

The Current State of the Antiquities Trade: An Art Dealer's Perspective

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Abstract: The antiquities trade is the subject of contentious debate. The anti-trade position stems from a long unquestioned stance within academia that private ownership of antiquities inherently results in archaeological site destruction and the loss of valuable data. However, there is little data to support this notion. It also ignores the enormous contributions to our shared knowledge of the past that have been made through art collecting and museum acquisitions. The narrative that the destruction of ancient sites is directly tied to Western demand for ancient art is overly simplistic. Despite the ongoing destruction in the Middle East and North African region, virtually no artifacts from there have entered the Western trade in recent years. Opportunistic treasure hunting by desperate locals and intentional destruction of ancient objects for religious reasons cannot be curtailed by increased legislation in Western nations. Fetishizing mundane ubiquitous antiquities as sacrosanct objects of great national importance that must be retained within modern borders in a globalized world and demanding criminalization of the legitimate international art trade are counterproductive. In many archaeologically rich countries, antiquities are regarded as items to sell to foreigners at best or sacrilegious objects to be destroyed at worst. The free trade in cultural objects is itself an institution that needs to be protected. An open legitimate trade in antiquities is now more than ever necessary to ensure the preservation and dissemination of worldwide cultural property.

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The trade in ancient artifacts and artwork is the most heavily maligned, publicly scrutinized, and tightly regulated sector of the entire art and antique market. It is also among the most financially insignificant sectors of the art market. The total sales of antiquities in public auctions, gallery sales, art fairs, and online sales have never been documented

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to exceed \$300 million in one year.¹ By contrast, the March 2018 London auction sales of impressionist and modern art for Christie's and Sotheby's combined made a record total of £347 million or over \$400 million in a single week of auctions.² Sales of contemporary art, modern art, collectible automobiles, jewelry, antiques, memorabilia, and so on dwarf the relatively miniscule worldwide market for antiquities. However, regardless of the relative low value of the trade, there are many that feel strongly that the entire enterprise is unethical or even illegal. The antiquities trade suffers from disparaging criticism from a small, but vocal, group of detractors who insist that collecting ancient art invariably encourages the looting and destruction of archaeological sites.

Furthermore, in light of the destruction of sites and objects of cultural heritage in the Middle East and North African (MENA) region following the Arab Spring, a narrative has emerged that the trade in antiquities is somehow inextricably tied to terrorist financing. Regardless of the fact that there has been no evidence of illicit antiquities from the region entering the trade, despite intense law enforcement efforts to uncover them, this unsubstantiated claim has gained remarkable traction in recent years.³ Dozens of articles have been written tying the trade in ancient art to the likes of the Islamic State of Iraq and Syria (ISIS), yet not a single authentic ancient piece of Syrian origin has been intercepted at US or European points of entry or detected among the lots offered for sale at auction or by ancient art dealers to date. Contrary to the narrative often reported in the press—that unscrupulous dealers and collectors are champing at the bit for looted Near Eastern art—the opposite is true. The drumbeat of negative press regarding the subject has driven collectors away from this material. Coupled with the broader condemnation of the antiquities trade based on cultural imperialist grounds or the notion that Western museums are full of material that was taken from Indigenous peoples under dubious legal circumstances, the antiquities trade of today comprises an ever-shrinking market catering to a diminishing group of collectors.

As a result of the ongoing bad press, several American museums have been coerced into giving objects that they acquired in legal transactions to foreign governments that have claimed them as their rightful property purely for political purposes. American collectors and art dealers as well have been forced to repeatedly defend themselves against all manner of spurious claims by foreign governments for countless pieces of artwork that have long been dispersed around

¹Estimated value of the legal global trade in antiquities according to research by the International Association of Dealers in Ancient Art (IADAA). This figure arises from canvassing IADAA members, analyzing auction results for 2013, and assessing sales by dealers with premises for 2013. It excludes minor Internet sales and private one-off sales. The total came to €130 million. The IADAA upped this to €200 million to cover all eventualities. Personal communication with Vincent Geerling, chairman, IADAA, September 2014.

²Marion Maneker, "The Middle Market Paused: London Contemporary Sales Analysis," *Art Market Monitor*, 28 March 2019, <https://www.artmarketmonitor.com/2019/03/28/the-middle-market-paused-london-contemporary-sales-analysis/> (accessed 30 March 2019).

³Van Lit 2016. This lengthy study addressed virtually all of the press and criminal law activity related to the subject and reported that "no evidence that this happens on a large scale is found. The legal trade could not be linked to financing IS based on this research" (49).

the globe.⁴ Increasingly, Americans have had to defend themselves in costly litigation against foreign governments who use American lawyers, US Customs, Homeland Security, and the press to pursue claims against US citizens that run counter to US law. At the same time, most of these foreign nations do very little to protect their archaeological resources or stem the tide of illicit excavation on their own soil. Very few resources are devoted to education and site preservation, and, in many cases—in the MENA region especially—the local populations regard the ubiquitous remnants of pre-Islamic civilization as foreign and idolatrous objects that are an affront to their religious beliefs. The oft-repeated argument that there would be no looting and destruction of ancient sites if there were not a market for ancient art is overly simplistic. The long-held assumption that antiquities collecting necessarily equals the destruction of archaeological heritage and therefore must be abolished is naive. The situation is much more nuanced than this, and it deserves a more realistic and pragmatic reassessment.

In the last few decades, museumgoers have increasingly murmured that most antiquities residing in Western museums and private collections were “looted” from sites in foreign countries. This notion that has crept into the popular consciousness is absurd at best and slanderous at worst. Yet this is the viewpoint that is espoused by a great many young people entering the world with a liberal arts education. Professional ancient art dealers find themselves spending an inordinate amount of time educating the populace on this subject. Ancient art dealers are confronted with a public that has been led increasingly to believe that the entire enterprise of collecting ancient art is an untoward pursuit from a bygone era. A large segment of the public labors under the delusion that all objects of a certain age, regardless of their rarity, quality, or aesthetic appeal, are priceless. There is also an assumption that museums worldwide are somehow deprived of this material by private collectors and that every scrap of it must be held and maintained in perpetuity in a public institution. This viewpoint runs counter to the tenets of Western personal property rights. It also overlooks the individuals and mechanisms within the art market that have enabled some of the finest pieces of art to be placed in museums for all to see, including private collectors, art historians, art dealers, appraisers, auctioneers, insurers, and curators, as well as the practices of archaeological find *partage*, art dealing and collecting, museum deaccessions, estate sales, and charitable donation.

When we see a nineteenth-century piece of English silver, we do not immediately assume it was stolen nor do we insist that it must be housed in a museum. However, a

⁴In the case of Fredrick Schultz, *United States v. Frederick Schultz*, 178 F.Supp.2d 445 (SDNY 2002), Frederick Schultz was shown to be clearly guilty of conspiring to smuggle an Egyptian antiquity out of Egypt counter to Egyptian Law no. 117, 1983, prohibiting the export of antiquities. Other current cases are not as clear—for example, the Barnet collection Geometric Bronze Horse, which was offered by Sotheby’s in 2018. *Barnet v. Greek Ministry of Culture*, No. 1: 18-cv-04963 (SDNY, 5 June 2018). The piece was sold in a public auction in Switzerland by Münzen and Medaillen on 6 May 1967. Also, there is the claim recently brought by Turkey against art collector Michael Steinhardt over a marble “star-gazer” idol that had been in the United States since 1961, when New York collectors Edith and Alastair Bradley Martin acquired the figure for their Guennol collection.

great many people would view a piece of Roman silver in this way. In essence, there is little difference between the trade in the English or the Roman piece. However, the Roman piece, whose owners and their heirs are long since deceased, is expected to be accompanied by a stack of documents attesting to its ownership history and legality in the marketplace. The English silver piece requires none of this, though its chain of ownership would be much easier to establish and its cultural ties to the modern inhabitants of England are much stronger than that of the Roman piece are to the modern nation in which it may have been found.

The inhabitants of archaeologically rich areas like Egypt, Greece, Turkey, and Italy have recognized the wealth lying beneath their feet since the demise of ancient civilizations. Mining of ancient sites for dressed stone, metal, and anything else of value has occurred without interruption since the Middle Ages. Many early medieval churches were built on the foundations of demolished Greek and Roman temples. Nearly all of the tombs in the Valley of the Kings were ransacked centuries before Europeans ever came upon them. By the eighteenth century, when curious European travelers began to explore the Eastern Mediterranean, they found local inhabitants in the advanced stages of destroying the archaeological record of their lands. They began to purchase, collect, and study the objects that were continually coming to light in these lands from locals who often had little interest in them. It was these first collectors who cherished and first studied these ancient objects that created the discipline of archaeology. Through the nineteenth and twentieth centuries, collections were formed that, through donation or purchase, became the cores of the great art collections of not only Western museums but also of those in the source countries. Museums in Athens, Cairo, and Rome are filled with objects from private collections that were not scientifically excavated by today's standards. Collecting in this case was directly responsible for preserving objects for study and appreciation for many generations to come. An object found by chance and donated to a museum in Turkey is as well preserved and as accessible to scholars as the same object donated to a museum in Chicago. Museums and private collectors need not be ashamed of having purchased antiquities at a time when there was little concern for their retention in the modern nations where they were found.

It is often stated, but seldom explained, that once an object has been divorced from its archaeological context or find-spot, it has lost all of its invaluable academic information. In reality, this is only true in the rarest of cases. Archaeological context, while very important, is only one part of the story; art historical, aesthetic, and material data also constitute the object. For example, an Athenian vase, in the hands of an expert, can tell us when, where, and by whom it was potted and painted, regardless of whether it came from a tomb in Tuscany, Athens, Libya, or the Crimea. The painted scene would convey to even a layman the same visual information if it were carefully excavated or haphazardly removed from the ground. The data is preserved within the object regardless of whether it is today in a museum in Greece or on the auction block at Sotheby's. In fact, if not willfully ignored, the piece on the auction block at Sotheby's is much more available to academics than a piece that has not been published and sits in the storeroom of an underfunded museum

in a small Greek town. Sir John Davidson Beazley's art historical method of identifying ancient Greek pottery, which forms the basis for our entire understanding of the subject today, did not depend at all on archaeological context. Rather, he relied on careful study and comparison of the Greek vases that were dispersed among many public and private collections.⁵

Likewise, an ancient coin can tell us exactly when, where, and for whom it was made regardless of where it was buried or where it is now. In fact, the entire field of ancient numismatics has been dominated by collectors, dealers, and auction houses for the past century. The corpus of ancient Greek and Roman coins that have come to light is so vast that it can only be studied by wide comparative analysis of greatly dispersed finds on stylistic and epigraphic grounds. A single Roman denarius tilled up in a field in France will tell us very little that we did not already know about the site, but that coin may prove to have been struck from a previously unknown die type in a mint in ancient Rome. Had the find-spot been unrecorded and the coin entered the trade, the numismatic data would still have been preserved.⁶

The argument for repatriation is untenable as evidenced by recent political events. Our shared cultural heritage is better spread around the globe than stored in one place. The argument has been taken to its most absurd limit with the recent implementation of statutes by which nations like Italy and Greece can claim any one of the millions of ancient coins that were minted in ancient cities that fall within the modern borders of their current nations as their sole property regardless of where they were excavated and when. It is quite a task for US customs officials to gain doctorate-level knowledge of ancient numismatics so that US collectors do not wrongfully obtain any ancient coins that modern foreign nations claim as their own property. It is bad enough that a modern Greek citizen who finds an ancient Greek coin worth \$100 while digging in his vegetable garden is required to hand it over to a bankrupt government or risk imprisonment, but now the US collector has to worry that he may be held accountable to the same draconian foreign law that would be unconstitutional in our own country. In response to the recently implemented US memorandum of understanding with Greece instituting these impractical trade regulations on ancient coins, an overwhelming majority of US citizens who voiced their opinion on the memorandum disapproved of it, but to no avail. The foundations on which the repatriation argument rest are themselves weak. No meaningful amount of cultural history is lost to a nation if a handful of archaeological artifacts are dispersed around the globe, while the overwhelming majority remains within the country. The accumulated knowledge of centuries of erudition cannot be erased by the export of a few antiquities. The retentionist issue is wholly political rather than art historical or scientific.⁷

⁵Beazley 1942.

⁶Watt 2009.

⁷The foremost legal advocate for an internationalist approach toward the regulation of the art trade was John Henry Merryman (1986). Merryman built upon the earlier work of Paul M. Bator (1983).

The assumption that the art trade is voracious enough to require a constant stream of illegally excavated material is contradicted by even a casual analysis of the market. High prices have always been featured in the debates about the antiquities trade. Things came to a fever pitch recently, when ISIS was said to have earned billions of dollars from looted antiquities. It is important to step back and take a realistic look at the market. As evidence shows, the annual antiquities trade equals about \$300 million. The lion's share of this number comes from the sale of a handful of unique and important pieces whose value has long been established. The highest prices are paid for objects with well-documented provenances and lengthy publication history. Many objects with little or no provenance are rejected by dealers, collectors, and auction houses alike as bad investments. The United Nations Educational, Scientific and Cultural Organization (UNESCO) agreement that was created in 1970 and ratified by the United States in 1983 has proven very effective at stopping the pillaging and destruction of sites in many countries.⁸ Tight customs regulations have made it nearly impossible to import antiquities lacking in documentation and export license. The struggle to stop rampant looting of important sites and objects in most nations was won years ago.

But the apparatus constructed to fight it continues to grow to the point where there are probably more people now employed in the United States monitoring the antiquities trade than there are people gainfully employed in it. There are only three storefront galleries specializing in antiquities left in Manhattan today, down from a dozen two decades ago. In 2017, the New York District Attorney announced the formation of a new, "dedicated antiquities trafficking unit."⁹ The unit employs many analysts, paralegals, and detectives to monitor the supposed rampant trade in illicit antiquities. One of their first seizures was of a Persian relief fragment from an English antiquities dealer who was exhibiting at a New York art fair.¹⁰ The relief had previously been in a Canadian museum collection since the 1930s. The nation of Iran had never made a claim for this well-known and long-published piece and, subsequently, only did so at the instigation of the New York District Attorney's office. A great deal of taxpayer money and law enforcement manpower are now being devoted to track down minor objects that were acquired in good faith decades ago when the worldwide antiquities trade was unregulated. It is difficult to ascertain the

⁸The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 November 1970, 823 UNTS 231 (1970 UNESCO Convention) was instituted to combat the illegal trade of cultural items. Although the United States ratified the 1970 UNESCO Convention in 1972, the implementing statute—the Convention on Cultural Property Implementation Act—was not enacted until 1983.

⁹Henri Neuendorf, "Art Traffickers Beware: The Manhattan DA Is Deploying a New Unit to Combat NYC's Antiquities Crime Wave," *Artnet News*, 18 December 2017, <https://news.artnet.com/art-world/manhattan-antiquities-trafficking-unit-1182896> (accessed January 2018).

¹⁰Committee for Cultural Policy, "NY Cops Seize Panel with 70 Years Provenance," *Cultural Property News*, 30 October 2017, <https://culturalpropertynews.org/ny-cops-seize-panel-with-70-years-provenance/> (accessed November 17, 2017).

relevance or necessity of these actions. The legitimate trade in ancient art continues to shrink as the business of maligning, monitoring, and legislating against the trade continues to grow unabated.¹¹

The actual antiquities trade in the West today is far removed from the subsistence treasure hunting that has always gone on in the Middle East. Antiquities dealers are most interested in well-known pieces that have circulated in the market for decades. Pieces of high artistic merit with documented provenances are the most sought after and valuable. Occasionally, astounding pieces reemerge from old collections that have not been known for many decades, but most often the pieces that sell for high prices have demonstrated their worth through a succession of sales over the years. Pieces that appear out of nowhere with little verifiable documentation of provenance are treated with great caution and trade at considerably lower value than pieces with clear ownership history. Most antiquities are not great works of art at all; they are the detritus of ancient civilizations: pot sherds, belt buckles, cloak pins, low denomination bronze coins, and so on. These items were never meant to be considered as objects of cultural importance in the many modern nations where they are found, according to the wording of the 1970 UNESCO Convention, but the trade in them has become increasingly contentious.¹² These low value items exist in vast numbers. It is unreasonable to require that a Roman bronze coin that exists in the millions and is worth \$5 in the market would be accompanied by export documents and receipts of previous owners going back 50 years, but this is in fact the current state of the legal environment in Germany.

The typical piece of antiquity found in the gallery of an ancient art dealer has usually emerged from an old collection with little or no documentation. Often these pieces come from modest estates where no further information regarding their acquisition will ever be available. Pieces that circulated in the legal marketplace in the United States, Europe, and in source countries in the last century rarely were sold with any supporting documentation of provenance even when it was known. The greatest challenge for dealers and collectors of ancient art today is proving that pieces acquired long ago in a laissez-faire marketplace with little or no surviving documentation satisfy current stringent expectations of provenance. Unfortunately, provenance research often reaches an abrupt dead end. The Internal Revenue Service and analogous bodies in European nations advise document retention standards of no more than 10 years. However, the ancient terracotta statuette that was bought from a licensed dealer in Beirut by one's grandparents 70 years ago is expected to be accompanied by a receipt and

¹¹The late collector George Ortiz (1994) was a tireless advocate of the free movement of antiquities and art in general. For later developments on his argument, see also Appiah 2006; Merryman 2006.

¹²Art. 7(b) of the 1970 UNESCO Convention prohibits the importation of stolen cultural property that has been inventoried by a museum or cultural institution. This now has been expanded in popular opinion to include objects that were never inventoried by a museum or cultural institution but are of types that are generally found in a specific modern nation regardless of rarity, significance, or proof of theft.

export license lest it be supposed to have been looted by modern-day terrorists. Perhaps surprisingly most serious antiquity dealers are fully in favor of the current blanket retentionist policies of archaeologically rich nations. A finite supply of ancient art within the market is obviously better for dealers and collectors in terms of maintaining the monetary value of their holdings. Strict customs controls should guarantee that the antiquities emerging from old collections in the West were acquired before their export was prohibited. Most antiquity dealers would be satisfied to see a verifiable old photograph of a piece on the mantle of a previous owner as evidence that it entered the United States prior to the cessation of the legal trade in its assumed source country.

An art dealer specializing in antiquities today is in a perplexing situation. Old collection material continually reemerges from the estates of last generation's collectors. Most of this material is mundane and undocumented and, therefore, of little interest to today's collectors who are hypersensitive to issues of cultural patrimony, provenance, and value. All of the focus within the market has moved to important pieces with unimpeachable pedigree. Dealers turn away hundreds of objects for every one that they buy. The rate of turnover is very slow for such a capital-intensive business. When a dealer is offered a large collection of ancient oil lamps, Roman glass, coins, terracotta fragments, or plain pottery, they often turn it away regardless of the cost as the effort to catalog, photograph, and market this material exceeds its worth in a discriminating marketplace. There simply are not enough new collectors to absorb the large collections formed in the last century.

The process of acquiring ancient art for a dealer is typically as follows. One receives an auction catalog and peruses the hundreds of lots for a few pieces that seem to represent opportunities. Then one studies these lots, inquires with the auctioneer for additional details regarding the pieces' provenance and condition. One studies their client database to see if there is a collector that the piece may suit. The dealer often travels at considerable expense to examine the pieces and attend the sale. The bidding is usually competitive for objects of high artistic merit that are desirable in the marketplace and supported by good documented provenance. Countless other lots on offer are of interest to no one. It is not unusual for as much as half of the lots in a major antiquities auction to go unsold as they do not fit the criteria that the potential buyer demands. The pieces at auction have been publicized and therefore are subject to all manner of foreign claims and disparaging press prior to the sale. After the sale, the objects will await export licenses if they are to be shipped abroad. The new owner will search the pieces against databases of known stolen material like the Art Loss Register. This process can take months, and, once again, the artwork is subject to potential claims. When they finally ship, they will once again be placed in jeopardy as they undergo the import process that will involve strict customs controls and an additional round of scrutiny regarding their legal status. The entire export and import process as well as any litigation that might arise are at the dealer's expense, adding greatly to the overall cost of the objects. Research, conservation, mounting, photography, and advertising also add

significant expense to the initial acquisition. Typically, some six months after the piece was purchased, it may end up in a Manhattan gallery where it will be under public scrutiny once more when it is offered for sale. The layman gallery goer will often nonchalantly inform the gallery owner that the object on display is “stolen” and “should be in a museum.” If a potential buyer materializes, they will then ask to see the accumulated paperwork for the piece and often will be dissatisfied with the lack thereof. Export documents, import documents, written statements, publication in an auction catalog, and Art Loss Register search certificates are all too often seen as being insufficient by today’s collector who has been led to believe that original purchase receipts from the country of origin and photographic publication from many decades ago constitute necessary documentation. Conversely, when such documents are available, the potential client is often underwhelmed by the handwritten receipt from a licensed Cairo dealer of the 1970s that is so vague it fails to accurately describe the piece in question. Virtually, no level of documentation is adequate in today’s market to reassure collectors, and the vast majority of legally acquired antiquities that reemerge from old collections are not accompanied by any paperwork at all. The last refuge of the inheritor of antiquities seeking to disperse a collection is often donation to a local museum if there is little interest in the market. This is completely stifled by the current regulations of the Association of Art Museum Directors that prohibit, in most cases, museums from accepting donations of archaeological material that was not published photographically prior to 1971. In the end, the anti-trade lobby has made the market so onerous that both buyers and sellers of perfectly legitimate antiquities are at pains to conduct business. None of this red tape has had an appreciable effect on the real problem of looting in certain volatile areas of world.

The level of self-flagellation over Western collector’s so-called cultural imperialism has today reached its zenith. US citizens who choose to collect ancient art do so in an environment that is the most heavily scrutinized in the world. Whereas a Saudi, Russian, Chinese, or even Greek collector can buy pieces on the open market with little fear of being branded a criminal and being forced to forfeit his possessions, an American collector has increasingly little assurance of that notion. It would not be of great concern to most of the public if it were not costing US taxpayer’s money on enforcement, litigation, and the myriad of other costs associated with pursuing the politically motivated claims of a handful of countries that already receive millions of dollars in US tourism and outright foreign aid. Nor is it of great concern to most that the continued witch hunt is jeopardizing the livelihoods of US small businessmen. Similarly, most people are not terribly concerned that it is causing US museums to turn away objects that would enhance their collections or send objects that were bought in good faith many years ago to foreign nations that claim them rather than endure bad press and costly litigation.

If nothing else, it may seem distasteful to most Americans that US law enforcement, rather than focusing solely on the application of US laws and the protection of our citizens and borders, is spending an inordinate amount of time, energy, and

money chasing after American art collectors who may have run afoul of nebulous foreign laws that were never enforced in those foreign nations. When they are successful in doing the police work that is not done on the ground in the source countries, they repatriate the objects to nations of the people that initially dug them up and sold them. Foremost among these are the financially tottering nations of Greece and Italy, the chaotic post-revolutionary nation of Egypt, and the war-torn nations of Iraq and Syria. There, these repatriated objects will join many hundreds of thousands of similar pieces hidden in storerooms of shuttered museums that await Western largesse to pay for operating costs.

The most basic tenet of the anti-antiquities trade camp is that the destruction of archaeological sites will diminish if Western collectors and museums cease acquiring antiquities. This ideology is flawed and naive. The Western antiquities market currently handles no recently excavated material out of the MENA region, yet the looting and destruction in the area are at an all time high. As the pace of land development increases in archaeologically rich countries, more and more objects will be discovered by unprofessional diggers. No amount of chastising art collectors and museums will stop people from digging in the ground in countries like Egypt and Iraq where Western archaeologists are completely impotent to enact change in the way that the populace regards their ancient heritage. It is time to stop blaming Western art collectors and museums that have been major benefactors of the excavation, scholarship, and preservation of ancient sites across the globe. The current destruction of archaeological sites is solely the fault of nations that have failed to make a priority of teaching their people about the importance of their own archaeological heritage.

History has proven that no outside imposed regulations or moral attitudes have been effective at stopping locals from picking up shovels and digging or standing by and watching as their archaeological sites are pillaged in broad daylight with heavy machinery. Shaming Americans will not cause Egyptians, for instance, to respect their past or the unreasonable autocratic laws of their nation. In much of the Arab world, the pre-Islamic period—what the West regards as the Classical period—is regarded as *Jahiliyyah* (“Age of Ignorance”), and its remnants are viewed with disdain. The top Islamic religious body in Egypt has recently issued a *fatwa* encouraging ordinary Egyptians to search for ancient gold on their land in direct defiance of the military regime that rules in Cairo.¹³ Individuals who choose to preserve ancient artwork by forming a collection with their own funds should not fear that their own government will act as enforcers of despots on the other side of the globe who deny their citizens personal property rights that we hold dear in this country.

The solutions to the problem of looting and destruction of ancient sites lie within the source nations themselves. The Portable Antiquities Scheme, as is practiced in

¹³Menna A. Farouk, “Fatwa Allowing Illegal Antiquities Excavation Triggers Ire in Egypt,” *Al-Monitor*, 15 September 2017.

the United Kingdom, is a pragmatic model that decriminalizes the chance and even intentional finds of objects that are declared to the government.¹⁴ Most objects are not of cultural significance to the nation and are allowed to enter the legal trade once the important information of their find-spots and context have been recorded. Finders and landowners are compensated for more significant finds that are deemed objects of national cultural importance by establishing their value at public auction. Italy has increasingly offered export licenses for unimportant duplicative antiquities that have come from both recent excavations and old collections. The archaeologically rich nations of France and Spain do the same.¹⁵ Israel has long allowed a robust and regulated legal trade in antiquities.¹⁶ The old system of *partage* was successful in ensuring that archaeological finds were divided between the source nation and the benefactors who enabled their careful excavation. US collectors could help fund excavations and site preservation if they were able to become the legal custodians of some of the finds. Likewise, duplicative finds from sanctioned excavations conducted long ago that crowd storerooms could be sold to interested collectors with no loss of knowledge about their archaeological context.

Once the object has been photographed and cataloged, there is not a great necessity to store it in perpetuity at the public's expense. Why not let a private collector take on the responsibility of ownership? There simply is not a voracious demand for antiquities within the art market, allowing such documented material to enter the market would further diminish the marketability of future illicit finds. The old adage that it is insane to repeat the same practices and expect different results is applicable here. Unworkable draconian government policies in nations like Egypt have failed to stem the tide of destruction. They have failed to include the public in their cultural heritage. Increasing the criminalization of artwork in the collections of individuals and institutions in the West has not stopped the looting and destruction of cultural property in archaeologically rich nations suffering from poor governance. Exercising these same practices more and with greater vehemence will not solve the problem. Engaging the public and the marketplace is much more likely to produce effective long-term results.

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¹⁴The United Kingdom's Treasure Act 1996, c. 24, and the Portable Antiquities Scheme of 1997 established a system whereby both chance and intentional finders of antiquities could record their finds. It also provides a legal mechanism by which items deemed not to be of national cultural importance are returned to the landowner and/or finder, while more important objects may be obtained by museums while still compensating the land owner and/or finder.

¹⁵Summaries of the laws of Italy and France are contained in Cornu 2014, 126; Frigo 2014, 234.

¹⁶See Einhorn 2014, 221.

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