



Are museum seizures really being driven by politics rather than the desire to fight crime?

For years IADAA has warned that the authorities and others have been waging a war against the trade, museums and collectors by attempting to reverse the burden of proof when it comes to the ownership of cultural property.

The updating and extension of bilateral agreements between the US and other countries on imports continue to play a significant role in this. Overarching all of this is the developing mindset, as described in news reports addressing the latest seizures at The Metropolitan Museum of Art in New York (*see below*), that every ancient artefact must be considered stolen unless it can be proved otherwise – and those possessing them are guilty of a criminal offence unless they can demonstrate their innocence. This is now the accepted standard among law enforcement and the media, as well as academics and lobbying groups.

The seizures are the latest moves in the relentless campaign headed by New York Assistant District Attorney Matthew Bogdanos and his Antiquities Unit, which he himself describes as “picking up” with the additional warning: “Expect it to pick up more.”

The story broke via [The International Consortium of Investigative Journalists on August 31](#). That article included the search warrant authorised by the Supreme Court of the State of New York on July 11. The warrant was granted on the grounds that there was

“reasonable cause to believe” that the items in question were stolen. What that evidence was, however, remains undisclosed, but much has been made of the raids being justified based on incomplete provenance and the connection to Giovanni Becchina, a disgraced former dealer convicted of trafficking – circumstantial evidence, certainly, but no more than that. The authorities also allege that provenance paperwork has been forged, but, again, no details have been released to demonstrate how reliable this claim is or just how strong the rest of the evidence is.

So, while there may have been reasonable grounds for search and seizure for the purpose of further investigation, we have yet to see the strength of the evidence to justify the almost immediate announcement that the items would be returned to their source countries.

The September 3 [Art Insider](#) article on the seizures neatly summarises the changing landscape for museums, especially under the zealous Bogdanos spotlight: “The Met has a



The marble head of a Greek goddess dating to 200BC. One of the items allegedly trafficked that ended up in the Metropolitan Museum of Art in New York.

standard policy around repatriation which has been in place for many years. According to it, countries that want objects repatriated must put in a formal request, as well as prove *beyond doubt* [IADAA's emphasis] that the objects were indeed stolen from them. However, in recent years repatriation has become a hot topic in the art community. A consensus has been forming that museums should come forward and repatriate objects in their collection that do not have proper provenance."

So, is this all really about a changing world view rather than crime fighting?

An [ARTNews](#) article echoes this sentiment about provenance.

As *The Art Insider* concludes, the NY DA's actions have not been without criticism: "Some have accused the unit of confiscating trivial artworks to inflate their numbers and make it a PR stunt."

Comments from the DA's office raise the question as to its priorities, which again appear to be a desire to repatriate items on political grounds rather than fighting crime. The *New York Times* reports: "The items, seized under the terms of three separate search warrants executed during the last six months, will be returned to their countries of origin — 21 to Italy and six to Egypt — in ceremonies scheduled for next week. The events are part of a push by law enforcement officials to hasten the pace of repatriations that in the past often dragged on for a year or more, the Manhattan district attorney's office said."

The *NYT* also quotes D.A. Alvin Bragg as saying that pieces held by museums, collectors and auction houses "may have been looted by organized traffickers". This indicates a lack of certainty. Surely the evidence test must be higher than this — at the level of beyond reasonable doubt or, as the Met states, beyond doubt — to justify repatriation, especially so swiftly?

The Met appears to have given up on its demands that claimant countries prove their case before it hands over the objects, effectively creating an open-door for repatriation. So, what would happen if it tested the DA's resolve in the courts, where the rule of law, rather than the prevailing political wind, still takes precedence?

An indication comes from Turkey's legal claim to the Guennol Stargazer, which played out in the headlines in 2021. Having sold at Christie's for \$14.4 million in 2017, the deal for the 6,000-year-old, 9in marble sculpture fell through after the buyer was apparently scared off by the lawsuit.

Turkey had demanded the sculpture back under its 1906 Ottoman Decree, which made all antiquities found within its borders state property. It had promised to provide evidence that the Stargazer had been found in Turkey after that date.

Quite apart from the fact that Turkey had failed to make a claim despite knowing about the Stargazer for 25 years — thereby setting up anyone who had owned it during that time for potential heavy losses — the defendants against Turkey's claim (Christie's and seller Michael Steinhardt) argued that the country simply did not have the evidence to support its claim.

On September 9, 2021, [Judge Alison J. Nathan of the Federal District Court of Manhattan](#) agreed, stating that Turkey had taken too long to make its claim and that there was insufficient evidence to back the claim that the Stargazer was excavated after 1906.

With this sort of legal precedent, why is nobody else challenging the highly questionable claims coming out of the DA's office and elsewhere?

And in Europe...

The rising tide of raids and seizures on museums in Europe is also gathering pace. As Vincent Noce reported in the [Art Newspaper](#) on August 30, several public museums and universities in Germany have become embroiled in criminal investigations into alleged trafficking of objects from the Middle East.

The French authorities continue their investigations, having arrested and charged several people, including former president of The Louvre, Jean-Luc Martinez.

All of this makes for great headlines, but what about the details?

Parisian judge Jean-Michel Gentil was reported to have issued European Arrest Warrants against four dealers in Hamburg, including Roben Dib, who is already detained in Paris, with another against Serop Simonian pending.

The *Art Newspaper* goes into detail about claims that Simonian effectively stored major works with questionable provenances for decades in German museums using loans and acquisition deals. Concern over the terms of some of these deals resulted in internal disputes, most notably between city officials in Hildesheim and Eleni Vassilika, who headed the Roemer & Pelizaeus Museum in Hildesheim from 2000 to 2005, after ten years as the keeper of antiquities at the Fitzwilliam Museum in Cambridge.

Dib, who managed the Simonian gallery, and Simonian himself, have disputed trafficking allegations over works in the gallery's collection. In 2020, they told the *Art Newspaper* that their documentation was in order and the works concerned had come from old collections that had been exported from Egypt legally. They further argued that other works, allegedly looted during the 2011 Arab Uprising, had been registered with German collections and museums long before that.

If the evidence is so compelling, why is the case now being held up by the unexpected announcement of Judge Gentil quitting its oversight to take up a post leading the General Inspectorate of the Gendarmerie on September 1?

Noce has also written analysis on the current state of play in *L'Hebdo*. His article dwells on the legal liability of Martinez and co-defendant Jean-Luc Charnier, former scientific director of Agence France Muséums (AFM), which was instrumental in the establishment of the Louvre Abu Dhabi.

Both have been charged in connection with the museum's acquisition of artefacts now thought or known to have been looted. However, the pair stress that neither the AFM, nor the Louvre or its president, are legally responsible for the acquisitions, the intergovernmental contracts stipulating that the AFM exercises a consulting role and that the legal responsibility for acquisitions rests exclusively with the museum of Abu Dhabi and the Emirates.

[The latest WCO illicit trade report 2020-2021](#)

The World Customs Organisation has finally published a new report following the 2019 report, covering two years from 2019-2021, probably delayed because of the Covid 19 pandemic.

In the press release we read: "This year, the analysis provided in this Report is based on data collected from 138 Member administrations. Previously composed of six sections, the Report now covers seven key areas of risk in the context of Customs enforcement: Anti-money laundering and terrorist financing; Cultural heritage; Drugs; Environment; IPR, health and safety; Revenue; and Security."

It also states: "The analysis contained in this Report is mainly based on the collection of data from the WCO Customs Enforcement Network (CEN) — a database of worldwide Customs seizures and offences"

"However, the CEN database relies heavily on voluntary submissions by Members hence the quantity and quality of the data submitted to the system has its limitations" ...

"However, as part of this new methodology, the data and information sources used to elaborate this Report has been enlarged to include various open sources."

While the rest of the report might be “mainly based on the collection of data from the WCO Customs Enforcement Network (CEN)”, in the introduction to the Cultural Heritage chapter on page 57, the WCO goes further, admitting: “Unfortunately, the data received through the WCO’s Customs Enforcement Network (CEN) in 2020-2021 being incomplete, the following analysis will be mostly based on open source information.”

The result for the Cultural Heritage section is that most of the case studies are based on newspaper articles, sometimes even on events that happened decades ago, and have nothing to do with recent trafficking activities. This is alarming as much of the problem with false data plaguing the cultural property sector stems from misreporting in the media. It is even more alarming when the misleading picture created by a surface reading of the chapter will undoubtedly be used as ‘evidence’ in future campaigns against the art market, as past reports have been.

The WCO is supposed to report recent and reliable figures, like figure 3 on page 35, showing that the number of worldwide reported cultural goods cases for 2021 is a mere 156, that is 1.1 case per reporting country....

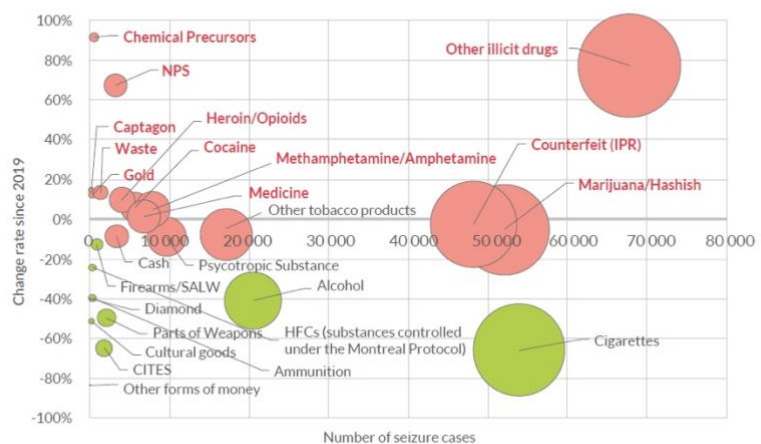
A newly introduced graph (shown here) in the WCO report (Page 17, Fig. 4) reveals precisely what IADAA has reported over the past years: **the illicit trade in cultural heritage is so small that it barely shows in the statistics.** Not only is it the smallest category – so small that you have to look carefully in case you miss it – but the graph also shows that seizures have fallen by around 50% between 2019 and 2021.

Let’s not forget, too, that the Cultural Heritage category is not limited to antiquities, as so many mistakenly believe; it covers 13 distinct sub-categories, including: all forms of art, antiques and collectables, household items, flora and fauna, books and manuscripts. In 2019, the top three categories of recovered item sub-categories were: Fauna, Flora,

3. Number of cases by commodities (WCO Survey & Published Reports)

COMMODITY	2019	2020	2021
Cocaine	5,334	5,463	5,662
Psychotropic Substance	10,508	13,212	9,569
NPS	1,908	2,261	3,197
Marijuana/Hashish	54,973	47,043	52,068
Methamphetamine/Amphetamine	7,456	8,375	7,828
Heroin/Opioids	3,646	5,249	3,996
Chemical Precursors	256	274	490
Other illicit drugs	38,239	47,440	67,801
Captagon	115	30	132
Counterfeit (IPR)	49,430	49,683	48,205
Medicine	6,632	6,107	6,722
Cigarettes	157,178	58,694	53,892
Other tobacco products	18,617	13,961	17,151
Alcohol	34,675	17,138	20,460
Firearms/SALW	974	620	850
Ammunition	528	298	319
Parts of Weapons	4,062	3,134	2,051
Cultural goods	321	131	156
Cash	3,658	2,704	3,342
Gold	243	207	273
Diamond	15	7	9
Other forms of money	18	2	3
CITES	4,948	1,966	1,743
ODS (substances controlled under the Montreal Protocol)	8	33	39
HFCs (substances controlled under the Montreal Protocol)	355	189	269
Waste	1,165	1,271	1,321

Figure 4. Seizure cases in 2021 and its change rate since 2019 (WCO Survey & Published Reports)



Minerals, Anatomy & Fossils; Other; and Hand-painted or Hand-drawn articles and works of art. No mention of antiquities, which did not even warrant its own sub-category.

All of this begs the question as to why, in its chapter on Cultural Heritage, the WCO has chosen to focus exclusively on photographs of seized antiquities (at least one of which, a statuette from Libya, shown here, seems to be a fake) alongside fossils and coins. The choice appears politically charged.

The WCO has stated in the past and here that there is under-reporting of crime in the culture sector and that it only counts seizures and cases reported via the Customs Enforcement Network (CEN), the implication being that the problem is much larger.

It also states that much of the suspicious activity has moved online during the pandemic.

However, the miniscule share of illicit trade represented in its reports over the years by cultural property has been consistent, only now augmented by media reports not sourced via the CEN.

It further boosts this chapter of the report with a summary of Pandora VI, the latest in a seven-year campaign of international operations involving mass seizures and arrests. What the WCO, Europol or Interpol have never done, however, is to provide data on how many of their seizures and arrests later prove to be justified and how many were shown to be related to terrorism financing. It is not just the trade asking for these figures, academic investigators want them too to see how effective these operations are.

Previously the WCO has attempted to rebut IADAA's analysis of its reports, stating that the figures cannot be relied on. As our analysis always provides transparent sources for the data emanating from the reports, however, the WCO's case against our analysis simply does not stand up.

Ultimately, its figures must be indicative of the global state of affairs; if they are misleading, why publish them?

Greece heralds deal to recoup 161 ancient treasures from US

ABC News: August 30: The developing mindset that museums should repatriate objects in their collection that do not have proper provenance also appears to have informed this unusual deal between a US billionaire and Greece.

Billed as "complex", the arrangement marks a new approach for Greece in reclaiming its heritage, even requiring draft legislation to ratify the agreement, which also involves the Met in New York and a Delaware-based cultural institute, where the 161 Early Bronze Age Cycladic artefacts now reside, having been donated by the collector, businessman and philanthropist Leonard N. Stern.

The deal will acknowledge Greece's ownership of the artefacts with an arrangement for them to be exhibited for at least 25 years at the Met. At the end of the 25 years (2049), the

1. High value archaeological piece seized by Tunisian Customs. Copyright: Realites online.



2. Ancient coins seized by Jordan Customs. Courtesy: Jordan Customs.



1 <https://www.realites.com.tr/2021/01/photos-saisie-dune-piece-archeologique-volee-dune-grande-valeur-a-sfax/>

2 <https://en.royanews.tv/news/25484/IMAGES%20Jordanian%20Customs%20foils%20smuggling%20attempt%20of%20three%20antique%20limestone%20pieces>

3 Source: Jordan Customs.

Greek state, according to the bill, can continue lending to the Met for an additional 25 years, or not. Of the 161 antiquities, 15 will return to Athens until October 15 and will be exhibited for one year at the Museum of Cycladic Art.

Greek government spokesman Yannis Oikonomou did not disclose the exact terms of the deal but made it clear that it had the advantage of avoiding legal disputes.

French art dealer Didier Wormser stands trial for trafficking looted Egyptian antiquities

The Art Newspaper: September 2: An excavation at the necropolis in Saqqara was suspended in 2001. When it resumed in October 2002, “it appeared that a dozen engraved stones had been removed from the facades of the tombs’ chapels”.

This was the evidence submitted to a French court by the Egyptian government.

Despite the apparent thefts and Egypt’s obligations under Article 5 of the 1970 UNESCO Convention on illicit cultural property to report them as soon as possible, it failed to do so at the time. This meant that when French antiquities dealer Didier Wormser bought some of the objects in 2003, they were not flagged up as stolen during due diligence checks.

Vassil Dobrev, an Egyptologist from the French Institute of Oriental Archaeology (IFAO) in Cairo who led the excavation of the site in 2001, had not reported the theft because “he could not prove it”, according to the *Art Newspaper*.

It was only in 2013, when Dobrev learnt of the sale to the Museum of Fine Arts in Budapest of a lintel apparently from the site that the authorities were finally alerted.

The museum had bought the piece from UK dealer Rupert Wace, who provided them with documents showing the piece had been sold in 1974 by the Parisian gallery Mythologies.

Investigators say that the paperwork is forged, but the museum is holding out for evidence from Egypt that the lintel was looted. That has not been forthcoming.

Also named as co-seller to the museum was David Ghezlbash, who had bought the piece from Wormser.

COMMUNIQUÉ DE PRESSE

Mercredi 7 Septembre 2022

Monsieur David GHEZELBASH est présumé innocent. Il conteste formellement les faits qui lui sont reprochés dans le cadre de l’information judiciaire en cours et il démontrera sa bonne foi.

Il n’a jamais participé de près ou de loin à un trafic d’œuvres d’art provenant de zones de conflit et, contrairement à ce qui a été indiqué, il ne lui est reproché aucun lien avec les œuvres achetées par le Louvre Abu Dhabi.

Il est enfin rappelé que la GALERIE DAVID GHEZELBASH n’a fait l’objet d’aucune fermeture.

Maitre Corinne DREYFUS-SCHMIDT
Avocat à la Cour

The media statement released by David Gezelbash’s lawyer.

Wormser says he has been charged unfairly, with his lawyer arguing that because the theft was only reported in 2014 and the Egyptian state failed to file a criminal complaint, he could not have known at the time of purchase that the pieces were looted.

Several news outlets have reported that Ghezlbash was charged with gang fraud over the Louvre Abu Dhabi antiquities and has been forced to close his gallery. Not so, says his lawyer in an official statement released on September 7, which reads: *“Mr. David GHEZELBASH is presumed innocent. He formally contests the facts of which he is accused in the context of the current judicial investigation, and he will demonstrate his good faith. He has never participated directly or indirectly in the trafficking of works of art from conflict zones and, contrary to what has been indicated, he is not accused of any link with the works purchased by Louvre Abu Dhabi.*

Finally, we remind you that the DAVID GHEZELBASH GALLERY has not been subject to any closure.”

IADAA understands that the matter in which Ghezlbash disputes the accusations is unrelated to the Louvre Abu Dhabi scandal. The Art Newspaper has added a rider to its article clarifying that the Ghezlbash gallery remains open, but has not altered the article itself, despite the rider saying that it has, so the claimed link to the Abu Dhabi controversy remains in place.

Other articles remain uncorrected, despite the fact that the complete police file on Ghezlbash's case is available to journalists to check independently as part of their due diligence.

Wanted in the US, Lebanese antiquities collector maintains his innocence, says his ‘big mistake’ was trusting New York art crime official

Art Newspaper: September 9: Lebanese dealer and collector Georges Lotfi, now regretting his co-operation with the US authorities as an informant, has published a seven-page rebuttal of the charges against him, as this article reports.

Condemning the behaviour of the New York Assistant District Attorney Matthew Bogdanos, and Homeland Security agent Robert Mancene, who he believes betrayed his trust, Lotfi denies being involved in looting and trafficking, charges over which the US authorities have issued a warrant for his arrest.

He does not deny being involved in a series of deals concerning objects later deemed to have been stolen, but states that he acquired the pieces with all the correct paperwork and has “always acted according to international and Lebanese laws”.



A Roman mosaic dating to 500-550CE in the Metropolitan Museum of Art's collection. It has a provenance dating back to the 1970s involving George Lotfi. It is a subject of the New York investigation. Image public domain via the Metropolitan Museum

He highlighted a 2016 Lebanese law that “exempts private collectors from proving the origin and acquisition of their antiquities” and says his collection “was approved by the Beirut Museum, the Lebanese Culture Ministry and the Homeland Security”.

He also says that he had moved part of his collection from Lebanon via Paris to the United States in the 1980s to safeguard it during the civil war in his country and had wanted to loan works to US museums before sending them back home to Lebanon.

Commentary: Museums need to be wary they don't fuel black market for illicit cultural objects

Channel News Asia: September 9: Another article in which an academic, who appears to have little understanding about issues surrounding the acquisition of ancient artefacts, lays down ground rules about the process for museums and (presumably) the trade.

Cai Yunci states with no authority or evidence: “The only reason why cultural objects continue to be looted from their countries of origin is the huge profits to be made through the illicit art and antiquities trade.”

As anyone who has been following this issue for any time will also know, vastly exaggerated claims running into billions of dollars regarding the value of trade in illicit antiquities must play a very important part indeed – a view held by several prominent academic experts in this field. Yunci simply stokes the misleading fire here.

Even worse is her suggestion that “...by acquiring artefacts with unclear provenance, museums and collectors are directly supporting the illicit trade of cultural objects or blood antiquities”. If she does not know that little to no ancient art and artefacts has clear provenance back to its creation or discovery, then her level of expertise must be very shallow indeed.

Egypt retrieves two smuggled artifacts from Belgium

Egypt Independent: September 12: Two artefacts seized in Belgium in 2016 have been returned to Egypt. They were reportedly looted and smuggled out of the country, although the article goes only so far as to state that “investigations proved that the owner of the exhibition did not have ownership documents for the two antiques” – a considerably lower standard of proof than that required to meet such a claim.

Berlin's controversial Humboldt Forum is finally complete – but “the work inside begins now”, German Culture Minister says

Art Newspaper: September 19: Among the political debate and colonial recriminations surrounding this hot topic is a constructive suggestion from Nigerian artist Paul Ogbemor, who works closely with the Benin Dialogue Group (a consortium of museums negotiating the return of looted items to Nigeria).

He wants the museum to employ native Nigerian curators to help set the whole display in context but, more importantly, argues the training in conservation and management that this would give them would help improve standards in Nigeria's own museums and, presumably, cultural heritage sites.

Not everyone wants their artefacts back from the Humboldt, the *Art Newspaper* reports. The Omaha people of the American Mid-West recognises that Germany bought items from their culture legally, adding: “Even if we wanted to negotiate some sort of return, we don't have means to secure and maintain them to avoid deterioration.” They are also pleased that the Humboldt exhibits have allowed them to learn more about their own culture.

The United States and Mali partner to protect and preserve cultural heritage in Mali

US Embassy in Mali: September 21: Official announcement of the extension of a Memorandum of Understanding between the US and Mali, it highlights the destruction and looting and heritage sites over the past five years.

Germany to return Benin statues to Nigeria

I AM EXPAT: September 25: The Museum of Berlin will return hundreds of Benin Bronzes to Nigeria.

“The Prussian Cultural Heritage Foundation (SPK), which owned the museum’s collection, has transferred the property rights for the collection to Nigeria’s National Commission for Museums and Monuments (NCMM),” the article reports.

“Around a third of the artefacts will remain in Germany for a loan period of 10 years; 40 of them will remain on display, while the rest will be studied by researchers.”

Continuing Egyptian discoveries

Barely a day goes by without the revelation of another significant archaeological discovery in Egypt. The latest announcements include the discovery of 2,600-year-old cheese pots at the Saqqara necropolis of the pharaohs, confirmation of boats being used in the construction of the pyramids, and a new theory that the door to Nefertiti’s tomb is concealed somewhere in the tomb of Tutankhamun.

Museums in England and Wales to gain powers to dispose of objects on moral grounds

The Guardian: September 25: According to Alexander Herman, Director of The Institute of Art & Law, an educational organisation dedicated to the law relating to cultural heritage, and author of *Restitution: the Return of Cultural Artefacts*, UK museums can already return items to countries of origin without breaking the law. This is because the new Charities Act (2022) carries provisions for them to do so on moral grounds.

According to Herman, “...trustees of national museums will soon be able to seek authorisation from the Charity Commission, attorney general or court to return collection objects if they are motivated by a moral obligation, and for low-valued objects they would be able to do so without authorisation”.

He believes that the museum sector has yet to fully appreciate the law change and will no longer be able to fall back on existing rules that have prevented them from restituting works before.

“The truth henceforth will be that they could indeed return objects from the collection without a change to the act provided there is a moral obligation supported by evidence, and the application is approved by the Charity Commission.”

The most obvious case where this might make a dramatic difference is with the British Museum’s Parthenon Marbles.