

Sniffing out Underground Art – The problem of illicit trafficking of cultural property in the art market (Part One)

by [Jessica](#) | Mar 26, 2018 | [Art Law](#), [Cultural Heritage](#), [Export licences](#), [illicit trade in cultural property](#) |



Destruction of Ancient ruins in Palmyra, Syria.

Last week, The Kingdom of Jordan announced that they are creating an anti-smuggling division to protect antiquities. (See here – [https://www.zawya.com/mena/en/story/Jordan to create antismuggling division to protect antiquities-SNG 112693132/.](https://www.zawya.com/mena/en/story/Jordan%20to%20create%20antismuggling%20division%20to%20protect%20antiquities-SNG%20112693132/))

Since the War in Iraq – the Jordanian authorities have seized 1,347 looted Iraqi antiquities and this may be only a fraction of the looted art that is in fact being smuggled through this Country. There is widespread pillaging of important archaeological sites across the globe, particularly in conflict zones.

Almost every week we see a fresh example of looted cultural property being announced from different regions of the world.

The previous week we saw the announcement in the press of the US authorities using trained sniffer dogs to sniff out smuggled artworks – the research programme is called K-9 Artifact Finders. (See the article here <https://www.theguardian.com/artanddesign/2018/mar/11/dogs-trained-to-sniff-out-ancient-treasures-looted-from-syria>.)

In this article, it is stated: *“The UN security council has confirmed that terrorists generate income from smuggling cultural property.”* Michael Danti, an archaeologist who has worked in Iran, Iraq and Syria said: *“A “huge percentage” of the third-century Dura-Europos site in Syria has been excavated illegally... It would take centuries for archaeologists to do that much excavation scientifically. That’s just one site. We see this all over the conflict zone.”*

Emergency Actions in Syria

On the UNESCO website regarding the problem in Syria it states as follows:

“Illegal excavations and looting have exponentially increased since the beginning of the conflict in Syria. These actions have damaged many historical sites and museums, and important Syrian cultural property has disappeared from the country to end up on the black market and/or in private collections.

Numerous archaeological sites in Syria are being systematically targeted for clandestine excavations by well-organized and often armed groups. Excavated archaeological objects of cultural significance make a lucrative trade for unscrupulous dealers operating both locally and internationally. Sites situated near the borders are, in general, more susceptible to being targeted by looters who take advantage of their location to quickly and illegally export artefacts out of Syria.”

For more information about the Observatory of Syrian Cultural Heritage see here <https://en.unesco.org/syrian-observatory/> and for more information about initiatives to protect Syrian Cultural Heritage see here:

http://www.unesco.org/new/en/brussels/about-this-office/singleview/news/heritage_in_danger_emergency_safeguarding_of_the_syrian_cul

Illicit trafficking is a world-wide problem

Artworks are not just stolen from conflict zones, they are taken from museums, churches, temples and archaeological sites in safe countries worldwide.

For example see this article <http://www.bbc.co.uk/news/uk-england-cambridgeshire-39126667> about the £57 million worth of Chinese Jade artefacts stolen from the Fitzwilliam Museum in Cambridge, which underscores that this type of crime happens in Western Countries too.

Italy is one such Country that faces a constant battle with looters. Only yesterday, 25th March 2018 it was announced in the press that there was a theft from a museum in Italy, Museo del Sannio in Benevento, in which some twenty vases dating back to the Hellenistic period (323-31 BCE) have been stolen and a complete inventory is still being compiled (see here <http://art-crime.blogspot.co.uk/2018/03/museum-theft-museo-del-sannio-benevento.html>.)

Only a few weeks ago I posted on LinkedIn about a huge haul of 41,000 historical artefacts that had been illegally trafficked and was successfully recovered through a cooperative effort between Customs and police officers from 81 Countries. See The European Police Force's operation here: <https://lnkd.in/gVUjCPC>

Looted art is a consistent problem in the art market and the scale of the problem is very high indeed. Stolen cultural property usually ends up for sale through sellers and art dealers who are usually unconnected with the looters, on online art websites, on the private market and on the black market, making it hard for police authorities to detect the crimes and recover the stolen artworks.

The market demand for rare antiquities is there and unfortunately this simply fuels the criminal enterprise of smugglers.

Sniffing out Underground Art – The problem of illicit trafficking of cultural property in the art market (Part Two)

Further to Part One of this article.

Last week (20-21st March 2018), we also saw the European Community coming together with a joint EU-UNESCO project called “Engaging the European Art Market in the Fight Against the Illicit Trafficking of Cultural Property.”

The project aims at enhancing and strengthening due diligence practices in the European art market and educating the trade to the consequences of illicit trafficking of cultural property – from the issues of protecting and preserving cultural heritage to the issues of terrorism financing and money laundering.

To read more about this project see <https://en.unesco.org/events/engaging-european-art-market-fight-against-illicit-trafficking-cultural-property>

Time for Art Collectors to step up and reject and report stolen artworks

There seems to be a real lack of awareness in the art market and amongst collectors and art sellers about the harm that buying looted art does, not only does it fund harmful criminal activities but also leads to cultural heritage pillaging and destruction in other regions of the world.

On a very serious note, not only does this type of crime damage the cultural knowledge, history and economic value of the origin Countries, but as the reports indicate above, looted art in some regions has been used to fund terrorist activities, causing catastrophic harm to innocent civilians in various Countries world-wide.

Awareness – know your international law

Art Collectors need to be aware of international laws, in particular the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 and The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two (1954 and 1999) Protocols and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 24 June 1995).

(See <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/1970-convention/text-of-the-convention/> and <http://unesdoc.unesco.org/images/0018/001875/187580e.pdf> and [https://www.unidroit.org/instruments/cultural-property/1995-convention.](https://www.unidroit.org/instruments/cultural-property/1995-convention))

These conventions govern the illegal removal and possession of cultural property from origin countries and require the protection and return of cultural property by signatories to the conventions. Many Countries world-wide are signatories to these Conventions and therefore these are crimes that are punishable in those signatory States.

Legal repercussions

Many States across the world are taking part in combined projects to tackle this problem. Many police forces are now working together.

We are starting to see an increase in investigations by customs officials, police and tax authorities which are leading to raids on collectors and art dealers personal and company properties and they may or may not be innocently caught up in this type of criminal activity. In January it was reported in the press that an arts trading company had to hand over hundreds of ancient artefacts to the US federal authorities because these items were illegally imported and may be Iraqi National Treasures. (See here: <https://www.theartnewspaper.com/news/hobby-lobby-surrenders-245-ancient-seals-to-federal-authorities>.)

The American arts and crafts chain Hobby Lobby handed over 245 ancient cylinder seals believed to have been smuggled out of Iraq in 2010. This forfeiture is part of a settlement reached in 2017 in which the company agreed to pay a \$3m fine and surrender 5,548 artefacts. The works were apparently purchased in the United Arab Emirates in 2010 and arrived in the US mislabelled. With this latest forfeiture, Hobby Lobby still has 1,709 objects to return to the department of justice.

There are very serious legal repercussions for trading in and purchasing illegal cultural property belonging to another State.

Not only will the authorities seize the assets, you are also highly unlikely to be able to recover funds from whomever you purchased the artworks from, but there may very well be criminal prosecutions or civil claims brought, that may lead to a range of penalties. In the case mentioned above the trading body was hit with a multi-million dollar fine.

There is also likely to be an investigation by customs into any illegal exports or imports and a cultural repatriation claim by the Origin State. In worse case scenarios there may be an investigation into your art collection and your financial affairs more widely to try to trace links to any criminal gangs.

This situation can cause huge reputational damage to you as a Collector or as an Art Dealer. Even if your Country is not a signatory to the conventions and protocols, the art community of reputable Collectors, Dealers and Auction Houses are unlikely to wish to trade with anyone caught up in a looting scandal.

Here are some proactive steps art collectors can take to avoid potential legal liability:

The pitfalls of buying an illegally excavated or looted heritage artwork can be avoided by conducting due diligence checks pre-purchase, such as:

- Title checks – checking databases for lost and stolen art
- Conducting provenance checks on the provenance research, to discover who previously owned the artworks, you need to be satisfied that all the previous owners legitimately possessed the artworks
- Be alive to the risk of fake provenance material that may accompany the artworks and check out the provenance material too, such as whether the export licences or authentication certificates by any experts are genuine documents
- Conducting enhanced due diligence checks on the sellers to check you are buying from a reputable source, find out about how the artworks were acquired and trace it back as far as you can.
- Checking whether the artworks have been lawfully exported or imported
- Consult relevant art experts on the specific antiquities before purchase who can assist you with reviewing the provenance material and to gain a proper understanding of the history of the artworks, in particular where the artworks were made and where they came from and whether they left the Country of origin legally.

The above is not an exhaustive list. However, if the seller is providing little or no information concerning any of the above, this should trigger key “red flags” that should alert buyers to the potential risk that they may be buying an illegally excavated or looted heritage artwork that has been illegally exported.

For legal advice on these issues please contact me at jfranses@36civil.co.uk.

For more information about due diligence please visit www.artduediligencegroup.com

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