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The Illegal Antiquities Trade: Solutions for a Globalized World

The world is becoming a smaller and smaller place. With the rise and development of the globalization system in the wake of the Cold War, increased interconnectivity and interactivity between nations – and, more importantly, their people – continues to create an environment of cultural recognition and exchange. An unfortunate consequence of this is that there are those willing to take advantage of this environment for personal gain, bolstering an illicit trade in culturally and historically significant art, artifacts, and documents in violation of domestic law and international convention. There are a number of ways we can curb this illegal trade, however. Three key ways to do this would be to reevaluate international legal measures in regards to artifacts, to overhaul domestic customs programs to be more capable of recognizing and handling artifacts, and to educate people about the importance of preserving history in order to expose them to the consequences of this illicit trade. While overhauling customs policies may prove problematic, the basis has already been established for international protective measures and educational programs, and modernizing them proves viable ways to lessen the impact of illegal artifact smuggling and trade.

The theft of cultural treasures, while exacerbated by globalization, is not a modern problem, and has existed in some form or another for thousands of years. The ancient Greek historian Herodotus, in *The Histories*, tells a story over two-thousand years old, in which a golden statue gifted to the Oracle of Delphi was pillaged when the Oracle was burnt down, and taken to the city of Corinth (1: 50). So, while the problem is not a new one, it is constantly evolving new forms to capitalize on the new international system. One such form is looting – or theft-to-order – in which thieves will target specific items or sites based on an order from an outside party. While this is considered by some to be myth, in his article “‘Is Looting-To-Order’ Just a Myth?"
Open-Source Analysis of Theft-To-Order of Cultural Property” in *Cogent Social Sciences*, Samuel Andrew Hardy presents evidence that theft-to-order “does exist as a strategy, and it has been used by different groups in different places over the course of at least 60 years” (tandfonline.com). In addition, the current geopolitical climate enables thieves to thrive. This is especially true in the case of armed conflicts, in which the chaos of modern war provides ample opportunity for theft- a prime example being the looting that occurred during and after major American military operations in Iraq. In their article “Looting and the World’s Archaeological Heritage: The Inadequate Response” for *The Annual Review of Anthropology*, in which they quote data from the International Symposium on the Looted Antiquities From Iraq During the War of 1991, Neil Brody and Colin Renfrew observe that in Iraq, “between … 1991 and 1994, 11 regional museums were broken into,” and that, “… in April 2003, the National Museum in Bagdhad [sic] … was ransacked” (qtd. in Brody and Renfrew 346). Another compounding problem is that, even though there are international guidelines in place as to what constitutes an illegally-sourced artifact, many museums, collectors, and antiquities dealers argue that these guidelines are too restrictive and want to relax the rules; others try to circumvent these rules, or to openly flaunt them. For instance, Brody and Renfrew quote a Robinson and Yemma article in *The Boston Globe*, in which a museum attached to Harvard University acquired unprovenanced artifacts in the mid-1990s, ignoring both international guidelines and its own policies (qtd. in Brody & Renfrew 353). However, there are a number of solutions that can stem the tide.

One necessary step to take to alleviate this problem is to reevaluate the current international rules and regulations. As relayed by Brody and Renfrew, the last internationally-issued governance on the issue was the 1995 UNIDROIT (International Institute for the Unification of Private Law) Convention, which attempted to standardize international laws; an additional UNESCO (United Nations Educational, Scientific, and Cultural Organization) Convention in 2001 expanded coverage to international waters (348). It has been almost two decades since any meaningful legislation and
their protections are falling behind recent technological advances. There has been an increased reliance on technology to facilitate the illegal antiquities trade; as Hardy evidences: collectors “put in remote orders to looter-smugglers in Syria from their laptop or smartphone,” and also that “illicit antiquities handlers may also use the dark web or dark networks to make deals” (tandfonline.com). Such technology was years away at the time of the aforementioned conventions, so no provisions for such cases are made. Another convention needs to be called in order to lay out regulation specifically laying out provisions for handling electronic crimes. Another facet of the conventions that must change is that any legislation drawn up in an international convention must be ratified individually by the constituent countries, and then implemented with domestic law; a process that can take years, or, in some cases, never happen at all. An example of this would be the United States’ Cultural Property Implementation Act of 1983 (CPIA). Detailing the legal background to the eponymous court case in his article “The UNESCO Convention's Role in American Cultural Property Law: The Journey to U.S. v. Frederick Schultz” for Museum International, Howard N. Spiegler asserts that “although the United States signed the UNESCO Convention in 1970 and ratified it in 1972, the UNESCO Convention had no legal effect in the United States until 1983, after Congress enacted the CPIA” (104). To change this, the onus should be placed on international legislative and judicial groups to efficiently and fairly set common rules and mete out prudent justice, not on individual states. As the groundwork for this exists in the previous conventions and in other international treaties, this solution is very plausible. However, the main obstacle to this solution is that many nations may drag their feet or refuse implementation of any additional legislation, as previously evidenced (Spiegler 104).

An additional solution, although a more problematic one, would be to overhaul domestic customs policies. Customs officials serve as a hands-on, front-line defense against the trade of illegally sourced artifacts, and while they can be effective at stopping some items from crossing borders, there are numerous flaws in many customs policies. For instance, customs officials do
not always have the training necessary to differentiate between genuine artifacts and replicas. In his article “Protecting a Moveable and Immoveable Feast: Legal Safeguards for Yemen’s Cultural Heritage” for Conservation & Management of Archaeological Sites, Stephen Steinbeiser details that, after purchasing a replica of an ancient Yemeni statuette, he was stopped by Yemeni customs officials, who did not recognize his item as fake:

The official confiscated the statuette, informing me that it was an antiquity. Incredulous, I told him the purchase price and pointed out some obvious irregularities that would be inconsistent with it being a genuine ancient artefact. He was eventually convinced and returned it to me. (163-164)

Remedying this would require intensive retraining of customs officials, something not necessarily economically viable. In addition, while customs officials may themselves be vigilant, oftentimes the rules are not. This problem is noted by Patrick Radden Keefe in his article “The Idol Thief” for TIME Magazine. Keefe evidences that in India, “customs officers are required to check only ten per cent of any large shipment of exports,” and that smugglers exploit this lax regulation by a process where they “frequently bury a single priceless statue in a giant case of bric-a-brac” (58-67). The way to countermand this would be to increase the number and intensity of customs searches through luggage, although in many countries, including the United States, this is seen as an invasion of privacy and open to contestation in the courts as a breach of the Fourth Amendment. In the article “Moving or Touching Stowed or Checked Luggage” in FBI Law Enforcement Bulletin, Jayme S. Walker takes note of this when he declares that, “because courts are divided over the degree of manipulation of a stowed or checked bag that is permitted, officers should consult with their department legal advisors before engaging in a warrantless manipulation of such luggage” (18-24). Another confounding obstacle to international implementation of any of this is, as with the UNESCO and UNIDRIOT Conventions, that
customs policies are also decided domestically and not internationally; this and the other factors make this solution an impractical one.

A third solution would be to teach the value of preserving historically- and culturally-valuable treasures, and stress the consequences of destroying or hoarding these items. If people can make a personal connection to history, they may be less inclined to take part in its destruction, or even to actively work to protect sites or artifacts. This is especially true when community leaders are involved; Steinbeiser describes this when he cites the case of a Yemeni tribal community leader:

… a sheikh outside of the town of Dhamar, south-east of Sana’a, is so concerned about potentially losing the tangible effects of his village’s historical record that he has instructed villagers to remit them to him, if found. In this way he actively uses his authority and influence as sheikh to retain treasure that is discovered locally, while also discouraging individual searching for artefacts or digging them up. (174-175)

In addition, people may be unaware of the consequences of the illicit antiquities trade. At the beginning of The Histories, Herodotus states the purpose of his writing is so that “neither the deeds of men may be forgotten by lapse of time, nor the works great and marvellous [sic], which have been produced some by Hellenes and some by Barbarians, may lose their renown” (1:Proem). In modern archaeology, each artifact or site does just that; it helps paint a picture of those who came before, and tells their stories, while also chronicling how those in the past became us. In quoting a study by Gutchen in 1983, Brody and Renfrew report that “58.6% of all Mayan sites in Belize had been damaged by looters” (qtd. in Brody and Renfrew 346). Each site or artifact that is taken, damaged, or destroyed represents the loss of the stories behind them, potentially forever. And while education remains a viable solution, there are considerable hurdles to overcome. International implementation would be hampered by domestic policy and situations, and religious and cultural values that deny education to some. In her Nobel Peace Prize acceptance
speech, “We Ask the World Leaders to Unite and Make Education a Top Priority,” Malala Yousafzai, who won the Nobel Peace Prize for standing up for women’s right to education in her native Pakistan, declares:

Many children in Africa do not have access to school because of poverty. Many children in India and Pakistan are deprived of their right to education because of social taboos, or they have been forced into child labour and girls into child marriages. (Yousafzai)

These are significant barriers, to be sure, but barriers that are coming down thanks in part to efforts made by Yousafzai and others like her.

While the theft of cultural property and historical artifacts remains a major issue, there are a number of ways we can lessen the impact. While reassessing customs policies has some merit, the potential drawbacks are too great- yet by increasing international cooperation in regards to laws and education, the criminal trade in stolen and unprovenanced cultural treasures can be stemmed, and this new renaissance of cultural learning can continue, in an ethical and mutually beneficial way.

Works Cited


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