

# RESEARCH ARTICLES

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## Cultural Heritage Vandalism and Looting: The Role of Terrorist Organizations, Public Institutions and Private Collectors

**Abstract:** The destruction and looting of cultural heritage in the Middle East by terrorist organizations is well-documented by social media and the press. Its brutality and severity have drawn international criticism as the violent destruction of heritage is classified as a war crime. Efforts have been made to preserve objects against bombing and destruction, as archaeologists and other volunteers safeguard sites prior to assault. There is also precedent for prosecuting heritage destruction *via* national and international tribunals. In term of looting, black-market antiquities provide a revenue stream for ISIS; therefore, efforts must be made to stop this harmful trade. Governmental agencies have taken actions to prevent funding through antiquities. Public institutions have a role in safeguarding looted works by providing asylum to them without fueling the black market. At the same time, private collectors must also not purchase

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**Keywords:** cultural heritage vandalism, terrorism, collectors, museums, cultural objects

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## Introduction

The recent and well-documented looting and destruction in the Middle East at the hands of the Islamic State of Iraq and al-Sham ("ISIS")<sup>1</sup> has stunned people around the world. The United Nations (UN) has categorized the actions as the "most brutal, systematic" since the Second World War.<sup>2</sup> ISIS and their network have vandalized some of humanity's greatest achievements, and have celebrated these destructive actions with the dissemination of heart-wrenching videos and photos. Each time an update is released concerning ISIS destruction, the scenarios seem to escalate. ISIS is not satisfied with mere destruction, but its members use murder and violence in their regime. With the use of social media,<sup>3</sup> destruction has been more widely observed and knowledge of its occurrence has spread globally, allowing terrorist organizations to create global fear within an instant. There have been attempts made by other ruling parties to annihilate the past, but the use of media to publicize atrocities sets these crimes apart.<sup>4</sup>

There is no doubt that looted antiquities are a source of revenue for ISIS, and thus looting must be stopped. The Federal Bureau of Investigation and other governmental agencies and international organizations have taken actions to target looting and prevent funds from reaching terror syndicates. In the effort to reduce looting and protect antiquities, museums and public institutions play a vital role. At the same time, private buyers must not purchase illicit objects and fuel the demand for loot. Through education and enforcement of legislation intended to protect cultural heritage, it may be possible to reduce the market for looted antiquities.

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<sup>1</sup> The terrorist group is known as the Islamic State of Iraq and ash-Sham ("ISIS"), the Islamic State or Iraq and the Levant ("ISIL"), Islamic State ("IS"), or Daesh. For purposes of this paper, the abbreviation "ISIS" will be used for consistency in all instances.

<sup>2</sup> *U.N. warns of IS attacks on ancient sites*, "THOnline", 22 August 2015, [http://www.thonline.com/news/national\\_world/article\\_31974b6e-67a5-5583-9dae-d1feb373e792.html](http://www.thonline.com/news/national_world/article_31974b6e-67a5-5583-9dae-d1feb373e792.html) [accessed: 15.11.2015].

<sup>3</sup> *Islamic State photos 'show Palmyra temple destruction'*, "BBC News", 25 August 2015, <http://www.bbc.com/news/world-middle-east-34051870> [accessed: 15.11.2015].

<sup>4</sup> *The Crimes of Palmyra*, "New York Times", 25 August 2015, [http://www.nytimes.com/2015/08/26/opinion/the-crimes-of-palmyra.html?smid=tw-share&\\_r=1](http://www.nytimes.com/2015/08/26/opinion/the-crimes-of-palmyra.html?smid=tw-share&_r=1) [accessed: 15.11.2015].

## The Devastation of Cultural Vandalism

### A Brief History of Cultural Vandalism

Cultural vandalism has occurred since the early eras of human civilization. Ancient art bears proof of this vandalism, providing us with knowledge that ancient civilizations used destruction to exert power and symbolically destroy enemies. Today's region of upheaval in the Middle East has endured many destructive periods. The Hittites sacked and looted Babylon around 1700 BC and were subsequently displaced by other dynasties. One of the earliest known destructions of a city occurred in Ebla, in modern day Syria. The city was occupied prior to 3000 B.C. and was destroyed multiple times during its existence.<sup>5</sup> Decorative objects have also been vandalized. For example, the Royal Portrait Head ("Head of Sargon the Great") from around 2250-2200 B.C. in Nineveh was a sculptural representation of the Akkadian king.<sup>6</sup> The copper sculpture was intentionally mutilated, possibly at the time of Nineveh's fall in the early seventh century BCE. It was selectively disfigured suggesting that it was not intended to be completely destroyed, but rather retained and damaged to symbolize defeat.<sup>7</sup> Ancient sculptural friezes include the erased faces of rulers, not as wanton vandalism, but as targeted destruction of cultural identity.<sup>8</sup> The risk of vandalism was understood and thus artists attempted to discourage it. A 13<sup>th</sup> century B.C. Elamite statue of Queen Napir-Asu included an inscription stating, "He who would seize my statue, who would smash it, who would destroy its inscription, who would erase my name, may be smitten by the curse [...]."<sup>9</sup>

Vandalism continued through the centuries and was celebrated in Ancient Rome as emperors erected processional arches and columns to commemorate brutal victories. The Arch of Titus brazenly celebrates Rome's Sack of Jerusalem. But perhaps Rome's greatest monument to looting is the towering Trajan's Column which pays homage to the woeful destruction of Dacia.<sup>10</sup> The column was funded by the spoils from the Dacian Wars, a bloody conflict waged in early second cen-

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<sup>5</sup> I. Thuesen, *The City-State in Ancient Syria*, in: M.H. Hansen (ed.), *A Comparative Study of Thirty City-State Cultures: An Investigation*, Historisk-filosofiske skrifter, Vol. 21, Det Kongelige Danske Videnskabernes Selskab, København 2000, pp. 55-66.

<sup>6</sup> F. Kleiner, Ch.J. Mamiya, *Gardner's Art Through the Ages, The Western Perspective*, Vol. 1, 12<sup>th</sup> edn., Thomson Wadsworth, 2006, p. 26.

<sup>7</sup> E. Varner, *Mutilation and Transformation: Damnatio Memoriae and Roman Imperial Portraiture*, Brill, Leiden 2004, p. 12.

<sup>8</sup> M. Seymour, *Vanished Images*, Metropolitan Museum of Art, Assyria to Iberia, 6 October 2014, <http://www.metmuseum.org/exhibitions/listings/2014/assyria-to-iberia/blog/posts/vanished-images> [accessed: 15.11.2015].

<sup>9</sup> F. Kleiner, Ch.J. Mamiya, op. cit., p. 31.

<sup>10</sup> A. Curry, *A War Diary Soars Over Rome*, September 2012, <http://www.nationalgeographic.com/trajan-column/article.html> [accessed: 15.11.2015].

ture campaigns that obliterated the Dacian Empire.<sup>11</sup> In addition to land gains, loot seized during the plunder was staggering, estimated to include a half million pounds of gold and a million pounds of silver.<sup>12</sup> As for propaganda, “It [the column] was for Roman citizens, to show the power of the imperial machinery, capable of conquering such a noble and fierce people.”<sup>13</sup> Rome’s glory came to an end and the empire took its final gasps after invasions by northern Germanic tribes. The Vandal tribes were so barbaric in their destruction of Rome and its provinces that we now use the term “vandalism” to refer to all deliberate destruction of property.<sup>14</sup>

The practice of vandalism after conquest or in opposition to conflicting ideology continued through the centuries, with cross-continental destruction committed during the Crusades. From the early years of Christianity, destruction of religious symbols was widespread and became known as iconoclasm (referring to the destruction of Christian icons). Government-led iconoclasm began with the Byzantine Emperor Leo III in the early 8<sup>th</sup> century. Another period marked by iconoclastic destruction was the Protestant Reformation when the removal of religious images was encouraged throughout many areas in Europe during the 16<sup>th</sup> century.<sup>15</sup> The English Civil War saw massive destruction, as it is estimated that at best 10% of medieval British art survived that period.<sup>16</sup> However religious and ethnic destruction was not unique to Europe, as heritage destruction occurred around the world.<sup>17</sup>

In more modern times, heritage has been systematically plundered. During Napoleon’s reign, he aimed to transform Paris into a “New Rome”.<sup>18</sup> The following century, one of history’s most ruthless rulers did the same – Adolf Hitler created the Third Reich, intended as a successor to the Roman Empire. Hitler revered Imperial Rome and emulated its art and heritage. He used art and architecture as a way to connect Nazi Germany with the power of the past. One aspect of its architecture was to use massive size to impress, symbolize victory, and intimidate. Like the Romans, Hitler erected architectural monuments like triumphal arches,

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<sup>11</sup> *Trajan’s Column in Rome*, 14 July 2015, <http://www.trajans-column.org/> [accessed: 15.11.2015].

<sup>12</sup> A. Curry, op. cit., p. 11.

<sup>13</sup> Ibidem.

<sup>14</sup> “Vandalism”, in: *Miriam-Webster Dictionary*, 2015, <http://www.merriam-webster.com/dictionary/vandalism> [accessed: 15.11.2015].

<sup>15</sup> See generally C.M.N. Eire, *War against the Idols: The Reformation of Worship from Erasmus to Calvin*, Cambridge University Press, Cambridge 1989.

<sup>16</sup> E. Graham-Harrison, *From Parthenon to Palmyra: a history of cultural destruction*, “The Guardian”, 3 September 2015, <http://www.theguardian.com/culture/2015/sep/03/palmyra-isis-history-cultural-destruction-parthenon> [accessed: 15.11.2015].

<sup>17</sup> *Destroyed During Invasion*, <http://www.worldheritagesite.org/tags/tag183.html> [accessed: 15.11.2015].

<sup>18</sup> M. Miles, *Art as Plunder: The Ancient Origins of Debate About Cultural Property*, Cambridge University Press, Cambridge 2008, p. 320.

columns, and trophies.<sup>19</sup> In addition to creating works to spread propaganda, the Nazis also destroyed art for self-promotion. They gathered art that did not speak to their sensibilities and labeled it as “degenerate”. This degenerate art, anything modern or that the Nazis deemed was not “Germanic”, was seized, displayed as lacking merit or destroyed by fire. (In some cases, Nazi officers recognized the economic value and seized the art for its financial value.) Nazis used art as a way to display their power, degrade demographic groups, raise funds for a growing force, and propagate their ideology. Cultural vandalism is powerful propaganda because it instills fear.<sup>20</sup> As destruction degrades enemies and suppresses opposition, the objects become symbols of the ways in which the degraded group can, and will, be destroyed. The objects come to symbolize the irrelevance of the past or the weakness of an enemy.<sup>21</sup> Displays of destruction are powerful images that reverberate in society’s collective consciousness. Moreover, through all of these uses, destruction is a means of punishment and a way to eradicate the past.<sup>22</sup>

## ISIS Uses Cultural Heritage as a War Tool

ISIS uses cultural vandalism as a powerful tool to systematically murder the past.<sup>23</sup> Just as the Nazis used art as a type of cultural cleansing, ISIS is following suit. During the summer of 2014, global media sources noted the destruction of ancient tombs and sites laden with religious significance. The actions continued through the year and in early 2015 ISIS released videos of militants toppling and smashing statues and carvings in the Mosul Museum, followed by the bulldozing of an archaeological site dating back to 900 B.C. at the ancient capital of the Assyrian Empire.

ISIS espouses the view that shrines and statues implying the existence of other deities are idolatrous and subject to destruction.<sup>24</sup> ISIS claims that it considers his-

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<sup>19</sup> A. Speer, *Inside The Third Reich*, The Macmillan Company, New York 1970, pp. 133-134 (“The Romans built arches of triumph to celebrate the big victories won by the Roman Empire, while Hitler built them to celebrate victories he had not yet won”).

<sup>20</sup> C. Jones, *In Battle Against ISIS, Saving Lives or Ancient Artifacts*, Hyperallergic, 17 April 2015, <http://hyperallergic.com/200005/in-battle-against-isis-saving-lives-or-ancient-artifacts/> [accessed: 15.11.2015].

<sup>21</sup> See K. Romey, *ISIS Destruction of Ancient Sites Hits Mostly Muslim Targets*, “National Geographic”, 2 July 2015, <http://news.nationalgeographic.com/2015/07/150702-ISIS-Palmyra-destruction-salafism-sunni-shiite-sufi-Islamic-State/#.VbY60e20bho.facebook> [accessed: 15.11.2015].

<sup>22</sup> K. Shaheen, *Outcry over Isis destruction of ancient Assyrian site of Nimrud*, “The Guardian”, 6 March 2015, <http://www.theguardian.com/world/2015/mar/06/isis-destroys-ancient-assyrian-site-of-nimrud> [accessed: 15.11.2015].

<sup>23</sup> T. Velozo, L. Bento, *ISIS Is Destroying Priceless Artifacts. Here's How to Stop Them*, “The Diplomat”, 17 March 2015, <http://thediplomat.com/2015/03/isis-is-destroying-priceless-artifacts-heres-how-to-stop-them/> [accessed: 15.11.2015].

<sup>24</sup> *Palmyra's Baalshamin temple 'blown up by IS'*, “BBC News”, 24 August 2015, <http://www.bbc.co.uk/news/world-middle-east-34036644> [accessed: 15.11.2015].

tory expendable and blasphemous.<sup>25</sup> They pronounce that significant sites were hidden and forgotten by the era of the Prophet Muhammad, but have since been excavated and re-venerated by “Satanists”.<sup>26</sup> In addition to cultural and religious cleansing, the militants are obliterating the memory and identity of populations across the Middle East.<sup>27</sup> It is psychological warfare;<sup>28</sup> destruction causes fear, indicating the might of ISIS, warning citizens as to the extent of ISIS barbarism.<sup>29</sup> Even against international condemnation, ISIS continues its destructive campaign. In fact, individuals protecting heritage have been targeted. The world mourned the loss of one of Palmyra’s greatest champions, Palmyra’s Antiquities Chief, Dr. Khaled al-Asaad. ISIS beheaded the octogenarian antiquities scholar labeled as an “infidel”<sup>30</sup> and hung his body on a column in the main square of historic Palmyra.<sup>31</sup> The symbolism invoked in hanging him from the spot where he devoted his life was not lost on anyone. He has been internationally recognized as a martyr for humanity.<sup>32</sup>

Although sickening to most, videos of beheadings and destruction are used to further ISIS objectives. Shockingly, ISIS uses highly publicized destructive actions to recruit members.<sup>33</sup> Recruitment is linked to the destruction of culturally significant places; allegedly the number of recruits surges upon the release of disturbing images.<sup>34</sup> In early 2015, ISIS obliterated the remains of Hatra, a UNESCO World

<sup>25</sup> M. Hay, *Stopping ISIS’s Destruction of Historical Sites: What Can and Can’t Be Done*, “Good”, 1 September 2015, [http://magazine.good.is/articles/stopping-the-destruction-of-historical-sites-isis-syria-palmyra?utm\\_source=thedailygood&utm\\_medium=email&utm\\_campaign=dailygood](http://magazine.good.is/articles/stopping-the-destruction-of-historical-sites-isis-syria-palmyra?utm_source=thedailygood&utm_medium=email&utm_campaign=dailygood) [accessed: 15.11.2015].

<sup>26</sup> Ibidem.

<sup>27</sup> D. Soguel, *Why ISIS blew up Syria’s iconic Bel temple*, “The Christian Science Monitor”, 31 August 2015, <http://m.csmonitor.com/World/Middle-East/2015/0831/Why-Islamic-State-set-off-explosives-at-Syria-s-ancient-Bel-temple> [accessed: 15.11.2015].

<sup>28</sup> See generally A.P. Schmid, *Terrorism as Psychological Warfare*, “Democracy and Security” 2005, Vol. 1, pp. 137-146.

<sup>29</sup> *Louvre showcases antiquities as Palmyra is destroyed*, “CNN News”, 8 September 2015, <http://www.cnn.com/videos/world/2015/09/08/pkg-amanpour-louvre-unesco-irina-bokova.cnn> [accessed: 15.11.2015].

<sup>30</sup> A. Withnall, *Isis executes Palmyra antiquities chief and hangs him from ruins he spent a lifetime restoring*, “Monitor”, 19 August 2015, <http://www.independent.co.uk/news/world/middle-east/isis-executes-palmyra-antiquities-chief-khaled-asaad-and-hangs-him-from-ruins-he-spent-a-lifetime-restoring-10461601.html> [accessed: 15.11.2015].

<sup>31</sup> *Islamic State militants behead archaeologist in Palmyra – Syrian official*, “Reuters”, 18 August 2015, <http://uk.mobile.reuters.com/article/idUKKCN0QN24I20150818> [accessed: 15.11.2015].

<sup>32</sup> T. Holland, *A martyr for civilisation: The 83-year-old archaeologist who devoted his life to saving Syria’s sublime ruins... and who refused to flee even when he knew ISIS savages would behead him*, “Daily Mail”, 26 August 2015, <http://www.dailymail.co.uk/news/article-3212140/A-martyr-civilisation-83-d-devoted-life-saving-sublime-ruins-refused-flee-knew-ISIS-savages-behead-him.html> [accessed: 15.11.2015].

<sup>33</sup> C. Knight, *The Mosul Museum video from Islamic State could be a staged drama*, “Los Angeles Times”, 28 February 2015, <http://www.latimes.com/entertainment/arts/la-et-cm-mosul-museum-knight-notebook-20150228-column.html> [accessed: 15.11.2015].

<sup>34</sup> S. Almkhtar, *The Strategy Behind the Islamic State’s Destruction of Ancient Sites*, “New York Times”, 31 August 2015, [http://www.nytimes.com/interactive/2015/06/29/world/middleeast/isis-historic-sites-control.html?\\_r=0](http://www.nytimes.com/interactive/2015/06/29/world/middleeast/isis-historic-sites-control.html?_r=0) [accessed: 15.11.2015].

Heritage Site in Iraq.<sup>35</sup> The city had become a symbol of multi-culturalism, with a blend of Roman, Hellenistic, and Arabic architecture.<sup>36</sup> In the summer of 2015, the militants damaged significant structures in Palmyra, a site of “outstanding universal value”,<sup>37</sup> a crossroads of civilizations where East met West.<sup>38</sup> When the site was uncovered in the 17th and 18th centuries, it helped to spark the revival of classical architecture in the West.<sup>39</sup> Due to its history, Palmyra is archaeologically and historically rich, with temples, an aqueduct, and colonnaded streets.<sup>40</sup> And possibly most heartbreaking was the destruction of the Temple of Bel, a structure recognized as an architectural treasure as significant as the Parthenon and the Pantheon.<sup>41</sup> The destruction of sites within the “Pearl of the Desert” hit the archaeological community heavily. Like the brutal Khmer Rouge who reset the clocks to Year Zero, ISIS attempts to rewrite history by destroying the past.<sup>42</sup> The acts of destruction are symbolic as ISIS forcefully tries to convince the world of its legitimacy as a powerful caliphate requiring conversion or death.<sup>43</sup>

## Cultural Heritage is a Human Right

Access to cultural heritage is a human right. This right has not always been explicitly stated, but the concept of heritage as a right has been implicit since early efforts to protect heritage.<sup>44</sup> Preservation of heritage is crucial to a community’s sense of importance and respect.<sup>45</sup> Current ideology about human rights traces its origins to 1948 when the United Nations, motivated by the horrors of the Holocaust during the Second World War, promulgated the Universal Declaration of Human Rights.<sup>46</sup> Article 27 asserts that culture is a human right, stating “Every-

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<sup>35</sup> Ö. Harmanşah, *ISIS, Heritage, and the Spectacles of Destruction in the Global Media*, “Near Eastern Archaeology” 2015, Vol. 78, pp. 170-177.

<sup>36</sup> W. Liebeschuetz, *East and West in Late Antiquity: Invasion, Settlement, Ethnogenesis and Conflicts of Religion*, Brill 2015, pp. 227-229.

<sup>37</sup> J. Jokilehto, *The World Heritage List. What is OUV? Defining the Outstanding Universal Value of Cultural World Heritage Properties*, Monuments and Sites, Vol. 16, Hendrik Bäbeler Verlag, Berlin 2008.

<sup>38</sup> J. Sebesta, L. Bonfante, *The World of Roman Costume*, University of Wisconsin Press, 1994, p. 164.

<sup>39</sup> See generally J.M. Crook, *The Greek Revival*, Country Life Books, Feltham 1968.

<sup>40</sup> See generally A.M. Smith II, *Roman Palmyra: Identity, Community, and State Formation*, Oxford University Press, Oxford 2013.

<sup>41</sup> G. Bowersock, *Syria under Vespasian*, “Journal of Roman Studies” 1973, Vol. 63, pp. 133-140.

<sup>42</sup> See generally G. Chon, S. Thet, *Behind the Killing Fields: A Khmer Rouge Leader and One of His Victims*, University of Pennsylvania, Philadelphia 2010.

<sup>43</sup> J. Moore, *Defying ISIS: Preserving Christianity in the Place of Its Birth and in Your Own Backyard*, Thomas Nelson, 2015, p. 31.

<sup>44</sup> J. Blake, *International Cultural Heritage Law*, Oxford University Press, Oxford 2015, pp. 271-283.

<sup>45</sup> *Ibidem*, p. 275.

<sup>46</sup> Universal Declaration of Human Rights, 10 December 1948, UNGA Res 217 A(III), see H. Silverman, D.F. Ruggles (eds.), *Cultural Heritage and Human Rights*, Springer, New York 2007, pp. 3-4.

one has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”.<sup>47</sup> More recently, the significance of cultural heritage was expressed in UNESCO’s Declaration Concerning the International Destruction of Cultural Heritage (2003), asserting that heritage is linked to human dignity and identity, and access to and enjoyment of cultural heritage has a strong legal basis in human rights norms,<sup>48</sup> stating “cultural heritage is an important component of the cultural identity of communities, groups and individuals and or social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights”.<sup>49</sup> In 2011, the Special Rapporteur at the UN submitted a report extensively outlining arguments in favor of this treatment. The report articulates that cultural heritage is important not only in itself, but also in relation to its human dimension, as it holds significance for individuals and groups for their identity and development.<sup>50</sup>

Regional and national proclamations and accords have also posited statements concerning human rights and destruction. The Turkish government innovatively used human rights as the basis of an attempt to demand restitution of a group of sculptures.<sup>51</sup> The sculptures from the Halicarnassus Mausoleum were removed from within the borders of modern Turkey in 1846 by a British ambassador.<sup>52</sup> Turkish authorities believe that the items were illegally removed, and that they are in Britain illegally. “The British Museum says [it has] permission, but [it does] not. There is no valid documentation”, said Turkish attorney Remzi Kazmaz.<sup>53</sup> Turkey planned to petition the European Court of Human Rights for the return of sculptures from the British Museum, on the basis that the unlawful taking of cultural items is a human rights violation. According to human rights lawyer Gwendolen Morgan, the most probable course of action is to allege a breach by the United Kingdom of Article 1 of the First Protocol to the European Convention of Human Rights, which States: “Every natural or legal person is entitled to the peaceful enjoyment of his posses-

<sup>47</sup> H. Silverman, D.F. Ruggles (eds.), op. cit.

<sup>48</sup> Ibidem.

<sup>49</sup> 17 October 2003, UNESCO Doc. 32 C/Res. 33 (2003).

<sup>50</sup> F. Shaheed, *Report of the independent expert in the field of cultural rights*, A/HRC/17/38, United Nations, General Assembly, Human Rights Council Seventeenth Session Agenda Item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/Report%20of%20Farida%20Shaheed.pdf> [accessed: 15.11.2015].

<sup>51</sup> D. Alberge, *Turkey turns to human rights law to reclaim British Museum sculptures*, “The Guardian”, 8 December 2012, <http://www.theguardian.com/culture/2012/dec/08/turkey-british-museum-sculptures-rights> [accessed: 15.11.2015].

<sup>52</sup> Ibidem.

<sup>53</sup> C. Yeginsu, *Turkey’s New Spin on Human Rights: They Can Be Used to Recover Art*, “International Business Times”, 14 January 2013, <http://www.ibtimes.com/turkeys-new-spin-human-rights-they-can-be-used-recover-art-1004248> [accessed: 15.11.2015].



sions”.<sup>54</sup> The European Court of Human Rights will be informed by domestic laws of the Ottoman Empire at the time that the objects were taken, while considering that the European Convention on Human Rights (“ECHR”)<sup>55</sup> has only been in force since the 1950s.<sup>56</sup> Well-known cultural heritage lawyer Norman Palmer stated, “I have not heard of it [human rights] being used to raise a claim for the specific restitution of particular tangible objects [...] This would be a novel claim”.<sup>57</sup>

Although cultural heritage professionals have been anxiously awaiting the outcome of the world’s first case demanding restitution based on human rights grounds, the statues are still in the British Museum.<sup>58</sup> The European Court of Human Rights, established in 1959 by the ECHR, has not yet agreed to hear the case. The court has jurisdiction over cases concerning human rights submitted by individuals or groups or one or more of the contracting States.<sup>59</sup> The court has jurisdiction to resolve human rights issues, not public international law regarding property ownership. For this reason, the proper venue for this case may be the International Court of Justice in The Hague.<sup>60</sup> Interestingly though, Greece appears to have taken notice of Turkey’s novel actions as the Greek Ministry of Culture hired an international human rights attorney, Amal Clooney, in a cultural heritage matter, the demand for restitution of the Parthenon Marbles.<sup>61</sup>

## What Can Be Done?

### How can terrorists be stopped from destroying cultural heritage?

Heritage professionals and government officials have suggested that military forces should be involved in preventing destruction.<sup>62</sup> With the use of art professionals, as with the Monuments, Fine Arts, and Archives program during the Second World War (members of the group are now famously known as “The Monuments

<sup>54</sup> Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, 20 March 1952, 213 UNTS 262.

<sup>55</sup> 4 November 1950, 213 UNTS 221.

<sup>56</sup> D. Alberge, *op. cit.*

<sup>57</sup> *Ibidem.*

<sup>58</sup> *Mausoleum of Halikarnassos (Room 21)*, The British Museum, [http://www.britishmuseum.org/explore/galleries/ancient\\_greece\\_and\\_rome/room\\_21\\_halikarnassos.aspx](http://www.britishmuseum.org/explore/galleries/ancient_greece_and_rome/room_21_halikarnassos.aspx) [accessed: 15.11.2015].

<sup>59</sup> J.G. Merrills, A.H. Robertson, *Human Rights in Europe: A Study of the European Convention on Human Rights* Manchester University Press, Manchester 2001, p. 3.

<sup>60</sup> *Jurisdiction*, International Court of Justice, <http://www.icj-cij.org/jurisdiction/index.php?p1=5> [accessed: 15.11.2015]

<sup>61</sup> J. Stanton, *Amal Clooney Advises Greece to Take British Museum to international court to win back Elgin Marbles, saying: 'It's now, or never'*, “DailyMail”, 13 May 2015, <http://www.dailymail.co.uk/news/article-3079325/Amal-Clooney-advises-Greece-British-Museum-international-court-win-Elgin-Marbles-saying-s-never.html> [accessed: 15.11.2015].

<sup>62</sup> *Culture under Threat: Antiquities Trafficking & Terrorist Financing – NY Forum*, 24 September 2015, <https://www.youtube.com/watch?v=WFsAf7Dslq8> [accessed: 15.11.2015].

Men”),<sup>63</sup> it may be possible to protect some sites prior to destruction. In light of extensive damage, several groups have come forward to prevent further destruction. Corine Wegener, an Army reservist, served as an Arts, Monuments, and Archives Officer to help protect the Iraq National Museum as part of Operation Iraqi Freedom. Her expertise led her to found the US Committee of the Blue Shield, a non-profit organization that supported ratification of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954 Hague Convention),<sup>64</sup> trains troops, and creates lists of culturally important sites for the Department of Defense to avoid striking.<sup>65</sup> Volunteers on the ground risk their lives to protect sites before attacks. Due to the effort of volunteers, some of the priceless mosaics in Syria’s Ma’arra Mosaic Museum were saved earlier this year.<sup>66</sup> Of course there are many questions that remain concerning the safety of volunteers, the role of force used in preservation, and the damage that may result from placing troops and military equipment near sensitive sites.<sup>67</sup>

## Cultural Heritage Destruction Should Be Treated as a War Crime

Heritage destruction has been classified as a war crime, and ISIS’s actions have been categorized as criminal.<sup>68</sup> Earlier this year, UN Secretary-General Ban Ki-moon aptly stated, “The deliberate destruction of our common cultural heritage constitutes a war crime and represents an attack on humanity as a whole”.<sup>69</sup> The UN 1954 Hague Convention explicitly prohibits using monuments and sites for military purposes and harming or misappropriating cultural property in any way (Article 8). The convention applies to immovable and movable cultural heritage, including monuments of architecture, art or history, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, as well as scientific collections of all kinds regardless of their origin or ownership (Article 1). The stated purpose of the 1954 Hague Convention is to safeguard heritage by establishing an agreement among States Parties to respect cultural prop-

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<sup>63</sup> B. Witter, R.M. Edsel, *The Monuments Men: Allied Heroes, Nazi Thieves, and the Greatest Treasure Hunt in History*, Center Street, New York 2009.

<sup>64</sup> 14 May 1954, 249 UNTS 240.

<sup>65</sup> United States Committee of the Blue Shield, <http://uscbs.org/about-us.html> [accessed: 15.11.2015].

<sup>66</sup> *Emergency Preservation Activities Completed at Syria’s Ma’arra Mosaic Museum*, “Smithsonian”, 5 March 2015, <http://newsdesk.si.edu/releases/emergency-preservation-activities-completed-syria-s-ma-arra-mosaic-museum> [accessed: 15.11.2015].

<sup>67</sup> See generally R. Teiggeler, *Preserving Cultural Heritage in Times of Conflict*, in: G. Gorman, S. Shep (eds.), *Preservation Management for Libraries, Archives, and Museums*, Facet Publishing, London 2006, pp. 133-165.

<sup>68</sup> *Destruction of Palmyra’s Baalshamin Temple ‘a war crime’*, “BBC News”, 24 August 2015, <http://www.bbc.com/news/world-middle-east-34043676> [accessed: 15.11.2015].

<sup>69</sup> *Calling Attacks ‘a War Crime’, Secretary-General Strongly Condemns Destruction of Cultural Heritage Sites in Iraq*, United Nations Meetings Coverage and Press Releases, 6 March 2015, <http://www.un.org/press/en/2015/sgsm16570.doc.htm> [accessed: 15.11.2015].

erty in their own territory as well as that of other Parties.<sup>70</sup> The Parties consent to abstain from exposing cultural property to damage, except in cases of military necessity<sup>71</sup> (a loophole that has unfortunately allowed destruction of significant sites, but was necessary to include due to security interests of State Parties) and to prohibit theft or vandalism, including those actions by domestic and foreign military forces. The convention prohibits nationals from “any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property”.<sup>72</sup>

Just as the 1954 Hague Convention was prompted by destruction and looting during the Second World War, nations convened in 1991 partly due to damage during the late 1980s and early 1990s, in the Balkans.<sup>73</sup> The Second Protocol to the Hague Convention, which was adopted in 1999, further expounds the provisions of the Convention relating to safeguarding of and respect for cultural property and conduct during conflict.<sup>74</sup> The protocol requires general provisions for protection that includes preparatory measures in times of peace and nurturing respect for culture through education. Article 10 of the protocol also provides for enhanced protection status for cultural heritage property and immunity in this category. Article 14 describes the circumstances under which enhanced protection status can be lost, suspended or cancelled, and importantly outlines instances in which protection can be removed for sites being used in furtherance of military objectives. Importantly, it defines individual criminal responsibility and jurisdictional procedures in the event of violations, with specification of sanctions to be imposed for grave violations with respect to cultural property. Article 15.2 of the protocol and Article 28 of the 1954 Hague Convention state that individuals may be criminally responsible, and that this culpability extends to persons other than individuals who directly commit acts in defiance of the Convention and its Second Protocol.

Both Syria and Iraq are States Parties to the 1954 Hague Convention,<sup>75</sup> meaning that they are responsible to criminally prosecute violators after resolution of a conflict. State Parties are also responsible for protecting their own domestic heritage during conflict, as stated in Chapter 1, Article 3 of the 1954 Convention, “The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate”.<sup>76</sup> In the case that nations cannot properly address these issues, international bodies may pursue looters. The UN may find it appropriate to seek and prosecute individu-

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<sup>70</sup> 1954 Hague Convention, Preamble.

<sup>71</sup> Ibidem, Article 4.

<sup>72</sup> Ibidem.

<sup>73</sup> A. Jakubowski, *State Succession in Cultural Property*, Oxford University Press, Oxford 2015, p. 244.

<sup>74</sup> Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, 26 March 1999, 2253 UNTS 212.

<sup>75</sup> Yet, they are not parties to the Second Protocol to the 1954 Hague Convention.

<sup>76</sup> 1954 Hague Convention, Article 3.

als responsible for vandalism and looting as crimes against humanity, potentially in conjunction with the International Criminal Court (“ICC”).<sup>77</sup> Under Article 5 of the Rome Statute,<sup>78</sup> the ICC has jurisdiction to try individuals for war crimes.<sup>79</sup> The ICC considers the destruction of cultural property a war crime.<sup>80</sup> Under the Rome Statute, ICC can exercise jurisdiction in the following circumstances: (1) A State Party refers the case to the ICC Prosecutor in accordance with Article 14; (2) the Security Council of the UN refers the case to the ICC Prosecutor in according with Chapter VII of the Charter of the United Nations; or (3) the ICC Prosecutor initiates an investigation under Article 15 of the Rome Statute.<sup>81</sup> In the instance that the ICC does not exercise jurisdiction, the UN Security Council may establish an *ad hoc* tribunal for “grave breaches” of the Geneva Conventions of 1949.<sup>82</sup> In fact, the International Criminal Tribunal for the Former Yugoslavia (ICTY), an *ad hoc* international criminal tribunal, has already held individuals accountable for damage done to religious, artistic, scientific or historic institutions and structures. The ICTY’s prior rulings on protection of cultural heritage during conflict have precedential effect. Importantly the ICTY has confirmed that obligations in this regard have already risen to the status of customary international law; thus, they enforceable, even against States not parties to international humanitarian treaties.<sup>83</sup>

## There Are Inherent Difficulties in Prosecuting Cultural Heritage Vandals

The UN condemns the gravity of heritage vandalism and destruction, however treating cultural destruction as a war crime is fraught with challenges. Nations targeted by vandals may not be adequately equipped to prevent destruction; they may not have the resources to properly police sites or transport objects to safe areas. Moreover, many culturally significant objects are part of larger architectural structures or are too bulky or fragile to move without compromising the integrity of the underlying structures.<sup>84</sup> Essentially, pre-conflict protective measures may not have been enact-

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<sup>77</sup> The ICC was established by the Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90 (Rome Statute); as of May 2015, there are 123 State Parties to this treaty, [http://www.icc-cpi.int/en\\_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx](http://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx) [accessed: 15.11.2015].

<sup>78</sup> Rome Statute, Articles 5, 8.

<sup>79</sup> *Ibidem*.

<sup>80</sup> *Cyprus: Destruction of Cultural Property in the Northern Part of Cyprus and Violations of International Law*, The Law Library of Congress, April 2009, <http://www.loc.gov/law/help/cultural-property-destruction/cyprus.php> [accessed: 15.11.2015].

<sup>81</sup> G. Waltman, *Prosecuting ISIS*, 17 October 2014, pp. 18-19, <http://ssrn.com/abstract=2537044> [accessed: 15.11.2015].

<sup>82</sup> Geneva Conventions for the Protection of War Victims, 12 August 1949, 75 UNTS 31.

<sup>83</sup> G. Waltman, *op. cit.*

<sup>84</sup> A. Leask, I. Yeoman, *Heritage Visitor Attractions: An Operations Management Perspective*, Thomson, London 2004, p. 44.

ed due to practical limitations. In regard to post-conflict remedies, it may be unrealistic to expect Syrian and Iraqi officials to prosecute criminals. These nations have faced horrific violence, not only to material objects, but to their populations; citizens are targeted by bombers and suicide martyrs, members of select religious groups are being beheaded, entire communities have abandoned cities and towns, and non-governmental ruling parties are laying claim to property, tax revenue, and land.<sup>85</sup> Even if the current conflicts are resolved, it will be difficult to remedy and rectify issues.

Prosecuting heritage criminals is problematic. One challenge associated with prosecution relates to jurisdiction and haling criminals into court. It is difficult to gain custody over ISIS members. As supporters of a multi-national crime syndicate, vandals are not State fighters, but anonymous thugs. ISIS combatants are not official representatives or military personnel of any sovereign State,<sup>86</sup> but rather subversive terrorists. It is difficult demanding extradition from non-State actors hell-bent on destruction. Furthermore, a syndicate that values martyrdom likely will not surrender its fighters, but would condemn them to death rather than avail itself to a domestic or Western-led tribunal. With atrocities occurring around the world and the lack of legitimate State representatives from ISIS, exercising jurisdiction over ISIS is problematic.

Fortunately there has recently been a glimmer of hope for those pursuing prosecution. The ICC exercised jurisdiction over a member, Abou Tourab, of an al-Qaeda affiliated group responsible for destroying religious monuments in Timbuktu.<sup>87</sup> It is the first case brought before the ICC for the “destruction of buildings dedicated to religion and historical monuments”.<sup>88</sup> These cases are not frequent, probably due to financial limitations and impracticalities that make prosecution itself difficult, particularly after evidence of destruction is wiped out during war. Western nations would presumably be asked to bear the burden of funding criminal proceedings and detaining culpable parties. In light of the loss of human life, it is arduous to encourage governments to provide financial support for prosecuting heritage destruction. One of the underlying challenges surrounding the difficulty of prosecuting heritage vandalism is that it is often not viewed as significant.<sup>89</sup>

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<sup>85</sup> G. Waltman, *op. cit.*, pp. 12-15.

<sup>86</sup> H. Lozano Bielat, *Islamic State and the Hypocrisy of Sovereignty*, E-International Relations, 20 March 2015, <http://www.e-ir.info/2015/03/20/islamic-state-and-the-hypocrisy-of-sovereignty/> [accessed: 15.11.2015].

<sup>87</sup> *Mali: The hearing of Abou Tourab before the ICC is a victory, but charges must be expanded*, Worldwide Movement for Human Rights, 30 September 2015, <https://www.fidh.org/en/issues/international-justice/international-criminal-court-icc/mali-the-hearing-of-abou-tourab-before-the-icc-is-a-victory-but> [accessed: 15.11.2015].

<sup>88</sup> *Timbuktu mausoleum destruction suspect sent to ICC*, “BBC News”, 26 September 2015, <http://www.bbc.com/news/world-africa-34368108> [accessed: 15.11.2015].

<sup>89</sup> See B. Williams, *What Is Art Crime?*, Damforst Museum, 14 October 2010, [www.damforstmuseum.org/what\\_is\\_art\\_crime.html](http://www.damforstmuseum.org/what_is_art_crime.html) [accessed: 15.11.2015]; see also B. Dobovšek, B. Slak, *The Significance of Studying and Investigation Art Crime: Old Reasons, New World*, Varstvolosjve, “Journal of Criminal Justice and Secu-

When human life is at stake, prosecution against mass murders, rapists, and human traffickers is deemed a higher priority than vandals. Resources will likely be used to prosecute violent criminals and provide assistance to refugees, rather than pursue vandals. But the case against Abou Tourab provides hope that members of terrorist regimes will one day face justice for their cultural crimes. The head of UNESCO, Irina Bokova, hailed the case for breaking “new ground for the protection of humanity’s shared cultural heritage and values”.<sup>90</sup> It is important to remember that preserving heritage in the Middle East and elsewhere should be a concern for the entire civilized world as it is the birthplace of humanity.<sup>91</sup>

## Antiquities are a Source of Revenue for Terrorist Groups and thus Looting Must be Reduced

### There is No Doubt that Antiquities are a Source of Revenue for Terrorist Groups

Whereas preventing cultural vandalism may seem unfeasible and require military intervention, it may be easier to reduce the looting. ISIS profits from loot. “They loot what they can sell and they will destroy what they cannot”, says Amr Al-Azm, professor of Middle East history and anthropology.<sup>92</sup> ISIS does not have the funding of other militant groups like al-Qaeda so they sell antiquities internationally to raise funds.<sup>93</sup> ISIS even has laws that regulate black market profits. The ISIS regulating agency is allegedly based in Manjij, Syria;<sup>94</sup> it provides permits to civilian looters, and charges them a tax of 20% to 50% of their profits.<sup>95</sup> There is conflicting information about ISIS’s reliance on antiquities sales, but looting may become a more significant source of income as oil revenue is targeted by enemies.<sup>96</sup> Dr. Joris D. Kila, a researcher with the University of Vienna and a specialist in heritage studies, noted that ISIS destroys antiquities and sites only after they remove the items that can

rity” 2011, No. 4, p. 398, [http://www.fvv.uni-mb.si/rV/arhiv/2011-4/03\\_Dobovsek\\_Slak.pdf](http://www.fvv.uni-mb.si/rV/arhiv/2011-4/03_Dobovsek_Slak.pdf) [accessed: 15.11.2015] (noting that the art world is seen as an elitist world and not of import to the general public).

<sup>90</sup> *Cultural Destruction as a War Crime*, “New York Times”, 8 October 2015, [http://www.nytimes.com/2015/10/09/opinion/cultural-destruction-as-a-war-crime.html?\\_r=1](http://www.nytimes.com/2015/10/09/opinion/cultural-destruction-as-a-war-crime.html?_r=1) [accessed: 15.11.2015].

<sup>91</sup> K. Shaheen, op. cit.

<sup>92</sup> *Destroy, sell, hide: How Islamic State exploits antiquities*, PBS Newshour, 19 August 2015, <http://www.pbs.org/newshour/bb/destroy-sell-hide-islamic-state-exploits-antiquities/> [accessed: 15.11.2015].

<sup>93</sup> M. Hay, op. cit.

<sup>94</sup> Ibidem.

<sup>95</sup> S. Cox, *The men who smuggle the loot that funds IS*, “BBC News”, 17 February 2015, <http://www.bbc.com/news/magazine-31485439> (noting that “ISIS taxes everything”) [accessed: 15.11.2015]; C. Ward, *Following the trail of Syria’s looted history*, “CBS News”, 9 September 2015, <http://www.cbsnews.com/news/isis-looted-syrian-ancient-artifacts-black-market-us-and-europe/> [accessed: 15.11.2015].

<sup>96</sup> M. Hay, op. cit.

sell, as this type of commodity gains importance as oil prices drop.<sup>97</sup> Some believe that ISIS sells more than it destroys, as higher-quality objects vanish on the market. Even if these sales move the objects out of war zones, they continue to fuel the market and encourage looting, leading to more archaeological destruction.<sup>98</sup> The market is largely hidden, however the market, in general, for Near Eastern antiquities is on fire.<sup>99</sup> High end sales are exorbitant with astounding prices realized during the past decade, providing further incentive to loot.<sup>100</sup> When single objects at legal sales reach astronomical prices, the illegal market prospers as a consequence.<sup>101</sup>

## Antiquities Have Been Used to Fund Terrorist Organizations for Over a Decade

### Heritage Experts Confirm the Existence of a Black Market Funding ISIS

What isn't destroyed is being sold on a black market that reaches Europe and the US.<sup>102</sup> This is nothing new as US officials have reported this pattern for years as antiquities were looted during the Iraqi War to fund crime syndicates. Furthermore, there are first hand reports on the ground of objects coming out of Syria and entering the black market. US Marine Col. Matthew Bogdanos, who led the investigation into the 2003 looting of the National Museum of Iraq and who now prosecutes antiquities cases as an assistant district attorney in the US, has long noted the problem with blood antiquities, stating that the illicit traffic buys bombs and weapons used by terrorist groups.<sup>103</sup> He also warned that the objects leaving conflict zones reach the international market very quickly aided by forged documentation.<sup>104</sup> He states that he and his colleagues have seen ISIS loot on the markets in New York and London.<sup>105</sup> One recent example involved a group of objects including an authentic mosaic freshly ripped out of the ground in Syria and being sold in Turkey.<sup>106</sup> According to UNESCO representatives, the market for looted antiquities

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<sup>97</sup> See A. Seiff, *Looted Booty Bolstered by A Growing Body of International and Domestic Law, More Countries Are Successfully Gaining the Return of Looted Cultural Treasures*, "ABA Journal" July 2014, p. 32, 41.

<sup>98</sup> M. Hay, op. cit.

<sup>99</sup> D. Kohn, *ISIS's Looting Campaign*, "The New Yorker", 14 October 2014, <http://www.newyorker.com/tech/elements/isis-looting-campaign-iraq-syria> [accessed: 15.11.2015].

<sup>100</sup> Ibidem.

<sup>101</sup> C. Renfrew, *Loot, Legitimacy and Ownership: The Ethical Crisis in Archaeology*, "Duckworth Debates in Archaeology", 20 October 2000, p. 90.

<sup>102</sup> C. Ward, op. cit.

<sup>103</sup> M. Bogdanos, *Thieves of Baghdad*, Bloomsbury, London 2005.

<sup>104</sup> D. Wiser, *The Link Between the Islamic State and the Western Art Trade*, "The Washington Free Beacon", 14 September 2015, <http://freebeacon.com/culture/the-link-between-the-islamic-state-and-the-western-art-trade/> [accessed: 15.11.2015].

<sup>105</sup> C. Ward, op. cit.

<sup>106</sup> Ibidem.

is estimated to be worth billions of dollars, and a recent report by the Wall Street Journal notes that antiquities are second only to oil for funding for ISIS (although admittedly no dollar figures are given due to the classified nature of the supporting documents).<sup>107</sup>

Matthew Levitt, a senior fellow and expert in counterterrorism and intelligence, has been following IS finances for over a decade, since its previous existence as part of Al Qaeda. He opines that antiquities were not initially a major funding source, but have gained significance with time.<sup>108</sup> In fact, in late September 2015, the US government unclassified documents and provided definitive proof of these claims.<sup>109</sup> The government seized objects and records during a raid on a property belonging to ISIS's chief financial officer in the spring of 2015.<sup>110</sup> There were extensive records kept by the kingpin which reveal that he took part in over \$100 million in transactions involving looted antiquities.<sup>111</sup> The documents included an elaborate organization chart revealing the complex nature of the crime ring and its global reach.<sup>112</sup>

## Documentation and Photo Images Support Claims of Extensive Looting

Syrian officials, including Syria's Directorate-General of Antiquities and Museums, recognize the robust black market.<sup>113</sup> Their claims are supported by satellite images of thousands of looting pits across Syria.<sup>114</sup> Objects enter the black market with Turkey serving as the gateway, with many sources confirming that objects are smuggled out of Syria and into the neighboring nation destined for the Gulf States, Europe, and the US.<sup>115</sup> The number of historic artifacts seized by Turkish

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<sup>107</sup> M.V. Vlastic, H. Turku, *How can we stop ISIS and the trafficking of our cultural heritage?*, "World Economic Forum", 31 August 2015, <https://agenda.weforum.org/2015/08/isis-trafficking-cultural-heritage/> [accessed: 15.11.2015].

<sup>108</sup> H. LaFranci, *What Syrian antiquities reveal about Islamic State's billion-dollar economy*, "The Christian Science Monitor", 25 August 2015, <http://www.csmonitor.com/USA/Foreign-Policy/2015/0825/What-Syrian-antiquities-reveal-about-Islamic-State-s-billion-dollar-economy> [accessed: 15.11.2015].

<sup>109</sup> C. Jones, *New Documents Prove ISIS Heavily Involved in Antiquities Trafficking*, "Gates of Nineveh", 30 September 2015, <https://gatesofnineveh.wordpress.com/2015/09/30/new-documents-prove-isis-heavily-involved-in-antiquities-trafficking/> [accessed: 15.11.2015].

<sup>110</sup> Ibidem.

<sup>111</sup> Ibidem.

<sup>112</sup> Ibidem (the existence of the organization chart is reminiscent of the documents that accompanied the discovery of the looting ring in Italy organized by illicit antiquities dealer Giacomo Medici recounted in Peter Watson and Cecilia Todeschini's *Medici Conspiracy*).

<sup>113</sup> C. Amanpour, *Syrian antiquities chief: Palmyra taken hostage by ISIS*, "CNN News", 31 August 2015, <http://www.cnn.com/videos/tv/2015/08/31/intv-amanpour-maamoun-abdulkarim-palmyra-isis.cnn/video/playlists/amanpour/> [accessed: 15.11.2015].

<sup>114</sup> D. Coldewey, *Satellite Images Show Widespread Looting At Syrian Landmarks*, "NBC News", 19 December 2014, <http://www.nbcnews.com/science/science-news/satellite-images-show-widespread-looting-syrian-landmarks-n272161> [accessed: 15.11.2015].

<sup>115</sup> J. di Giovanni et al., *How Does ISIS Fund Its Reign of Terror?*, "Newsweek", 6 November 2014, <http://www.newsweek.com/2014/11/14/how-does-isis-fund-its-reign-terror-282607.html> [accessed: 15.11.2015];



authorities rose tenfold in 2014 compared to 2013.<sup>116</sup> Some representatives of collectors claim that there is no proof that loot enters the US, stating that there is “no credible evidence that looted art is coming from Syria to [the] U.S.”<sup>117</sup> However customs figures suggest something very different. There has been a 145% increase in American imports of Syrian cultural property and a 61% increase in American imports of Iraqi cultural property between 2011 and 2013, suggesting that illicit trade is ‘piggybacking’ on the legal trade.<sup>118</sup> The increase in objects is impossible to deny. Foreign sources also report the high value of loot.<sup>119</sup> Moreover, the Western desire for Classical antiquities from war-torn regions seems to suggest that these objects are destined for the US and Europe, with investigative sources supporting those claims.<sup>120</sup> The looters and middlemen themselves work under the belief that looted objects are destined for the Western market.<sup>121</sup>

## The FBI and Other Government Agencies Have Taken Action to Protect Cultural Heritage

On September 29, 2015 the State Department held an event at the Metropolitan Museum of Art. One of the themes was the importance of best practice in the art trade.<sup>122</sup> Best practice includes extensive due diligence.<sup>123</sup> Those involved in arts transactions should not facilitate the trade in loot, buyers should know their dealers, and lawyers should advise their clients on acquisition practices.<sup>124</sup> There are instances in which documents are falsified, but thorough due diligence may help buyers avoid this pitfall.<sup>125</sup> Art market professionals must apply robust due dili-

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S. Hardy, *How the West buys 'conflict antiquities' from Iraq and Syria (and funds terror)*, “Reuters”, 27 October 2014, <http://blogs.reuters.com/great-debate/2014/10/27/how-the-west-buys-conflict-antiquities-from-iraq-and-syria-and-funds-terror/> [accessed: 15.11.2015]; S. Cox, op. cit.

<sup>116</sup> *More than 3,000 artifacts seized in Istanbul raid*, “Daily Sabah Turkey”, 1 September 2015, <http://www.dailysabah.com/nation/2015/09/02/more-than-3000-artifacts-seized-in-istanbul-raid> [accessed: 15.11.2015].

<sup>117</sup> S. Hardy, op. cit.

<sup>118</sup> Ibidem.

<sup>119</sup> M. Hay, op. cit. (some Iraqi intelligence officials suggest that the looting at just one site, al-Nabek in Syria, provided ISIS with \$36 million).

<sup>120</sup> S. Hardy, op. cit.

<sup>121</sup> M. Giglio, M. al-Awad, *Inside the Underground Trade to Sell Off Syria's History*, “Buzzfeed”, 30 July 2015, <http://www.buzzfeed.com/mikegiglio/the-trade-in-stolen-syrian-artifacts#.pwkNMxVd9> [accessed: 15.11.2015].

<sup>122</sup> *Conflict Antiquities*, Panel 1, United States Department of State, Bureau of Educational and Cultural Affairs, <http://eca.state.gov/video/conflict-antiquities-panel-1-video> [accessed: 15.11.2015].

<sup>123</sup> Ibidem.

<sup>124</sup> See ibidem.

<sup>125</sup> F. Francioni, J. Gordley, *Enforcing International Cultural Heritage Law*, Oxford University Press, Oxford 2013, p. 161.

gence; purchasers should buy objects from reputable sources, investigate an object’s history, and procure all required documentation, including licenses and customs forms.<sup>126</sup> Dr. Mauro Miedico of the United Nations Office on Drugs and Crime emphasized the fact that due diligence encourages legitimate and responsible trade.<sup>127</sup> While government officials emphasized the importance of diligence, other art world professionals have suggested an outright moratorium on the purchase of any artifacts from Syria and Iraq.<sup>128</sup>

The Federal Bureau of Investigation (“the FBI”) issued a warning on August 26, 2015 to art collectors and dealers trading in Near Eastern antiquities that looted artifacts are on the market.<sup>129</sup> The August 26, 2015 FBI statement warned collectors of terrorist-plundered antiquities entering the market. Manager of the FBI Art Theft Program, Bonnie Magness-Gardiner stated, “We now have credible reports that U.S. persons have been offered cultural property that appears to have been removed from Syria and Iraq recently”.<sup>130</sup> The report “ISIL Antiquities Trafficking” warns buyers that objects from Iraq are subject to Office of Foreign Assets Control (“OFAC”) sanctions under the Iraq Stabilization and Insurgency Sanctions Regulations,<sup>131</sup> purchasing objects looted by ISIS provides funding to terror organizations and those guilty of this crime are vulnerable to prosecution under 18 USC § 233A, and that thorough due diligence is necessary for Iraqi or Syrian antiquities.<sup>132</sup> Additionally, the International Council of Museums (ICOM) launched the updated Emergency Red List of Iraqi Cultural Objects at Risk in June 2015. The list identifies the endangered categories of archaeological objects or works of art in the most vulnerable areas of the world, in order to prevent them being sold or illegally exported.<sup>133</sup>

<sup>126</sup> See N. Brodie, *The Concept of Due Diligence and the Antiquities Trade*, “Culture Without Context” Autumn 1999 (“In determining whether the possessor exercised due diligence, regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any step that a reasonable person would have taken in the circumstances”); D. Grant, Is It Possible to “Collect” Antiquities These Days?, “Huffington Post”, 5 April 2011, [http://www.huffingtonpost.com/daniel-grant/antiquities-collecting-due-diligence\\_b\\_844838.html](http://www.huffingtonpost.com/daniel-grant/antiquities-collecting-due-diligence_b_844838.html) [accessed: 15.11.2015].

<sup>127</sup> *Conflict Antiquities*, op. cit.

<sup>128</sup> *Culture under Threat...*, op. cit.

<sup>129</sup> *ISIL and Antiquities Trafficking, FBI Warns Dealers, Collectors About Terrorist Loot*, Federal Bureau of Investigation, 26 August 2015, <https://www.fbi.gov/news/stories/2015/august/isil-and-antiquities-trafficking> [accessed: 15.11.2015].

<sup>130</sup> Ibidem.

<sup>131</sup> 31 Council on Foreign Relations (CFR), Part 576, Iraq Stabilization and Insurgency Sanctions Regulations.

<sup>132</sup> *ISIL and Antiquities Trafficking*, Federal Bureau of Investigation, 26 August 2015, [https://www.fbi.gov/news/news\\_blog/isil-and-antiquities-trafficking](https://www.fbi.gov/news/news_blog/isil-and-antiquities-trafficking) [accessed: 15.11.2015].

<sup>133</sup> *The Red List*, International Council of Museums, <http://icom.museum/programmes/fighting-illicit-traffic/red-list/> [accessed: 15.11.2015].

(A similar list for Syrian objects at risk was released in September 2013.<sup>134</sup>) With buyers advised of the necessary diligence, it is essential that all purchasers, including public institutions, complete research, particularly because those establishments have the greatest resources for researching to avoid acquisition of loot.

## International Effort Is Necessary to Stop Funding Terrorism

In an effort to halt looting in the Middle East, the UN Security Council unanimously passed Resolution 2199 in February 2015.<sup>135</sup> The resolution's accompanying report notes that terror groups are generating income from directly and indirectly engaging in the looting and smuggling of heritage items.<sup>136</sup> It notes that cultural goods are used to support ISIS recruitment efforts and strengthen its operational capability to organize and carry out attacks. The resolution explicitly states that it intends to limit the "active or passive" support of terrorist syndicates, including financing.<sup>137</sup> The resolution reaffirmed the pre-existing ban on looted goods from Iraq, and presented a new prohibition on black market antiquities from Syria,<sup>138</sup> and it formally recognizes that black market antiquities fund terrorism. The Resolution calls for financial barriers to disrupt terror syndicates, and declares UN condemnation of any trade with ISIS.<sup>139</sup> The resolution necessitates member States to take preventative measures to stop terrorist groups from receiving donations and from benefiting from trade in antiquities (amongst other goods). The Security Council called on UNESCO, Interpol, and other international organizations to assist in such efforts, while noting that any type of prohibited purchase would lead to penalties from the applicable Sanctions Committee. The resolution not only prohibits the purchase of items directly from terrorist groups, but aims to block ISIS from access to funding from the private sector and black market.

## The Tangled Relationship between Museums and Loot

Due to widespread destruction and looting, some opine that it is acceptable for museums and public institutions to purchase objects from the black market to protect them. Proponents of acquiring black market goods assert that it is better for

<sup>134</sup> *The Red List*, United States Department of State, Bureau of Educational and Cultural Affairs, <http://eca.state.gov/cultural-heritage-center/iraq-cultural-heritage-initiative/red-list> [accessed: 15.11.2015].

<sup>135</sup> *Unanimously Adopting Resolution 2199 (2015), Security Council Condemns Trade with Al-Qaida Associated Groups, Threatens Further Targeted Sanctions*, United Nations Meetings Coverage and Press Releases, 12 February 2015, <http://www.un.org/press/en/2015/sc11775.doc.htm> [accessed: 15.11.2015].

<sup>136</sup> United Nations Security Council Resolution No. 2199 (2015), UN Doc. S/RES/2199 (2015). CL/4100, <http://unesdoc.unesco.org/images/0023/002321/232164e.pdf> [accessed: 15.11.2015].

<sup>137</sup> *Ibidem*.

<sup>138</sup> United States Mission to the United Nations, Fact Sheet: UN Security Council Resolution 2199 on ISIL, 12 February 2015, <http://usun.state.gov/briefing/statements/237432.htm> [accessed: 15.11.2015].

<sup>139</sup> United Nations Security Council Resolution No. 2199 (2015), *op. cit.*

objects to be housed in museums than destroyed in their home countries.<sup>140</sup> Those in support of encyclopedic, or universal, museums maintain that art is best seen within large collections that aim to contextualize objects in the spectrum of world history. They suggest that museums expose visitors to a wide variety of cultures, fostering a sense of a shared human history.<sup>141</sup> Others refute this view as encyclopedic museums have historically been assembled by the removal of objects from their original cultural setting, losing their context; context is what provides humanity with value through archaeology.<sup>142</sup>

Famed and controversial curator James Cuno has long been an outspoken supporter of encyclopedic museums, arguing that museums should express pluralism, diversity, and the idea that culture should not stop at borders.<sup>143</sup> Supporters of encyclopedic museums justifiably tout the benefits of presenting art in a broad context, allowing access to art history to people all over the world. However this argument must be tempered as it can miss the mark when it is considered that the world’s major encyclopedic museums are located in areas where colonialism and plunder have transplanted art objects from their homes during times of conflict or weakness.<sup>144</sup> In fact, Mr. Cuno recently urged the museum world to view heritage through a very warped lens recalling colonial times; he wrote that property belongs to the current parties in power, stating “Cultural property should be recognized for what it is: the legacy of humankind [...] subject to the political agenda of its current ruling elite”.<sup>145</sup> If this is true, then shouldn’t the global community surrender its protective efforts and allow ISIS to destroy territories that it seizes? Are powerful nations and parties to be given free rein to pillage? To view property as belonging to the current ruling parties reverts heritage to being property available for pillage by aggressors. Under Cuno’s view, ISIS’ looting is not a war crime, but rather the exercise of power by a dominant group. Rather than protect property, the ruling class can do as it wishes, whether that is destruction or pillage. However not all people in support of encyclopedic museums take a stance as extreme as Mr. Cuno’s. The current situation in the Middle East has made many reputable art professionals pause to consider the proper role of public institutions during conflict. Gary Vikan, former Director of the Walters Art Museum and now owner of

<sup>140</sup> G. Vikan, *The Case For Buying Antiquities To Save Them*, “Wall Street Journal”, 19 August 2015, <http://www.wsj.com/articles/the-case-for-buying-antiquities-to-save-them-1440024491> [accessed: 15.11.2015].

<sup>141</sup> J. Cuno, *Museums Matter: In Praise of the Encyclopedic Museum*, University of Chicago Press, 2013.

<sup>142</sup> J. Thomas (ed.), *Interpretive Archaeology*, Leicester University Press, 2000, p. 170.

<sup>143</sup> J. Cuno, *Culture War: The Case Against Repatriating Museum Artifacts*, “Foreign Affairs”, November/December 2014, <https://www.foreignaffairs.com/articles/africa/culture-war> [accessed: 15.11.2015].

<sup>144</sup> See generally L. Prott, *The International Movement of Cultural Objects*, “International Journal of Cultural Property” 2005, Vol. 12, pp. 225-248.

<sup>145</sup> Ibidem.

Vikan Consulting,<sup>146</sup> suggests that museums should never buy from ISIS, but that principle should not exclude purchase of antiquities from conflict zones. Rather, he advocates the purchase of looted antiquities from troubled regions, even if doing so “encourages looting”.<sup>147</sup> He reasons that purchasing loot is better than destruction by ISIS.<sup>148</sup>

Arguing that the works are better in a museum than in conflict zones is troubling because it ushers museums into the foray of acquiring loot.<sup>149</sup> This suspiciously echoes the defenses recently articulated by disgraced former Getty Museum curator, Marion True. True received international attention after the discovery of her role in the acquisition of looted antiquities by the Getty Museum. In 2005, True was indicted by the Italian government for conspiracy to traffic antiquities,<sup>150</sup> as she purportedly laundered stolen objects through private collections to create fake paper trails that served as provenance. She resigned from the Getty that same year, and has not been active in the museum community since.<sup>151</sup> After a decade of silence, True spoke to the press on the heels of releasing an autobiography. She admits that she knowingly acquired stolen art, but maintains she was not part of a trafficking ring. Her reasoning is dangerous: the illicit objects were everywhere, so how couldn't she acquire them?<sup>152</sup> She argues that there are objects on the market without provenance, and they are better in museum collections until they can be returned.<sup>153</sup> This is vexing as it is easy for museums to hide the true history of the objects and never return them; it is impossible to ignore the fact that objects are in storage and are not subject to public scrutiny, making their return anything but guaranteed. But most troubling is the fact that museums should be held to a higher standard – they must only acquire or accept donations with clear provenance. Accepting loot is dangerous as it encourages donors to acquire illicit works, create fake provenance information, and further muddy the market with inaccurate information.

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<sup>146</sup> Vikan Consulting is a consulting service for museums, museum directors and trustees, collectors, and art dealers.

<sup>147</sup> G. Vikan, op. cit.

<sup>148</sup> Ibidem.

<sup>149</sup> See A.A. Bauer, *Editorial: The Destruction of Heritage in Syria and Iraq and Its Implications*, “International Journal of Cultural Property” 2015, Vol. 22, p. 2.

<sup>150</sup> *Italy v. Marion True and Robert E. Hecht*, Trib. Roma, sez. VI pen. 13 ottobre 2010, n. 19360/10.

<sup>151</sup> The civil charges against True were dropped in 2007, and the criminal matter was dismissed in 2010 (although the case was dismissed, the action against Marion True led to the restitution of antiquities to Italy from museums across the United States).

<sup>152</sup> G. Edgers, *One of the world's most respected curators vanished from the art world. Now she wants to tell her story*, “The Washington Post”, 22 August 2015, [https://www.washingtonpost.com/entertainment/museums/the-curator-who-vanished/2015/08/19/d32390f8-459e-11e5-846d-02792f854297\\_story.html](https://www.washingtonpost.com/entertainment/museums/the-curator-who-vanished/2015/08/19/d32390f8-459e-11e5-846d-02792f854297_story.html) [accessed: 15.11.2015].

<sup>153</sup> Ibidem.

The belief that unprovenanced works should be purchased or accepted by museums unwinds the achievements made in the last couple of decades – a period in which museums were held responsible and sometimes forced to restitute objects with incomplete histories. Marion True stated, “The art is on the market. We don’t know where it comes from [...] when we know where it comes from, we will give it back”.<sup>154</sup> This is disingenuous because many museums have not cooperated or been forthright in property legitimately entitled to be restituted.<sup>155</sup> A museum organized as a public trust has the fiduciary duties to use trust property for designated charitable purposes.<sup>156</sup> Some museums have strong policies against deaccessioning objects (the process of permanently removing an object from a museum’s collection<sup>157</sup>), and thus it may be dangerous for objects without provenance to enter into permanent collections. One reason that museums fight to retain objects relates to their role as public trusts, safekeeping objects for the public while collecting, preserving, and making objects available for viewing.<sup>158</sup> Many cases have arisen during the past few decades in which museums zealously fought against repatriation.<sup>159</sup>

To properly serve the public, museums must refrain from illegal acquisitions and protect cultural objects.<sup>160</sup> Failing to establish policies that respect the history of an object and its scientific value, breaches a museum’s fiduciary obligation of due care.<sup>161</sup> By reason of their educational missions, museums should be the most

<sup>154</sup> A. Martinez, *Disgraced Getty Curator Marion True Roars Back With Tell-All Memoir*, “Observer”, 25 August 2015, <http://observer.com/2015/08/disgraced-getty-curator-marion-true-roars-back-with-tell-all-memoir/> [accessed: 15.11.2015].

<sup>155</sup> A.A. Bauer, op. cit.

<sup>156</sup> Restatement (Second) of Trusts § 348 (1959).

<sup>157</sup> M.C. Malero, I. De Angelis, *A Legal Primer on Managing Museum Collections*, Smithsonian Books, 1998, p. 217.

<sup>158</sup> G.D. Lowry, *A Deontological Approach to Art Museums and the Public Trust*, in: J. Cuno (ed.), *Whose Muse? Art Museums and the Public Trust*, Princeton University Press and Harvard University Press, Princeton – Cambridge (MA) 2004, p. 143.

<sup>159</sup> *Republic of Turkey v. Metropolitan Museum of Art* 762 F. Supp. 44 (SDNY 1990). (Turkey sued the Metropolitan Museum of Art for the return of looted objects, and a nine year battle ensued before the rightful restitution); the Republic of Turkey demanded the return of the Weary Herakles from Boston’s Museum of Fine Arts (although obvious to everyone viewing the top-half of the statue, the museum took nearly three decades to return the looted object); museums across the US agreed to return objects to Italy after protracted negotiations following damning proof that they possessed loot (see generally J. Felch, R. Frammolino, *Chasing Aphrodite: The Hunt for Looted Antiquities at the World’s Richest Museum* (2<sup>nd</sup> edn., Houghton Mifflin Harcourt, New York 2011); some museums even claim that they have an obligation to the public to retain looted art because of their role as “public trusts”; <http://www.artnews.com/2013/09/11/the-restitution-struggle/> [accessed: 15.11.2015].

<sup>160</sup> I. DeAngelis, *How Much Provenance is Enough? – Post-Schultz Guidelines for Art Museum Acquisition of Archeological Materials and Ancient Art*, PA American Law Institute American Bar Association, Philadelphia, 2005, cited in: B.T. Hoffman, *Art And Cultural Heritage: Law, Policy And Practice*, Cambridge University Press, New York 2006, p. 407.

<sup>161</sup> P. Gerstenblith, *Acquisition and Deacquisition of Museum Collections and the Fiduciary Obligations of Museums to the Public*, “Cardozo Journal International and Comparative Law” 2003, Vol. 11, p. 453.

passionate advocates for the preservation of antiquities.<sup>162</sup> By acquiring loot, museums may be rewarding cultural destruction.<sup>163</sup> Acquisition of loot leads to further destruction by fueling the illicit market.<sup>164</sup> Objects are placed on the market for sale because they have economic value.<sup>165</sup> Allowing museums to purchase items increases the demand for unprovenanced antiquities.<sup>166</sup> It signals museums' willingness to accept loot. Allowing collectors to benefit from tax refunds for charitable donations to museums provides collectors with financial incentive to buy loot and then donate it to museums.<sup>167</sup> This demand creates value and raises prices on these objects, further incentivizing ISIS to loot and sell objects through illicit channels. In fact, there is evidence that ISIS acts with the market in mind.<sup>168</sup>

### Museums Have a valuable Role in Protecting Antiquities at Risk

#### ***As public institutions, museums are important in the fight against looting***

In the United States, attempts have been made to curb the illicit trade. In November 2014, the Protect and Preserve International Cultural Property Act (HR 5703) was introduced in the US House of Representatives. The bill would have created a cultural property protection czar and established import restrictions to prevent looted objects from Syria from entering the US. The legislation did not pass, but a new version of the act was introduced in March 2015, HR 1493. HR 1493 was passed by the House of Representatives in June 2015 and it is currently in the Senate.<sup>169</sup> Under the Act's "Under Emergency Protection for Syrian Cultural Property", Section 8(C) (1), the US President has the authority to waive import

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<sup>162</sup> See A.L. Taberner, *Cultural Property Acquisitions, Navigating the Shifting Landscape*, Left Coast Pr, 2011, p. 55 (positing that curators are the professionals most likely to recognize problematic issues related to illicit excavations and archaeological site destruction).

<sup>163</sup> I. DeAngelis, op. cit.

<sup>164</sup> N. Brodie, *Analysis of the Looting, Selling, and Collecting of Apulian Red-Figure Vases: A Quantitative Approach*, in: N. Brodie, J. Doole, C. Renfrew (eds.), *Illicit Antiquities: The Destruction of the World's Archaeological Heritage*, McDonald Institute, Cambridge 2001, pp. 145-153.

<sup>165</sup> See generally N. Brodie, *Archaeological Looting and Economic Justice*, in: P.M. Messenger, G.S. Smith (eds.), *Cultural Heritage Management, Policies and Issues in Global Perspective*, University Press of Florida, Gainesville 2010, pp. 261-277.

<sup>166</sup> M. Miller, *Looting and the Antiquities Market*, "Athena Review", Vol. 4, pp. 18-26.

<sup>167</sup> P. Gerstenblith, *Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past*, "Chicago Journal of International Law" 2007, Vol. 8, p. 193.

<sup>168</sup> S. Salaheddin et al., *Iraq Says ISIS Demolishes Ruins To Cover Up Massive Looting Of Cultural Heritage*, "Huffington Post", 12 May 2015, [http://www.huffingtonpost.com/2015/05/12/isis-demolishes-ruins-looting\\_n\\_7264792.html](http://www.huffingtonpost.com/2015/05/12/isis-demolishes-ruins-looting_n_7264792.html) [accessed: 15.11.2015]; H. Swains, *Terrorists Looting Antiquities On "An Industrial Scale"*, "Town and Country", 21 August 2015, <http://www.townandcountrymag.com/society/money-and-power/a3609/isis-creates/> [accessed: 15.11.2015].

<sup>169</sup> The Protect and Preserve International Cultural Property Act, HR 1493, 114<sup>th</sup> Congress (2015-2016), <https://www.congress.gov/bill/114th-congress/house-bill/1493/text> [accessed: 15.11.2015].

restrictions for objects at risk so that they may be temporarily located in the US for safeguarding. The Act allows “cultural or educational institutions” to possess these objects to protect, restore, conserve, study, or exhibit them without profit. The law specifies that only these institutions may house the object – private collectors are not granted the same role as heritage guardians. The drafters of the bill wisely had the foresight to prohibit private collectors from taking advantage of looting to build their private, unregulated, and frequently hidden collections.<sup>170</sup> The Act requires that the property be returned to the foreign owner or custodian upon request, and further notes that the waiver is only granted when it does not contribute to illegal trafficking or financing of terror.<sup>171</sup> The law allows the waiver to provide a safe haven, an asylum that does not provide a source of terror funding. It should be noted that asylum is very different from purchase as it does not involve the transfer of title, but rather provides protection in a temporary home. It is necessary for museums safeguarding shared cultural items not to make any ownership claims.

### ***Museums have taken action to protect heritage***

The museum community itself has passed internal guidelines related to safeguarding objects. On the heels of high-level talks at the UN in September 2015, the Association of American Museum Directors (“AAMD”) announced guidelines for museums accepting temporary possession of antiquities at risk from conflict, terrorism, or natural disasters.<sup>172</sup> The “Protocols for Safe Havens for Works of Cultural Significance from Countries in Crisis” establishes a system for museums to provide safe havens until objects can be safely returned to their origin nations. While in the museums, the works will be treated as loans. The Protocols establish a system for the protection of works during the loan process, as it provides a framework for transport, storage, scholarly access, legal protections, exhibition, conservation, and the safe return of objects as soon as possible.<sup>173</sup> To maintain transparency, AAMD member museums participating in this loan program must register works on AAMD’s publicly available online “Object Registry”.<sup>174</sup> This shared knowledge will reasonably prevent museums from absconding objects and later laying claim to them.

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<sup>170</sup> Ibidem.

<sup>171</sup> HR 1493, Section (c)(2).

<sup>172</sup> AAMD *Protocols for Safe Havens for Works of Cultural Significance from Countries in Crisis*, 1 October 2015, <https://www.aamd.org/for-the-media/press-release/aamd-issues-protocols-to-protect-works-of-cultural-significance-in> [accessed: 15.11.2015].

<sup>173</sup> Ibidem.

<sup>174</sup> Ibidem.



## What Measures should Member States enact to abide by Resolution 2199?

### ***The importance of completing due diligence***

The UN's Resolution 2199 reaffirms an existing ban on the illicit trade of antiquities from Iraq and imposes a new ban on the illicit trade of antiquities from Syria. Member States should be enforcing the prohibitions to ensure that their citizens and institutions are not funding terror syndicates. This requires strict rules against the purchase of loot by all buyers, and prohibition against custody of these objects by private collectors. Private collectors have no role in safeguarding objects, and they must be penalized to the fullest extent to discourage unethical purchase or possession. Private collectors continue to drive the demand for looted antiquities,<sup>175</sup> and it is necessary to curb this market to prevent further development of a market funding terrorism and destruction.

### ***US laws prohibit the trade in loot, however violations often go without consequence***

Buyers of looted antiquities may be criminally and civilly liable under various federal statutes. In 1983, Congress passed the Cultural Property Implementation Act ("CPIA") in order to implement the 1970 UNESCO Convention.<sup>176</sup> The CPIA prohibits the importation of stolen cultural material from other State Parties, and applies import controls over a State's patrimony in danger of pillage.<sup>177</sup> The legislation has been used to seize and return objects to foreign nations with which the US has agreements.<sup>178</sup> But herein lies its limitation in terms of Syrian and Iraqi objects. During times without diplomatic relationships between governments, it is not possible for the US to return goods to the legitimate party. In this case, there is not a proper mechanism for seizing and returning objects to legitimate parties in Syria and Iraq, and thus the CPIA's application is difficult.

In terms of criminal penalties, both the National Stolen Property Act ("NSPA") and the US smuggling statute provide the basis for prosecution. The NSPA, codified as 18 USC § § 2314-2315, has been used since its passage in 1934 to prosecute individuals dealing in stolen property. It has more recently been used in antiquities cases<sup>179</sup> as it provides that a person is guilty of a crime if he "receives, possesses, conceals, stores, barter, sells, or disposes of any goods, wares, or merchandise [...]"

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<sup>175</sup> A.A. Bauer, op. cit., p. 2.

<sup>176</sup> See Pub. L. No. 97-446, 96 Stat. 2350-2354 (codified at 19 USC § 2601 et seq.) 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.

<sup>177</sup> See 19 USC §§ 2607-2610 (2012).

<sup>178</sup> *United States v. An Antique Platter of Gold*, 184 F.3d 131 (2d Cir. 1999).

<sup>179</sup> *United States v. Schultz*, 333 F.3d 393 (2d Cir. 2003); *Republic of Turkey v. OKS Partners*, (D. Mass. 1994); *Republic of Turkey v. Metropolitan Museum of Art*, 762 F. Supp. 44 (SDNY 1990); *United States v. McClain*, 593 F.2d 658 (5th Cir. 1979); *United States v. Hollinshead*, 495 F.2d 1154 (9th Cir. 1974).

which have crossed a State or United States boundary after being stolen [...] knowing the same to have been stolen [...]”<sup>180</sup> The Second Circuit ruled that the NSPA applies to individuals who remove cultural objects from countries with patrimony laws.<sup>181</sup> Customs regulations may also be used to prosecute violators. 18 USC § 545 (“Smuggling goods into the United States”) carries a criminal penalty of a fine or imprisonment of up to twenty years for anyone smuggling or importing stolen goods into the country.<sup>182</sup> However, both of these criminal statutes have a major shortcoming as they require knowledge on the part of the defendant. Proving that an individual had knowledge of the illegality of their actions is a tremendous hurdle.<sup>183</sup> Other customs laws related to the import of illicit antiquities item include 18 USC § 541 (Entry of Goods Falsely Classified), 18 USC § 542 (Entry of Goods by Means of False Statements), 18 USC § 1001 (False Statements), and 19 USC § 1595a(c) (Importation contrary to Law).

Federal prosecutors have also used the Archaeological Resources Protection Act (“ARPA”)<sup>184</sup> to pursue looters. Although the Act was intended to protect objects originating from within the US,<sup>185</sup> the Act’s reach has been extended to apply to foreign objects as well.<sup>186</sup> Prosecutors rely on 16 USC § 470ee(c), a provision in ARPA prohibiting the sale, purchase, exchange, transport, or receipt of “any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law”. Prosecutors purported to satisfy § 470ee(c) by

<sup>180</sup> 18 USC § 2315 (2012).

<sup>181</sup> See *United States v. Schultz*, 333 F.3d 393 (2d Cir. 2003), 416. The indictment of criminals for cultural heritage theft has a precedent dating back to the 1970s. In the late 1970s in *United States v. McClain*, antiquities dealers were prosecuted under NSPA for dealing in Mexican antiquities subject to a 1972 Mexican patrimony law that vested national ownership to antiquities discovered in Mexican soil. 545 F.2d 988, 991-992 (5<sup>th</sup> Cir. 1977). This case established the “McClain Doctrine” that established US courts’ recognition that foreign patrimony laws may create ownership of undocumented antiquities in the national government.

<sup>182</sup> 18 USC § 545.

<sup>183</sup> J.A. Kreder, *The Choice between Civil and Criminal Remedies in Stolen Art Litigation*, “Vanderbilt Journal of Transnational Law” 2005, Vol. 38, pp. 1199-1252, at p. 1207, referencing C. Fox, Note, *The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects: An Answer to the World Problem of Illicit Trade in Cultural Property*, “American University Journal of International Law and Policy” 1993, Vol. 9, p. 233 (citing P.M. Bator: “noting that difficulties in proving that an object was stolen hindered the prosecution of art thieves”; see P.M. Bator, *The International Trade in Art*, University of Chicago Press, Chicago 1983, pp. 68-69).

<sup>184</sup> 16 USC § 470ee(c).

<sup>185</sup> See *United States v. Gerber*, 999 F.2d 1112, 1115 (7<sup>th</sup> Cir. 1993) (explaining that § 470ee(c) was “designed to back up state and local laws protecting archaeological sites and objects [...]”; A. Adler, *An Unintended and Absurd Expansion: The Application of the Archaeological Resources Protection Act to Foreign Lands*, “New Mexico Law Review” 2008, Vol. 38, pp. 149-150 & n. 118, pp. 152-153.

<sup>186</sup> Thus “resembl[ing] [...] a host of other federal statutes that affix federal criminal penalties to State crimes that, when committed in interstate commerce, are difficult for individual States to punish or prevent because coordinating the law enforcement efforts of different States is difficult”; see *United States v. Gerber*, op. cit., p. 1115.

coupling State theft laws with foreign patrimony laws.<sup>187</sup> Under this theory, the illegal export of archaeological resources from a nation with a patrimony law rendered those objects stolen; it was a violation of State theft laws to receive stolen property; and it was therefore a violation of § 470ee(c) to sell, purchase, exchange, transport, or receive such objects, regardless of their country of origin.<sup>188</sup>

In addition to legislation focused on the objects themselves, money laundering legislation may be used to halt the trade in black market antiquities as there is a proven link between the antiquities trade and money laundering.<sup>189</sup> Besides customs laws, purchasers of illicit goods may face sanctions by the US Department of Treasury's Office of Foreign Assets and Control ("OFAC"). The sanctions are typically punitive and most often used to prevent money laundering and weapons trafficking.<sup>190</sup> OFAC currently has sanctions for select materials coming from Iraq and Syria. According to US Department of Treasury, sanctions against Syrian objects are intended to stop human rights abuses and other illicit activities.<sup>191</sup> This arguably applies to the illicit trade in antiquities and the human rights violation of cultural heritage destruction.

### Harsher Laws May Not Halt the Illicit Trade, Except when Done in Concert with Education

It has been suggested that buyers should face harsher penalties with a law stating that anyone receiving stolen property is culpable, irrespective of a buyer's knowledge.<sup>192</sup> If collectors purchase objects from the conflict zones, they must conduct extensive due diligence prior to an acquisition, and not claim lack of knowledge. The legal doctrine of "conscious avoidance" provides that a defendant who intentionally shields himself from evidence of critical facts is as liable as an individual who has actual knowledge.<sup>193</sup> With increased education and regulations, it becomes difficult for buyers to claim ignorance about the illegal origin of an object. For this reason, it is imperative to educate all collectors as to the dire situations in the Iraq and Syria. There is an important role for the media and social networks as they are powerful tools in the dissemination of information. Just as ISIS uses the media to display their

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<sup>187</sup> A.L. Adler, S.K. Urice, *Resolving the Disjunction Between Cultural Property Policy and Law: A Call for Reform*, "Rutgers Law Review" 2011, Vol. 64, pp. 136-137.

<sup>188</sup> Ibidem.

<sup>189</sup> See generally F.M. De Sanctis, *Money Laundering Through Art. A Criminal Justice Perspective*, Springer, Cham, Heidelberg 2013.

<sup>190</sup> See H. Wolff, *Unilateral Economic Sanctions: Necessary Foreign Policy Tool or Ineffective Hindrance on American Businesses*, "Houston Business and Tax Law Journal" 2005, Vol. 6, p. 329.

<sup>191</sup> [http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_other.aspx#syria\\_whole](http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#syria_whole) [accessed: 15.11.2015].

<sup>192</sup> *Conflict Antiquities*, op. cit.

<sup>193</sup> D. Luban, *Contrived ignorance*, "Georgetown Law Journal" 1998, Vol. 87, p. 957.

acts of destruction, mainstream media should educate the public and warn collectors about the origin of looted antiquities. In fact, with the increasing information about the situation in the Middle East and an increasing number of tools available to art buyers, it should be overwhelmingly difficult for collectors to convincingly claim lack of knowledge. Just as investors complete due diligence before making real estate or business purchases, so should art buyers bear the responsibility for their purchases. If relevant due diligence documents are unavailable, then buyers must refrain from purchasing antiquities. The balance of enforcing current laws, educating buyers, and encouraging due diligence will be most effective solution for reducing the illicit market.

### Conclusion

The escalating harm from vandalism in the Middle East is hard to comprehend as millennia of history are being senselessly erased. The destruction is accompanied by shocking violence, senseless tragedy, and intolerant ideology. Halting this type of behavior is a daunting task as it requires the use of preemptive measures, military involvement, and the judicial, moral, and financial commitment to bring terrorist groups and violent individuals to justice. For most of the world, this destruction occurs in a foreign faraway place filled with fear.

On the other hand, looted antiquities are traded globally. It is necessary for nations, public and private institutions, and individuals around the world to stop purchasing illicit antiquities. Museums have a role in protecting art by not purchasing or accepting unprovenanced antiquities, as doing so will only fuel the market for loot. Rather these public institutions are in the best possible position to protect and safeguard heritage by following guidelines set forth by the Association of American Museum Directors and acquiring only licit materials. For collectors and actors in the private market, the solution is simple: commit to completing and facilitating due diligence and refrain from buying antiquities when faced with insufficient information about the objects. Social media and the press have important roles in educating buyers as to the source of black market goods, and the dissemination of this information may prevent buyers from claiming ignorance about the looted nature of antiquities from conflict zones. For buyers unwilling to ignore their thirst for acquisitions, the law must step in to protect our collective human history and historical legacy. The collaboration between archaeologists, media, the press, and the law is the best way to tackle the illicit market that is murdering our shared cultural past.

## References

- 31 Code of Federal Regulations (CFR), Part 576, Iraq Stabilization and Insurgency Sanctions Regulations.
- AAMD *Protocols for Save Havens for Works of Cultural Significance from Countries in Crisis*, 1 October 2015, <https://www.aamd.org/for-the-media/press-release/aamd-issues-protocols-to-protect-works-of-cultural-significance-in> [accessed: 15.11.2015].
- Adler A., *An Unintended and Absurd Expansion: The Application of the Archaeological Resources Protection Act to Foreign Lands*, "New Mexico Law Review" 2008, Vol. 38.
- Adler A.L., Urice S.K., *Resolving the Disjunction Between Cultural Property Policy and Law: A Call for Reform*, "Rutgers Law Review" 2011, Vol. 64.
- Alberge D., *Turkey turns to human rights law to reclaim British Museum sculptures*, "The Guardian", 8 December 2012, <http://www.theguardian.com/culture/2012/dec/08/turkey-british-museum-sculptures-rights> [accessed: 15.11.2015].
- Almukhtar S., *The Strategy Behind the Islamic State's Destruction of Ancient Sites*, "New York Times", 31 August 2015, [http://www.nytimes.com/interactive/2015/06/29/world/middleeast/isis-historic-sites-control.html?\\_r=0](http://www.nytimes.com/interactive/2015/06/29/world/middleeast/isis-historic-sites-control.html?_r=0) [accessed: 15.11.2015].
- Amanpour C., *Syrian antiquities chief: Palmyra taken hostage by ISIS*, "CNN News", 31 August 2015, <http://www.cnn.com/videos/tv/2015/08/31/intv-amanpour-maamoun-abdulkarim-palmyra-isis.cnn/video/playlists/amanpour/> [accessed: 15.11.2015].
- Archaeological Resources Protection Act of 1979, 16 USC §§ 470aa-470mm (1979).
- Bator P.M., *The International Trade in Art*, University of Chicago Press, Chicago 1983.
- Bauer A.A., *Editorial: The Destruction of Heritage in Syria and Iraq and Its Implications*, "International Journal of Cultural Property" 2015, Vol. 22.
- Blake J., *International Cultural Heritage Law*, Oxford University Press, Oxford 2015.
- Bogdanos M., *Thieves of Baghdad*, Bloomsbury, London 2005.
- Bowersock G., *Syria under Vespasian*, "Journal of Roman Studies" 1973, Vol. 63.
- Brodie N., *Analysis of the Looting, Selling, and Collecting of Apulian Red-Figure Vases: A Quantitative Approach*, in: N. Brodie, J. Doole, C. Renfrew (eds.), *Illicit Antiquities: The Destruction of the World's Archaeological Heritage*, McDonald Institute, Cambridge 2001.
- Brodie N., *Archaeological Looting and Economic Justice*, in: P.M. Messenger, G.S. Smith (eds.), *Cultural Heritage Management, Policies and Issues in Global Perspective*, University Press of Florida, Gainesville 2010.
- Brodie N., *The Concept of Due Diligence and the Antiquities Trade*, "Culture Without Context" Autumn 1999.
- Calling Attacks 'a War Crime', Secretary-General Strongly Condemns Destruction of Cultural Heritage Sites in Iraq*, United Nations Meetings Coverage and Press Releases, 6 March 2015, <http://www.un.org/press/en/2015/sgsm16570.doc.htm> [accessed: 15.11.2015].
- Chon G., Thet S., *Behind the Killing Fields: A Khmer Rouge Leader and One of His Victims*, University of Pennsylvania, Philadelphia 2010.
- Coldewey D., *Satellite Images Show Widespread Looting At Syrian Landmarks*, "NBC News", 19 December 2014, <http://www.nbcnews.com/science/science-news/satellite-images-show-widespread-looting-syrian-landmarks-n272161> [accessed: 15.11.2015].

## RESEARCH ARTICLES

Leila A. Amineddoleh

---

- Conflict Antiquities*, Panel 1, United States Department of State, Bureau of Educational and Cultural Affairs, <http://eca.state.gov/video/conflict-antiquities-panel-1-video> [accessed: 15.11.2015].
- Convention for the Protection of Cultural Property in the Event of Armed Conflict, 14 May 1954, 249 UNTS 240.
- Convention on Cultural Property Implementation Act, 19 USC §§ 2601-2613 (2012).
- 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.
- Cox S., *The men who smuggle the loot that funds IS*, "BBC News", 17 February 2015, <http://www.bbc.com/news/magazine-31485439> (noting that "ISIS taxes everything") [accessed: 15.11.2015].
- Crook J.M., *The Greek Revival*, Country Life Books, Feltham 1968.
- Cultural Destruction as a War Crime*, "New York Times", 8 October 2015, [http://www.nytimes.com/2015/10/09/opinion/cultural-destruction-as-a-war-crime.html?\\_r=1](http://www.nytimes.com/2015/10/09/opinion/cultural-destruction-as-a-war-crime.html?_r=1) [accessed: 15.11.2015].
- Culture under Threat: Antiquities Trafficking & Terrorist Financing – NY Forum*, The Antiquities Coalition, 24 September 2015, <https://www.youtube.com/watch?v=WFsAf7Dslq8> [accessed: 15.11.2015].
- Cuno J., *Culture War: The Case Against Repatriating Museum Artifacts*, "Foreign Affairs", November/December 2014, <https://www.foreignaffairs.com/articles/africa/culture-war> [accessed: 15.11.2015].
- Cuno J., *Museums Matter: In Praise of the Encyclopedic Museum*, University of Chicago Press, 2013.
- Curry A., *A War Diary Soars Over Rome*, September 2012, <http://www.nationalgeographic.com/trajan-column/article.html> [accessed: 15.11.2015].
- Customs Laws: 18 USC § 545 ("Smuggling goods into the United States"), 18 USC. § 541 (Entry of Goods Falsely Classified), 18 USC § 542 (Entry of Goods by Means of False Statements), 18 USC § 1001 (False Statements), and 19 USC § 1595a(c) (Importation contrary to Law).
- Cyprus: Destruction of Cultural Property in the Northern Part of Cyprus and Violations of International Law*, The Law Library of Congress, April 2009, <http://www.loc.gov/law/help/cultural-property-destruction/cyprus.php> [accessed: 15.11.2015].
- De Sanctis F.M., *Money Laundering Through Art. A Criminal Justice Perspective*, Springer, Cham, Heidelberg 2013.
- DeAngelis I., *How Much Provenance is Enough? – Post-Schultz Guidelines for Art Museum Acquisition of Archeological Materials and Ancient Art*, PA American Law Institute American Bar Association, Philadelphia 2005.
- Destroy, sell, hide: How Islamic State exploits antiquities*, PBS Newshour, 19 August 2015, <http://www.pbs.org/newshour/bb/destroy-sell-hide-islamic-state-exploits-antiquities/> [accessed: 15.11.2015].
- Destroyed During Invasion*, <http://www.worldheritagesite.org/tags/tag183.html> [accessed: 15.11.2015].
- Destruction of Palmyra's Baalshamin Temple 'a war crime'*, "BBC News", 24 August 2015, <http://www.bbc.com/news/world-middle-east-34043676> [accessed: 15.11.2015].

- Dobovšek B., Slak B., *The Significance of Studying and Investigation Art Crime: Old Reasons, New World*, Varstvoslovje, "Journal of Criminal Justice and Security" 2011, No. 4, [http://www.fvv.uni-mb.si/rV/arhiv/2011-4/03\\_Dobovsek\\_Slak.pdf](http://www.fvv.uni-mb.si/rV/arhiv/2011-4/03_Dobovsek_Slak.pdf) [accessed: 15.11.2015].
- Edgers G., *One of the world's most respected curators vanished from the art world. Now she wants to tell her story*, "The Washington Post", 22 August 2015, [https://www.washingtonpost.com/entertainment/museums/the-curator-who-vanished/2015/08/19/d32390f8-459e-11e5-846d-02792f854297\\_story.html](https://www.washingtonpost.com/entertainment/museums/the-curator-who-vanished/2015/08/19/d32390f8-459e-11e5-846d-02792f854297_story.html) [accessed: 15.11.2015].
- Eire C.M.N., *War against the Idols: The Reformation of Worship from Erasmus to Calvin*, Cambridge University Press, Cambridge 1989.
- Emergency Preservation Activities Completed at Syria's Ma'arra Mosaic Museum*, "Smithsonian", 5 March 2015, <http://newsdesk.si.edu/releases/emergency-preservation-activities-completed-syria-s-ma-arra-mosaic-museum> [accessed: 15.11.2015].
- European Convention on Human Rights, 4 November 1950, 213 UNTS 221.
- Felch J., Frammolino R., *Chasing Aphrodite: The Hunt for Looted Antiquities at the World's Richest Museum*, 2<sup>nd</sup> edn., Houghton Mifflin Harcourt, New York 2011.
- Fox C., Note, *The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects: An Answer to the World Problem of Illicit Trade in Cultural Property*, "American University Journal of International Law and Policy" 1993, Vol. 9.
- Francioni F., Gordley J., *Enforcing International Cultural Heritage Law*, Oxford University Press, Oxford 2013.
- Geneva Conventions for the Protection of War Victims, 12 August 1949, 75 UNTS 31.
- Gerstenblith P., *Acquisition and Deacquisition of Museum Collections and the Fiduciary Obligations of Museums to the Public*, "Cardozo Journal International and Comparative Law" 2003, Vol. 11.
- Gerstenblith P., *Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past*, "Chicago Journal of International Law" 2007, Vol. 8.
- Giglio M., al-Awad M., *Inside the Underground Trade to Sell Off Syria's History*, "Buzzfeed", 30 July 2015, <http://www.buzzfeed.com/mikegiglio/the-trade-in-stolen-syrian-artifacts#.pwkNMxVd9> [accessed: 15.11.2015].
- Giovanni J. di et al., *How Does ISIS Fund Its Reign of Terror?*, "Newsweek", 6 November 2014, <http://www.newsweek.com/2014/11/14/how-does-isis-fund-its-reign-terror-282607.html> [accessed: 15.11.2015].
- Graham-Harrison E., *From Parthenon to Palmyra: a history of cultural destruction*, "The Guardian", 3 September 2015, <http://www.theguardian.com/culture/2015/sep/03/palmyra-isis-history-cultural-destruction-parthenon> [accessed: 15.11.2015].
- Grant D., *Is It Possible to "Collect" Antiquities These Days?*, "Huffington Post", 5 April 2011, [http://www.huffingtonpost.com/daniel-grant/antiquities-collecting-due-diligence\\_b\\_844838.html](http://www.huffingtonpost.com/daniel-grant/antiquities-collecting-due-diligence_b_844838.html) [accessed: 15.11.2015].
- Hardy S., *How the West buys 'conflict antiquities' from Iraq and Syria (and funds terror)*, "Reuters", 27 October 2014, <http://blogs.reuters.com/great-debate/2014/10/27/how-the-west-buys-conflict-antiquities-from-iraq-and-syria-and-funds-terror/> [accessed: 15.11.2015].
- Harmanşah Ö., *ISIS, Heritage, and the Spectacles of Destruction in the Global Media*, "Near Eastern Archaeology" 2015, Vol. 78.

## RESEARCH ARTICLES

Leila A. Amineddoleh

---

- Hay M., *Stopping ISIS's Destruction of Historical Sites: What Can and Can't Be Done*, "Good", 1 September 2015, [http://magazine.good.is/articles/stopping-the-destruction-of-historical-sites-isis-syria-palmyra?utm\\_source=thedailygood&utm\\_medium=email&utm\\_campaign=dailygood](http://magazine.good.is/articles/stopping-the-destruction-of-historical-sites-isis-syria-palmyra?utm_source=thedailygood&utm_medium=email&utm_campaign=dailygood) [accessed: 15.11.2015].
- Hoffman B.T., *Art And Cultural Heritage: Law, Policy And Practice*, Cambridge University Press, New York 2006.
- Holland T., *A martyr for civilisation: The 83-year-old archaeologist who devoted his life to saving Syria's sublime ruins... and who refused to flee even when he knew ISIS savages would behead him*, "Daily Mail", 26 August 2015, <http://www.dailymail.co.uk/news/article-3212140/A-martyr-civilisation-83-d-devoted-life-saving-sublime-ruins-refused-flee-knew-ISIS-savages-behead-him.html> [accessed: 15.11.2015].
- <http://www.artnews.com/2013/09/11/the-restitution-struggle/> [accessed: 15.11.2015].
- [http://www.icc-cpi.int/en\\_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx](http://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx) [accessed: 15.11.2015].
- [http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_other.aspx#syria\\_whole](http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#syria_whole) [accessed: 15.11.2015].
- ISIL and Antiquities Trafficking*, FBI Warns Dealers, Collectors About Terrorist Loot, Federal Bureau of Investigation, 26 August 2015, <https://www.fbi.gov/news/stories/2015/august/isil-and-antiquities-trafficking> [accessed: 15.11.2015].
- ISIL and Antiquities Trafficking*, Federal Bureau of Investigation, 26 August 2015, [https://www.fbi.gov/news/news\\_blog/isil-and-antiquities-trafficking](https://www.fbi.gov/news/news_blog/isil-and-antiquities-trafficking) [accessed: 15.11.2015].
- Islamic State militants behead archaeologist in Palmyra – Syrian official*, "Reuters", 18 August 2015, <http://uk.mobile.reuters.com/article/idUKKCN0QN24I20150818> [accessed: 15.11.2015].
- Islamic State photos 'show Palmyra temple destruction'*, "BBC News", 25 August 2015, <http://www.bbc.com/news/world-middle-east-34051870> [accessed: 15.11.2015].
- Jakubowski A., *State Succession in Cultural Property*, Oxford University Press, Oxford 2015.
- Jokilehto J., *The World Heritage List. What is OUV? Defining the Outstanding Universal Value of Cultural World Heritage Properties*, Monuments and Sites, Vol. 16, Hendrik Bäßler Verlag, Berlin 2008.
- Jones C., *In Battle Against ISIS, Saving Lives or Ancient Artifacts*, Hyperallergic, 17 April 2015, <http://hyperallergic.com/200005/in-battle-against-isis-saving-lives-or-ancient-artifacts/> [accessed: 15.11.2015].
- Jones C., *New Documents Prove ISIS Heavily Involved in Antiquities Trafficking*, "Gates of Nineveh", 30 September 2015, <https://gatesofnineveh.wordpress.com/2015/09/30/new-documents-prove-isis-heavily-involved-in-antiquities-trafficking/> [accessed: 15.11.2015].
- Jurisdiction*, International Court of Justice, <http://www.icj-cij.org/jurisdiction/index.php?p1=5> [accessed: 15.11.2015].
- Kleiner F., Mamiya Ch.J., *Gardner's Art Through the Ages, The Western Perspective*, Vol. 1, 12<sup>th</sup> edn., Thomson Wadsworth, 2006.
- Knight C., *The Mosul Museum video from Islamic State could be a staged drama*, "Los Angeles Times", 28 February 2015, <http://www.latimes.com/entertainment/arts/la-et-cm-mosul-museum-knight-notebook-20150228-column.html> [accessed: 15.11.2015].



- Kohn D., *ISIS's Looting Campaign*, "The New Yorker", 14 October 2014, <http://www.newyorker.com/tech/elements/isis-looting-campaign-iraq-syria> [accessed: 15.11.2015].
- Kreder J.A., *The Choice between Civil and Criminal Remedies in Stolen Art Litigation*, "Vanderbilt Journal of Transnational Law" 2005, Vol. 38.
- LaFranci H., *What Syrian antiquities reveal about Islamic State's billion-dollar economy*, "The Christian Science Monitor", 25 August 2015, <http://www.csmonitor.com/USA/Foreign-Policy/2015/0825/What-Syrian-antiquities-reveal-about-Islamic-State-s-billion-dollar-economy> [accessed: 15.11.2015].
- Leask A., Yeoman I., *Heritage Visitor Attractions: An Operations Management Perspective*, Thomson, London 2004.
- Liebeschuetz W., *East and West in Late Antiquity: Invasion, Settlement, Ethnogenesis and Conflicts of Religion*, Brill 2015.
- Louvre showcases antiquities as Palmyra is destroyed, "CNN News", 8 September 2015, <http://www.cnn.com/videos/world/2015/09/08/pkg-amanpour-louvre-unesco-irina-boko-va.cnn> [accessed: 15.11.2015].
- Lowry G.D., *A Deontological Approach to Art Museums and the Public Trust*, in: J. Cuno (ed.), *Whose Muse? Art Museums and the Public Trust*, Princeton University Press and Harvard University Press, Princeton - Cambridge (MA) 2004.
- Lozano Bielat H., *Islamic State and the Hypocrisy of Sovereignty*, E-International Relations, 20 March 2015, <http://www.e-ir.info/2015/03/20/islamic-state-and-the-hypocrisy-of-sovereignty/> [accessed: 15.11.2015].
- Luban D., *Contrived ignorance*, "Georgetown Law Journal" 1998, Vol. 87.
- Malaro M.C., DeAngelis I., *A Legal Primer on Managing Museum Collections*, Smithsonian Books, 1998.
- Mali: *The hearing of Abou Tourab before the ICC is a victory, but charges must be expanded*, Worldwide Movement for Human Rights, 30 September 2015, <https://www.fidh.org/en/issues/international-justice/international-criminal-court-icc/mali-the-hearing-of-abou-tourab-before-the-icc-is-a-victory-but> [accessed: 15.11.2015].
- Martinez A., *Disgraced Getty Curator Marion True Roars Back With Tell-All Memoir*, "Observer", 25 August 2015, <http://observer.com/2015/08/disgraced-getty-curator-marion-true-roars-back-with-tell-all-memoir/> [accessed: 15.11.2015].
- Mausoleum of Halikarnassos (Room 21)*, The British Museum, [http://www.britishmuseum.org/explore/galleries/ancient\\_greece\\_and\\_rome/room\\_21\\_halikarnassos.aspx](http://www.britishmuseum.org/explore/galleries/ancient_greece_and_rome/room_21_halikarnassos.aspx) [accessed: 15.11.2015].
- Merrills J.G., Robertson A.H., *Human Rights in Europe: A Study of the European Convention on Human Rights* Manchester University Press, Manchester 2001.
- Miles M., *Art as Plunder: The Ancient Origins of Debate About Cultural Property*, Cambridge University Press, Cambridge 2008.
- Miller M., *Looting and the Antiquities Market*, "Athena Review", Vol. 4.
- Moore J., *Defying ISIS: Preserving Christianity in the Place of Its Birth and in Your Own Backyard*, Thomas Nelson, 2015.
- More than 3,000 artifacts seized in Istanbul raid*, "Daily Sabah Turkey", 1 September 2015, <http://www.dailysabah.com/nation/2015/09/02/more-than-3000-artifacts-seized-in-istanbul-raid> [accessed: 15.11.2015].

## RESEARCH ARTICLES

Leila A. Amineddoleh

---

- National Stolen Property Act, 18 USC §§ 2314-2315.
- Palmyra's Baalshamin temple 'blown up by IS', "BBC News", 24 August 2015, <http://www.bbc.co.uk/news/world-middle-east-34036644> [accessed: 15.11.2015].
- Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, 20 March 1952, 213 UNTS 262.
- Prott L., *The International Movement of Cultural Objects*, "International Journal of Cultural Property" 2005, Vol. 12.
- Red List, United States Department of State, Bureau of Educational and Cultural Affairs, <http://eca.state.gov/cultural-heritage-center/iraq-cultural-heritage-initiative/red-list> [accessed: 15.11.2015].
- Renfrew C., *Loot, Legitimacy and Ownership: The Ethical Crisis in Archaeology*, "Duckworth Debates in Archaeology", 20 October 2000.
- Restatement (Second) of Trusts § 348 (1959).
- Romey K., *ISIS Destruction of Ancient Sites Hits Mostly Muslim Targets*, "National Geographic", 2 July 2015, <http://news.nationalgeographic.com/2015/07/150702-ISIS-Palmyra-destruction-salafism-sunni-shiite-sufi-Islamic-State/#.VbY60e20bho.facebook> [accessed: 15.11.2015].
- Salaheddin S. et al., *Iraq Says ISIS Demolishes Ruins To Cover Up Massive Looting Of Cultural Heritage*, "Huffington Post", 12 May 2015, [http://www.huffingtonpost.com/2015/05/12/isis-demolishes-ruins-looting\\_n\\_7264792.html](http://www.huffingtonpost.com/2015/05/12/isis-demolishes-ruins-looting_n_7264792.html) [accessed: 15.11.2015].
- Schmid A.P., *Terrorism as Psychological Warfare*, "Democracy and Security" 2005, Vol. 1.
- Sebesta J., Bonfante L., *The World of Roman Costume*, University of Wisconsin Press, 1994.
- Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, 26 March 1999, 2253 UNTS 212.
- Seiff A., *Looted Booty Bolstered by A Growing Body of International and Domestic Law, More Countries Are Successfully Gaining the Return of Looted Cultural Treasures*, "ABA Journal" July 2014.
- Seymour M., *Vanished Images*, Metropolitan Museum of Art, Assyria to Iberia, 6 October 2014, <http://www.metmuseum.org/exhibitions/listings/2014/assyria-to-iberia/blog/posts/vanished-images> [accessed: 15.11.2015].
- Shaheed F., *Report of the independent expert in the field of cultural rights*, A/HRC/17/38, United Nations, General Assembly, Human Rights Council Seventeenth Session Agenda Item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/Report%20of%20Farida%20Shaheed.pdf> [accessed: 15.11.2015].
- Shaheen K., *Outcry over Isis destruction of ancient Assyrian site of Nimrud*, "The Guardian", 6 March 2015, <http://www.theguardian.com/world/2015/mar/06/isis-destroys-ancient-assyrian-site-of-nimrud> [accessed: 15.11.2015].
- Silverman H., Ruggles D.F. (eds.), *Cultural Heritage and Human Rights*, Springer, New York 2007.
- Smith II A.M., *Roman Palmyra: Identity, Community, and State Formation*, Oxford University Press, Oxford 2013.

- Soguel D., *Why ISIS blew up Syria's iconic Bel temple*, "The Christian Science Monitor", 31 August 2015, <http://m.csmonitor.com/World/Middle-East/2015/0831/Why-Islamic-State-set-off-explosives-at-Syria-s-ancient-Bel-temple> [accessed: 15.11.2015].
- Speer A., *Inside The Third Reich*, The Macmillan Company, New York 1970.
- Stanton J., *Amal Clooney Advises Greece to Take British Museum to international court to win back Elgin Marbles, saying: 'It's now, or never'*, "DailyMail", 13 May 2015, <http://www.dailymail.co.uk/news/article-3079325/Amal-Clooney-advises-Greece-British-Museum-international-court-win-Elgin-Marbles-saying-s-never.html> [accessed: 15.11.2015].
- Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90.
- Strengthening and Focusing Enforcement to Deter Organized Stealing and Enhance Safety Act of 2012, 18 USC § 2315 (2012).
- Swains H., *Terrorists Looting Antiquities On "An Industrial Scale"*, "Town and Country", 21 August 2015, <http://www.townandcountrymag.com/society/money-and-power/a3609/isis-creates/> [accessed: 15.11.2015].
- Taberner A.L., *Cultural Property Acquisitions, Navigating the Shifting Landscape*, Left Coast Pr, 2011.
- Teijgeler R., *Preserving Cultural Heritage in Times of Conflict*, in: G. Gorman, S. Shep (eds.), *Preservation Management for Libraries, Archives, and Museums*, Facet Publishing, London 2006.
- The Crimes of Palmyra*, "New York Times", 25 August 2015, [http://www.nytimes.com/2015/08/26/opinion/the-crimes-of-palmyra.html?smid=tw-share&\\_r=1](http://www.nytimes.com/2015/08/26/opinion/the-crimes-of-palmyra.html?smid=tw-share&_r=1) [accessed: 15.11.2015].
- The Protect and Preserve International Cultural Property Act, HR 1493, 114<sup>th</sup> Congress (2015-2016).
- The Rest List*, International Council of Museums, <http://icom.museum/programmes/fighting-illicit-traffic/red-list/> [accessed: 15.11.2015].
- Thomas J. (ed.), *Interpretive Archaeology*, Leicester University Press, 2000.
- Thuesen I., *The City-State in Ancient Syria*, in: M.H. Hansen (ed.), *A Comparative Study of Thirty City-State Cultures: An Investigation*, Historisk-filosofiske skrifter, Vol. 21, Det Kongelige Danske Videnskabernes Selskab, København 2000.
- Timbuktu mausoleum destruction suspect sent to ICC*, "BBC News", 26 September 2015, <http://www.bbc.com/news/world-africa-34368108> [accessed: 15.11.2015].
- Trajan's Column in Rome*, 14 July 2015, <http://www.trajans-column.org/> [accessed: 15.11.2015].
- U.N. warns of IS attacks on ancient sites*, "THOnline", 22 August 2015, [http://www.thonline.com/news/national\\_world/article\\_31974b6e-67a5-5583-9dae-d1feb373e792.html](http://www.thonline.com/news/national_world/article_31974b6e-67a5-5583-9dae-d1feb373e792.html) [accessed: 15.11.2015].
- Unanimously Adopting Resolution 2199 (2015), Security Council Condemns Trade with Al-Qaida Associated Groups, Threatens Further Targeted Sanctions*, United Nations Meetings Coverage and Press Releases, 12 February 2015, <http://www.un.org/press/en/2015/sc11775.doc.htm> [accessed: 15.11.2015].
- UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage, 17 October 2003, UNESCO Doc. 32 C/Res. 33 (2003).

## RESEARCH ARTICLES

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---

- United Nations Security Council Resolution No. 2199, 12 February 2015, UN Doc. S/RES/2199 (2015).
- United States Committee of the Blue Shield, <http://uscbs.org/about-us.html> [accessed: 15.11.2015].
- United States Mission to the United Nations, Fact Sheet: UN Security Council Resolution 2199 on ISIL, 12 February 2015, <http://usun.state.gov/briefing/statements/237432.htm> [accessed: 15.11.2015].
- Universal Declaration of Human Rights, 10 December 1948, UNGA Res 217 A(III).
- “Vandalism”, in: *Miriam-Webster Dictionary*, 2015, <http://www.merriam-webster.com/dictionary/vandalism> [accessed: 15.11.2015].
- Varner E., *Mutilation and Transformation: Damnatio Memoriae and Roman Imperial Portraiture*, Brill, Leiden 2004.
- Veloze T., Bento L., *ISIS Is Destroying Priceless Artifacts. Here's How to Stop Them*, “The Diplomat”, 17 March 2015, <http://thediplomat.com/2015/03/isis-is-destroying-priceless-artifacts-heres-how-to-stop-them/> [accessed: 15.11.2015].
- Vikan G., *The Case For Buying Antiquities To Save Them*, “Wall Street Journal”, 19 August 2015, <http://www.wsj.com/articles/the-case-for-buying-antiquities-to-save-them-1440024491> [accessed: 15.11.2015].
- Vlasic M.V., Turku H., *How can we stop ISIS and the trafficking of our cultural heritage?*, “World Economic Forum”, 31 August 2015, <https://agenda.weforum.org/2015/08/isis-trafficking-cultural-heritage/> [accessed: 15.11.2015].
- Waltman G., *Prosecuting ISIS*, 17 October 2014, <http://ssrn.com/abstract=2537044> [accessed: 15.11.2015].
- Ward C., *Following the trail of Syria's looted history*, “CBS News”, 9 September 2015, <http://www.cbsnews.com/news/isis-looted-syrian-ancient-artifacts-black-market-us-and-europe/> [accessed: 15.11.2015].
- Williams B., *What Is Art Crime?*, Damforst Museum, 14 October 2010, [www.damforstmuseum.org/what\\_is\\_art\\_crime.html](http://www.damforstmuseum.org/what_is_art_crime.html) [accessed: 15.11.2015].
- Wiser D., *The Link Between the Islamic State and the Western Art Trade*, “The Washington Free Beacon”, 14 September 2015, <http://freebeacon.com/culture/the-link-between-the-islamic-state-and-the-western-art-trade/> [accessed: 15.11.2015].
- Withnall A., *Isis executes Palmyra antiquities chief and hangs him from ruins he spent a lifetime restoring*, “Monitor”, 19 August 2015, <http://www.independent.co.uk/news/world/middle-east/isis-executes-palmyra-antiquities-chief-khaled-asaad-and-hangs-him-from-ruins-he-spent-a-lifetime-restoring-10461601.html> [accessed: 15.11.2015].
- Witter B., Edsel R.M., *The Monuments Men: Allied Heroes, Nazi Thieves, and the Greatest Treasure Hunt in History*, Center Street, New York 2009.
- Wolff H., *Unilateral Economic Sanctions: Necessary Foreign Policy Tool or Ineffective Hindrance on American Businesses*, “Houston Business and Tax Law Journal” 2005, Vol. 6.
- Yeginsu C., *Turkey's New Spin on Human Rights: They Can Be Used to Recover Art*, “International Business Times”, 14 January 2013, <http://www.ibtimes.com/turkeys-new-spin-human-rights-they-can-be-used-recover-art-1004248> [accessed: 15.11.2015].