Id.* (quoting Luis Jaime Castillo, a professor at Pontificia Universidad Católica del Peru and the director of the San José de Moro Archaeological Program, which began in 1991).

90. *Site Preservation*, ARCHAEOLOGICAL INST. OF AM., <http://www.archaeological.org/sitepreservation/projects> (last visited Apr. 30, 2012).

91. *Id.*

92. *Ambassadors Fund for Cultural Preservation*, BUREAU CULTURAL & EDUC. AFF., U.S. DEP’T ST., <http://exchanges.state.gov/heritage/afcp.html> (last visited Apr. 30, 2012).

93. *Searchable Project List*, BUREAU CULTURAL & EDUC. AFF., U.S. DEP’T ST., [http://eca.state.gov/culprop/afcp/project\\_listings/index.cfm](http://eca.state.gov/culprop/afcp/project_listings/index.cfm) (last visited Apr. 30, 2012).

sites have reportedly suffered damage from unlawful excavation.”<sup>94</sup> Ethnographic and archaeological material from the Dogon region in Mali is “among the most highly sought,” and looting in Mali has been so extensive that it “has been likened to a cultural genocide.”<sup>95</sup> In an effort to stem the “growing loss of the community’s material cultural heritage through illegal excavation and the subsequent sale of artefacts[,]”<sup>96</sup> a General Assembly of community members led by the village chief officially launched the CultureBank in 1997 in the Fombori village in Dogon, Mali.<sup>97</sup> The CultureBank functions as a “community museum, microfinancing institution, and educational centre.”<sup>98</sup> Local villagers who have cultural objects in their possession are eligible to receive a small business loan in exchange for depositing their cultural object with the museum.<sup>99</sup> Under this system, locals can use their “cultural heritage as collateral in exchange for currency, which they use to buy grain, livestock, implements, and the like.”<sup>100</sup>

This system offers locals immediate and long-term economic benefits, as well as economic security. Participating villagers who have repaid their loans in a timely manner “can opt to renew these loans for an equal or greater amount, which ensures access to a steady stream of income regardless of the general economic situation. . . . This arrangement allows participants to access increasingly larger loans, in sharp contrast to the one-time profit realized by selling artefacts to tourists or to middlemen.”<sup>101</sup> As the

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94. Milken Institute, *supra* note 3, at 1 (citation omitted).

95. Morag M. Kersel, *The Value of a Looted Object: Stakeholder Perceptions in the Antiquities Trade*, in *The OXFORD HANDBOOK OF PUBLIC ARCHAEOLOGY* 265-266 (Robin Skeates, Carol McDavid & John Carman eds., 2012) (citations omitted).

96. Kersel, *supra* note 95, at 266.

97. *Mali’s Unique CultureBank Finances Local Economy While Preserving Dogon Cultural Heritage*, HOPEBUILDING, [hopebuilding.pbworks.com](http://hopebuilding.pbworks.com) (search for “Mali’s Unique CultureBank”; then follow hyperlink) (last visited Nov. 12, 2012) [hereinafter HOPEBUILDING].

98. Kersel, *supra* note 95, at 266.

99. *See id.*

100. *Id.*

101. *Id.*

Women's Association of Fombori stated, this system allows local villagers to not only protect their cultural inheritance, but also to "sell more items in the weekly market and earn extra income to support . . . [their] families."<sup>102</sup> Additional economic benefits are derived from charging visitors a small admission fee for a guided tour of the CultureBank and a visit to the nearby Tellem cliff dwellings.<sup>103</sup> These visitors also help support local artisans by buying their goods in the CultureBank boutique, which "sells these items on a consignment basis, earning a 10% commission which funds community activities."<sup>104</sup>

Since its inception, the CultureBank program has largely been a success in Mali, granting 451 loans to approximately seventy borrowers between 1997 and 2002, with a 94 % rate of repayment.<sup>105</sup> As a result of this program, the CultureBank has provided \$14,279 worth of loan funds to the community since 1997, and the local museum has "amassed an impressive collection of material, including archaeological artefacts, gourds, household objects, jewellery, masks, pottery, weaponry, and wooden statues."<sup>106</sup> This program has also resulted in more widespread benefits in the surrounding communities, serving as a catalyst to "encouraging cultural heritage protection" by sponsoring "a series of community activities including artisan and conservation workshops, community festivals, historical research, literacy classes, and theatre performances."<sup>107</sup> These social programs improve relations in the local communities, increase ties and social interaction between the local communities, and enhance business opportunities.<sup>108</sup> In addition, the museum's "outreach programmes educate the population on the importance of archaeological site conservation, while actively discouraging the looting of archaeological sites and the sale of cultural items."<sup>109</sup>

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102. HOPEBUILDING, *supra* note 97.

103. *Id.*

104. *Id.*

105. Kersel, *supra* note 95, at 266.

106. *Id.* at 266-267.

107. *Id.* at 267.

108. *Id.*

109. *Id.*



## 2. Sustainable cultural heritage tourism initiatives

Heritage tourism commonly refers to “travel designed to experience the places and activities that authentically represent the stories and people of the past” and encompasses travel to “archaeological and historical sites, parks, museums, and places of traditional or ethnic significance.”<sup>110</sup> According to the National Assembly of State Arts Agencies (“NASAA”),<sup>111</sup> the arts, heritage, and/or cultural activities are increasingly being named by travelers as one of the top five reasons to travel.<sup>112</sup> Of the various cultural activities engaged in by these tourists, visiting a historical attraction is the “most popular cultural heritage tourism activity.”<sup>113</sup> Moreover, these cultural tourists tend to take longer trips, typically staying at least seven days at their destination, and spend more money than the average traveler. Furthermore, at least one quarter of these cultural tourists take three or more culture-based trips a year, and over 35 million adults stated that “a specific arts, cultural or heritage event or activity influenced their choice of destination.”<sup>114</sup> According to the NASAA, of the 146.4 million U.S. adults who took a trip of fifty miles or more away from home in 2002, eighty-one percent of them can be considered cultural tourists.<sup>115</sup> Accordingly, as noted by the NASAA (in discussing cultural tourism within the U.S.), “[g]iven this large volume of

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110. Teresa L. Hoffman, Mary L. Kwas & Helaine Silverman, *Heritage Tourism and Public Archaeology*, SAA ARCHAEOLOGICAL REC., March 2002, at 30.

111. The NASAA is a nonprofit, membership organization whose “mission is to strengthen [U.S.] state arts agencies.” See *About NASAA*, NAT’L ASSEMBLY ST. ARTS AGENCIES, <http://www.nasaa-arts.org/About/About-NASAA.php> (last visited Apr. 30, 2012).

112. See *Cultural Visitor Profile*, NAT’L ASSEMBLY ST. ARTS AGENCIES, <http://www.nasaa-arts.org/Research/Key-Topics/Creative-Economic-Development/Cultural-Visitor-Profile.php>. (last updated Jan. 7, 2004).

113. *Did You Know...?*, NASAA NOTES (Nat’l Assembly St. Arts Agencies, D.C.), Mar. 2009, available at [http://www.enebuilder.net/nasaanotes/e\\_article001366550.cfm?x=bdrJ70L,b7vjbfgn,w](http://www.enebuilder.net/nasaanotes/e_article001366550.cfm?x=bdrJ70L,b7vjbfgn,w) [hereinafter NASAA NOTES].

114. *Id.*

115. *Id.* Statistics from a 2008 study indicate that only “70.3% of all American leisure travelers participated in at least one aspect of cultural heritage tourism in the past year.” *Id.*

travelers, cultural/heritage tourism generates millions of dollars for destination communities in spending on shopping, food, lodging and other expenses.”<sup>116</sup> Therefore, heritage tourism can potentially generate significant income for local communities, particularly rural ones, and can function as a means through which local communities can diversify their economies.<sup>117</sup>

While tourism generally brings economic benefits to a community, linking a community’s cultural heritage with tourism can magnify those economic benefits, as well as provide for the protection of the community’s culture, both past and present. Today, “tourism, preservation, heritage and culture are much more likely to overlap” and cultural heritage tourism “can have a tremendous economic impact on local economies.”<sup>118</sup> As has been noted,

[t]ourism is a powerful economic development tool. Tourism creates jobs, provides new business opportunities and strengthens local economies. When cultural heritage tourism development is done right, it also helps to protect. . . [a] nation’s natural and cultural treasures and improve the quality of life for residents and visitors alike. Linking tourism with heritage and culture can do more for local economies than promoting them separately. That’s the core idea in cultural heritage tourism: save your heritage and your culture, share it with visitors, and reap the economic benefits of tourism.<sup>119</sup>

The idea is thus to encourage local communities to invest in their surrounding archaeological and cultural sites in order to save both their community and their cultural heritage. Through such

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116. *Id.*

117. Hoffman, Kwas & Silverman, *supra* note 108, at 30.

118. *Getting Started: How to Succeed in Cultural Heritage Tourism*, CULTURAL HERITAGE TOURISM, [www.culturalheritagetourism.org/howToGetStarted.htm](http://www.culturalheritagetourism.org/howToGetStarted.htm) (last visited Mar. 3, 2012).

119. *Id.*

initiatives, “local identity” will be strengthened “as communities in the vicinity of the sites become involved in and invest in the maintenance and upkeep of a site that directly benefits them.”<sup>120</sup> Moreover, turning such sites into tourist attractions will generate more attention for the site, which can have its own benefits. As has been noted, “[n]ational and international exposure of a site can also lead to greater investment in its upkeep and maintenance by local and national governments.”<sup>121</sup> Hence, “archaeological tourism is an opportunity for community and regional development.”<sup>122</sup>

Sustainable archaeological parks are one means proposed for allowing local communities to derive all the benefits offered by heritage tourism. “Archaeological parks—prehistoric or historic sites preserved and interpreted for the public—have always been obvious tourism magnets for the communities in which they are located, and in many cases this has been a driving concern for their preservation and development.”<sup>123</sup> Today, “[t]he explosion of ‘extreme tourism’ and globalization create enormous potential for locally based tourism and artisan businesses.”<sup>124</sup> Local communities can invest in the archaeological site to turn it into a tourist attraction that will bring in revenue much needed by the community. Such parks can not only bring tourist revenue to local businesses, but can also employ locals in running the parks, thus greatly contributing to the economic development of the local community.<sup>125</sup> Archaeological parks can also have wider ranging

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120. ARCHAEOLOGICAL INST. AM., ARCHAEOLOGY MAGAZINE & ADVENTURE TRAVEL TRADE ASS’N, A GUIDE TO BEST PRACTICES 4 (2010) available at <http://aia.archaeological.org/pdfs/AIATourismGuidelines.pdf> [hereinafter AIA GUIDE].

121. *Id.*

122. *Id.*

123. Hoffman, Kwas & Silverman, *supra* note 108, at 30.

124. *Sustainable Preservation Initiative: Saving Sites by Transforming Lives*, UCLA COTSEN INST.ARCHAEOLOGY, [www.ioa.ucla.edu/resources/SPI](http://www.ioa.ucla.edu/resources/SPI) (last visited Apr. 30, 2012).

125. See AIA GUIDE, *supra* note 118, at 4 (noting that “[o]f the numerous benefits of archaeological tourism, revenue is one of the most significant . . . Tourism . . . supports the local retail businesses (hotels, restaurants, local crafts, and souvenir stores) and provides numerous job opportunities, including the recruiting and training of guides and interpreters.”).

educational benefits, serving as “year-round education centers about archaeology for people of all ages and backgrounds.”<sup>126</sup> These educational effects can be enhanced by including small, locally-run museums related to the archaeological site as part of the park itself. Such museums could include gift shops that sell, amongst other items, locally produced arts and replicas of artifacts. These museums would thus act not only to bring in additional tourists and revenue, but would also help educate both locals and visitors about the cultural past of the region and the importance of preserving it.<sup>127</sup> It has also been suggested that archaeological excavation sites “can become part of larger archaeological parks themselves[,]” helping to promote tourism to the site and generate additional income.<sup>128</sup>

The potential economic and development benefits that can be derived from such cultural tourism sites have resulted in many archaeological and cultural sites being developed into tourist attractions. According to a 2010 report by GHF, over 141 million people visited the top fifty global heritage sites in 2009.<sup>129</sup> Such high numbers of tourists bring with them millions, if not billions, of dollars in potential revenue to the state and to local businesses. It is estimated, for example, that between 2006 and 2010, Peru received \$9,150,000,000 in tourist revenues.<sup>130</sup> When Peru was forced to close Machu Picchu for two months in 2010 due to heavy rains and landslides, it lost an estimated \$200-400 million from that *two month* closure alone.<sup>131</sup> Given these numbers, it is not hard to believe GHF estimates that by 2025, “global heritage sites can be a \$100 billion a year opportunity for developing countries if

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126. Hoffman, Kwas & Silverman *supra* note 108, at 31.

127. See Milken Institute, *supra* note 3, at 19.

128. *Id.* at 21.

129. Over 24 million people visited the Great Wall of China, 2.5 million visited Angkor, Cambodia, 1.6 million visited Petra, Jordan, and close to two million tourists visited Machu Picchu in Peru. GLOBAL HERITAGE FUND, ECONOMIC IMPACT-GLOBAL HERITAGE TOURISM REVENUES IN DEVELOPING AND EMERGING COUNTRIES AND REGIONS 1 (2010), *available at* <http://globalheritagefund.org/images/uploads/docs/GHFVanishingValueofHeritageDatabase102010.pdf>.

130. *Id.*

131. *Id.*

a worldwide effort is made for their preservation and responsible development.”<sup>132</sup> Accordingly, as Jeff Morgan, the Executive Director of GHF, argued, “[g]lobal heritage sites generate extremely high economic asset values, with some worth billions of dollars a year. These sites can help to greatly diversify local economies beyond tourism and sustenance agriculture[,] reducing dependency and alleviating poverty.”<sup>133</sup>

## V. CAPACITY OF THE PROPOSED ECONOMIC DEVELOPMENT SOLUTIONS TO END SUBSISTENCE LOOTING

### *A. Challenges with the proposed initiatives*

These types of economic development solutions to subsistence looting all face potential difficulties that might impact their effectiveness in combating subsistence looting. Generally, any such economic development initiative will need to ensure that the revenue generated by such programs actually goes back into the local community and into protecting the community’s cultural heritage. This can be difficult in third world countries, where there is often widespread bureaucratic corruption and a lack of transparency. Yet, in order for such initiatives to achieve their goals, it will be necessary to structure any archaeological development plans in such a way as to avoid “the bureaucratic traps that arise when national and regional funding bypass local communities.”<sup>134</sup> If the local community is not receiving a large enough share of the generated income, then the site will simply not offer enough of an economic incentive for subsistence looters to turn away from looting and instead rely on income generated from development of the site. As stated by Jeff Morgan of GHF, “[o]ne of the biggest problems is the disconnect between local communities and management of the sites. We think locals should get at least 30% of revenues. Only then . . . would cultural treasures . . . be saved.”<sup>135</sup> Thus, ensuring sufficient local

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132. GHF REPORT, *supra* note 8, at 8.

133. *Id.* at 5.

134. Milken Institute, *supra* note 3, at 19 (citation omitted).

135. Carroll, *supra* note 1.

involvement in, and control over, these economic development initiatives will be crucial to the success of any such program. However, some of the programs proposed above face added difficulties.

### *1. Microloan programs*

While microloan programs predicated on the submission of cultural objects to a local museum such as the one instituted in Mali sound like a promising solution, potential negative consequences can arise in connection with such programs. One such potential negative effect is that these types of programs can actually encourage, rather than prevent, looting. Offering a loan in exchange for depositing a cultural item can incentivize some to go out and loot in order to obtain an artifact that can be used to secure a loan.<sup>136</sup> “By equating an object with monetary value—in this instance in the form of a loan—the object is commodified.”<sup>137</sup> This commodification gives the object a commercial value, creating the same type of incentive that looting creates. As such, these types of programs can face some of the same difficulties seen in “buy-back” programs, which have the potential to encourage the looting they are established to prevent.<sup>138</sup> Furthermore, these microlending and grant programs can also be subject to abuse, and it will be important to ensure that the grants and loans handed out are actually being used to improve the economic well-being of the locals.

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136. See Kersel, *supra* note 95, at 268 (study assessing the impact of the CultureBank did not reveal whether people were still actively looting, “perhaps even in order to gain access to loans from the CultureBank.”).

137. *Id.*

138. While this potential to encourage looting does theoretically exist, a team from the Penn Cultural Heritage Center (Penn CHC) which visited Mali in 2008 to conduct an initial assessment of cultural heritage sites and related resources in Mali, did not find evidence that the CultureBank was contributing to looting, although it also did not find evidence that the Culture Bank was halting looting. E-mail from Brian I. Daniels, Dir., Penn Cultural Heritage Ctr., to author (May 6, 2012) (on file with the author).

Additionally, while the Mali CultureBank is considered to be a success overall,<sup>139</sup> it is unclear whether such a program will work to prevent subsistence looting, or looting in general. The cultural objects turned in to the local museum in Mali remained the property of the person turning them in—"at no time in the process does the individual relinquish ownership of the artefact."<sup>140</sup> However, with respect to objects of cultural heritage looted from archaeological sites, ownership should properly be vested in the state.<sup>141</sup> Yet, in Mali, ownership remained with the person turning the object in, partly because most of the cultural items turned in to the museum were not looted objects, but were family heirlooms that had been in local families for generations.<sup>142</sup> Therefore, it is unclear how effective a similar program would be in combating looting.

Nonetheless, while microloan programs may not be effective at stopping looting, they have proven effective at preventing the movement of cultural artifacts outside the country of origin. While this is an important success on its own, it is especially important in societies where the culture of the past is still alive today, and still practiced by locals. Keeping cultural artifacts in these communities, where they can continue to be used by locals and can continue to help educate future generations, is essential to the continuance of those communities' culture. Programs such as the Mali CultureBank help communities preserve their culture by

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139. See Kersel, *supra* note 95, at 268; but see BRIAN I. DANIELS, SASHA F. RENNIGER, JOSEPH ISAAC & RICHARD M. LEVENTHAL, PENN CULTURAL HERITAGE CTR., POSITION PAPER IN SUPPORT OF THE RENEWAL OF A MEMORANDUM OF UNDERSTANDING WITH THE REPUBLIC OF MALI UNDER THE CONVENTION ON CULTURAL PROPERTY IMPLEMENTATION ACT (2012) ("The 'Culture Banks' program offers an intriguing means of addressing the economic dynamics of looting. However, it awaits a thorough assessment of its successes and ongoing challenges.").

140. Kersel, *supra* note 95, at 266.

141. Not only should ownership be vested in the state, but if the state has a national ownership or patrimony law in place, then the looted artifact may already be legally owned by the state. See *e.g.*, *United States v. Schultz*, 333 F.3d 393 (2d. Cir. 2003). Typically, national ownership laws, also referred to as national patrimony laws, operate to vest ownership of ancient artifacts in the government of the country where such artifacts are found. *Id.*

142. See HOPEBUILDING, *supra* note 97.

maintaining their collection of cultural artifacts as “both an important cultural resource for the community and an archive for future generations.”<sup>143</sup>

Moreover, such programs have resulted in economic benefits to the community, with locals using the loan funds to help generate income sources for their families. The economic benefits and growth that the community has experienced is evident by the fact that the Mali CultureBank is completely self-sufficient. While this program started off making loans in 1997 with the help of an initial grant from USAID Mali of \$391, since 1999 the CultureBank has been completely self-reliant, “generat[ing] loan funds exclusively from loan interest and revenues from tourism without any outside donor assistance.”<sup>144</sup> Any economic growth which helps alleviate the financial stresses of a community will help reduce the need to look for alternative sources of income, such as looting. Therefore, while such microloan programs may not be the most focused approach to combating subsistence looting, such initiatives can still help alleviate the poverty that often leads to subsistence looting.

## 2. Cultural tourism initiatives

There are also potential drawbacks to cultural tourism initiatives, the most significant of which is the overdevelopment of a site. It is important to ensure that archaeological parks and other cultural heritage tourism initiatives are truly sustainable. “When a community’s heritage is the substance of what it offers visitors, protecting that heritage is essential. So a major challenge in cultural heritage tourism programs is ensuring that increased

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143. *Id.*

144. *Id.* However, not all the culture banks in Mali have achieved this level of self-reliance. As noted by a 2008 Penn CHC report, the culture bank in the town of Fologi in Mali receives only about twenty visitors, both foreign and local, a month, which is “clearly not enough to sustain this entity as a museum or to try to create its own funding that would be independent of any outside source for its micro-loans.” Ismael Maiga, Lynn Meskell, David Freidel, Carolyn & Richard M. Leventhal, *Background Assessment of Cultural Resources in the Republic of Mali*, in PENN CULTURAL HERITAGE CTR., INITIAL ASSESSMENT OF CULTURAL HERITAGE RESOURCES IN MALI (2008).



tourism does not destroy the very qualities that attract visitors in the first place.”<sup>145</sup> The challenge will be to figure out how best to “monetize archaeological resources to reduce looting and enable local economic development”<sup>146</sup> without jeopardizing the archaeological resource itself.

One way to ensure protection of the site is to ensure that enough of the revenue generated by the site is actually reinvested in the maintenance and protection of the site. As noted in a best practices guide issued by the Archaeological Institute of America, in conjunction with *Archaeology* magazine and the Adventure Travel Trade Association, “[t]he popularity of archaeological sites as tourist attractions makes them valuable sources of revenue, but economic exploitation of sites is often not matched by reinvestment in proper site management to ensure protection of sites and their continued enjoyment by visitors.”<sup>147</sup> Accordingly, the continued long-term viability of the archaeological site as a tourist attraction is dependent upon the government devoting an adequate amount of the revenue generated by the site to the upkeep and preservation of the site itself.

While ensuring that enough money is put back into the site itself can help negate some of the pitfalls of cultural tourism, it will also be necessary for the countries managing these sites to refrain from overdevelopment of the site. Cultural tourism has “become a lucrative business”<sup>148</sup> with the potential to generate very significant revenue streams for host countries. As noted by GHF, “[o]ver 50 global heritage sites today each have annual revenues of over \$100 million.”<sup>149</sup> This level of revenue can tempt the host country to keep developing the site in order to attract a never ending stream of tourists. However, countries must ensure that any development of the site is conducted with the integrity of the archaeological site in mind. The preservation and protection of the site must be the

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145. Cultural Heritage Tourism, *supra* note 118.

146. Milken Institute, *supra* note 3, at 6.

147. AIA GUIDE, *supra* note 120, at 1; *see also* GHF REPORT, *supra* note 8, at 9 (noting that “[h]undreds of sites are endangered and experiencing ongoing neglect and unchecked deterioration.”).

148. AIA GUIDE, *supra* note 120, at 3.

149. GHF REPORT, *supra* note 8, at 8.

main priority of any development plans. Respect for, and inclusion of, the surrounding local communities similarly needs to be an important element in any archaeological site development plan. “Guidelines for sustainable tourism should respect the values, ideals, and rights of the local communities that exist alongside the sites.”<sup>150</sup> Yet, the temptation to generate the maximum possible tourist revenue from a site often leads to practices and development plans that do not have the best interests of the site or the local communities in mind.<sup>151</sup>

This all too common situation is illustrated by the ongoing dispute over the development of Cusco, Peru. Several development disputes concerning Cusco have arisen over the years, including disputes over extending tourism to previously “off limits” restricted zones of Coricancha, the Inca sun temple, allowing visits on horseback to Sacsayhuaman, and allowing the construction of cable car access to Machu Picchu.<sup>152</sup> This last dispute resulted in UNESCO threatening to change the status of Machu Picchu as a world heritage site due to lack of proper maintenance and care of the site.<sup>153</sup> Part of the problem with facilitating increased tourist access to these sites is that tourists do not always act appropriately and can cause significant damage to these vulnerable archaeological sites. For instance, tourists have vandalized historic Maya cave paintings and inscriptions in Najtunich, Guatemala, and caused damage to ancient paintings in the caves at Altamira, Spain due to the introduction of

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150. AIA GUIDE, *supra* note 120, at 4.

151. Development pressures due to efforts to increase tourism in general, or tourism related to other sites or events in the country, can also lead to the destruction of historic sites that are deemed to be less valuable. For example, China, in preparing for the 2008 Beijing Olympics, razed many square kilometers of historic neighborhoods surrounding the Forbidden City in order to make room for skyscrapers and hotels. GHF REPORT, *supra* note 8, at 19. Similar destruction of historic cities and buildings to make room for modern skyscrapers and hotels has also occurred in Peru, Saudi Arabia, and many other countries. *Id.*

152. Hoffman, Kwas & Silverman, *supra* note 110, at 32.

153. *Id.*

microorganisms, humidity, and body heat.<sup>154</sup> As a result, the cave at Altamira closed permanently to visitors in 2002.<sup>155</sup>

In addition to damage caused by the behavior of tourists, the sheer number of tourists that visit a site can alone cause significant “wear and tear” to the site.<sup>156</sup> Machu Picchu can barely manage the flow of tourist traffic it currently sees, and historic sites in Petra, Jordan are deteriorating daily due to being overrun by too many tourists. There have been suggestions that the countries of origin actively try to divert tourists from very popular cultural sites that are damaged or in danger of being damaged, to less visited sites. For instance, Jeff Morgan of GHF has “urged Peru to funnel tourists away from Machu Picchu, overrun by two million visitors a year, to lesser known sites which could then earn revenue to protect their heritage.”<sup>157</sup> This would not only help lessen the damaging overflow of tourist traffic to the popular, well-known sites, but would also direct tourists and their revenue generating habits to these lesser known sites.

This illustrates another potential limitation to cultural heritage tourism initiatives: some archaeological and cultural sites are not highly susceptible to being developed as a tourist attraction. Some sites are in remote areas that would simply be too hard to reach, or are in areas that would not appeal to tourists. Some sites themselves might not be attractive to tourists, either because of their size, lack of known history, or unappealing appearance. Therefore, cultural heritage tourism development initiatives simply would not be able to benefit sites, nor the communities that surround them, which do not have the characteristics that would lend themselves to being a good tourist attraction. Nor will

154. AIA GUIDE, *supra* note 120, at 3, 5.

155. *Id.* at 3.

156. *Id.* (noting that while “[a]rchaeological tourism raises awareness of our shared cultural heritage and encourages people to visit archaeological sites and historical places,” it also “subjects these precious resources to increased stress.”). This Guide also argues that “the growth in tourism to archaeological sites has not been counter-balanced by appropriate revisions to guidelines and laws that mandate ‘good practices’ for visiting sites.” *Id.* Accordingly, “[t]his largely unregulated tourism has led to the deterioration and destruction of sites.” *Id.*

157. Carroll, *supra* note 1.

cultural tourism initiatives be able to benefit sites that the country of origin simply has no interest in protecting, let alone developing. Turkey is often accused of allowing Armenian historic and archaeological sites to fall into ruin. The Taliban purposely destroyed the Bamiyan Buddhas, and many other nations are accused of intentionally neglecting sites and allowing them to deteriorate. If the country that has physical control over the site has no interest in protecting or developing the site, cultural tourism initiatives will never be able to help preserve those sites. Unless other means of generating revenue for the local communities at these sites can be developed, these sites will continue to be vulnerable to looters.

Cultural tourism initiatives are also inescapably vulnerable to changes in global economies. Helping locals develop an archaeological site into a tourist attraction and build local businesses around that site is only a viable economic model if tourists actually visit the site. The danger in making local communities dependent on tourism, instead of looting, is that if tourism declines, then the locals are once again left with no viable economic alternative to looting. This is the case in Mali, where locals became dependent on agriculture and tourism. However, travel warnings have often been issued for Mali, including a current warning due to fighting in the country, which is putting sites such as Timbuktu in danger.<sup>158</sup> These travel warnings can lead to sharp declines in tourism, with a resulting loss of customers for local artisans and business owners. The same thing can happen when global economies take a turn for the worse, as happened with the financial crisis of 2008; global economies took a sharp downward turn, unemployment numbers rose, and people stopped spending money on trips, especially trips abroad. In its 2009 newsletter discussing tourism trends in the U.S., under a headline reading “Cultural Heritage Declines Predicted in Tourism Market[,]” the NASAA stated that “the average number of leisure trips Americans take each year is decreasing. . . [and] future travel expectations and spending expectations of leisure travelers show

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158. See *Mali's Timbuktu and Askia Tomb Put on UNESCO Danger List*, BBC NEWS AFRICA (June 28, 2012), available at <http://www.bbc.co.uk/news/world-africa-18626033>.

continued decline, primarily due to personal financial reasons and the price of gasoline.”<sup>159</sup> As noted by the NASAA, this decline “could present many short-term challenges for cultural heritage tourism attractions and related businesses.”<sup>160</sup>

### 3. *Grant Programs Have the Most Potential to End Subsistence Looting*

While grant programs have inherent difficulties of their own,<sup>161</sup> they nevertheless represent the best available means of combating subsistence looting. Grant programs have already shown real success, as demonstrated by the successful development projects achieved by MOCHE, Inc. and SPI. The locals in the villages where MOCHE, Inc. and SPI operate have not only seen the creation of jobs, educational programs, and community health and safety services, but have also been shown sustainable economic alternatives to looting. Such grant programs, which predicate the economic value of a site on its preservation, create the type of financial incentive that is necessary to get people to protect instead of to loot. As the Cotsen Institute has noted, “[e]xisting preservation paradigms have proved inadequate and unsustainable, primarily due to the absence of an economic reason for local communities to continue preserving sites after the departure of archaeologists and conservators.”<sup>162</sup> Grant programs represent a new preservation paradigm that can provide this economic motivation for conservation of a site.

159. NASAA NOTES, *supra* note 111.

160. *Id.*

161. Perhaps one of the biggest potential difficulties affecting the success of grant programs is their reliance on tourism initiatives. Grant programs that focus on developing tourism-related business and jobs, such as those run by SPI and GHF, will necessarily have to deal with some of the same difficulties that arise with tourism initiatives. By making the economic development of the local community dependent on tourism to the site, these grant programs run the risk that any decrease in tourism to the site will result in the loss of the economic incentive not to loot. These types of grant programs will also need to address the same maintenance and conservation concerns that tourism initiatives must grapple with.

162. UCLA COTSEN INST. ARCHAEOLOGY, *supra* note 124.

However, as successful as programs such as MOCHE, Inc. and SPI have been, such programs need to be instituted at a more widespread and larger scale in order for them to have any substantial effects on subsistence looting. Larger NGOs operating within the cultural heritage preservation field need to step in and either support these programs or start their own preservation programs focused on sustainable local economic development. More funding is necessary in order to realize a larger impact. Currently, initiatives like MOCHE, Inc. and SPI receive funding from universities, charitable organizations, micro-lenders, and ad hoc donations.<sup>163</sup> Such initiatives need to expand their source of funding, however, in order to make a bigger impact. Additionally, the focus of such programs needs to be more global. Many preservation initiatives are focused on Peru and Mali, for instance, but ignore neighboring countries like Nigeria and Argentina, which are also suffering destruction to cultural sites due to subsistence looting.

Grant programs, whether they are tied to tourism initiatives or not, can help local communities living near an archaeological site develop the site in such a manner that will preserve the site while generating income and opportunities for the community. The idea behind many of these grant programs is that “the creation of local businesses with a vested interest in the preservation and maintenance of a site provides an ongoing and long-term source of incentive and funding for site preservation.”<sup>164</sup> However, as recognized by the Cotsen Institute itself, “mere successful implementation of a few projects will not stem the destruction of the world’s global heritage.”<sup>165</sup> If these programs are initiated on a much larger scale, however, subsistence looting can realistically become a problem of the past. The growing trend of preservation programs focusing on community development, and not just

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163. See *Saving the Past by Investing in the Future*, MOCHE, INC., <http://savethemoche.org/> (last visited Oct. 17, 2012); *Our Mission*, SUSTAINABLE PRESERVATION INITIATIVE, <http://sustainablepreservation.org/about-us/our-mission/> (last visited Oct. 17, 2012).

164. ARCHAEOLOGICAL INST. AM., *supra* note 75,

165. SUSTAINABLE PRESERVATION INITIATIVE, *supra* note 163.

protection of the physical site, is a sign that such a goal is on its way to being realized.

*B. Comparisons to Similar Approaches Used to Combat Other Global Problems*

Determining which economic approach to combating subsistence looting is the most feasible can be aided by looking at how similar programs have dealt with other global issues, such as environmental and wildlife conservation. Drawing parallels can help determine which economic solutions might be best suited to developing local communities while preserving their cultural heritage.

*1. Successful Ecotourism Initiatives*

Ecotourism has been successful in promoting environmental conservation, and archaeotourism<sup>166</sup> has the potential to be just as effective at curtailing looting. The ecotourism industry, promoting “ecologically friendly vacations[,]” represents a billion dollar industry that is still growing.<sup>167</sup> In addition to promoting environmentally conscious vacations, ecotourism has generated substantial incomes for nations and has helped such nations preserve their environmental resources.<sup>168</sup>

One such success is the Guanacaste National Park in Costa Rica. An economic and industrial boom in Costa Rica led to the decline of Costa Rica’s ecological resources, including its forests.<sup>169</sup> While there was increased importance placed on preserving Costa Rica’s natural resources internationally, “the local populations remained dependent on the agricultural market that contributed to the deforestation.”<sup>170</sup> However, working with the local

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166. While sometimes used interchangeably with cultural tourism, archaeotourism is more specifically used to refer to tourism to archaeological sites.

167. Milken Institute, *supra* note 3, at 20.

168. *Id.*

169. *Id.*

170. *Id.*

communities, Dan Janzen, Ph.D., of the University of Pennsylvania, “created an innovative conservation program for the Guanacaste region, establishing a 75,000-hectare<sup>171</sup> reserve in the late 1980s.”<sup>172</sup> This program involved giving local residents “compensation for the land that was included within a national park,” and encouraging locals “to become wardens, caretakers, and research assistants.”<sup>173</sup> This resulted in “[t]hose who were once part of the destruction—whether farmers, ranchers, or poachers—” being brought into the program and becoming part of the solution.<sup>174</sup> “Subsequently, the national park has generated new income, employment, and opportunities for the surrounding community. The Guanacaste National Park has become a center for Costa Rican tourism, as well as a model of how to create a sustainable link between conservation and economic and social stability.”<sup>175</sup>

## 2. Successful Wildlife Conservation Initiatives

Similar methods of focusing on economic community development have proven successful in protecting wildlife by giving poachers an economic incentive to protect instead of to kill. Dale Lewis, a biologist who has worked and lived in Zambia for almost thirty years, launched the Community Markets for Conservation (COMACO) initiative in 2001.<sup>176</sup> COMACO operates by trying to combat the economic incentives offered by poaching with the allure of organic farming, “a safer, more consistent alternative.”<sup>177</sup> This is an innovative approach to

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171. A hectare is a “unit of surface, or land, measure equal to . . . 10,000 square meters” and equivalent to 2.471 acres. *Hectare Definition*, DICTIONARY.COM, <http://dictionary.reference.com/browse/hectare?s=t> (last visited Oct. 17, 2012).

172. Milken Institute, *supra* note 3 at 20.

173. *Id.*

174. *Id.*

175. *Id.*

176. See Bryan Walsh, *Eco-Bargain: Save Animals, Reduce Poverty*, TIME, Feb. 1, 2008, available at <http://www.time.com/time/health/article/0,8599,1709186,00.html>.

177. *Id.*



wildlife conservation, one that takes a different focus than conventional conservation methods which focus on protecting the threatened wildlife from the locals, usually by creating and safeguarding wildlife reserves.<sup>178</sup> Lewis, however, after realizing that he “could have told you all the vital statistics of an elephant, but not the vital statistics of the people who lived with an elephant,” decided that the better approach was to, “[i]nstead of helping the animals that are being hunted, help the people who are doing the hunting.”<sup>179</sup> As Lewis explained, “[o]nce you really begin to know what . . . [the poachers are] up against, you can really begin to understand [their behavior]” and once you understand their behavior, “you can change it.”<sup>180</sup> Accordingly, Lewis sought to “save wildlife by improving the livelihoods of local people, giving them an economic incentive to give up poaching.”<sup>181</sup>

Villagers who join COMACO agree not to poach and pledge to protect the land, including by giving up destructive practices such as “slash-and-burn” farming.<sup>182</sup> In return, villagers receive training in sustainable agriculture, including for example, training on organic bee-keeping techniques.<sup>183</sup> Participating villagers join together to form farming co-ops, whose produce COMACO agrees to buy at a higher-than-normal price and markets at local stores in Zambia under the organization’s “It’s Wild” brand name.<sup>184</sup> COMACO monitors participating villages; “villages that see elevated poaching rates, or evidence of erosion, earn visits from Lewis’s staff.”<sup>185</sup> As Lewis phrases the interplay between the organization and participating villages, “[i]f you do certain things, we’ll provide certain things . . . We work together, and see if we’re all better off.”<sup>186</sup>

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178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.*

182. Walsh, *supra* note 176.

183. *Id.*

184. *Id.*

185. *Id.*

186. *Id.*

COMACO has already proven to be a success. Since its launch in 2001, 40,000 villagers have joined COMACO, 800 guns and more than 40,000 wire snares have been turned in to COMACO, many former poachers have been retrained as wildlife guides, and poaching rates have declined.<sup>187</sup> The wire traps used by the former poachers are themselves being refashioned by a local jeweler into necklaces and bracelets marketed as “Snarewear” and sold on COMACO’s website.<sup>188</sup>

There are many parallels between poaching and looting. Like subsistence looters, villagers who turn to poaching are often simply trying to lift themselves out of poverty. For instance, “[f]or villagers in Zambia’s Luangwa Valley . . . poaching can represent the best –sometimes only– way to pull themselves out of poverty. A farmer on his own might make \$75 in a year – a good poacher, thanks to growing demand for ivory in Asia, might pull in over \$300.”<sup>189</sup> The sustainable, alternative careers that villagers are retrained for offer a more promising and sustainable economic future. As Lewis noted, “[t]hese are better ways of making an income [than hunting]. . . If we can make sure that fathers don’t teach their sons how to kill, poaching won’t go on.”<sup>190</sup> Lewis’ work is sponsored by the Wildlife Conservation Society, and there are opportunities for cultural heritage NGOs to sponsor similar programs in the cultural preservation field.

## VI. CONCLUSION

“[F]inancial innovations may be able to address the economic desperation at both the local and national levels, and contribute to the education of the international community to encourage appreciation of its collective cultural history.”<sup>191</sup> Such economic approaches to subsistence looting provide a means of generating “sustainable revenue to provide incentives to decrease the looting

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187. *Id.*

188. Walsh, *supra* note 176.

189. *Id.*

190. *Id.*

191. Milken Institute, *supra* note 3, at 6.

and illegal sale [of cultural artifacts,]”<sup>192</sup> and increase the community’s understanding of, and appreciation for, the archaeological evidence of their cultural past. As was noted by the Milken Institute, “[i]t is through helping those on the ground that the most significant change can occur.”<sup>193</sup>

While perhaps it is true that the “willingness of collectors (including museums and educational institutions) to turn a blind eye to the issue of archaeological find-spot and artefact pedigree ensures that the demand for looted items continues[,]”<sup>194</sup> this does not mean that all looting can never be stopped. Subsistence looting, which still constitutes a large percentage of the looting that is done in developing nations, can be completely eradicated. Looting that is done solely for purposes of generating an income can be prevented by offering an economically beneficial alternative to looting. “Even small local economic benefits can compete successfully with looting.”<sup>195</sup> By focusing on the subsistence looters themselves, and the real motivation behind their looting, the global community can work together to preserve the world’s cultural heritage sites by improving the welfare of the communities who live around these sites. These local communities represent the people best equipped to preserve such sites,<sup>196</sup> and it is only by helping them through sustainable economic development programs that they will no longer need to view the site as an expendable economic resource.

As one Italian tombarolo (tomb-robber) lamented, “[t]he government won’t help us. Cigarette smugglers are offered work if they give up smuggling<sup>197</sup> . . . But for tomb-robbers there’s nothing on offer, no incentive for us to stop looting.”<sup>198</sup> The

192. *Id.* at 19.

193. *Id.* at 23.

194. Kersel, *supra* note 95, at 261.

195. UCLA COTSEN INST.ARCHAEOLOGY, *supra* note 124.

196. *See* GHF REPORT, *supra* note 8, at 13 (“Local communities will always be the best stewards of their natural and cultural heritage, and the cultural heritage sites provide the economic engine that enables larger-scale nature conservation.”).

197. This is a reference to a 1992 “proposal to grant amnesty and guaranteed work to those involved in selling contraband cigarettes.” Ruiz, *supra* note 17.

198. *Id.*

economic solutions discussed herein can provide that incentive and give tombaroli and subsistence looters everywhere a reason to stop looting.

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