



IADAA NEWSLETTER JULY 2021

Under the Biden administration, can US cultural policy better reflect American values?

Building relationships with all stakeholders—from dealers and collectors to museums and archaeologists—is vital

Art Newspaper: July 22: Arguably the most significant article of the month, this piece from Peter Tompa, a cultural heritage lawyer and the executive director of the Global Heritage Alliance, analyses the United States' approach to cultural policy and how that affects attitudes and the market.

At the heart of Tompa's argument is the need to deal with the in-built bias against the market among the advisory and decision-making bodies that help formulate policy, particularly Memoranda of Understanding that ramp up import restrictions and come up against Constitutional rights.

"These restrictions deeply concern collectors and the trade because they do not focus only on artefacts proven to be illicitly exported, but also embargo any items of a similar type that enter the US from legitimate markets, particularly those in Europe," Tompa writes.

While this can affect legitimate market activity, dealers and collectors are not the only interested parties here: "...recent MOUs with some Middle Eastern and North African governments, such as Turkey and Egypt, have riled the representatives of displaced minority religious and ethnic groups, whose personal and community property has been seized by those same authoritarian governments."

Tompa acknowledges that the US rightly has a significant duty to take a leading role in fighting the looting of cultural objects, especially as part of its recognition of ethnic and religious minorities. But he argues that this can be done in a more effective way that is also less damaging to legitimate market interests.

His advice?

Firstly to broaden the representation on Washington's influential Cultural Property Advisory Committee (CPAC), which currently has no market professional on it. "The sole representative of the trade is a collector, and no dealers have been appointed to the committee for years," he explains.

Import embargoes are also too broad and bloated rather than targeted at where the potential problem lies, and they do not help protect vulnerable sites, he says. The incoming US Assistant Secretary for the Bureau of Educational and Cultural Affairs, Lee Satterfield, who will oversee this sector "should refocus current import restrictions back to narrow ranges of culturally significant items that have proven to be illicitly exported," argues Tompa.

His third priority is for the US government to give at least as much consideration in policy formation to ethnic minorities and exiles living abroad as it does to foreign state interests.

"The assumption that nations are great protectors of cultural property is all too often misplaced," he writes. "In countries where minorities have been driven into exile by authoritarian governments, it makes no sense to recognise the rights of those governments to the material culture of displaced communities."

How far Tompa's concerns will be listened to is not clear. What is clear, however, is that cultural property protection is not a standalone issue; it is clearly tied up with international economic and political interests that can dictate policy in what is an area of soft-power diplomacy. Because of this, the valid public interests within the cultural sphere continue to be at risk.

The route to the auction house: how does a pre-Hispanic piece come to be sold for thousands of dollars?

MRT: July 2: This is, at the same time, an interesting and confusing article. It begins by appearing to point the finger at Sotheby's over the sale of a supposed Mayan axe, hinting that its origins may be questionable. However, it then goes on to relate the axe's well-published history going back decades, as well as the fact that Guatemala, whence it came, "does not recognize this piece as part of its heritage". Is it a fake or not? Is it looted or not? What evidence does MRT have for any of this, and why the questioning on so flimsy a basis? The article also recognises that often the reason that tracing the origin of artefacts is difficult is because "many left their places of origin centuries ago in the hands of travelers, collectors, archaeologists or the military in the form of looting or pillaging".

It then moves away from the crime/no crime debate to the ideological stance taken by Benedict Savy, one of two authors commissioned by President Macron to produce a report on colonial objects and whether they should be returned from Western museums.

Quoting Savy writing: "Not all objects can be auctioned and have a price fixed in the public, global and apparently rational realm of money," it adds "Even so, these artifacts often become collectibles. The question continues to circulate among critics: are they pieces of art? goods? Patrimonial treasures?"

Having largely intimated that the market should not be allowed to trade in artefacts, it then spend several paragraphs explaining the detailed measures auction houses take to ensure authenticity and provenance.

Finally it returns to the ideological argument, focusing on Mexico, which is lobbying to ban any trade in its artefacts. Even though it is clear that Christie's sale of items in Paris recently was perfectly legal, despite objections from Mexico, MRT seems to imply that Christie's has something to hide because it "has not responded to questions from this newspaper".

US – Import restrictions imposed on categories of archaeological and ethnological material of Turkey

Global Compliance News: June 30: Further mission creep in the form of Memoranda of Understanding and bilateral agreements that restrict the movement of personal property in what appears to be a very unconstitutional manner.

These agreements often arise out of valid concerns surrounding looting and smuggling of cultural property, but the nature and terms of the additional restrictions also undermine valid personal property rights as set in law by the Fifth and 14th Amendments of the United States Constitution. The fear is that few people really understand what is happening here, which means that questions inevitably arise over due process in relation to the watering down of Constitutional measures.

In particular, these bilateral agreements effectively reverse the burden of proof on imports. Instead of having to show that an imported item has been looted, trafficked or both, the authorities may now seize items not accompanied by an export licence from their country of origin and send them back there, regardless of whether any evidence exists to show that they are illicit. This can mean that an item long held in a western collection and sold at auction in Paris or London prior to being exported to the buyer in the US can find itself packed off to Egypt, Libya or, in this case, Turkey without notice. It also means that

countries can effectively reclaim what they now deem cultural patrimony without compensating honest buyers of items that are associated with no crime.

Turkey and the US have made the agreement under the terms of the US Convention on Cultural Property Implementation Act (1983). The list of items covered by the agreement is extensive, with the potential to cut a



vast swathe through the legitimate collecting community. With this in place, it is hard to see why antiquities need to be included in the upcoming US anti-money laundering laws under the Bank Secrecy Act.

Council of State green-lights removal of antiquities from Thessaloniki metro station

Ekathimerini: June 30: The ongoing impasse over the fate of antiquities, which are getting in the way of the redevelopment of the Thessaloniki metro system, has finally been broken with an order to remove them from the site.

“Greece’s highest administrative court, the Council of State (CoS), has green-lighted the temporary removal and repositioning of the antiquities unearthed during excavation work for the Thessaloniki metro in northern Greece,” the article reports.

The image here shows some of the unearthed antiquities in situ prior to removal.

Academics, NGOs and others had joined forces to fight the proposal by the Culture Ministry for temporary removal and storage pending the development works. This includes calling on the European Union to intervene to prevent the artefacts being “irretrievably damaged”.

From Scythians to Goths: ‘Looting’ Russia strikes gold digging up Crimean antiquities

Radio Free Europe: July 4: Following Russia’s annexation of the Crimea, it has set up archaeological excavations there to dig for treasure and remove it, RFE reports Kiev as claiming.

“In Kyiv’s eyes, it’s simple: these are looted treasures. Ukraine contends that the digs, sites, and institutions are being stolen by Russia, whose claim to Crimea is recognized by only a handful of countries. It says that some sites have been damaged and some discoveries taken to Russia, and fears this will continue.”

It reports that more than one million artefacts were found during the construction of the Crimean Bridge across the Kerch Strait to Russia, adding: “To date, at least 29 Russian-controlled entities have participated in illegal excavations, the Ministry For The Reintegration Of The Temporarily Occupied Territories Of Ukraine told RFE/RL, while additional digs carried out by grave robbers have also been recorded.”

Turkey's Fight Against Cultural Looting Should Start at Home

Newsweek: July 6: A well-considered article on the inevitable law of unintended consequences that attends bilateral agreements, as debated by IADAA for some time now. In this case university lecturer Simon Maghakyan starts by calling cultural import restrictions “a double-edged sword”.

His comments, prompted by the newly announced US bilateral agreement with Turkey, acknowledge that “while illicit trafficking in antiquities is a grave problem, some specialists fear that Turkey might use the new agreement to further marginalize displaced Indigenous

communities by reducing whatever little autonomy they have left over their vanishing heritage”.

He accuses Turkey of pursuing the policy in bad faith: “Because if it genuinely cared for its vast cultural patrimony, Turkey would start this protection at home.”

He then goes on to detail confiscations, the neglect of sacred sites, as well as damage and destruction to vulnerable heritage sites meted out since 1923 under the eye of the authorities.

Maghakyan also quotes Elizabeth Prodromou, an expert on religion and geopolitics in Turkey and a former commissioner on the U.S. Commission on International Religious Freedom, who argues that the Memorandum of Understanding between Turkey and the US is “a violation of US law”.

Noting Turkey’s breaches of the 1970 UNESCO Convention on cultural heritage, she says: “Consequently, the current MOU makes the U.S. State Department into an enforcement tool for the Turkish state’s cultural heritage policies that have been designed to erase the country’s Indigenous religious and ethnic minority communities.”

The article makes much not only of Turkey’s failure to protect vulnerable sites within its borders – another obligation under the UNESCO Convention – but even accuses it of issuing permits to looters.

Egypt’s antiquities are a pawn in the Ethiopia dam crisis

Middle East Monitor: July 5: Despite the headline, the main thrust of this article is the history of Egyptian leaders gifting the country’s antiquities in their thousands to foreign countries throughout the 19th and 20th centuries, as well as the theft and smuggling of antiquities by Egyptian officials.

It even revives suspicions surrounding Egypt’s leading archaeologist and former minister of antiquities Zahi Hawass.

The conspiracy theory extends to the role of the United Arab Emirates in supporting Ethiopia against Egypt over the Renaissance Dam project, which potentially threatens the Nile water supply in Lower Egypt, as well as the possibility of this all being linked to the recent arrests of high-profile figures thought to be involved in a smuggling ring.

D.A. Vance: British Antiquities Restorer Arraigned in Global Antiquities Trafficking Scheme Following Extradition from London

Press release from the DA’s Office, New York: July 20: This relates to the restorer who worked for Subhash Kapoor on works looted from India, Pakistan and Sri Lanka, but the use of the word antiquities here means that it will doubtless have an impact on the MENA antiquities market, with which it has no connection.

“Without restorers to disguise stolen relics, there would be no laundered items for antiquities traffickers to sell,” said District Attorney Vance.

Antiquities looting: an ongoing crisis as well as a shameful piece of history

Art Critique: July 21: Another ill-informed article that has failed to check its sources properly, thereby creating a false picture while pushing the usual inflammatory terms “blood antiquities”, “gold rush” of artefact smuggling etc.

“The last decade saw a “gold rush” of artefact smuggling in countries like Syria, Libya, Iraq, Tunisia and Egypt, with looted valuables removed from museums and archaeological sites and sold abroad, often ending up on the European market,” it claims, despite the lack of evidence to show this.

“At the peak of the Islamic State’s power the sale of artefacts constituted the second largest source of income for the terrorist organisation after oil,” it goes on to claim, basing this on

“media reports”, rather than checking the facts, which show this not to be the case – the media report in question dating to 2015 and now discredited claims made at the time about an item that turned out to be fake.

It even manages to get the date wrong regarding the seizure of an important piece at Heathrow Airport, claiming that it was seized in May 2021 (the date of the news reports) rather than in 2013, eight years ago. This is indicative of how the whole article has been cobbled together to promote a position rather than properly researched and investigated to establish the facts. This is commonplace and a major cause of misinformation on this topic. The most revealing aspect is the article’s acknowledgement that “For many of the countries in question, the return of looted treasures is not only a moral issue, but an economic one as well. Egypt, for example, is heavily reliant on tourism and, now that the country has become stable again, the government is eager to restart the ever-so-important flux of visitors... To that end, the Cairo government has ramped up its efforts to retrieve stolen antiquities, whether they were removed from the country in the 19th century or in the last decade.”

Apart from the fact that claims relate to almost all antiquities, regardless of whether there is any evidence at all to show that they are illicit, this acknowledges that rights and obligations under the 1970 UNESCO Convention, to which Egypt is a signatory nation, are being ignored.

Egypt succeeds in retrieving legless statue of Old Kingdom’s priest ‘Ni Kao Ptah’

Egypt Today: July 26: A statuette of an ancient Egyptian priest, pictured here, seized from a dealer at TEFAF Maastricht has been sent back to Egypt labelled as illicit.



“This success came as a result of the continuous efforts exerted by the Egyptian state to recover the Egyptian antiquities smuggled abroad, as part of the important role played by the Ministry of Tourism and Antiquities in coordination with the Ministry of Foreign Affairs in the field of recovering the smuggled Egyptian antiquities,” the article states.

“It is also worth mentioning that the Embassy of Egypt in The Hague has exerted extensive efforts and kept a high level of coordination with the various exhibiting halls and the competent Dutch authorities to retrieve the Egyptian artifacts that were illegally smuggled out of the country.”

Despite no details being given, the article also reports General Supervisor of the Department of Recovered Antiquities Shaaban Abdel-Gawad as stating that “the statue was illegally smuggled out of Egypt”.

This is further qualified by Abdel-Gawad explaining that “the statue was not included in the holdings of museums or warehouses affiliated with the Supreme Council of Antiquities and that it was discovered through surreptitious excavation”.

So what was the evidence that the piece was looted and illegally exported from Egypt? Reading between the lines, it sounds as though the seizure was the result of a lack of evidence, as happened with two seizures at TEFAF Maastricht in 2020. In that case, a head of Apollo and an alabaster vase were seized because of what was deemed “a lack of proof” of legal origin. In other words, yet again the authorities appear to be trampling on basic human rights to property in favour of reversing the burden of proof under international bilateral agreements – guilty until proven innocent. If that is the case, as it so often is these

days, it is now wonder that the 'evidence' has been kept from public gaze in reports like this.

Having to admit that the item was seized as the result of a lack of paperwork rather than any proof that it was linked to a crime would have made it much harder to claim with confidence that "the statue was illegally smuggled out of Egypt".

Once Smuggled Out of Iraq, the Gilgamesh Dream Tablet Has Been Seized by U.S. Authorities and Will Be Returned

Artnet News: July 29: The most detailed of current reports on this subject, it relates the ongoing problems for the Hobby Lobby. A judge has now ruled that a cuneiform tablet seized from its collection in 2019 is forfeit to the US government.

Hobby Lobby founder Steve Green bought the tablet, which is inscribed with a portion of the epic of Gilgamesh, in 2014 from an unidentified US dealer providing false provenance stating that the piece had sold at California auction house Bonhams & Butterfield in 1981. According to the report, another dealer had, in reality, smuggled it into the US having acquired it from Jordanian dealer Ghassan Rihani for \$50,000 in London in 2003. It had since changed hands several times, the report continues.

No details were forthcoming of how and when the tablet was exported from Iraq, but the implication is that it was taken during the Gulf War following the US invasion of Iraq in 1991. "Last year, the Iraqi Ministry of Culture announced that it was investigating the artifact's origins, and that it might have stolen from a regional museum followed the U.S. invasion in 1991," the report explains.