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TABLE OF CONTENTS

Letter from the Editor	1
ACADEMIC ARTICLES	
The Role of the Police in the Co-production of Art Security in London <i>John Kerr</i>	3
Estimating the Volume of Counterfeit U.S. Currency in Circulation Worldwide: Data and Extrapolation <i>Ruth Judson and Richard Porter</i>	13
Getting Governments to Cooperate against Looting: Insights from the American and British Experience <i>Asif Efrat</i>	31
Repatriation via the Art Market: A New Type of Recovery, New Trends Coming from China <i>Johanna Devlin</i>	45
Planning Revenge: Art Crime and Charles Frederick Goldie <i>Penelope Jackson</i>	57
Fingerprinting Objects for the Control of Illegal Trafficking <i>Dr. W. (Bill) Wei</i>	65
REGULAR COLUMNS	
Context Matters “Fragmented Pots, Attributions and the Role of the Academic” <i>David Gill</i>	79
Lessons from the History of Art Crime “Counterfeit Money” <i>Noah Charney</i>	85
EDITORIAL ESSAYS	
“The Lord Byron Forged Letter: Where’s the Questioned Document Analysis (QDE)?” <i>John Daab</i>	89
“The Hattusa Sphinx and Turkish Antiquities Repatriation Efforts” <i>Aaron Haines</i>	99
“The Sword in the Museum: On Whether La Vallette’s Sword and Dagger, Currently Housed in the Louvre, Should be Returned to Malta” <i>Mario Buhagiar</i>	105

REVIEWS

Directed by Andrew Shea 107
Documentary Film “Portrait of Wally”
Catherine Scofield Sezgin reviews

Edmund de Waal 111
“The Hare with the Amber Eyes: A Hidden Inheritance”
Catherine Scofield Sezgin reviews

Anne-Marie O’Connor 115
“The Lady in Gold: Extraordinary Tale of the Klimt Paintings”
Catherine Schofield Sezgin reviews

EXTRAS

Q&A with Joshua Knelman 119
Noah Charney

Summary of Papers Presented at the ARCA Conference 121
on the Study of Art Crime and Cultural Heritage Protection

2012 ARCA Awards 129

Contributor Biographies 133

Acknowledgements 135

Letter from the Editor

Welcome to the new issue of *The Journal of Art Crime*, and thank you for subscribing. Your subscription supports ARCA in our non-profit research and educational endeavors, and we are grateful for it.

In this issue, we present six academic articles, rather than our usual 4 or 5. We had an abundance of strong and timely submissions, and so chose to run extra academic articles and have slightly fewer editorials in this issue. We are particularly pleased to present the first in-depth academic article on an exciting new technology for “art fingerprinting,” penned by one of the inventors of the process, Dr. Bill Wei. We are also proud to run several articles by students, strong pieces for those early in their careers, that nevertheless do advance their respective fields and present well-considered new information and analysis. We are pleased to support young scholars as well as established professors and professionals.

The 2012 Postgraduate Certificate Program was a great success, as was the 2012 ARCA Conference, thanks to the combined efforts of CEO Lynda Albertson, just rounding out her first year at the helm, and our veteran Academic Director, Derek Fincham. You’ll find inside a summary of the conference papers, for those who were unable to make it to Italy.

We hope that you will enjoy these articles. Best wishes and thanks again for your support.

A handwritten signature in black ink, appearing to be 'NC' or similar initials, written in a cursive style.

Noah Charney
Founder, ARCA
Editor-in-Chief, *The Journal of Art Crime*

The Role of the Police in the Co-production of Art Security in London¹

John Kerr

Abstract

This article examines the role of the police in the co-production of art security in London. It draws on empirical research conducted on the under researched security network for art in the capital. In light of ‘new policing’ theses (McLaughlin 2007), the article investigates how the theory of nodal governance (Johnston and Shearing, 2003) can operate in an actual policing arena. With other government nodes and private stakeholders producing much of the art security, this article argues that a nodal governance framework is beneficial to the public police as it allows them to take an important role in the policing when they are best suited to doing so, and a lesser role in other areas when and where other nodes have greater capacity.

Keywords: Art police, art investigation, art security, police London, art London.

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Introduction

Art's current popularity in the capital is unprecedented. Eight museums have more than a million annual visitors. In 2010, 5,061,172 people visited Tate Modern and 4,954,914 people the National Gallery (*The Art Newspaper*, April 2010, p. 24, April 2011, p. 24). In the UK, there are 28.6 million visits every year to locations run by the National Trust, English Heritage and the Historic House Association (www.english-heritage.org.uk, www.nationaltrust.org.uk, www.hha.org.uk). Furthermore, the UK art market is second only to the USA in size of global trade (House of Commons Select Committee, 2003; House of Commons Select Committee, 2005; British Art Market Federation, 2009). Following on from the recent question of 'Who should the police be?' (Shearing and Marks, 2011, p. 210) this article examines the role of the police in the securitization and policing of art in London.

There is a dearth of research into how the security of art in London (or indeed any other global art hub) is produced. The importance of a nation's cultural heritage, the significance of the cultural economy, and art theft's links to other forms of criminality, nationally and internationally, necessitates much more consideration. Criminal enterprise presents a risk to this wealth of heritage and thriving cultural economy. This research article focuses on one area: the theft of art. As much as 30% of insurance claims are for thefts and while at the top end these incidents are very rare in London and the UK, they happen much more regularly at the lower level, particularly the £10,000–50,000 price range.

It is estimated that globally art crime could be worth billions of pounds (James, 2000; Mueller, 2001; McShane and Matera, 2006). However, this is very difficult to substantiate. In the UK, the lack of hard evidence suggests that it is difficult to know the actual extent of art theft because, crucially, it is recorded under the large categorization of 'property crime'.

Despite the well-known difficulties of accessing the public police, the art world and private policing, my empirical research focused on these 'worlds'. This article discusses the data sources and methodology, the changing policing landscape (and corresponding theoretical frameworks), research findings into the role and function of the public police and its relationship with private stakeholders, and examines critical questions and issues in the co-production of art security.

Data sources and methodology

The lack of prior research has forced the few previous researchers into foraging around a range of sources (Conklin, 1994; Mackenzie, 2005). Academic researchers, including Mackenzie (2005), Mackenzie and Green

(2007), and Polk (1999), have often been drawn to the area of looting and the entry (and further sale) of objects into the art/antiquity market. There is no research that has focused specifically on the securitization and policing of art in London.

My data sources were, first, the policing and securitization agents (public and private) involved with art and, second, the locations in London that display art. Academics often do not have the chance to conduct research in their desired, or most suitable, location. However, London, with its myriad of locations and flows of art within (and in and out of) the city, is one of the best sites in the world to address how security of art is co-produced in a city space. In addition to observation, interviews were conducted with people who work for and with locations, ranging from large national galleries, to smaller museums and historic houses (such as Heads of Security, volunteers, installers). Interviews were also undertaken with the policing and securitization nodes. These included the MPS Arts and Antiques Unit, government agencies, the National Security Adviser, the Head of the Heritage Unit, Interpol, private recovery and investigative companies, private art detectives, loss adjusters, insurance companies, databases, ex-MPS officers. To protect my sources, many names are withheld for this article.

The Changing Policing Landscape

The under researched configuration of the security network for art in London, situated within the broader theoretical framework of policing in the risk society, provides an important test case for theories on modern policing and is a good example of how the public police prioritize certain areas at the expense of others, and deal with the challenges posed by crimes which require specialization and expertise.

Although the limits of the level of control the state can hope to have in crime control and its ability to provide effective security has already been exposed (Garland, 2001; Johnston, 2006; Johnston and Shearing 2003), the discourse has moved on and now not only can public and private not be defined by 'loss' and 'crime' labels, but also 'public' and 'private' are labels which, while still useful for mapping purposes, are less defined within operational relevance because policing (or security governance) is now made up of complex relationships between varied security providers (McLaughlin, 2007, p. 94). The securitization and policing of art in London exemplifies this, with its complex matrix of security providers which co-exist together to produce a security and response network. It has many of the characteristics present in theories on policing in late modernity and also has facets and conditions that test these theories.

State-Centred Policing or Post-Policing Security?

The co-production of art security provides an example of how security nodes form a matrix with an overlapping of ‘multiple tops’ and many ‘downs’ (Wood and Shearing, 2007, p. 149). Importantly, this matrix is not constant. It adapts as the stratification of the nodes changes. For example, due to its encouragement of cultural spaces, its own large amount of art and the flows of art it helps to create, the state still has a position in the network. Whereas in one area (the public police) the state has taken arguably a smaller role, it still retains (due to, rather than in spite of insurance) a large amount of influence. This article focuses on the role and function of the public police within this co-production of security which, due to state-centred policing theories such as anchored pluralism (in which the state is a controlling force within a plural policing terrain) (Loader and Walker, 2006) failing to adequately reflect the post-policing security formation of this particular security arena, is best described by nodal governance in which there is no locus of power (Johnston and Shearing, 2003).

Role and Function of the Public Police

In the UK, the public police’s response to art theft often begins with the local police force where the crime occurred, or, within London, the local borough police or the City of London Police. These officers can turn to the MPS’s Art and Antiques Unit, limited in its operational potential by its small size and jurisdiction over only London, for advice and help in disseminating information on stolen property. Whereas the Unit is involved in operations that require specialist knowledge of art crime, it is the police forces and borough police themselves who are often involved in recoveries and investigations (if they choose to investigate).

Professional receivers are rarely targeted by the public police and thefts of art, particularly from private houses, are often investigated inadequately by inexperienced officers who have little knowledge of art and a lack of awareness about the Arts and Antiques Unit and its database. With the Unit relying on officers to report thefts to them, there is a strong case for arguing that the public policing node would be more effective and the nodal framework would benefit greatly if, when a property crime occurred, art and antique theft was recorded separately as a matter of procedure, and not just out of choice by an officer. Although art thefts continue to be recorded as property crime and not differentiated from other stolen objects, investigating might not be an attractive option for local police forces as one theft will probably involve more complex, costly, time-consuming investigation than lower value property crimes. It also makes it hard to know the true scale of the problem and difficult to form a concerted public police response (if one were sought after by senior officers). Unless the separation of art crime figures from property

statistics [which some within the security network are calling for occurs, or qualitative issues are built into performance frameworks (O’Connor, 2005)], the problem, in effect, will not exist.

The MPS Art and Antiques Unit have been successful in the past. During the 1990s, despite the limited number of detectives (about four), they were annually recovering, value-wise, more stolen property (£14 million) than the rest of the entire Metropolitan police. Operationally successful, they were involved in high level recoveries such as Munch’s ‘Scream’ and Vermeer’s ‘Lady Writing a Letter with her Maid’. The Unit, taking regulatory limitations into consideration, can justifiably claim to still be effective (within their contracted sphere).

Limits of Public Policing

There are limits to the public police, concerning the spaces in which they actually police; their capability in regards to preventative policing; resources; and regulatory constraints. Within many spaces in modern society, it is private security (whether in-house or contracted) technical staff who ‘do’ the security (Shearing *et al.*, 1980; Soja, 1989; Davis, 1990; Johnston and Shearing, 2003; Wakefield, 2003; Ericson, 2007). While using private security is the case for the many locations that display art, this security is often ‘public’ owing to the large amount of state-run locations that display art. Although there is presently a small number of private security personnel (~5%) working in national museums, this could increase according to the National Security Adviser. However, whether public or private personnel are used, the public police are not policing inside these spaces. This is not their role. Furthermore, if they were more involved, security personnel might feel they are encroaching on their area and should remain outside to avoid a conflict of interests (Hoogenboom, 1991; Button 2007). However, while this could be the case for decently paid, full-time security staff at a location such as the Victoria & Albert Museum (www.arup.com), this is not the case at other locations that depend on volunteers, many of whom are >60 years.

In the ‘flows’ of art for exhibitions and sales within (and in and out of) the capital, a range of people ‘do’ the security for art and prevent theft or damage. They range from initial risk assessors, installers, and transportation companies to onsite security personnel. Considering Ericson’s (2007, p. 184) concept of ‘streams of governance’, whereas some art (particularly state owned) actually moves within a ‘stream’ for a length of time, this is not the reality for a lot of art (which will have different people responsible for its security).

Preventative Policing

This raises questions over the public police's capacity and role within preventative policing with art. After a theft, while the public police place their emphasis more on the criminal, and the private more on the recovery of the item, both engage in specialized investigative activities. However, the large emphasis on risk management and the prevention of crime by security and policing nodes, particularly insurance companies, shows the preventative measures to be more important than either recovery or criminal. This is highlighted by the crucial role of the National Security Adviser in art security risk assessments for the Government. Public policing has changed dramatically since Shearing and Stenning argued in 1985 that the focus on opportunities, rather than potential offenders, would need mass surveillance (Shearing and Stenning, 1985). This has happened and the focus on opportunities is central to both public and private policing. With art, the involvement of insiders makes the public police's role even harder (Mackenzie, 2005; Tjihuis, 2006).

The public police's focus on prevention involves crime prevention officers and situational crime prevention using initiatives such as Secured by Design and proactive measures by the MPS Unit. Concerning art, the problem for the public police's crime control, as in their investigations, is the lack of art-skilled officers. The MPS Unit is limited in size and while they offer advice to locations, privately owned places with art can expect, at most, a site visit from a local Crime Prevention Officer. This officer will probably have limited knowledge of the art world. Actual risk assessments will be conducted by a surveyor or Loss adjuster working for an insurance company. If these risk assessors do not know specific information, crucially they know who does.

With the emphasis on prevention, the policing functions undertaken by the Government through the Department of Culture Media and Sport, the Museums, Libraries and Archives Council (MLA), and in particular, the National Security Advisor, have been successful and are a reason for the low incidence of thefts from state run museums and art loaned in the public interest [the Government indemnifies its own art and art that is loaned out in the public interest (www.mla.gov.uk)]. As a victim of the 'bonfire of the quangos' (House of Commons Public Administration Select Committee, 2011), the MLA began transferring responsibilities to Arts Council England on 1 October 2011. This could have a detrimental effect, especially concerning functions such as those undertaken by the Acquisitions, Exports and Loans Unit (AELU). However, the role of the National Security Adviser, responsible for so much policing of art in London, will still exist.

Resources

With respect to resources, when budget cuts occur, it is the Specialist Crime Directorate units who are most at threat. The MPS Art and Antiques Unit is one of the most vulnerable despite its history of success. The irony is that viewed in line with 'acting as market players' (Loader and Walker, 2007, p. 23), the Unit has offered, and continues to offer, far more than 'value for money' despite the level of specialization required, often lengthy investigations, and regulatory restrictions. Furthermore, the Unit can investigate the many other crimes linked to art.

Regulation

While having to work and 'compete' in a growing policing terrain and under ever-increasing financial and managerial accountability pressures (Reiner, 2000, p. 209), the public police are also faced by risk management (such as surveillance techniques from private security) being used on them, themselves (Ericson and Haggerty, 1997; Ericson, 2007b). Regulation is more stringent and has curtailed some policing methods, such as using police informants after the 2000 Regulation of Investigatory Powers Act. A leading private investigator describes the consequences of the Act, 'they (the police) lost round about 80% of all informants when the RIPA act was introduced...so they miss out on a huge amount of information as to who is committing crime and where stolen property is going'. (Interview, 29 March 2010) This is an area in which the dissimilarities between the private and public policing agencies are highlighted; the public police's capacity is lessened, whereas the private agencies can, and do, continue to use informants.

However, the private agencies are limited in what they can do with this information; for example, they cannot go and search premises. This reliance on the public police to act is frustrating for those former MPS officers who have moved to the private sector, particularly when they give information to the public police which is then not acted on.

Even though the public police are now more open with the insurance industry, as shown by the 'Memorandum of Understanding' with guidelines on exchanging information between the police, insurance companies and loss adjusters (ACPO/ABI, 2005), increased regulation has made it more difficult for them to work with each other.

Relationship with Private Stakeholders

An example of the private/public relationship in action is the Art Beat Scheme (www.met.police.uk/artbeat/index.htm). Whether described in terms of hybrid policing or nodal governance (Johnston, 1992; Johnston and Shearing, 2003),

using the special constables (often employed by private policing companies) introduces the dichotomy where the public police benefit from using those within the community with specific skills and knowledge, but questions can arise over conflicts of interests (Button, 2002).

There is considerable scepticism over the scheme from some who work in the field. Whether they work for the private sector or non-profit organizations (such as the V & A and the British Museum) is the use of special constables, policing ‘on the cheap’ (The Guardian Newspaper, 2007), ‘window dressing’ or maybe a public relations exercise for the public/private sector relationship? Could they be used as PCSOs, not using their specific art and antique knowledge and skills? The key issue for some is the special constables’ lack of criminality and ‘evidence gathering’ knowledge and the fact that functionally if the police need specific art knowledge they can go directly to an expert.

The Unit’s use of special constables is in line with other areas of policing, such as fraud and IT, and could be viewed as a good use of resources because it utilizes well-trained people with art knowledge, especially as the Head of Security at a leading gallery said ‘the average bobby doesn’t know a Canaletto from a can of beans’ (Interview, 30 November 2009). While benefitting the public police, the Art Beat Scheme can also help the employers of the special constables, whether they are location nodes or private policing nodes.

The use of special constables is a form of community policing (Jones and Newburn, 1998; Johnston and Shearing 2003). However, in the Art Beat scheme it is still the public police who are making the decisions, albeit with the assistance of the special constables (and their knowledge).

The public police relationship with private stakeholders can be controversial. An example is their use of the Art Loss Register to identify stolen art objects, and crucially, to allow the Art Loss Register to charge companies and the public instead of them. The public police might be saving costs; however, it has a marked effect on how they and the Art Loss Register are viewed by many other stakeholders within the nodal framework. It creates the kind of monopoly that runs counter to maximizing ‘the benefits of neo-liberal “nodal governance” arrangements’ (McLaughlin, 2007, p. 94). This friction among the nodes can further increase depending on how the Art Loss Register deals with the information to which it has special access. A leading figure in European art policing sums up this concern: ‘Sometimes, the flow of information to police was not always as it should have been, and this is to be improved’ (Interview, 8 February 2010). It is a strange policing situation if the public police do not know what is in their ‘own’ knowledge bubble and when that stakeholder can profit from this knowledge.

The lack of knowledge sharing within the public police at borough, force, and national level, and also with the private sector exposes a serious weakness in policing. Stolen art crosses police force boundaries and if forces (or borough police) do not want to get involved because the art was stolen in another force’s or borough’s area, then the policing is severely handicapped. This is not unique to art (O’Connor, 2005, p. 72). The dislocation is highlighted when information that should and could be supplied by local or borough forces is provided by private sector nodes.

Despite this, there is knowledge transference within the security terrain. This mainly happens through the MPS Art and Antiques Unit and involves relationships with loss adjusters, cooperation with museums, and with private policing agencies. The forming of the London Museum and Archive Security Group in 2006 with the support of the V&A is a good example of the nodes (including 240 museums) working together. The interconnection of knowledge bubbles sharing information such as specific times and days when criminals are targeting locations, their methods, and the type of pieces (e.g. Old Masters, porcelain, bronzes) can make a significant difference.

The MPS Unit have been further hindered in the past by attitudes within the public police. In spite of the evidence that art theft is often committed by profit driven criminals with links to other crimes, their attitude is exemplified by a proposed national stolen art database in 2003 being hampered by the lack of interest shown by local police forces (Kaufman Letter 2004 www.homeoffice.gov.uk) and the failure of the MPS to publish their Arts and Antiques Unit’s level of recovery success in the past.

Conclusion

Certain parts of the art security terrain are functioning well. The low incidence of reported thefts from national museums highlights an area that is being policed effectively. The National Security Adviser successfully leads the co-production of security in these locations. However, other locations are much more vulnerable and whereas they have fewer resources for security, a more effective co-production through the nodal governance framework can make a significant difference. Although other art policing nodes might work well with the MPS Art and Antiques Unit, these nodes struggle to have a similar relationship with other public police who, whether because of a lack of specialized knowledge, deficiency of resources, lack of desire within the force, or indifference at management level, are keener to focus on other areas of policing.

The insurance industry has similar problems after thefts have happened. They involve the public police straight away

by either contacting the officer leading the investigation or through their Loss Adjuster. Although some successful joint operations do occur, this cooperation is not the norm and they are often frustrated by the public police. Similar to other nodes, they hand the police information which is then not acted upon or face delays in receiving police authorization to pay a reward. Some within the industry believe it is in the public police's interests to use the insurance companies more.

A major reason, or justification, for the lack of prioritization within the public police is the assumption that art is insured. Whereas insurance companies are centrally involved in the regulation of the art world, they are not the 'police'. The 'formal responsibility' (Reiner, 2000, p. 7) of the public police is important here because with art theft they might be simply one node in the security framework, their unique powers give them a particular role, whether they are best suited to it or not, or indeed whether they want it or not; first, if a reward is offered, and, second, because of their powers to arrest and to conduct a criminal investigation.

Among those involved with producing art security (from insurers to private art investigators), it is a common belief that the existence of insurance should not make art theft less of a priority for the public police. Also, it is often a false assumption that art collections are insured. Although a dealer might view a painting as an economic investment whose value they need to insure as a 'matter of course', the uniqueness of much art means some people choose not to insure as financial compensation can never replace the art work.

Preventative measures are now more important for both the public sector and private stakeholder nodes than either the recovery of the piece or the criminal. The crucial question is not who is best suited to doing this preventative policing, but how different nodes (with their range of motivations and interests) can produce the most effective preventative policing matrix and, crucially in neo-liberal terms, one in which they all benefit. The insurance companies are central to the security terrain. Fluidity in the art world creates profit and, in line with Ewald's (1991, p. 208) view that 'insurance allows enterprise', insurance is the driving force behind institutions taking 'risks' such as putting on blockbuster exhibitions with loans of art works moving around the world, even after previous thefts during loans. Similarly, the state follows an insurance model for both creating flows of art (and the consequent 'risk'), and also for securing its art and that deemed to be shown in the public interest.

Art is one of the few remaining unregulated fields and is a world that has problems dealing with thieves within it. We are now all our own risk assessors (Rose, 2000) and in line with Johnston and Shearing's (2003) belief that 'negative logic' (Ericson and Haggerty, 1997, p. 86) need not be the case, if the

public are unhappy with the public police's response they will turn to the private sector. At present, private companies offer many services and arguably provide a more effective service to the public. However, history warns us about the unintended consequences and risks of a private sector takeover (Zedner, 2006).

The general consensus throughout art security is that the public police cannot leave the field altogether, despite the huge amount of preventative policing being undertaken by nodes (public and private) other than the public police, as well as the private stakeholders' significant involvement in recoveries. While a lot of art in London and the UK is therefore protected and well secured, private owners should not miss out on state policing and have to rely on either self-policing, lending their art to the state, or on the insurance industry. If the police are seen to not be involved there is the danger that the criminals will view it as a less risky criminal enterprise. Private stakeholders' lack of criminal investigative powers means that while the thief (or those connected) might lose the art work they have stolen, the risk of criminal justice sanction lessens dramatically. It can be argued that the often low-level punishment already makes involvement in art theft a more attractive proposition than other more dangerous thefts (Passas, 2001).

Although people within the security terrain for art agree that other crimes should be higher priorities, many would like the public police more involved, especially due to the links with other crimes and its funding of other criminal activities. The Johnson crime family are an example. Their activities included drugs, armed robberies, thefts, and violent crimes but their Achilles' heel was art theft, and the public police should have realized this long before they did. A crucial point is that it does not need to be an uppermost priority in line with level 3 policing but nor should it be marginalized because it inhabits the Level 2 policing gap (O'Connor, 2005). If the coordination were better, the public police could be more effective at not a huge increase in cost. The policy within public police senior management of not taking the lead role in certain crimes is not new (Johnston and Shearing, 2003, p. 120). Nodal governance offers the public police the opportunity to be involved in tackling art theft by using other nodes to do much of the policing and securitization, but they should still be involved due to their unique powers. Non-involvement could actually hinder the framework. Attempts such as The Council for the Prevention of Art Theft (COPAT), set up in the private sector to organize the security and policing nodes (House of Commons Select Committee, 2003), have been hindered by the very node, the public police, which would benefit from a more organized security terrain. ACPO's involvement in the new Heritage Police Initiative, in which the training of officers throughout police forces is a key part, might signal an acceptance that cultural crime is important and that a nodal

governance framework (albeit presently a public sector one) can work.

Another way to help the security terrain work more effectively would be to set up a national or international, free-to-use (or at minimal cost) database. In this proposal, which predominantly comes from some insurers, loss adjusters and leading art investigators, charges could be paid by dealers, auction houses and insurance companies, or the public as a service charge. However, to then charge again for the recovery as the Art Loss Register does, is not a fair system. For example, if a victim recovers their own property why should they pay the Art Loss Register?

Since August 2009, the Interpol database has granted access to the public. Interpol's involvement is certainly positive as policing agencies must be aware of the fluidity of transnational crimes and organized criminal networks broadening their activities into areas such as art theft (Bowman, 2008). As criminal processes such as laundering through currency exchanges have become more difficult (Sheptycki, 2000), 'the last, great unpoliced financial market' (Interviewee 15–29 March 2010), i.e. the art world remains attractive.

'New Policing' theses help to describe modern policing matrices (McLaughlin, 2007). Considering how the public police presently carry out their policing work with art, other state-centred policing models such as Loader and Walker's (2006, p. 194) concept of anchored pluralism are unfeasible in the co-production of security for art in London. The nodal governance (Johnston and Shearing, 2003) framework, with its adaptability, allows the public police to remain an important part of the policing matrix when they are suited to being so, but also allows them to play a lesser role in some areas. For example, other nodes in the policing matrix are better suited to do some of the 'policing' as they (such as insurance), can either impose security measures on the art, or they have the capacity to gain better access to information (such as art detectives in the private sector). The key for both security providers and those responsible for situating art security is that the public police must remain in the co-production even if other nodes, public or private, are producing or directing certain aspects of the securitization and policing. The public police could view the co-production as advantageous to their role within the terrain, and not as an excuse to leave it.²

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Estimating the Volume of Counterfeit U.S. Currency in Circulation Worldwide: Data and Extrapolation¹

Ruth Judson and Richard Porter

Abstract

The incidence of currency counterfeiting and the possible total stock of counterfeits in circulation are popular topics of speculation and discussion in the press and are of substantial practical interest to the U.S. Treasury and the U.S. Secret Service. This paper assembles data from Federal Reserve and U.S. Secret Service sources and presents a range of estimates for the number of counterfeits in circulation. In addition, the paper presents figures on counterfeit passing activity by denomination, location, and method of production. The paper has two main conclusions: first, the stock of counterfeits in the world as a whole is likely on the order of 1 or fewer per 10,000 genuine notes in both piece and value terms; second, losses to the U.S. public from the most commonly used note, the \$20, are relatively small, and are miniscule when counterfeit notes of reasonable quality are considered.

Keywords: Banknotes, counterfeiting, estimation, international, money.

¹ Reprinted with permission from *The Financial Crisis: An Early Retrospective*, edited by Robert R. Bliss and George G. Kaufman (Palgrave Macmillan, November 2010).

Introduction²

In a series of earlier papers and reports, we estimated that the majority of US currency is in circulation outside the United States and that that share abroad has been generally increasing over the past few decades.³ Numerous news reports in the mid-1990s suggested that vast quantities of counterfeit dollars might be circulating overseas as well; these reports contrasted sharply with information from official sources indicating that counterfeiting is relatively rare.⁴ In this paper, we attempt to place an upper bound on the quantity of counterfeit in circulation based on samples of counterfeit data collected by the United States Secret Service and Federal Reserve together with our understanding of circulation patterns for genuine and counterfeit currency.⁵ This paper differs from previous work in that the magnitude of the counterfeiting problem is examined for all denominations now being issued rather than just for \$100s, as in our earlier work.⁶

2 The authors thank colleagues in the U.S. Secret Service Counterfeit Division, the Cash Function of the Federal Reserve Bank of New York, and the Division of Reserve Bank Operations and Payment Systems for assistance in compiling and obtaining data and for valuable discussions and comments. Members of the Divisions of Monetary Affairs and International Finance also contributed helpful comments. The views presented are solely those of the authors and do not necessarily represent those of the Federal Reserve Board, the Federal Reserve Bank of Chicago, or their respective staffs.

3 Judson and Porter (2001), Porter (1993), Porter and Judson (1996), U.S. Treasury (2000, 2003, 2006), Porter and Weinbach (1999), Judson and Porter (2004). Portions of the material here, which were written by the authors, appear in U.S. Treasury (2000, 2003, 2006).

4 The reports of counterfeiting led to a congressional hearing on counterfeiting issues in February 1996, which resulted in a legislation requiring overseas audits of U.S. currency. (Refer to "Counterfeit U.S. Currency Abroad: Observations on Counterfeiting and U.S. Deterrence Efforts," Statement of Jayetta Z. Hecker before the Subcommittee on General Oversight and Investigations, Committee on Banking and Financial Services, House of Representatives, February 27, 1996. In testimony leading up to this legislation, the GAO argued that the evidence about the true dimensions of the counterfeiting problem facing the United States overseas was mixed. In particular, the GAO could not verify the claims of the Treasury that the problem was economically insignificant nor those of Secret Service about the actual extent of the counterfeiting. In part because of these concerns, the Congress passed the Anti-Terrorism and Effective Death Penalty Act of 1996, which obligated the Secretary of the Treasury, in consultation with the interagency Advanced Counterfeit Deterrence group, see <http://www.treasury.gov/offices/domestic-finance/acd/about.html>, to make several reports to the Congress on the use and counterfeiting of U.S. currency abroad, including U.S. Treasury (2000, 2003).

5 The Treasury and Federal Reserve work together on currency design. Currency is produced by the Bureau of Engraving and Printing, a branch of the Treasury. The Federal Reserve distributes currency. The Secret Service, formerly a branch of the Treasury but as of 2003 a branch of the Department of Homeland Security, is charged with the responsibility of detecting and arresting any person committing any offense against the laws of the United States relating to currency. From 1996 to 2006, the Federal Reserve and Treasury were legally required to provide estimates of genuine and counterfeit currency circulating outside the United States.

6 Data coverage for the \$2 denomination is not as complete as it is for the other denominations, and so some of the analysis is not possible. However, the volume of \$2 notes in circulation is tiny, about 0.2 percent of the value of

We have very good sampling data from two sources that can be considered independent in various dimensions. In order to develop appropriate confidence bounds for extrapolation, we compare the data from these two sources. Both sources suggest that the incidence of counterfeits in the population is quite small, in the neighborhood of one note in 10,000 for the denominations now being issued. The nature of these data flows also allows us to estimate the degree to which the currency received by the Federal Reserve System is likely to represent the total population of currency outstanding.

In addition, we argue that it is unlikely that small areas containing large numbers of counterfeits can exist for long outside the banking system, and that the total number of counterfeits circulating is at most a couple of times what the sampling data indicate. In particular, we find that an upper bound on the stock of counterfeit currency in circulation, as a share of genuine, would still be less than 3 in 10,000. Finally, we present evidence that, for the denominations most commonly handled by U.S. consumers, the incidence of counterfeits that cannot be detected with minimal authentication effort is smaller, probably on the order of about three in 100,000.

The paper proceeds as follows. The next section provides a brief overview of dollar usage outside the United States and counterfeiting within and outside the United States. Section 3 reviews the data sources used for this analysis. The fourth section presents our estimates of the likely total value of counterfeit dollars in circulation. The fifth section presents estimates of how representative the notes that pass through the banking system are. The sixth section presents a model of currency circulation that demonstrates that it is quite unlikely that a large pool of counterfeits can circulate undetected. The seventh section concludes.

Background

Out of the approximately \$759 billion in U.S. dollars held in U.S. currency in the form of banknotes (paper currency) in circulation outside the U.S. Treasury and the Federal Reserve at the end of 2005, the Secret Service reported that about \$61 million in counterfeit currency was passed on the public worldwide.⁷ Of the counterfeit currency passed, the majority,

currency held outside banks.

7 Currency in circulation is measured several different ways, depending on whether currency held in the vaults of depository institutions ("vault cash") and Treasury currency, which includes Treasury notes and coin, are included. The Federal Reserve's data on money stock currency, reported in the H.3S statistical Release, include Treasury currency and vault cash. On a monthly average basis, vault cash ranged from \$45 billion to \$51 billion during 2005. The value of coin in circulation at the end of 2005 was \$35.2 billion. The Treasury figures on currency in circulation, which include vault cash but exclude coin, are used in this report. The Secret Service reported that additional quantities were "seized," or confiscated before they entered circulation. In this paper we focus on the figures for "passed" counterfeits.

\$56.2 million, was passed in the United States, with the remainder passed abroad. While the loss associated with a counterfeit to the individual who mistakenly accepts it can be significant, the aggregate loss of \$56.2 million in 2005 amounts to about 20 cents per U.S. resident, a minor amount. Losses from counterfeiting have also been very small relative to the cost of check fraud and other forms of fraudulent transactions. For example, in 2005, the cost of check fraud to commercial banks was estimated to be about \$1 billion, or nearly 20 times the cost of counterfeiting.⁸

U.S. Dollar Usage around the World

The Federal Reserve supplies currency on demand. In practical terms, Federal Reserve Banks provide currency at face value to banks that have accounts with them. Banks that do not have accounts with the Federal Reserve can purchase currency through their correspondent banks that do have Federal Reserve accounts. Individuals and nonfinancial firms typically obtain currency from banks or currency exchanges.

As a share of the monetary aggregates, currency is relatively small: it makes up just over a third of the narrow monetary aggregate, M1, and about a tenth of the broader monetary aggregate, M2. However, there is a great deal of currency outstanding. Currency held outside depository institutions at the end of 2005 amounted to about \$759 billion, or about \$2,500 for every U.S. resident.⁹

Although a great deal of U.S. currency is in circulation per U.S. resident, not all U.S. currency is held within the United States.¹⁰ Cash U.S. dollars are used widely overseas. The U.S. dollar is the leading international currency in many regions, and our estimates from earlier studies suggest that between half and two thirds of all U.S. currency in circulation is held outside the United States.¹¹ People outside the United

States have a wide range of motivations for holding and using dollars and a correspondingly wide range of habits for managing their dollar holdings. Generally, dollars are held when other assets are inferior in reliability, liquidity, anonymity, or compactness. In highly volatile economic and political conditions, dollars can virtually drive out other assets, including domestic currency. Moreover, once people lose faith in their local currency, they tend to hold dollars for a long time before the local currency is able to regain credibility. Beyond these situations, dollars are the currency of choice for travelers headed for destinations outside Western Europe, and are favored as a store of value or medium of transaction for large purchases in areas with moderate instability and underdeveloped financial services. U.S. currency provides individuals in these countries with a vehicle for savings and transactions that they would not otherwise have. For the U.S. taxpayers, there are benefits, too: total currency outstanding has yielded seignorage income of \$20 billion to \$32 billion per year in recent years, and the estimated portion of this revenue derived from overseas dollar holdings is in the range of \$10 to \$20 billion per year.¹²

For the purposes of this paper, we group currency abroad outstanding into three categories: currency hoarded, or held for long periods in one place; currency that circulates, but stays outside the United States and the banking system in general; and currency that is used largely for tourism or otherwise circulates back to the Federal Reserve through the banking system. The currency in circulation abroad that is most readily analyzed with existing data sources is that in the last category.

The Economics of Counterfeiting

Both theoretical studies and the little empirical information we have suggest that high-quality counterfeiting is expensive and only effective when few counterfeits are passed relative to the amount of genuine currency in circulation. Producing high-grade counterfeits requires access to presses, inks, and high-grade paper. The last item is the most important element because cashiers and bank tellers often rely on touch to detect counterfeits. In addition, the notes must then be either passed or distributed to others for passing, which is a complicated undertaking when large volumes of notes are produced.¹³

U.S. Treasury (2000, 2003, 2006).

¹² For every dollar in currency obtained, individuals must give the Federal Reserve an asset worth a dollar. The Federal Reserve purchases Treasury securities with these assets. As long as the dollar remains outstanding, the Federal Reserve earns interest on its Treasury securities. Such interest earnings are rebated to the Treasury after deducting Federal Reserve expenses. In the nine years from 1999 to 2007, the Federal Reserve returned between \$19.0 and \$32.3 billion to the Treasury each year (Economic Report of the President 2003 and 2009, Table B-81.) For analysis of earlier years, refer to Jefferson (1998).

¹³ Transportation of large quantities of currency across international bor-

While seized notes posed some threat prior to the seizure, passed notes clearly caused losses to the banknote-using public. Moreover, the fact that they were passed at least once suggests that they passed a "quality control" by fooling at least one person.

⁸ Board of Governors of the Federal Reserve System, 2007. Notably, this figure does not include overall losses from check fraud to consumers and businesses.

⁹ Weekly figures on the quantity of currency held by the public are reported on the Federal Reserve's H.4.1 and H.6 statistical releases. Quarterly figures are reported by the U.S. Treasury in the Treasury Bulletin.

¹⁰ The observations in this section are drawn from first-hand visits to dozens of economies by both authors since the mid-1990s under the auspices of the International Currency Awareness Program (ICAP) run jointly by the Federal Reserve, U.S. Treasury, U.S. Secret Service, and Bureau of Printing and Engraving; refer to U.S. Treasury (2006), Table 3.1 for a list of countries visited. The authors also participated in a precursor program to the ICAP. During these visits, the authors spoke with hundreds of senior officials from central banks, commercial banks, cash handlers, and law enforcement agencies about currency usage and counterfeiting outside the United States.

¹¹ Judson and Porter (2001), Porter (1993), Porter and Judson (1996),

A bank or an individual might be fooled into accepting a batch of counterfeits once, but it seldom happens more than that. Thus, the notes must be ever more widely dispersed. Informal discussions with the Secret Service indicate that the full cost of producing and *distributing* high-grade counterfeit \$100s can be in excess of \$50 per counterfeit.¹⁴

The few theoretical papers on currency counterfeiting also conclude that the only long-run equilibria are for two alternate states, either very low or very high levels of counterfeiting. Lengwiler (1997) finds that in fact the only possible equilibria are for zero counterfeiting or a high level of counterfeiting. In his model, the equilibrium that actually occurs is a function of the note's production cost (i.e., difficulty of counterfeiting) and its face value. The monetary authority is more likely to invest in higher-cost notes and thus insure a zero-counterfeiting equilibrium the higher is the cost of counterfeiting and the higher is the value of the note. The U.S. dollar, especially its pre-1996 series, had significantly fewer counterfeit protection devices than many other industrialized countries and was relatively low in value.¹⁵ However, as Green and Weber (1996) point out, the technology embedded in the new-design 1996-series \$100 approached that of other countries' currency at that time. The technology of euro banknotes, which were introduced in 2002, is generally higher than the 1996-series U.S. dollar, but the new-design \$20 issued in October 2003 has comparable security to the euro.

Data Sources

We have two primary sources of data from the United States Secret Service and the Federal Reserve. In addition, we have institutional knowledge collected from both continuing contact and periodic visits to banks, currency dealers, banknote shippers, and other officials responsible for currency distribution and counterfeit detection around the world. Both sources of data suggest that the incidence of counterfeiting among actively circulating U.S. banknotes is quite low.

Secret Service Data on Counterfeiting

The United States Secret Service (USSS) is responsible for investigating, prosecuting, and preventing counterfeiting activity. They record counterfeit currency seized (i.e., found

ders is generally regulated. In addition, in very large quantities, currency is bulky: \$1 million in \$100 notes weighs about 20 pounds (or about 10 kg.) and fills a briefcase.

14 The fixed costs of producing high-grade counterfeits are relatively high. In addition, the costs of (successfully) passing more than a few notes into circulation can escalate quickly as victims who have accepted counterfeit currency become aware of the new threat and increase their level of scrutiny.

15 The highest denomination now issued is \$100. In contrast, many other countries issue denominations valued between \$500 and \$1,000, and a few countries issue notes whose value exceeds \$1,000.

at the point of production, before it enters circulation) and passed (i.e., found in circulation) counterfeit currency by denomination, location, and production method. We focus on the data for notes passed for two reasons: first, only notes passed were ever in circulation; second, only passed counterfeits generate an economic loss to the public.

The Secret Service data are in principle complete, and should provide representative figures. That is, if twice as many counterfeits are found in Country X than in Country Y, one would in principle conclude that Country X had twice as many counterfeits as Country Y. However, these data are incomplete for two major reasons. First, while U.S. law requires that all counterfeits be turned over to the Secret Service, local treatment and reporting of counterfeits outside of the United States varies considerably. Counterfeit U.S. dollars found abroad may be retained by banks, returned to customers, or held by local law enforcement authorities without being reported to the Secret Service. In some countries, counterfeiting of foreign currency is not illegal, or counterfeits presented at banks or exchange offices are routinely returned to the holder or retained by the bank or exchange office. Teams from the Treasury's International Currency Awareness Program (ICAP) visit banks and other cash handlers in various countries, and when teams visit, it is not at all uncommon for the banks visited to produce substantial caches of counterfeits that they have accumulated and held, either because they wish to use the notes to train their cashiers or because, prior to meeting the ICAP teams, they had little idea that the USSS considers it useful to at least examine and ideally retain passed counterfeits for investigative purposes. The banks are not necessarily obligated to turn the counterfeits over to the USSS as the USSS has no jurisdiction outside the United States and its territories. Second, the capacity of the USSS itself to detect and seize counterfeit U.S. currency overseas is directly related to its ability to develop working relationships with the appropriate agencies and officials overseas: Detection of counterfeits is generally higher in countries in which the Secret Service has better ties with local law enforcement agencies. As shown in the top panel of Table 1, in fiscal year 2005 the Secret Service recorded \$56.2 million in counterfeit currency passing in the United States, but only \$4.8 million in passing activity outside the United States. Because of the reporting and data problems described above, the Secret Service agrees that the true quantity of U.S. notes passed abroad is considerably larger than the reported quantity and is likely similar in magnitude to U.S. passing activity.¹⁶ (See Table 1)

Federal Reserve Processing Data

Each of the roughly three dozen Federal Reserve Cash Offices

16 U.S. Treasury (2000, 2003, 2006).

collects data on its cash processing activities, including counterfeit detection. These data are useful in three ways. First, the Federal Reserve Bank of New York, which is the major port of entry and exit for overseas shipments of U.S. dollars, can often identify the source country of the counterfeits it receives. These data complement the data collected by the Secret Service in several respects. First, these data measure counterfeiting in dollars that circulate differently. The Secret Service data cover notes that were detected abroad, or, in the taxonomy mentioned in the introduction, are circulating but remain outside the Federal Reserve. The Federal Reserve data, in contrast, capture notes that by definition have been returned to the United States. Thus, the correlation between these two sources can be used to calculate confidence bounds for the population of notes in circulation as a whole.

The second use of Federal Reserve processing data for this paper comes from the fact that separate statistics are recorded for pre-1990 series notes, 1990-series notes, and 1996-series notes.¹⁷ Notes circulating within the United States are likely to return to Cash Offices more quickly, while overseas notes in remote areas and areas where dollars are used more as a store of value than as a medium of exchange are like to circulate to Cash Offices only infrequently.¹⁸ The information on the series status, however, can be exploited to obtain estimates of how much of the total currency population is in “active” circulation and how much might be hoarded.¹⁹

The third use of Federal Reserve processing data is the most direct: from counterfeit detection rates and total processing figures, we can estimate confidence intervals for the true incidence of counterfeits among the stock of dollars circulating actively.

Institutional Information

The final sources of information, albeit not hard data, are the observations made during the International Currency Awareness Program’s visits to dollar-using countries, in which

17 1990-series notes were first issued in 1991 and include a security thread and microprinting. 1996-series notes were first issued in 1996 and include a larger portrait, a reflective security thread, a watermark, additional microprinting, optically-variable ink, and other features to prevent counterfeiting. A 2004-series \$20 design was unveiled in May, 2003. As new series are added, the data flow is adjusted. At any time, separate figures are maintained on the current series, the most recent prior series, and all other earlier series. Thus, when the issuance of the 2004-series notes began, figures for pre-1990 series and 1990-series notes were combined.

18 Depository institutions bear the cost of transporting currency for deposit in Federal Reserve Banks. For U.S. depository institutions, the volumes of currency are typically relatively large and the nearest Federal Reserve Bank is typically not very far away, so the transportation costs are relatively minor. For overseas institutions, however, the costs of transporting currency to the nearest Federal Reserve Bank can be considerably higher, providing an incentive for these institutions to try to recirculate currency rather than return it.

19 This question is beyond the scope of the current paper.

both authors have participated. Locations visited by the authors of the current paper included Argentina, Bahrain, Belarus, Bolivia, Bulgaria, Cambodia, Chile, China, Colombia, the Dominican Republic, Ecuador, El Salvador, Egypt, Greece, Hong Kong, Kazakhstan, Latvia, Lithuania, Mexico, Panama, Peru, the Philippines, Poland, Romania, Russia, Saudi Arabia, Singapore, South Africa, Switzerland, Taiwan, Thailand, Turkey, Ukraine, United Arab Emirates, the United Kingdom, and Vietnam. Other team members visited Brazil, Indonesia, Japan, South Korea, and Paraguay. In addition to providing a great deal of information about how and why U.S. currency circulates in other countries, discussions during ICAP team visits indicate that most currency returns to the banking system with surprising regularity, that internal counterfeit detection statistics at commercial and central banks worldwide fall into a fairly narrow and low range, that counterfeit detection skills are remarkably high wherever dollars are used, and that counterfeit detection practices are very responsive to market forces.²⁰

Estimating the Total Quantity of Counterfeit Dollars in Circulation Worldwide

The worldwide estimates of counterfeiting rely on a variety of data sources with differing characteristics. Specifically, we have made three sets of calculations to estimate the total amount of counterfeit currency now in circulation. First, we generate a lower bound for the total number of counterfeits by denomination based on Federal Reserve cash processing data, reported in Table 2. Second, we generated an upper bound for counterfeits by denomination by extrapolating from Federal Reserve data to cover counterfeits found outside the Federal Reserve. Third, we generate a range of plausible estimates for all denominations based on the relative incidence of \$100 counterfeits and lower-denomination counterfeits. We conclude that the total value of counterfeits in circulation at any moment is on the order of \$60 to \$80 million, or less than \$1 for every \$10,000 outstanding, and is highly unlikely to exceed \$220 million, or less than \$3 for every \$10,000 in circulation. Further, we conclude that the incidence of counterfeits is roughly the same inside and outside the United States, and thus the distribution of counterfeits follows the estimated distribution of genuine currency, which is estimated to be about 55 to 60 percent abroad with the remainder located within the United States.

Estimating the Minimum Stock of Counterfeits in Circulation

We estimate a lower bound on the number of counterfeits in circulation by extrapolating from the concentration of

20 Banks displayed varying counterfeit detection practices depending on local labor costs, local counterfeiting activity, and the relative cost of missing a counterfeit.

counterfeit notes in notes processed by Federal Reserve Banks. The Federal Reserve keeps records on the origin (domestic or international) of counterfeit U.S. notes it detects. (See Table 2 and Table 3.)

Given these figures, the calculation is straightforward: the estimated number of counterfeits in circulation is estimated as the product of the number of notes in circulation and the rate of counterfeit detection in notes processed at the Federal Reserve Bank of New York. Table 4 presents estimates of the value of \$100 counterfeits in circulation based on the assumption that the notes processed at the Federal Reserve represent a random sample of \$100 notes in circulation and using a broad range of assumptions on the share of total U.S. currency held abroad.²¹ As seen in the table, the Federal Reserve processing data suggest that the total stock of \$100 counterfeits outstanding in 2005 was in the range of about \$20 million to \$30 million, a figure we consider a lower bound for several reasons. First, the notes sent to Federal Reserve Cash Offices are a relatively “clean” sample of the population of all notes in circulation because such notes have already passed through several detection “screens” before reaching the Federal Reserve. If a counterfeit is deposited at a commercial bank, the probability that it will remain in the stock of notes sent on to the Federal Reserve is less than one, and most likely substantially less than one. Four possibilities for disposal await a counterfeit that arrives at a commercial bank. First, if undetected it could be recirculated or sent to the Federal Reserve. In the latter case, it would appear in the Federal Reserve processing data.²² Second, it could be detected as a counterfeit by the bank, and reported to the police and Secret Service. In this case, the note would appear in the Secret Service’s statistics but not in the Federal Reserve’s statistics. Third, it could be detected and returned to the depositor, an illegal and highly unlikely outcome within the United States. Fourth, a counterfeit could be detected and confiscated but either not reported to the police and U.S. Secret Service or not released. Banks are often eager to retain a few counterfeits for use in training their own tellers. In some countries, banks are permitted to report counterfeits and then retain the notes. This set of notes thus does not appear in the Federal Reserve statistics but may or may not appear in the Secret Service statistics, generally depending on whether the Secret Service has had an opportunity to examine the notes. Counterfeit detection at commercial banks is generally quite good, so we believe that the majority of counterfeits that arrive at banks do not get shipped to the Federal Reserve. The observation that the Secret Service receives five times as

many passed counterfeits as the Federal Reserve would seem to bear this out.

We believe that a counterfeit arriving at a foreign bank is less likely than a counterfeit arriving at a U.S. bank to be delivered to the Secret Service or to make it into a Federal Reserve deposit for two reasons. First, U.S. banks are much more likely than their foreign counterparts to contact the Secret Service directly. Second, on average, overseas banks appear to check their dollar shipments more carefully for counterfeits than do U.S. banks, partly because labor costs are generally so much lower in many foreign countries with heavy dollar traffic. (See Table 4)

Table 5 displays lower-bound estimates of the stock of lower-denomination counterfeits in circulation based on Federal Reserve processing data. The Federal Reserve does not provide a the same domestic-foreign breakdown for these denominations, but, based on the \$100s data, it is safe to say that the detection rates for lower denominations held overseas should be at or below the domestic levels, making these estimates likely on the high side. (See Table 5)

It is interesting to note that the incidence of counterfeits detected in processing is substantially lower for the lower denominations than it is for \$100s. We believe that the lower incidence can be explained by the overall lower quality of lower-denomination counterfeits. Lower-quality counterfeits are easier to detect and are thus more likely to be detected before they are returned to a Federal Reserve Bank. Table 6 displays Secret Service data on counterfeits passed in the United States by denomination and method of production. “Circular” notes are those that are assigned classification numbers by the U.S. Secret Service for further investigation. They are typically of higher quality than the other categories of counterfeit notes, which include those printed on office copiers or computer printers or other relatively crude methods. (See Table 6)

The data in Table 6 indicate that circular notes are nearly three quarters of \$100 counterfeits passed, but less than one fifth of \$50 counterfeits passed and less than 5 percent of \$20 and smaller counterfeits passed.²³ At the domestic consumer level, the breakdown between circular and other notes is significant. A non-circular counterfeit note is usually of minimal quality: a person with minimal training in counterfeit detection and currency authentication should be able to detect it readily with the naked eye, and successful passing occurs only when the recipient of the note fails to give it much scrutiny at all. Over 95 percent of the notes in the \$20 and

21 Although the estimates in Porter and Judson (October 1996) and U.S. Treasury (2000, 2003, 2006) put the estimated overall share of currency abroad between 55 and 70 percent, Feige (1996) presents estimates as low as 40 percent.

22 It is assumed that the Federal Reserve detects all counterfeits in shipments it receives. For a discussion of this assumption, see Allison and Pianalto (1997).

23 For this table as well as for several later later tables, it was not possible to obtain 2005 figures that were comparable to the 2002 figures presented in U.S. Treasury (2003).

smaller denominations, which are those most commonly used by U.S. consumers, fall into the non-circular category. As can be seen from Table 6, the value of circular counterfeits passed in the \$20 and smaller denominations in 2002 was less than \$220,000.

There is a policy implication to these figures that deserves to be highlighted: for U.S. residents, a minimal level of vigilance is enough to virtually rule out losses from counterfeiting. Consumers can familiarize themselves with the authentication features of genuine currency, including the distinctive feel of the paper, watermark, security thread, and color-shifting ink.²⁴ Similarly, retail outlets can provide authentication training to cashiers and might even consider the purchase of low-cost authentication devices such as black lights if they are handling large quantities of cash.

We now return to the estimate of the total stock of counterfeits. As noted above, a lower bound for the estimate of \$100 counterfeits in circulation is \$20 million to \$30 million and a lower bound for the number of other denominations in circulation is \$1 million, for a total of \$21 to \$30 million. Within the United States, about five or six counterfeit \$100 notes are detected outside the Federal Reserve for each note found by the Federal Reserve. An estimate of total counterfeit \$100s in circulation based on such ratios would be about \$120 million (\$20 million multiplied by 6) to \$210 million (\$30 million multiplied by 7). For the lower denominations, the ratio of notes found outside the Federal Reserve to those found inside ranges from seven or eight to one for \$50s to less than one for one for \$1s, as reported in U.S. Treasury (2003); these findings generate a range of \$1 million to \$11 million for the estimated stock of smaller-denomination counterfeits in circulation. Thus, the range of estimates for the total quantity of counterfeits in circulation becomes \$120 million to \$220 million.

This range, however, should be viewed as an upper bound, for reasons similar to those discussed above. The counterfeits found outside the Federal Reserve are generally of lower quality and more easily detected (hence their detection outside the Federal Reserve). Thus, they likely do not circulate for as long as the counterfeits that survive until reaching the Federal Reserve.²⁵ Since we believe that both the upper-bound and lower-bound estimates are relatively far from the true stock of counterfeits in circulation, a middle-range value of about \$60 to \$80 million, or less than \$1 worth of counterfeit for every \$10,000 in circulation, is most likely.

How Representative Are Our Datasets? Comparing the Datasets

Country-Level Comparisons

In principle, the country-by-country Federal Reserve Cash Office processing data on counterfeits should be a subset of the Secret Service data. Under certain conditions, moreover, the proportions of counterfeits detected by country and region should be similar in both datasets. However, neither of these conditions holds exactly in the data we present here and as a result, the ratios do not exactly coincide, though most observations do fall within two standard deviations of the mean absolute deviation.

There are two conditions that would need to hold for the country-specific counterfeit datasets to exactly match both each other and the underlying true country distribution of counterfeits. First, the Secret Service's ability to detect counterfeits would have to be exactly uniform across countries. This condition is surely not the case given variation in staff size, relations with local law enforcement, and other local factors. Second, the notes processed by the Federal Reserve would have to be a random sample of the notes in circulation in a given country. This condition is somewhat more likely to hold. While some currency is held for long periods and some currency is selected for return to the United States because it is extremely worn or dirty, our estimates below on hoarding suggest that notes circulate fairly randomly.

The Secret Service data used here cover only notes passed to the public in fiscal year 2002; they do not include notes seized, since these notes by definition were never in circulation. Since the Secret Service dataset includes counterfeits found by the Federal Reserve, the Secret Service's figure for each country should exceed the Federal Reserve's figure. Countries are dropped if the Secret Service shows fewer counterfeits than the Federal Reserve.

Each point in Figure 1 represents one country's share of the counterfeits detected in each data set. Thus, a point at (5,10) would indicate that 5 percent of the counterfeits detected at the New York Federal Reserve Cash Office came from that country while 10 percent of the counterfeits detected by the Secret Service did. These points would all lie on the 45-degree line if the relative detection rates between the two data sets agreed and if the samples of notes processed were exactly representative of the notes in circulation. The dotted lines represent a 95 percent confidence interval around the 45-degree line. Since all of the points associated with the individual country pairs lie within the confidence band, we cannot reject the hypothesis that the relative detection rates in the two datasets are not significantly different from one another. (See Figure 1)

²⁴ Existing \$1 and \$2 denomination notes do not have the watermark, security thread, or color-shifting ink.

²⁵ Appendix B in U.S. Treasury (2000) takes up the issue of the lifespan of a counterfeit.

We now return to the estimate of the total stock of counterfeits. Recall that extrapolation from Federal Reserve cash processing data yields an estimated minimum *stock* of \$20 to \$30 million in counterfeits of all denominations in circulation. In contrast, the Secret Service data for 2005 indicate that the total value of counterfeit currency passed on the public in 2005 was about \$60 million, roughly two to three times what the Federal Reserve data would suggest, but in the range of our “mid-range” estimate and well below our upper bound. It is not clear what this discrepancy implies. Most notably, we do not know how long a typical counterfeit circulates before being detected. If, for example, the average counterfeit only circulated for one month before being detected, then the annual Secret Service statistics could be consistent with as little as \$5 million in counterfeit currency circulating at any given time.²⁶ Thus, if we were willing to assume that the Secret Service on average finds counterfeits within a three or four months of their first appearance, the Federal Reserve and Secret Service figures would be consistent with each other.

In fact, our circulation data can help resolve this issue. Assume first that we are in counterfeit equilibrium in which the stock of counterfeits as a share of genuine currency in circulation is roughly constant. Then the number of counterfeits that is detected and removed from circulation each year should be roughly equal to the number that are placed into circulation.²⁷ The questions are then how fast the stock of counterfeits turns over and what share of total counterfeits detected are reported to the Secret Service.

Consider the circulation lives of \$100 notes. Genuine notes circulate, return to Reserve Banks, and sometimes recirculate; their average lifespan is about eight years.²⁸ In contrast, counterfeits end their lives when they are detected, which at the very latest is on their first (and only) trip to a Federal Reserve Cash Office. Cash processing data from the first year following the introduction of the 1996-series \$100 note indicate that about one-third of the total notes outstanding at the beginning of the period were replaced, which means that one-third of the notes visited the Federal

Reserve at least once. If counterfeits circulate at least as fast as genuine notes, which we benchmark with observations on \$100s after the introduction of the 1996-series notes, then on average counterfeits should remain in circulation at most about three years before facing certain detection at a Federal Reserve Bank. However, the average lifespan of a counterfeit \$100 is probably only a small fraction of three years for three reasons. First, as noted earlier, more than 80 percent of \$100 counterfeits are detected prior to reaching a Federal Reserve Bank. Second, we have reason to believe that, if anything, counterfeits circulate faster than genuine notes: all other things equal, if an individual has two notes and considers one of them “suspicious” or possibly counterfeit, the individual is likely to try to get rid of that note first. Thus, we assume that on average counterfeits could remain in circulation at most for one year, with a few months being much more likely.²⁹ (See Table 7)

Next, the question is what share of notes that are detected as counterfeit appears in the Secret Service’s statistics. For domestic notes, this figure is almost surely near 100 percent. For counterfeits detected overseas, this figure is surely well below 100 percent, but whether it is 10 percent or 70 percent is difficult to say. In any case, using domestic figures as a benchmark, we estimate that about \$40 million worth of \$100 notes were passed within the United States in fiscal year 2005. Using the figure of an average lifespan of a counterfeit note of one year and the assumption of constant shares of counterfeit activity, we arrive at an estimate of domestic steady-state stock of counterfeit \$100s of about \$40 million.

We can extrapolate to the rest of the world in a couple of directions; Table 7 presents the calculations. Depending on how much of the stock of \$100s we assume is held outside the United States and how long we think the average counterfeit \$100 survives before being detected, there could be anywhere from \$7 million to \$133 million in counterfeit \$100s outstanding worldwide. These calculations rest critically on the assumption of the lifespan of a counterfeit. As noted above, we consider the one-year assumption to be a very realistic or conservative upper bound.

Table 8 displays the results of similar calculations for \$20s. We have not formally estimated how many \$20s are in circulation outside the United States, but we consider 50 percent to be a reasonable upper bound. In addition, \$20s

26 That is, if each month \$5 million in counterfeits entered circulation, were then detected by the Secret Service in that month, and were then replaced with new counterfeits, the Secret Service could find \$5 million \times 12 = \$60 million in counterfeit currency each year even though at any moment only \$5 million was in circulation.

27 More precisely, assuming that counterfeits represent a constant percentage of currency in circulation, the number of new counterfeits entering circulation would be equal to the number of counterfeits leaving circulation multiplied by the overall growth rate of currency in circulation.

28 The estimate is probably on the high side. A 1991 Federal Reserve survey found such an estimate but the rate at which \$100s has been received from circulation has increased significantly since then, suggesting an average age more in the neighborhood of 5 years might be more appropriate now.

29 Appendix B.2 in U.S. Treasury (2000) addresses this issue in more detail. In informal discussions, agents from the U.S. Secret Service have repeatedly noted that their investigations point to very short active lives for counterfeits in active circulation; they consider one year beyond a reasonable upper bound for the average lifespan of a counterfeit note. Based on the calculations in U.S. Treasury (2000) and the input from the U.S. Secret Service, we would place the probability that the true average lifespan of a counterfeit dollar exceeds a year at well below one percent.

circulate much more rapidly than \$100s: in 2002, about three times as many \$20s were processed by Federal Reserve Banks as were in circulation, so on average a \$20 circulates for only a few months before certain detection at a Federal Reserve Bank. The average life of a counterfeit \$20 is likely even shorter than a few months, but we show the same range of time possibilities as for \$100s just for comparison. The results for \$20s, as for \$100s, have a very wide range, but the value is substantially lower: from less than \$1 million to about \$20 million. Note that the upper bound estimate of \$20 million amounts to two counterfeit \$20 notes for every 10,000 notes in circulation. For this denomination, though, we consider the most likely estimate to be much closer to the lower end of the range given the rapid turnover for the \$20 denomination, probably in the range of \$2 million, or one counterfeit \$20 note for every 50,000 \$20 notes in circulation. Since the volume of counterfeiting among the remaining denominations is in a range similar to or much smaller than that of \$20s, we omit tables for those denominations. (See Table 8)

We now return to our comparisons of Federal Reserve and Secret Service data. Recall that the Secret Service found about twice as many notes as the Federal Reserve data would suggest are outstanding. This finding is consistent with either a lifespan of just a few months for the average counterfeit, or with a longer lifespan for each note and more detection outside the Federal Reserve, or with some combination of these two factors, which we believe to be the case. We do consider the range of estimates to be bounds on the true number of counterfeits in circulation at a given time: the two data sources on counterfeits, plus what we know about circulation, suggest that it is very unlikely that more than \$31 million in counterfeit \$100s is in circulation within the United States. Extrapolation to the stock of notes circulating outside the United States is similarly ambiguous, but does yield an upper bound figure of \$104 million. Estimates for \$20s would add \$11 million to that total, and estimates for the remaining denominations would add at most another \$10 million, for a total of at the very most \$125 million for all notes in circulation. Note that this figure, which we consider to be extremely conservative (i.e., very much on the high side of the truth) still represents less than 1/50 of one percent of all currency in circulation.

The Next Step: How Unrepresentative Are Our Data?

The estimates constructed above rely heavily on the assumption that currency, both genuine and counterfeit, circulates with some frequency, which we generally believe to be true.³⁰ However, it is sometimes asserted that counterfeit

notes somehow find their way into isolated “pools” of currency that never reach the banking system.

Below we present two models that show why it is unlikely that notes can remain outside the banking system indefinitely. The first model shows that notes in active circulation almost surely return to the banking system after a relatively small number of transactions, which *on average* translates into a relatively short period. The second model exploits cash processing data to estimate the shares of currency at home and abroad that might be hoarded, or out of circulation for more than a year at a time. Both of these models suggest that it is extremely unlikely that large quantities of counterfeits that have been passed can hide anywhere for very long.

Hoarding

In some countries and circumstances, U.S. dollars are used as a store of value and can be held for a very long time without circulating. We exploit the processing data from the Federal Reserve Cash Offices to estimate the parameters of a simple model of hoarding. In this model, a share h of the currency stock is hoarded in a given year, and a share α of the hoarded stock is turned over every year. The currency processed is a random sample of the active notes only. The key ingredient in this model is the fact that a new-series \$100 note was introduced in 1991. After this date, all old-series \$100s arriving at Cash Offices were replaced with new-series notes. We have six years of data, 1991-1996, and two unknowns, h and α . If the population of notes is n and notes are drawn (processed) randomly with replacement, then the probability that a note gets processed in one draw is $1/n$. The probability that a note is drawn after p draws is thus

$$1 - \left(1 - \frac{1}{n}\right)^p$$

Observe that the only notes that can be processed are in the active share of the pool, A . Thus, the right figure to use in the denominator of the equation above is not n but An . Since the draws are independent, the number of notes replaced, say r , is just equal to An times the probability that one note will be replaced:

$$r = An \left(1 - \left(1 - \frac{1}{n}\right)^p\right)$$

Dividing both sides by n , we obtain an expression in terms of R , the share of notes replaced, as a function of A , the active share of the population, n , the total note population, and p , the number of notes processed. This is our basic equation:

³⁰ Counterfeit currency likely circulates more rapidly than genuine currency, but with rare exceptions, all currency moves into the market occasionally.

$$R_t = A \left(1 - \left(1 - \frac{I}{n_t} \frac{I}{A} \right)^{p_t} \right)$$

The stock of \$100s outstanding grew fairly rapidly in this period. We assume, however, that the *share* of notes hoarded remained constant. After the first year, R is defined net of note growth. Moreover, one must account for the fact that some notes enter the active pool and some leave. If α is the share of inactive notes that re-enter the active pool each period, R after the first period is defined as

$$R_{t>1} \equiv \left(1 - G \frac{I}{n_t} \right) \left(\frac{I}{m^a} \right)$$

where I is the number of new notes issued, G is the growth rate of the stock of notes, and m^a and m^h are active and hoarded stocks of new-series notes, with m^a defined as follows:

$$m_t^a \equiv m_t - m_t^h \equiv m_t - (m_{t-1}^h - \alpha m_{t-1}^a + \alpha (1 + G_t)) \left(\frac{m_t}{A} \right)$$

Since there are two parameters, we conduct a grid search to find the best fit. We estimate the parameters separately for notes circulating within and outside the United States. Since we do not know the total number of notes circulating in each area, we estimated the parameters for a range of assumptions about the share of notes held abroad. As in previous work (Porter and Judson, 1996), we treated the New York Cash Office as the “foreign” office since we know that it handles the bulk of foreign shipments.

The objective functions are well-behaved but fairly flat. In general, they indicate that hoarding is unlikely to be important for very long, and that turnover is likely to be high. For example, for the case of fifty percent of currency stocks assumed abroad, we find that α , the turnover rate for inactive currency, is 0.6 for domestic currency and 0.99 (corner solution) for overseas dollars. We find that the share hoarded at home is 0.19 and is effectively zero (again a corner solution) overseas.³¹ For other assumptions, the highest share

31 At first blush, it might seem counterintuitive that overseas notes emerge from the hoarding state with a greater propensity abroad. A 1989 survey of notes circulating domestically and internationally found that the turnover rates of foreign and domestic notes were similar in that they had similar age-degree of use profiles where use was measured by the quality and degree of soil on the notes. Such a pattern indicates that the notes were active to about the same degree both domestically and overseas. Since currently a large portion of United States is held abroad in rather undeveloped economies where currency is used extensively, the turnover rate may be higher abroad simply because currency is a relatively more important source of payment than in the United States and therefore used more often.

of hoarding found is 0.69 and the lowest turnover is 0.47. We conclude that it is highly unlikely that large quantities of notes are likely to stay out of circulation (and hidden from counterfeit detection) for very long.

“Pools” of Undetected Counterfeits

One often-cited possibility is that there are isolated “pools” of circulating currency with high concentrations of counterfeits that do not circulate to Cash Offices. Although such an idea is in principle plausible, we are able to show that it is in practice highly unlikely.

This idea that notes could circulate outside the banking system indefinitely is based on several assumptions, including some variation on the following:

- (a) Currency overseas endlessly recirculates without being processed by any banking entity, thus counterfeit is not detected and continues to circulate, or
- (b) Currency is processed by banking entities that lack detection capability, thus counterfeit is not detected and continues to circulate, or
- (c) Currency is processed by banking entities that detect the counterfeit, but choose to recirculate the currency to avoid losses, thus counterfeit continues to circulate,
- (d) Currency continues to circulate overseas without routinely being repatriated, thus counterfeit is not detected and continues to circulate.

When we visited central and commercial banks and authorities charged with stopping counterfeiting in a large group of countries, we were able to observe counterfeit detection capabilities and the condition of the currency. Based on what we observed, it was apparent that currency does not endlessly recirculate in any of the markets we visited. Currency is used for a wide range of transactions, but even in gray or black market economies it will eventually find its way into a commercial banking institution, most likely after being used in relatively few transactions.³²

32 There is an important exception to this argument. For years, stories have circulated that some government(s) hostile to the United States had obtained plates to print currency and were going to produce a flood of counterfeits in an effort to destabilize the dollar. It was argued that these counterfeits could circulate endlessly and freely within the bounds of such countries. We have no way of confirming or denying such stories. If “closed” countries (e.g., North Korea) do indeed have many counterfeits in circulation, it is impossible to know as long as the system remains closed. The evidence and model we present here apply to *open* markets and economies. Moreover, in a closed system where nobody is being fooled about the genuineness (or lack thereof) of the currency, it is not clear that there is a loss to consumers and, as long as the counterfeits remain confined to the closed economy, they do not affect the value of genuine dollars.

The logic behind our conclusion that notes cannot remain in circulation very long is readily laid out. Since transactions are usually between unrelated individuals, it is plausible to assume that successive transactions are statistically independent of one another. To make the analysis tractable, also assume that there is a constant probability, say μ , that after any transaction a given banknote will not be returned to a financial institution. There is a presumption that μ should be relatively small. After all, apart from transactions between individuals, most currency transactions are with retail establishments and most retailers generally accumulate nearly all of the currency they receive and deposit/sell all but “seed” cash -- in particular, all large-denomination notes -- at financial institutions or exchange houses on at least a daily basis. Survey evidence suggests that currency circulating both within and outside the United States turns over (is exchanged) on average about once a week.³³ If the probability is μ that the note recirculates, the note is used in one transaction per week, and successive transactions are independent, the probability that the note will continue to recirculate after θ weeks has a joint binomial distribution with probability μ^θ . Thus, the complementary event that a given note is returned to a financial institution after θ transactions is $1-\mu^\theta$. Clearly, this probability will approach unity after a relatively short interval of time even if μ is close to unity because it is raised to the power θ . For example, consider the extreme case where $\mu = 0.9$ so the odds are 9 to 1 that a note will recirculate; even in this case after 7 weeks, the probability is greater than one half that the note will hit the banking system; and after 22 weeks, the probability is greater than 0.95 that the note will stop recirculating. A more plausible assumption would be to assume $\mu = 0.1$ so that most transactions are with retail vendors and not with “hand-to-hand transactors.” In this case, the probability that the note will be returned to a financial institution approaches one almost immediately.

If notes turn over more frequently than one time per week, the time of the first passage to the financial institution would be even sooner. In some countries, cash dollars are the dominant medium of exchange even for small daily purchases; in this case, notes could turnover as fast as once per day on average. If currency turned over on a daily basis, the twenty-two week period for the first passage of a note to a financial institution in the extreme case with $\mu = 0.9$ would be cut to one-seventh of the time, or approximately three weeks.

Once currency hits the banking system, it naturally flows to regional financial processing centers, and is routinely repatriated in large quantities. Thus, currency does not generally recirculate in large amounts, most probably not in amounts any greater than is found in Federal Reserve deposits from foreign sources. Further, it is quite unlikely

that banks recirculate counterfeits either to other banks or to their customers. While the bank pays no additional penalty if another bank or the Federal Reserve finds a counterfeit, its reputation can suffer if customers find the bank giving out counterfeits.

In sum, we find it unlikely that counterfeits can circulate for long outside the banking system, and thus outside reasonably sophisticated counterfeit detection, for very long. These figures thus suggest that notes are unlikely to circulate outside banks for much more than a year.

Conclusion

We develop upper and lower bound estimates for the quantity of counterfeit dollars in circulation. Processing data from the Federal Reserve Bank of New York suggest a lower bound of \$20 to \$30 million in value terms. Using denomination-specific weights to scale up the lower-bound estimate to account for the counterfeits passed outside the Federal Reserve yields an upper-bound estimate of \$120 to \$220 million, or about \$1.50 to \$3 per \$10,000 in circulation. We believe that an estimate in the neighborhood of \$60 to \$80 million, or 80 cents to \$1 per \$10,000 in circulation, is the most plausible, and is consistent with a relatively short average lifespan for a given counterfeit note. These figures are relatively small, but for U.S. consumers, the threat from high-quality counterfeits is even smaller: for the \$20 and smaller denominations, counterfeiting losses are tiny, at \$7 million in 2002, of which less than \$220,000 were notes that could not be detected by users with minimal hand inspection.

We further find that while it is indeed possible that a large number of counterfeits could be injected into the financial system, it is quite unlikely that they would remain there in use and undetected. We find the close correlation between the country distribution of the counterfeits detected by the Federal Reserve and the Secret Service particularly intriguing; we believe it is strong evidence that both counterfeit detection and incidence fall within a small range of about one note in 10,000 throughout countries where dollars are in circulation.

33 See Porter and Judson (1996) and Feige (1996).

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Table 1
Data on Counterfeit Currency Received by the U.S. Secret Service, Fiscal Years 1999 – 2005
 Millions of dollars

Year	Passed			Seized		
	Domestic	Foreign	Total	Domestic	Foreign	Total
1999	39.2	1.4	40.6	13.7	126.6	140.3
2000	39.7	1.4	41.1	20.9	190.8	211.7
2001	47.5	1.5	49.0	12.6	54.0	66.6
2002	42.9	1.4	44.3	9.7	120.4	130.1
2003	36.6	1.5	38.1	10.7	52.2	62.9
2004	43.6	1.2	44.7	10.3	33.6	43.9
2005	56.2	4.8	61.0	14.7	37.9	52.6

Note. “Seized” refers to counterfeit currency that was detected before being circulated, while “passed” indicates currency that was determined to be counterfeit after entering circulation. Only passed currency represents a loss to the public; seized counterfeits represent an averted threat.

Table 2
Counterfeiting Rates in Deposits at Federal Reserve Banks, 2005

Denomination	Total notes processed (millions)	Value of counterfeits detected (millions of dollars)	Counterfeits detected per million notes processed
\$1	12,729.5	0.01	1.1
\$2	20.8	0.00	1.2
\$5	2,709.4	0.08	5.6
\$10	2,162.4	0.17	7.8
\$20	15,355.9	1.70	5.5
\$50	1,274.2	0.31	4.9
\$100	2,210.6	9.75	44.1
Total	36,462.8	12.02	6.4

Table 2 presents figures on note processing, the value of counterfeits detected, and the rate of counterfeits detected per million notes processed.

Table 3
Counterfeit \$100 Notes Detected in Deposits Processed at Federal Reserve Banks 1996-2005

Period	Counterfeits detected (millions of dollars)			Notes processed (billions of dollars)			Counterfeits detected per million notes processed		
	Total	NY, LA, Miami	All Other	Total	NY, LA, Miami	All Other	Total	NY, LA, Miami	All Other
All Designs									
1996	6.8	3.6	3.3	112.9	59.2	53.7	60.5	60.2	60.9
1997	7.2	3.9	3.4	108.3	52.9	55.4	66.6	73.0	60.5
1998	6.3	3.5	2.8	107.5	51.3	56.2	58.9	69.1	49.6
1999	5.8	2.8	3.0	112.3	51.9	60.4	51.8	54.2	49.9
2000	6.5	2.8	3.6	161.7	72.7	89.0	39.9	39.2	40.5
2001	7.4	3.3	4.1	154.0	70.7	83.3	48.1	47.1	48.9
2002	5.0	2.4	2.6	162.7	71.9	90.8	30.7	33.1	28.9
2003	4.3	2.1	2.3	173.7	79.3	94.5	24.8	26.0	23.9
2004	4.1	2.0	2.2	200.7	96.5	104.2	20.6	20.6	20.7
2005	9.7	6.7	3.0	221.1	112.0	109.1	44.1	60.2	27.6
Total, 1996-2005	63.3	33.1	30.1	1512.3	718.4	796.6	41.8	46.1	37.8

Table 3 presents similar information, but for a ten-year period for \$100s.

Table 4
Counterfeit \$100 Stocks Implied by Federal Reserve Processing Data,
Assuming Varying Shares of Currency Held Abroad

Year	Stock of \$100s (\$ billion)	Assumed Share Abroad	Domestic			Foreign			Total implied counterfeits (\$ millions)
			Detection rate (notes per million)	Assumed \$100s in circulation (\$ billions)	Implied counterfeits (\$ millions)	Detection rate (notes per million)	Assumed \$100s in circulation (\$ billions)	Implied counterfeits (\$ millions)	
1996		40%	60.9	156.8	9.5	60.2	104.6	6.3	15.8
		80%		52.3	3.2		209.1	12.6	15.8
1997		40%	60.5	174.9	10.6	73.0	116.6	8.5	19.1
		80%		58.3	3.5		233.3	17.0	20.6
1998	320	40%	49.6	192.1	9.5	69.1	128.0	8.8	18.4
		80%		64.0	3.2		256.1	17.7	20.9
1999	386	40%	49.9	231.7	11.6	54.2	154.5	8.4	19.9
		80%		77.2	3.9		308.9	16.7	20.6
2000	378	40%	40.5	226.6	9.2	39.2	151.1	5.9	15.1
		80%		75.5	3.1		302.1	11.8	14.9
2001	421	40%	48.9	252.6	12.4	47.1	168.4	7.9	20.3
		80%		84.2	4.1		336.9	15.9	20.0
2002	459	40%	28.9	275.4	8.0	33.1	183.5	6.1	14.0
		80%		91.7	2.7		366.9	12.1	14.8
2003	488	40%	23.9	292.7	7.0	26.0	195.1	5.1	12.1
		80%		97.6	2.3		390.2	10.1	12.5
2004	517	40%	20.7	310.0	6.4	20.6	206.7	4.3	10.7
		80%		103.3	2.1		413.4	8.5	10.7
2005	545	40%	27.6	327.0	9.0	60.2	218.0	13.1	22.1
		80%		109.0	3.0		436.0	26.2	29.3
2000-2004	453	40%	32.6	271.4	8.8	33.2	181.0	6.0	14.9
		80%		90.5	2.9		361.9	12.0	15.0
2001-2004	471	40%	30.6	282.6	8.7	31.7	188.4	6.0	14.6
		80%		94.2	2.9		376.8	11.9	14.8
2002-2004	488	40%	24.5	292.6	7.2	26.6	195.1	5.2	12.4
		80%		97.5	2.4		390.2	10.4	12.8

Table 5
Counterfeit \$50, \$20, \$10, \$5, and \$1 Stocks Implied by 2005 Federal Reserve Processing Data Assuming All Currency Held Within the United States

Denomination	Detection rate (notes per million)	Value of genuine notes in circulation (billions of dollars)	Implied counterfeits (millions of dollars)
\$50	4.9	62.1	\$0.30
\$20	5.5	115.4	\$0.63
\$10	7.8	15.5	\$0.12
\$5	5.6	10.3	\$0.06
\$2	1.2	1.5	\$0.00
\$1	1.1	8.8	\$0.01
Total	...	195.3	\$1.13

... Not applicable.

Source: Federal Reserve Bank of New York; U.S. Treasury

Table 6
Counterfeits Passed in the United States by Denomination and Method of Production

Fiscal Year 2002

Denomination	Circular	Other (Printer, Copier, Raised**)	Total	Circular Share
\$100	\$22,995,600	\$8,263,500	\$31,259,100	73.6%
\$50	\$402,750	\$1,689,650	\$2,092,400	19.2%
\$20	\$186,420	\$5,500,720	\$5,687,140	3.3%
\$10	\$28,470	\$1,033,740	\$1,062,210	2.7%
\$5	\$2,345	\$160,870	\$163,215	1.4%
\$2	\$0	\$114	\$114	0.0%
\$1	\$535	\$14,425	\$14,960	3.6%
Total*	\$23,616,120	\$16,663,019	\$40,279,139	58.6%

*Excludes denominations above \$100.

**Raised notes are high-denomination counterfeits that are constructed from genuine lower-denomination notes. For example, raised notes often feature one or more corners of a high-denomination note attached to the body of a lower denomination note.

Source: U.S. Secret Service

Figure 1
 Shares of Counterfeits Found in Various Countries, FY 2002
 (shares in percent)

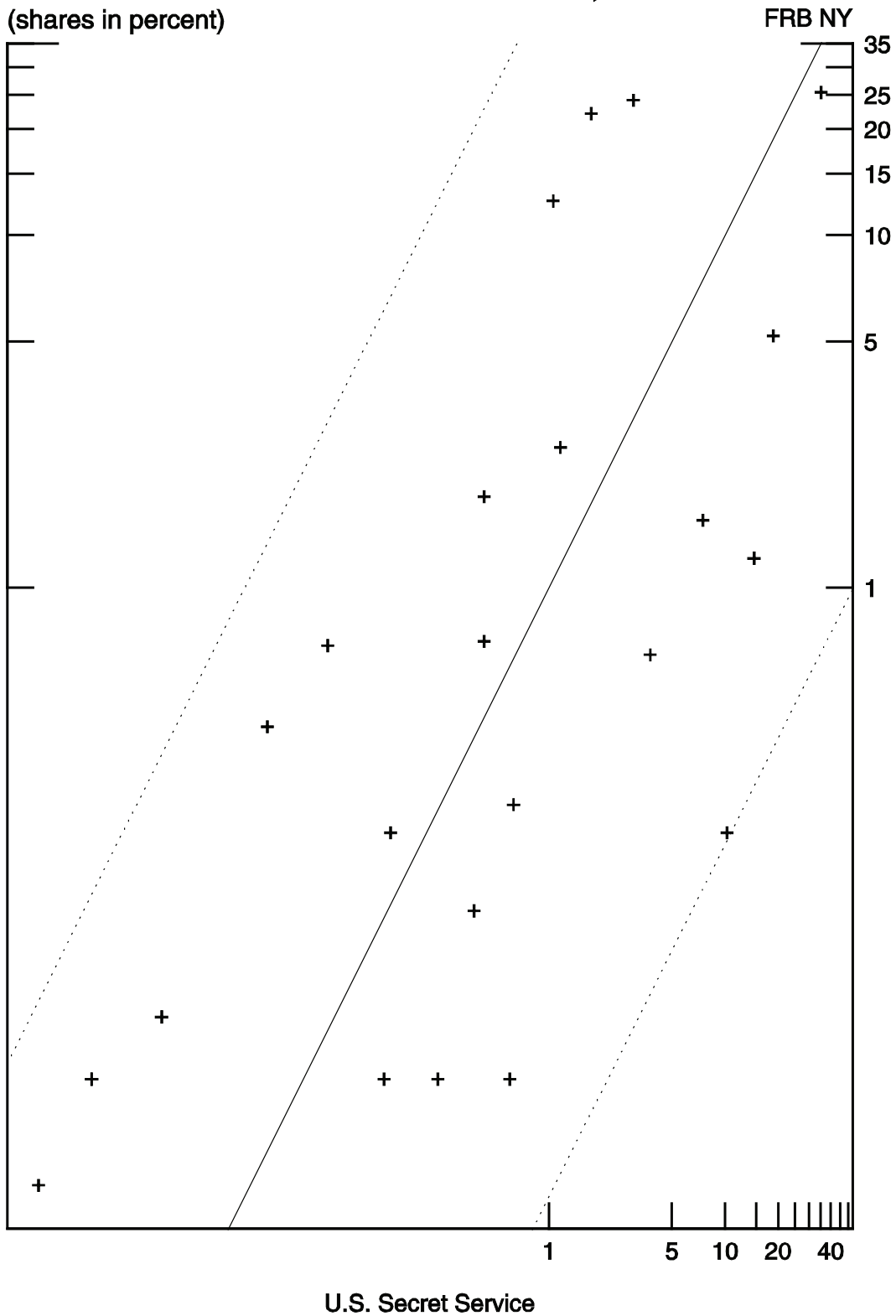


Table 7
Stocks of \$100 Counterfeits for Various Longevity and Share Abroad Assumptions
(\$ Million)

Longevity	Implied Counterfeits in U.S. (\$ million)	Share of Genuine Notes Abroad (%)	Implied Counterfeits Abroad (\$ million)	Implied Total Counterfeits (\$ million)
1 month	3	50	3	7
		70	8	11
3 months	10	50	10	20
		70	23	33
6 months	20	50	20	40
		70	47	67
1 year	40	50	40	80
		70	93	133

Total counterfeit currency detected within the U.S. by the Secret Service in 2005: \$56 million. Based on the distribution of counterfeits by denomination in earlier years, we estimate the value of \$100 counterfeit U.S. currency passed within the United States in 2005 at about \$40 million.

Table 8: Stocks of \$20 Counterfeits for Various Longevity and Share Abroad Assumptions
(\$ Million)

Longevity	Implied Counterfeits in U.S. (\$ million)	Share of Genuine Notes Abroad (%)	Implied Counterfeits Abroad (\$ million)	Implied Total Counterfeits (\$ million)
1 month	0.8	5	0.0	0.9
		50	0.8	1.7
3 months	2.5	5	0.1	2.6
		50	2.5	5.0
6 months	5.0	5	0.3	5.3
		50	5.0	10.0
1 year	10.0	5	0.5	10.5
		50	10.0	20.0

Estimated counterfeit \$20s detected within the U.S. by the Secret Service in 2005, based on total counterfeits detected within the United States of \$56.2 million and denomination breakdown for all counterfeit U.S. currency reported to the U.S. Secret Service in 2002 (refer to U.S. Treasury 2003): \$10 million.

Getting Governments to Cooperate against Looting: Insights from the American and British Experience

Asif Efrat

Abstract

Why would countries that had long resisted the efforts against archaeological plunder reverse course and join these efforts? The article solves this puzzle by examining the American and British decisions to join the 1970 UNESCO Convention. Initially skeptical of UNESCO's endeavors, the United States and Britain changed their policies and came to support the international efforts in the early 1970s and early 2000s, respectively. I argue that the two countries' policy shifts had similar causes. First, archaeologists' advocacy made policymakers aware of the damage caused by the illicit antiquities trade and the art world's complicity. Second, public scandals exposed unethical behavior in the American and British art markets and demonstrated the need for regulation. Third, the U.S. and British governments established domestic consensus in favor of regulation through advisory panels that included the major stakeholders: archaeologists, dealers, and museums. Yet because of divergent bureaucratic attitudes, the U.S. government has ultimately been more vigorous in its efforts against the illicit antiquities trade than has the British government.

Keywords: illicit antiquities, United States, Britain, 1970 UNESCO Convention, scandals, advisory panels.

Introduction

In 1960, Mexico and Peru put the illicit antiquities trade on UNESCO's agenda and appealed for an international convention to address the problem.¹ This marked the beginning of an intense international controversy. Archaeologically rich countries, mostly in the developing world, have attempted to stem the plunder of their archaeological sites through stringent control of the antiquities trade. By contrast, rich market countries have sought to keep that trade free, in order to enjoy its cultural and economic benefits.² This divergence of interests has hindered the UNESCO-led regulatory efforts against plunder, as manifested in the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter the 1970 UNESCO Convention). In the view of market countries, this convention was highly undesirable: it constrained art markets and imposed a bureaucratic burden – to the benefit of foreign countries that failed to protect their archaeological heritage.³ Indeed, market countries argued that the convention unjustifiably shifted the responsibility for suppressing the illicit antiquities trade – a responsibility that, in their opinion, rested primarily with the source countries.

And yet, market countries ultimately reversed their resistance to the UNESCO Convention and joined the efforts against looting. The United States was skeptical of UNESCO's endeavors throughout the 1960s, doubting the necessity and practicality of an international agreement. Soon after the 1970 adoption of the convention, however, the United States began the process of ratification and implementation. The British government maintained its opposition much longer. Only in 2002 did Britain accede to the convention which it had previously seen as “unrealistic and totally disproportionate to the end ... which it is designed to achieve.”⁴

The decisions of the United States and Britain to join the UNESCO Convention were critical turning points in the international efforts against the looting of antiquities. Given their status as major markets, the two countries' endorsement of the convention was of practical and symbolic importance. It signaled their acknowledgement that antiquities markets bore certain responsibility for looting and should contribute

to its prevention. Although the two decisions were far apart in temporal terms – separated by some three decades – they had much in common in terms of their underlying causes. Similar influences and circumstances brought the United States and Britain to reverse their liberal approach to the antiquities trade and to support UNESCO's regulatory efforts. By identifying and highlighting these similarities, this article solves an intriguing puzzle: Why would countries that had long resisted the efforts against looting choose to join these efforts? This question is of academic interest as well as practical importance. By understanding how longstanding skepticism of UNESCO's efforts turned into a willingness to cooperate, we may be able to facilitate other initiatives for the protection of the cultural heritage.

I identify three key commonalities in the American and British experience. First, advocacy by archaeologists raised policymakers' awareness of the illicit antiquities trade: the damage it caused and the art world's involvement. Second, highly publicized scandals revealed unethical behavior in the American and British art markets. These scandals generated public concern and convinced policymakers that government regulation was necessary. Third, both the U.S. and British governments established advisory panels in order to forge a consensus among all stakeholders. Most importantly, these panels allowed the two governments to obtain the dealers' approval for the regulatory measures – an approval that was deemed essential. This article examines these similarities in order, and concludes with an important distinction: divergent bureaucratic attitudes explain why the U.S. government has ultimately been more vigorous in its efforts against the illicit antiquities trade than has the British government.

The Beginning: American and British Resistance to UNESCO's Efforts

During the interwar period, American and British opposition thwarted the Leagues of Nations' effort to regulate the movement of cultural objects – an effort inspired by the destruction of such objects in World War I and an increasing illicit trade.⁵ The subject reappeared on the international agenda in the 1960s. Booming demand and the opening up of previously inaccessible areas resulted in unprecedented levels of looting, and developing countries asked UNESCO to fashion a response. Once again, the United States and Britain expressed serious concerns and reservations about the international protection of cultural objects. Specifically, the two countries were reluctant to establish import controls that would compensate for source countries' failure to enforce their export controls. In 1963, UNESCO proposed a recommendation stipulating that “[a]ll imports of cultural property from

1 UNESCO Doc. 11 C/DR/186, December 1, 1960.

2 For a scholarly expression of the contrasting approaches to the movement of antiquities, see Merryman 1986 and Gerstenblith 2007.

3 Market countries cited a variety of reasons for their reluctance to ratify the 1970 UNESCO Convention. The Netherlands, for example, argued that import “checks by customs officials have appeared impractical, if not impracticable.” UNESCO Doc. 22 C/93, August 30, 1983, 3. West Germany argued that the convention “may create considerable uncertainty for all persons concerned in trading in works of art.” Ibid. Switzerland believed that the convention entailed a “complicated and costly administrative apparatus.” UNESCO Doc. 20 C/84, September 15, 1978, 42.

4 Quoted in UK House of Commons 2000, 1:20–21.

5 Jote 1994, 193; O'Keefe 2000, 9–10, 14.

another State should be subject to control.”⁶ Britain responded with the assertion that “[t]he burden of control should not be shifted to the importing countries.”⁷ Similarly, the United States criticized the draft recommendation as “unworkable” and doubted “the practicability of controlling illicit traffic in cultural property at the international level.” The U.S. position was “that the problem of illicit traffic of cultural property cannot best be solved through an international agreement.” Rather, it was the responsibility of source countries “to control the export from their territory of materials which they believe should be retained.”⁸ Despite these objections, the 1964 recommendation prohibited the import of cultural property, unless cleared from any restrictions imposed by the exporting state.⁹

The next step was to establish a legally binding agreement. American and British non-enthusiasm greeted the draft convention put forth by UNESCO in 1969. Britain indicated that it “could not adhere to a Convention on the lines of the present draft, which conflicts at so many points with the well-established principles on which the subject is dealt with in this country.”¹⁰ The United States suggested that UNESCO’s efforts should not only aim to suppress the illicit trade, but also promote legitimate “international movement, exhibit, and study of artifacts and art objects of cultural importance.” In the American view, an obligation on importing countries to enforce foreign export-controls undermined the legitimate trade and imposed a heavy administrative burden. Given the difficulties presented by the draft convention, the United States concluded that “consideration should be given to alternative arrangements for international co-operation.”¹¹

Throughout the 1960s, the United States and Britain were skeptical of UNESCO’s efforts against looting. From that point, however, their trajectories diverged. An American delegation attended the April 1970 meeting of governmental experts that negotiated the final text of the UNESCO Convention. The United States played a key role in the negotiations and soon thereafter launched the process of ratification and implementation. By contrast, Britain declined to attend the 1970 negotiations. In the three decades that followed, the British government kept insisting that the UNESCO Convention was onerous and impractical and that source countries should exercise the responsibility for controlling antiquities.¹² As late as February 2000, the government

announced that it would not join the convention “because significant practical difficulties remain in implementing its provisions into UK law.”¹³ Yet in August 2002, Britain joined the convention it had long rejected.

As described above, both the United States and Britain initially judged the UNESCO Convention to be inconsistent with their interests. The two countries believed that the convention would harm their art markets and impose a heavy bureaucratic burden, while yielding little benefit in return. What, then, led the U.S. and British governments to reverse course in the early 1970s and early 2000s, respectively? Three key factors triggered and facilitated the change of policy: the advocacy of archaeologists; public scandals; and advisory panels that brought together the major stakeholders and forged a compromise.

Archaeologists’ Advocacy

American and British archaeologists played a major role in bringing their governments to join the international efforts against the illicit antiquities trade. The archaeologists raised awareness of the problem of plunder and the complicity of art markets. They called for ratification of the UNESCO Convention and imposition of controls on antiquities.

United States

The initial American interest in the problem of looted antiquities can be attributed to a single archaeologist: Clemency Coggins. At the time a doctoral student of pre-Columbian art and archaeology at Harvard University, Coggins published in 1969 an article entitled “Illicit Traffic of Pre-Columbian Antiquities” in *Art Journal*.¹⁴ The article documented the illicit removal and export of stelae from archaeological sites in Guatemala and Mexico. Coggins explained how looters had been cutting the large stones into small pieces which were then sold separately. While not the first account of archaeological plunder, the article was groundbreaking in the amount of attention it generated in policy circles. This political impact, however, was unintended. Coggins’s goal was to make museums aware of the dubious source of the antiquities they had been acquiring.¹⁵ Why, then, did the article resonate so strongly with policymakers? The key to the article’s policy impact was a two-page fine-print list of specific looted items that came to rest in the collections of major American museums. The detailed information dramatized the problem

6 UNESCO/CUA/123, July 15, 1963, Annex, 14.

7 UNESCO/CUA/123 Add. I, March 21, 1964, Annex I, 22.

8 *Ibid.*, 23–24.

9 Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property, 1964, Art. II(4).

10 UNESCO Doc. SHC/MD/5 Add. 2, April 22, 1970, 3.

11 UNESCO Doc. SHC/MD/5, February 27, 1970, Annex I, 21–23.

12 UNESCO Doc. 20 C/84, September 15, 1978, 43–46; Office of Arts

and Libraries, “1970 UNESCO Convention concerning the Illicit Import, Export and Transfer of Ownership of Cultural Property,” n.d.

13 Hansard HC, vol. 344 col. 222W (February 9, 2000).

14 Coggins 1969.

15 Author’s Interview with Clemency Coggins, Boston, June 2008. At the time of writing, Coggins is a professor of archaeology and art history at Boston University.

and cast the breaking-into-pieces of monuments in tangible terms that were difficult to dismiss. Most importantly, by identifying museums as the beneficiaries of looting, Coggins ended their pretense of noninvolvement with the illicit antiquities trade. Respectable American institutions, it now became evident, were directly tied to the destruction and theft of archaeology abroad.¹⁶

In additional publications in the early 1970s, Coggins sought to reach a broad audience, outside the scholarly and museum communities. The establishment of the UNESCO Convention in 1970 made looted antiquities a policy issue, and educating policymakers was imperative. In articles published in *Smithsonian* and *Science*, Coggins repeated the charge against the U.S. art world in stronger terms, arguing that archaeological “plunder has been financed by the international art market, by collectors and by most museums.” She explained the motivations of the actors involved: the looter who is desperate for money to buy food; the art dealer who “has tempted the digger to destroy a part of his own past in order to offer” antiquities for sale, while at the same time enticing collectors to buy those antiquities and presenting them as a wise investment; collectors who see antiquities as beautiful objects or as manifestations of their own wealth; and American museums, whose educational aspirations resulted in “omnivorous” behavior and the acquisition of looted material. Coggins argued that a looted antiquity is devoid of historical meaning and can only be “beautiful but dumb.”¹⁷

Other archaeologists and archaeological associations, concerned about the plunder of antiquities and the role played by the U.S. art market, joined Coggins in educating policymakers about the problem and demanding American action against it. In December 1970, a month after UNESCO adopted the convention, the Archaeological Institute of America (AIA) issued a resolution expressing wholehearted support for that agreement and urging its earliest possible ratification by the United States; the Society for American Archaeology expressed similar support in 1971.¹⁸ The Senate gave its advice and consent to ratification in August 1972, yet the process of enacting legislation to implement the convention stalled. That legislation was the subject of a fierce political battle throughout the 1970s and early 1980s, as antiquities

dealers and art museums tried to weaken the legislation or altogether prevent its passage.¹⁹ The archaeological community sought to counter these pressures and convince Congress to implement the convention. Having witnessed archaeological destruction in Turkey and Iran, archaeologist Oscar Muscarella argued before Congress that the art market’s demand is the culprit: “numerous antiquities, the great majority, reach the West because of the conscious looting both encouraged and financed by dealers and their agents in the field. Every peasant in the world knows that dealers eagerly purchase antiquities, no matter how they are acquired, and they work vigorously to supply the never ending demand.” Muscarella maintained that the United States should bear some of the responsibility for protecting mankind’s archaeological heritage: “It is our ancient history, our heritage, we are discussing, and not merely the contents of tombs and mounds located in some far off land.”²⁰ In their statements before Congress and in meetings with and letters to legislators, the archaeologists argued that the United States should fulfill its responsibility by implementing the UNESCO Convention: “an important first step toward redressing a cultural and economic drain the United States has long imposed on many of these countries.”²¹ The archaeologists further argued that implementation of the UNESCO Convention would curb the loss of historical knowledge that was looting’s result – looting motivated by market demand for antiquities.²² As the legislative process slowly progressed, the archaeologists protested the delays as well as the revisions of the implementing legislation to accommodate the dealers’ demands. They also sought to refute the claims that the dealers had made in opposition of the legislation. In particular, the archaeologists countered the argument that the United States should only restrict import of antiquities in concert with other market countries, but not alone. The archaeologists insisted that the United States should act unilaterally, assert leadership, and set an example for additional countries to follow.²³

The archaeologists’ continued pressure contributed to the successful, if belated, completion of the legislative process: the Convention on Cultural Property Implementation Act (CPIA) was signed into law in January 1983, allowing the United States to officially become a party to the UNESCO Convention. As I discuss below, the American participation in the convention was not only the product of the archaeologists’ advocacy efforts; additional influences contributed to the United States’ decision to join UNESCO’s efforts. Yet the

16 Bator 1983, 2–4. At the insistence of *Art Journal*, Coggins’s original article did not name the museums, instead referring to them as “American museums.” Coggins identified the museums in a list published in 1970. See that list in Meyer 1973, 213–218.

17 Coggins 1970, 10–14; Coggins 1972, 264.

18 Resolution adopted by the Archaeological Institute of America, December 30, 1970, reprinted in DuBoff 1975, 569; Resolution 2 of the Society for American Archaeology, adopted at the 1971 annual business meeting, *ibid.*, 571–572. In December 1973 the AIA issued a resolution calling on museums to adhere to the UNESCO Convention in determining the appropriateness of acquisitions. See the text in <http://www.archaeological.org/news/advocacy/101> (accessed July 30, 2012).

19 See, for example, U.S. House 1976, 17–23 (the American Association of Dealers in Ancient, Oriental, and Primitive Art); U.S. House 1979, 68–69 (Minneapolis Institute of Arts).

20 U.S. Senate 1978, 68–69. At the time, Muscarella was chairman of the AIA’s Committee on Professional Responsibilities.

21 U.S. House 1976, 53–54.

22 U.S. House 1976, 65; U.S. Senate 1978, 60–61, 68–69.

23 U.S. Senate 1978, 72, 75.

archaeologists did play a major role in placing the problem of looting on the national agenda. They educated policymakers about the consequences of archaeological plunder, the art market's complicity, and the necessity of a U.S. response. Their advocacy in favor of the UNESCO Convention was an important influence on the American decision to block the import of looted antiquities. The CPIA authorizes the establishment of import restrictions through bilateral agreements or on an emergency basis; to be imported into the United States, archaeological material that is subject to restrictions must be accompanied by documentation certifying the legality of export.

Britain

Whereas archaeological plunder became a political issue in the United States in the early 1970s, the same occurred in Britain only three decades later. This had to do with the fact that Latin America was the main target of looting early on. As the main market for pre-Columbian antiquities, the United States had greater responsibility for the looting than Britain, where pre-Columbian archaeology had smaller presence. Yet the expanding scale and geographical scope of archaeological plunder in the 1990s motivated Britain's archaeologists to take political action. Like their American counterparts, they had a key role in placing the illicit antiquities trade on the national agenda and urging participation in UNESCO's efforts. Colin Renfrew, a prominent archaeologist and a member of the House of Lords, had long rebuked the London art market as a center of trade in looted antiquities; he also criticized the British government, denouncing the freedom to import looted material as a "thieves' kitchen" and calling the British rejection of the UNESCO Convention "a scandal."²⁴ Over the years, Renfrew repeatedly brought up the issue in the House of Lords by posing questions, which the government had to answer.²⁵ David Gill and Christopher Chippindale also raised awareness of the illicit antiquities trade. In seminal articles published in the *American Journal of Archaeology*, they documented the deleterious consequences of the looting fueled by antiquities collecting: destruction of the archaeological context and loss of historical knowledge.²⁶ These publications and others²⁷ generated public awareness and concern; so did the activities of the Illicit Antiquities Research Centre.

The Centre was founded in 1997 under Renfrew's directorship at the University of Cambridge's McDonald

Institute for Archaeological Research. Through lectures, conferences, exhibitions, and publications, the Centre worked to "raise public awareness of the problems caused by this trade [in looted antiquities] and seek appropriate national and international legislation ... to place restraint upon it."²⁸ In 2000, the Centre released its most influential publication: a report entitled *Stealing History: The Illicit Trade in Cultural Material*. Commissioned by the UK's Museums Association, *Stealing History* analyzed the causes and consequences of the illicit trade in antiquities as well as the involvement of the British art market. The report suggested that the vast majority of antiquities sold in London were unprovenanced and that these antiquities were likely looted. The report also contained specific policy recommendations for museums and for the government. Importantly, *Stealing History* urged the British government to ratify the 1970 UNESCO Convention and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (hereafter the UNIDROIT Convention). Ratification of the two conventions, the report suggested, would "prevent the United Kingdom [from] being used as a market place for material which was, in the first instance, obtained illegally." The report repudiated the argument that the ratification of the UNESCO Convention would harm the London art market. Rather, it was argued that elimination of the illicit trade may, in fact, improve the market's reputation. "By failing to ratify," the authors warned, "it can be argued that the United Kingdom condones criminal behaviour abroad."²⁹

Like Clemency Coggins's article in *Art Journal* three decades earlier, *Stealing History* had a policy impact. Both publications brought attention to the illicit antiquities trade and raised awareness of looting outside the archaeological community. Both publications linked the plunder of antiquities in developing countries to art markets in rich countries and argued that the United States and Britain should do their part to address the problem. *Stealing History's* comprehensiveness made it a useful source of data and specific recommendations that policymakers could draw on. The Illicit Trade Advisory Panel, discussed below, indeed made use of this report. Yet in order to understand why archaeologists' publications managed to achieve a policy impact, one has to take into account the public atmosphere that grew increasingly concerned of the art market's practices. Policymakers were open to persuasion by archaeologists following a series of scandals that exposed the unethical behavior of the art community.

Public Scandals

In both the United States and Britain, highly publicized

24 UK House of Commons 2000, 2:28–29, 33.

25 Author's interview with Colin Renfrew, professor of archaeology at the University of Cambridge and a member of the House of Lords, Cambridge, UK, June 2007.

26 Gill and Chippindale 1993; Chippindale and Gill 2000.

27 See, for example, a 1995 volume edited by Kathryn Walker Tubb of the Institute of Archaeology at University College London, *Antiquities: Trade or Betrayed: Legal, Ethical and Conservation Issues*.

28 Website of the Illicit Antiquities Research Centre, <http://www.mcdonald.cam.ac.uk/projects/iarc/info/us.htm> (accessed August 12, 2012). The Centre closed in 2007.

29 Brodie, Doole, and Watson 2000, 26–30, 38, 42.

scandals revealed the involvement of esteemed institutions and individuals with looted objects. The embarrassing revelations made policymakers realize that absence of art-market regulation had detrimental consequences and that a policy change was necessary.

United States

Several scandals in the late 1960s and early 1970s revealed that American museums had been acquiring plundered material. Two of the most notable affairs involved the Metropolitan Museum of Art. In the first case, the Metropolitan acted responsibly. In 1968, the museum was offered the façade of a Mayan temple plundered from Mexico. Parts of the façade had arrived at the museum, but the museum ultimately declined the acquisition, and the façade returned to Mexico.³⁰ But only a few years later, in 1972, the Metropolitan chose to acquire an object that turned out to be looted: a Greek vase known as the Euphronios Krater. The museum was vague about the krater's origin. The official story was that the vase had been in a private family collection since circa World War I and that the owner's identity had to remain confidential. Appearing on NBC's *Today* show in November 1972, the director of the Metropolitan, Thomas Hoving, made claims to that effect. Yet three months later the *New York Times* published a different account, suggesting that the krater had been robbed from a tomb in Italy in 1971. The Italian authorities made a similar charge. Their investigation revealed that the robbed vase had passed through several convicted dealers before it was sold to the Metropolitan. The museum, however, vigorously defended the acquisition and rejected the tomb-robbing story. Only in 2008 did the Metropolitan return the vase to Italy.³¹

Additional scandals brought public attention to the unethical conduct of the U.S. art market. In several cases, antiquities illegally removed from Turkey turned up in American museums, prompting angry responses of the Turkish government and demands for return. These included Byzantine silver objects acquired by Dumbarton Oaks in 1963 (the "Sion Treasure"); a collection of Lydian objects that the Metropolitan bought between 1966 and 1968 (the "Lydian Hoard"); and pieces of gold jewelry bought by Boston's Museum of Fine Arts (MFA) for its 1970 centenary celebration.³² Another acquisition for that celebration triggered

30 Freidel 2000; Meyer 1973, 22–26.

31 Bator 1983, 4–5 footnote 12; Meyer 1973, 86–100, 302, 305; Elisabetta Povledo, "Ancient Vase Comes Home to a Hero's Welcome," *New York Times*, January 19, 2008. On American museums' return of antiquities see also Gill and Chippindale 2006 and 2007.

32 Meyer 1973, 56–69; Waxman 2008, chap. 6. Between 1987 and 1993, The Lydian Hoard was at the center of a legal battle between Turkey and the Metropolitan. In 1993, the Metropolitan returned the objects to Turkey after admitting that museum staff had acquired the objects knowing them to be looted. Yet the rumors about the treasure's purchase by the museum began to swirl in the early 1970s.

a major scandal: the 1969 purchase of an unknown portrait by Raphael. The MFA argued that the painting had been bought in Switzerland from an old European collection, yet Italian authorities revealed an altogether different story. The museum apparently purchased the painting in Genoa; it was smuggled from Italy; and the seller was a criminally convicted dealer who had been barred from dealing art. Furthermore, U.S. Customs found that the museum had not declared the painting when bringing it to the United States. The portrait was seized by customs and returned to Italy.³³

Several other incidents deserve mention.

- In 1965 it was revealed that stelae stolen from Guatemala were exhibited at the Brooklyn Museum and the Museum of Primitive Art. After prolonged negotiations, the Brooklyn Museum returned the stela, and the Primitive Art Museum kept the stela as a long-term loan.
- The Afo-A-Kom – a sacred wooden statue stolen from Cameroon in 1966 – appeared at a 1973 Dartmouth College exhibition. The College had received the object on loan from a New York art dealer who had obtained it from a Swiss dealer. Cameroon demanded the statue's return, and under pressure from the media and the State Department it was indeed returned shortly after its discovery at Dartmouth.
- In 1972, California collector Norton Simon bought a statue of dancing Shiva – the Sivapuram Nataraja – that had been stolen from a temple in India. The Indian government demanded the return of the object and pressured the Metropolitan to cancel an exhibition featuring it. A lawsuit filed by India was settled out of court.³⁴

The various scandals received wide coverage in the American and international press. They led to further journalistic inquiries into the U.S. art market and its involvement with looted antiquities. In 1973 the *New York Times* published a series of articles by Robert Reinhold on the plunder of Mayan archaeology.³⁵ That same year, Karl Meyer exposed the American art market's unethical norms in his book *The Plundered Past*. "[N]o one who makes even a cursory inquiry," Meyer argued, "can doubt that the great majority of antiquities offered for sale is indeed smuggled goods."³⁶

33 Bator 1983, 4 fn 11; Meyer 1973, 102–106.

34 Bator 1983, 5 fn 13–14, 7; Meyer 1973, 26–27, 144–145; "The Lost Totem," *Time*, November 5, 1973.

35 "Looters Impede Scholars Studying Maya Mystery," *New York Times*, March 26, 1973; "Traffic in Looted Maya Art is Diverse and Profitable," *New York Times*, March 27, 1973; "Elusive Maya Glyphs Yielding to Modern Technique," *New York Times*, March 28, 1973.

36 Meyer 1973, 123–124.

What was the impact of the media scandals and investigations? One response was within the museum community. Several museums – especially university museums – voluntarily adopted ethical acquisition policies. In April 1970, shortly before the UNESCO Convention negotiations, the University of Pennsylvania Museum announced it would only purchase antiquities accompanied by a pedigree, including information about the place of origin and the legality of export. In 1971, Harvard University prohibited the acquisition by its museums of illegally exported objects. Several other museums adopted similar policies.³⁷ These self-regulatory measures were intended to serve as precautions and as means to preserve the public trust in museums amid the scandals.

Yet the scandals heavily damaged museums' image and reputation and shook the public's confidence in them. Heretofore, museums were perceived as respectable institutions committed to high moral standards. The scandals, however, revealed a reality in which museums were complicit in crime and in the destruction of the cultural heritage. That reality shocked and embarrassed policymakers, making them sympathetic to the demands of archaeologists and foreign countries that the United States stop the import of looted antiquities. This was the case with Mark Feldman, the official most responsible for the U.S. policy shift. Then assistant legal adviser for inter-American affairs at the State Department, Feldman was introduced to the subject in 1969. A diplomatic note from Mexico requested that the United States assist in protecting Mexico's archaeological heritage, in exchange for Mexico's cooperation in the return of stolen American cars. Influenced by the scandals and by the strong evidence that archaeologists provided, Feldman became convinced that the U.S. art market was a part of the problem: the acquisition of plundered antiquities provided an incentive for the looting of archaeological sites abroad. He therefore recommended that the United States reverse its traditional policies of free trade in antiquities and non-enforcement of foreign legislation. Instead, Feldman suggested that measures be taken to control the antiquities trade – measures that would help foreign countries to prevent the illegal excavation and export of their antiquities.³⁸ The State Department accepted this position, as did the Justice and Treasury Departments. The new position recognized that the responsibility for the protection

of archaeology is to be shared between source countries and market countries. In 1970, Feldman expressed this view in his statement before the committee of governmental experts that negotiated the final text of the UNESCO Convention:

The cultural products of the civilization of man constitute an important element both of the national patrimony of the countries of origin and of the common heritage of all mankind. Thus, no country can be indifferent to clandestine activities that ravage the cultural heritage of another country. United States representatives have emphasized the importance of effective measures of prevention and control being taken by each country to safeguard its own cultural heritage, as no international approach can hope to be effective if determined local efforts are not made. The critical effort must be made at home. However, we recognize that there are limitations as to what any one country can do to meet this problem. We also recognize that the international art market does provide an inducement for exports that may aggravate the situation in certain countries. For these reasons the United States Government believes that measures of international cooperation should be taken to support the separate efforts of states to help create conditions in which irreplaceable cultural assets can be preserved for the benefit of the future generations of all countries.³⁹

The various scandals, in fact, had a dual effect. By raising awareness of the problem of looted antiquities and exposing the questionable norms prevailing in the art market, the scandals convinced policymakers that “the U.S. art market is a major consumer of pillaged treasures;”⁴⁰ hence, “the United States has a responsibility to put its own house in order to the extent that the American art market is a major, if not the single most important, incentive for this despoliation.”⁴¹ Since the market, left to its own devices, was prone to unethical conduct, the U.S. government had to take regulatory action and prevent the import of looted antiquities. Beyond their impact on policymakers, however, the scandals moderated the art community's resistance to regulation. In principle, antiquities dealers would have liked to maintain the traditional working of the art market based on the principle of free trade and without government control. Art museums held a similar preference.⁴² Yet amid the scandals and the growing public concern, the dealers realized that the status quo was no longer sustainable and that the introduction of regulation

37 Among them were the Field Museum of Natural History in Chicago, the Brooklyn Museum, the University of California Museum in Berkeley, the Arizona State Museum, and the Smithsonian Institution.

38 Author's interview with Mark Feldman, Washington, D.C., May 2008. Throughout the Congressional debate over the UNESCO Convention, Feldman was the U.S. government's chief proponent of the implementing legislation, which he had drafted. He argued that the United States was morally obligated to act against archaeological plunder and could not continue to provide a market for looted antiquities. See, for example, U.S. House 1979, 3–8; U.S. Senate 1978, 16–19, 26–29.

39 Reprinted in Feldman and Bettauer 1970, 41.

40 U.S. Senate 1978, 19.

41 DuBoff et al. 1976, 115.

42 Author's interview with lawyer James Fitzpatrick, Washington, D.C., May 2008. Fitzpatrick has represented antiquities dealers since the mid-1970s.

was inevitable. In this changing environment, they could not remain adamantly opposed to any regulatory measure: it was in their interest to act cooperatively and strike a compromise. By adopting a conciliatory approach and working toward a solution, the dealers reasoned, it may be possible to minimize the U.S. government's interference with the antiquities trade. Such an approach, it was hoped, would also improve the art world's public image that had been tarnished by the scandals. As I discuss below, the dealers' pragmatism – while temporary – greatly facilitated the change of U.S. policy.

Britain

In the 1990s, several scandals shook the London art market. In terms of their effects, these scandals were similar to the incidents involving American museums in the 1960s and early 1970s. The scandals undermined the respectable image of the art market, called public attention to its questionable practices, and raised the need for governmental regulation.

In 1994, the Royal Academy of Arts exhibited antiquities from the collection of George Ortiz. That exhibition generated controversy, as most objects had no verifiable provenance, that is, information on their findspot and ownership history. As Christopher Chippindale and David Gill showed in their detailed analysis, even when objects in the Ortiz collection had known provenances, these were “not necessarily archaeologically secure.” They also cast doubt on the belief, expressed by Ortiz and other collectors, that the majority of antiquities surfacing on the market were “chance finds.”⁴³

Another controversy occurred in 1995, over the Royal Academy's exhibition *Africa: the Art of a Continent*. For the exhibition, the Academy decided to borrow collectors' terracotta figurines that had been looted from Mali and Nigeria. Museums criticized the decision and demanded that the Academy receive the African governments' approval for the display of the objects. The issue received wide publicity, as it turned into a confrontation between the Royal Academy and the British Museum.⁴⁴ The Sevso Treasure was the subject of a third scandal. This collection of Roman silver objects, bought by the Marquis of Northampton, sparked a legal dispute in the early 1990s: before a U.S. court, both Croatia and Hungary claimed ownership. The involvement of an aristocrat with antiquities that might be looted garnered wide media attention.⁴⁵

The most highly publicized scandal concerned Sotheby's involvement in the illicit antiquities trade, as exposed by

Peter Watson on television and in his 1997 book. Based on documents provided by a former Sotheby's employee, Watson revealed that many of the unprovenanced antiquities sold by the reputable auction house in London had come from a Swiss dealer – Christian Boursaud – who acted as a “front” for the Italian dealer Giacomo Medici. Medici smuggled looted antiquities from Italy to Switzerland – a country whose loose regulation permitted the legal export of antiquities that had been plundered from the countries of origin. This allowed Sotheby's to argue that the antiquities had arrived in London legally. The immediate result of the exposé was investigations by the Italian and Swiss police, leading to Medici's trial and conviction, and to the discovery of thousands of antiquities in several warehouses in Geneva. Also found were a large number of photographs of antiquities that Medici had handled. More broadly, this scandal contradicted the conventional story about the origin of the antiquities sold in London.⁴⁶ Dealers and auction houses typically argued that many unprovenanced antiquities came from old family collections or were found in attics.⁴⁷ The Sotheby's scandal, however, showed that many of those seemingly legitimate antiquities were, in fact, illegally excavated and exported.

As in the United States, the various scandals cracked the respectable image of the art market, generating public debate and concern. There was a growing recognition that the unethical behavior in the market was pervasive and that the market's self-regulation was insufficient: the problem required an official response that would deviate from the traditional *laissez-faire* approach to the antiquities trade. The scandals were particularly disconcerting for the Labor government that came to power in 1997. Upon assuming office, the new government committed to an ethical foreign policy⁴⁸ – one that was difficult to reconcile with British participation in the illicit antiquities trade. The government found the revelations of Britain's involvement in looting harmful to the national reputation; it wanted to reassure foreign countries that Britain would not knowingly be complicit in the plunder of antiquities. By taking measures against the illicit trade, the government meant to signal Britain's moral behavior and commitment to international cooperation. Labor's lesser dependence on business support compared with its Conservative predecessor facilitated the introduction of art-market regulation.

The scandals had two additional effects that were also seen in the American case. First, the London dealers and auction houses moderated their opposition to government regulation and adopted a more cooperative position. They sought to protect their reputation, while at the same time

43 Chippindale and Gill 2000, 484, 500.

44 Brodie, Doole, and Watson 2000, 53.

45 Alan Riding, “14 Roman Treasures, on View and Debated,” *New York Times*, October 25, 2006.

46 Watson 1997; Brodie, Doole, and Watson 2000, 26–27.

47 See, for example, UK House of Commons 2000, 2:59–60.

48 Wickham-Jones 2000.

guarding against a heavy regulatory burden.⁴⁹ Second, the Museums Association (MA) took a serious look at museums' acquisition policies and found that ethical policies had been adopted without procedures for implementation. To raise the awareness of museums and establish measures to prevent the acquisition of looted material, the MA commissioned the Illicit Antiquities Research Centre to produce a report. *Stealing History* was the result.⁵⁰

Advisory Panels

In the United States in the early 1970s and in Britain in the late 1990s, conditions were ripe for reversing the longstanding liberal approach to the antiquities trade. Thanks to the archaeologists and the public scandals, policymakers decided to participate in the efforts for the protection of the cultural heritage. Yet both the U.S. and British governments recognized that the establishment of regulation required a consensus and compromise among all relevant stakeholders: archaeologists, museums, and dealers. The latter's approval was deemed particularly essential. Without the trade's consent, policymakers reasoned, any plan for introducing regulation would be doomed: the American and British dealers possessed political influence that would have allowed them to derail regulatory initiatives. Their cooperation thus had to be secured. The means to forge a consensus among the stakeholders and obtain the trade's support was the same in the United States and Britain: a government-initiated panel that issued policy recommendations. While the history of the efforts against looting is replete with examples of panels that had limited impact,⁵¹ the panels addressed here – domestic bodies that included all relevant stakeholders – have proven effective.

United States

In 1969, at the State Department's request, the American Society of International Law (ASIL) established a Panel on the International Movement of National Art Treasures (hereafter the ASIL Panel). The 22 members of the panel represented archaeologists, dealers, museums, collectors, and the State Department; experts in international law were included as well. The panel brought together rivals: Clemency Coggins,

who led the charges against the U.S. art market, and dealer André Emmerich, who represented that market, were both on the panel. Attorney William D. Rogers served as the panel's chair.

Through the ASIL Panel, the State Department gained support for a three-part program designed to control the movement of antiquities and prevent the import of looted material into the United States. The first measure was a bilateral treaty with Mexico for the recovery and return of stolen archaeological material, signed in July 1970.⁵² The second measure was a 1972 statute prohibiting the import of pre-Columbian monumental art that was illegally exported from Latin America.⁵³ But it was the third part of the program that was the most significant: American membership in the 1970 UNESCO Convention.

The ASIL Panel examined the drafts circulated by UNESCO in preparation for the negotiations of the convention. Influenced by the panel's advice, the State Department heavily criticized the drafts as "unacceptable" documents that sought to establish a "blank check system of import controls."⁵⁴ Yet on April 3, 1970, ten days before the start of the negotiations in Paris, the panel submitted to the Secretary of State a supportive resolution:

Members of the Panel are of the view that the Congress of the United States should adopt legislation to enable the President to prohibit importation into the United States of such archaeological, architectural and other artistic and historic works constituting an essential part of the national cultural heritage of the country of origin as the President may from time to time designate and as shall have been exported, after such designation, from the country of origin contrary to its laws.⁵⁵

In this resolution, the ASIL Panel recommended, in effect, a significant policy change. The United States had traditionally allowed unrestricted import of antiquities, including antiquities whose export from the countries of origin was illegal. Instead, the panel recommended that the

49 Author's interview with Anthony Browne, chairman of the British Art Market Federation, London, June 2007.

50 Author's interview with Maurice Davies, deputy director of the Museums Association, London, June 2007. A 1972 statement issued jointly by the Museums Association, the British Academy, and the Standing Commission on Museums and Galleries reaffirmed that museums in Britain would not acquire illegally exported material. Successive codes of conduct issued by the MA since 1977 required museums to conform to ethical acquisition guidelines.

51 An example is UNESCO's Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin and Its Restitution in Case of Illicit Appropriation.

52 Treaty of Cooperation between the United States of America and the United Mexican States Providing for the Recovery and Return of Stolen Archaeological, Historical and Cultural Properties, 1970.

53 Regulation of Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals. The ASIL Panel's recommendation was that "urgent steps should be taken to prohibit the importation into the United States of pre-Columbian monumental and architectural sculpture and murals hereafter exported without the consent of the exporting country, and that, for their part, these countries should take effective action to deter defacement, destruction and illegal export of these works." Congressional Record, June 18, 1970, p. 20366.

54 Bator 1983, 95–97. See text accompanying note 11 above.

55 Congressional Record, June 18, 1970, p. 20366.

U.S. government regulate the import of antiquities and assist foreign countries in the enforcement of their export controls. Yet the recommended policy change was more circumscribed than what source countries had hoped for and what the UNESCO draft conventions envisioned. The panel did not recommend that the United States prohibit the import of *all* illegally exported antiquities. Such a broad prohibition would have been unacceptable to the dealers and art museums. Rather, the prohibition was to apply to precisely designated objects. Furthermore, the panel recommended that the designation be based upon the advice of a commission representing U.S. museums, scholars, dealers, and collectors. That commission would have to determine that the import prohibition was necessary to prevent serious jeopardy to the cultural heritage of the country of origin; and that the export policies of that country took into account the legitimate interests of the United States and other countries in the movement of cultural objects. The panel also recommended that “the United States should work with other countries toward a reexamination of their import and export programs and policies to assure that these reflect fair accommodation of the various values affected, including ... the significant educational and cultural values served by the lawful movement of art across international boundaries.”⁵⁶

The panel’s recommendations reflected its goal of building a broad consensus for the U.S. policy shift. On the one hand, the panel endorsed an important new measure: the establishment of import controls to enforce foreign export-controls. This recommendation gave the State Department the go-ahead. It allowed the U.S. government to join the international efforts against plunder, responding to the pressures of the media, the archaeologists, and foreign countries. On the other hand, the dealers and art museums obtained important concessions: the import of antiquities would not be entirely blocked; art-market representatives would be consulted in the process of establishing import restrictions; and the United States would encourage foreign countries to allow greater export of antiquities. These concessions allowed the dealers and art museums to come on board. Although they would have preferred to maintain the trade free from restriction, the compromise was palatable to them.

It is important to note that the consensus did not last. The ASIL Panel examined the final text of the UNESCO Convention and recommended its ratification. Following this recommendation, the Senate gave its advice and consent in 1972, subject to one reservation and six understandings. In 1973, the State Department proposed legislation to implement the UNESCO Convention, based on the compromise forged by the ASIL panel. Yet the dealers withdrew their consent. They argued that the legislation exceeded the restrictions

that the panel had envisioned and “would tend to remove the United States from the flourishing international art market.”⁵⁷ When a revised legislation came before Congress, the dealers waged a lobbying effort against it. They condemned the legislation as a “Draconian” measure that spelled “a cultural disaster to the United States.”⁵⁸ The dealers’ resistance prolonged the legislative process and managed to weaken the legislation. Yet without their initial consent through the ASIL Panel, the Convention on Cultural Property Implementation Act would not have come into existence. Indeed, the CPIA broadly conformed to the ASIL panel’s recommendations. In particular, the authority to recommend the establishment of important restrictions was given to a Cultural Property Advisory Committee whose members represent the interests of museums, archaeologists, dealers, and the general public.

Britain

Britain had opposed UNESCO’s efforts against looting from their onset in the 1960s. In 2000, however, following the revelations of unethical behavior in the London art market, the British government decided to reverse its longstanding opposition and join UNESCO’s efforts. Yet, like the U.S. government three decades earlier, the British government wished to forge a compromise that would be accepted by all stakeholders. Most importantly, that compromise had to receive the dealers’ approval. To establish the necessary consensus, the Minister for the Arts appointed the Illicit Trade Advisory Panel (ITAP) in May 2000.⁵⁹ Law professor and barrister Norman Palmer chaired the panel; the other eight members represented the archaeologists, the museums, and the trade. Like the ASIL Panel, ITAP brought together bitter rivals. The panel included archaeologist Colin Renfrew, the fiercest critic of the London art market, together with leaders of that market: Anthony Browne (chairman of the British Art Market Federation) and James Ede (chairman of the Antiquities Dealers Association).

ITAP was asked to examine the extent of Britain’s involvement in the illicit antiquities trade and to consider how the country can contribute to the prevention of that trade. Submitted in December 2000, the panel’s report captured Britain’s conflicting motivations, the same motivations that the United States had faced: on the one hand, the desire to maintain a thriving market in cultural objects and to enjoy its economic and cultural benefits; and, on the other hand, the need “to ensure that the UK is not used either as a repository

57 DuBoff et al. 1976, 111.

58 U.S. House 1977, 31, 42.

59 ITAP’s official title was Ministerial Advisory Panel on Illicit Trade. The immediate trigger for the establishment of ITAP was an inquiry into the illicit trade in cultural property launched by the House of Commons’ Culture, Media and Sport Committee. That inquiry increased the pressure on the government to conduct its own investigation.

56 Ibid.

or a transit point for [looted] material.”⁶⁰

Like the ASIL panel, ITAP sought to establish a compromise between the archaeologists’ preference for strict regulation of antiquities and the dealers’ preference for minimal constraints. This compromise was clearly evident in the panel’s recommendations concerning the two international agreements: the 1970 UNESCO Convention and the 1995 UNIDROIT Convention. The archaeologists on the panel wanted Britain to join both conventions; this was also the view of the Museums Association that was represented on the panel.⁶¹ Yet the dealers strongly opposed the UNIDROIT Convention as excessively onerous, especially in light of the length of the limitation periods it established and the limited factors that triggered them. Although ITAP identified some virtues of the UNIDROIT Convention, it did not recommend joining this agreement that was unacceptable to the dealers. By contrast, the panel recommended that Britain accede to the 1970 UNESCO Convention.⁶² This was a remarkable reversal of the longstanding British position that had seen the convention as overly burdensome for the trade and the bureaucracy. ITAP concluded that Britain, in fact, was already in compliance with the convention’s provisions. Accession therefore did not require significant legislative or administrative changes.

ITAP’s other recommendations included a new criminal offense of dealing in cultural objects while knowing or believing that the objects were stolen or illegally excavated; export controls to ensure that objects re-exported from London had been legally exported from the countries of origin; and databases that would assist the dealers in ascertaining objects’ legal status: a database of international legislative information and a database of cultural objects unlawfully removed from any place in the world. The government adopted the panel’s recommendations, but was less wholehearted about implementation, as explained in the next section.

American-British Divergence: Implementation of the Panels’ Proposals

Thus far, I have identified several similarities in the American and British experience. Public scandals and archaeologists’ advocacy led to the ASIL Panel and ITAP: two bodies

that achieved an unprecedented consensus between the archaeologists and the dealers on a set of regulatory measures. Yet when it came to the implementation of the proposed measures, the U.S. and British governments differed. The ASIL panel’s recommendation was implemented: the executive branch received the authority to prohibit the import of illegally exported antiquities. This authority has indeed been exercised. As of July 2012, the United States was restricting the import of archaeological material from fourteen countries.⁶³ By contrast, the British government only partially implemented ITAP’s recommendations. Britain acceded to the UNESCO Convention in August 2002 – a step that, as per ITAP’s report, did not entail changes to British law and practice. Yet the government was in no rush to enact the new criminal offense. That legislation was passed with the government’s full support only after the 2003 invasion of Iraq.⁶⁴ In the aftermath of the looting of the Baghdad Museum, the government wanted to avoid the embarrassment of Iraqi objects appearing on the London market. The two other recommendations, however, were not carried out. The government’s lawyers thwarted the establishment of export control on the grounds of incompatibility with EU law, and the databases were ultimately considered too complex and expensive. In contrast to the American import controls, Britain has not established significant restrictions on the movement of antiquities. Furthermore, the impact of the new criminal offense has been rather small, as the British government failed to invest in enforcement. By contrast, American dealers were prosecuted and criminally convicted for dealing in looted material.⁶⁵ Indeed, the U.S. art market has not come into full compliance with ethical restrictions on acquisition;⁶⁶ but the import restrictions and the specter of criminal prosecution did produce a certain constraining effect.⁶⁷ The impact on U.S. art museums has been especially palpable. These museums, whose demand for antiquities has been a primary driver of looting, have increased their reliance on loans of objects and have become more cautious concerning gifts from collectors.⁶⁸

This American-British difference is surprising. In fact, one would have expected the British government to be more cooperative than its U.S. counterpart. First, the American participation in the efforts against looting was opposed by antiquities dealers as well as art museums. In Britain, by contrast, only the dealers resisted these efforts, while the

60 ITAP 2000, paras. 8–10.

61 Brodie, Doole, and Watson 2000, 42; UK House of Commons 2000, 2:11–22.

62 ITAP 2000, paras. 41–65. ITAP’s endorsement of the UNESCO Convention and rejection of the UNIDROIT Convention were the reverse of the recommendations made by the House of Commons’ Culture, Media, and Sport Committee. That committee’s report, published in 2000, recommended that Britain join the UNIDROIT Convention, rather than the UNESCO Convention. UK House of Commons 2000, 1:29. See also Gill and Chippindale 2002.

63 See <http://exchanges.state.gov/heritage/culprop/listactions.html> (last accessed July 31, 2012).

64 Dealing in Cultural Objects (Offences) Act (2003). On the legislative process, see Mackenzie and Green 2008.

65 *United States v. McClain*, 545 F.2d 988 (5th Cir. 1977); 593 F.2d 658 (5th Cir. 1979); *United States v. Schultz*, 333 F.3d 393 (2nd Cir. 2003).

66 See, for example, Elia 2009.

67 Pearlstein 2005.

68 See Association of Art Museum Directors, *Survey Shows Museum Antiquities Purchases are Less than 10% of Global Trade*, February 7, 2006.

museum community supported government action against the illicit antiquities trade. Second, Britain had a stronger incentive to participate in UNESCO's efforts, compared with the United States. In the 1970s, U.S. policymakers chose to join the UNESCO Convention out of concern about foreign antiquities. At the time, the looting of American archaeology was not seen as a major problem. By contrast, Britain was motivated by concerns about looting abroad *as well as concerns about the loss of Britain's cultural heritage*. In the 1980s and 1990s, with the rise of metal detecting, Britain experienced increasing archaeological plunder and destruction. In addition, Britain suffered from an outflow of nonarchaeological cultural objects stolen from local museums, churches, and historic houses.⁶⁹ The UNESCO Convention was seen as a means to recover objects illegally removed from Britain.

Why, then, has the U.S. government taken stronger measures against the illicit trade than the British government? The answer lies in the divergent attitudes of the American and British bureaucracies. The State Department has led the American efforts to stem the illicit antiquities trade, from negotiating the UNESCO Convention to drafting the implementing legislation to establishing import restrictions through bilateral agreements with source countries.⁷⁰ As the foreign-affairs arm of the U.S. government, the State Department was attentive to foreign countries' requests, concerned for the American image abroad, and interested in fostering international cooperation. Moreover, the State Department's status within the American bureaucracy allowed it to obtain the support of other U.S. agencies. In Britain, by contrast, it was not the Foreign Service that addressed the issue, but the Department for Culture, Media and Sport (DCMS). Compared with the State Department, the DCMS was less foreign-minded and less inclined to international cooperation. The DCMS had no equivalent of the State Department's Mark Feldman – a bureaucrat who strongly pushed for the ratification and implementation of the UNESCO Convention. Unlike the State Department, the DCMS also had a limited ability to lead an interagency effort and, in particular, to secure the commitment of the Home Office to the efforts against the illicit antiquities trade. Finally, the British bureaucracy paid greater deference to the dealers than did the American bureaucracy. Whereas U.S. government agencies were willing to confiscate antiquities and prosecute dealers, their British counterparts were less vigorous.⁷¹

This is not to say that the measures taken by the British government were immaterial. The establishment of ITAP, the accession to the UNESCO Convention, and the new criminal offense – all these raised the pressure on the market to ascertain antiquities' legal status. Internationally, the British accession made additional market-countries reconsider their longstanding opposition to the convention. Japan and Germany, among others, followed Britain's example and joined the UNESCO Convention. Yet as the British bureaucracy was not fully committed to combating the illicit trade, Britain's efforts have been weaker than those of the United States.

Conclusion

The international efforts against the looting of antiquities have faced significant hurdles. Art markets and the governments that support them have long been reluctant to join these efforts. In their view, cooperation against the illicit antiquities trade compromised local interests to the benefit of foreign countries. Yet the experience of the UNESCO Convention demonstrates that previously-noncooperative countries may reverse course and join the international efforts. This article has identified several factors that may explain the change of policy. Public scandals put pressure on governments to ensure the ethical conduct of the art market and made the dealers more conducive to compromise; archaeologists reinforced the pressure for a government response and provided evidence of the looting fueled by the art market; and the policy response was facilitated through consultative mechanisms – advisory panels – that brought together all stakeholders and issued mutually agreed recommendations. This article has also found that the willingness to take action against looting varies across governments and bureaucracies as a function of their ideologies and constituencies. The Labor government in Britain was more inclined to impose constraints on the art market, as it was more committed to an ethical foreign policy and less dependent on business support than its Conservative predecessor; the State Department was responsive to foreign countries' pleas and concerned for the U.S.' international standing, while the British bureaucracy was more attentive to the dealers. This experience may prove useful for resolving other contentions and debates over the protection of the cultural heritage.

69 Brodie, Doole, and Watson 2000, 21–22; ITAP 2000, Annex A, paras. 14–32. One of the most notable losses was the Icklingham Bronzes. See Gill 2010.

70 The United States Information Agency (USIA) initially received the authority for the implementation of the CPIA. With the dissolution of the USIA in 1999, the State Department became responsible for the CPIA's implementation.

71 See Mackenzie and Green 2008, 148; Pearlstein 2005.

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Repatriation via the Art Market: A New Type of Recovery, New Trends Coming from China

Johanna Devlin

Abstract

The aim of this study is to highlight new trends in the art market and the different ways in which issues concerning ownership of cultural objects have been revealed. In investigating the reasons behind the repatriation of Chinese art via the art market and analyzing its impacts on the art market, this paper will try to uncover what lies behind this new type of recovery.

Keywords: art, market, repatriation, China, collector, culture, heritage, economy.

Introduction

Chinese collectors are increasingly present on the art market, notably in European auction houses today but also within China itself. Prices of ancient Chinese art are breaking records, with some objects reaching millions of Euros. As recently as four years ago, Sotheby's didn't hold any Asian Art sales in Paris. Today, Sotheby's Asian Art department in France has become its third largest, reporting an income of €25.9 million for 2010.¹ Separately, the biggest sale in 2010 at Paris-based auction house Hotel Drouot was an 18th-century Chinese imperial vase that sold for €5.5 million. Bearing a Yongzheng imperial seal, dated to the Qing dynasty between 1723-1735, this work had previously been estimated at €1.5 million by Piasa, an auction house based in Paris.

In the 18th century, it was European curio cabinets that displayed Chinese art. Beginning in the mid- to late-19th century, museums in Europe and America began to include Chinese works. This Western collecting of Chinese art arose mostly out of Western dominance in the East during the second half of the 19th century when, under the rules of Queen Victoria and Napoleon III, Britain and France as colonialist and imperialist powers amassed substantial collections of Chinese art through the actions of their military, diplomats, travelers and government officials in China. According to UNESCO, more than 10 million Chinese cultural relics have been taken out of the country since 1840. About 1.67 million of these relics are said to be housed in more than 200 museums in 47 countries while as many or more could be in private collections.² Cultural property, according to UNESCO, is "property which, on religious or secular ground, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science."³ It lies under the notion of cultural heritage and raises questions such as: Can culture be owned in the first place? What does it mean for an object to belong to a state, a people or an individual?

With globalization, more emerging countries are arriving on the international scene with growing economic power. These countries have an increasing desire to establish and maintain their own identities, and cultural heritage can strengthen this. In their awakening, these countries develop a consciousness of their cultural patrimony coupled with a sentiment of national pride. China is one such country. But who are these Chinese people who buy back their heritage? Why are they suddenly

wakening up? What are their motivations and why have they become interested in repatriating their cultural heritage? What are their methods and what are the impacts on the current art market?

Over the past decade, China's economy has grown by an average of 10%, compared to 2.5% of the U.S. economy. At this rate, it is expected that China will overtake the U.S. as the most powerful economy in the world in the next 10 years.⁴ The consequence of this strong economic development is that China probably now has the largest number of billionaires in the world,⁵ which could make us assume that the main driver behind the new arrivals in the art market is that hundreds of thousands of Chinese people and collectors have serious money to spend. At the end of 2010, China overtook the U.S. as the world's biggest auction market for fine art according to the research company ArtPrice. It took China only three years to get to the number-one position ahead of the U.S. and the U.K.

Issues around cultural heritage are numerous and complex and concern largely a country's patrimony and its legacy for future generations. As culture is a growing, lucrative field of business,⁶ this could explain some countries' tendency to request the return of cultural objects that have been kept outside their borders, as well as each country's concern for repatriating cultural items through other than official and diplomatic means. In investigating the reasons behind the repatriation of Chinese art via the art market and analyzing its impacts on the art market, this paper will try to uncover what lies behind this new type of recovery.

Reasons Behind the Recovery of Chinese Art: Buying Back for Patriotic Reasons

Motivations

"Among European countries, Britain has the richest collection of Chinese cultural objects; next comes France – in its Musée Guimet over half of the works collected are of Chinese origin, more than 30,000 pieces in number."⁷

The Chinese cultural objects in our European museums date in general from 19th-century colonialist times when imperialist powers Britain and France had their hands on foreign countries. For example, the Opium Wars in China (1839-1842 and 1856-1860) were disputes involving trade and,

1 RFI, "Les Chinois font bondir les enchères sur le marché parisien d'art", Jan. 5, 2011

2 "The Fight Against The Illicit Trafficking of Cultural Objects — The 1970 Convention: Past And Future", <http://unesdoc.unesco.org/images/0019/001916/191606E.pdf>

3 UNESCO, "Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property", Paris, Nov. 14, 1970, 1-2

4 *The Economist*, "Becoming number one. China's economy could overtake America's within a decade".

5 Hurun Report, <http://www.hurun.net/zhc/Default.aspx>

6 George W. Anastasopoulos, "Forward," *Museum International*, vol.61, No 1-2 (2009): 8

7 Lyndel V. Prott, ed., *Witnesses to History*, (Paris: UNESCO, 2009), p. 119

of course, economic power, during which much Chinese art ended up in France and Great Britain. Even today the Victoria and Albert museum in London and the Musée Guimet in Paris frame these objects as “expressive discourses of national and imperial identity,”⁸ according to art historian Craig Clunas. These objects represent the booty that French and British troops brought back from expeditions in China, notably in 1860 during the Second Opium War. On December 10, 2002, 18 major museums and research institutes in America and Europe, including the Louvre and the British Museum, signed a “Declaration on the Importance and Value of Universal Museums,” which “opposes returning art works, especially ancient ones, to their original owners.”⁹ The opposition of these museums to the return of Chinese art could fuel the repatriation of Chinese artworks through the auction market. Indeed, most decolonized countries seek to reconstitute their history and rebuild their cultural identity through their cultural heritage.

After having suffered a sort of cultural ransacking by interlopers in the 19th century and then at the hands of Mao Zedong during the 20th century’s Cultural Revolution when his Red Guards destroyed irreplaceable paintings, vases, pottery statues and temples in an effort to erase China’s past, China now recognizes the importance of maintaining a cultural heritage – for its own patrimony, its cultural tourism, and its growing sense of national pride. Collecting art by buying it back through auctions is one way in which the Chinese are rebuilding their identity and reclaiming their culture. As we have underlined earlier on, maintaining cultural heritage and the artifacts of an era’s creators and craftsman helps instill and build a profound sense of national pride. Consciousness of a cultural heritage is also a pride of actually *having* culture.

Cultural heritage has long been defined through high culture, notably in Europe and in America. Indeed, the greatest museums in the West are where the cultural treasures of the world are kept. These museums and their collections also reflect the powerful cultural image of the nations where they are located. The Louvre in France, the British Museum in Great Britain, the Metropolitan Museum in the United States, to name just three, show how culture is closely linked to power where great nations display their strength through a culture that’s been “institutionalized” in its museums, trusts and foundations.¹⁰ Moreover, trade and collecting in general, and the trade in cultural objects more specifically, have generally been a Western practice, albeit one of long standing. Ancient Greeks began collecting artifacts during the third century BCE, followed by the Romans a few centuries later. By the

first century BCE, Rome had “a true art market, complete with dealers, high prices, and eager clients.”¹¹ Through history, during the Renaissance in Italy, from the 16th to the 19th centuries in France, England and Germany to the late 1890s in the United States, collecting and trade were serious passions for the wealthy and educated (or the wealthy who wished to demonstrate their own intellectual and artistic tastes).

Because of its long history, China’s cultural heritage is probably one of the richest in the world. But China suffered a loss to its artistic riches as a result of, among other events, the export business during British colonial rule, pillage during war and also a lack of commercial and legal framework for the sale and protection of artworks, which resulted in the departure of over 10 million objects to buyers and collectors in Europe, the United States and Japan.¹² China’s patriotic conscience seems to be rising as a result of its economic growth and subsequent cultural “reawakening” and, by buying back its heritage, China now demonstrates it has the will and the financial power to protect and preserve its history and culture. This can strengthen not only its internal pride as a cultural giant but also reinforce its status on the international scene.

Profile of the Collector

Several wealthy Chinese collectors undoubtedly feel a great sense of pride when buying back from Europe their cultural heritage, which they’ve long regarded as having been stolen from their country. The Poly Art Museum in Beijing, a state-owned institution under the administration of the central government, was set up to accept repatriated art. The Poly currently has in its collection five of the twelve statues of animals that made up the Old Summer Palace fountain that was destroyed by French and British troops in 1860 while looting the Palace during the Second Opium War. In 1987, Sotheby’s New York sold one of the works, a statue of a pig, to Macau business tycoon Stanley Ho, who then donated it to the Poly in 2003. In 2000, Sotheby’s Hong Kong sold the fountain’s statue of a tiger and the same year Christie’s Hong Kong sold the statues of a monkey and an ox. Mr. Ho also purchased the fountain’s horse statue in a private deal with Sotheby’s before an auction of Asian works in 2007. He then donated the statue to China.

“I hope this will encourage more people to join efforts in preserving China’s cultural relics and nurture patriotic feelings,” Mr. Ho said after donating the horse statue.¹³

11 Kate Fitz Gibbons, ed., *Who owns the past? Cultural policy, cultural property and the law*. New Brunswick: New Jersey: London: Rutgers University Press, 2005, p. 136

12 Yang Xiao, “Les antiquités chinoises à l’encan,” *Courrier International*, No. 981, Aug 20-26, 2009

13 Elliot Wilson, “China’s artifacts come home,” *Financial Times*, May 29, 2010

8 Tom Flynn and Tim Barringer, eds., *Colonialism and the object*, p. 43
9 *Witnesses to History*, p. 119

10 Robert Shannan Peckham, ed., *Rethinking heritage, Cultures and politics in Europe*, (London: New York: I.B Tauris, 2003), p. 63

We can't know, of course, whether his actions were purely benevolent or the result of promises from the government to grant him political favors. Two other bronzes from the fountain, those of a rat and a rabbit, were sold in 2009 during the highly publicized sale at Christie's Paris of works owned by Pierre Bergé and the late Yves Saint Laurent. At this point in time, the location(s) of the statues of the sheep, dragon, snake, rooster and dog are unknown.

Problem: Non-Payments

Although most buyers do pay for the art they buy during auctions, either on behalf of their government or on their own, some others have fooled the market in pretending they would pay, but never actually did so. At the Yves Saint Laurent-Pierre Bergé auction at Christie's Paris on February 25, 2009, Cai Mingchao, the owner of a small auction house in China, successfully won a €31,490,000 phone bid for the bronze rat and rabbit heads from the Old Summer Palace fountain. The collector said a few days after the sale that he wouldn't pay for the statues and that his bid was a symbolic and patriotic act: "What I want to stress is that this money cannot be paid," he said. "...I think any Chinese person would have stood up at that moment. It was just that the opportunity came to me. I was merely fulfilling my responsibilities."¹⁴

Mr. Cai added that he placed bids "just to stop the auction" and "on behalf of the whole Chinese people."¹⁵ Although the Chinese government had repeatedly demanded that Christie's stop the sale and return the bronzes, the government, through a spokesman, affirmed that it did not ask that Mr. Cai place bids. Mr. Cai said he wanted to sabotage the auction in the hope that his voice would be heard and the statues returned to China. Mr. Cai's refusal to pay was instrumental in spreading fear and suspicion among the auction houses toward Asian buyers.

Indeed, some houses have instituted new regulations requiring that Asian bidders pay a deposit prior to a sale. These deposits should safeguard the sellers while deterring bidders and "potentially cooling prices at a time when the Asian market is growing faster than in the U.S. and the U.K."¹⁶ Moreover, dealers such as the Paris-based Pierre Ansas consider measures such as leaving a €200,000 deposit, and being obliged to pay a third of the bill within a week and the balance within three months, necessary in order to secure payments. These efforts didn't deter Asian collectors?

14 Jane Macartney, China correspondent and Charles Bremner, "Chinese bidder can't pay, won't pay for YSL auction statues," *The Times*, March 3, 2009.

15 Wu Zhong, "China's renegade patriot faces backlash," *Greater China*, March 11, 2009

16 Scott Reyburn, "Non-Payments By Chinese Buyers Prompt Auction House Clampdown," *Business Week*, April 12, 2011

enthusiasm: A few months later a Chinese scroll was sold for €22.1 million and a seal for €12.4 million to different Chinese buyers, while a vase from the Qing dynasty sold for £43 million (£51.6 after premium) in November 2010 during an auction at Bainbridges in West Ruislip on the outskirts of London. The vase was paid for almost a year later.¹⁷ Some suspicions were raised that Chinese government agents might have rigged the bidding or that auction houses were seeking to increase the prices on the market just before the autumn sales in Beijing.¹⁸ This vase remains the most expensive piece of Chinese art ever sold at auction and is the world's most valuable piece of porcelain.

Some buyers, however, find the new measures restrictive. Chinese buyers wanting to participate in one of Sotheby's sales in Hong Kong balked after being asked to make a HK\$500,000 deposit. Nevertheless, to ensure against "false market" inflation in the art market,¹⁹ measures to secure sales and allow auction houses to maintain their credibility among clients have become the norm.

Buying Back for Art's Sake

Motivations

Over the past few years, prices for Chinese antiquities, notably at public auctions, have skyrocketed. Buying art on the international market today requires big money. As we have seen, Chinese buyers are willing to pay a lot of money to re-buy artifacts that make up their cultural heritage. Some buyers have a nationalistic approach, while others simply buy antiquities for the sake of the art itself. Flying to Europe, crossing the world to go to auction houses in England or France to buy Chinese art or antiquities is part of a collector's mindset.

Collecting is something of an obsession, of course. In *Owning Art*, collecting is related to terms such as "compulsive" and "competitive," and defined by Freud as a "compensation for loss."²⁰ This last phrase in particular resonates in today's new-money Chinese society. Chinese buyers have a "compulsive" need to buy art, whether it is contemporary or antique. That part of Chinese society that has become wealthy now logically turns towards leisure, entertainment and culture. "Competitive" describes well the relation between art-collecting and Chinese society since,

17 Kaijing Xiao & Dandan Chen, "So who DID buy that £43m Chinese vase from Pinner... and, five months on, why are they STILL refusing to pay for it?" *Daily Mail*, May 3, 2011

18 Tom Flynn, "Sale commissions and recovery fees: how much is too much?" *Artknobs*, Sept 29, 2011

19 Ibid.

20 Buck, Louisa & Greer, Judith, *Owning Art, The Contemporary art collector's handbook*, London: Cultureshock, 2006, p. 21

economically speaking, China is exerting its newfound power and directly competing with European and American markets. Collecting as a “compensation for loss” is fully appropriate when Chinese refer to their heritage lost during the 19th century and the later Cultural Revolution.

As Buck and Greer write, “The compulsion of the best collectors manifests itself as genuine passion for the art itself. It can drive them to collect beyond their capacity to house, display or even afford. They view the process as one that is ongoing – and never completed.”²¹

Now, let’s examine how buying art from “foreign hands” demonstrates a love for art itself on the part of two Chinese collectors.

Liu Yiqian and Hu Wengao: A Portrait of Two Chinese Art Collectors

Liu Yiqian was born in 1963 to a working-class family in Shanghai and left school at the age of 14 to help his mother with her handbag business. Today, he runs an investment company, and while his personal fortune is valued at \$1.5 billion, his art collection alone may separately be worth over \$1 billion. He is one of China’s biggest art collectors. Liu Yiqian only buys Chinese art, but not simply for patrimony or repatriation. “Art is for all the world,” Liu says. “It doesn’t matter how art went abroad. (...) Even if it’s abroad, it shows our traditional culture. It shows the spirit of our ancestors to foreigners.”

“It’s the same when we buy them back. [Referring to the \$83 million vase], I know the person who bought this. He is a friend of mine. I also bid for it, but my friend bought it. It is because we love this piece, so we bought it. It’s nothing to do with patriotism. The artwork is worth the price because China’s economy has developed to such a level.”²²

That doesn’t mean that he wants to keep his art all to himself. Liu Yiqian paid over \$11 million for a Qing dynasty imperial throne in October 2010 at Sotheby’s Hong Kong and is planning to open his own museum in Shanghai to display his entire art collection.

Another important Chinese art collector is Hu Wengao who, as a policeman in the 1990s, investigated a crime scene involving tomb robbers. This led to his life as a collector. His passion as a collector is also part of his mission to keep cultural objects in China and save them from illegal trade.

“I saw many beautiful antiques dug up by farmers during my investigations,” Hu says. “I know there were many more antiques, especially the most beautiful and precious ones, being smuggled out of China. I really regret the loss of those treasures.”²³

Hu Wengao began to accumulate wealth while working as security chief for the State-owned Shenhua Group, China’s largest coal producer. In 2005 he bought his first antique, a 2,000-year-old bronze mirror, from a farmer in his hometown for 50 Yuan (approximately \$7.35). Although Hu earned a lot of money at the Shenhua Group, his passion for collecting and his love of antiquities slowly drove him into debt. Hu, however, is not interested in reselling his collection. He wants to protect it from leaving his hometown and his country.

“Some estimates put the market value of my treasures in excess of 70 million Yuan (\$10.3 million),” Hu says. “But I have no desire to sell any of them.” He added, “The market price for antiques has doubled over the years, [but] I’d rather go into debt than sell any of them.”²⁴ Three rooms in his home are filled with some 1,500 antiques, including 400 bronze mirrors, 600 jade, stone and bone objects, 300 items of pottery and porcelain, and 30 bronzes.

Other antique collectors and dealers have approached him to buy his collection but Hu will neither donate nor sell his collection unless the government first builds a museum and signs an agreement stating that the objects will never again be sold. Although Hu is a passionate collector, he is an outspoken critic of illegal excavations and the continuing problem of tomb robbing in China. Hu has been keeping the government informed of these illegal practices but Chinese officials have told him they are powerless in the face of the vast numbers of thieves robbing China’s many royal tombs. Xie Chensheng, president of the Chinese Society for the Protection of Cultural Relics, says that art collecting actually fuels tomb robberies and the black market in antiquities trading. The local government has a hard time implementing regulation to protect cultural relics due to the country’s vague antiquities legislation and a “lack of public morality.” Indeed, a career in looting provides a much better salary than does the average job in China.²⁵

While Hu’s main goal as a passionate collector is to protect China’s cultural heritage, China is also home to the kind of collector who has fueled the market in other countries: high net-worth individuals who love art but also love collecting in order to speculate with the price of collectible antiquities on

21 *Owning Art*, p. 22

22 Nick Rosen, “China’s billionaires: Liu Yiqian, China’s biggest art collector,” www.bbc.co.uk, June 14 2011

23 Xinhuanet, “Hu Wengao: addicted to antiques collection,” May 31, 2010

24 Yi Fu Lei, *China Daily*, “Guarding a legacy,” April 14, 2010

25 *Global Heritage Network*, “Heritage On the Wire: Looting of Chinese Tombs Out of Control,” July 1, 2010

international art and auction markets.

Buying Back as an Investment

The economic crisis that began in 2008 has had a major impact on the market. The stock market's instability and uncertainty have reduced the attractiveness of traditional investment options such as equities, bonds and hedge funds. Investors are therefore increasingly attracted to what Enrique E. Liberman, president of The Art Fund Association, calls "passion funds."²⁶ And China has the money to indulge in such passions. In 2010, China had 1,363 billionaires, probably more than in any other country, according to The Hurun Report, which targets China's wealthy and, like Forbes magazine in the U.S., has created its own list of wealthy individuals. For those with such immense disposable income, enough is never enough when it comes to buying goods that include cars, houses – and art.

Art Funds

Chinese fund-management companies have begun to create art funds to meet the needs of super-wealthy investors. Most of these art funds sell their works through auction houses. An art fund can be defined as "an investment vehicle whose purpose is to produce a financial return, according to Dr. Clare McAndrew, a cultural economist and investment analyst who founded Arts Economics in 2005. The main purpose of an art fund is that it offers investors the opportunity to use their pooled money to purchase a wider selection of high-quality works of art."²⁷

These art funds, somewhat like auction houses and art dealers, make profits by reselling works of art. But they focus on small investors or groups of investors who are given the chance to invest in the art market rather than on other markets that have shown vulnerability over the past few years. Art is a financial tool through which the art fund aims to maximize its return on investment. The idea is less about collecting art than reselling it for maximum profitability. Among such new art-world bidders are Chinese billionaires who often travel to Europe to be present in auction rooms offering Chinese antiques. On March 26, 2011, a Qing Dynasty scroll fetched a record \$31 million at Labarbe, a small auction house in Toulouse, in southwest France. Seven Asian bidders had registered to take part in the auction. Two Beijing-based collectors fought off the competition from at least two other people in the room and a telephone bidder.²⁸ Earlier, in November 2010, the aforementioned Qing Dynasty vase was bought for £51.6 million including premium (around

\$81 million in total), beating previous records for Chinese ceramics (\$32 million) and Asian art (\$62 million). These new collectors sustain the market and give to art funds the opportunity to exist.

With China's embrace of capitalism, investing in markets and new markets has become normal. Although art funds encourage speculation regarding Chinese antiquities (as well as Chinese contemporary art), they play a role in the return of China's cultural heritage, since this bidding stimulates the market for Chinese art. Thanks to an increasing interest from wealthy Chinese collectors these funds provide the opportunity for many people to invest in art and gain significant returns on their investments, even non-Chinese. Bill Carey, for example, an American who runs the Xiling Group, an art-investing company in Missouri, is confident that this new type of investment can be efficient. He said that his group had bought a Qing vase for \$1.1 million four years ago and resold it recently for three times that amount. On the other hand, critics such as financial journalist Felix Salmon say "art is by its nature a negative-carry investment."²⁹

Impact of this New Type of Recovery

Economic impact

This new type of art recovery has drastically changed the worldwide auction-house landscape, as tremendous sales of Chinese and other Asian art set new records nearly every week during the auction seasons in New York, London and Hong Kong. Chinese collectors, as we have seen, are most powerful in bidding on the art of their homeland. Bill Ruprecht, Sotheby's chief executive, says that the Chinese are spending about "\$4 billion a year on Chinese paintings worldwide."³⁰

China was also the subject of a 2010 ArtPrice report that stated, "With a fine art annual revenue total of \$3 billion in 2010, China overtook the United States, which now finds itself in second position with 30% of global revenue. The U.K. was third, with a global share of 19% from revenue of \$1.8 billion and France was fourth with \$475m, i.e., a 5% share vs. 13.9% in 2009."³¹

In 2010, China not only overtook the United States and the United Kingdom as the world's largest player in the auction market, its mainland billionaires are regularly among the top bidders at these auctions. According to arts journalist Ben Hoyle, "The amount paid by Chinese buyers at Sotheby's

26 *Jing Daily*, "Passion Funds' Turning Corner In Art, Wine-Mad China," Aug. 15, 2011

27 Art funds in China, <http://www.3030press.com/news/8/>

28 Reyburn, Scott, "Chinese scroll fetches record \$31 million at France auction," *Bloomberg*, March 26, 2011

29 Felix Salmon, *Reuters* blog, <http://blogs.reuters.com/felix-salmon/2011/01/11/art-funds-return/>, Jan. 11, 2011

30 Kelly Crow, *The Wall Street Journal*, "The China Factor," Oct. 7, 2011

31 ArtPrice: The 2010 art-market annual report – *China winner of the past decade*, April 2011

increased 278% between 2008 and 2010.³² Moreover, a recent Bloomberg study found “the overall Chinese art market to be the biggest in the world,”³³ while the market for Chinese antiquities alone is valued at \$10 billion.³⁴ Chinese collectors scan the catalogues for auctions and art fairs worldwide to find opportunities to bring their treasures back to China. Often, Chinese bid against other Chinese at sales, leaving European and American collectors behind. Hong Kong sales for Christie’s doubled in 2010 to \$721.9 million and Christie’s has seen similar growth, spurred by such purchases as the sale of an 18th-century vase that sold for almost \$33 million to a Chinese bidder at a Sotheby’s Hong Kong auction in October 2010.

Today, the big auction houses such as Christie’s and Sotheby’s focus on dealing with the emerging market of antiquities collecting among mainland China’s wealthy. Last September, an Asian dealer paid Christie’s \$902,500 for a late 11th-century BC Zhou vessel that had been estimated at \$60,000 while in March of this year Sotheby’s sold a vessel for \$410,500, almost four times its estimate.

Western auction houses are now scrambling to cope with this demand as well as the rapid growth of competition from China’s domestic auction houses. While Sotheby’s and Christie’s in Hong Kong have had tremendous success with Chinese art and antiquities, so too have China’s domestic auction houses, including market leaders China Guardian and Poly Auctions, which both had record results in 2010. China Guardian, established in 1993, was that country’s first auction house specializing in Chinese art. It has so far organized more than 300 auctions and sold more than 200,000 lots.³⁵ Its annual sales in 2010 exceeded those at Sotheby’s and Christie’s in Hong Kong: \$1.14 billion compared to \$722 million for Sotheby’s and \$685 million for Christie’s. The Poly Auctions group had \$1.45 billion in sales in 2010.³⁶

According to the ArtPrice 2010 art-market trends report, “The pulse of the market can now be measured in Beijing, Hong Kong, Shanghai and Hangzhou – the new driving hubs of the global art market – where Sotheby’s (2% of global revenue generated in Hong Kong), Christie’s (2.5% in Hong Kong), Poly International (7.4% in Beijing), China Guardian (5.32% in Beijing), Beijing Council (2.07% in Beijing) and Beijing Hanhai Art Auction (2.74% in Beijing) are all

operating at full steam.”³⁷

Five to six years ago only a handful of collectors, such as U.S. and European dealers and collectors in Chinese art, bought Chinese antiquities. Today, it’s mainly Chinese, but because so many are buying it is almost impossible to precisely say who are these rich Chinese billionaires behind this surge. Demand is significant; as the number of bidders rise, increased prices will follow. Thanks to this influx of wealthy Chinese, Christie’s says the international art market is buoyant, with 28% more registered bidders in 2010 compared to the year before.

Since we have seen that the government can engage in the return of its cultural heritage via the art market and because the control of cultural property also carries substantial economic consequences, including the future of tourism and museums, we could understand why China sees an underlying economic opportunity to enter this field.

While many buyers from mainland China have driven art prices higher because of demand, more than economics are at play here. Although China’s financial power affects the art market, its interest in art as part of its own cultural heritage has also affected Chinese social trends.

Cultural Impact

France and Britain dominated the art market during the 19th century and America during the 20th. It might not be wrong to say that in the 21st century the art market will belong to China. Cultural exchanges have altered the market structure drastically. It’s more global thanks to the widespread use of the Internet and the rise of international art fairs as well as the internationalization of art dealers and collectors.

After examining the motivations behind the craze for Chinese art and its repatriation we will explore the cultural impact of this collecting and repatriation of art on Chinese thinking about itself and its place in the world. Consciousness of cultural heritage translates into consciousness of having culture, as we noted earlier. With the rise of China’s economy, the Chinese population is realizing its power and, beyond that, is more acutely aware of its assets. Chinese cultural identity is becoming stronger. Both the Chinese people’s and the Chinese government’s interests in protecting and preserving China’s cultural heritage have grown alongside China’s economic development. As many Chinese have become richer, they’ve bought back from abroad some of their lost heritage. Indeed, private purchases represent 80% of the return of cultural artifacts to China.³⁸

32 Ben Hoyle, *The Times*, “Chinese money has changed the art landscape,” Jan. 28, 2011

33 *Artinfo*, “With Deadbeat Buyers Not Paying for Record Chinese Art Purchases, Auction Houses Begin Demanding Deposits,” April 12, 2011

34 Scott Reyburn, “Auction Clampdown as Non-Payers Hurt \$10 Billion Asia Market,” April 11, 2011

35 <http://www.cguardian.com>

36 Madeleine O’Dea, *Art Info*, “Is China Number One? New Analysis Puts Chinese Art Market Ahead of U.S. and U.K.,” March 21, 2011

37 ArtPrice art-market trends report 2010, p. 14

38 Xinhua, “Reclaiming cultural relics from overseas,” *China Daily*, June

Chinese international presence is reflected not only through private initiatives but also through a growing national consciousness of China's cultural heritage, of pride in China's cultural history, and of confidence in China's cultural impact on the world.

The Beijing Olympic Games of 2008 and the 2010 World Expo in Shanghai showed that China was becoming more and more a presence on the international cultural scene. The Chinese government has also begun to ensure the dissemination of its cultural heritage to its own citizens: It is allotting as much as 2 billion Yuan to make entry to museums free and accessible to everyone. This is quite a change: For most of the 20th century China had ignored, suppressed or destroyed its cultural objects that did not correspond to the values of the Communist Party. That has changed with the government-approved capitalism that informs China today. China's collecting class is relatively young. What China is doing now is what Western nations have done before: demonstrating its international might through its power to amass cultural artifacts. While it's economically beneficial to European auction houses to sell art to Chinese buyers, buying this art is also a way for China to assert its place as a superpower. Art for art's sake is one thing, but art can also mean power, wealth and influence.

As the Chinese "buy back" their cultural heritage from Europe and America, could there be a risk that Chinese art becomes less accessible to Westerners? Can we expect that the Chinese will strengthen their export controls in order to keep these objects in China? The People's Republic of China's 1982 Cultural Relics Law is quite clear concerning its cultural property. Chapter VI reads as follows:

Taking Cultural Relics out of China

Article 27. Cultural relics to be exported or to be taken out of the country by individuals must be declared to the customs in advance and examined by the department for cultural administration of a province, an autonomous region or a municipality directly under the Central Government designated by the state department for cultural administration before export certificates are granted. Cultural relics leaving the country must be shipped at designated ports. Cultural relics that, after examination, are not permitted to leave the country may be requisitioned by the state through purchase.

Article 28. It shall be prohibited to take out of the country any cultural relics of significant historical, artistic or scientific value, with the exception of those to be shipped abroad for exhibition with the

approval of the State Council.³⁹

We understand the reasons behind this protectionist or even "retentionist" approach, since one of the reasons behind repatriation of Chinese cultural heritage is the relationship the country has with its heritage based on a strong nationalism and patriotic sentiment. But should we then start fearing that other growing economies such as India, Russia or the Middle East could overcome European and American markets too and start re-buying the art that defines their cultural heritage? And beyond each country's own heritage, should we fear for the loss of Western art at the hands of new emerging economies? Isn't it true that Chinese with deep pockets have already started collecting Monet, Van Gogh, Picasso and Warhol?

Conclusion

We have seen that China has begun to repatriate its antiques through the art market. Because of its powerful economy, China has the ability to re-buy the artifacts of its heritage. However, should the Chinese really have to buy back their heritage, history and culture? As of today there are still a great many Chinese antiquities that are on the market illegally.

In 2009, the United States and China signed a bilateral agreement that restricts the importation into the U.S. of a broad range of Chinese cultural objects that are said to be in jeopardy of being pillaged. These objects will be subject to seizure if an export certificate does not accompany them from the government of China as well as by documents showing that these objects had left China prior to the effective date of the embargo. China's super-strict export controls could unfortunately increase the illicit trade of Chinese antiques within China and subsequently on the international art market.

In the meantime, Chinese collectors are strengthening the art market and, more often than not, Chinese art is back where it belongs. That is, if we look at it from the perspective of a bidder who seeks to repatriate such art. Such art continues to surface. Consider a coming sale in Britain: On November 17, Wooley and Wallis in Salisbury, England, will hold an auction of Asian art that includes a small and extremely rare metal box

39 J.D. Murphy, "The People's Republic of China and the illicit trade in cultural property: is the embargo approach the answer?", p. 232. http://www.gov.cn/ziliao/flfg/2007-12/29/content_847433.htm

The regulation referred to here has been amended in 2007. Namely the changes were made to article 22, 23, and 40. Article 27 and 28 remain intact: 第二十七条 一切考古发掘工作, 必须履行报批手续; 从事考古发掘的单位, 应当经国务院文物行政部门批准。

地下埋藏的文物, 任何单位或者个人都不得私自发掘。
第二十八条 从事考古发掘的单位, 为了科学研究进行考古发掘, 应当提出发掘计划, 报国务院文物行政部门批准; 对全国重点文物保护单位, 应当经国务院文物行政部门审核后报国务院批准。国务院文物行政部门在批准或者审核前, 应当征求社会科学研究机构及其他科研机构及有关专家的意见。

dating back to the 18th century on which is inscribed, under the lid: "Loot from the Summer Palace, Peking, Oct. 1860. Capt. James Gunter, King's Dragoon Guards." This is only the latest sale to feature something looted; the practice dates back to just after the Second Opium War. In London and Paris, between 1861 and 1866, over 30 sales of Summer Palace loot took place, and in Paris, between 1861 and 1863 the Hotel Drouot held 21 such sales.⁴⁰ In April 1861, the Tuileries exhibited objects brought back from China and, in 1862, the International Exposition in London held a similar display.⁴¹ Victor Hugo notably denounced the Tuileries exhibition in a diatribe against the shameful behavior of the French and the British.

It will be interesting to see how many Asian buyers will be present in the room at this November sale, who will actually buy the object and what the sale price will be of this rare Chinese Imperial gilt metal box looted from the Summer Palace. While it's unlikely that a writer of the stature of Victor Hugo will today weigh in on the shameful sales of looted objects from 150 years ago, one wonders if, beyond any protests, any Asian, or in particular any Chinese buyers will use their newfound economic might to continue to right the wrongs of another age.

40 James L. Hevia, *English Lessons*, p. 92 (London: Hong-Kong: University Press 2003)

41 Hevia, *English Lessons*, p. 96

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Planning Revenge: Art Crime and Charles Frederick Goldie

Penelope Jackson

Abstract

Charles Frederick Goldie is one of New Zealand's best-loved artists. His portraits of Maori have been the victims of theft, vandalism, and forgery for decades. Goldie's portraits remain highly prized and valuable. This article highlights and gives an overview of the art crime that Goldie's oeuvre attracts, and offers some explanations behind what has become a catalogue of illegal practice.

Keywords: Charles Frederick Goldie, New Zealand, Maori, theft, forgery, ta moko, mana, repatriation.

A Missing Painting

In 2008 a retired couple, the Gibsons, put their house in Mosgiel, south of Dunedin in New Zealand, on the market. It was after an open house event that they realised a portrait by Charles Frederick Goldie had disappeared from off the walls of their home. News of the theft did not reach the media for some months, partly because the thief had put another painting in place of the Goldie, and it took the Gibsons some time to notice the absence of the portrait. The couple ascertained that the portrait had vanished sometime between July and October 2008.

The portrait, of a Maori woman looking back over her shoulder, with a moko (facial tattoo) and hair tied back, had been in their family for more than 60 years. The painting had been given to the Mrs Gibson's parents by the artist, as a thank-you for teaching local Maori.¹ According to the 'current' owners, the only inscription on the verso was a note about the gifting. The title or date of the painting was not recorded, nor was the portrait photographed. No records or evidence of its existence remains – as it was a gift there was no record of its purchase. Because of the timing of the theft, the owners made the assumption that perhaps it was taken while their home was on the market. Unfortunately, the real estate agent had moved and did not retain a list of the open house visitors.² At the time, Roger Blackley, a New Zealand art historian who has devoted much of his career to researching and writing about the artist, noted that Goldies regularly “go on holiday.”³

This is a nice way of saying that Goldies are often the target of thieves.

The Artist

Charles Frederick Goldie (1870-1947) is well-known in New Zealand for his portraits of Maori. For the most part, his portraits are of senior Maori who held great mana, or authority, in their own society. Many are decorated with *ta moko*, making them distinctive to New Zealand.⁴ Goldie's work has continued to be highly prized and priced, and it is reasonable to consider him as New Zealand's Rembrandt in terms of popularity, as well as the art crime that surrounds his oeuvre. For many, a Goldie portrait is a desirable commodity, both for its subject and monetary value, making them very attractive to thieves. This article surveys the illegal culture surrounding Goldie portraits and goes some way to highlight the reasons for this ongoing practice.

1 *The Otago Daily Times*, 25 July 2008.

2 In conversation with Detective Sergeant David Leonard, Mosgiel Police, 17 August 2011.

3 'Goldie portrait mystery grows', *The Dominion Post*, October 25 2008, p.A13.

4 Ta Moko – the art of tattooing.

Charles Frederick Goldie (OBE) was born and educated in Auckland, New Zealand. After initial training with Louis John Steele (1842-1918), Goldie went to Paris to study at the Academie Julian where he received a formal and conservative art education. By 1898 he was back in Auckland and began forging his career in painting portraits of senior Maori in a hyper-real manner. Goldie would either travel to seek out his subjects or take advantage of those attending the Native Land Courts in Auckland.

In the early 1930s Goldie had three paintings on exhibition at the Royal Academy, London. The Paris Salon accepted two of his portraits in 1937. One of Goldie's objectives was to capture *ta moko* in paint, as it was no longer being practiced and, like many with his background, he thought that the Maori were a dying race. Goldie relied heavily on photography as an aid to his practice.

Interest in Goldie has continued over time and his name often hits the headlines within the context of prices realised at auction or as victims of theft. His work has been the subject of several exhibitions, yet in more recent times his work has not been included in serious studies of New Zealand's art history. However, as Ngahiraka Mason, the curator of Maori art at Auckland Art Gallery Toi o Tamaki recently suggested, “Goldie's portraits provide an irreplaceable record of ancestors.”⁵ Goldie is represented in major public collections in New Zealand as well as many private ones.

The Market

Portraits by Goldie command high prices on the open market. In 2008 Auckland's International Art Centre reported that its top five sales were Goldie portraits. Prices ranged from NZ\$165,000 to NZ\$400,000. In the same year auctioneer Dunbar Sloane sold Goldie's *A Noble Relic of a Noble Race* (c.1908) for NZ\$404,000. A portrait of Wharekauri Tahuna, a priest and chief, believed to be 102 years old when he sat for Goldie, sold at auction for NZ\$404,000 in 2008. In a time of economic recession, the sale reached the top end of the estimated value. Nevertheless, this high price comes as no surprise given the history of high-end prices for Goldies. The National Art Gallery (now the Museum of New Zealand Te Papa Tongarewa) helped consolidate high prices for Goldies when, in 1991, they paid NZ\$1 million for a pair of Goldies, *Darby and Joan, Ina Te Apathy, Nga Puhi* (1903) and *The Widow: Harata Rewiri Tarapata, Nga Puhi* (1903). More recently Dame Kiri Te Kanawa sold a Goldie portrait from her personal collection. It fetched NZ\$573,000. Given that the Goldie was from a famous opera singer's collection, the sale attracted much hype by the media before and after the auction.

5 *Art Toi: New Zealand Art at Auckland Art Gallery Toi o Tāmaki*, Ron Brownson (ed.), 2011, p.75.

The media attention encompassing Goldie prices has helped position, and establish Goldie as, for want of a better term, “famous.” There is something about Goldie paintings – they lure collectors both at public and private levels, both legal and illegal.

Aimed at the upper end of the art collectors’ market, a Goldie is a desirable trophy. In 2009 when the Auckland Art Gallery announced the Julian and Josie Robertson gift, itself a watershed moment in New Zealand’s public art collection history, Prime Minister John Key was quick to point out that Goldie was his favourite artist, intimating that he would rather have a Goldie than a Picasso or Cézanne.⁶ Many have purchased a Goldie painting with the intention of selling it on at a later date and making a tidy sum from their investment. In 1986, Peter Keeton, in *Investing in Old New Zealand Paintings*, suggested that “before mid-1985 Goldie was lagging well behind in the hierarchy of our best artists.”⁷ In other words, Keeton did not position Goldie up there with our best artists. Nevertheless, since that time interest has grown around Goldie’s oeuvre. Collecting trends and tastes change over time and this and Goldie’s work is no exception. And some of this collecting is not carried out via legal means.

The Portraits

Goldie portraits are visually impressive. He painted in a crisp and highly polished manner, rendering his subjects with great accuracy. Hybrid works, Goldie’s portraits fuse together Maori sitters with academic realism, the latter having its roots in French Neo-Classicism of the late 18th century. With each portrait comes a little of New Zealand’s history; a personality with roots, often with “mana.” Though Goldie was a European artist, it was the Maori people that interested him artistically. His portraits were often sold as souvenirs to visitors and thus many ended up “off-shore” (outside of New Zealand). With greater awareness and debate around colonial racism, some have questioned how Goldie treated his subjects. He paid his sitters very little and Goldie must have known he was on a winning streak given that, in his own life time, the portraits were in constant demand. Little (or arguably none) of Goldie’s profit went back to the sitter, and in more recent times this has been resented, and could be an explanation for some illegal behaviour.

Goldie’s portraits are formulaic in presentation: he copied composition after composition. Indeed, why change a style and compositional device that worked and sold so well? He

painted several hundred works along similar styles. Goldie portraits have a sameness about them; as a painter he looked for a certain “type” of subject and characteristically gave them romanticised titles - *Forty Winks*, *Planning Revenge*, *A Hot Day*, *A Noble Relic of A Noble Race*. The portraits are not all the same, but when one goes missing, like the Mosgiel portrait, and the owners have very little information to give, the work could be one of many Goldie portraits. Added to this is the fact that Goldie made copies of his own work. Goldie’s prolificacy also supports the notion that thieves might consider that his works are easy to filter into the open market.

A Catalogue of Thefts

Ultimately Goldie’s popularity has led to a catalogue of thefts. Organised crime assists collectors in fulfilling their wish lists. In 1973 two works, *Te Hei* (1909) and *Pipi Puzzled* (1919) were stolen from the National Art Gallery, Wellington, in a dramatic theft in which both were hurriedly cut from their frames and taken.⁸ Both works were subsequently located at the Wairakei Hotel near Taupo. George Packwood, the curator of the National Art Gallery at the time, wrote of the events around the return of the two works:

Arrived at Rotorua 12 midday and was taken in rental car to Wairakei. At Huka Falls, met the rest of Police and plans were outlined. From there proceeded to Wairakei Golf Club where we stayed until 3.45 p.m. and then on Wairakei Hotel where a room was booked for me to pose as expert on Goldie paintings. After a short time a man was brought to the room carrying a pillow slip from which two packages were taken. One of these contained the two Goldies which were given to me to inspect. The man who brought the pictures in informed me he knew they were genuine because, he said, they came from the Auckland Museum...I said I could not guarantee the Goldies as the real thing. The buyer said he would not take them under these circumstances...As soon as he had gone the Police were informed. They were our Goldies and the man was arrested.⁹

The works were returned to the National Art Gallery, though they had been damaged from being cut from their frames. Feelings were mixed about the theft, again creating controversy in the media, fuelling and generating continued interest in Goldie. Though the majority were appalled at the theft from a national institution another rival opinion

6 New York art collectors and philanthropists, Julian and Josie Robertson, announced a gift of 15 works of art to the Auckland Art Gallery. The substantial gift included works by Paul Cézanne, Pablo Picasso, Henri Matisse, Paul Gauguin and Piet Mondrian. The gift is to date is the largest ever made to an art museum in Australasia.

7 Peter Keeton, *Investing in Old New Zealand Paintings*, p.203.

8 *The Evening Post*, 26 October 1973.

9 George Packwood, ‘Curator’s report on return of Goldie paintings stolen from Gallery in September 1973’, Museum of New Zealand Te Papa Tongarewa archives.

made a flyer which read “They’ve gone missing! Isn’t it marvellous?”¹⁰ Either the flyer writer did not like Goldie’s work or they saw the theft as a deliberate repatriation of the works to their people.

Clearly some Maori do not approve of Goldie’s subject matter – they feel that their ancestors were used for Goldie’s personal commercial gain. In addition, many believe that their ancestors should be returned to their iwi, or tribe. This also opens up the debate as to whether, if the works are returned to their iwi, and possibly their marae,¹¹ would they be cared for sufficiently? In other words, could marae communities offer security, insurance, and reasonable conditions to protect precious Goldie paintings? Not on the same scale as the ongoing Elgin Marbles debate, but the principles are similar.

At the same time as the National Art Gallery Goldies went missing in 1973, another opportunist got to work at Auckland Grammar School. Goldie’s *The Dignity of the Maori Ngaheke* or *Perira Te Kahi* was stolen in 1973, though the school has no record of this particular theft. Originally gifted to the school in 1915, twenty years later it went “on holiday” for three weeks, before being handed in to the Rotorua Police Station.¹² Perhaps the interest in Goldie, and the second theft, was aroused by the media attention paid to the National Art Gallery theft?

Eight years later, in 1981, Goldie’s *The Scribe*¹³ was stolen from Lower Hutt’s Dowse Art Museum.¹⁴ The theft highlighted problems with the Dowse’s security system in that the thief had taken the painting from an unlocked temporary storage space in a restricted-access area. Unsure of when the work was actually taken, it was reported in *The Evening Post* as perhaps having been missing for up to two months.¹⁵ *The Scribe* was recovered three days later when a rendezvous was orchestrated between police and a third party. *The Evening Post* reported that ‘the party who returned the painting would not be the basis of the police enquiry.’¹⁶ According to the Dowse’s history, this was the first piece of art to go missing from the gallery, though as reported in *The Evening Post*, food had disappeared from the museum’s kitchen, too.¹⁷ The

mention of stolen food in the same article as a stolen Goldie, valued at the time by New Zealand auction house Dunbar Sloane at NZ\$15-20,000, down-played and diminished the significance of the art theft.¹⁸ But unlike many other Goldie thefts, there was a happy ending to this one, as the painting was returned. This was particularly fortunate for the Dowse, who were simply the caretakers of the painting, which belonged to a private collector.

And a History of Vandalism

Thefts from public art galleries are seriously embarrassing for the staff and organisation. So too are attacks of vandalism. Goldie paintings have not escaped the attention of vandals. Like thefts, such events are newsworthy. In September 1998 a suspicious looking man, clad in a long coat, entered the Dunedin Public Art Gallery, walked up to Goldie’s *Rahapa, Ohinemutu* (1941) and spray-painted a red peace sign on it.¹⁹ The work was on loan from a private collection. Staff not only acted quickly in apprehending the vandal, but also in removing the red paint. The Gallery’s conservator, Titus Chan,

...spent 40 minutes, using a mild turpentine-based solvent and cotton swabs held by tweezers, lightly wiping the painting’s surface in a circular motion to remove the paint. My hand was shaking. It’s a very valuable artwork. It was worth thousands and thousands of dollars, so it was important not to damage the surface.²⁰

The culprit, who was a 44 year-old invalid beneficiary, pleaded guilty and was fined NZ\$750. Court costs totalled NZ\$130, and a reparation cost NZ\$295. This seems like small change given the value of the work. Fortunately, the work was rescued and restored to its former glory.

Why Goldie?

This catalogue of crimes might seem small in scale, when compared to international art crimes, but for New Zealand, as a small nation, it looms large. But why Goldie? We know his portraits are valuable and highly sought-after locally, but it is possible to discern a cultural and ethnic undertow underpinning some of these thefts, or acts of vandalism. Do Maori feel that their ancestors were “used” by Goldie for monetary and tourist gain? And do Maori feel that their ancestors should be returned to their iwi? Perhaps the answer to both questions is yes. The repatriation of Goldies to New Zealand has become more important in recent times. Auckland dealer Jonathan Gooderham purchased two Goldie

10 Roger Blackley, C F *Goldie*, Auckland: Auckland Art Gallery and David Bateman, 1997, p.41.

11 Marae – a communal place used for religious and social gatherings for Maori. Usually contains a group of buildings including the whareniui (meeting house).

12 In email conversation with Christina Wilkinson, Auckland Grammar School, 4 September 2009.

13 *The Scribe* was titled *Patara (The Scribe)* when exhibited at the Auckland Society of Arts in 1909.

14 Lower Hutt is approximately 15 kilometres north east of New Zealand’s capital city, Wellington.

15 *The Evening Post*, 22 December 1981, p.1.

16 *The Evening Post*, 23 December 1981, n.pag.

17 *ibid.*

18 *ibid.*

19 Nigel Benson, *The Otago Daily Times*, 7 February 2008.

20 *Ibid.*

portraits in 2011 from Australia, and brought them back to New Zealand.²¹ Subsequently both works were sold to New Zealand collectors.

A more recent addition to the list of Goldie thefts occurred in January 2007 when, along with an Oxford Lectern Bible and seven Colin McCahon poems, a Goldie portrait was stolen from the University of Auckland's library.²² A forced window was used for entry while staff took their Christmas vacation. The Library's annual report opened thus,

The year did not start well. On the first day back after the Christmas closure the Special Collections Librarian discovered that there had been a major break-in to the General Library which had resulted in the loss of the Oxford Lectern Bible, a recently installed Goldie painting, and a framed set of Colin McCahon manuscript poems.²³

The timing for this theft was classic in many respects: clever thieves will often strike during vacation times, and this is not unique to New Zealand. Perhaps the most famous example of this was the theft of 30 works, including a Picasso and a Matisse, during the 2009 New Year holiday period from Fasanengalerie, a private gallery near western Berlin's central shopping district.

Significant about the University of Auckland Goldie theft was that *Planning Revenge*, a portrait of Hori Pokai, had been on display for less than a month, after its arrival back into New Zealand, having been gifted to the University by its British Columbian owners, Diana and Gordon Green. Diana Green had inherited the portrait from her mother who had purchased the painting when visiting Auckland in the 1930s.

The media coverage of the theft, and the number of people regularly checking internet auction and art sales websites, severely limited the chances of the thieves being able to on-sell the Goldie portrait. Commenting at the time, Helene Philips of the former Ferner Galleries, Auckland, said,

If they are stolen to order, then they have probably disappeared into a collection and we won't probably see them again. If they have not, then their resale is almost impossible.²⁴

However, the thieves were not interested in re-sale. In October 2007, ten months after the theft, a deal was struck

between police and an accused criminal, known only as "W," in which charges were dropped and the works returned to the University of Auckland. W was not the thief, but had provided information that led to the whereabouts of the missing works in order to plea-bargain himself out of unrelated crimes. At the time *The New Zealand Herald* reported,

The man, a convicted criminal who can only be named as W because of a court order, used the return of the Goldie and other artifacts stolen from the University of Auckland as a bargaining chip with police before a hearing in the Auckland District Court about unrelated charges in October last year.²⁵

All of the works taken were returned. In 2008 the *Sunday News* reported a conversation with W's father:

But he instantly recalled the day his son brought home the stolen 1920s Goldie painting, a crime Mr W's father felt was worse. "He asked me, 'Do you want to see a nice painting?' "I said, 'That's a Goldie. It's beautiful where did you get that from?' He said, 'No questions.'"

Because it had been recently gifted, *Planning Revenge* had had a full and up-to-date conservation report completed by Auckland Art Gallery's principal conservator, Sarah Hillary. Upon its eventual return it was ascertained that it had not sustained any damage. Perhaps, given its small size (270 x 220 mm), the work was easily carried and not bumped or damaged making its egress out of the Library.

Given that the work had recently been repatriated to New Zealand, one interesting possibility is that the thieves were intending to take prized possessions from the University so as to make the point that Goldie had taken advantage of his sitter and now, by removing it from a public collection, they had the upper hand and had proven the point. They had planned revenge and it paid off. Of further interest is that it is believed the stolen works, including the Goldie, were buried in Northland along with high-profile stolen medals from the National Army Museum in Waiouru.²⁶

But the question remains essentially unanswered: why steal the Goldie portrait from the University of Auckland? The Goldie is just one work in a sizeable collection; in excess of 800 works, the University's holdings are impressive. Works are on permanent display across four campuses in the city, as well as being used in temporary exhibitions at the University's

21 In conversation with Jonathan Gooderham, 15 September 2011.

22 Colin McCahon (1919-1987) was a leading New Zealand 20th century artist.

23 Janet Copsy, The University of Auckland Library | Te Tumu Herenga Report of the University Librarian For the Year 2007, p2.

24 *The New Zealand Herald*, 6 January 2007.

25 Patrick Gower, 'Medal-theft suspect was on bail', *The New Zealand Herald*, 23 February 2008.

26 Email correspondence with Andrew Clifford, University of Auckland, 4 September 2009.

own gallery, the Gus Fisher Gallery. The thieves were very specific about what they took. Perhaps they were literally “planning Revenge?” They knew the theft would hit the University community hard, given that the work had been a recent and significant gift. They would have also realised that the news of the theft would hit the headlines. Perhaps this was part and parcel of their strategy? The whole episode smacks of a deliberate motif with clever timing. And it has to be remembered that the sitters of Goldie’s numerous portraits cannot now question the artist’s motives, but their ancestors can and do: Goldie has been referred to on more than one occasion as a “colonial racist.”

Given the continued interest in Goldie paintings, and the recurrent thefts, it would seem that the demand has outweighed the legitimate supply. Thieves have worked their way through private and public collections, and yet those on the receiving end can neither display such prized possessions nor sell them for fear of being caught. Goldie continues to create interest and command high prices, which is in part embellished by media coverage and auction houses boasting their best sales. For instance, in July 2009 *The National Business Review* noted recent and buoyant auction results. Amongst them was the sale of Goldie’s *A Happy Thought*, selling for NZ\$182,000, which was NZ\$12,000 above the estimated reserve. Goldies have sold for much more though, like *Te Aho O Te Rangi Wharepu*, sold in 2004 for NZ\$589,625. Accordingly strong demand was shown for the work, again evidence of the continued and growing interest in Goldie paintings. Even when the art market experienced a downturn in the 2008-9 recession, Goldie prices were not significantly affected.

A History of Forgery

Goldie’s portraits have always been admired for his exact rendering. It is well-known that he worked from photographs, suggesting specific poses for his subjects to give them a melancholic aura. The meticulous detail, especially with his painting of *ta moko*, is technically proficient and admirable. But whether a Goldie is in fact a Goldie, further embellishes and complicates the mystique surrounding this artist.

Enter Karl Sim.²⁷ Copyist and forger, Sim changed his name by deed poll to Carl Feoder Goldie (C F Goldie) after his arrest in 1985. He was arrested on 48 charges: 28 of forgery and fraud among them (he also forged work by Petrus van der Velden, Rita Angus and John Gully – all well-known artists in New Zealand).²⁸ He was fined just NZ\$1000 and sentenced to 200 hours of community service. He had delayed his court appearance by deliberately injuring himself, and

is proud of the fact that he did not get sent to prison. After his sentencing Karl Sim sold his works as forgeries, and not originals. As legal as his name changing was, his copying of Goldie’s portraits was not. Goldie copies have ultimately and further muddied the waters of the overall sales history and provenance of individual works. To this day there are still copyists of Goldie works at large. Trade Me, a popular New Zealand on-line auction website, has several on offer at any given time by various copy artists.

The irony of Goldie’s work being copied is that Goldie himself copied numerous works including in his early career, *The Raft of the Medusa, after Géricault, Louvre Gallery, Paris* (1897) and *Portrait of a Burgomaster, after Rembrandt, Royal Gallery, Antwerp* (1895).²⁹ Making copies of Old Masters was traditionally common practice for art students and Goldie was no exception. However these examples, and others, are held in private collections, indicating that they were sold at some stage, and perhaps perceived as original art works in their own right, not simply student copies. Goldie also made copies of his own Maori portraits in his heyday.

Drawing Conclusions

Goldie was prolific and perhaps it is this that criminals in part rely on. It is conceivable that thieves consider that, given the quantity of legal and illegal Goldies in circulation, it is easier to dispose of them or for them to go unnoticed. But the idea that they will not attract as much public attention is a fallacy. Without photographic records it is problematic to identify and authenticate individual works, and Goldie often made more than one work of the same image – in other words he made copies of his own work. Fortunately, the internet hinders the would-be seller. However, New Zealand does not have an operating art loss register where stolen/missing works are listed in an effort to repatriate works with their legal owners and convict criminals. Added to this, the market is relatively small and contained within New Zealand, so trying to slip a Goldie through would be act both of brevity and stupidity. Selling Goldies to overseas buyers now requires an export license,³⁰ which may prove a discouraging hurdle to the would-be thief.

The number of thefts of Goldie paintings goes some way to romanticising the artist’s own story and popularity. The demand for the portraits is strong, and hence the attraction to thieves. Or perhaps, because of their popularity and significance, they are stolen to be later used as bargaining chips, as in the case of the *Planning Revenge*. It is difficult to apportion blame with art criminals: who is the worse criminal,

27 Born 1923 and currently living at Hatfields Beach, North Auckland, New Zealand.

28 *The Evening Post*, 24 July 1986, n.pag.

29 Both in private collections.

30 Pursuant to the Protected Objects Act (formally the Antiquities Act 1975).

the thief, or the collector who receives stolen goods, or the person who orders a work to be stolen for them? Slowly works are returning home to New Zealand. Those that make it overseas (legally) are tracked via the Ministry of Culture and Heritage under the Protected Objects Act.

In reality, there is very little new art historical analysis to be proffered about Goldie. Academics such as Roger Blackley have carried out exemplary studies of Goldie and his oeuvre. When the large and impressive “Goldie” exhibition was hosted and toured by Auckland Art Gallery from 1997-98, a press release summed up Goldie’s somewhat ambivalent art historical position,

Although much of his fame can be attributed to a history of vandalism, thefts, record-breaking prices and forgeries, perhaps the most interesting ingredient of the Goldie story is the dichotomy between the public and critical reception of his art work, and how both have changed over time.³¹

The crimes highlighted in this article are not exhaustive, yet give an indication of the magnitude of the illegal interest in Goldie’s work. Goldies are very desirable commodities, supply continues to meet demand, albeit in an ad hoc and ruthless manner through theft and forgery. Sadly, most of what we read and hear about Goldie these days is to do with theft, damage or economics. In recent times very little has been offered in the way of critiquing Goldie’s contribution or positioning him within New Zealand’s grand art narrative. Hamish Keith’s *The Big Picture*, a general text about New Zealand’s art history, makes only a cursory mention of Goldie. He suggests,

There is something poignant about this procession of melancholy elders and while they are images that have a place in the story of New Zealand’s colonial history, they are not inspiring works of art.³²

Harsh words. Yet thieves and vandals continue to search for Goldie paintings. Goldie sits uncomfortably outside of New Zealand’s mainstream art history. The number of instances of illegal practice associated with Goldie has perhaps contributed to his precarious position and status. Similarly to reticence concerning the monetary value of art, many art historians do not like discussing or engaging with topics of a criminal nature relating to art. And yet the opening line of Roger Blackley’s work on Goldie states, “Charles F. Goldie is probably New Zealand’s best-known artist.”³³ The

major criminal aspects – theft, vandalism, forgery, repatriation – of Goldie’s fame are unavoidably interrelated with that reputation. Interest in his oeuvre continues to this day, more than six decades since the artist’s death, however with thieves and forgers close at hand, illicit instances of his work will continue to infiltrate the open market adding further confusion.

As for the Mosgiel couple, they live in hope that one day their Goldie will be returned. Sadly given the time already lapsed, this is hard to imagine.³⁴



Charles Goldie
 ‘All ‘e Same t’e Pakeha’
 [Te Aho-o-te-Rangi Wharepu, Ngati Mahuta]
 1905
 oil on canvas
 Collection of the Dunedin Public Art Gallery

31 ‘The much debated portraiture of C F Goldie’, quoted from Roger Blackley, *C F Goldie*, Auckland: Auckland Art Gallery and David Bateman, 1997, Christchurch Art Gallery Te Puna o Waiwhetu archives.

32 Hamish Keith, *The Big Picture*, 2007, p.113.

33 Blackley, Roger, *C F Goldie*, Auckland: Auckland Art Gallery and Da-

vid Bateman, 1997, p.1.

34 With special thanks to Judge Arthur Tompkins for commenting on my research.

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Fingerprinting Objects for the Control of Illegal Trafficking

Dr. W. (Bill) Wei

Abstract

One of the main problems in the fight against the illegal trafficking of objects of cultural heritage is their irrefutable identification. Provenances, photographs, expert testimonials and other written documents can always be fabricated or forged. This makes it difficult for customs officials, law enforcement agencies, and honest buyers and sellers to determine if an object has been illegally acquired. An excellent solution to this problem has been provided by a recently completed European project, FINGaRtPRINT. It makes use of the non-contact measurement of the micro-roughness of an object at a location selected by the owner. The micro-roughness can be measured on a scale of less than a micrometer (thousandth of a millimeter), that is, less than the size of a pigment particle. At that scale, the roughness is unique and can thus serve as an identifying “fingerprint” of the object. It is not forgeable, assuming that a criminal even knows where on the object it was taken. The fingerprint can thus serve as a key component of an “object passport” which can be used to control the sale and purchase of objects. While some optimization work is necessary, the major obstacle to the successful application of the FINGaRtPRINT system is the long process required for the development and acceptance of international laws for illegal trafficking. The partners of the FINGaRtPrint project are therefore looking to private investors, collectors, and museums to develop an international fingerprint/passport system in order to accelerate this law making process.

Keywords: fingerprint, identification, illegal trafficking, micro-roughness, roughness, profilometry.

Introduction

The illegal trafficking of objects of cultural heritage continues unabated. Controversies still swirl around many archaeological objects in Western museums. Unrest in the Middle East and Africa, and/or lack of funding in many third world countries leave countless treasures unprotected. The lack of strong international laws and enforcement allows greedy and unscrupulous collectors to continue to obtain objects with relative ease.

Even in countries where law enforcement has greatly improved, such as Italy, or in countries where efforts are being strengthened, such as in The Netherlands, one of the main problems in controlling illegal trafficking is the positive and irrefutable identification of objects. There are a number of important organizations working to fight illegal trafficking including ARCA (Association for Research into Crimes against Art), the Art Loss Register, ICOM (International Congress of Museums) with its Red List, Interpol and its list of “Stolen Works of Art,” the Museum Security Network, and SAFE (Saving Antiquities for Everyone). However, these organizations, as well as all law enforcement agencies, and honest buyers and sellers of cultural heritage objects, are still dependent on photographs and written provenances, documents and expert testimonials, and photographs, as proof that an object has been legally acquired. All such documents can, however, be fabricated or forged.

An excellent solution to this problem has been developed in a European project, FINGaRtPRINT (“Fingerprinting Art and Cultural Heritage - In Situ 3D Non-Contact Microscale Documentation and Identification of Paintings and Polychrome Objects”) completed in 2008.¹ During this project, a system was developed for uniquely identifying objects using the property of the surface of an object known as roughness.

The roughness of objects and components is an important property in the industrial world. It determines how objects function or appear. For example, ball bearings or axles in an automobile must have a certain (micro-roughness) to properly take up lubrication and operate smoothly. The surface of a mirror is extremely smooth, but does have a micro-roughness that is even less than that of ball bearings. The surface of powder-coated office furniture is rougher and matter than a glossy paint surface.

1 The FINGaRtPRINT project was conducted with the financial support of the European Commission Directorate General “Research” within the EC Sixth Framework Program Policy-oriented Research: Priority 8.1.B.3.6 – “The protection of cultural heritage and associated conservation strategies,” Specific Targeted Research and Innovation Project – Contract No. 022453. (Editor’s Note: please note that the author of this article is one of the inventors of the FINGaRtPRINT technology).

This roughness can be measured using so-called profilometers, which have been around since the middle of the last century. Current technology allows the roughness to be measured without contacting the object, on scales from micrometers (one-thousandth of a millimeter) to tens of nanometers (one hundred-thousandth of a millimeter). In terms of works of art, this is a scale much smaller than a paint pigment particle. At such a scale, the roughness of an object is unique. It is thus possible to clearly identify an object by measuring the micro-roughness at some location of the object. This is nothing more than the “fingerprint” of the object, that is, a way in which the object identifies itself. Note that this is NOT some person’s oily fingerprint; it is a property of the object itself.

In this paper the concept of the fingerprint and FINGaRtPRINT system are presented. A number of examples will be shown as to how we can identify and differentiate between very similar objects, using these object fingerprints. The enormous possibilities for protecting objects from illegal trafficking using the FINGaRtPRINT system will be discussed. It is suggested that private initiatives will be the most efficient way to introduce the fingerprinting system for fighting illegal trafficking on an international scale, this in the face of weak international laws and cooperation.

The Roughness Measurement and the Fingerprint

An example of a fingerprint roughness measurement from a painting is shown in Fig. 1. The fingerprint was taken at the location in the painting indicated by the arrow in Fig. 1a. A 3.5 mm x 3.5 mm area was measured, which includes a section of the roof of a village church (see magnified image in Fig. 1b). The actual roughness measurement/fingerprint from this area is shown as a false color image in Fig. 1c. The colors help visualize height, and are based on real roughness measurement data. In this image, red is high followed by yellow and light blue, and ending with dark blue being low.

The first thing which one might notice is the somewhat alternating pattern of red and blue. This is the roughness of the canvas weave. Detailed examination reveals more features, for example, those at positions 1, 2, and 3 marked in Figs. 1bc. At position 1 in Fig. 1b, some white paint is missing in the form of a crescent. The fact that paint is missing means that the surface there would be lower. This can in fact be seen as a blue crescent at the corresponding position 1 in Fig. 1c. The brush strokes used to paint the brown edge of the church roof can be seen between the positions 2 marked by the arrows in Figs. 1b and 1c. Finally, the zigzag crack at position 3 in Fig. 1b can be seen as a corresponding dark blue zigzag in Fig. 1c.

However, the most important feature of this roughness measurement is the very fine mottled structure evident

throughout the image in Fig. 1c. This mottling is a real feature of the surface, not a problem with pixelation of the digital image. The spatial resolution of this image is around 3-4 micrometers (μm). Thus what one sees as mottling is micrometer scale roughness, something which, in the current state of the capabilities of art, cannot be forged. This area roughness measurement is thus unique to this painting, and can be used as a “fingerprint” for its identification.

The roughness is measured using an instrument known as a profilometer. Profilometers were originally developed in the 1940s. Those instruments made use of what, essentially, is a traditional phonograph needle which was moved along a line on the surface of an object (see schematic diagram in Fig. 2). What one obtained was a profile of the surface, with height data about the peaks and valleys, similar to what one sees on the sports pages that describe the mountains and valleys of a stage of the Tour de France bicycle race. The data can be analyzed, and standard industrial roughness parameters can be calculated, such as average roughness (R_a), root mean square roughness, (R_q) or peak roughness (R_p). However, such needle profilometers are not desirable for use on works of art and cultural heritage, because of the risk of damage to the surface that is being measured.

The fingerprint taken shown in Fig. 1c makes use of a more recent development in profilometer technology, an instrument known as a confocal white-light profilometer. Such profilometers, now also an industrial standard, are actually laboratory microscopes with special optics to measure roughness. In a standard microscope, the reader probably has the experience that it is not possible to focus the entirety of a very rough surface at one time. For example, it would not be possible to focus (looking down) on the entire surface of the two cones shown schematically in Fig. 3a. One must turn the focus knob, moving the objective lens up and down, to focus at certain levels, for example at the level of the dotted line on the cone, which would appear as a sharp-focused band in the middle of an otherwise out-of-focus circular image. Moving the objective lens up and down is, however, nothing else but a height/depth measurement. By adapting the microscope with special confocal optics and computer automation, a confocal white-light profilometer can automatically step through the surface of the object, such as the two cones, Fig. 3b. At each step it takes an image of the focused area (in the case of the cones, two circles) and at the same time, records the height of that step. By combining the images, the software then produces a so-called reflected image, which is what one would normally see in a light microscope. But now the entire image is in focus. More importantly, the data provides height information and visualization, such as the false color image shown schematically at the bottom of Fig. 3b (red is high, blue is low). Note that such a false color image is the same as color topographic maps that one sees on typical National

Geographic type programs. For more detailed technical information about confocal white-light profilometry, the reader is referred to references 1-3.

There are a number of advantages to using the confocal system, as compared to the traditional needle profilometer. One of the main advantages, for cultural heritage applications, is that the confocal system is non-contact. Furthermore, the confocal system measures an entire area, not just line profiles. For the fingerprint, this is a much more useful way of looking at the roughness of a surface. In addition, taking a fingerprint using the confocal system is much faster. The 3.5 mm x 3.5 mm area shown in Fig. 1 can be measured at high resolution in a few minutes, whereas a traditional line profilometer would take many times longer, travelling back and forth to cover the same area, and at lower resolution.

The FINGaRtPRINT System and Methodology

The FINGaRtPRINT system makes use of a standard μSurf model white-light confocal profilometer, developed fifteen years ago by project partner NanoFocus AG, based in Oberhausen, Germany. The standard table top configuration and the adaptation to the FINGaRtPRINT system are shown in Figs. 4a and 4b respectively. The standard confocal profilometer is a table top instrument (Fig. 4a), which is designed for high-resolution quality control, as well as for research. The microscope/digital camera is mounted to a perpendicular specimen table. The table can be moved with micrometer precision to accurately position an object for measurement, then relocating the measurement position at some later date. While this is a physically stable system, useful for industrial applications and scientific research, this configuration limits the fingerprinting application to relatively small objects which can fit on the table and have some sort of horizontal surface which can be measured.

For the FINGaRtPRINT system, the microscope and digital imaging component was mounted on a robot arm (Fig. 4b). This gives the profilometer much more physical flexibility, allowing it to be positioned perpendicular to almost any position on almost any two- or three-dimensional object. The owner of an object can, therefore, select almost any location to take a fingerprint. The system is operated through a user-friendly interface, developed by FINGaRtPRINT partner University of Southampton, UK. Using normal, non-technical English, the interface allows users without a technical background to operate the robot, and take fingerprints without needing to delve into the details of the robot or profilometer software. This means that the operator must push a button to allow the robot to move to a programmed position. If the operator releases the button, the robot stops automatically. It should be noted that many of the case studies and measurements conducted during, and after,

the FINGaRtPRINT projects, were taken by conservators or art history students. In order to ensure the safety of the object, all robot motions are performed semi-automatically.

The FINGaRtPRINT system also features a webcam that is used to document the location of the fingerprint. This is necessary for relocating the fingerprint, in the event that an object has to be re-identified, for example, for controls at customs check points, or to determine if an object is indeed the object which has been returned, after having gone missing. After taking a measurement, the system takes four photographs with the webcam, zooming in closer each time. These photographs are stored. If a fingerprint needs to be found, the computer calls up the photographs, and places “cross-hairs” over the center of the photograph. The operator can then compare the live image with the photographs to help relocate the fingerprint.

In practice, the owner (e.g. an archaeologist, museum, or private collector) of an object can select almost any area on an object with a size of, for example, several millimeters square, and have the roughness measured there. The location and the roughness measurement are proprietary information, known only to the owner, the institute authorized to take the measurement, and law enforcement or customs agencies. The location of this “fingerprint,” and the roughness data, can be stored in a secure database, which can be used to determine if an object has been legally obtained, or is stolen.

The most important application of the fingerprint is its use in a so-called “passport” for an object. This passport would include all traditional documentation, but also the fingerprint. International laws could be developed to require such a passport when bringing an object into a country, and/or trying to sell or buy such an object. It is not possible to stop thieves from robbing archaeological sites or unprotected museums. However, the requirement of an object passport for trading in such objects would certainly be a tremendous step in strongly reducing illegal trafficking.

Examples of Fingerprints

The FINGaRtPRINT system can be used to identify virtually any type of object. The use of the system for identifying paintings was already shown in Fig. 1. For other paintings, the system easily records craquelure patterns and micro-defects which, at micrometer and sub-micrometer scale, cannot be forged. This is also true for other types of objects, such as the porcelain cup shown in Fig. 6a. Here, one can see that the glaze of such objects is full of micro-bubbles which are not visible to the human eye (see fingerprint in Fig. 6b). Such a bubble pattern would also not be forgeable, especially considering that the forger would first need to know exactly where the fingerprint was taken, and would have to correctly

copy the bubble pattern beyond the fingerprint, continuing into the rest of the object.

Micro-details, such as those seen in Figs. 1 and 5, can be used to clearly differentiate between two similar objects. Two gold bracelets found in the ruins of Pompeii, and their fingerprints, are shown in Fig. 6. The fingerprints were taken at approximately the same position on both bracelets, the upper half of the upper ring from the clasp. The fingerprints are about 2 x 2 mm in size. To the naked eye, the two horizontal rings arguably appear to be the same (compare Figs. 6a and 6b). However, examples of features that are unique to each object can be seen in the red ellipses (solid lines in Fig. 6c, dotted lines in Fig. 6d, including tiny pits and scratches).

A further example of differentiating between two similar objects is related to the problem of the theft, and sale of maps from antique books. Fig. 7 shows the number 50, printed on two of the same maps, taken from two different copies of a book. One could hardly tell the difference between the two numbers just by looking at the print on the map with the naked eye, or even looking at the number in the confocal light microscope (compare the reflected images in Figs. 7a and 7b). However, in the false color images, it can be seen that the number 5 is slightly raised above the paper surface (Fig. 7c) of the map number shown in Fig. 7a (compare arrows in Figs. 7a and 7c). The height of the 5 is indicated by the yellow and red false color. The 5 is, however, hardly visible on the other map (Fig. 7d), probably because the ink for that number happened to absorb into the paper. The zero is, on the other hand, slightly raised in Figs. 7b and 7d (compare again the arrows and false color). The zero is not evident for the left hand map (Figs. 7ac).

The FINGaRtPRINT system can even differentiate between modern mass-produced objects, as is shown for two mint 2 Eurocent pieces (see Fig. 8). Fingerprints were taken of a 2 x 2 mm area, centered on the relief of Europe on the obverse side of the coins. Structural differences are difficult to see for these mint coins using false colour images. Reflected light images (Figs. 8a and 8b) are more useful for this purpose, along with line profiles. Two examples of slight differences between the two reflected images are marked with lime green ellipses. However, the roughness profiles, taken along the red lines, show the differences between the two coins more clearly. The line begins at the rising northwest coast of Spain (1), dropping into the Mediterranean Sea at (7), and ending at the tip of the boot of Italy (8). All eight numbered features can be seen in both profiles. The features are sharper and somewhat lower, less than 220-230 µm for the coin in Fig. 8a and 8c, while the maximum relative heights are close to 240 µm for the coin in Fig. 8b and 8d.

Discussion

The research and numerous case studies which were conducted during the FINGaRtPRINT project, several which been discussed in this paper, have shown that the system is an excellent method for unequivocally identifying objects. Fingerprints have been successfully taken from, among others, archaeological ceramics, metals, paper, paintings, polychrome sculpture, and wood. Many fingerprinting measurements were repeated over the course of several years, to show that it is indeed easy to relocate the fingerprints, and that they do not change. This makes them suitable for government officials and law enforcement agencies to use for checking objects which enter a country, or suddenly appear on the market.

Because the FINGaRtPRINT system makes use of commercially available technology, it does not require significant optimization to be applied. There are two aspects of the system which could be improved. The first is the time it takes to take a fingerprint. At the moment, it takes a practiced operator between ten to fifteen minutes to take a fingerprint. This includes actually taking the fingerprint, and taking the webcam photographs to help relocate the fingerprint. This is certainly fast for taking fingerprints of a few valuable objects for a private collector, but slow for fingerprinting significant numbers of objects from, for example, a museum collection. The main issue is speeding up the movement of the robot arm between the actual measurement, and positioning the webcam for the documentation of the fingerprint location, without endangering the object or the profilometer itself. At the moment, the robot must repeat every action, to ensure that it does not get in its own way. A human would know automatically how to move the profilometer out of the way of itself in almost no time, but this must be taught to a robot computer.

The other optimization issue is the size and transportability of the system. The current prototype is mounted on a granite base in order to reduce vibration to the robot arm. The system has been transported to a number of venues, including Amsterdam, Ljubljana, Naples, and Paris. However, it is heavy, requiring at least two people to move it. This is not necessarily an issue for institutes, which eventually would be authorized to take fingerprints at some central location, where owners could bring objects, or for customs officials working at fixed locations. However, the ultimate goal is to make the system portable, so that it can be used, for example, on location in a museum or at an archaeological site. Partner NanoFocus AG actually has a portable profilometer, which was used early in the project to fingerprint smaller three-dimensional objects. The technology is thus available to reduce the size and weight of the system without sacrificing fingerprint resolution.

The FINGaRtPRINT project also addressed a number of

important issues concerning the fingerprinting methodology. The fingerprint is a physical micro-characteristic of the object. It has been shown that the same fingerprint can be found even after several years. At the size scale of the measurement, it cannot be forged. In fact, if necessary, the system can be used with higher magnification objective lenses, to provide even more microscopic detail. The author does not consider this to be necessary in most cases. What must be noted, however, is that the roughness of the surface is subject to damage. For virtually all materials and objects kept under typical museum conditions, the roughness will not change, even over years. However, one must take and, eventually, retake a roughness measurement after any restoration treatments, either to ensure that the fingerprint has not changed, or to register the new roughness after treatment. At archaeological sites, one must first decide on how much cleaning an object should receive, and then perform that before taking the fingerprint. The fingerprint would have to be taken on an area which has been cleaned, to ensure that the measured surface is not lost in handling, as might happen if one were to fingerprint local soil caked onto an object. In the event of inadvertent damage to a fingerprint, it is noted that, in many criminal investigations involving real human fingerprints, law enforcement agencies do work with partial fingerprints. International law on illegal trafficking could be written to reflect this. On the other hand, there is the case where a criminal finds out where the fingerprint was taken and then has it removed. This is a danger, but if international law requires the fingerprint (e.g. in a passport) as identification, then the burden of proof is on the criminal to show that the object was legally acquired.

It should be noted that there have been many questions over the past years concerning the use of roughness fingerprints as a manner of authenticating objects. The FINGaRtPRINT system is designed primarily for identification purposes. The fingerprint can be used to tell the user whether an object has been properly registered or is stolen and, if it is supposedly returned, whether or not the returned object really is the object that the owner lost. If someone tried to return a copy, the fingerprinting system could certainly tell the difference. That would be a form of authentication. But in general, users must know from other sources whether or not their object is authentic. The fingerprinting process can only tell them which object is actually theirs.

Such questions of whether or not an object was made by a particular artist have been the subject of disputes for ages. No so-called “objective” scientific method alone can determine that. Scientific techniques can certainly provide supporting information, but there will always be the need for art historical study and expertise to determine authenticity, with all of the dangers and mistakes that that sort of expertise faces. The FINGaRtPRINT system could provide supporting evidence, if a study is made of the micro-roughness of a

representative number of an artist's works, just as, for example, the results of many chemical studies are used to determine how artist's work can be used to help authenticate paintings. In fact, initial research has been conducted at the University Maastricht in The Netherlands, looking at the possibility of using brushstroke patterns to identify artists' work (see, for example, reference 4).

The main obstacle to the application of the FINGaRtPRINT system is actually one of the main problems facing those fighting illegal trafficking: the lack of international political will to seriously enforce the various UNESCO, and other, treaties in this area. Efforts are thus concentrating on convincing museums, archaeologists, private collectors and existing organizations, which are fighting illegal trafficking, to begin fingerprinting their own collections and findings, at least beginning with those objects which they consider valuable. As the resulting data base grows, the concept of an object passport can be developed as a private initiative, with the eventual goal of motivating governments to accept it as the standard for illegal trafficking. This is clearly a long-term goal, but with the help of investors and an increasing number of users, the FINGaRtPRINT methodology can become the basis of international law controlling the trade in objects of art and cultural heritage.

Conclusion

A method has been developed within a European project, called FINGaRtPRINT, to unequivocally identify objects of cultural heritage. The method makes use of the surface micro-roughness of an object as a fingerprint that can be measured using commercially available non-contact confocal white light profilometers. The profilometer is mounted on a robot arm, which is operated with user-friendly software, allowing the fingerprinting of most two and three-dimensional objects.

The owner (e.g. an archaeologist, museum, or private collector) of an object can select almost any area on an object (an area of, for example, several millimeters square), and have the roughness measured there. The location of this fingerprint, and the roughness data, are stored in a secure database. The fingerprint can be used as a critical part of a so-called "object passport" which also includes other traditional provenance documentation. The required use of such a passport would be a strong legal weapon to control the international sales of objects of cultural heritage. The FINGaRtPRINT system and the fingerprint database can then be used by law enforcement and customs officials to determine if an object has been legally obtained, or is stolen. Private initiatives are required to establish the FINGaRtPRINT system in order to motivate governments to strengthen their effort in the enforcement of

international treaties on illegal trafficking.²

² The author would like to thank the following members of the FINGaRtPRINT project team for their valuable contributions to the success of the FINGaRtPRINT roughness measurement system: NanoFocus AG (Oberhausen, Germany) - J. Frohn, A. Walther, M. Weber; Ormylia Art Diagnostic Centre (Ormylia, Greece) - S. Sotiropolou; University of Southampton (United Kingdom) - K. Martinez.

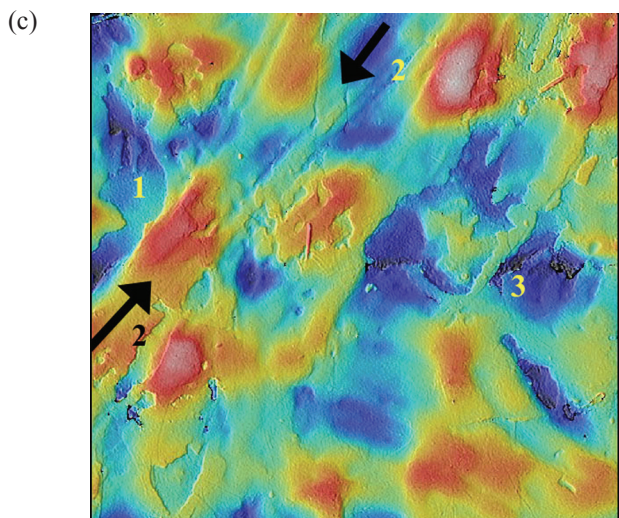


Figure 1 – Roughness measurement / fingerprint of an oil painting.

- a) “Dorpskerk bij avond” (“Village church in the evening”) by IJ. Wenning. The measurement area is indicated by the arrow.
- b) Magnification of the area indicated by the arrow in Fig. 1a. The red square is the measurement area and is approximately 3.5 mm x 3.5 mm in size.
- c) False colour image showing roughness of area given by the red square in Fig. 1b. The colour scale from high to low is red – yellow – blue.

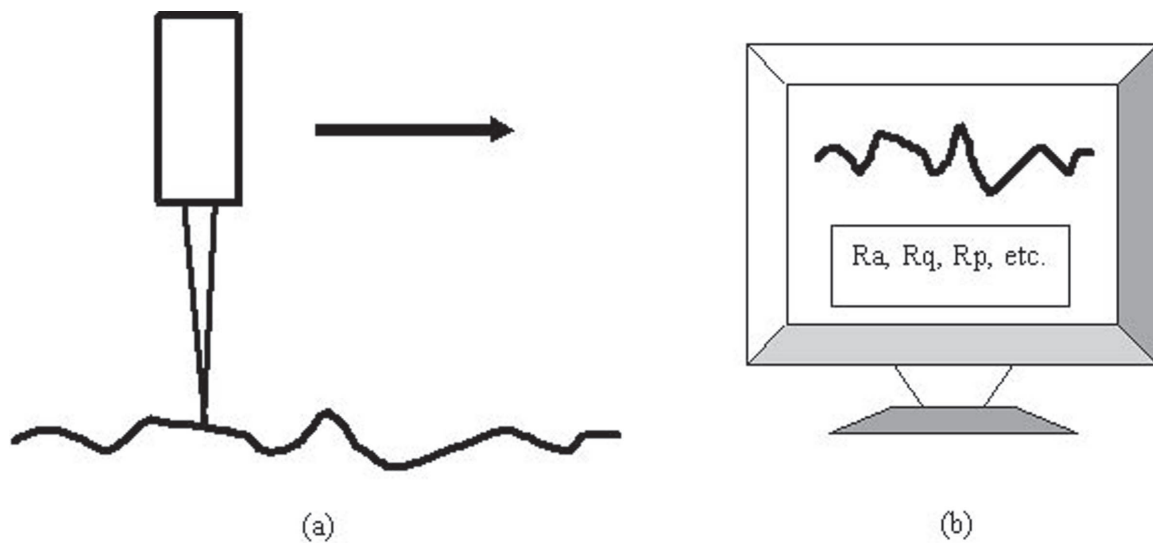


Figure 2 - Schematic diagram showing the traditional method for measuring a roughness profile using a phonograph style needle. The result is a) a profile and b) calculations of standard industrial roughness parameters.

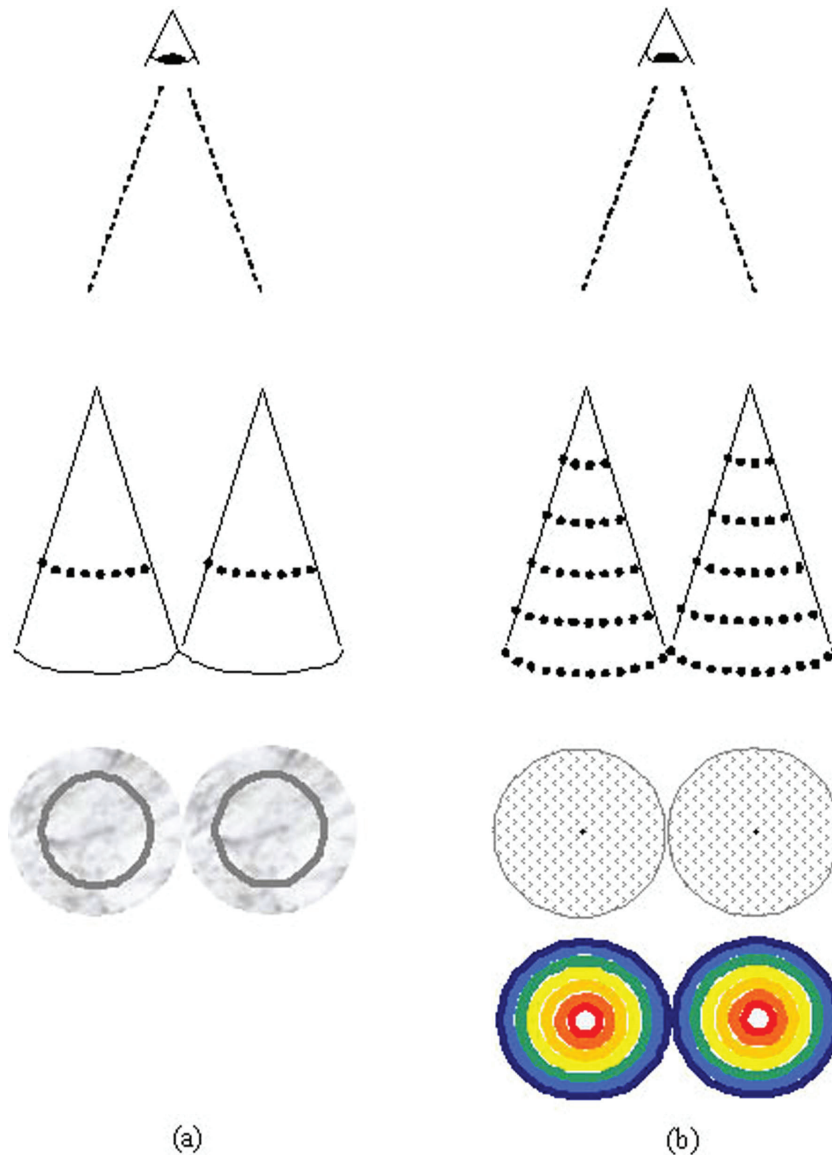


Figure 3 - Schematic diagram showing principle of confocal white-light profilometry using two cones observed from above.

- a) In a standard white-light laboratory microscope, looking from above one can only focus at a certain level of the cones (dark gray circle).
- b) By stepping through each level using confocal techniques, one can obtain a fully focused image of the entire surface of the cones, and height (schematic false color, red high, blue low) information.

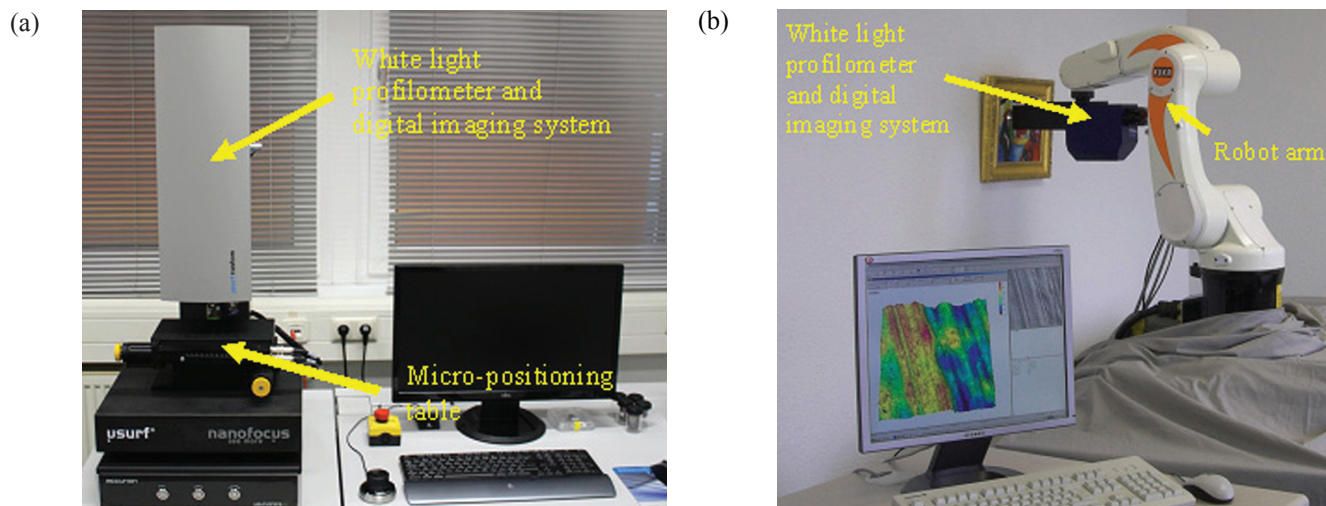


Figure 4 - μ Surf white-light confocal profilometer developed and manufactured by NanoFocus AG, Oberhausen, Germany.

- Standard table model.
- Mounted on a robot arm as part of the FINGaRtPRINT system.

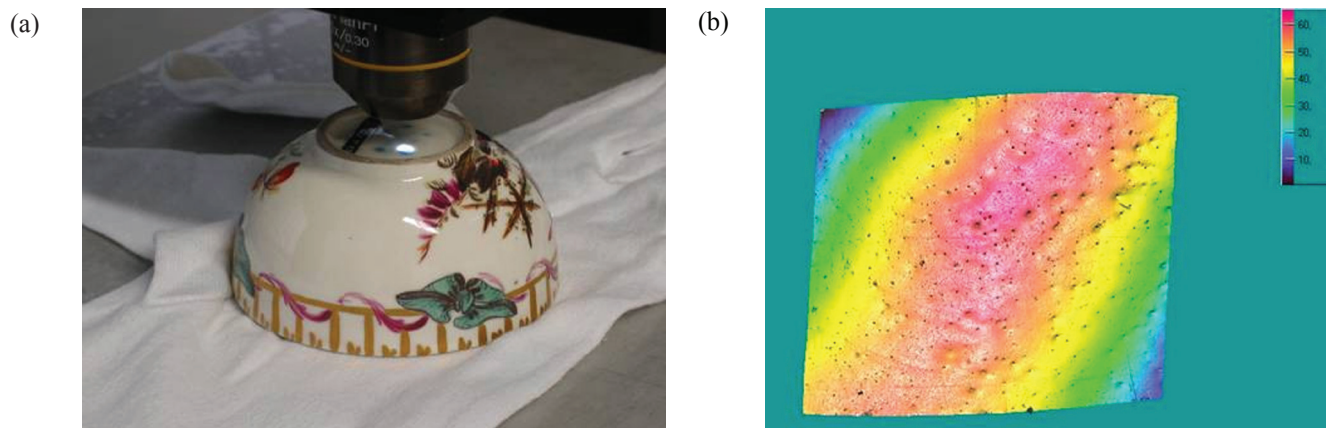


Figure 5 - Fingerprint of the glaze of a porcelain cup (courtesy Amsterdam Museum, formerly Amsterdam Historic Museum).

- Location of fingerprint is the light spot under the microscope lens.
- False color fingerprint showing micro-bubbles in the glaze. Note that the false colors show the curvature of the measured area on the bottom of the cup, red being the highest curving down to blue.

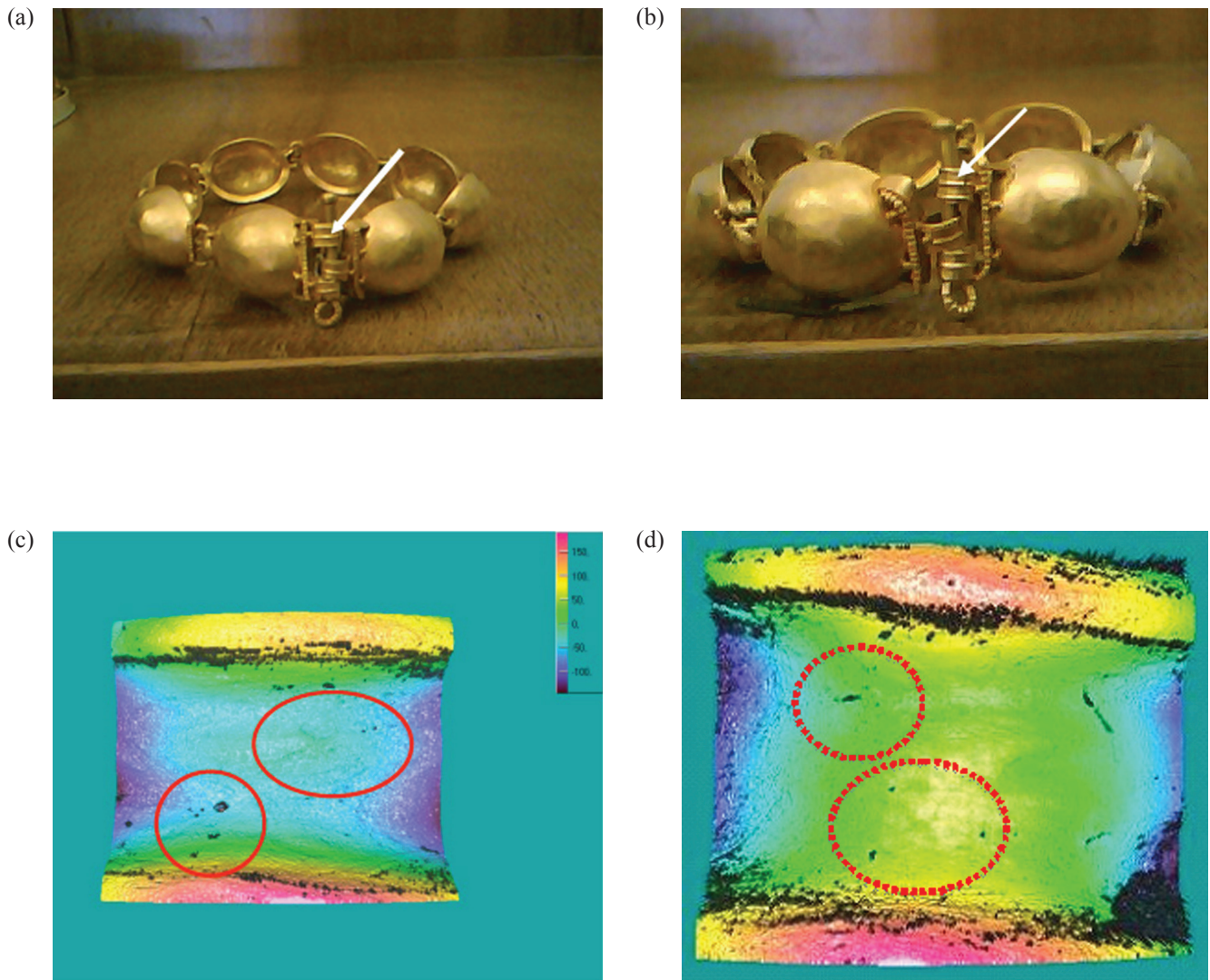


Figure 6 - Fingerprints taken from two gold bracelets found in the ruins of Pompei (courtesy of the National Museum of Archaeology, Naples, Italy).

a) and b) Location of the fingerprint on the two bracelets.

c) and d) Comparison of false color fingerprints from the locations noted in a) and b) respectively. Images are approximately 2 mm x 2 mm.

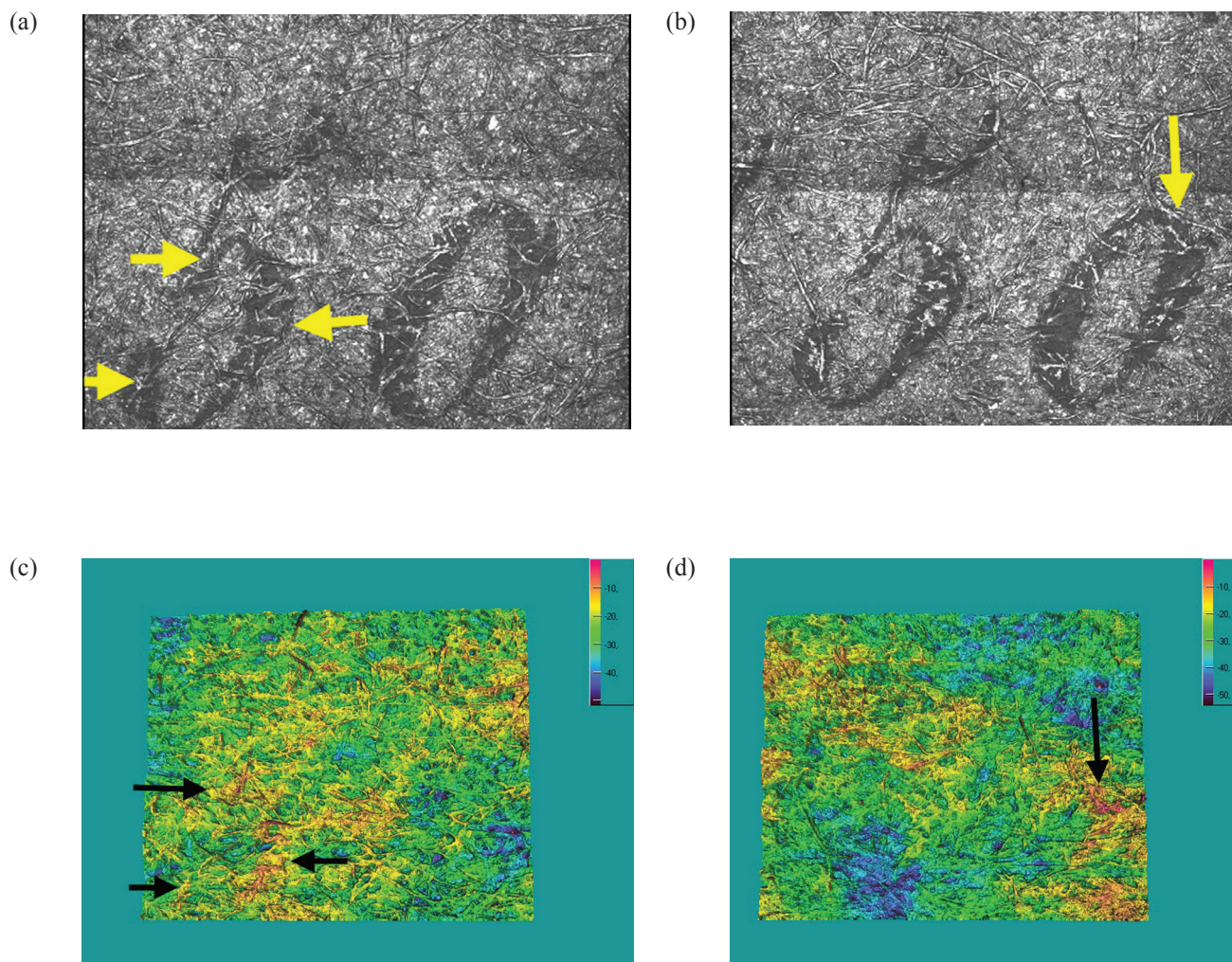


Figure 7 - Fingerprints taken of the number 50 on two of the same map from two copies of the same Book (courtesy of the Leger Museum, Delft, The Netherlands).

- a) and b) Reflection images of the numbers, approximately 2 mm x 2 mm in area.
- c) False color fingerprint from a) showing that the 5 is raised above the paper surface, compare arrows in a) and c).
- d) False color fingerprint from b) showing that the 0 is partially raised above the paper surface, compare arrows in b) and d).

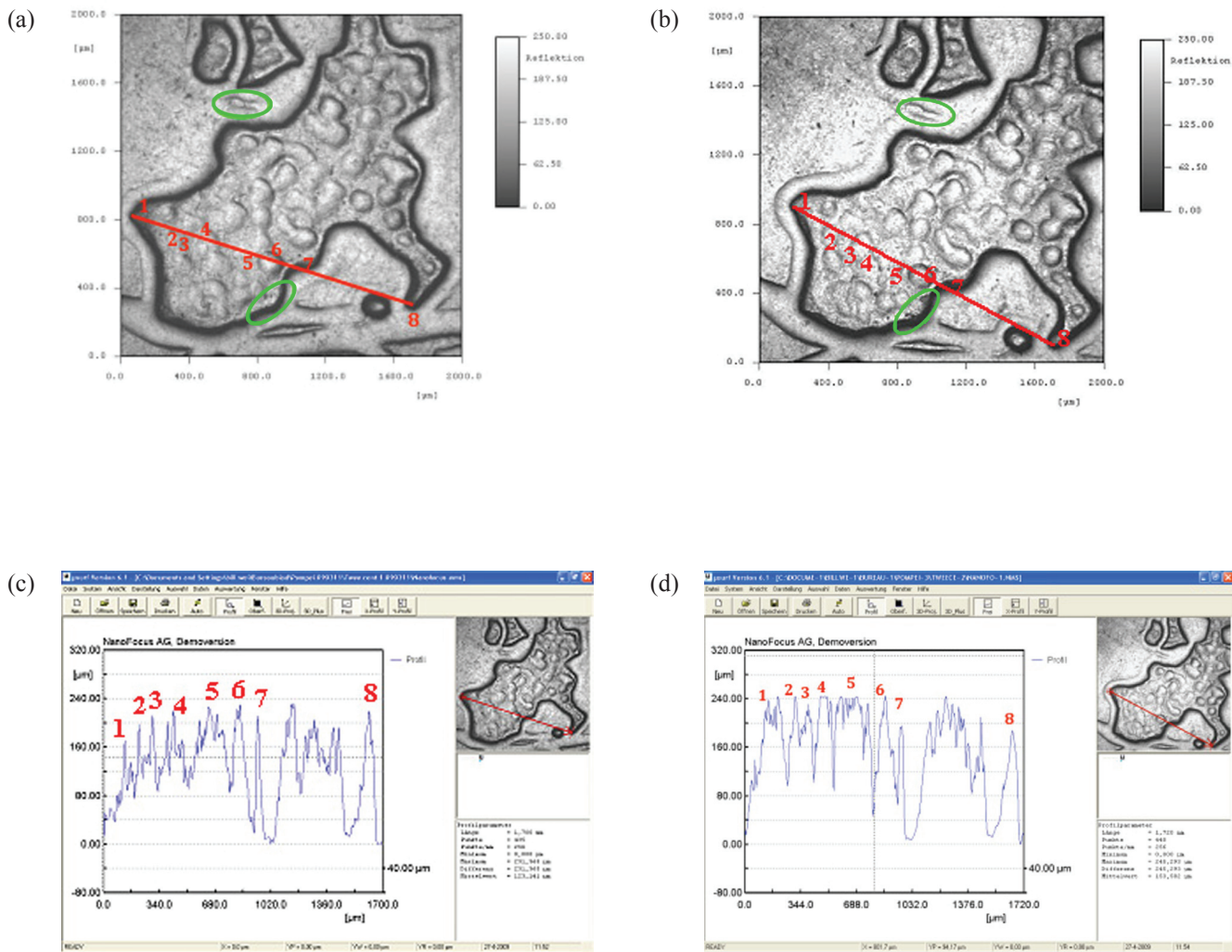


Figure 8 - Fingerprints taken from two new two Eurocent pieces.

- a) and b) Reflection images of the two pieces, approximately 2 mm x 2 mm in area. The green ellipses show more obvious differences in the surfaces. The red lines show the positions of the roughness profiles given in c) and d) respectively.
- c) and d) Comparison of line profiles taken from the red lines shown in a) and b) respectively.

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Context Matters “Fragmented Pots, Attributions and the Role of the Academic”

In January 2012 the Italian government announced the return of some 40 archaeological fragments from the Metropolitan Museum of Art in New York. The fragments had been bequeathed by a deceased American collector (“*riconducibili alla collezione privata di un cittadino americano, deceduto*”). The following day, the Italian investigative journalist Fabio Isman reported, in *Il Messaggero*, that the anonymous collector was, in fact, Dietrich von Bothmer (Isman 2012). Isman was able to add that some of these 40 fragments were part of objects that had already been returned to Italy from North American collections, or from objects that had been seized by the Carabinieri. Bothmer had himself indicated that he “always gave fragments of mine when they would fit another vase in the collection” (Nørskov 2002: 331).

The Italian report specifically added the information that some of the fragments came from the Onesimos cup, returned by the J. Paul Getty Museum and now on display in the Villa Giulia in Rome (Sgubini 1999; Godart and De Caro 2007: 78-79, no. 10); see Gill and Chippindale 2006: 312). The first parts of the cup were acquired in 1983 from “the European art market” (Walsh 1984: 246, no. 73, inv. 83.AE.362). At the time, it was noted that “a fragment of the cup identified by Dyfri Williams in the collection of Dietrich von Bothmer has been presented to the Museum, accession number 84.AE.8;” its acquisition was reported the following year (Walsh 1985: 169, no. 20, inv. 84.AE.80; see Williams 1991). Further fragments, from the “European art market”, were added in 1985 (Walsh 1986: 191, no. 47, inv. 85.AE.385.1-2). It is significant that Dyfri Williams, who published the “Getty” cup, noted that he was shown photographs of “a rim fragment, made up of three pieces” in November 1990. He does not specify who owned the pieces. Subsequent research has shown that the fragments were derived from Galerie Nefer (owned by Frida Tchacos-Nussberger), and the Hydra Gallery (Gill and Chippindale 2006: 312).

A second piece, returned to Italy with fragments from Bothmer, was the fragmentary Attic red-figured krater attributed to the Berlin painter (inv. 77.AE.5), and acquired by the Getty (Gill and Chippindale 2007: 229, no. 14a; Moore 2000). The earliest fragments were donated by Herbert Lucas, and then added by Vasek Polak in 1982 (inv. 82.AE.124), Bothmer in 1984 (eight fragments) (inv. 84.AE.972.1-8), and by Galerie Nefer (“European Art Market”) in 1984 (inv. 84.AE.68; Walsh 1985: 169, nos. 21-22). Another fragment was sold to the Getty by Frederick H. Schultz Jr in 1987 (inv. 87.AE.51; Walsh 1988: 143, no. 6, “European market” [sic.]), and 15 further fragments from the “London art market, by exchange” in 1990 (inv. 90.AE.2.1-15; Walsh 1991: 139, no. 16). A set of fragments was loaned in 1989 (inv. L.89.AE.43.1-3, 5, 7, 9, 10, 13-15, 20, 23, 24, 28, 30, 39). Peter Watson has identified the London source as Robin Symes, and the anonymous lender as Giacomo Medici (Watson and Todeschini 2006: 225-28). Indeed it has been suggested that the 35 fragments on loan from Medici were offered for \$125,000 (Watson and Todeschini 2006: 225).

Bothmer made donations of other fragmentary pots to the Getty. He appears to have made well over one

hundred such gifts (see Watson and Todeschini 2006: 226). Among the fragments were:

- a. Two fragments of an Attic red-figured psykter (inv. 95.AE.32; Getty Museum 1996: 89, no. 7), possibly linked to a psykter (inv. 78.AE.249).
- b. Two fragments of a psykter attributed to Smikros (inv. 95.AE.30; Getty Museum 1996: 90, no. 8), belonging to inv. 83.AE.285.
- c. Cup fragment attributed to the Brygos painter (inv. 93.AE.28; Getty Museum 1994: 62, no. 7) joining inv. 86.AE.286, from the Walter and Molly Bareiss collection (Getty Museum 1983: 44-45, no. 30; Walsh 1987: 160-61, no. 7 [ill.]).
- d. Eight fragments of a skyphos attributed to the Kleophrades painter (inv. 93.AE.54.1-8; Getty Museum 1994: 62, no. 7), joining a skyphos from the Walter and Molly Bareiss collection (inv. 86.AE.224; 86.AE.270; 86.AE.271; Walsh 1987: 160-61, no. 7). Further pieces of the skyphos: inv. 95.AE.31.1-2: Getty Museum 1996: 90, no. 9; fits: inv. 77.AE.21.11; and inv. 80.AE.110.51.
- e. Five fragments of an Attic red-figured cup attributed to the Elpinikos painter (inv. 83.AE.238; Walsh 1984: 246, no. 74), joining inv. 82.AE.144.1.

It is perhaps significant that two of the examples cited above form links with the Bareiss Collection. It has been observed, “The very existence of the Bareiss Collection owes more than can be said to Dietrich von Bothmer ... For years Bothmer himself advised the collector, studied and mended the vases, interpreted the subjects, and traced joins with fragments in other museums, collections, and in the art market” (Getty Museum 1983: v). Who was the shared source (or sources) for Bareiss and Bothmer? These fragments may have come from “old” collections, but the absence of collecting histories does not clarify the situation.

The Getty was not the only museum to acquire fragments from Bothmer. He presented a fragment of an Attic red-figured hydria attributed to the Berlin painter to the Museum of Fine Arts in Boston (inv. 1973.575). This fitted the pot that had been purchased in Rome and acquired by the museum in 1903 (inv. 03.838). His own institution, the Metropolitan Museum of Art, was presented with fragments for an Attic red-figured cup, attributed to Makron, given in 1979 by Mr. and Mrs. Martin Fried (inv. 1979.11.8). Further fragments were added by Mrs Frieda Tchacos, “in honor of Dietrich von Bothmer” (inv. 1990.170; Picón 1990/91: 31), and then by Bothmer himself in 1989 and 1994 (Bothmer 1988/89: 29). It is not clear when this cup was broken up, and how Bothmer himself acquired the pieces.

Among the other gifts to the Metropolitan was a fragment of an important Attic black-figured column-krater, attributed to Lydos (inv. 1997.493; Metropolitan Museum of Art 1997/98: 16). This was accompanied by further fragments purchased from the Joseph Pulitzer Bequest, and Dietrich von Bothmer, Christos G. Bastis, The Charles Engelhard Foundation, and Mrs Charles Wightsman Gifts (inv. 1997.388.a-eee). How did this krater surface? How were the fragments dispersed?

The Metropolitan has yet to make a statement about the return of objects that it had been bequeathed. An email request to the press office received a reply from Mikaela Dilworth, Associate Coordinator in the Communications Department, who responded with the question, “Are you a member of the press?” (March 12, 2012). An email to the director, Tom Campbell, received no response at all. Yet this is in spite of the Association of Art Museum Directors (AAMD) policy statement on the “Acquisition of Archaeological Material and Ancient Art” (2008):

The museum should promptly publish acquisitions of archaeological materials and ancient art, in print or electronic form, including in these publications an image of the work (or representative images in the case of groups of objects) and its provenance, thus making this information readily available to all interested parties.

Why is the information on this bequest of archaeological material not being readily available to scholarly interested parties? Why has the Metropolitan failed to make a public statement? Silence would suggest that there is something that the museum authorities would rather not be aired. It is noteworthy that the silence recalls the approach adopted by the Princeton University Art Museum, with its most recent return of material to Italy (Gill 2012a).

How did Bothmer acquire the fragments that have been returned to Italy? Were they purchased? If so, what was their source? Were they gifts made to him? If so, who were the donors? Do any of the other fragments in the Bothmer bequest come from the same sources? It should be remembered that Frieda Tchachos (owner of Galerie Nefer) had commented on Bothmer's gifts of supplying attributions (Watson and Todeschini 2006: 193).

When did the fragments leave the ground (Watson and Todeschini 2006: 228)? And if some of the returned objects that fit the Bothmer fragments were identified from the Medici archive (for the significance of the Medici Dossier: Gill and Tsirogiannis 2011), when were the objects broken? Was the damage sustained subsequent to removal from the archaeological context?

It would be in the interest of a dealer handling recently surfaced antiquities, and especially figure decorated pottery, to give the impression that the objects had been in circulation for some time (Watson and Todeschini 2006: 228-29). It was well-known, in vasological circles, that joins could be made between fragments in different collections. And for a fragment to appear from the collection of a distinguished scholar as Bothmer would help to convince museums that the acquisition was above question.

Bothmer was not the only scholar with a collection of fragments. J. Robert Guy, one-time curator at the Princeton University Art Museum, had built up a major collection of fragments. Part of this collection was purchased by Harvard in 1995 (Paul 1997; Gill 2010: 5). The origins of the fragments are undeclared (Gill 2009). Why the Guy collection is significant, is that he was able to supply 15 fragments for the Attic red-figured amphora, showing a cithara player and attributed to the Berlin painter in the Metropolitan Museum of Art (inv. 1985.11.5; von Bothmer 1984/85: 38; Gill 2010: 5). The amphora had passed through Sotheby's in London in December 1982 (lot 220), and was then purchased for the Metropolitan Museum of Art through the Classical Purchase Fund, the Rogers Fund, and the Vincent Astor Foundation Gift. The fact that this amphora was identified from the Medici Dossier of photographs in "the early stages of restoration" (and also after conservation), and returned to Italy, raised questions about how Guy obtained the fragments. Again, requests to the Metropolitan Museum of Art for further information have gone unanswered.

The return to Italy of part of Bothmer's bequest to the Metropolitan Museum of Art raises questions. The silence of the Metropolitan Museum of Art does little to answer them. Bothmer's association with the acquisition of the returned Lydian silver (Bothmer 1984), the Sarpedon krater (Bothmer 1987; Gill 2012b), and some New York private collectors who have returned material to Greece, Italy and Turkey (Bothmer 1990) has indicated that he was comfortable in making acquisitions from items that had recently surfaced on the market.

But this case of the returned fragments raises wider issues. What were the sources of the fragments bequeathed to the Metropolitan Museum of Art? When were they first documented? Were fragments of Greek pots deliberately distributed to different collectors, to give the impression that they had been in "old" collections? Further research on the network of dealers and their associates will no doubt reveal some answers to this dilemma (Tsirogiannis 2012).

Acknowledgements

I am particularly grateful to Christos Tsirogiannis for his advice on various aspects of this research.

News

This covers the period March 2012 — August 2012

Egypt

Dealer Mousa Khouli pleaded guilty, in a North American court, to the charge of “smuggling ancient Egyptian treasures.” It appears that the material was moved through Dubai.

The legal tussles over the Egyptian mummy mask once in the archaeological store at Saqqara, but subsequently surfacing on the Swiss antiquities market, rumbles on. The attorney for the St Louis Art Museum has been speaking in defence of the acquisition. It now appears that the mask could not have been part of the alleged “Kaloterna collection” at the times suggested (early 1960s), bringing into question the collecting history (or “provenance”) supplied by the Swiss-based dealer.

India

Some \$20 million worth of Asian antiquities have been seized from a dealer in New York. The dealer concerned is currently under arrest in India. Material from this source was acquired by New York’s Metropolitan Museum of Art. The seizure and arrest has caused concerns for Canberra’s National Gallery of Australia over its acquisition of a bronze Shiva, and the Art Gallery of New South Wales over six objects there.

Italy

A Roman marble head, formerly in the collection of Mr. and Mrs. Charles W. Newhall III has been returned to Italy. The head was apparently acquired through the Montreal market (Walter Banko), but it also appears in the photographic archive of Gianfranco Becchina. It also passed through Christie’s in December 2009.

A red-figured pelike, attributed to the Aegisthus painter, was returned to Italy after being seized at Christie’s. It appears to have been handled by Becchina. G. Max Bernheimer had celebrated the sale of the pelike, commenting: “strong results show that wonderful objects with clear provenance continue to perform exceedingly well at auction.” A third piece returned to Italy was an Apulian situla, also known from the Becchina archive.

An Italian court has confirmed an order for the confiscation of the bronze “Fano athlete,” currently owned by the J. Paul Getty Museum. The statue appears to have passed through Italian territory after seemingly being found in international waters.

The Toldeo Museum of Art has agreed to return an Etruscan hydria, attributed to the Michali painter, to Italy. This had been identified back in 2006. The hydria was acquired from Becchina in 1982.

A Roman marble sarcophagus, stolen from the Chiesa della Madonna della Libera di Aquino in 1991, has been recovered in London as part of Operation Giovenale. It appears to be associated with dealer Robert Hecht.

North America

It was revealed that the Indiana University Art Museum acquired two South Italian pots from Edoardo Almagià in 1986. Almagià was linked to the return of material to Italy from the Cleveland Museum of Art and the Princeton University Art Museum.

One of the two statues, returned to Italy from healthcare company Humana, was acquired from a thus far unnamed New York dealership. It appears that the same dealer has been linked to the return of material to Italy.

A pair of Canosan kraters identified from the Medici Dossier was identified by Christos Tsirogiannis in an auction at Christie's Rockefeller Plaza. Tsirogiannis also identified a pair of Apulian kraters on sale at a dealer's gallery in New York. This second pair feature in the Schinoussa archive.

Arnold-Peter Weiss, a coin-dealer who was arrested at the International Numismatic convention in New York in January 2012, has pleaded guilty. It appears that the coins are sophisticated forgeries, aimed at the high end of the numismatic market. Weiss will serve 70 hours of community service, and write an article about the coin trade.

The Cleveland Museum of Art has made a controversial acquisition, in the shape of a Roman marble portrait of Drusus. Although there is a reported collecting history that can be traced to Algeria, it appears that there is no confirmed and authenticated history, prior to its appearance in a Paris sale in 2004. The Paris syndicate has been linked in the past to the handling of an Egyptian Middle Kingdom alabaster duck that was, apparently, removed from the archaeological store at Saqqara. Cleveland also acquired a Mayan "War Vase" that had surfaced in a New York dealer around 1970.

Switzerland

A Roman sarcophagus was seized from the premises of Innana Art Services in the Geneva Freeport in March 2012. Turkey has claimed that it had been removed from the cemetery at Perge.

Turkey

Turkey has requested the return of material that had formed part of the Norbert Schimmel collection. Pieces from that collection have already been returned to Egypt and to Italy. Turkey has refused to loan material to the "Byzantium and Islam: Age of Transition" exhibition at the Metropolitan Museum of Art, unless there is a response to its requests.

Turkey appears to be making a request for the return of the Roman imperial bronzes removed from the Sebasteion at Bubon. The material has been acquired by museums such as the Cleveland Museum of Art, the J. Paul Getty Museum, and the Ny Carlsberg Glyptotek in Copenhagen, as well as the Shelby White collection.

United Kingdom

The television series, "Britain's Secret Treasures," was broadcast on ITV. This programme, presented by Michael Buerk and Bettany Hughes, had as its basis material recovered by metal-detecting. The Portable Antiquities Scheme (PAS) collaborated with the programme. Concerns were raised that this would encourage "nighthawking" on British archaeological sites. One of the items that featured was the Crosby Garrett helmet "now lost to the nation."

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Lessons from the History of Art Crime “Counterfeit Money”¹

In this, and the last, issue of *The Journal of Art Crime*, we have seen excellent academic articles on aspects of counterfeit money (see Mihm, Stephen in the Spring 2012 issue, and Judson and Porter in this issue). While counterfeit money is its own field of study, it has many parallels with art forgery, and we therefore have seen fit to consider it in this journal. In doing so, I thought that it might be of interest to present a brief history of counterfeit money, for those unfamiliar with the subject.

Perhaps the most well-known sort of forgery is the faking of money, whether counterfeiting coins, dollar bills, or treasury bonds. The United States Secret Service, before they became best-known as the bodyguards of the president, were established in order to investigate counterfeit money printing operations and close them down.²

Counterfeit money is any money produced, even at an official mint that is not officially-sanctioned. One can see why it is important to regulate the amount of money in circulation. Too much results in inflation, which can ruin an economy. The Nazis forged British pounds and American dollars during the Second World War, in an effort to flood their enemy’s economy, as did the British during the Revolutionary War—they produced Continental Dollars in order to overwhelm the nascent American economy.³

Money is also an odd subject because, through it, we assign value to something that is traded *instead* of an object of actual value, as would be the case in a barter system. Pieces of paper are used instead of having to carry objects to trade, from pigs to precious metals. The assignment of value that is non-intrinsic (because paper money, at least, is not made of precious materials) to a tradable commodity is akin to our discussions of art: for paintings on canvas, for example, the value of the object is non-intrinsic.

As in the case of art, we must rely on the sustained value of those pieces of paper we call money. In 2011, debates raged in the United States about whether we should revert to a gold standard—a quantity of gold kept in vaults that would equal every piece of paper money in circulation and which, in theory, every citizen could swap their paper money for, if they so chose. Whether there is a gold or silver standard, or any standard at all, is also a bit odd—who was the first person to determine that gold or silver should be treasured, and more universally accepted as currency than paper money, or indeed pigs? The ancient Celts used to carry their money on their bodies, wearing rings of gold around their necks. It seems that gold has always been

1 An alternate version of this article will appear in Charney, Noah *The Book of Forgery* (Phaidon, 2013).

2 Information on counterfeiting may be found in Tarnoff, Ben *Moneymakers: the Wicked Lives and Surprising Adventures of Three Notorious Counterfeiters* (Penguin, 2011); Bender, Klaus W. *Moneymakers: the Secret World of Banknote Printing* (Wiley-CVH, 2006); and Mihm, Stephen *A Nation of Counterfeiters: Capitalists, Con Men, and the Making of the United States* (Harvard University Press, 2009)

3 Malkin, Lawrence “Krueger’s Men: The Secret Nazi Counterfeit Plot and the Prisoners of Block 19” (2006)

considered precious, and so it has history on its side, to justify itself as an international default to currency. But it still can feel arbitrary, that a nugget of gold should be prized and a nugget of pyrite (fools' gold), which looks the same to the untrained eye, should be of little value.

Faking money has a rich history and is a big business. It seems logical that counterfeiting would have begun shortly after the introduction of money, and examples of forged coins have been found dating back to ancient Rome. Roman coins were minted, rather than made from molds, so the discovery at archaeological sites of molds of Roman coins means that the coins created from them would have been counterfeit.

Fear over counterfeit money has influenced the way that money is produced. The milled or reeded edges of coins (think of a US quarter, with its grooves carved onto the edge), are both a blind aid, to identify which coin you are feeling in a purse or a pocket, but are also meant to demonstrate that the metal of which the coin is made is not merely present on the outside of the coin, a thin skin. Dollar bills are incredibly detailed, and include watermarks, holograms, raised intaglio printing (that you can feel with your finger), and are woven through with miniscule wires, all of which are meant to make them all but impossible to reproduce in a manner that will fool testing.

The earliest known use of coins dates to circa 600 BC, where coinage began in the Greek city of Lydia. The earliest counterfeit technique was to coat a less-valuable metal coin in a thin layer of the more precious metal (usually gold or silver), resulting in what is called a "fourée." Our modern legacy of grooved edges to coins is a direct descendant of attempts to prove that the official coins in circulation are *not* fourées.

The art of counterfeit detection can be dated to at least 80 BC, when Cicero wrote of an M. Marius Gratidianus, a praetor who was praised for developing a test to detect counterfeit Roman denarii coins, and removing fakes from circulation. Ironically, Gratidianus was executed under the reign of Sulla, who introduced what is perhaps the earliest anti-forgery law. The *Lex Cornelia de Falsis* made official the practice of making coins with grooved edges. Denarii coins were produced with around 20 notches chiseled around the edge. But the discovery of notched fourée denarii show that the measure was not wholly successful. The best way to identify a fake coin, like a fourée, is by weight—a solid gold coin will have a different weight than a fourée coin, coated in gold but largely of a less valuable metal, such as copper.

There are far too many examples of money counterfeiters to fit in our history, but a few examples through history will give a sense of the field. Counterfeiting has long been considered a crime likened to treason, with similarly capital punishments meted out. In China, early paper money was produced from mulberry trees. Mulberry forests were therefore heavily guarded, and counterfeiters executed. In 1690, Thomas and Anne Rogers were dramatically executed for having faked forty pieces of silver. "King" David Hartley, an infamous counterfeiter in the 18th century, was hanged in 1770. Because counterfeiting could severely damage a nation's economy, the crime of forging money was considered an attack against the state.

Benjamin Franklin himself said "to counterfeit is death," recognizing the importance to a nation, that its currency be reliable. British counterfeiters creating fake Continental Dollars during the American Revolutionary War were called "shovers," as they forcibly inserted fake currency into the American market. Two infamous "shovers," John Blair and David Farnsworth, were captured with 10,000 fake Continental Dollars. They were tortured, at George Washington's insistence, to extract information about the British counterfeiting operation, before they were executed.⁴ But, every now and then, a master counterfeiter was put to use, rather than to the sword: a barber called Alexander, who forged coins in Byzantium during the reign of Emperor Justinian, was caught and then employed by the empire to ferret out other counterfeiters (much as forgers John Myatt and Tom Keating assisted police in investigating at-large art forgers). And while the Union, during the American Civil War, tried to flood the Confederacy with fake Confederate currency, their fake money turned out to be of better quality than the originals that the Confederacy was producing, and was therefore more valuable.

4 Scott, Kenneth *Counterfeiting in Colonial America* (University of Pennsylvania Press, 2000).

Modern technology, particularly the use of computers and software like Photoshop, has made it easier to produce relatively unconvincing counterfeit currency, but also permits what are called “superdollars”—currency that is of the highest quality, and can even fool scientific tests that seek to distinguish fake currency from authentic. Estimates through the 2000s suggested that an average of \$1-3 out of every \$10,000 used were counterfeits that would not fool someone if closely examined, while only about \$3 out of every \$100,000 was a counterfeit that was difficult to detect.

Counterfeiting is an extremely big business today, and the United States Secret Service has its hands full keeping tabs on it. A 2010 study on the volume of fake US currency in circulation worldwide estimates that 1 or fewer counterfeit notes is in circulation for every 10,000 genuine notes.⁵ While that may seem like a small number, if it is multiplied by 10,000, it means that for every legitimate \$100 million, there are \$10,000 in fakes. The 2010 GDP (Gross Domestic Product) of the state of Texas alone was \$1.936 billion. That means that for the GDP of one state, there is around \$1.93 million in counterfeit money circulating.

5 Judson, Ruth and Richard Porter “Estimating the Volume of Counterfeit U.S. Currency in Circulation Worldwide: Data and Extrapolation” published by Federal Reserve Bank of Chicago, Financial Markets Group (1 March 2010).

“The Lord Byron Forged Letter: Where’s the Questioned Document Analysis (QDE)?”

Introduction

Lloyd Smith was an avid collector of rare books and letters amassing thousands of works upon his death. In 1957 the Morristown National Historical Park Museum was elated to find that they were the recipient of 300,000 of Smith’s works from his estate. Contained with these artifacts was a letter from Lord Byron, the poet. Over the last 40-50 years the letter was exhibited on occasion but, for the most part, it lay in storage (Pfister, 2011). In 2010 the letter was scanned and brought to the attention of nearby Drew University scholars, who suspected that the work was not genuine (Appendix exhibit B). The evidence supporting the forgery call was that there were anomalies in signature, date, type of address to Captain Hay (the receiver of the letter), and wording used. The scholars argued that the signature was not that of Lord Byron, the dating of the months did not match Byron’s dating, the word “affectionately” was not typical for Byron, and the use of “My dear Hay” to address Captain Hay his friend was not appropriate (Fisher, 2012 Appendix C).

To confirm the conclusion found by Drew Scholars, the National Historical Park Museum enlisted the services of Doucet Devin Fisher from the New York Public Library, a Byron scholar and member of the Byron Society. Fisher compared the letter with the notes of a Rutgers University Byron scholar Leslie Marquand, and found that the letter was a forgery. Fisher noted that the Byron letter under review matched a similar forgery. What is not apparent from the various narratives and media accounts found regarding the announcement of forgery, is a clear description of how the forgery was determined. The fundamental rule in scholarly research and forensic examination is that another researcher may carry out the research in similar fashion and reach the same conclusion. Verification informs reliability and, without it, specious conclusions may emerge. What seems to be problematic and a serious issue is that those carrying out the process of document determination, in terms of authenticity, is the extent that the process establishing the forgery followed proper QDE, or Questioned Document Examination (FBI, 2009). Before we engage in the QDE process ourselves, let us first define and discuss some of the concepts presented in the account of the latest Byron fake and those lacking in the examination.

Questioned Document Examination, Forgery/Fraud, and Fake/Copy

Questioned Document Examination or *Certified Document Examination* pertains to the scientific processes associated with determining whether a document is authentic or a copy. It is authentic if it is from the hand of the person who wrote it, at the purported time that it was written. Here a document examiner will look to, to name a few points: signature, type of text, wording, print ink, writing implement technology, idiom, spelling, grammar, slant, alignment, size, stroke, pen lifts, pressure, and retouching. In the examination, exemplars or samples of the authors writing will be used to compare the authentic with the questioned document. The examiner will look to the individuals’ physical and psychological state, and even the environment surrounding the author, to ascertain factors which may change the handwriting style such as age, disability, or drug use (Indiana State Police, 2012). It is expected that the examiner be certified, and hold a certification from an accredited organization. Such organizations require continued education, experience, mentoring, publishing, and lecturing. The consideration by the court system is that the expert has thousands of hours of work experience, before he or she may be judged as an expert (Bernstein, 2004).

Forgery/Fraud

Normal everyday discourse utilizes forgery and fraud concepts to describe an entity as not being real or authentic. We say that X is a fraud or that painting is a forgery. Such concepts breed confusion, in that they are used in a general fashion, but have very specific legal definitions such that, depending upon the context and intent of the person verbalizing the concepts, the receiving person(s) may or may not understand the intended meaning.

The Byron forgery represents this ambiguity of intended meaning and misunderstood reception. The Byron forgery is really not a forgery but an alleged fake, since to satisfy the forgery meaning, one must have evidence that the work was intended to be used to satisfy the conditions of a buyer loss and seller gain originated by the author of the work, who created the inauthentic work to dupe the buyer. In point, for a work to be a forgery in the legal sense it must satisfy the

legal conditions of forgery which include intention to defraud, based on a misrepresentation/copy/fake, resulting in buyer loss and seller gain (USlaw, 2012).

Merely because one makes a copy or fake does not mean he or she committed forgery since copyists or copying has its roots in ancient civilizations and continues with museums making copies of the masterworks (Hoving 1997). The legal conditions of fraud entail that an exchange of misrepresented/copy/fake goods takes place whereby a loss and gain arose from the exchange (USlaw, 2012). (Please note here that the definitions are general and each state has very specific conditions which must be met to conclude that an act was a forgery or fraud). One could reasonably argue, at this point, that since there has not been any evidence that either forgery or fraud conditions have been met, the call that the current Byron writing is a forgery is inaccurate. The most one could possibly have is a copy or fake purchased by Smith.

QDE and the Byron “Fake”

As we open up our analysis of how the alleged fake letter was discovered, it becomes apparent that we seem to be uncovering the possibility that past examination of the Byron Fake was not undertaken following accepted QDE processes. What is present, apparently, are some forensic concepts such as signature and dating analysis, but on the whole many steps are missing. Apparent issues and questions have not been concretized, but left amorphous, along with the considerations of how to use forensics to evaluate and form solid and logical conclusions. The first issue concerns the exemplar of Byron’s writing and, additionally, the forgery used to establish the forgery. It is not clear if and what sample was used to establish that the present alleged work was a fake. It seems that Marquand had identified fakes in his possession, and compared the recent work with the fake, concluding that the recent work was a fake as well. Or was it a case of signature + date + greeting + wording anomalies? We do not know, because most of the narration of how the fake was established seems more verbal, with little written confirmation.

Certified document examiners (CDE) undergo years of training in the analysis of documents. In the present situation there is no indication that anyone associated with the fake call had any training in document examination. Byron scholarship does not infer nor confer CDE expertise. To understand how the alleged fake should have been processed let us examine the forensic structures and processes used to uncover or determine the real or bogus document.

Forensic Structures and Processes Used In Cases of Questionable Documents

Scientific Analysis of the Material Make up of the Document

According to the Forensic Science Unit of the FBI (2009), the most important first step in confirming a document to be authentic is scientific analysis of the materials of the document. In the Byron letter case, examination of the paper and ink should have been undertaken to determine that the date of the letter matches the paper and ink of the period. If chemical and scientific analysis determines that the paper and the ink do not match the date of creation, October 1822, then no further analysis need take place. That is, if the paper or ink have a manufacture timeline of 1945, due to the chemicals or material composition of the paper of the letter (such chemicals were created in 1940, and the way the paper was made took place in 1938) it would be illogical to argue that the letter was made in 1822. If it could have only been made in the 20th century, then Byron could not have written it. Byron forgers like to use paper dated before 1824, Byron’s death, to lead investigators to believe that if the paper is from the period, there is a good chance that document is authentic. The point here is that the material confirmation of the period does not totally authenticate the work, but allows the investigator or CDE to continue examination.

Chen (2000) notes that scientific processes used to examine the documents include: paper chromatography, paper electrophoresis, luminescence, microspectrometry, diffuse reflectance Fourier transform infrared, luminescence photography, laser excitation and spectroscopy, thin-layer chromatography, high-performance liquid chromatography, and capillary electrophoresismay. Recent additions include video spectral comparator, 4d hyper spectrum digital technology, and carbon 14 analysis (Sciencegl, 2012). The scientific examinations deal with the atomic and molecular make of the paper and ink, various chemicals in the materials, the thickness and size of the paper, and various parts of the paper, and whether there were layers to the actual writing indicating that original writing was defaced by newer writing, to name a few. Such methods go beyond what is apparent to the naked eye.

Technology

The resulting effects of those instruments used at the time of writing, and their application to the materials at hand (in this case pen and ink and paper) should confirm that the date of the materials matches the technology surrounding the materials. Was the ink watery and therefore blotched, or was a clean stroke created? Was the stroke created by a pen type instrument or a brush? Was the size and thickness of the paper appropriate for the date of creation of the document? Was it purchasable from a store, or did the writer make the size from a larger piece? Here the investigator looks to how the materials interacted at the time of creation, to confirm that technology and materials match. We would not expect that, under examination, the letters in a 1900-era text would have

been created via a dot matrix printer.

Provenance Support

If the material composition confirms the 1822 creation date, the analysis proceeds to the next factor, which could be historical or provenance support (the analysis could also move to stylistic or writing telltales of the artist) of other documents informing that the questioned document was written by the author, and in the year found on the document. The results of the provenance discovery process may add further credence of authenticity to the document itself, and also serve as a connecting point or overview to other possible information, providing a picture of the status of the writer in terms of health and well-being. Historical documents may tell us that the writer broke his writing arm on 10/20/1822, thereby establishing that the writer could not have written in a normal fashion; or that the work under examination was sold to a family member or gallery, via a sales slip or tax record. If the material composition of the work, the technology used to create the work, and historical documents support the view that the work in question could have been from the hand of the writer, the next factor would be to examine various aspects of actual penmanship.

Exemplars

Exemplars are used to ascertain if another potential sample resembles the exemplar. Fingerprints at the scene of a crime, if matched to an exemplar of an individual (the said individual was fingerprinted in the past for a passport, crime, job application, for example) it would be reasonable to assume that the person was present at the crime scene. If a Rembrandt work, recently found, matches a known work by Rembrandt, one may infer that the recent work is a Rembrandt. In the case of Byron, it would be necessary to secure some exemplars of Byron's writing and signature, and compare the sample at hand with the exemplars.

QDE looks for at least three samples developed in a normal setting, unencumbered by intervening variables such as environment, disability, or age caused changes (Stevens 2001). An exemplar would not be one taken or used while abnormal conditions prevail. The difficulty is to ascertain or ensure that exemplars used in comparison did not arise under unusual conditions. In the case of Byron, we have many writing samples which seem to fall under what one may argue is a particular presentation: cursive, slanted to the right, aligned, and symmetrical, to name a few. Additionally we also have exemplars of Byron's signature.

Comparing the Writing Exemplar with the Questioned Sample

It has been argued that, after a certain point in the education

of an individual, writing style becomes unconscious and natural just like walking and speaking (Jarvis 2008). One does not have to think first and then write in a certain way, such as slanting letters to the left or right, staying on the line, or sizing the letters. Writing style is automatic. Document examination proceeds on the automatism of writing, to dissect its details as one would examine a sample fingerprint and compare the lines, whorls, and ending points of an exemplar print. A further assumption is that no two writings are the same. Document examiners compare such writings using the following structures (FBI 2009):

1. *The line of writing.* Does the writing seem to match the exemplar in terms of parallel to the horizontal? In the case of Byron, it appears that it follows a horizontal alignment parallel to the top and bottom of the paper. One would expect that, if there was a line on the paper, Byron would contact the line. Some writers may start at the beginning of a line but at the end of the writing will have move up off the horizontal and angle to it from zero 0 to 15/20 degrees.
2. *Slant.* The letters in the writing may be totally vertical or 90 degrees to the horizontal or lean/slant to the right or left.
3. *Cursive or print.* Writing may be all print, cursive, or a combination of both.
4. *Quality of the writing.* Writing may resemble a scatter plot or be concise and symmetrical. It may be all over the page, shaky, irregular, or regular and neat.
5. *Retouching or leaving semi-mistakes.* Writers may retouch or write over their mistakes or leave them.
6. *Spacing between letters.* The space between letters may be long or short.
7. *Variation in signature.* Some argue that writers have a few signatures, not only one. The exact same signature would indicate that the writer may be copying an earlier signature.
8. *Spelling.* Many spelling mistakes or few.
9. *Words used.* Writers may use the same words constantly rather than seeking synonyms.
10. *Pen lifts and pressure.* Does the writer put much pressure on the writing or little? Is the writing continuous or are there gaps in the stroke?
11. *Idioms.* Are some idioms more frequent than others?
12. *Size of the writing.* Small or large size lettering.

Inferences from the Structures and Processes

Graphologists positing personality traits from writing style look to the structure of the writing, and attempt to draw conclusions about the writer's personality (British Institute of Graphology, 2012). Unfortunately, the graphology view does not have a consistent scientific grounding. The Washington School of Law (1998) noted that in the Daniels case the court

stated,

To allow such testimony, or if received in the absence of due objection, is to open the floodgates to speculative testimony devoid of genuine scientific foundation. The endeavors by courts and juries in fact-finding processes would not be aided by granting judicial sanction to graphologists; on the contrary, they would be stultified and shunted into a mystical miasma.

Although writing is problematic as a means of establishing personality traits, it may tell us much about the education, culture, and social status of the writer. Spelling, use of idiom, cursive or print, grammar, and wording tell the reader the level of education or where the writer lived.

QDE Cases

Kynge Leare

In 1795 a person named William Henry Ireland claimed to have found a new version of the famous Shakespeare play, written by the author himself. A Mr. Malone found that the new version was merely cut-out pages of old books with many different watermarks. The forger confessed later that booksellers allowed him to take the blank pages of 200 year-old books, in order to make the fake. Malone noted that the original author would have had one watermark not many different ones (Will, 2008).

Hitler Diaries

In April of 1983, the German magazine *Stern* provided excerpts of the alleged Hitler Diaries. *Stern* paid 9 million German marks for the 60 books, which turned out to be forgeries. What was interesting is that no one thought to examine the paper, ink, and glue of the books. Scientific analysis found that the paper, ink and glue of the books were made after the war ended (Wiki, 2012).

John Drewe and John Myatt Forgeries

One conman and one artist got together to produce 200 fake works of art, grounded mainly in creating provenance documents from respectable museums supporting the authenticity of the works. Forensic document examiners from Scotland Yard determined that the typing on the labels of the work matched a typewriter owned by Drewe's mother, and the document paper used had a luminosity different from exemplars (Salisbury, 2009).

Killian Case

The Killian Case of 2004 is instructive. It was alleged that documents analyzed by *60 Minutes* CBS news indicated that George W. Bush, the President of the United States, fabricated stories about completing his pilot training in the Texas National Guard. *60 Minutes* personnel did not use CDEs or follow QDE protocols to examine the documents, and when CDEs and the proper processes were carried out, the documents supporting the failure to complete training were found to be fakes. The documents were copies and not originals, no tests were used to ascertain the material makeup of the paper and ink, no examination of the organization supplying the documents was undertaken to determine if the documents supplied were the type of documents used in the organization, there was no elaboration of the author's predilections for type of writing implements such as typing, verbal communication, yellow pads, and so on. *60 Minutes* personnel were journalists and, as such, did not have the proper background and experience to process the documents correctly and so made a glaring mistake, forcing one prominent newscaster to lose his job (Dobbs, 2004 & Thornburgh, 2005).

QDE Standards and the Byron Letter: A Discussion

There are a few presuppositions grounding writing style (Jarvis 2008) & (Jha, 2011):

1. No two writing styles are the same.
2. Once learned, writing becomes fairly stable.
3. As one ages one's writing changes as the result of physical deterioration.
4. Environmental factors will change writing (drugs, mental problems, etc.)
5. Writing is first learned and then becomes automatic.
6. It is expected that there will be some variation in the writing.
7. Signatures change dependent upon situations.

The CDE V. Byron Scholars

Certified Document Experts, through the training and practice noted above, serve as witnesses in a court of law. They are called upon to testify as to the legitimacy of a given document, in terms of it being a copy or fake, from the hand of the author, or its material composition. Their conclusions are based on science, historical research, and various structures and processes based on logic and the empirical method. They would not be considered connoisseurs, but trained practitioners in their field. For connoisseurship there is really no specific training or certification, only experience, which is interpreted by many as expertise.

The current expertise bolstering the fake claim on the

Byron letter is lodged in Leslie Marquand, a Byron scholar (deceased in 1994) who listed the letter as a forgery in her writings. One must acknowledge that, although Byron scholarship may involve many aspects of the oeuvre of Byron, one would be hard-pressed to conclude that Marquand was also a Credentialed Document Examiner.

The failure to provide proper QDE analytic techniques for both Marquand and Fisher is not to cast aspersions on their work. It is to place in proper relief that the issue of expertise in one field does not carry to all fields. Poetry, creative writing, historical research expertise or scholarly know-how do not result in one's ability to perform brain surgery, nor do they confer knowledge of detecting fakes via accepted document examination techniques. In point, just as a psychiatrist is a scholar in the academics of Freud, Jung, Maslow and Skinner, he would not be expected to practice or carry out activities in the field of neuroscience.

Given that the examiners of the questioned Byron document were not certified in ascertaining authenticity, the level of confidence in their findings is extremely low. One would suspect that, if brought before a court proceeding to testify in relation to the authenticity of the document, the judge would not allow them to testify, since they do not have the required credentials.

The Evidence

There are 5 pieces of evidence driving the fake (forgery) call (see Doucet, 2012 email, Appendix c).

The Word "Affectionately" to Address Hay

Fischer argues that Byron would never have addressed Hay with this word. But unless Fisher is a trained or educated psychologist/psychiatrist or mental practitioner, Fisher cannot make judgment calls on predicting human behavior.

Byron Signature a Definite No, According to Fisher

Based on the principle that signatures change via physical and situational variables, and Byron was contractually obligated to change his signature, it would not be unusual that many variations of the signature would occur.

Marquand List of Forgeries

How and why Marquand listed the present work as a forgery is a mystery, and an *argumentum ad verecundiam* fallacy. Fischer's couched identification that it "... would be dangerous to question Marquand" amounts to an appeal to authority, and not to any evidence. Marquand was a Byron scholar, not a documentation expert, and the listing of the item as a

forgery, without any evidence, oversteps the bounds of what constitutes a forgery and a plain old fake.

Date

Byron often dated his October letters, "8bre," "9bre," "10bre." Fisher implies that, since Byron often used this dating method, the actual use of the full word of October tells us that the work is a fake. "Often" is a telling word choice, because it means "sometimes but not all the time," opening the door for the claim that Byron dated in other ways. Unless there is some reason to exclude the way this work was dated, it certainly offers no proof that the manner of the dating leads to a call of fake.

The Contents of the Letter are more Byronic than Byron

Fischer's note that the fake was "more Byron than Byron" (see Appendix C) pushes the envelope of empirical discussion, since the statement amounts to a metaphor, or meaningless construction, substituted for sound reasoning to warrant a conclusion. Pray tell what help does such a statement provide, to explain how the work is a fake? The real explanation lies in the tradition of allowing connoisseurship and subjectivity to give significance to constructs, without first unwrapping them for meaningful discourse.

The most significant point made by Fischer is her admission that it would not be surprising if her presentation was not convincing. It would seem that what Fischer is inferring is that, aside from not presenting any valid QDE steps in document authenticity, she is noting that her argument is weak. Further, merely because Marquand listed the work as a forgery does not make it a forgery, especially when questionable evidence exists supporting the call.

Scientific Analysis of the Materials

As was noted in our Scientific Analysis section, the most important process to determine fakery is the testing of the materials of the sample. Was the paper and ink from 1822, do the technology imprints match the period's technology, and so on? The individuals processing the fake call make no allusion to this, nor do they provide any test results indicating that such a process was carried out. To move beyond this step, to study the signature and Byronic form, is like operating on a patient with a brain tumor without first performing MRI tests to determine if the patient has a tumor.

The Structures and Processes of Writing

To the extent that the Byron examiners failed to either test or record the results of the material testing, there was no comparison of the structural details of the writing style

i.e. slant, alignment, quality, etc. Glancing at the various exemplars provided of Byron's writing, it would seem that, in the absence of a microscopic view, the samples apparently match the exemplars and not the opposite.

The Connoisseur

Traditionally, the collector is accorded the identifier of connoisseur, due to the fact that he has come across many samples of a given body of collecting and, allegedly, these experiences honed his or her collecting expertise. Lloyd Smith provided 300,000 works to the museum, and noted that the work under question was neatly annotated, without any point made regarding fakery. The call made by some that this "fake" slipped by him and his dealers because of his standing order, made to antiquarian dealers, to only buy quality, seems to border on an *ad circularum* argument. The explanation or validity of the fake allegation is found in the fact that both he and his dealers missed the boat on the document, just as many collectors do. How do we know that it is fake? Because the dealers and the collector failed to catch it before they passed it to Smith. One would think that Smith, the collector and connoisseur, would have vetted the document out, or at least spent some time examining it, which he did.

Summary

The 2011 conclusion, made by various Byron scholars with regard to the Gordon Smith 1822 Hays letter, was that the letter is a "forgery." Their conclusion was based on date, signature, greeting to the recipient, and wording (the suspect word being "affectionately"). Leslie Marquand, the Byron scholar, in her documents also noted that the same letter was a forgery.

Using a "Questioned Document Examination" (QDE) forensic approach, expected and sanctioned by various legal cases, policing agencies, and QDE agencies, the following points are made:

1. The 2011 examiners driving the forgery conclusion were not CDE trained, and their lack of knowledge of the QDE principles of handwriting analysis were absent in the alleged fake call.
2. The call of forgery was inapplicable, since no evidence was presented satisfying the conditions of forgery.
3. The most one could argue was that the piece could be a fake or copy.
4. The fake call was problematic, in that the conditions supporting the fake were conjectural, illogical and empty. Further, structural comparisons and proper processing were not carried out:
 - a. The so-called Marquand exemplar forgery was never established as an exemplar forgery following

QDE processes. There is no documentation or record as to how Marquand was led to a forgery conclusion, except that it was identified as a forgery by a non-CDE.

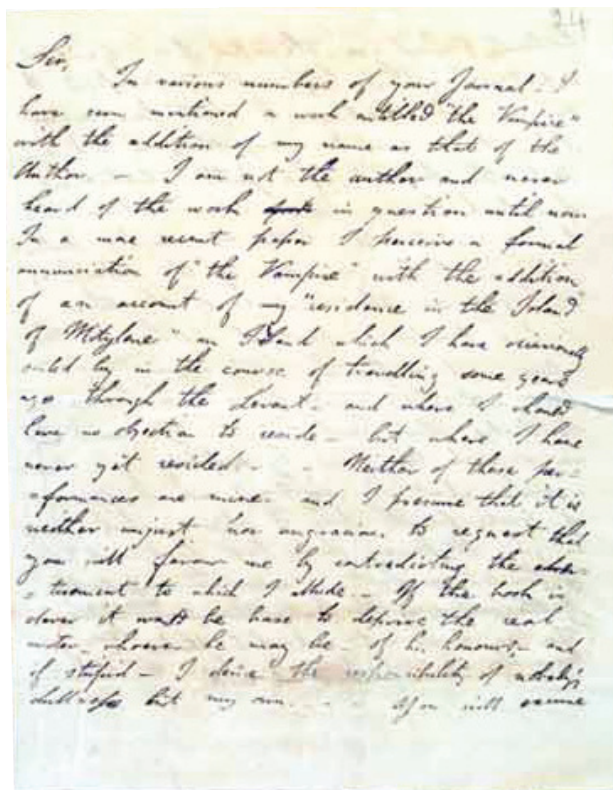
- b. Although exemplars of authentic Byron handwriting were available, none were apparently used.
- c. No scientific analysis of the material composition of the paper, ink, and technology were undertaken.
- d. The comparative structures of handwriting analysis were not applied.
- e. A cursory glance of the alleged fake and authentic Byron handwriting indicates that it would be more accurate to assert that, structurally, there is a match.
- f. The appeal to the authority of Marquand, to gloss over the apparent examiner uncertainty and reservation about his conclusion, leaves the reader with the perception that the fake/forgery call should be suspended until further investigation.
- g. The fact that a collector/connoisseur, Smith, took note of it and recorded the note entails that some examination took place of the document. Since no question was made of its fake status, one must conclude that the letter did not appear unusual.

Conclusion

Based on the above analysis it is maintained that, since the 1822 Byron letter to Hays was examined by non CDEs, not following approved and standardized structural approaches to handwriting analysis but rather illogical, unempirical, and conjectural flirtations with reason, bolstered by uncertainty, the call of fake or forgery should be suspended until proper procedures are implemented. The fact that an exemplar and the questioned item appear congruent, lends probity to this conclusion.

Appendices

Byron Authentic Exhibit A



See In various numbers of your Journal: I have seen mentioned a work entitled "the Vampire" with the addition of my name as that of the Author - I am not the author and never heard of the work ~~before~~ in question until now. In a more recent paper I perceive a formal announcement of "the Vampire" with the addition of an account of my "residence in the Island of Mytilene" in which I have mentioned a book which I have mentioned could be in the course of travelling some years ago through the Levant, and where I should have no objection to reside - but where I have never yet resided - Matter of these performances are mine, and I presume that it is neither unjust nor ungenerous to request that you will favour me by endorsing the above statement to which I allude - If the book in doubt it would be base to deprive the real author - should he may be - of his honour, and of stupid - I don't take the responsibility of what I shall say but my own - if you will excuse

<http://www.fathom.com/feature/122062/index.html>

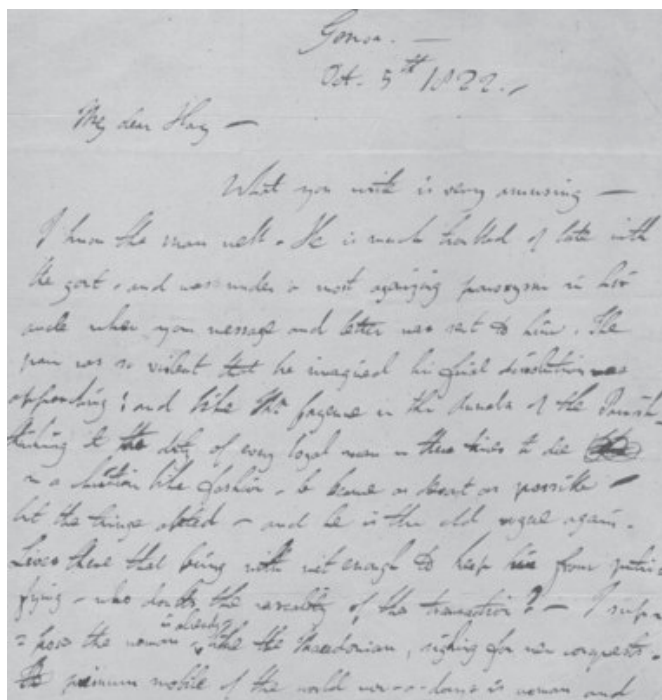
Appendix C

Doucet email Personal:

Lucy, thank you so much for sending the scans of the Byron letter, which I studied with enormous interest, first--like you--fighting my way through the writing (as always, it's a fight), then searching through Leslie Marchand's edition of Byron's Letters, where I didn't find it. I searched again, looking in December rather than October 1822, because Byron often dated his letters "8bre," "9bre", "10bre" to mark the months of October, November, December, having become Italianated (I wasn't sure whether you would have known about this convention, which has led to a certain amount of confusion from time to time).

So then I looked at the letter again, more carefully, slowing down to study the hand and especially the complimentary close and signature. Byron saved the word "affectionately" for very, very few of his correspondents, and certainly Hay wasn't among them. His signature, after the death of his mother-in-law, when he was obliged by his marriage contract to adopt the name "Noel," is rendered either "N

Alleged Fake B



Genoa. -
Oct. 5th 1822.
My dear Hay -
What you write is very amusing -
I know the man well - He is much looked up to with the goat, and was under a most engaging personage in his circle when you message and letter was sent to him. He gave me a volume that he imagined his great reputation was depending on and like the fingers in the hands of the Devil - being to the lot of every loyal man - this kind of ~~the~~ a better like ~~the~~ to be done or done or possible - but the things speak - and he is the old man again. Love that that being with not enough to keep him from getting going - who sends the recollection of the transaction? - I suppose the name is ^{indeed} the theodorian, riding of me, perhaps. The premium notice of the world was ~~the~~ is common and

Morristown National Park Service Museum

B", "N Bn" [while he was in Greece] or "Noel Byron." "N Byron"--no. A quick skim--really quick--of the Marchand edition shows such a signature on only one letter, and that one is taken from a printed 19th c. source, not from a manuscript. I suspect "N Byron" isn't really proper, that using it would be tantamount to using an initial for just one part of a compound or hyphenated name, but that's just a guess and one would have to ask someone British about the issue.

As for the contents; they seemed too good to be true, and more "Byronic" than Byron himself.

Finally I did what I probably should have done first. In each volume of Marchand's edition, he includes a list of Byron forgeries. And there in the list for Volume 10 is the letter to Captain Hay of October 5, 1822. This is very disappointing, I must admit. I *did* think that the Morristown repository might well be one in which a letter could remain hidden. Alas, that doesn't appear to be the case. I confess that it was the contents that first put me off, given Byron's relationship with Hay and the subjects and tone of his other letters to him. Only as I entertained doubts did I inspect the hand closely and discover that it did not look genuine to me. That said, if only I think it's a forgery, well, I wouldn't blame you (and anyone else) for

remaining unconvinced. But if Leslie Marchand says the letter is a forgery, then it would be dangerous to think otherwise.

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“The Hattusa Sphinx and Turkish Antiquities Repatriation Efforts”

On March 1 of 2012, *Art News* journalist Martin Bailey reported that the Turkish government had prohibited the loan of cultural artifacts to the New York Metropolitan Museum of Art, the British Museum, and the Victoria and Albert Museum. The Turkish Ministry of Culture and Tourism stated that these museums have artifacts that were illegally removed from Turkey, and that the ban would be removed once the contested objects were returned. Soon it was discovered that Turkey had given the ultimatum to many other museums, including the J. Paul Getty Museum, the Cleveland Museum of Art, Dumbarton Oaks, the Museum of Art at Bowling State University, the Louvre Museum, and the Berlin Pergamon Museum. Turkey has prohibited exhibition loans to any of these museums until the requested objects have been returned.

Turkey has been petitioning for the return of most of these artifacts for many years, but most often these petitions have come in the form of simple requests. This is the first time that the country has made such a widespread and forceful demand. This should not come as a surprise, in light of recent events regarding Turkey's repatriation efforts. Of particular importance was its recovery of the Hattusa Sphinx, returned last year from the Pergamon Museum in Berlin. Turkey was forceful with Germany, and the two countries were able to quickly come to an agreement. This success emboldened Turkey and gave it the necessary confidence to use forceful tactics with other reluctant countries and institutions that own contested objects. Exploring the motivations and actions of both parties involved with the Hattusa Sphinx will shed further light on why Turkey recently enforced this ban and what their plans are for the future.

The situation involving the Hattusa Sphinx began in the early 19th century, when the first German archaeologists arrived in Turkey and were given permission by the Ottoman Empire to excavate a number of sites. In 1907, a pair of sphinxes was found at the Hittite capital of Hattusa, where they had been part of a gate complex. They were in poor condition, due to a fire which had caused them to shatter to pieces. Both sphinxes were taken back to Berlin where they were cleaned, restored, and reassembled by expert European archaeologists. After making a plaster mold of the statue, Germany sent the better-preserved of the two sphinxes back to Turkey, but kept the other sphinx for their collection. It, and the plaster

copy of its sister statue, were eventually built into the wall of the Pergamon Museum. In 1938, the Turkish government asked for the return of the sphinx, but their petition fell upon deaf ears. The Turkish government and the Hattusa museum continued to ask for its return throughout the century, but Germany continued to ignore their requests.

During the 1980s, Turkey began to be more aggressive in repatriating its ostensibly-stolen artifacts, and did much more than simply ask for their return, as they had done with the Hattusa Sphinx. They began to file lawsuits against those countries and museums that would not cooperate or return the debated artifacts. They were successful in recovering many artifacts, coins, and mosaics from museums and private collectors. They continued their pursuit into the 1990s, and were successful in recovering significant works of art, such as the Lydian Hoard from the New York Metropolitan Museum.

Turkey's repatriation efforts increased even more in 2002 when the *Adalet ve Kalkınma Partisi* (Justice and Development Party or AKP) came to power in the Turkish government. The country was on the brink of economic ruin, but the AKP was able to turn the situation around, and make Turkey's economy one of the fastest growing in the world. Cultural heritage became a high priority, and the government increased funding given to archaeological excavations. In 2000, before the AKP came to power, the government had only given one million US dollars to archeological excavations but, by 2010, this annual funding had increased to 20 million US dollars.¹ The AKP also appointed Ertuğrul Günay as the Minister of Culture and Tourism, and he has increased Turkey's aggressive repatriation efforts even more, as is seen in the case of the Hattusa Sphinx.

The original agreement concerning the two sphinxes sent for restoration is unclear, so it would have been difficult for Turkey to take the case to court, as they had done to recover the Lydian Hoard. Also the Lydian Hoard cost a great deal, in time and money and legal disputes. The Turkish government decided to use a different tactic to retrieve the sphinx. In February 2011, they asked for the return of the sphinx and

1 "Turkey expects Germany to return Hattusa Sphinx." *World Bulletin*. 9 March 2011. <http://www.worldbulletin.net/?aType=haber&ArticleID=70840>

threatened to revoke Germany's archaeological license at Hattusa, if the sphinx was not returned by June of 2011. Mr. Günay claimed that the German archaeological team had spent less than two weeks of the previous year excavating at the site, and said that a Turkish team would be placed there if Germany didn't return the statue. Mr. Günay defended Turkey's decision by saying that Turkey had been requesting the return of the sphinx for a long time, and that the Germany archaeological team was neglecting the excavation at Hattusa.

Mr. Günay said:

An important artifact was removed from Hattusa and never given back, although we have been asking for it for many years...also, I have seen no major progress there for years, no restorations, not even the simplest preservation measures...If, in addition to all that, an artifact is not returned, then why should I let that institute continue to dig here?²

Felix Pirson, the institute director of German excavations in Turkey, objected to Mr. Günay's statement, and explained that his archeological team had made significant improvements to the excavation site: "In Hattusa, we recently restored a segment of the city walls; that was a big project. Also, we restored the Lion Gate and built access roads for visitors."³

Regardless of this response, the Turkish government did not retract the threat. The Germans knew that Turkey would follow-through with their decision, because just previously another German team had lost their license to excavate at the site of Aizanoi. Turkey claimed that the German team there had been neglecting the site so the project was given to a Turkish team.

Hermann Parzinger, President of the Prussian Cultural Foundation, initially voiced concern about Turkey's method in their attempts to recover the sphinx. Immediately following Günay's demand for the sphinx, Parzinger stated, "Given the particular nature and history of the German-Turkish relations, we need to find a new constructive way to solve this case... Threatening to close German digs in Turkey...does not create a climate in which a positive solution can be found."⁴ He did not believe that such forceful tactics to recover contested

works would help the situation or the relationship between Germany and Turkey.

This introduces another component of the issue with Turkey and its relationship with other countries that have been performing archeological work there. For the majority of the 19th and 20th centuries, archaeology in Turkey was performed primarily by foreign archaeological teams, with German archaeologists being one of the largest nationalities represented. The number of Turkish archaeologists grew in the latter part of the twentieth century, and has continued to grow as Turkey's economy has become more successful and the government has increased archaeology funding.

This is a wonderful development, since culture heritage is best preserved and protected by its own culture. However, it is important to understand that Turkey's growing archeological independence is changing its relationship between Turkey and foreign countries that were previously performing so much archaeological work in the country.

Many foreign archaeologists have stated that it is becoming increasingly difficult to obtain licenses to dig in Turkey. Mr. Günay has stated that the Turkish government has parted ways with archaeologists that did not seem to be dedicating enough time or work to their excavations in Turkey. This shows a decrease in Turkey's dependency upon foreign archaeologists and, therefore, an increase in their own independence, desire, and capability to perform archaeology in Turkey. Mr. Günay articulated this when he said, "Turkey has many scientists who want to work in this field... We have new universities in Turkey, we have new archaeological institutes and plenty of committed and enthusiastic archaeologists. So if we do not see the desired level of cooperation here, we will not hesitate to turn these excavations over to our own universities."⁵ It is clear that Turkey was prepared to revoke Germany's license to excavate at Hattusa if the sphinx was not returned.

The final decision regarding the fate of the Hattusa sphinx was not to be determined by the German archaeological team at Hattusa, but rather by the German foreign ministry. Initially upon receiving the ultimatum from Turkey, the ministry hesitantly stated that they believed that the sphinx should be returned. In April of 2011, the Cultural Minister of Germany, Bernd Neumann, met with Mr. Günay to discuss the return of the sphinx. Mr. Neumann quelled any thoughts or hopes by other parties demanding for restitution when he stated that the Hattusa sphinx was a unique case. When referring to a solution with Turkey, he stated, "I think it should be possible

2 Güsten, Susanne. "Turkey gives Germany ultimatum on returning Hattusa sphinx." *Deutsche Weile*. 28 February 2011. <http://www.dw.de/dw/article/0,,14875550,00.html>

3 Güsten, Susanne. "Turkey gives Germany ultimatum on returning Hattusa sphinx." *Deutsche Weile*. 28 February 2011. <http://www.dw.de/dw/article/0,,14875550,00.html>

4 "Germany hits back in row with Turkey over sphinx". *Hurriyet Daily News*. 27 February 2011. <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=germany-hits-back-in-row-with-turkey-over-sphinx-2011-02-27>

5 Güsten, Susanne. "Turkey gives Germany ultimatum on returning Hattusa sphinx." *Deutsche Weile*. 28 February 2011. <http://www.dw.de/dw/article/0,,14875550,00.html>

because it is a unique case with no parallels, so would not create any kind of precedent for other restitution demands.⁷⁶ It is clear from Mr. Neumann's precise and carefully chosen words that he wanted to discourage any other restitution claims from Turkey or any other country.

On May 13, three months after Turkey's official demand, Germany announced in an official press release that the sphinx would be returned to Turkey by 28 November 2011 in time for the 25th anniversary of the inclusion of Hattusa in the list of the UNESCO World Heritage Sites. The official statement continued by stating, "The transfer of the sphinx is to mark the start of a number of measures designed to step up German-Turkish cooperation in the museum sector and on archaeological projects."⁷⁷

Following this press release, Mr. Parzinger made an official statement that, "The SPK (Prussian Cultural Foundation) has decided to make this voluntary gesture as a special sign of the close ties shared by both countries. I am heartened that this agreement now paves the way for a period of heightened, long-term collaboration in the area of culture and science. Both sides are due to benefit from it enormously."⁷⁸ According to this statement, it appears that the two countries established a closer working relationship despite Turkey's forceful approach.

It was apparent that the relationships between Germany and Turkey were still strained though when the statue was being prepared for transportation from the Pergamon Museum. Removing the statue from the museum proved to be problematic because the sphinx had been built into the wall of the museum. Ali Osman Avşar, The Istanbul Restoration and Conservation Center Laboratory Director, claimed that the Pergamon Museum in Berlin expressed that it would be difficult to remove the sphinx from the wall of the museum unless it were cut in pieces. The Turks saw this as a political move by the Pergamon Museum to blame the Turks if the statue was damaged. Avşar stated, "The sphinx was wall-mounted at the museum... They asked us to cut the sphinx into pieces, but there was another reason behind it. If we attempted to do it, the sphinx would be broken. Then they would carry out a campaign saying, 'They broke the sphinx. They destroyed it.' We felt this and told them that we would

be able to take the sphinx as a whole."⁹ This response by Avşar shows that despite the statements of goodwill about increased cooperation, the relationship between Germany and Turkey is still strained.

After 3D drawings and animations of the sphinx were made, the statue was carefully removed from the wall as a whole without any damage. It was returned to the Hattusa Museum where it was welcomed home by the Minister of Culture himself. While there, he expressed his happiness at the return of the sphinx and his anticipation for the return of many other artifacts. A strong motivation for these continued repatriation efforts is the new museum that Turkey is planning to build. Construction of the 25,000 square meter building is supposed to commence in 2013 and it is intended to be finished by 2023 in time for the centennial of the founding of the Republic of Turkey.¹⁰ Concerning this new museum, Mr. Günay stated, "Our dream is to have the largest museum in the world. The museum that we are planning to build will not only be the largest in the Middle East and Balkans, but will be the largest museum in the world."¹¹

It is clear the Turkey will be able to sustain such a large museum since its tourism and museum industry is growing rapidly. Günay stated, "Turkey has now begun to reap the fruit of significant investments made in the tourism industry. In 2011, 31 million tourists came to Turkey, while tourism revenue soared to 23 billion dollars."¹² These numbers are significant when compared to numbers from a decade ago before the AKP came to power. In 2002, only 13.2 million foreign tourists visited Turkey bringing in only 11.9 billion dollars in tourism revenue.

The number of museum patrons has also increased due to this focus on tourism. Günay stated, "We have renewed technology in museums and increased the number of visitors. Income from museums was 70 million Turkish Liras when I came into office at the end of 2007. We got an income of 256 million liras from museums at the end of 2011. This is a record in the history of Turkish Republic,"¹³ If this growth

6 Hickey, Catherine. "Hittite Sphinx May Return to Turkey From Germany, Minister Says." *Bloomberg*. 9 March 2011. <http://www.bloomberg.com/news/2011-03-09/hittite-sphinx-may-return-to-turkey-from-germany-minister-says.html>

7 "Turkey to receive Hittite sphinx." Press and Information Office of the Federal Government (Germany). Press Release No.: 171. 13 May 2011. <http://www.bundesregierung.de>

8 "Agreement Reached on the Sphinx of Hattusha." *artdaily.org* http://www.artdaily.org/index.asp?int_sec=2&int_new=47733#UCTEn1JNGil

9 "Hattuša reunites with sphinx." *Hurriyet Daily News*. 7 November 2011. <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=hattusa-reunites-with-sphinx-2011-11-07>

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continues, the large museum that Turkey is dreaming of will be well attended.

It is likely that the Turkish government will continue to use strong tactics to fill this museum and others. The return of the Hattusa Sphinx was resolved quickly with little cost to the Turkish government which differs greatly from many of its past repatriation efforts such as the Lydian Hoard or the Weary Herakles. The Lydian Hoard was a collection of Lydian archaeological artifacts owned by the New York Metropolitan Museum of Art which had questionable provenance. It took over six years of expensive legal wrangling before the works were finally returned to Turkey.

The process for the return of the Weary Herakles was a similarly lengthy and expensive process for the Turkish government. In 1981 it was jointly purchased by the Boston Museum of Fine Arts and the collectors Leon Levy and Shelby White. Its provenance was called into question in the early 1990s, but museum officials were reluctant to discuss the issue with Turkey. Eventually the museum conceded with Turkey's claim, but could not return the museum because the joint owners, Leon Levy and Shelby White, refused. The case was in a stalemate until the Boston Museum of Fine Arts had complete ownership of the object in 2004. Even then, it took seven years until the museum officially agreed to return the object and it was given back to Turkey.

The recovery of the Hattusa Sphinx was quick and simple for Turkey. In February of 2011, it threatened to revoke Germany's archeological license at Hattusa and six months later, the sphinx was returned. The Turkish government did not spend a significant amount of time, money, or resources on recovering the statue as they had done with the Weary Herakles or the Lydian Hoard. This strong tactic worked well and gave them the confidence to deal forcefully with other museums as was seen this past spring.

Turkey will continue to use strong tactics in its repatriation efforts because it is committed to recovering all of its antiquities. Günay showed this commitment when the Hattusa Sphinx was returned and he stated, "This is a major development for the return of all of our ancient pieces from abroad... We will continue to struggle for the return of other pieces."¹⁴ The return of the Hattusa Sphinx and the ban on exhibition loans this spring are just the beginning of Turkey's increased aggression. Other museums should be expecting similar treatment because it is clear that Turkey will not rest until it has recovered all of its antiquities.

culture-and-tourism-record

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“The Sword in the Museum: On Whether La Vallette’s Sword and Dagger, Currently Housed in the Louvre, Should be Returned to Malta”

The debate about the spoils of war and national heritage is always an intense one. Whenever I ask somebody whether a recognized *objet d’art* which used to be in a country’s possession ought to be returned to its first home, I always get a resounding ‘yes.’ In Malta’s case, the most popular *objet d’art* in question is La Vallette’s sword. Together with its matching dagger, the sword was a gift from Philippe II of Spain in 1565 to The Grand Master of the Order of the Knights of Malta at the time, Jean Parisot De La Valette (active 1557-1568), marking the Knights of Malta’s victory in the Great Siege and the subsequent retreat of the Ottoman forces.¹ The set of weapons remained in the Order’s possession for more than two hundred years after the death of the Grand Master, who first received it on the Order’s behalf. This sword was later taken by Napoleon’s forces when they invaded Malta, and is now on display at the Louvre Museum in Paris.

Many feel it is unjust that an object such as La Vallette’s sword is not returned to Malta and feel that the sword was ‘stolen’ from them. The solution to this predicament, many believe, is for the French government to return the sword to Malta. However, the question remains: should this be done, and if so, for what reason precisely?

This question can be interpreted as both a legal and moral issue. The history of the sword is recorded in archival evidence documenting the possession of the sword throughout history. Yet to carry out legal requirements remains a difficult task due to the evidence and documentation needed to prove how and when the sword was looted. People tend to be more passionate about the moral standpoint: it is only fair that the French government should return what was rightfully owned by the Maltese people. However, it must also be noted that La Vallette was not Maltese, but French; so by this very reasoning, shouldn’t the sword remain in France’s custody? The Order of the Knights of Malta was composed of various European nobles. If France were to return La Vallette’s sword to the Maltese, the island would be obliged to return the Order’s *objets d’art*, archives and other items listed in their inventories, to their respective countries, including Caravaggio’s *The Beheading of Saint John the Baptist*. Some of these objects

were, after all, the knights’ spoils of war. The main concern of the general Maltese public is that their history is being unrepresented, and that this material loss affects their national identity. Many people feel that it would be more fitting for the sword and dagger to be in the same place where La Vallette’s city is located; the same city which he defended, an action which in turn earned him Philippe II’s trophy. What is truly La Vallette’s legacy is not the sword and dagger, but the fact that he won the Great Siege against the Ottoman Empire. If La Vallette was defeated, it would have completely changed Malta’s history, including its religion, laws, art, and architecture.

Also worth considering is that if the sword is in a foreign museum, it can act as an ambassador for Malta. Being in France, the sword represents Malta and part of its history to everyone who visits the Louvre. Even the way in which the sword has ended up in France represents a crucial part of the Maltese-French history. Museums have a duty to provide information about the object, including its country of origin, to explain the interconnected history of the places in question. Having a multi-cultural setting exposes the visitor to diverse cultures, historical figures and incidents. Cross-cultural *objets d’art* such as La Vallette’s sword provide an ideal opportunity for the museum-goer to discover new historical events and deepen his or her knowledge of familiar ones. Art is almost always interwoven with politics, and so it was a political gesture on Napoleon’s part, when he carried the spoils of war to France. It was a physical assertion of his colonial power over the island. And this is in fact another reason why the sword should remain at the Louvre: it provides a physical link with 16th century Malta.

It’s also important to note that the millions who visit the Louvre every year do not do so to see only French art works. The Louvre’s highlights include the *Mona Lisa*, painted by the Italian artist Leonardo da Vinci, the *Venus of Milo* sculpted by the ancient Greek sculptor Alexandros of Antioch, and the Louvre’s famous glass pyramid, designed by the Chinese architect I. M. Pei. Therefore the Louvre does not exhibit works of art that are solely of French origin. A museum’s role is to provide space for some of humanity’s most extraordinary achievements regardless of the art works’ place of origin.

For anyone who loves and appreciates art, it shouldn’t

¹ Mario Buhagiar: *Essays on the Knights and Art and Architecture in Malta 1500-1798*, p. 18

matter where the *objet d'art* is housed. What matters is that the object is in a suitable environment, that it is cared for, monitored, supervised and appreciated. Certainly this alternative is better than for the object d'art to end up in a private collection where it cannot be appreciated by the general public, or forgotten in some storage unit. Worse yet, countless spoils of war are unfortunately listed as "lost." La Vallette's sword, on the other hand, is well documented and under constant surveillance. The sword represents Malta's rich artistic history and its relationship with France. It is a perfect example of an artistic object which has overcome national boundaries and questions of ownership and yet still benefits both countries. These works of art are to be responsibly exhibited and shared in order to illuminate our past and inspire our future not pettily fought over in a flurry of nationalistic pride.

**Documentary Film *Portrait of Wally*
Directed by Andrew Shea
Written by Andrew Shea and David D’Arcy
Produced by David D’Arcy, Barbara Morgan, and Andrew Shea**

A Nazi stole Egon Schiele’s *Portrait of Wally* from the Vienna residence of Jewish art dealer Lea Bondi Jaray in 1939. For three decades, until her death in 1969, Mrs. Jaray wanted to recover her painting, even soliciting help from Dr. Rudolf Leopold, another Schiele expert and art collector who frequented her art gallery in London.

What Lea Bondi did not know was that Dr. Leopold had found her painting at the Belvedere Palace, amongst the works of the Austrian National Gallery. The picture was mislabeled as *Portrait of a Woman*, and identified as part of the collection of Dr. Heinrich Reiger, who had died in the Holocaust. In the 1960s, Dr. Leopold traded another Schiele painting for the *Portrait of Wally* but instead of returning it to Bondi, he kept the stolen artwork for himself for more than three decades.

In 1997, *Portrait of Wally* was part of an Egon Schiele exhibit at the Museum of Modern Art (MoMA) in New York, where Lea Bondi’s relatives recognized her painting. Her nephew, Henry Bondi, requested that the museum return the stolen picture to the family. When the museum denied the request, Manhattan District Attorney Robert Morgenthau issued a subpoena to seize the painting before it could be shipped back to the Leopold Museum in Austria.

The dramatic 70-year-old battle to recover this painting is documented in the 90-minute film *Portrait of Wally* directed by Andrew Shea and produced by P. O. W. Productions. This documentary uses film footage of Nazis in Austria and numerous interviews with the lawyers, journalists and art collectors involved to explain an important legal case regarding the “last prisoners of World War II” (as described by Ronald Lauder, then Chairman of MoMA).

Egon Schiele (1890-1918) painted *Portrait of Wally Neuzil* in 1912 with oil paint on a wood panel measuring 32 by 39 centimeters. This picture stayed in storage in the United States for 13 years while lawyers for MoMA and the Leopold Museum fought restitution to the Estate of Lea Bondi.

In this insightful documentary, Morgenthau discusses why he issued the subpoena:

We heard about the allegations of the owner of the

Schiele paintings. It was the 11th hour, and they were about to return them to Austria so we kind of threw a Hail Mary pass. We issued a grand jury subpoena hoping we could develop the evidence to support that case, but if we hadn’t issued it, the painting would have gone back and we would have never had a chance to ascertain the true ownership.

Willi Korte, an art researcher and investigator and co-founder of the Holocaust Art Restitution Project, spoke on the importance of the case: “We wouldn’t be sitting here talking about art restitution in 2010 the way we do if we wouldn’t have had Wally, and I can’t think of any other case that had this significance. It is the case, out of all art restitution cases, that really shaped the discussion for the following years.”

CBS News Correspondent Morley Safer was also on camera: “These are vestiges of people’s history, of the family’s history and it is terribly important I think that that be honored ... there should be a rush to judgment on these cases.”

Judith H. Debrzynski, formerly an arts reporter for *The New York Times*, recalled that in late 1997 people were talking about Dr. Leopold as an excessive art collector who reputedly personally conducted extensive conservation on the artworks at the Leopold Museum. Then someone mentioned to her about “the Nazi connection” in regards to the Schiele exhibit at MoMA and Debrzynski got curious.

This film clearly defines the history and legal complications of this case in a fascinating narrative.

In 1920s Vienna, Lea Bondi operated a modern art gallery. She brought, sold, and displayed works by the young Schiele at a time of freedom and experimentation in Austria. In the second half of the 19th century, the Emperor Franz Josef had given Jews the same rights as citizens. Vienna’s Jewish population had increased from 6,000 in 1848 to at least 200,000 in all of Austria by 1930. Vienna of the 1920s was like Berlin, very much open to modern ideas and thought, and sexual morals were as loose as they are in New York now, as Thomas Weyr, journalist and native of Vienna, told the camera. “Everything changed overnight,” Weyr said.

In March 1938, the mostly Roman Catholic Austrians voted to join Germany in the “Anschluss.” Hitler paraded under Nazi banners draped over the balconies of apartment buildings in the main streets of Vienna while Jews lost their right to vote and their businesses.

“Lea said it was a time when if you belonged to the right party, you could do what you wanted, never mind if it was legal or not,” recalled Bondi’s grand niece, Ruth Rozanek, in the understated manner she maintained before the camera throughout the documentary.

Lea Bondi owned a gallery in Vienna that was quite well-known, according to Lucille Roussin, an attorney and art historian. “However, this painting, *Portrait of Wally* by Egon Schiele, was not part of the contents of that gallery,” Roussin said. “It was her personal property.”

Henry Bondi, Lea Bondi’s nephew, said that after the Anschluss, everything was confiscated from his aunt because she was Jewish.

In other supporting documentation, Lea Bondi had written to Otto Kallir, founder of Galerie St. Etienne in NYC, that *Portrait of Wally* had been in her private collection, “privatbesitz,” and had nothing to do with her gallery. It had hung in her apartment at 38 Weisgerberlände.

Journalist David D’Arcy retold the background of the story: Friedrich Welz, an art dealer and Nazi Party member, confiscated Lea Bondi’s gallery. Then he went to her home, saw the painting on the wall, and said he wanted *Portrait of Wally* too. Welz threatened Bondi; her husband told her to give it to Welz, that they might want to leave as soon as tomorrow. Welz took the painting and Lea Bondi left Vienna for London the next day (18 March 1939).

Hildegard Bachert, co-director of Galerie St. Etienne in New York City, recalled the political atmosphere in Vienna: “Their lives were in the balance there. There wasn’t any negotiating and God knows I know that you couldn’t negotiate with Nazis. You were lucky if they didn’t shoot you on the spot.”

Lea Bondi founded St. George’s Gallery in London. After the war, she spent several years recovering her paintings and was able to get back the ones from her gallery, but not those that had hung in her apartment, recalled her nephew Henry Bondi.

In 1946, Bondi returned to Vienna. She went to the Restitution Court, not for the *Portrait of Wally*, but for the contents of her gallery that was now called “Galerie Friedrich Welz.” The Austrian court declared that Welz had renovated

the gallery and that Bondi would have to pay the war criminal Welz 9,000 Schillings before recovering her business.

Director Andrew Shea’s documentary discusses the confusion about the Egon Schiele painting *Portrait of Wally* after World War II.

Sophie Lillie, author of *Was Einmal War (What Once Was)*, said that Bondi asked Welz about the *Portrait of Wally*. Welz told Bondi that the painting had been erroneously confiscated with the property of another Jewish collector, Dr. Heinrich Rieger, and given to the national collection at the Belvedere Palace. The Rieger family had been rounded up and deported to die in a concentration camp, Lillie said in the documentary.

Portrait of Wally was listed incorrectly as a “drawing,” not as an oil painting. “The mistake should have been recognized immediately,” Lillie said. “Mistaking a painting for a drawing is a big mistake.”

“The idea that the director of the National Gallery of Austria was unable to tell the difference between an oil painting and a work on paper is clearly an absurdity,” journalist David D’Arcy told the camera.

Thomas Trenkler, editor of *Der Standard*, sums up that the Belvedere Museum “knew that the painting they had bought didn’t belong to Rieger and that something was not quite right.”

Klaus Schröder, former Managing Director of the Leopold Museum, said: “But to imply that the Austrian Gallery would have tampered with the sources to facilitate possible sales is totally absurd.”

Monika Mayer, director of Provenance Research for the Austrian Gallery at the Belvedere said: “Of course, to us it seems quite exceptional if we look at it retrospectively. How can there be a confusion between a drawing and a painting from a famous collector, Heinrich Rieger, and a famous oil portrait of Wally Neuzil? That seems extremely mysterious and we can’t explain it. I didn’t go as deeply into the details of the case as others have. I don’t actually think there was a conspiracy.”

Bonnie Goldblatt, former Senior Special Agent for Department of Homeland Security, who had worked on the case, said in the documentary: “My belief is that the museum wanted to amass a huge art collection and it was good timing. A law had been passed then that forbid the exportation of work by Austrian artists, which came in handy. If Jewish collectors weren’t in Austria, they would have to sell it to the museum instead of taking it out of the country to sell.”

Even the U. S. Army had documented numerous times that the painting had not belonged to the Riegers and told the Belvedere the same thing, asserted Sharon Cohen Levin, Chief of the Asset Forfeiture United in the United States Attorney's Office for the Southern District of New York.

In a deposition in Vienna with American prosecutors, Dr. Rudolf Leopold spoke of his relationship with Lea Bondi: "I met Ms. Jaray in London in 1953. She sold me a few Schiele pieces and explained to me that she would like to talk to me about a picture that she had once owned."

Ernst Ploil, attorney and art collector, explained in the documentary: "Leopold knew who owned looted art. He knew about the problems of not being able to export those pieces of art. He got into contact with the owners who had left Austria or had been forced to leave Austria," and offered to purchase the recovered looted art.

Hector Felicano, author of *The Lost Museum*, said: "Right after the war there was such turmoil in the art market that you could get just about anything you wanted if you had the money."

In 1954, Lea Bondi asked Leopold to watch over the *Portrait of Wally*, to make sure it didn't disappear, according to Robert Morgenthau.

Again, the film returns to Leopold's deposition in *United States v. Portrait of Wally*: "The question is, what did she say to you, and what did you say to her?"

Leopold continued: "Well, I already explained this before. After we had struck a deal regarding a couple of sheets, works on paper, that is, she asked me, where is the *Portrait of Wally*? And I said, in the Belvedere... Well, what you're asking me – and I then said, well, what you're asking me to do is simply impossible to do, because if I just went to the gallery and asked them to hand me over the picture, they will probably throw me out."

D'Arcy narrates what happened next: "Leopold returns to Vienna and barter with the museum for a Schiele he has for this painting. He already had Egon Schiele's self-portrait of the same date, so for him it was a case of uniting the pair of pictures." The Austrian Gallery had exchanged *Wally from Krumau* for *Portrait of a Boy (Rainerbub)*. The next thing Lea Bondi knew, according to art historian Lucille Roussin, the painting was being exhibited as part of the Leopold collection. Thomas Trenkler, editor for *Der Standard*, said: "The museum must have been afraid that the painting would have to be given back. Thus, that the museum sold it, or rather exchanged it for other artworks, this was a white wash."

Lea Bondi's grand niece, Ruth Rozanek, told the filmmakers of *Portrait of Wally* that Lea Bondi would have liked to have gotten her portrait back, but that in the 1950s Bondi didn't have the financial resources for a legal fight, and the value of the painting – barely worth \$1,000 then – couldn't justify a costly legal battle in a country where she could not be sure to be given fair consideration, as a Jew after the war in Austria. Lea Bondi died in 1969. In 1972, Rudolf Leopold published a book on Schiele, and obliterated Lea Bondi's name from the list of owners of *Portrait of Wally*.

Director Andrew Shea's film documents the legal strategies of the state of New York, which wanted to establish the true ownership of the painting, against the museums and art galleries who expressed their opinion and strong influence against what they considered the government's interference. The Museum of Modern Art, chaired by Ronald Lauder, wanted to return *Portrait of Wally* (and a second painting by Egon Schiele, *Dead City*) to the Leopold Museum. MoMA moved to quash the subpoena. The art community had assumed that artworks were usually immune from such actions, the *New York Times* reported. *The Wall Street Journal* said that Morgenthau had taken "momentary leave of his senses."

Museums feared that their ability to borrow paintings internationally would be hurt. "Museums and the public could be severely damaged as a consequence," Philippe de Montebello, then director of the Metropolitan Museum of Art, told the *New York Times*. Glenn D. Lowry, Executive Director, of MoMA said, before the House Banking Committee on February 12, 1998: "The district attorney's action of barring the return of the painting to the lender has the potential of seriously affecting the future of art loans in this country. Unless we can assure lenders that American art museums will return borrowed works of art, lenders, fearing seizures, will simply not lend. That would be a disaster for the American public which has come to expect first class exhibitions at all art institutions across this great land." Ori Z. Soltes, former Director of the National Jewish Museum and co-founder of the Holocaust Art Restitution Project, said: "Then the entire museum community fell in line with this perspective of don't mess with internal museum affairs, you government and other kinds of bureaucrats because you don't understand."

Even Ronald Lauder, who founded the Commission on Art Recovery in 1998, wanted the painting returned to Austria. The filmmakers discuss Lauder's various conflicts as an underwriter of the Schiele exhibition at MoMA, and as former US Ambassador to Austria in 1986-1987. Lauder, a major collector of Egon Schiele's works, also purchased Gustav Klimt's *Portrait of Adele Bloch-Bauer* from Maria Altmann and her family in 2006.

This documentary discusses the controversial NPR story

in 2004 on *Portrait of Wally*, and the subsequent suspension of correspondent David D'Arcy (who was also a co-writer of this film).

Attorneys Howard Spiegler and Larry Kaye fought for years on behalf of the Estate of Lea Bondi. Finally, a trial date was set for July 2010. All that was to be decided, the film said, was whether or not Leopold knew that *Portrait of Wally* had been stolen when he brought the painting into the United States for the Schiele exhibition at MoMA in 1997.

Then Dr. Leopold died weeks before the trial. His wife, Dr. Elisabeth Leopold, offered the Estate of Lea Bondi \$19 million in order for *Portrait of Wally* to return to the Leopold Museum in Vienna, to join the artist's self-portrait painted on the same day he had immortalized his lover. It was her husband's wish to settle, Elisabeth Leopold said publicly. The attorneys, who had taken the case on contingency, received about one-third of the money for the painting and the rest was divided amongst the 50 family members of the Estate of Lea Bondi.

The painting was first displayed at the Jewish Heritage Museum in Manhattan before it was returned to Vienna and re-installed at the Leopold Museum. This time, the story of Lea Bondi's ownership of *Portrait of Wally* is confirmed, and it is clarified that she never lost title to the painting during the decades she and her family searched for the stolen painting. In 1998, the Austrian Parliament, responding to the Manhattan District Attorney's seizure of *Portrait of Wally* and *Dead City*, passed a new restitution law. In the following years the Belvedere and other Austrian museums returned hundreds of millions of dollars worth of art that had been stolen by the Nazis. This restitution law does not apply to the Leopold Museum, which is considered a private foundation, not a public museum.

Edmund de Waal
The Hare with the Amber Eyes: A Hidden Inheritance
(Picador, 2010)

My regular Wednesday tennis mate, Barbara, recommended a book and described it this way: “written by a famous ceramicist – a guy who makes pottery – about the history of the Japanese knick-knacks he inherited from his family.”

Pottery. Japan. Knick-knacks. I was reading about Nazi-looted art (see my review of *Lady in Gold* in this issue). A book with the odd title *Hare with Amber Eyes* did not immediately send me to the bookstore. Barbara knew a little bit about the Jews in Europe during the first half of the 20th century – her mother, she mentioned only once, had been in a concentration camp.

A few weeks later Barbara and I were discussing, over the Internet, the Klimt paintings and what the Bloch-Bauer family went through in Vienna – that the paintings hadn’t been donated to the museum by Adele Bloch-Bauer, but stolen more than a decade after her death from her husband’s residence, after Austria united with Nazi Germany.

“Did you read that book I recommended?” Barbara asked.

“What was the title?” I had not given the book a second thought after my initial impression that the title was awkward.

“*Hare with the Amber Eyes*,” she repeated. “The family was in Vienna when the Nazis came.”

A few hours later I had downloaded the book on my iPad and my iPhone, downloaded the audio book, and later ended up at our local bookstore in Pasadena, where the Vroman’s employee told me I could find Edmund de Waal’s memoir under Biography.

Not since Jonathan Harr’s book, *The Lost Painting: The Quest for a Caravaggio Masterpiece*, has a book so influenced me. First of all, Edmund de Waal isn’t just a potter, but an academic who has written on the subject in various journals and truly is recognizable in the art world (as confirmed by the first woman I recommended the book to). Second, de Waal read English at Cambridge and brings an amazing literary talent to his tale. Third, I have recommended this book to any lovers of Proust and 19th century France (the Japanese

netsuke, a collection of which forms the core of this book, were purchased there by an ancestor of de Waal who served as a model for the French novelist); anyone who wants to understand anti-Semitism in Europe and how that prejudice allowed the Nazis to rise to power; and to my teenage son, who loves Japan (part of the narrative is placed in Japan after World War II). I would recommend this to anyone looking for “a good read” in any subject by a compassionate and intelligent human being. As for me, this book changed the way I viewed decorative arts as “dusty stuff” to artifacts of the experiences of everyday life.

Edmund de Waal was studying porcelain pottery and visiting his great-uncle, Ignace “Iggie” Ephrussi, in Japan in 1991, when he first handled one of the 264 tiny Japanese wood and ivory carvings known as netsuke. He later wrote:

I pick one up and turn it around in my fingers, weight it in the palm of my hand. If it is wood, chestnut or elm, it is even lighter than the ivory. You see the patina more easily on these wooden ones: there is a faint shine on the spine of the bridled wolf and on the tumbling acrobats locked in their embrace. The ivory ones come in shades of cream, every color, in fact, but white. A few have inlaid eyes of amber or horn. Some of the older ones are slightly worn away: the haunch of the faun resting on leaves has lost its markings. There is a slight split, an almost imperceptible fault line on the cicada. Who dropped it? Where and when?

Mr. de Waal describes how one of the netsuke feels when he pockets it for a day:

Carry is not quite the right word for having a netsuke in a pocket. It sounds too purposeful. A netsuke is so light and so small that it migrates and almost disappears amongst your keys and change. You simply forget that it is there.

Then he describes why he wrote this book:

I realize how much I care about how this hard-and-soft, losable object has survived. I need to find a

way of unraveling its story. Owning this netsuke – inheriting them all – means I have been handed a responsibility to them and to the people who have owned them. I am unclear and discomfited about where the parameters of this responsibility might lie...I know the bones of this journey from Iggy. I know that these netsuke were bought in Paris in the 1870s by a cousin of my great-grandfather called Charles Ephrussi. I know that he gave them as a wedding-present to my great-grandfather Victor von Ephrussi in Vienna at the turn of the century. I know the story of Anna, my great-grandmother's maid, very well. And I know that they came with Iggy to Tokyo, of course, and were part of his life with Hiro.

In the prologue de Waal describes what he doesn't want his book to be:

I know that my family were Jewish, of course, and I know they were staggeringly rich, but I really don't want to get into the sepia saga business, writing up some elegiac Mitteleuropa narrative of loss.... And I'm not entitled to nostalgia about all that lost wealth and glamour from a century ago.

He does have a vision for his book:

I want to know what the relationship has been between this wooden object that I am rolling between my fingers – hard and tricky and Japanese – and where it has been. I want to be able to reach to the handle of the door and turn it and feel it open. I want to walk into each room where this object has lived, to feel the volume of the space, to know what pictures were on the walls, how the light fell from the windows. And I want to know whose hands it has been in, and what they felt about it and thought about it – if they thought about it. I want to know what it has witnessed.

De Waal expected his project to take six months not the six years his journey took him through archives and libraries from Tokyo to Odessa where his Russian family of grain-exporters originated. A piece of oral history linked him from his grandmother to the purchaser of these objects, Charles Ephrussi, who lived on the *rue de Monceau* (a synonym for *nouveau riche*) in the Hôtel Ephrussi in Paris in the late 19th century. As a child, Elisabeth Ephrussi had met Charles at the family's six storey stone Swiss chalet "on the edge of Lake Lucerne." Elisabeth lived at the Palais Ephrussi on the Ringstrasse in Vienna (not too far from the Ferdinand and Adele Bloch-Bauer residence).

Mr. de Waal, one of four sons of a retired clergyman in England, started with a slender cache of objects from his 80-year-old father, then traveled to libraries, archives, and to each relevant family residence, to piece together this story of collecting. In Paris, de Waal discovered that the Hôtel Ephrussi at 81 rue de Monceau had become "an office for medical insurance." The Ephrussi family had branched into banking in Vienna, the capital city of the Hapsburg Empire, and had set up offices in the French capital. One of the Ephrussi men, Charles, was excused from the business of making money. Charles moved from Odessa to Vienna, before settling in Paris to live as a bachelor art scholar and collector: "He is in the extraordinary position of being both ridiculously affluent and very self-directed." Charles traveled throughout Europe gathering information for a book on the German artist Albrecht Dürer: Charles "needs to find every drawing, every scribble in every archive, in order to do him justice" (not unlike this journey of Edward de Waal).

Anti-Semitism haunted the family, even in 19th century Paris. Mr. de Waal noted that the diarist Edmond de Goncourt claimed that Charles had "infested" the salons of Paris as a Jew: "Charles, [Goncourt] intimates, is ubiquitous, the trait of someone who does not know his place; he is hungry for contact, does not know when to shade eagerness and become invisible." In addition to Goncourt, Marcel Proust (with more charity) mentioned Charles as attending artistic gatherings known as salons. Mr. de Waal read all of Charles' reviews published in the monthly *Gazette des Beaux-Arts*, where Charles was a contributor, editor and an owner.

In the 1870s, Charles, who also collected French Impressionist paintings that may still be found in many public collections, purchased and collected Japanese art, a rarity in Paris, with his married lover, who was also, incredibly, the mother of five children, da Waal notes). Charles purchased 264 *netsuke* from a dealer in Japanese art, Philippe Sichel. As described by Goncourt, the artists of the *netsuke* specialized and took their time in sculpting the small intimate carvings. Da Waal quoted an 1889 letter from Rudyard Kipling describing the novelist's reaction to seeing *netsuke* when he traveled to Japan:

Unfortunately the merest scratch of Japanese character is the only clue to the artist's name, so I am unable to say who conceived, and in creamy ivory executed, the hold man horribly embarrassed by a cuttle-fish; the priest who made the soldier pick up a deer for him and laughed to think that the brisket would be his and the burden his companions...

Mr. da Waal described popular erotic *netsuke*: "These small things to handle and to be moved around – slightly, playfully, discerningly – were kept in vitrines. The chance to pass round

a small and shocking object was too good to miss in the Paris of the 1870s.”

Charles Ephrussi moved to a “grander” address at 11 *avenue d’Éna*, in the 7th arrondissement of Paris, and began purchasing pictures, the first of which were by Berthe Morisot. He would own 40 Impressionist works – by Morisot, Cassatt, Degas, Manet, Monet, Sisley, Pissarro and Renoir. A true story of Charles, a Manet painting, and an extra asparagus stalk was disguised by Proust in a reference to “Monsieur Elstir’s asparagus.” As part of his research, Mr. da Waal traveled to the National Gallery in London to see Monet’s *Les Bains de la Grenouillère*, once owned by Charles. Even the back of Charles Ephrussi’s head is depicted in Renoir’s *Le Déjeuner des Canotiers (Luncheon of the Boating Party)*. In 1899, Charles sent the 264 *netsuke*, in a black vitrine with green velvet shelves and a mirrored back, as a wedding gift to his first cousin, Victor, and the Baroness Emmy Schey von Koromla, the great-grandmother of Edmund de Waal.

The *netsuke* collection was set in the dressing room of the fashionable Baroness at the Palais Ephrussi, on the Ringstrasse in Vienna. Emmy’s three children took out the objects and played with them while they visited their mother during her long ritual of dressing for her various social engagements, particularly on Sunday morning, when their caregivers had the morning off to attend church. Mr. da Waal visited Vienna and researched the history of the family business and the contradictory relationship of his great-grandfather Viktor to business, art, and his family. During this period, Mr. da Waal tells of how Vienna, which under Emperor Franz Joseph had expanded the Jewish community, became increasingly anti-Semitic under a mayor whose philosophy would mentor Adolf Hitler.

The Ephrussi family considered themselves assimilated Jews, even celebrating the festivities of Christmas. Mr. da Waal described the luxurious life of this family, with the national events that would change their country and ultimately threaten their survival. The Ephrussi family was even able to leave “demonstrations against the Jews” in Vienna during the First World War, for their country home in Czechoslovakia, to get fresh food. Then, in 1918, the Austro-Hungarian Empire dissolved, the Emperor Karl fled to Switzerland, and Austria became a republic. Mr. da Waal noted how his grandmother Elisabeth claimed her spot in the academic world as a poet and lawyer, one of the first women from the University of Vienna to receive a doctorate in law. Elizabeth married a young Dutchman of the Reformed Church at an Anglican church in Paris.

Meanwhile, for two decades between two wars, Austria struggled along until it was annexed to Nazi Germany. Then in 1938, “six members of the Gestapo, in perfect uniforms, walk

straight in [the gates of the Palais Ephrussi].” The Ephrussi men were declared enemies of the State and arrested. Emmy was relegated to two rooms at the back of the house, while her husband Viktor and son Rudolf were imprisoned until they signed away all of the Ephrussi property – businesses, residence, and 100 years of possessions – to avoid being sent to the concentration camp in Dachau. Of all the objects stolen and then sold, a loyal housekeeper named Anna risked her own safety to pocket the *netsuke*, a few at a time, until she could hide them in her mattress.

After the war, the *netsuke* were returned to the family, and Edmund da Waal’s great-uncle Iggie took them back to Japan, where he spent the rest of his life. There, Edmund the potter and student of Japanese, found the *netsuke* and learned what those objects meant, when they were returned to the culture from which they came.

Anne-Marie O'Connor
The Lady in Gold: Extraordinary Tale of the Klimt Paintings
(Knopf, 2012)

In 1907, Gustav Klimt finished the portrait of 24-year-old Adele Bloch-Bauer, the wife of a wealthy art patron who lived across the square from Vienna's Fine Art Academy. In the same year, that same art school would reject Adolf Hitler's application for admission because he failed the drawing exam. More than three decades later, these two events collided when a Nazi stole this portrait from the home of Ferdinand Bloch-Bauer, a Jew who had fled Europe's great cultural center when Austria united with Hitler's fascist regime.

In *Lady in Gold, the Extraordinary Tale of the Klimt Paintings*, journalist Anne-Marie O'Connor tells the story of *Portrait of Adele Bloch-Bauer I*, which would sell for \$135 million to an American in 2007. O'Connor first describes the relationship between Klimt, his Jewish art patrons, and the cultural environment in pre-Nazi Austria. From the point of view of the Bloch-Bauer family we are told of the collaboration between Austria and the German Nazis to loot Jewish art collections. The book concludes with the legal struggles of American attorney Randy Schoenberg to navigate the U. S. legal system and help Maria Altmann and the other surviving members of the Bloch-Bauer family to recover four stolen Klimt paintings. It's a story of how a legitimate government corrupted legislation to steal from, and murder, its own citizens.

Within a decade, the Nazis succeeded in destroying the Jewish community that the Austrian-Hungarian Emperor Franz Josef (who ruled from 1848-1916) had created in Vienna when he provided citizenship rights to European Jews in the 19th century, offering them a sanctuary from discrimination and persecution that stretched to the hinterlands of Russia. The Jewish population in Vienna rapidly increased from 6,000 to more than 200,000 in less than 40 years, creating dissension in the anti-Semitic, mostly Roman Catholic, population. The Viennese, against the wishes of Franz Joseph, elected an anti-Semitic mayor who for two decades served in effect as a political mentor for Hitler. After the Second World War, fewer Jews lived in Austria than had a century before, and they had no intention of returning to a country that treated them less favorably than its population of horses.

Against the backdrop of the murder of 6 million Jews, restitution of stolen art may seem unimportant, especially

as newspapers today sport headlines of Jewish families recovering and then selling artworks for millions of dollars. Why is it so important that these paintings are returned to the families now? Weren't these issues of restitution settled decades ago when Allied forces discovered stolen art in the salt mines of Germany after the war? And why does the American legal system have to get involved in these cases, almost seven decades after armistice? Isn't this a matter for the government of Austria to decide? *Lady in Gold* answers these questions.

Vienna, at the turn of the century, was a modern Babel. The Crown Prince shot his teenage mistress and then himself in 1889. The Emperor's mistress was a stage actress. In 1897, American writer Mark Twain publicly lectured about the virulent anti-Semitism palpable in the Vienna, the city rebuilding itself after successfully defeating Ottoman invaders three centuries earlier. The old fortress walls came down and the Ringstrasse, a series of boulevards encircling the center of Vienna arose, providing an opportunity for Vienna's *nouveau riche*, many of them Jewish, to celebrate their financial and industrial wealth with monumental mansions and beautiful decorative arts. Even statues fronting public buildings glistened with gold.

In 1898, 17-year-old Adele, the daughter of Viennese banker Moritz Bauer, met her future husband, Ferdinand Bloch, when Adele's older sister Therese married Ferdinand's younger brother. A few months later, an anarchist murdered the free-spirited Empress Elisabeth, who had been much admired by most of the Hapsburgs' Austro-Hungarian Empire. An era of stability was ending. A middle-aged Gustav Klimt, about to alienate his government sponsors, opened a "palace dedicated to Art Nouveau on the Ringstrasse" for a group dubbed the Secessionists, who wrote at the entrance, "to every age its art; to art its freedom."

A year later, Adele married Ferdinand, a man twice her age but not the ladies' man Klimt was reputed to be. This same year Sigmund Freud published *The Interpretation of Dreams*, "his anatomy of the unconscious impulses driving individuals and society," as O'Connor wrote.

The next year Klimt, a favored court painter, showed

the first of three ceiling murals for the University of Vienna, failing to please the authorities in the next few years with his decadent portrayals on the themes of Philosophy, Medicine, and Jurisprudence. At the same time, “Jewish families were assimilating in Vienna through art and culture,” as Karl Kraus wrote. These Jewish patrons financially supported Klimt when the Ministry of Culture rejected him for a professorship at the Academy of Fine Arts.

Although Klimt was not commissioned to paint Adele’s portrait until 1903, his portrait of *Judith* “bears an almost photographic resemblance to Adele” (O’Connor). Klimt’s *Judith* is one of the masterpieces highlighted at Austria’s national art collection at the Belvedere Palace. ‘Klimt commission at the time cost 4,000 crowns, a quarter of the price of a well-appointed country villa,’ wrote O’Connor, continuing:

Klimt portrayed women as individuals, without the presence of a husband, father, or children to suggest their domestic role... They soon gained the reputation of having an affair with the master who was so infamous with his amours.

A few months after agreeing to the Bloch-Bauer portrait, Klimt traveled to Ravenna to study the sixth-century mosaics, “the greatest legacies of the Byzantine art outside Constantinople” (O’Connor), which included portraits of the childless and powerful Empress Theodora, courtesan and wife of Justinian. The mosaics included the use of gold tiles, the material Klimt grew up studying at the workshop of his father, an engraver who worked on the city’s monuments. Upon Klimt’s return to his studio in Vienna, he began sketching another childless woman, the restless, ambitious and intelligent Adele Bloch-Bauer. Klimt’s reputation for seducing many women, and Adele’s unromantic marriage, had led to rumors of a sexual relationship between artist and subject. According to O’Connor’s interviews half a century later with Adele’s niece, Maria Altmann:

So when Adele went to Klimt’s studio that winter, she faced the possibility of failure as a woman. No one ever believed Adele was in love with Ferdinand. But she was expected to feel lucky, or at least content. Instead, she struggled with sobering disappointment. Klimt made endless sketches of Adele. He would make more than a hundred studies of Adele.

Klimt painted *Portrait of Adele Bloch-Bauer I* from 1904 to 1907. He also painted *Danae* and *The Kiss* (both now at the Belvedere) in 1907, coincidentally the same year that struggling artist Adolf Hitler moved to Vienna and lived in a “hostel financed with large donations from Baron Nathaniel

Rothschild and the Gutmanns” (O’Connor). While a Jewish owner of a frame and window store, Samuel Morgenstern, purchased Hitler’s drawings and watercolors, the artist became “fascinated” by “the anti-Semitic rhetoric of Karl Lueger [Vienna’s elected mayor]... who was able to focus popular discontent on the liberal Jewish intelligentsia” (O’Connor).

In June, 1908, Klimt unveiled his gold portrait of the 26-year-old Adele, making her an “instant celebrity” (O’Connor):

Klimt embedded Adele in a luminous field of real gold leaf, giving her the appearance of a religious icon, which art historians would compare to the mosaic portrait of Empress Theodora in Ravenna.

Three years later, a syphilis-ridden Klimt visited the Bloch-Bauer castle in Czechoslovakia to work on a second portrait of Adele that he shows in 1912:

It was a very different work. Her expression was mature, direct, and anything but seductive. This was an older Adele, with world-weary eyes and cigarette-stained teeth, a painting some would call evidence of the end of the affair. (O’Connor)

Adele and her husband would also own four Klimt landscapes, including the 1912 *Apple Tree*.

In 1913, Hitler left Vienna. The following year, an anarchist shot the Archduke Franz Ferdinand outside of his residence at the Belvedere Palace that led to The Great War and the death of millions of young men.

Klimt died of Spanish influenza in 1918 at the age of fifty-five, a few months before Armistice Day, which reduced the Habsburg Empire from 60 million to a tenth of that population, and squeezed into a debt-ridden new state.

Until Adele’s death from meningitis in her early 40s, she lived a prominent cultural life populated by intellectuals, Viennese composers and artists. In 1923, Adele wrote in a short will: “I ask my husband after his death, to leave my two portraits and the four landscapes by Gustav Klimt to the Austrian Gallery in Vienna” (O’Connor). In another strange parallel, in that same year Hitler wrote *Mein Kampf* (My Struggle), “the bestseller he wrote from prison after his failed uprising in 1923” (O’Connor).

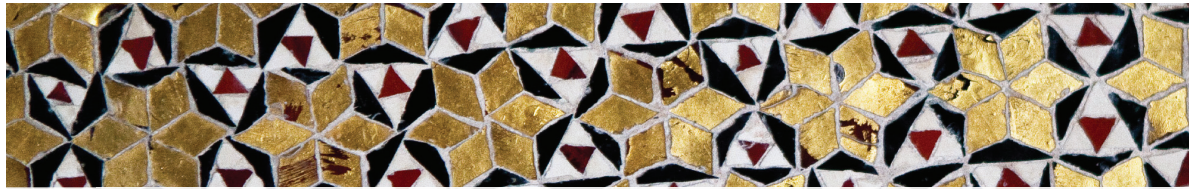
Within 15 years, when Ferdinand Bloch-Bauer fled Austria to his summer home in Czechoslovakia prior to the unification of Germany and Austria, the Vienna Adele knew had become unrecognizable. Members of her extended family were arrested, jailed and tortured until valuable assets were

signed over to the Nazi government. Relatives paid a “flight tax” to escape to Canada ahead of deportation to concentration camps. Ferdinand Bloch-Bauer was accused of financial crimes, his assets were “illegally taxed in Vienna and his entire estate was confiscated,” as he would write in his will in 1942. Ferdinand died in November of 1945 in Zurich. He was unable to recover any of his property. His estate was left to three of his nieces and nephews, including 25% to Maria Altmann, who would lead the family’s fight for the legal return of the stolen Klimt paintings.

After the war, as some say, many Nazis exchanged their uniforms for suits and went to work to rebuilding Austria. New legislation discouraged Jews from returning to reclaim stolen property. Export licenses for “masterpieces” were withheld, Jewish owners had to pay to get what was left of their businesses. O’Connor describes how Nazis in plainclothes entered Maria Altmann’s home, took her valuables, and imprisoned her husband at the infamous concentration camp, Dachau, until the family completed the paperwork required to “Aryanize” their property and businesses.

Maria, her husband Fritz, and other family members escaped the Nazis and rebuilt their lives, frustrated that the Bloch-Bauer Klimt paintings were hanging at Belvedere Palace with no mention of their Jewish patronage. Then the District Attorney of New York City impounded a painting borrowed for an exhibit at the Metropolitan Museum of Art from an Austrian Art Institution (see review of the film *Portrait of Wally* in this issue). Maria Altmann, by then a widow in her 80s and living in Los Angeles, contacted “Randy,” the lawyer son of a family friend.

Randal Schoenberg spent years beating the odds with legal arguments, working his way into arbitration with the Austrian government which eventually agreed to return the paintings to the family. O’Connor explains why Schoenberg was successful, how Maria Altmann helped the case, and why the family ended up selling the paintings. It’s a story that will hopefully encourage more Jewish families to pursue their own claims for looted art.



Postgraduate Certificate Program Art Crime and Cultural Heritage Protection

The Association for Research into Crimes against Art (ARCA) warmly invites applications to its Postgraduate Certificate program in the Study of Art Crime and Cultural Heritage Protection. Featured in *The New York Times*, this is the first and only program of its kind in the world. The program provides in-depth instruction in a variety of theoretical and practical elements of art and heritage crime, taught by world-renowned experts and professionals in the beautiful setting of Amelia, in Umbria, Italy.

Topics include:

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The equivalent of a year-long postgraduate program concentrated into the summer months, this interdisciplinary program has much to offer a number of relevant fields, including art police, security professionals, lawyers, insurers, curators, conservators, members of the art trade, and post-graduate students eager for a grounding in the field before they pursue advanced degrees in criminology, law, sociology, art history, archaeology, or history.

2013 Program Dates: May 31-Aug 11, final dissertation due November 15

Location: Amelia, Italy

Language: English

For more information and to apply please contact
education@artcrimeresearch.org



*Joshua Knelman is a young Canadian journalist whose first book, **Hot Art**, is about investigating stolen art. In it he profiles Don Hrycyk and follows the story of several heists and their subsequent investigations. Along the way he speaks with a number of ARCA staff and colleagues. We chatted with Joshua about his research and how he came to write this book.*

1. *Which art theft cases do you discuss in your book and how did you choose those cases in particular? With over 50,000 reported art thefts per year worldwide, and with the Carabinieri database packed with over 3 million stolen artworks, it must have been tough to choose where to focus.*

I chose to focus on cases related to me by a wide range of sources, and followed the threads, hoping to identify criminal patterns. I was less interested in following one art theft case than in figuring out how art theft as a phenomenon works. So it wasn't a matter of one particular case. The book showcases a wide variety of art thefts ranging from blockbuster art heists, to art gallery smash and grabs, to the almost invisible plague of thefts from private residences. It was this last category which seemed to be less covered, but pervasive. When I began the book, I have to admit, I was hoping for a *Thomas Crown Affair* story I could follow, but the reality turned out to be far more complex, and, to my mind, more interesting.

2. *How did you first become interested in the subject of art theft, which prompted you to write what would be an award-winning investigative article?*

I began writing and researching what I thought would be a short article about a local burglary at an art gallery in Toronto. When I started asking questions, I found there was very little information about what happened to stolen art. Then I met Bonnie Czegledi, a lawyer and artist, who broadened my perspective on the subject and took the time to educate me on a number of issues. My first meeting with her happened to coincide with the looting of the National Museum of Iraq. Art theft, it turned out, wasn't just about paintings being stolen from art galleries. It seemed to involve an international arena, as well as a number of different players—thieves, middlemen, and the legitimate industry itself, which is unregulated.

3. *How did you choose which protagonists to focus on (Don Hrycyk, Czegledi, Turbo). Was it about who would give*

you the access and interviews, the personalities, or about the cases in which they were involved?

All of the above. I met the principal sources at different points in my research. Bonnie Czegledi, as I mentioned, I met in 2003. Through her, I contacted a number of different organizations and individuals: contacts at the FBI and the Art Loss Register, and other cultural property lawyers. As it turned out, there were only a small group of detectives and agents in the U.S., Canada, and the U.K. who specialized in art theft investigations, so I began to email and phone them. Some of them phoned me back! Don Hrycyk, for example, I found through the LAPD Art Theft Detail website. Turbo, as I discuss in the book, I emailed after reading a blog post. Robert Wittman and Richard Ellis were already celebrated art detectives, and a number of people suggested I contact them.

It was during the interview process with Don Hrycyk, of the LAPD, and Turbo Paul, the former art thief in the U.K., that I began to understand each of them had gone through a similar learning curve about the legitimate business of art, in order to do their respective jobs. This was worth exploring, I thought.

4. *You focus, understandably, on North America, with a venture over to England. How did you choose the scope and parameters of your book?*

At a certain point during the research it became clear to me that one could spend a lifetime researching the subject of international art theft. As I learned, and this is my first book, there has to be a point when you stop researching. For me, that point was reached when I realized I was getting answers back from sources—thieves, private interest groups, and detectives—that rang familiar. In terms of scope, I wanted to demonstrate that similar criminal patterns were being identified in both North America and the U.K., and that those patterns had a global reach.

5. *You do a good job of bringing stories to life by reproducing dialogue. This can sometimes be tricky to*

pull off successfully, but it works very well in your book. Is the dialogue mostly reproduced from recordings of interviews, or is some of it dramatized?

Dialogue is taken from conversations or in-person meetings I had with these sources, sometimes over months or even years of interviews. In many cases I went over the dialogue with them, and, of course, some of it has been edited for clarity.

6. *Were there any cases in your research that you would have liked to pursue but which, for whatever reason, led to dead ends?*

Not exactly, mostly because by the end of the book research and writing, I was much more interested in the larger patterns, rather than the specific cases covered. However, I'm always interested to see updates about the looted items from Iraq, as well as, of course, about the stolen artworks that are well known to art theft buffs, such as Vermeer's *The Concert*. These are grand international mysteries.

7. *There are relatively few books on art crime, compared to other important subjects, and most of them are journalistic retellings of cases and investigations, rather than academic works. Why do you think that is, and was this troublesome for your research?*

I notice, thankfully, that there are more and more books about art crime, and this can only be a good thing. I think there are relatively few academic books on the subject for a couple of reasons. Art crime, as an academic endeavor, straddles several disciplines, demanding research into the art world, the law enforcement world, and the criminal world. This is a tall order for anyone. As well, art crime, compared to other crimes, simply isn't given the importance that it deserves as an area of crime to study. Was this troublesome in my research? The short answer is yes. The long answer is documented in the book. It took several years to find, interview, and then to try to understand what those interviews added up to in terms of the big picture of art theft. I, personally, feel as if I've just scratched the edge of the surface. I hope to see more and more books focused on this subject in the future, and my sense is that there will be.

8. *Do you imagine writing about art theft in the future, or is your next project on a different subject?*

My next project is on a different subject, but I'll never lose interest in art crime. I'm hooked for life.

Summary of Papers Presented at the ARCA Conference on the Study of Art Crime and Cultural Heritage Protection¹

June 23-24, 2012
Amelia, Italy

The fourth annual ARCA Conference on the Study of Art Crime and Cultural Heritage Protection was held June 23-24 in Amelia, Umbria, the seat of ARCA's Postgraduate Certificate Program in Art Crime and Cultural Heritage Protection, a postgraduate program held in Italy every summer that is the first, and only, academic program in the interdisciplinary study of art crime. Among the many important speakers were winners of the annual awards presented by ARCA, including George Abungu, the leading spokesperson for the protection of cultural heritage in Africa; Joris Kila, a co-winner with Karl von Habsburg, who is a specialist in the protection of art and monuments during military operations; and Jason Felch, co-winner with Ralph Frammolino, for his investigative work in the *Los Angeles Times* and his book, *Chasing Aphrodite*, about the Getty art scandals.

For more information, including abstracts and biographies of speakers, or if you wish to contact any of the speakers, please write to Lynda Albertson (lynda.albertson@artcrimeresearch.org).

HRH Ravivaddhana Sisowath, Prince of Cambodia

A surprise addition to the roster of speakers at the conference was His Royal Highness, Ravivaddhana Sisowath, Prince of Cambodia. His Highness wished to speak about the recent seizure from Sotheby's of the Koh Kher statue by US authorities.

His Highness noted that the active looting of Cambodia may be said to have begun in 1923, when Charles de Gaulle's Minister of Culture, Malraux, came to Cambodia and proceeded to take statues from temples. He was arrested, and ultimately released, but this was the first major cultural heritage scandal in Cambodia.

The Cambodian statue that was for sale at Sotheby's

was missing its feet. Its feet are still in Cambodia, the statue having been looted by cutting it off at the ankles. The Prince showed the Sotheby's exhibition catalogue, featuring the footless statue, which is valued around \$2-3 million, as well as photographs of the feet from Cambodia. This statue was seized by US authorities in April of this year, prior to its sale.

Cambodia is also claiming the "Kneeling Attendants" statues on display at the Met in New York, which were looted from the 10th century temple of Koh Kher.

Fabio Isman

Isman, Italy's leading investigative journalist on the black market in antiquities, spoke of the continued problem of looted Italian antiquities, and the extent of the problem as a whole, which is far greater than most realize. A Princeton University study estimates that, since 1970 alone, approximately 1.5 million items were looted from Italy. What is still out there is staggering.

The Kimbell Museum in Texas in 2000 bought 5th century kylix painted by Douris, for \$1.8 million. This was looted in the 1960s and later owned by Alec Borovsky, a client of Gianfranco Becchina and friend of Giacomo Medici, whose name appears in the diagram made by a tomb raider, outlining the looter-smuggler-seller network that included Medici, Becchina, and Hecht. This piece also appears in the notes of Hecht that were confiscated by the police. The then-head of the Kimbell, Timothy Potts, under whose guidance the museum acquired the looted kylix, is to become the new head of the Getty. Isman dryly noted that Dr. Potts was surely hired because of his acquisition successes.

Isman went on to note that James Cuno, former director of the Art Institute of Chicago, is the new president of the Getty. Under his stewardship, the Art Institute acquired a black figure Etruscan vase that is on the "black list" of objects without any provenance prior to 1970, bought from the Lebanese Aboutaam brothers in November 2009. The vase was owned by a Japanese museum in Okayama, acquired by the Aboutaam brothers in 2008, and the original Japanese buyers were named in the invoices seized when Gianfranco Becchina was arrested. Therefore the Getty, with its long history of suspect acquisitions, has just appointed two new

¹ Please note that this summary was prepared based on the spoken presentations of the conference speakers. For confirmation or elaboration on any of the talks, one should contact the speaker. The length of the author's notes on each talk is not reflective of the quality of the presentation, but longer notes generally seek to encapsulate the new material presented by the speaker. These notes do not represent the author's opinion, but rather an attempt to note down objectively the general content of each talk.

leaders who both supervised the acquisition of looted art at their past museums.

In January 2012, Princeton and the Met returned 210 objects to Italy that had been looted. That same month the renowned orthopedist and coin collector, Arnold Peter Weiss, was arrested at the Waldorf-Astoria in New York City, about to sell a decadramma coin for \$2.5 million, along with other rare coins. The decadramma is so rare that only 12 are known to exist—this was either a forgery, or a thirteenth that was surely looted. Weiss' trial began on 5 July 2012. Weiss' knowledge of looting was made clear when he stated, in a secretly recorded conversation, that he knew that this coin had been illegally excavated in Sicily in 2009, and that he had bought it in 2010.

On 8 June 2012, Christie's auctioned a pair of vases that clearly appear in Polaroids seized from Giacomo Medici, who had volumes of Polaroids of objects looted by tomb raiders and sold to him—he used the Polaroids to “shop” the works and to keep a record of them for his files. Despite Italy requesting that the vases be withdrawn, Christie's refused, noting that the Polaroids are non-scientific evidence and are not strictly conclusive. However in 2010, Bonhams withdrew a statue from its sale for the very reason that Italian authorities demonstrated that the statue appears in a Medici Polaroid. Bonhams adhered to a moral precedent, and Christie's did not.

Also this year, US Customs seized a sculpted stone Janus head that had sold in 2009, without any provenance, in the United States, and which is listed in the Becchina files. The Toledo Museum of Art in Ohio returned a vase, a hydria from Vulci, that had been bought from Becchina in 1982. All of the documentary evidence was available and the case was clear, but it still took Italy more than a decade to recover the vase.

Paolo Giorgio Ferri, who also spoke at the conference and who won an award from ARCA in 2011, has been the most prominent attorney working on behalf of Italy in these repatriation cases. To give a sense of the scale of looted archaeological heritage from Italy, Ferri discovered a Swiss warehouse that contained around 15,000 objects, all of them looted from Italy, many of which were being held by the Horiuchi Museum.

The Getty has returned 60 objects to Italy, but a secret internal memo, discovered by Jason Felch of the *Los Angeles Times* (who was present at the conference to receive an award for his book, *Chasing Aphrodite*), made it clear that the Getty was aware of the illicit origins of many of the archaeological objects in its collection, and that around 350 looted objects were known to be in the collection.

The current exhibit at the Getty on treasures from Morgantina, in Sicily, contains, according to Isman,

numerous looted objects, including two acrolits acquired from Morris Tempelman, the former partner of Jacqueline Kennedy Onassis, who is known to have purchased numerous works that were found to have been looted. Isman noted that Tempelman gave these acrolits as a gift to University of Virginia in exchange for significant tax breaks, with the understanding that UVA would return these objects to Italy after four years. They were not returned, and now appear in this Getty exhibit.

Thousands of objects owned by the British dealer who has long been thought to have traded in looted antiquities (he is the third-most frequently cited dealer in looted Italian art, behind Medici and Becchina) came from Italy, all of them illegally. But the United Kingdom has stated that Italy should buy back these looted antiquities, rather than receive them. The rationale for this, Isman notes, is that Symes owes vast sums of money to the British government in unpaid taxes, and the UK wants to reclaim some of that money by obliging Italy to buy back art looted from its shores.

The 120 signatory countries who agreed to the 1970 UNESCO Convention that tried to make universal and enforceable rules about the protection of cultural heritage have not consistently enforced these expectations, and the nations in question have not sufficiently pressured their museums to cooperate and return objects whose illicit origin is clear. The high-profile successes, such as the return of the Morgantina Venus and Euphronios Krater are the exceptions, not the rule.

Auction houses, Isman argues, continue to sell objects that were clearly and demonstrably looted, even in the face of photographic evidence. Numerous objects from Medici Polaroids and noted in Becchina invoices are in museums that refuse to return them, and auction houses continue to sell them, despite the precedent set by some museums and auction houses.

Holly Flora

Dr Flora discussed display techniques at museums, and how the loss of “masterpieces” that were once the focal point of attention for exhibits has altered the way exhibits are curated. She distinguished between the context/chronology/archaeology thematic display and a “masterpiece” approach, focusing on key splashy pieces to draw in viewers, and building exhibits around them. The loss of objects to repatriation has led to changes in exhibition strategy. Temporary loan objects replace repatriated objects, because negotiations usually include long-term loans of “objects of equal importance.” The Getty has changed their galleries to increase quantity, and shift focus to themes, to mask the loss of their star masterpiece. Holes in gallery spaces are not acknowledged, only in press releases would you know that objects had been returned.

Museums that return objects would do well to be more open about past mistakes, rather than trying to sweep them under the rug.

Krycia Spirydowicz

Dr Spirydowicz summarized the history of the Monuments, Fine Arts, and Archives officers in World War Two.

Laurie Rush

The Writer in Residence on the ARCA Program for 2012, Dr Rush is an archaeologist with the US Army who is charged with training US soldiers and officers about the importance of respecting and protecting local cultural heritage and traditions in combat zones. Conflict offers opportunity for theft, but also and far more frequent the inadvertent damage of cultural property. Rush noted the Italian antiques market magazine *Antiquariato*, in 2011, wrote that this was the best time to collect Egyptian antiquities, referring to the social turmoil in Egypt, which would surely turn up more antiques smuggled out of the country.

Dr Rush, a specialist in Native American archaeology, teaches the consequences of failing to protect art in human life terms, to get the point across to soldiers. She emphasized that the MFA&A worked well during World War Two because it was an academic/military partnership. She looks to the UK defense estates (properties in the UK used for military training) as a model example, how they identify and protect monuments in their training zones and teach soldiers of the value of heritage. She is preparing the US Field Commander's Guide to Cultural Heritage Protection, and is an advocate of paying local families in conflict zones like Afghanistan, who have lost their livelihood, to protect and supervise local cultural heritage sites—they are empowered, paid a small amount that is large to them, and are best situated to respectfully function as long-term protector of a site.

Bill Wei

Dr Wei, of the Netherlands Institute of Cultural Heritage, is an engineer and conservator who spoke of a new system for “fingerprinting” artworks that he has helped to develop (see his article in this issue of the Journal). The system is called FINGArTPRINT, and is a non-contact method for the three-dimensional identification of unique art objects.

The system begins with a small section (as small as 3.5mm square) of an object, selected by the owner so that only the owner and the scientist know the precise location. This area is photographed digitally using a roughness measurement called tribology, which measures the rough/smooth texture of a surface down to one-one-thousandth of a millimeter (one

micron). Roughness is used, rather than color, because color is more likely to change over time. This system effectively bounces digital beams off the surface and produces a spiky graph of the roughness and smoothness of the surface. It is sensitive enough to detect textures even in glazed porcelain (where invisible-to-the-eye micro-bubbles form during the firing process, and these can be detected). This data can be transformed into a color map (red indicating a high area, blue indicating low, flat and smooth), which can be extrapolated into a three-dimensional color map of the section of the artwork. Dr Wei has found that this color section is unique to objects in a wide variety of media, and therefore functions like a unique “fingerprint” of the object that is, to today's technology, unforgeable.

This technology could be used to identify unique objects linked to owners. For example, the Biblioteca Nacional of Spain in Madrid had maps stolen from them. One showed up on eBay and was purchased by an Australian dealer. The dealer quickly realized that he had purchased a stolen object and turned it over to the police. But despite the fact that the Biblioteca Nacional had a record of the map, it had no record of unique identifying details that distinguished this rare printed map from the dozen or so others in the world that looked essentially identical. It took great effort on their part to prove that this map in Australia was the map stolen from them. This system would allow identification beyond a shadow of a doubt.

The technology is also easy to use and relatively affordable. A camera on a moveable arm has effectively only one button to press, meaning that non-scientists can operate it and take the digital “fingerprint” image, which records craquelure, bubbles, textures of supports, and far more. This new technology has been used by the Amsterdam police to uniquely identify bullets, and it has been tested with a wide variety of objects, including brand new Euro coins stamped in the same batch, which in theory should have identical textures. For printed art like maps, the texture of ink as it absorbed into paper makes it identifiable uniquely through this system. The system is weakest when it comes to paper and textiles, but has proven excellent with sculpture, jewelry, paintings, goldwork, porcelain, and far more.

Dr Wei said that this technology requires external investment to develop, and it sounds like a certain success for an art-world entrepreneur. Dr Wei's goal is to make the technology available widely, and it is easy to see how its implementation would foil forgers and allow objects to be ID-d, curbing traffic and aiding the recovery of stolen art. In order for this technology to produce a sea-change in the industry, however, a group like UNESCO would have to require its use in all new objects, particularly antiquities, entering the market. For now that seems like an impossibility, but the technology

remains exciting, innovative, and a clever way for owners, private and public, to uniquely “fingerprint” their objects, foiling forgeries which cannot reproduce artificially the level of detail visible in this system.

Rebekah Junkermeier

Junkermeier introduced SPI, the Sustainable Preservation Initiative, with which she works. This young NGO promoted the sustaining of archaeological sites in developing countries by empowering the local population to protect and feel pride in their own cultural heritage, while also using the heritage as a source of income. She gave as examples two projects initiated by SPI: one in Incallajta, Bolivia and another in Peru. For an initial investment of \$50, to provide an entrance gate to the Bolivian archaeological site that could be run and monitored by locals, a system was established for tourists to pay a small entrance fee to visit the site. This fee per tourist of \$10 is about 1/10th of the average per capita income of the community, and therefore makes a huge financial difference, and helps the community recognize the value, financial and cultural, of preserving their community’s landmarks.

Marc Balcells-Magrans

A graduate of the ARCA Certificate Program, Balcells (a PhD student at John Jay College of Criminal Justice) gave a paper on the application of cultural criminology theories, which assess the power of culture in justifications for criminal actions, as applied to military looting of art. He used three famous case studies: Roman art looting, which was permissible during conflicts but not in times of peace; Napoleonic looting, which rationalized taking art from those who were “unfit to appreciate it” and moving it to the home of those who could (Paris); and Nazi looting. The latter two rationalized their looting schemes by the fact that Rome looted art.

Award Winners

ARCA’s annual awards are voted on by its trustees. Winners are honored in the categories of Art Policing and Recovery, Art Protection and Security, Art Crime Scholarship, and Lifetime Achievement in Defense of Art. The Policing and Security Award went to Ernst Schöller of the German Art Unit of the police. The award for Art Protection and Security went jointly to Joris Kila and Karl von Habsburg, for their long-term service to protecting cultural heritage in conflict zones and teaching the military how to protect art and monuments, from Libya to Egypt and beyond.

Joris Kila

Dr Kila, who accepted the award on behalf of both winners, discussed his adventures investigating accusations of looting

in Libya, and found no such evidence, aside from the now-renowned Ben Ghazzi coin heist, in which thieves elaborately drilled through a thick cement bank vault floor during bombings. Dr Kila also emphasized the tremendous success of precision bombing during the Libya conflict: Ghaddafi had situated key military targets on or next to archaeological sites, to dissuade bombings. And yet the precision bombing was so successful that no archaeological items were damaged, and yet the targets were destroyed, even when they were situated beside the archaeological site. Dr Kila showed photographs of destroyed military transports and radar machinery that stood within meters of a Roman ruin, and yet the ruin was entirely unharmed.

Jason Felch

The Eleanor and Anthony Vallombroso Award for Art Crime Scholarship went jointly to Jason Felch and Ralph Frammolino, for their Pulitzer Prize-finalist work on the *Los Angeles Times* covering the Getty Museum scandal, and their subsequent book, *Chasing Aphrodite*.

Felch accepted the award on behalf of both parties. He discussed his immersion in the world of illicit antiquities and major museums, and how he slowly uncovered a vast cache of tens of thousands of documents and images of looted art, many of the documents explicitly proving that insiders at the Getty had knowingly purchased looted antiquities over many years, and were making secret plans to cover up their actions. While the Getty has returned 60 objects looted from Italy, a secret Getty memo uncovered by Felch and Frammolino noted around 350 total looted objects that Getty officials were concerned could be targeted by Italy because they were looted. Felch also described his WikiLoot project, a new endeavor in its infant stages which Felch envisions as a crowd-sourcing online platform to publish documents and photographs related to the illicit trade in antiquities. He intends to publically publish these tens of thousands of documents and photos in the future. The ARCA Conference, and Jason’s activities, were covered recently in *The Guardian*.

George Abungu

The final award of the day was for Lifetime Achievement in Defense of Art, and when to George H. O. Abungu. Dr. Abungu, a native of Kenya, has served on multiple chairs and committees related to protection world and African cultural heritage. He was Director-General of the National Museums of Kenya, and is now Vice-President of ICOM, serves on the UNESCO World Heritage Committee, among his many distinguished titles and activities.

Dr Abungu discussed the protection and preservation of rock art throughout Africa. Rock carvings and paintings

dating to thousands of years BC are found throughout Africa, from South Africa to Morocco—and yet they are largely at exposed, though remote, sites and are therefore at risk of the elements, looting, and occasional vandalism.

The conference included a gala dinner at a local restaurant which culminated in many distinguished speakers dancing into the night.

Leila Amineddoleh

Leila, an ARCA Certificate Program graduate and young lawyer, discussed the issue of an Egyptian Ka-Nefer-Nefer mask, now owned by the Saint Louis Museum of Art (SLAM), and the subject of art world unrest because of its probable looted origins. It was bought from the infamous Aboutaam brothers who run the still-operation gallery chain Phoenix Ancient Art, despite one brother having been sentenced to fifteen years in prison (in absentia) in Egypt for having been found guilty of traffic in looted antiquities, along with numerous other scandals linked to the gallery and these brothers, who were known associates of the most famous illicit antiquities dealers, Gianfranco Becchina and Giacomo Medici. SLAM brought a motion to quiet title on the mask, which was an attempt to legally secure their ownership of the object in anticipation of possible legal action to recover it.

Cinnamon Stephens

Cinnamon, a participant in the ARCA Certificate Program, discussed the new regimes present in many Arab countries after the so-called Arab Spring, as an opportunity to revisit existing laws regarding cultural property that often sound promising but have not been as effective as they might be. She focused on Tunisia as a case study.

Meg Lambert

Meg, a post-graduate student at University of Glasgow, gave a paper summarizing the Belitung shipwreck controversy, in which the Smithsonian was involved. The Belitung shipwreck was legally excavated by a commercial salvage company at the request of the Indonesian government, which did not have the capability of excavating the 9th century Arab shipwreck themselves. The wreck is important because it demonstrates that the Silk Road trade route was not only undertaken by land, but also by sea, with valuable Changsha ware Chinese ceramics preserved on board, around 60,000 of them. The issue that has divided the art world is whether it is ethical and beneficial to archaeology in the long run to set a precedent for commercial salvage firms to excavate, and profit from, excavated antiquities, even when the excavation is entirely legal. The Smithsonian planned a major exhibition of salvaged treasures, but enough fuss was made that it delayed

the opening of the exhibit indefinitely.

Aaron Haines

Aaron, a post-graduate student at Brigham Young University, spoke about Turkey's new and aggressive approach to repatriation of cultural heritage, with a focus on the Hattusa Sphinx, recently returned from the Pergamon Museum in Berlin (an editorial by him on this topic appears in this issue of the Journal). Turkey has refused further loans to many major museums (including the Met, British Museum, V&A Museum, Louvre, Getty, Cleveland, Dumbarton Oaks, and Bowling Green), all of which, claims Turkey, possess looted Turkish artifacts and have refused to return them to Turkey. To press this issue, Turkey threatened to revoke a license for German archaeologists to excavate, if the Pergamon Museum did not return the Hattusa Sphinx. Germany capitulated, but in doing so argued that this was a unique case that should not set a precedent, while Ertgrul Gunay of Turkey argued just the opposite, that the return of the sphinx was a sign of things to come. Gunay also stated that he hoped to build "the largest museum in the world" in Ankara and fill it with repatriated objects of Turkish culture from around the world.

Thierry Lenain

Lenain, a professor of art theory at the Free University of Brussels and author of *Art Forgery: the History of a Modern Obsession*, spoke about "forgery tales," the narrative construct around stories of art forgers that can be broken down and analyzed in terms of literary theory, and which can be revealing in terms of how forgers see themselves, and how the general public sees forgers. (Articles by Dr. Lenain appeared in the Spring 2012 issue of the Journal, and will appear in the Spring 2013 edition).

Frans Koenraadt

Dr. Koenraadt, a Dutch forensic psychologist, discussed mental illness and art crime, using two case studies: the psychiatric evaluations of Dutch forger Han van Meegeren, and the evaluations of the notorious art vandal, Hans Joachim B., who attacked and damaged more than 50 artworks, often with corrosive substances like acid, causing around 130 million Euros in damages over his lifetime.

Saskia Hufnagel and Duncan Chappell

Hufnagel and Chappell, distinguished Australian criminologists who have spoken at the ARCA conference before, discussed the Beltracchi forgery case. They noted that Beltracchi's six-year jail sentence is not much of a disincentive, as Germany functions on an "open jail" system, in which prisoners with a full-time job can attend the job, and return to jail only at

night and during weekends. The sentence is particularly mild when one considers the extent of the estimated damage done by Beltracchi and his gang's forgeries: 16 million Euros, over a fifteen-year span, but that covers only the cases for which Beltracchi was indicted. There are 33 more cases still being investigated by the police, who estimate that perhaps 100 cases are still out there, while Beltracchi recently boasted to *Der Spiegel* that he created between 200-300 forgeries during his career (at which point his wife, being interviewed alongside him, told him to stop talking). They discussed Werner Spies, Beltracchi's accomplice who was guilty of willful misattribution, providing certificates of authenticity for Beltracchi forgeries. The issue of forgeries was further emphasized by Sotheby's recent decision to cancel their annual Greek art sale because so many forgeries had entered the market, and Sotheby's could not afford to accidentally sell one as an original—they are already being sued by a shipping tycoon who bought from them a Greek painting that turned out to be a forgery. (An article by Hufnagel and Chappell appeared in the Spring 2012 issue of the Journal).

factors, including the non-cooperation of the UK, the end of the statute of limitations for the main case Italy had built against Symes (the crime took place in 1982 but the evidence was only complete in 2004), and the fact that Symes had cooperated with Italian authorities in the recovery of some looted antiquities taken by other dealers, including an ivory mask that was recovered thanks to Symes, and for information about the Fleischman collection laundering operation.

Kathryn McDonnell

American archaeologist McDonnell spoke of the alarming new trend of antiquities and fragments of antique monuments and buildings showing up for sale as decorative architectural elements, bought for their aesthetic blending into the vision of interior decorators. Some galleries now sell architectural elements (fireplaces, sides of sarcophagi) to interior design firms, which integrate them among "antiqued" modern creations for the wealthy, who want their mansions to look like those of the European aristocracy. McDonnell has found scores of examples of this, including Roman lead sarcophagi labeled as "scrap metal," and other antiquities that bore signs of having been looted, such as modern pickaxe holes and crevices that still contained desert sand, despite assurances from gallerists that the works had been in collections for decades.

Paolo Giorgio Ferri

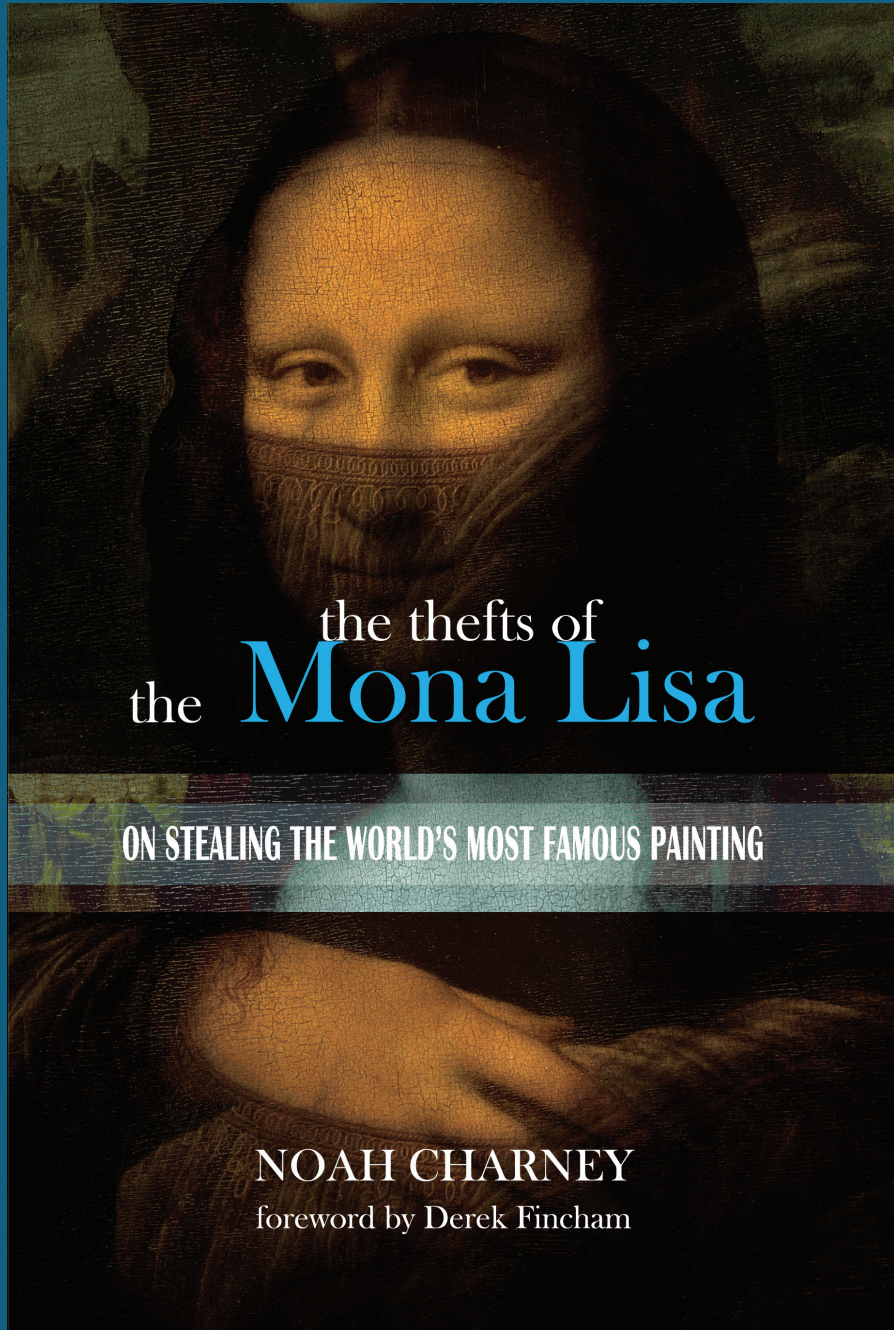
The renowned Italian prosecutor, winner of an ARCA award in 2011, returned to give a keynote speech, discussing his discovery of a forged Euphronios kylix that had been mixed in with authentic looted antiquities and passed off by tomb raiders as original, demonstrating the alarming link between forgeries and the illicit antiquities trade. While artist foundations preserve the legacy of modern painters, there are no organizations charged with preserving the legacy of the ancients. Dr Ferri discussed the importance of enforcing the well-meaning, but not always effective customs laws put in place by UNESCO and the Palermo Convention. He also was asked why the infamous art dealer Robin Symes has not been indicted by Italy. He responded that there were many

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ARCA Award Winners

2012 ARCA Awards

ARCA (the Association for Research into Crimes against Art) is pleased to announce the winners of its annual awards for the year 2012.

ARCA presents four annual awards. Nominations were made by ARCA staff, trustees, and members of the editorial board of this journal. The winners were decided by a vote of the trustees, and were presented at ARCA's annual conference, held in Amelia, Italy on June 23 and 24 of this year.

The 2012 ARCA awards went to the following outstanding contributors to the field of art crime studies and the protection and recovery of cultural heritage.

ARCA Award for Art Policing and Recovery

Past winners: Vernon Rapley (2009), Charlie Hill (2010), Paolo Giorgio Ferri (2011)

Shortlisted nominees: Don Hrycyk, Alain Lacoursiere, Sharon Cohen Levin, Maurizio Seracini, Christos Tsirogiannis

2012 winner: **Ernst Schöller**

Schöller is a long-standing member of the Stuttgart police and the German Art Unit of the police. He is also a scholar, teaching university courses on the investigation of forgery cases. He has been involved in the successful investigation and prosecution of numerous prominent art crime cases, with his particular expertise and experience in the investigation of art forgers. His successes include the arrest of Konrad Kujau (the forger of the "Hitler Diaries") for art forgery, and the cases against Geert Jan Jansen, Alexej Jawlensky, and Leon Amiel.

Schöller was awarded for his long-term success as an investigator in Germany, and as a scholar and specialist in art forgery.

ARCA Award for Art Protection and Security

Past winners: Francesco Rutelli (2009), Dick Drent (2010), Lord Colin Renfrew (2011)

Shortlisted nominees: Matthew Bogdanos, Laurie Rush

2012 joint winners: **Karl von Habsburg and Joris Kila**

Karl von Habsburg is president of the Association of National Committees of the Blue Shield and, jointly with Dr. Joris Kila, he runs the International Military Cultural Resources Work Group.

Habsburg is a former member of the European Parliament for Austria, and has specialized in International Humanitarian Law and Intangible Cultural Heritage Protection. A former air force pilot, he still serves in the reserve of the Austrian armed forces as a key Cultural Property Protection Officer. He is vice president of the Austrian Society for the Protection of Cultural Heritage and a founder of Blue Shield Austria. In addition to being a frequent lecturer, he is an author of several

publications on the subjects of Intangible Cultural Heritage Protection and Military Cultural Property Protection and has carried out multiple documentation missions in conflict zones.

Kila is chairman of the International Military Cultural Resources Work Group. He is a researcher at the Institute of Culture and History of the University of Amsterdam, and a board member for civil-military relations with the World Association for the Protection of Tangible and Intangible Cultural Heritage in Times of Armed Conflict (WATCH), based in Rome. Additionally, he was formerly a community fellow of the Cultural Policy Center, is a member of the US Central Command Historical/Cultural Action Group and is Chair of the International Cultural Resources Working Group. Until recently he served as network manager and acting chairman of the cultural affairs department at the Civil-Military Co-operation (CIMIC) Group North in the Netherlands. In that capacity he undertook several cultural rescue missions in Iraq and FYROM (Macedonia).

Habsburg and Kila were jointly awarded for their long-term service to the protection of cultural heritage in conflict zones.

Eleanor and Anthony Vallombroso Award for Art Crime Scholarship

Past winners: Norman Palmer (2009), Larry Rothfield (2010), Neil Brodie (2011)
Shortlisted nominees: Fabio Isman, Sandy Nairne

2012 joint winners: **Jason Felch and Ralph Frammolino**

Mr. Felch and Mr. Frammolino are award-winning investigative journalists with the *Los Angeles Times* newspaper, and co-authors of a book based on their columns, entitled *Chasing Aphrodite: The Hunt for Looted Antiquities at the World's Richest Museum* (2011).

Jason Felch is an award winning investigative reporter with the *Los Angeles Times*. In 2006 he was a finalist for the Pulitzer Prize in Investigative Reporting for exposing the role of the J. Paul Getty Museum and other American museums in the black market for looted antiquities. His work has also been honored by the National Journalism Awards, Investigative Reporters and Editors, the National Association of Science Writers, and others. Prior to joining the *LA Times* in 2004, Jason was a fellow at the Center for Investigative Reporting and a freelance writer on topics such as money laundering, arms trafficking and drilling for natural gas in the Peruvian rainforest.

Ralph Frammolino is a veteran journalist who worked at American newspapers for 30 years. He spent 25 of those at the *Los Angeles Times*, where he covered a variety of beats but mostly concentrated in investigative projects for the Metro staff. His work has been honored by the Associated Press of Texas, Dartmouth University Business School and the Los Angeles Press Club. He was part of the staff effort that won a Pulitzer Prize in 1994 for the coverage of the Northridge Earthquake, and was a co-finalist for a Pulitzer in 2006 for his coverage of the J. Paul Getty Museum antiquities scandal. Since leaving the *LA Times* in 2008, Mr. Frammolino has been working in South Asia as a teacher, journalism trainer and media development consultant with USAID, the World Bank and other foreign aid donors. He continues to freelance and his stories have appeared in *The New York Times*, *New York Post*, *LA Times*, *Columbia Journalism Review* and, most recently, *Smithsonian Magazine*.

Felch and Frammolino were jointly awarded for their outstanding research and scholarship that informed both their investigative articles for the *Los Angeles Times* and their book, *Chasing Aphrodite*.

ARCA Award for Lifetime Achievement in Defense of Art

Past winners: Carabinieri TPC (2009), Howard Spiegler (2010), John Merryman (2011)
Shortlisted nominees: Matthew Bogdanos, Mark Dalrymple, Maurizio Seracini, Sandy Nairne

2012 winner: **George H. O. Abungu**

Dr. Abungu, a native of Kenya, has served as Chairman of the International Standing Committee on the Traffic of Illicit Antiquities since 1999, and as Director-General of the National Museums of Kenya from 1999-2002. Among his many projects, he was involved in the return to Kenya of looted Vigango (grave markers).

Dr. Abungu has over 60 publications in the disciplines of archaeology, heritage management, and museology, culture and development and has championed the role of the arts and its respect and protection in many of his publications, public forums and in his works as a museum professional, scholar and administrator

He has been an advisor to the Aluka project of the Mellon Foundation, the Global Heritage Fund, and is Vice President of the International Council of Museums (ICOM), a Member of the International Jury of the UNESCO Melina Mecouri International Prize for Safeguard and Management of Cultural Landscapes, and Board member for TARA, the Trust for African Rock Art, among others. He has sat on the World Monuments Watch panel and was Kenya's Representative to the UNESCO World Heritage Committee, and Vice-President of its Bureau (2004-2009).

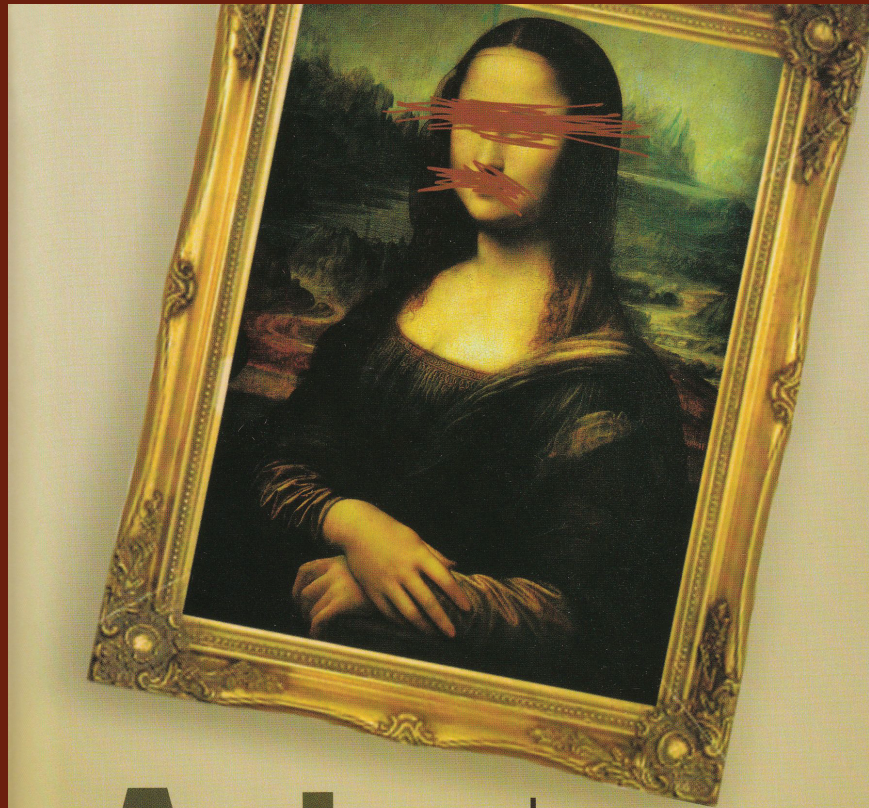
He was awarded for his long-term efforts to secure the cultural heritage of Kenya and other African nations.

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Edited by Noah Charney

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Contributor Biographies

Mario Buhagiar is a professor and head of the History of Art Department at the University of Malta.

Noah Charney is the Founder of ARCA and the Editor-in-Chief of *The Journal of Art Crime*. Recently a Visiting Lecturer at Yale University, he is currently Adjunct Professor of Art History at the American University of Rome. He is the editor of ARCA's first book, *Art & Crime: Exploring the Dark Side of the Art World* (Praeger 2009).

Urška Charney is the head of design for ARCA.

John Daab was formerly a NYCTP Police Officer, and an NYU Professor. John holds the following designations: Certified Fraud Examiner, Certified Forensic Consultant, Certified Criminal Investigator, Certified Instructor, Diplomate American Board of Forensic Examiners, Certified Homeland Security, and Certified Intelligence Analyst. He holds the degrees of Ph.D. MA, MPS, MA, MBA, and BA. He is a certified member of the ACFEI, ACFE, and ABCHS. John has lectured at the University of Pennsylvania 3rd year law class, Princeton University Art Museum, Grounds for Sculpture and the Princeton Senior Center. He has published over 100 articles and authored, "The Art Fraud Protection Handbook." John has completed studies in Art Appraisal at NYU, and has completed a second book, "Forensic Applications in Detecting Fine, Decorative, and Collectible Art Fakes". In 2011 he received his certification in Appraisal Studies from NYU, and completed the Princeton University Art Museum 2 year docent training program.

Johanna Devlin is a graduate of the ARCA Post-Graduate Certificate Program and King's College London. She has worked at Christie's and has studied in China. She is currently based in Paris.

Asif Efrat is Assistant Professor of Government at the Interdisciplinary Center (IDC) Herzliya, Israel. He received his Ph.D. in government from Harvard University and has taught at Cornell Law School. His book *Governing Guns, Preventing Plunder: International Cooperation against Illicit Trade* has been published by Oxford University Press.

David Gill teaches at University Campus Suffolk, Ipswich, England. He is a former Rome Scholar at the British School

at Rome and was a member of the Department of Antiquities at the Fitzwilliam Museum, University of Cambridge. He has published widely on archaeological ethics with Christopher Chippindale. He has recently completed a history of British archaeological work in Greece prior to the First World War.

Aaron Haines is a teaching assistant at Brigham Young University where he is pursuing a B.A. in Art History and Curatorial Studies. He has worked at the Museo Civico in Siena, Italy as well as the Museum of Art at Brigham Young University. He recently completed training with the Provenance Research Training Organization in Magdeburg, Germany and is a Foreign Language Area Studies Scholar.

Penelope Jackson is the Director of the Tauranga Art Gallery Toi Tauranga, New Zealand. She holds an M.Phil (University of Queensland) in Art History and an MA (Hons) in Art History (University of Auckland). The author of *Edward Bullmore: A Surrealist Odyssey* (2008) and *The Brown Years: Nigel Brown* (2009), she has contributed to The Dictionary of New Zealand Biography and journals including *Art New Zealand*, *Art Monthly Australia*, *Studies in Travel Writing* and *Katherine Mansfield Studies*.

Ruth Judson is an economist in the Division of International Finance at the Board of Governors of the Federal Reserve System in Washington, D.C. She holds an A.B. in Russian Civilization from the University of Chicago and a PhD in economics from the Massachusetts Institute of Technology. Her research and policy work is wide-ranging, and has addressed topics in cross-country growth, panel data estimation methods, monetary policy implementation, the monetary aggregates, and the measurement and analysis of U.S. dollar usage outside the United States, and, most recently, cross-border capital flows. Along with Richard Porter, she received a certificate of appreciation in special recognition of efforts and superior contributions for the International Currency Audit Program (ICAP) to the law enforcement responsibilities of the United States Secret Service in 2000. The analysis in this article grew out of work on the ICAP.

John Kerr is a lecturer in criminology at the University of Roehampton, London (Department of Social Science, University of Roehampton, Roehampton Lane, London, SW15 5PU). Until 2012, he was based at City University,

London, and also lectured at London South Bank University.

John Kleberg is a retired Assistant Vice President at The Ohio State University where he was instrumental in organizing the program described as well as having administrative responsibility for security, police, and other business and finance operations. He also has been a law enforcement administrator, trainer, and educator in Ohio and Illinois. His undergraduate degree is from Michigan State University, graduate degree from the University of Illinois, and he has done post-graduate work at The Ohio State University and Kent State University. He is the author of numerous articles on campus safety and security issues and is a consultant on campus security issues, including campus museums, libraries, and galleries.

Joshua Knelman is a journalist, based in Toronto, whose first book, *Hot Art*, was recently published.

Richard Porter is a vice president and senior research advisor, payments in the economic research department of the Federal Reserve Bank of Chicago. Before joining the Bank, Porter served as an economist at the Board of Governors of the Federal Reserve System for over three decades, most recently as a senior adviser in the Division of Monetary Affairs. Prior to that, Porter was an assistant professor of economics at Ohio State University. He was the recipient of a special achievement award from the Board of Governors for his research at the Board in 1982 and a certificate of appreciation in special recognition of efforts and superior contributions for the International Currency Audit Program to the law enforcement responsibilities of the United States Secret Service in 2000. In May 2004, he was privileged to have the Board of Governors sponsor a festschrift-type conference entitled *Models and Monetary Policy: Research in the Tradition of Dale Henderson, Richard Porter and Peter Tinsley*. Porter has had an active research and policy career. His articles have been published in a variety of scholarly journals including the *American Economic Review*, *Annals of Economic and Social Measurement*, *Brookings Papers on Economic Activity*, *Carnegie Rochester Conference on Public Policy*, *Econometrica*, *Economic Letters*, *Economic Modeling*, the *Journal of Economics and Business*, the *Journal of Economic Dynamics and Control*, the *Journal of Monetary Economics*, the *Journal of Money, Credit and Banking* and the *Journal of Payment Strategy and Systems*.

Catherine Scofield Sezgin is editor of the blog for the Association of Research into Crimes against Art and a 2009 graduate of its certificate program in International Art Crime.

Bill Wei is a senior conservation scientist for the Netherlands Institute for Cultural Heritage. He has a B.S.E. in Mechanical Engineering (Princeton University, USA 1977), and a

Ph.D. in Materials Science (University of Illinois, Urbana-Champaign, USA 1983). Dr. Wei was initiator and head of the FINGaRtPRINT project and is coordinator of the ICOM-CC Working Group Legal Issues in Conservation. His research includes the effect of aging and treatments on the appearance and perception of objects of cultural heritage, and the effect of vibrations on their condition.

The Journal of Art Crime

Acknowledgements

Thanks, as always, to the Board Members of ARCA, both its trustees and the Editorial Board of *The Journal of Art Crime*. We wish to thank new ARCA CEO Lynda Albertson for her efforts and leadership in all of ARCA's projects since last September. Thanks also to ARCA's staff, particularly Derek and Joni Fincham, Madi Gandolfo, Monica Di Stefano, Rene du Terroil, and our interns who assisted with fact-checking and copy-editing the journal.

As a non-profit, ARCA could not survive without the generosity of its members and subscribers.

Thanks to all of you who have supported ARCA in its work against art crime.



Noah Charney
Founder and President, ARCA
Editor-in-Chief, *The Journal of Art Crime*

Heritage and Identity

Issues in Cultural Heritage Protection

Edited by Joris D. Kila and James A. Zeidler

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Cultural heritage is continually under threat from human conflict, natural disaster or theft. The books published in this new series will contribute to the global dialogue about (a) the social value of cultural heritage as collective memory and identity, (b) how we can effectively protect cultural property in contexts of human conflict, natural disaster, or theft and looting, (c) ethical and legal consequences for institutions such as museums and universities as well as collectors and dealers when confronted with rare antiquities of unknown or with—in hindsight—politically incorrect provenance, (d) how the past is or was represented in history and the present, depending on geographical and political location and how cultural heritage is or should be protected and conserved for the future. The series will have a multidisciplinary perspective which will include aspects of international law, cultural diplomacy,

the role of military forces, other stakeholders such as NGOs and IOs, exploitation of cultural resources, connections with environmental aspects, discussions on “repatriation” of artefacts, national laws on ownership, illicit traffic of cultural property and the different aspects of intangible cultural property. The series will be very timely not only because of on-going armed conflict in Iraq and Afghanistan, but also due to the recent episodes of civil unrest in the Middle East (e.g. Egypt, Yemen, Libya, etc.) as well as natural disasters (e.g. Haiti, Japan). All of these varied contingencies have put cultural properties at risk and all of them merit careful analysis and scrutiny.

For information on manuscript proposals, please contact acquisitions editor Irene van Rossum at rossum@brill.nl.



BRILL

Heritage Under Siege

Military Implementation of Cultural Property Protection following the 1954 Hague Convention

Joris D. Kila



- February 2012
- ISBN 978 90 04 21568 9
- *Hardback*
- List price EUR 99.- / US\$ 140.-
- Heritage and Identity

Heritage under Siege is the result of international multidisciplinary research on the subject of military implementation of cultural property protection (CPP) in the event of conflict. The book considers the practical feasibility as well as ideal perspectives within the juridical boundaries of the 1954 Hague Convention. The situation of today's cultural property protection is discussed. New case studies further introduce and analyze the subject. The results of field research which made it possible to follow and test processes in conflict areas including training, education, international, interagency, and interdisciplinary cooperation are presented here. This book gives a useful overview of the playing field of CPP and its players, as well as contemporary CPP in the context of military tasks during peace keeping and asymmetric operations. It includes suggestions for future directions including possibilities to balance interests and research outcomes as well as military deliverables. A separate section deals with legal aspects.

Joris D. Kila, PhD (Amsterdam, 2011), is researcher at the University of Amsterdam's Institute for Culture and History, reserve Lt. Colonel in the Netherlands army and holds degrees from Leiden University and the University of Amsterdam. He undertook cultural rescue missions in Iraq, Macedonia, Egypt and Libya, and is affiliated with several heritage organizations. He is Chair of the International Military Cultural Resources Working Group IMCURWG and has written numerous publications on heritage protection.

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**National Library
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FOR IMMEDIATE RELEASE

The Royal Library of Sweden Announces Recovery of Rare 415-Year-Old Atlas Stolen 10 Years Ago

**“Wytfliet Atlas” is the First of More Than 50 Stolen Books Sought by Royal Library in Ongoing
Worldwide Recovery Investigation**

New York - June 27, 2012 - The Royal Library of Sweden announced today that, with the assistance of the United States Government and Herrick, Feinstein, LLP, it has recovered a 415-year-old atlas which had been stolen along with dozens of other rare volumes ten years ago. Created by Cornelius van Wytfliet and known as the “Wytfliet Atlas,” the book had been part of the Royal Library collection for over 300 years prior to its theft. The successful return of the atlas is the result of an ongoing investigation and recovery effort launched by the Royal Library in cooperation with U.S. officials in hopes of locating all of the stolen books. The recovered book was presented by representatives of the Royal Library at a press conference held today at Herrick’s offices.

Gunilla Herdenberg, National Librarian at the Royal Library, stated: “We could not be more pleased to know that this national treasure is finally making its way home.” She also expressed her warm appreciation “to all those who assisted in recovering the Wytfliet Atlas,” describing it as “an irreplaceable piece of the Library’s collection and Sweden’s cultural heritage.” According to the Royal Library’s map librarian, Greger Bergvall, the Wytfliet Atlas is the first printed atlas solely devoted to depicting maps of North and South America. It contains nineteen rare maps, including the first printed map of California.

The theft of the rare books and its aftermath stunned the nation of Sweden at the time it was disclosed. The thief turned out to be the chief of the Royal Library’s Manuscript Department, Anders Burius. After he learned that the Library was going to conduct a special inventory of its collection when suspicions of inside thefts had arisen, he confessed to having stolen over 50 rare books from the Library over the almost ten years of his employment there. He was arrested, but upon his temporary release from custody, he committed suicide by cutting his wrists and severing the gas line to his kitchen stove, which then ignited and caused a major explosion in the center of Stockholm.

In June 2011, after the Wytfliet Atlas had been missing for nearly a decade, the Royal Library discovered that the atlas was being offered for sale at Arader Galleries in New York. The Library promptly contacted Arader, which returned it to Sotheby’s in London, the auction house from which it had purchased the atlas.

Extras

The Royal Library then retained the Art Law Group at New York-based Herrick, Feinstein, which specializes in, among other things, representing governments and individuals seeking to recover cultural property. The Library engaged Herrick to assist in securing the return of the Wytfliet Atlas and launching the search and recovery effort for all the books stolen from the Library by Mr. Burius located in the U.S. The Library and Herrick then contacted Sharon Cohen Levin, the chief of the Asset Forfeiture Unit at the U.S. Attorney's Office for the Southern District of New York for further assistance, and with the Office's support commenced the ongoing investigation.

Sotheby's in London, which had possession of the atlas, returned it to the Library. Representatives of the Library stated, "The Library is pleased that after discussions with Sotheby's it has achieved the return of the Wytfliet Atlas."

Jerker Rydén, Senior Legal Advisor to the Royal Library, explained, "The Library has assembled a team of lawyers in the U.S. and Europe with extensive experience recovering historically significant cultural objects." The Library is receiving advice and assistance from counsel in various countries in its efforts, including RAUE LLP in Germany and Farrer & Co LLP in London.

Steven D. Feldman, a partner at Herrick, emphasized that the "Royal Library of Sweden is actively working to locate and facilitate the return of all the rare volumes stolen by Burius currently located in the United States and elsewhere. We welcome any information concerning the whereabouts of these stolen books," a list of which is available at www.wytflietatlas.com.

For images of several pages from the Wytfliet Atlas, please visit <http://www.wytflietatlas.com>.

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Guidelines for Submissions to *The Journal of Art Crime*

Style Guidelines for **all Submissions**:

- All articles should be double spaced in **10 point Times New Roman** font.
- The spacing under the paragraph settings should be set to **0 point**.
- Skip one line between paragraphs. The first line of new paragraphs should also be indented, whereas the first line of a new section should not be indented.
- Leave only **one space** after periods or other punctuation marks.
- The title page should include the title and the author's name.
- Do not include any hyperlinks.
- Pages should be numbered consecutively in the upper right-hand corner beginning with the title page.
- The title page should be followed by the body of the text, acknowledgments, figures, tables and bibliography, in that order.
- Use italics (instead of underlining) for titles of larger works (books, magazines) and quotation marks for titles of shorter works (poems, articles).
- Footnotes should be indicated in-text by superscript Arabic numbers after the punctuation of the phrase or clause to which the note refers.
- For in-text citations, short and long quotations, section headings (unnumbered) please refer to the **MLA Formatting and Style Guide** (<http://owl.english.purdue.edu/owl/resource/747/01/>).
- Relevant images should be sent in jpg form in a **separate email**. Authors are responsible for securing any necessary permissions for the reproduction of images related to their articles.

Additional Guidelines for **Academic Articles and Essays**:

- Academic articles and essays should be 4000-9000 words in length (including footnotes, excluding bibliography). Average turnover for peer-reviewed essays is eight weeks, two weeks for editorial or review material.
- Each academic essay should be accompanied by a title page that includes (in this order):
 - Title
 - Author's name
 - Abstract (up to 250 words)
 - Five to ten keywords that characterize the content of the article
 - Biographical information, including affiliation and contact information (up to 100 words)
- Please remove all identifying material from the body of the article.
- Editorial essays and reviews should be a minimum of 800 words, and do not need citations.

Submissions to *The Journal of Art Crime* are welcome at any time. Please send all submissions to noah.charney@artcrimeresearch.org as an attachment in Word format. Average turnover for peer-reviewed essays is eight weeks, two weeks for editorial or review material.

JOURNAL OF ART CRIME

About *The Journal of Art Crime*

The Journal of Art Crime, published by ARCA Publications, is the first peer-reviewed interdisciplinary academic journal in the study of art crime. This twice-yearly publication provides vital information for members of the art trade, museums, security professionals, police, art lawyers, cultural ministries, private collectors, gallery owners and dealers, conservators, insurers, cultural heritage NGOs, as well as academics in the fields of criminology, law, art history, history, sociology, policing, security, and archaeology.

Submissions

Submissions are welcome at any time. We publish articles from both academics and professionals, related to art crime, its history, and its repercussions. Relevant fields include criminology, law, art history, history, sociology, policing, security, archaeology, and conservation.

Academic essays should be 4000-9000 words in length (including footnotes, excluding bibliography). Relevant images should be sent in jpg form in a separate email. Authors are responsible for securing any necessary permissions for the reproduction of images related to their articles. Essays considered to be of merit by peers may be returned to their authors along with rewrite guidelines which must be applied before publication. Average turnover for peer-reviewed essays is eight weeks, and two weeks for editorial or review material.

Please see the submission guidelines on the preceeding page.

The Journal of Art Crime also includes book and exhibition reviews, conference write-ups, summaries of major recent art crimes, art-related legislation, other relevant news, and editorial columns. The Journal welcomes submissions or proposals for any of the aforementioned. Please note that all submissions must be made in accordance with the Style Guidelines available on our website.

Please send all submissions to noah.charney@artcrimeresearch.org as an attachment in Word format.

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