

Stefano Manacorda
Duncan Chappell *Editors*

Crime in the Art and Antiquities World

Illegal Trafficking in Cultural Property

ISPAC

 Springer

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Editors

Stefano Manacorda
Centro Nazionale di Prevenzione
e Difesa Sociale Piazza Castello 3
20121, Milano, Italy
and
Université Paris 1 Panthéon Sorbonne
Paris, France
stefano.manacorda@unina2.it

Duncan Chappell
Faculty of Law
University of Sydney
NSW 2006, Australia
chappell@bigpond.net.au

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Crime in the Art and Antiquities World

Preface

The genesis of this book can be traced directly to the activities of the International Scientific and Professional Advisory Council (ISPAC) of the United Nations Crime Prevention and Criminal Justice Program. Established in 1991, ISPAC's secretariat is located in Milan, Italy, at the Centre Nazionale di Prevenzione e Difesa Sociale (CNPDS).

ISPAC's tasks have been defined as

channelling to the United Nations professional and scientific input and creating a capacity for the transfer of knowledge and exchange of information in crime prevention and criminal justice drawing on the contributions of non-governmental organisations (NGO's), academic institutions and other relevant entities, so as to assist the United Nations in program formulation and implementation in this field.

In December 2008 ISPAC, together with the Courmayeur Foundation and the United Nations Office on Drugs and Crime (UNODC), sponsored an international conference on "Organised Crime in Art and Antiquities". It should be noted that this was not the first occasion on which ISPAC had been involved in such a gathering. In June 1992 ISPAC, in collaboration with the Division of Cultural Patrimony of the United Nations Educational Scientific and Cultural Organisation (UNESCO), held an international workshop on the "Protection of Artistic and Cultural Property" in Courmayeur, Mont Blanc in Italy. This workshop resulted in the formulation of the so called Charter of Courmayeur, urging national and international action against the illicit trade with objects belonging to the cultural patrimony of nations (see Annex #24??).

The 2008 conference also took place in Courmayeur and was attended by 145 experts from 27 different countries including, among others, representatives of national governments and international organisations, NGOs, academia and the private sector. Selected papers from the conference were subsequently published as an edited collection by ISPAC/CNPDS (Manacorda 2009). Following this publication, which had only limited circulation, it was decided by ISPAC that a broader audience needed to be reached and subsequently an agreement was entered into with Springer, an international publisher based in New York in the USA, to produce the current book. This agreement provided for the joint editorship of Stefano Manacorda, who had coordinated the 2008 conference and edited its proceedings,

and Duncan Chappell who had participated as an expert at the conference, and is a member of the Board of Management of ISPAC.

As is seen from the list of contents of this book a number of the chapters, revised and updated, have been drawn from the papers presented at Courmayeur in 2008 while others are newly commissioned works. In addition, as an Annex, a collection of the major international instruments and related documents concerned with the protection of art and antiquities of cultural significance has been reproduced. As anyone involved in this area of academic and scientific endeavour quickly discovers many of these documents are by themselves very difficult to locate – a problem which, it is hoped, is overcome through the provision of the material contained in the Annex.

As editors, we wish to express our warm gratitude to ISPAC for permitting us to participate in the production of this book, and for supporting us in so many ways throughout a quite lengthy gestation period. During this period, we have also engaged with ISPAC in the organisation of an ancillary meeting, titled “Protecting Cultural Property: The State of the Art”, held at the Twelfth United Nations Congress on Crime Prevention and Criminal Justice in Salvador, Brazil in April 2010, and a subsequent workshop on this topic conducted in May 2010 at the Vienna meeting of the United Nations Commission on Crime Prevention and Criminal Justice.

This book could not have been produced without the encouragement and assistance of Eleni Papageorgiou and Camilla Beria di Argentine at ISPAC. We owe a special debt of gratitude to Eleni who did so much to smooth the frustrations and logistics involved in working with editors, authors and a publisher scattered across the globe. We also wish to convey our thanks to each of the contributors to this book who have given so freely of their time and expertise. Last, but not least, we express our appreciation to our publisher, Springer, and in particular to Welmoed Spahr and Katherine Chabalko, for their patience and understanding over the number of months it has taken to bring this venture to a successful conclusion.

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Stefano Manacorda
Duncan Chappell

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Contributors

Mathew Bogdanos

Colonel, US Marine Corps, New York, NY, USA
mbogdanos@aol.com

Blythe Bowman Proulx

Wilder School of Government and Public Affairs,
Virginia Commonwealth University, Richmond VA, USA
bbproulx@vcu.edu

Neil Brodie

Archaeology Center, Stanford University,
94305 Stanford, CA, USA
njb1012@gmail.com

Duncan Chappell

Faculty of Law, University of Sydney,
NSW 2006, Australia
chappell@bigpond.net.au

Karl-Heinz Kind

INTERPOL General Secretariat, Lyons, France
kh.kind@interpol.int

Simon Mackenzie

Scottish Centre for Crime and Justice Research, University of Glasgow,
Glasgow, UK
simon.Mackenzie@glasgow.ac.uk

Stefano Manacorda

Centro Nazionale di Prevenzione e Difesa Sociale Piazza Castello 3,
20121, Milano, Italy;
Université Paris 1 Panthéon Sorbonne, Paris, France
stefano.manacorda@unina2.it

Giovanni Nistri

Heritage Protection Unit, Carabinieri Corps, Rome, Italy
giovanni.nistri@carabinieri.it

Nikos Passas

College of Criminal Justice, Northeastern University, Boston, MA, USA
n.passas@neu.edu

Kenneth Polk

University of Melbourne, Parkville VIC, Australia
kpolk@unimelb.edu.au

Folarin Shyllon

Olabisi Onabanjo University, Ago-Iwoye, Ogun State, Nigeria
fshyllon@yahoo.co.uk

Edgar A.J.G. Tijhuis

Netherlands Institute for the Study of Crime and Law Enforcement,
Amsterdam, The Netherlands;
VU University, Amsterdam, The Netherlands
tijhuis@nscr.nl

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Chapter 1

Introduction

From Cairo to Vienna and Beyond: Contemporary Perspectives on the Dialogue About Protecting Cultural Artefacts from Plunder

Stefano Manacorda and Duncan Chappell

Context

Cultural heritage officials from 20 nations gathered earlier this year in Cairo, Egypt, to discuss how to recover ancient treasures which had been stolen in the past and placed on display in foreign museums and galleries (BBC 2010a). The meeting, convened by Egypt's Supreme Council of Antiquities (SAC) and chaired by its head, Zahi Hawass, included representatives from Greece, Italy, China and Peru – all countries which over centuries have lost countless antiquities to plunderers. Hawass urged delegates from all countries to work together to recover their lost treasures. “Every country is fighting alone, every country suffered alone, especially Egypt” he said. “We will battle together” (BBC 2010b).

This Cairo meeting, and especially its leadership by the SAC and Zahi Hawass, represents the face of a new and assertive international movement to redress historic wrongs among nations that have been in the past, and in most cases continue today to be the principal suppliers of the illicit market in art and antiquities. In the countries that fall on the demand side of this market, primarily those of the rich and developed world, this movement has already begun to have an impact. Hawass, for example, has claimed to have secured the return by a number of countries of more than 6,000 objects held in their museums and galleries (De Roquefeuil 2010). His much publicised activities include the 2009 breaking of archaeological ties with the Louvre Museum in Paris until France returned to Egypt fragments chipped from a wall in an ancient tomb (BBC 2010a). He also continues to pursue the recovery of a number of other treasures, including the Rosetta Stone kept in the British Museum, and the statue of Queen Nefertiti on display in the Neues Museum in Berlin (Tierney 2009).

S. Manacorda (✉)

Centro Nazionale di Prevenzione e Difesa Sociale Piazza Castello 3, 20121, Milano, Italy
and

Université Paris 1 Panthéon Sorbonne, Paris, France

e-mail: stefano.manacorda@unina2.it

A related international development that has occurred, largely in tandem with that just described, has been a surge of interest in the United Nation's Commission on Crime Prevention and Criminal Justice (UNCCP) in combatting the illicit trade in art and antiquities (Economic and Social Council 2010). The UNCCP, comprising 40 elected nations from among the members of the UN, oversees the programme and activities of the Vienna-based UN Office on Drugs and Crime (UNODC). The latter body has now recognised that the actions of illicit traffickers in art and antiquities have many similarities to those engaged in other organised transnational criminal activities, including drugs and arms trafficking. As such, they are also the activities which might be better targeted by collaborative law enforcement efforts utilising the powers already given by an international instrument like the UN Convention against Transnational Organised Crime, agreed in 2000 in Palermo, Italy. The UNCCP has also given fresh consideration to the acceptance of a model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property – a model treaty whose terms were first proposed nearly two decades ago at the 1990 Eighth UN Congress on the prevention of crime and the treatment of offenders held in Havana, Cuba (see Annex # 4).

It is within this general contemporary and international context that this book is set. The book is concerned with the illegal trafficking in art and antiquities linked to the cultural heritage of the nations of the world – a highly lucrative and global trade whose true dimension and scope is only slowly becoming realised by many in the international community. For those source countries whose rich cultural heritage has been subjected to systematic plunder, often over many generations, an awareness of the losses involved and a desire to achieve the restitution of looted items has already tended to become deeply embedded in their respective national psyches. Now, there would seem to be a new and broader appreciation in the demand countries, which provide the principal and largely unfettered markets for this international trade in art and antiquities that this situation can no longer be allowed to continue.

Evidence to support these statements is found in the chapters which follow. They are the chapters which have been contributed by a range of invited scholars and practitioners. The scholars come from a mix of disciplines, including law, criminology, anthropology, and archaeology while the practitioners represent both national and international law enforcement bodies involved in the investigation of this area of crime. Many of the contributors participated originally in an international conference on the topic of "Organised crime in art and antiquities" held in Courmayeur, Italy, in December 2008, under the auspices of the International Scientific and Professional Advisory Council of the United Nation's Crime Prevention and Criminal Justice Program (ISPAC), the Centro Nazionale di Prevenzione e Difesa Sociale (CNPDS), the Courmayeur Foundation in cooperation with UNODC (Manacorda 2009).

The book is in three parts – first, a survey across a number of disciplines of some of the principal issues and perspectives surrounding this topic; second, a series of case studies which provide a graphic illustration of the nature and gravity of this illicit trade; and third, a consideration of the role law enforcement can and does play in combatting this aspect of criminal activity. In addition, in an annex, a comprehensive range of international treaties, conventions, and allied documents, concerned

with the protection of cultural heritage items and their restitution, is reproduced. This annex is intended to provide a ready and immediate access to documents which are often difficult to obtain and locate through regular sources.

Brief attention is now turned to a number of significant themes and issues which emerge from these various authors and the associated international illicit trade in art and antiquities that is subject to analysis.

Dimension and Scope of the Illicit Trade

There would now seem to be quite widespread consensus, as evidenced by the authors in this book that the illicit trade in art and antiquities is both profitable and extensive crossing international boundaries and presenting a challenge to law and policy makers in all regions of the world. As noted earlier, the North South divide among the rich and poorer nations of the world is reflected here as well with source countries for the art and antiquities in high demand being concentrated largely in the South, and demand countries in the North. There is not, however, agreement regarding the magnitude of the illicit trade, nor its true value in a monetary sense. Elsewhere, Charney has asserted that the illegal profits of art crime in general amount to an “astounding \$6 billion per annum by conservative estimates”. He goes on to add that art crime is the

third highest-grossing annual criminal trade worldwide, run primarily by organised crime syndicates and therefore funding their other enterprises, from the drug and arms trades to terrorism (Charney 2009, p. xvii)

In their chapter, Passas and Bowman subject estimates like these to critical scrutiny, concluding that this particular figure and comparison with the profitability of drug and arms trafficking is not based on fact but gets recycled nonetheless simply because it is sensational. They point to the diverse and multiple dilemmas that confront anyone seeking to provide a more reliable estimate of the illicit trade in art and antiquities, including the fact that Interpol, the international police agency, has stated that less than half of all its member countries provide it with annual art crime information. Another barrier to accurate estimation of the extent of this illicit trade is the fact that most looting of cultural objects, and the subsequent laundering of the proceeds of their sale and distribution, takes place under the radar screens of law enforcement agencies across the globe. Few of these incidents result in any official reports, and they remain part of the “dark figure” of this particular aspect of crime.

Despite these data gathering and interpretation problems, the three case studies provided in the book – two relating to Iraq and the third to the African continent – do allow some appreciation of the dimension and scale of the problems presented by the destruction of cultural heritage sites and the plunder of objects from them. In his chapter, Bogdanos gives a graphic account of his investigation into “one of the greatest art crimes in recent memory” – the looting of the Iraq National Museum in Baghdad in 2003 during the US led invasion to topple the regime of Saddam Hussein. Bogdanos’ account includes a penetrating analysis of the law of armed conflict and the obligations upon warring parties to protect cultural property against any act of

hostility. These obligations were clearly haphazardly observed at best by the US and its allies during and after the invasion. But no one seems to have planned for or suspected the scale of plunder that occurred at the National Museum.

Thousands of objects were stolen from the National Museum and even today only a fraction has been recovered. Among the investigative team led by Bogdanos three approaches were adopted depending on the level of sophistication shown in selecting and removing looted items. Professional thieves were believed to have taken 40 of the museum's most treasured objects, 16 of which have since been recovered from within Iraq as well as from a range of foreign countries, including the USA. One object, for example, was seized by the US customs in 2006 having moved through Damascus to Beirut to Geneva and then New York. Other objects were believed to have been taken primarily by looters off the street, or insiders within the museum. A large number of these objects have since been found on international markets, including E Bay as Brodie makes clear in his chapter. Some have been recovered, in part because of an amnesty programme offered by Iraqi authorities.

Brodie's chapter contains a detailed analysis of the market in Iraqi antiquities between 1980 and 2009. He too shows how a significant number of the objects stolen from the National Museum, and elsewhere from looted sites across the country, found their way to auction houses in places like London and New York. He also identifies the nature of the continuing and thriving market for unprovenanced Iraqi artefacts on the Internet, and elsewhere, and seeks to place valuations on the types of objects being offered for sale. He indicates that it would seem possible to sell illegally obtained and exported Iraqi material with relative impunity. The auction houses, however, now seem less willing to run the risk of damage to their reputations from such sales although their motivations may also have been influenced by a slump in the value of these items over recent years.

In the third case study, Shyllon focuses attention on the losses of cultural heritage suffered through the illegal excavation of archaeological sites and the trade in stolen antiquities across the African continent. Shyllon claims that this trade has assumed massive proportions over recent decades from countries like Egypt, Mali, and Nigeria. He notes, for example, the comment of the Nigerian Minister of Culture in 1996 who said that the country was losing its cultural heritage at such a rate "that unless the trend is arrested soon we may have no cultural artefacts to bequeath to our progeny". Shyllon also observes that the looting of objects from Nigeria has occurred for well over a century following the infamous invasion of Benin in 1897 by the British and the subsequent plunder and exportation of thousands of works of art from that city.

The Organisation of the Market

As already noted, Charney has suggested that the art crime market is dominated by organised crime syndicates whose illicit activities are multivarious and intertwined with the trafficking of arms and drugs. This view of the market is, of course, not limited to the illicit trade in art and antiquities linked to the cultural heritage of the world's nations but incorporates as well, as Passas and Bowman indicate, the theft

of contemporary art objects and the fraudulent reproduction of both ancient and modern art works. This book is not concerned with these aspects of the art market. Even so, some attention needs to be given to this view expressed by Charney and others since if it is accurate it suggests that the approach taken to the repression of other areas of organised criminal activity, both nationally and internationally, may be applied without question to the illicit market in art and antiquities.

A number of the book's authors offer insights into the way in which the illicit market in art and antiquities is organised which differ from that offered by Charney. Significantly, Nistri, who is the commander of the elite Italian law enforcement body devoted to the protection of that nation's cultural heritage, observes that his investigators have found no evidence at the judicial level of an involvement of "mafia type organisations in the direct and continuing organisation of the activities related to the traffic of cultural artefacts", although some affiliations had been found at the local level between criminals looting artefacts and mafia type clans. Nistri's investigators have, on the other hand, found overwhelming evidence of the highly sophisticated and internationally connected "cordata" or chain through which illegally excavated and exported cultural objects find their way onto the legal market for art and antiquities in Europe and North America. No single case illustrates the nature and power of this "cordata" more than that of the so-called "Medici Conspiracy", mentioned in Chappell and Polk's chapter but described in an entertaining and comprehensive way in a book by investigative journalist Peter Watson and a colleague (Watson and Todeschini 2006).

The "cordata" unveiled in the Medici case led from the tomb robbers who initially dug up antiquities through to various local dealers who then supplied Giacomo Medici, a prominent Italian dealer with offices in various places, including Rome and Geneva. From Medici the "cordata" went on to involve a series of well-known individual dealers, auction houses, collectors and museum officials in Europe, North America and elsewhere, all of whom were allegedly handling artefacts whose original plundered provenance had been laundered in various ways since the objects were illegally excavated and exported from their Italian sources.

When the Italian authorities eventually unravelled the "cordata", they were able to prosecute and convict Medici on a number of charges relating to the receipt of stolen antiquities although Medici's case remains subject to appeal in the Italian courts. Medici has not as yet served any of the prison sentence of 10 years he received upon his conviction, reduced to 8 years on appeal. Nor have others charged with him, including the former antiquities curator of the Getty Museum in California, Marilyn True, and the prominent American antiquities dealer Robert Hecht, been convicted in trials in Italy which have dragged on for a number of years (Scherer 2009; Povoledo 2010).

More is said later in this introduction about the impact these trials in the Medici conspiracy have had upon the illicit international market in art and antiquities. But first mention must be made of the views expressed about the nature of this market in the chapters by Mackenzie, Chappell and Polk, and Tjhuis. Each of these authors writes from primarily a criminological perspective, and each emphasises the importance of understanding how the market operates in considerable detail before offering suggestions about how best to restrict its operations and growth.

Mackenzie considers the dual questions of whether the illegal market in art and antiquities is an example of organised crime simply because of its organised market nature and the fact that many of its transactions are illegal, or whether various types of more conventionally conceived organised criminals operate within the market, and if so where and how. His analysis suggests that there are elements of both the market as criminal and criminals in the market – a finding with implications for the application of any prevention strategies as is discussed in greater detail below. In relation to the “market as criminal” Mackenzie, Chappell and Polk, and Tjhuis each indicate how the illicit market for art and antiquities runs in tandem in most cases with a perfectly licit market—illicit activities are concealed and embedded within the framework of quite lawful auction, gallery, and allied sales of artefacts which is in marked contrast to the illicit trade in drugs, where the product for sale is tainted with illegality no matter how it is marketed. The same is not necessarily true for the illicit traffic in arms, where lawful transactions may be used to clothe illegal dealings in much the same way as is the case with art and antiquities. Tjhuis describes how within this framework certain notorious jurisdictions facilitate this laundering process and allow looted or illegally exported artefacts to be provided with a false provenance and placed on the legal market. His own research on this issue concentrated on the Netherlands and Belgium which for years have been used as the laundering grounds for stolen French art and artefacts, and for plundered antiquities from other countries.

Evidence of criminals in the market is mentioned by Bogdanos in his chapter where he recounts the discovery of looted antiquities among weapon seizures made from violent groups involved in the Iraq insurgency. He concludes that like the insurgents in Afghanistan who learned to finance their activities through opium, insurgents in Iraq have discovered a new source of funding in Iraq’s cash crop of artefacts. Bogdanos says that hard evidence is lacking regarding the scope and dimensions of the art for weapons trade, and much of the information on this topic is classified because of its association with terrorism. It is, nonetheless, a worrying trend which can only fuel the looting of the thousands of poorly guarded archaeological sites scattered around Iraq.

Responses: Law Enforcement and the Criminal Law

In July 2010, the Carabinieri del Reparto Operativo Tutela Patrimonio Culturale, Italy’s elite police cultural heritage protection unit, held a press conference in Rome’s Colosseum to display more than 300 looted archaeological objects discovered in a warehouse in Geneva, Switzerland following an extensive investigation, code named Andromeda, led by the Carabinieri and Swiss authorities (Davis 2010; Heritage Thieves 2010). The investigation, which mirrored many of the facets of the Medici case mentioned earlier, was said to have involved the tracing of a series of illicit trafficking activities associated with a prominent British art dealer, Robin Symes, and an unidentified Japanese art dealer, which eventually led to the warehouse in