



IADAA NEWSLETTER OCTOBER 2024

**Is academia to blame for the bloody trade in antiquities?**

Times Higher Education: October 4: An assessment of ethical confusion among papyrologists and academics, some of whom have attempted to justify highly questionable actions in the quest for understanding, this article starts with the destruction of a mummy mask to reveal the contents of papyri it contained... only to discover later that the whole thing was a fake.

Motives for criminal actions vary: A University of Oxford researcher, Dirk Obbink, is arrested for theft, apparently driven by money; the misguided purchases of the Hobby Lobby, prompted by religion; age-old stories of theft by 19<sup>th</sup> century explorers and profiteering from partage.

"The incentives were all about the discovery – not about understanding the context of a find, which might tell us if it is part of a collection, for instance," said Dr Mazza, who has written a new book on the subject, *Stolen Fragments: Black Markets, Bad Faith and the Illicit Trade in Ancient Artefacts*. "I wanted to explain how this is still happening, and why we need to change practices in our discipline."

The article makes assumptions on provenance that do not always stand up. Just because Patty Gerstenblith, director of the Centre for Art, Museum and Cultural Heritage Law at [DePaul University](#), appears to think that any item that does not have a pre-1970 provenance must be questionable, does not make it so.

Nonetheless, it is interesting to see how academics who have considered themselves above the fray until recently may now find that they are, instead, in the thick of it.

**Manhattan's DA and Chicago's Art Institute Slug It Out**

National Review: October 5: Further incisive comment from art critic Brian T. Allen, the first US journalist to raise serious and consistent questions over the ethics and activities of the Manhattan D.A.'s Antiquities Unit.

Allen notes that "lots of people" are asking questions, "most sub rosa". He wants to know why the unit has confiscated and returned so many antiquities.

"In the last couple of weeks alone, a boatload of ancient bronzes was sent back to Turkey. Why, and what's the legal rationale? It's not a pretty picture. Turkey, by the way, is among the world's laggards in restituting anything."

The focus of this latest article is the ATU's fight in court with the Art Institute of Chicago (AIC) over a drawing by Egon Schiele, noting that the lawsuit "implicates the return of other Schiele works that together are valued at millions".

"Until the heirs turned to the Manhattan DA's office, their pleas for a just restitution were mostly ignored," Allen explains. "Last year, the art-trafficking division's standard threats of civil litigation and criminal prosecution pushed seven American museums to capitulate without a court fight."

The AIC decided to fight back and has objected to the ATU using criminal law measures to address what is essentially a civil matter. "It's got the will, the bucks, and, it says, the facts," writes Allen.

At the heart of the debate is whether or not the work in question is Nazi-looted art: yes, says the ATU; no, says the AIC.

As with so many cases involving seized antiquities, ATU chief Matthew Bogdanos appears to base his claims on suppositions rather than facts. The papers proving the AIC's case are forged, the claim argues; not so, says the AIC.

Allen is also puzzled as to the dispute over this particular collection of art being tried in a New York court bearing in mind that it has been litigated there before and the court found that the art had not been confiscated by the Nazis.

"Why is the art-trafficking division and the Manhattan DA ignoring a Manhattan federal court's finding of fact after an exhaustive trial? Shouldn't this finding direct them? Isn't it a waste of time and money to litigate fact over and over? It's like big-city vote-counting. You keep recounting until you get the result you want. Nifty but wrong."

Allen asks whether "the fate of these Schieles [is being] guided by facts and the law or by politics, public relations, and fear?"

The parallels with the D.A.'s assault on collectors and New York's [and beyond] antiquities trade are clear. Certainly Allen thinks so: "I have to say again that antiquities restitution is evolving into a woke fever. Very recent restitutions by the Manhattan DA have gone to, of all places, Turkey, whose despotic ruler last week made an ugly, antisemitic speech at the United Nations. Why are we sending art back to Turkey, Iraq, and even Iran?"

All of this comes just as the D.A.'s office has released its latest figures on recoveries and returns – figures that again don't add up.

On May 2, 2024, the D.A.'s official release stated that during D.A. Alvin Bragg's tenure, his office had returned over 2,000 antiquities to more than 25 countries with a combined value of more than \$250 million. On September 12, the new official release claimed that during his tenure they had returned almost 2,100 antiquities to more than 30 countries with a combined value of more than \$230 million. So an increase in the number of antiquities and countries, but a drop in value of around \$20 million.

This sort of inconsistency has been present in the D.A.'s official figures since at least April 2023. It is clear to the trade that values given to some of the items seized have been hugely inflated. In October 2023, the Antiquities Dealers' Association challenged the \$19 million valuation claimed by the D.A. in relation to 19 antiquities returned to Italy, saying the figures just didn't add up according to their expert dealer valuers.

When *Antiques Trade Gazette* asked the D.A.'s office how it came by its valuations, it replied: "We have experts assess the objects at the time of each repatriation based on the legal definition of value under the law."

At the time The Antiquities Forum – the research and online information service run by the IADAA and the ADA – called for more transparency from the D.A.'s office over the ATU and the claims, writing: "Who these experts are and how they arrived at such an overblown valuation remains a mystery.

"This matters because:

- What appears to be a gross exaggeration of value feeds into the inaccurate narrative of a huge international illicit trade in artefacts.
- It also boosts the public standing of the antiquities unit, which in turn makes its unquestioned position all the more unassailable at a time when serious questions regarding its activities need to be asked.
- The unit's activities are funded from the public purse, so the public is entitled to accurate reporting and transparency."

"With so many anomalies in its official media releases, the question arises as to how much care the D.A.'s office takes when it comes to the accuracy of its claims, and just how far the public is being misled."

### **Advanced imaging technique “sees through” attempts at illicit alteration of ancient Iranian swords**

Cranfield University: October 8: Cranfield has long been a ground-breaking scientific centre helping to advance our understanding of the arts. This latest article explains how it has used advanced imaging techniques to examine Early Iron Age swords from Iran, exposing modern tampering and fakery in the process.



Such weaponry is central to our understanding the development of metalworking in ancient times. "Reliable identification of these alterations is essential not only for reconstructing ancient technological innovation, it also helps to uncover—and ultimately combat—the hidden practices of the illicit antiquities trade," we are told. In this case the use of neutron tomography rather than photons to create images helped investigators identify organic matter, showing how modern glues had been used to modify the swords, *pictured here courtesy of Cranfield University*, which had recently been seized at the UK border.

This essential work showed how the swords were effectively modern pastiches, assembled from the parts of various original weapons of the correct date. Without this work exposing the fakes, scholarship surrounding this area of history could well have headed in the wrong direction.

### **US Supreme Court declines to hear case challenging Smithsonian's restitution of Benin Bronzes**

Art Newspaper: October 11: We have reported before on the dispute between Nigeria's claim on the Benin Bronzes and that of the New York-based Restitution Study Group (RSG), which represents the descendants of those sold into slavery by the Oba of Benin in order to pay for the Bronzes.

Restitution projects have largely ignored the fact that the Bronzes are being returned to the direct descendants of the slavers – the Nigerian government is passing on returned bronzes to the current Oba. The RSG wants the Bronzes to remain in Western museums for the benefit of the descendants of slaves, instead.

This case involved the RSG's leader, Deadria Farmer-Paellmann, attempting to block the Smithsonian from returning 29 Bronzes it holds to Nigeria. The Supreme Court

has denied Farmer-Paellmann's petition, but without publicising its reasons for doing so. The Smithsonian has said that sending the Bronzes back is about returning them to their 'rightful home'.

“While we are disappointed by the Supreme Court's decision not to hear our case, we remain committed to challenging the Smithsonian's power to independently create its own art repatriation policy without public hearing or Congressional approval,” Bruce Afran, a lawyer for RSG, said in a statement.

The RSG vows to fight on, but it is difficult to see what legal avenues remain after the highest court in the land has given its ruling.

### **Cairo's Grand Egyptian Museum finally set to open this month – 11 years later than planned**

The Independent: October 14: Built near the Pyramids of Giza, Egypt's new Grand Museum is set to open – 11 years late. The Grand Egyptian Museum (GEM) will replace the Egyptian Museum on Tahrir Square but will still not open fully until next year.

The main gallery includes 12 halls classified by dynasty.

### **ACCG Secures Heavily Redacted FOIA Release of Materials Related to 'Invitation Only' Roundtable to Sign Controversial MOU with Saudi-Supported Faction in Yemen**

Cultural Property Observer: October 17: Reported in full: “The Ancient Coin Collectors Guild has secured heavily redacted materials in response to its FOIA request relating to a controversial "invitation only" roundtable organized by the Antiquities Coalition, a mysteriously well-funded archaeological advocacy group with ties to Middle Eastern dictatorships. The ACCG has appealed the State Department's decision to redact the materials, but what was produced demonstrates that the Biden-Harris State Department has gone even further than prior administrations in favoring archaeological advocacy groups and cutting out other interested stake holders representing trade, collector, museum, and religious and ethnic minority interests. All this advocacy on behalf of a foreign governments also begs the question why these archaeological advocacy groups apparently do not feel a need to register under either the Lobbying Disclosure Act or Foreign Agents Registration Act.”

### **Top Art World Professionals: Attorneys Weigh In on New Legislation Affecting Collectors, Museums, and Artists**

ARTnews: October 21: This extended article focuses on the increasing regulation facing the US art market, much of its reflected in other jurisdictions across the world, notably in the European Union and the UK.

Inspired by the recent developments and high-profile cases such as the return of the Nazi-looted Guelph Treasure, themes include provenance, statutes of limitation, the repatriation of indigenous art and artefacts, new approaches to the problem of looting and the challenges artists face around Artificial Intelligence and copyright. These are not just questions of law, and the article also addresses shifting views on ethics, which especially now inform museums' acquisitions policy.

Cultural property lawyer Nicholas O'Donnell is a partner of Sullivan and Worchester, and editor of *Art Law Report*. He argues that the US Supreme Court ruling in favour of Germany after it was challenged over retaining items from the Guelph treasure seized from Jews during the Nazi pogroms is a game changer on the issue of restitution. He had filed the lawsuit against Germany on behalf of the heirs under the 1976 Federal Sovereign Immunities Act (FSIA).

“FSIA actually precludes lawsuits against sovereign foreign governments, but with a few specific exceptions,” explains ARTnews. “Among those exceptions are cases in which ‘rights in property are taken in violation of



international law'. O'Donnell argued that, since genocide violates international law and the forced sale of the Treasure took place in the context of a genocidal attack on Jewish people, US courts could sue the German government."

The Supreme Court sided with Germany, which counter-argued that when a government takes property from its own citizens it is a matter of domestic law.

This is an informative summary of many of the issues that currently challenge the market.

**Coin trove from time of Norman conquest becomes England's highest-value find**



The Guardian: October 22: When it comes to metal detecting and the discovery of hoards, few stories are as romantic and dramatic as that of the Chew Valley hoard, unearthed in January 2019, whose tale is told here.

It began as "a speculative trip to a soggy field in south-west England by a seven-strong band of metal detectorists more intent on figuring out how to use some new kit rather than unearthing anything of great historical importance".

The group of friends, who included Adam Staples of Essex Coin Auctions, and his then partner Lisa Grace, an expert in cataloguing antiquities.

The first coin discovered in the field in Somerset was a William I penny. Soon, the whole group were making finds and by the end of the day had uncovered around 2,400 coins. In all, the hoard included 2,584 silver pennies from the time of the Norman conquest, together valued at £4.3m under the Portable Antiquities Scheme – the highest-value treasure find ever in England, eclipsing even the £3.3 million Staffordshire Hoard.

Now the charity South West Heritage Trust has announced it has acquired the coins for the nation thanks to major funding including from the National Lottery Heritage Fund and Art Fund. It will go on display at the British Museum in London from November 26 before touring the UK and finally being added to the collection of the Museum of Somerset in Taunton.

“The number of Harold II coins is double the number that have ever previously found and increases by nearly fivefold the number of known coins of William I issued in the two years after his coronation in 1066,” the report explains. What renders it even more interesting is that the hoard includes coins from around 100 moneyers from 46 mints.

Some of the coins from the hoard are shown here in a photograph courtesy of the British Museum.

### **Greece Will Stiffen Rules for Treasure Hunters to Protect Antiquities**

The National Herald: October 21: Greece plans to tighten metal detecting laws to remove loopholes that put antiquities and ancient coins at risk from theft.

Detector owners must now obtain a possession permit from the Department of Documentation and Protection of Cultural Properties, which has launched a special register of permit holders.

“Only adults are allowed to purchase detection devices or declare if they are given to someone else. Owners must provide the ministry with a map of the area where they intend to conduct their search, along with a description of the purpose, duration, and participants,” the report explains.

It was not explained how the new rules would be enforced, nor whether treasure hunters would be required to declare their findings.

### **UK: Reparations and Repatriation at ‘Reckoning with History’**

Cultural Property News: October 26: In what must rank as one of the best pieces of analysis on the subject, Cultural Property News reports on and summarises the conflicting positions surrounding this highly contentious subject.

The report arises from the October 8 debate in the House of Lords in London.

Key considerations in the debate included fairness, historic injustice, the impact of colonialism, soft power diplomacy, victimhood, data and other evidence showing the impact of slavery, the agency of modern states and equality.

If we demand Britain makes reparations for its role in the African slave trade, do we also demand reparations from African nations who played a very active part in that trade, and also in taking slaves during raids on Europe, most notably as part of the Barbary slave trade? How do you measure what the loss has been and what the compensation should be as a result? What unforeseen consequences might arise from such a policy?

If you want to understand as many of the arguments surrounding all this as possible, this article provides a very accessible source.

### ***Iraqi cabinet moves to protect archaeological sites following Shafaq News report***

Shafaq.com: October 28: Iraq's Ministry of Culture has reacted to media and expert criticism that it is not doing enough to protect vulnerable archaeological sites.

A news report in September revealed that only 10% of Iraq's 18,000 archaeological sites have been explored, while the sector remains largely neglected.

"Fadhil Al-Badrani, Deputy Minister of Culture, noted that the ministry is actively engaged in excavation efforts and enforcing the Archaeological Protection Law against violators," this new report notes.

"He stressed that the ministry has a comprehensive plan to convert key sites into tourist attractions, aiming to attract both domestic and international visitors. This includes restorations at sites such as the Ziggurat (Great Ziggurat) of Ur in Dhi Qar province and Babil's historical remnants, where new infrastructure and amenities are being established."

### ***A new study seeks to establish ethical collecting practices for US museums***

Art Newspaper: October 29: Penn Cultural Heritage Center in the USA is launching a three-year study that will examine collecting policies and practices at US museums with a view to encouraging transparency and accountability in the sector.

"Museums: Missions and Acquisitions Project" (dubbed M2A Project for short) will study over 450 museum collections to identify current standards and establish a framework for institutions to model their future practices," the Art Newspaper reports.

In what it describes as a 'generational shift' in areas such as ethics, Brian I. Daniels, the PennCHC's director of research and programmes, and the M2A Project's principal investigator, says something has to give. "It's time for us to push forward on research that takes stock of collecting practices and plants the seed for the transformation that's required in the sector."

Exactly what this means is not clear, but it is important that whatever conclusions the study comes to, they should be driven by facts and a desire to balance interests rather than by political dogma.

"US museums have historically acquired objects that were removed from these countries illegally or through pathways now considered inequitable," says Richard M. Leventhal, the executive director of the PennCHC and co-principal investigator for the M2A Project.