

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

Antiquities rescue or ransom?

The cost of buying back stolen cultural property

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Abstract

“Rescue” has been a defence for the removal and export of cultural property for more than two hundred years. Since the explosion of iconoclasm in West Asia, North Africa and West Africa, there has been a growing demand for cultural property in danger zones to be rescued and given “asylum” in safe zones (invariably, Western market countries). Here, I review evidence from experiments with “rescue” across five continents and seventy years.

The evidence suggests that “rescue”, like other market-driven extraction, increases looting and eases corruption. Moreover, “rescue” enables fraud of vulnerable communities, facilitates the laundering of “ordinary” illicit assets. Worst, “rescue” may provide a stream of revenue to organised criminals and politically-motivated armed groups. Furthermore, like past programmes of “rescue”, current proposals for “rescue” appear illogical, reckless or dangerous.

Introduction

The theory and practice of rescue-by-purchase has been analysed before.¹ Nevertheless, in recent years, on the back of the wave of iconoclasm in West Asia, North Africa and West Africa, most visibly in Syria and Iraq, there has been a resurgence in the argument that individuals and institutions in safe countries should be able to “rescue” antiquities in danger zones by buying them.

¹ Brodie 2005, 9-12

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Historically, the states that have operated a policy of rescue have generally released little information about it, apart from the fact that they have saved this or that object. This quietness may be because they have not had the capacity to review the evidence; because they have not been concerned with the consequences, as long as the policies have advanced nationalist causes; or because they *have* reviewed the evidence and know that it would upset their citizens and partner states. Still, there is enough evidence to analyse the justifications and consequences of such “rescue”.

The history of rescue-by-purchase

“Rescue” from destruction has been a defence for the removal of cultural property for more than two centuries.² Likewise, “protection” from supposedly unacceptable stewardship has been a defence for the extraction of cultural property at least since the British Empire’s missions to ‘rescue’ antiquities from the risk of possession by the ‘radical and corrupt French tyranny’ of the Napoleonic Empire.³ Meanwhile, “rescue” from the market has been a defence for the purchase of cultural property for more than a century.⁴

For example, a confessed handler of illicit antiquities, the former Curator of Antiquities for the J. Paul Getty Museum, Marion True, argued: ‘The art is on the market.... We don’t know where it comes from. And until we know where it comes from, it’s better off in a museum collection. And when we know where it comes from, we will give it back’.⁵ Notably, as long as they do not find out where it comes from, they keep it. Antiquities dealer Robert Hecht argued that he ‘did not traffic’ art, but rather ‘rescued’ it ‘by steering it to great museums’.⁶

Furthermore, “rescue” has been a defence for the purchase of conflict antiquities for decades.⁷ It has even been a feature of fiction for decades.⁸ For as long as the logic has

² Chandler 1825 [1775], 44; Cuno – Simon 2015; Hunt – Smith 1916, 183; Miller 1811, 3, 8, 15; Schliemann 1875, 53; Stein 2014 [1912], 174, 189, 191; West 1811 [1809], 52

³³ Dolan 2000, 149, cited in Gunning 2009, 2

⁴ cf. Pierides 2002, 15; e.g. Hadjisavvas 2001, 136; Karageorghis 1976, 233-234; Karageorghis 1999, 17; Karageorghis 2007, 44, 102-103, 120-121; Karageorghis 2010, 9; Karageorghis et al. 1985, 13, 14; cf. Leriou 2008, 7; Neo Magazine 2008; Pierides 1973, 9; Byzantine art historian Klaus Gallas, 21st July 2009, cited in USCSC 2009

⁵ cited in Edgers 2015

⁶ paraphrased by Edgers 2015

⁷ cf. Barker 2013; Chechi 2014, 203n14

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existed, it has been exploited. Between 1933 and 1945, the Nazi state destroyed politically-unacceptable cultural property. But it also sold such assets. On one occasion, when it failed to sell 16,000 pieces of supposedly “Degenerate Art”, it publicly burned 4,829 of those pieces. Then, public institutions and private buyers “rescued” the remaining pieces.⁹

Such events can have very long tails. One painting by Ernst Ludwig Kirschner was confiscated by the Nazi state and sold to a dealer in the United States in 1937, then sold to a dealer in West Germany in 1955, then sold through a Christie’s auction in London to a gallery in Switzerland in 2008, then finally bought back by Dresden’s State Art Collections in 2016.¹⁰

Complementarily, the defence of “rescue” from destruction-through-development by metal detecting (generally) *for sale* has been made for antiquities from the UK¹¹, sometimes by the very same individuals who defend rescue-by-purchase from Syria and Iraq. A dealer in militaria who is based in the USA, Craig Gottlieb, has made a defence of “rescue” from professional neglect by metal-detecting and buying military antiquities for sale: ‘by selling things that are Nazi related and for lots of money, I’m preserving a part of history that museums don’t want to bother with’.¹² Furthermore, the argument for the salvage of history and science has been made for natural as well as cultural heritage.¹³

The geography of rescue-by-purchase

Whether as protection against being destroyed or as protection against disappearing in the private market, the defence of “rescue” has been made for antiquities from Afghanistan¹⁴; Angola¹⁵, where art collector Sindika Dokolo has purchased and repatriated some of the 6,000 Tchokwe antiquities that were plundered from Dundo

⁸ e.g. Greene 1969

⁹ Barker 2013; Chechi 2014, 203n14

¹⁰ Hickley 2016

¹¹ cf. Barford 2011; Barford 2013; Barford 2014a; Barford 2014c

¹² cited in National Geographic 2014

¹³ e.g. Nudds 2001, 193-194

¹⁴ cf. Alberge 2011; Orr 2003a; Orr 2003b; Leaman 2006, 37-38; e.g. Swope 2016

¹⁵ cf. Ruiz 2015

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Museum during the civil war of 1975-2002¹⁶; Bosnia¹⁷; Bulgaria¹⁸; Cambodia¹⁹; China²⁰; Cyprus²¹; Egypt, where antiquities minister Mamdouh el-Damaty tried to crowdfund enough money to buy back a contested statue of Sekhemka from Northampton Museum in the UK²²; Guatemala²³; Iraq²⁴; Israel²⁵; Italy²⁶; the Netherlands²⁷; Pakistan²⁸; Syria²⁹; and Ukraine, where illicit collectors have claimed to “rescue” antiquities, in order to have the freedom to make ‘multi-directional attempts at selling’³⁰, by keeping the exclusively local material (e.g. Tripillya culture) within Ukraine’s borders while exporting the transterritorial material (e.g. Scythian and Classical culture).

More generally, rescue has been defended as the ‘only plausible strategy’, the ‘only feasible strategy’ to preserve cultural property from any territories that are controlled by kleptocratic regimes or threatened by iconoclastic forces.³¹ And rescue has been used as a defence of the private market in general.³²

The moral and emotional challenge of rescue

¹⁶ cf. ANGOP 2016; Minder 2015

¹⁷ e.g. Leaman 2006, 37-38

¹⁸ e.g. private collector Vasil Bozhkov, cf. Bakalov 2011

¹⁹ e.g. antiquities collector Douglas A. J. Latchford, cf. Davis – Mackenzie 2014, 295; Mashberg – Blumenthal 2013, A1

²⁰ e.g. Poly Art Museum Curator Ma Baoping 2000, cited in Cuno 2008, 99; Shan 2001, n.p., cited in Cuno 2008, 100; Fiskesjö 2010, 229-230

²¹ cf. Hardy 2014; Hardy 2015b; e.g. antiquities director Vassos Karageorghis 1999, 17

²² Mazen 2015

²³ e.g. antiquities collector Fernando Paiz, cited in Vance 2014

²⁴ cf. Amin 2015; cf. Barford 2012; e.g. Swope 2015; e.g. the President of the American Council for Cultural Policy (ACCP), Ashton Hawkins, cf. Wilford 2003

²⁵ cf. the Economist 2015

²⁶ e.g. former Curator of Antiquities for the J. Paul Getty Museum, Marion True, cited in Edgers 2015

²⁷ Pieters 2015

²⁸ e.g. John Bryan McNamara, cited in Zapotosky 2015

²⁹ e.g. Anonymous 2015; e.g. anonymous antiquities collector 2014, cited in Barford 2014b; e.g. Bell 2016; cf. Gill 2016; e.g. Swope 2015

³⁰ Gershkovich 2005, 93

³¹ e.g. Leaman, 2006: 37; 38

³² e.g. Boardman 2006; cf. Brodie 2007

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Sometimes, it is done with good intentions. Sometimes, it is part of understandable but problematic attempts to reverse national humiliation and establish political legitimacy. Sometimes, it is a nationalist project.³³ Yet sometimes, it is one criminal’s advertising strategy when selling and another criminal’s excuse when buying.

It must be remembered that such efforts are moral and emotional burdens on genuinely committed “rescuers”. For instance, since 2003, the National Archives of Afghanistan have been ‘buy[ing] antiquities’ on the local market ‘no questions asked’ with money from Afghanistan and Germany.³⁴ Also since 2003, Suleymaniya Museum and the Directorate of Antiquities in Suleymaniya have been buying illicit antiquities, with money from the First Lady of Iraq, Hero Ibrahim Ahmad.³⁵ The museum and the directorate have also paid smugglers to recover antiquities before they have been smuggled abroad.³⁶

Their programmes demonstrate the practical difficulties of implementing rescue-by-purchase. They offer far less than the commercial price, so some possessors continue to sell into the international market. Yet they still offer far more than the average wage, so some people may loot in order to sell to the “rescuers”.³⁷

Nonetheless, since people have experimented with rescue-by-purchase, it is possible and necessary to ask whether those experiments have produced evidence of negative consequences and whether such experiments should continue.

The financial challenge of rescue

Before these problems are considered, it is important to note that rescue often involves a flow of finances from the relatively poor and relatively weak to the rich and powerful. And the policy may be practically impossible due to poverty.

In India, for example, more than 30,000 antiquities are known to have been stolen in the last twenty years. Fewer than 5% of registered sites have been scientifically documented. And there are ‘millions of [cultural] heritage sites’ that have not been

³³ cf. Kleutghen 2011, 165

³⁴ Orr 2003a

³⁵ al-Rawi – George 2014, 72; see also George 2016

³⁶ Amin 2015

³⁷ cf. Orr 2003b

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registered at all.³⁸ So, the total number of antiquities that have been looted, in the last twenty years alone, must be far greater than 30,000.

Regardless of the exact number, especially when individual pieces can cost hundreds of thousands or millions of dollars, the state cannot afford to buy back tens of thousands of objects. Furthermore, since the state cannot afford to implement the policy as a systematic programme, if or when it chooses to “rescue” an object, it risks prioritising one community’s property over another and reinforcing communal tension.

Moreover, while purchase on the open market may be more expensive, purchase from looters and smugglers is not necessarily cheap. Although in this particular case the gang was broken by the police, there was an antiquities gang in China, with nearly two hundred members, where individual members were getting hundreds of thousands of dollars for individual sculptures.³⁹

The argument

The argument in principle

The founder of the Biblical Archaeology Society (BAS), Hershel Shanks, has argued that ‘museums, antiquities dealers and collectors who have access’ to looted antiquities should be ‘enlist[ed]’ ‘to rescue them by ransoming them’ and ‘turn[ing them] over to the proper international authorities’.⁴⁰ While the BAS has since removed the statement from its website, it has argued that ‘important artifacts and inscriptions must be rescued and made available to scholars even though unprovenanced.... To vilify such activity results only in the loss of important scholarly information.’⁴¹

This implies that to valorise such activity results only in the recovery of important scholarly information. As has been highlighted by Neil Brodie (2009: 47-49; 2011a: 413; 2011b: 129-131), academics have used the same justification to benefit from the trade –

³⁸ Kumar 2015

³⁹ Ramzy 2015; Xinhua 2015

⁴⁰ Shanks 2003

⁴¹ BAS 2006

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and to support the market – by authenticating and publishing its otherwise undocumented material.⁴²

The argument in crisis

Possessors of antiquities, such as the Louvre, have used the cultural heritage crisis in West Asia and North Africa to represent themselves as ‘asylums’ or refuges.⁴³ Institutions such as the J. Paul Getty Trust have presented themselves as facilities to distribute risk, because ‘calamity can happen anywhere, but it won’t happen everywhere’.⁴⁴

A collector of antiquities and lobbyist for dealers of antiquities, Peter Tompa queried, ‘[b]etter burned than [*sic* – than] smuggled?’⁴⁵ Metal detectorist John Howland suggested, ‘[b]etter to have “looted antiquities” or[,] more properly, “rescued antiquities,” than have them falling into ISIS hands?’⁴⁶ While the original post has been deleted, an anonymous antiquities collector in the UK has claimed that antiquities from Syria and Iraq *are* being ‘rescu[ed]’ by collectors and imported to ‘safety’ somewhere ‘in the West’.⁴⁷ As recent terrorist attacks have demonstrated, “the West” is not safe either.

The former director of the Walters Art Museum and former member of the U.S. Cultural Property Advisory Committee (CPAC), Gary Vikan, recognises that such “rescue” might fuel the illicit market. Nonetheless, Vikan believes that ‘we should accept looted antiquities’ from Syria and Iraq, and accept the costs of their curation and repatriation, in order to save them from the Islamic State.⁴⁸ At the same time, he states,

No one, anywhere, should buy art from ISIS. Should U.S. museums buy antiquities from Syria and Iraq, some of the money will likely go to refugees fleeing the region, and some

⁴² Brodie 2009, 47-49; Brodie 2011a, 413; Brodie 2011b, 129-131; see also Lundén 2005, 7-8; Prescott – Omland 2003, 11

⁴³ President of the Musée du Louvre, Jean-Luc Martinez, cited in the Economist 2015

⁴⁴ President of the J. Paul Getty Trust, James Cuno, quoted in Cuno – Simon 2015

⁴⁵ Tompa 2014

⁴⁶ Howland 2014

⁴⁷ cited by Barford 2014b

⁴⁸ Vikan 2015

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will undoubtedly pass into the hands of the small-time looters and smugglers.... But there is no verifiable evidence... that ISIS obtains significant funding by selling antiquities or taxing art looters.⁴⁹

Seemingly, it would be acceptable for museums to buy looted antiquities from other politically-motivated armed groups.

Some advocates of “rescue” positively advertise its consequences. Antiquities collector Tom Swope apparently misunderstood that the Islamic State had ‘complete[ly]’ and ‘utterly destroyed’ the ancient city of Nimrud.⁵⁰ He stated that there was ‘nothing left’ of the archaeological site, apart from the material that was already in museums in the West. In fact, Nimrud’s north-west palace was destroyed⁵¹; the ‘large majority’ of Nimrud was not⁵².

Thus, Swope has argued that ‘the moral and right position to take is to purchase everything we can, and hope to encourage looting’.⁵³ An ancient coin collector has agreed, ‘closing our doors to incoming material is also akin to allowing the destruction to occur’. Ominously, the collector is ‘trying to find a solution’.⁵⁴ One dealer has explicitly stated that Israel has given permission for any ‘purchase of ancient Hebrew inscriptions whatever their provenance’.⁵⁵

The evidence

In order to identify evidence of what the practice had caused, as well as where the practice had been tried and why it had been tried, searches were conducted for ‘rescue cultural heritage buy antiquities -“rescue archaeology” -“rescue excavation” -“rescue excavations” -“rescue dig” -“rescue digs”’ alongside the most generic forms of the

⁴⁹ Vikan 2015

⁵⁰ Swope 2015

⁵¹ Robson 2015c

⁵² Robson 2013b; see also Robson 2013a

⁵³ Swope 2015; see also Swope 2016

⁵⁴ Anonymous 2015

⁵⁵ the Economist 2015

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names of 193 member states of the United Nations, 2 observer states of the UN and 11 other states (such as “Bosnia” for Bosnia and Herzegovina).

The search results included words that were similar to the search terms; included results that lacked one of the search terms; and identified documentation that only named either a source country or a market country. Hence, the searches are believed to have collected a representative sample. They found evidence that spanned five continents and seventy years. So, does rescue-by-purchase risk harm? Do facilitators of rescue-by-purchase risk complicity in crime?

Legalisation of illicit assets in Israel and Palestine

In practice, “rescue” cannot function without some kind of legalisation of illicit assets. According to literary scholar Gish Amit, between 1945 and 1955, Zionist institutions and Israeli state institutions ran a range of programmes to gather cultural property, which encompassed expropriation of abandoned property and theft of personal property as well as legal purchase.⁵⁶ Those programmes were characterised as ‘rescue’ both at the time, by the National and University Library that preserved more than 30,000 texts, and more recently, by literary historian Zeev Gries.⁵⁷

Fuelling of an illicit market and financing of political violence in Cyprus

Since soon after the eruption of the Cyprus Conflict, the Greek Cypriot administration of the Republic of Cyprus has maintained a range of “rescue” programmes. During the civil war of 1963-1974, the Department of Antiquities implemented a secret policy (a “silent accord”) of private rescue-by-purchase and legalisation of private collections of illicit antiquities.⁵⁸ Greek Cypriots were allowed to buy antiquities that had been looted by Turkish Cypriots in areas outside the control of the Greek Cypriot administration.⁵⁹ Exploiting the rescue programme, at least 1,250 people established then legalised illicit collections.⁶⁰ Perhaps another 3,125 people

⁵⁶ Amit 2014, cited in Aderet 2015

⁵⁷ Aderet 2015

⁵⁸ cf. Hardy 2014a

⁵⁹ Karageorghis 1999, 17

⁶⁰ Hadjisavvas 2001, 135

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created yet hid collections through the crisis.⁶¹ Moreover, the Director of Antiquities ‘often cross[ed] the “border” in a UNESCO vehicle and used state funds to buy ‘illegal antiquities’ for the Cyprus Museum.⁶²

Since the war of 1974, the Greek Cypriot administration, the Church of Cyprus, the Leventis Foundation and others have paid ‘high prices’ many times in international auctions to buy back the community’s ‘stolen treasures’.⁶³ Indeed, they *still* pay ‘large sums’, ‘astronomical sums’, to “rescue” their national patrimony from the international market.⁶⁴ This activity underwrites the illicit market, despite the fact that traffickers include ultranationalist paramilitaries, antiquities-for-arms dealers and heroin mafias.⁶⁵

Fuelling of an illicit market in Guatemala

As elsewhere, looting has devastated the archaeological record of many communities. Alongside the loss of knowledge about the looted objects, there has been “collateral damage” of the less easily stolen or less financially valuable material that is dug through or left behind.

Between the mid-1960s and perhaps 2012, businessman Fernando Paiz built a collection of 3,300 illicit antiquities, which he now manages through a foundation and displays in museums across Guatemala. He is planning the foundation’s own museum, which will foster sustainable cultural heritage tourism. Nevertheless, Paiz has publicly stated that he ‘smuggled’ some of his “rescued” objects back into Guatemala⁶⁶, that he still ‘buys’ some ‘looted artifacts’ in foreign countries⁶⁷ and that he is ‘marginally feeding the illicit trade’⁶⁸.

Through its acceptance of this activity, the state has effectively legalised the handling of stolen goods by Paiz and his partner collectors and dealers. The Ministry of Culture even transports his “rescued” objects across the border, to remove the need for him to

⁶¹ Hardy 2009

⁶² Karageorghis 2007, 102-103

⁶³ CPCHC 1985, 69; see also Georgiou-Hadjitofi 2000, 231; Karageorghis 2000, 218

⁶⁴ Anagnostopoulou 2000, 25, 37

⁶⁵ Hardy 2014b, 91-92; Hardy 2015b, 335-336

⁶⁶ Paiz 2014

⁶⁷ Paiz, paraphrased by Vance 2014

⁶⁸ Paiz, cited by Vance 2014

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pay customs duties.⁶⁹ Yet much illicit cultural property from Guatemala is smuggled to market countries by drug traffickers.⁷⁰ So, rescue-by-purchase for Guatemala does not only underwrite the illicit trade in antiquities. In some cases, it also contributes to the financing of organised criminal trafficking of drugs.

Financing of political violence in Cambodia

The situation in Cambodia is convoluted, but rescue-by-purchase has featured in the debate around the illicit trade. For instance, the Metropolitan Museum of Art in the United States long denied any illicit activity surrounding the Kneeling Attendants from the Koh Ker temple, pieces of which statues were donated to the museum between 1987 and 1992 by Raymond G. Handley and Milla Louise Handley and the auction house from which they had bought their pieces, Spink and Son in London.

Conversely, once the statues had been repatriated to Cambodia, another Khmer antiquities collector who had been associated with the donations, Douglas A. J. Latchford, argued that if the statues had not been ‘moonlighted’ (smuggled) out, ‘they would likely have been shot up for target practice by the Khmer Rouge’.⁷¹

Yet, in the course of the troubles in Cambodia between 1970 and 1998, the communist Khmer Rouge, its ally Vietnam People’s Army and its opponent nationalist Khmer Republic, all conducted industrial looting.⁷² Since then, trafficking has been dominated by the military and its shadow state.⁷³ Hence, rescue-by-purchase has run and continues to run the risk of contributing to conflict antiquities trafficking.

Fuelling of an illicit market and financing of political violence in Afghanistan

During the wars in Afghanistan since 1989, every faction has looted archaeological sites and museums. The Afghanistan Museum-in-Exile in Switzerland is a UNESCO-approved refuge for endangered cultural property. While the museum receives sometimes anonymous donations of Afghan cultural property, which may have been

⁶⁹ Paiz 2014

⁷⁰ according to anthropologist David Matsuda, paraphrased by Vance 2014

⁷¹ cited in Mashberg – Blumenthal 2013, A1

⁷² Davis – Mackenzie 2014, 297-298

⁷³ Lafont 2004, 39, 54-56

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bought in order to be donated by “rescuers”, the museum does ‘not acquire objects on the market (i.e., by commercial transactions)’.⁷⁴ Thus, it demonstrates that rescue-without-purchase is possible.

The Society for the Preservation of Afghanistan’s Cultural Heritage (SPACH) is another repository of last resort, which operates very differently. Even though its members have reported that the Taliban has bulldozed monasteries in order to uncover antiquities for sale⁷⁵, SPACH has been buying looted antiquities from the market in order to repatriate them to Afghanistan.

There are other, less organised efforts too. During the wars of the 1990s, a Gandharan Buddha was looted from the National Museum of Afghanistan and sold to a private collector in Japan, where the collector could not be prosecuted. With the support of the British Museum, a British antiquities dealer did something that he believed was ‘very moral, but illegal’: he bought the sculpture.⁷⁶ Subsequently, it was exhibited at the British Museum, then returned to Kabul. And, ten years after the Taliban destroyed the Bamiyan Buddhas, it was a significant act of repatriation.

Still, there are exhaustively investigated cases that demonstrate the fuelling of the illicit market through rescue-by-purchase, such as the acquisition of antiquities from Afghanistan and elsewhere by the public British Library in the UK and the private Schøyen Collection in Norway.⁷⁷

In 1994, a British antiquities dealer (reportedly, Robert Senior) tried to get the British Library (BL) to buy undocumented (illicit) birch bark scrolls, which were allegedly from Afghanistan, but the BL refused. Then, the BL tried to get the dealer to donate the manuscripts to its collection, but he refused, because he had bought the material from a Pakistani antiquities dealer for £10,000. And it tried to get a British antiquities collector (reportedly, Neil Kreitman) to buy and donate the manuscripts.⁷⁸ In the end, ‘in the interests of scholarship’⁷⁹, between the 1st and the 14th of September 1994, the BL bought the manuscripts for £10,000 and received a £10,000 donation to cover the cost.

⁷⁴ according to its contract with UNESCO, 12th July 2001, cited by UNESCO 2007

⁷⁵ Omland – Prescott 2002, 6

⁷⁶ Anonymous, cited in Alberge 2011

⁷⁷ cf. Brodie 2005; NRK 2004, reviewed in English by Lundén 2005; Omland – Prescott 2002; Prescott – Omland 2003

⁷⁸ Lundén 2005, 8

⁷⁹ 2nd May 1994, cited in Brodie 2005, 6

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By the 2nd of September 1995, the BL had accepted another donation of £18,500, which it used to buy four inscribed pots, which probably came from different sites. One of the pots possibly contained the scrolls, as it had been photographed in 1992 by Japanese antiquities dealer Isao Kurita. The BL acknowledged the theoretical possibility of repatriation, if the plundered state could prove the plunderer’s illicit export. However, the BL argued that it was not sure whether the manuscripts were from Afghanistan, Pakistan or Tajikistan, even though BL partner Prof. Richard Salomon had attributed the manuscripts to Afghanistan in a BL publication.⁸⁰

By purchasing texts, advertising the manuscripts’ historical value, suggesting the moral validity of purchasing undocumented antiquities from conflict zones and advertising the potential for the donation of such objects, which is a tax-deductible expense, the British Library fuelled the market in “rescued” manuscripts from Afghanistan.⁸¹

One figure who did not need encouragement was Robert Senior, who reportedly touted the manuscripts to the BL in the first place and who has his own 24-piece collection of such manuscripts.⁸² One of the inspired collectors was Martin Schøyen.

Afghanistan and Pakistan: whitewashing and laundering of antiquities

Norwegian businessman Martin Schøyen’s private collection bears no resemblance to either the Museum-in-Exile or SPACH. Schøyen has amassed a collection of ‘all the world’s religions and cultures... to create understanding across borders’; but he will not sell any of it to an Islamic country because ‘one can never know what will happen in the Muslim states’.⁸³

Also during the 1990s wars, Schøyen acquired 1,400 manuscript fragments, which span seven centuries of Buddhist history and thought, including a complete book. According to the original story, the Taliban had (unknowingly) exposed the ancient book when they destroyed the Bamiyan Buddhas.⁸⁴ And Schøyen ‘rescue[d]’ the manuscripts by getting them smuggled out of Afghanistan either with or for either

⁸⁰ cf. Brodie 2005, 7, 11; Salomon 1999, 20, 83, 177, 181

⁸¹ Brodie 2005, 10; Lundén 2005, 10n12

⁸² Brodie 2005, 10

⁸³ cited in Prescott – Omland 2003, 8-9

⁸⁴ Lundén 2005, 4

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monks or refugees.⁸⁵ However, *no* manuscripts had ever been found in Bamiyan; the Bamiyan caves had been looted *before* their conquest by the Taliban; manuscripts *had* been found in Zargaraan, again before the territory’s conquest by the Taliban; and many were assembled – or reassembled – through multiple purchases from Sam Fogg’s antiquities dealership in London.⁸⁶

Moreover, some of the manuscripts had been looted from the National Museum in Kabul. Schøyen, and academics who were authenticating and publishing his collection, had known for years that those manuscripts had been looted and withheld that information.⁸⁷ And hundreds of the fragments were not from Afghanistan but Pakistan.

One of the reasons that Schøyen knew that he was buying authentic antiquities was because his smugglers had been ‘in the cave [in Gilgit] with the diggers’ when they looted it.⁸⁸ In 2004, Schøyen agreed to repatriate the 2-6 pieces from Kabul and the 200-300 pieces from Gilgit.⁸⁹ Yet already by 1998, across his collection, he had at least 10,000 manuscript fragments.⁹⁰

Schøyen also has 654 Aramaic incantation bowls from Iraq, which were bought through Pars Antiques and the Ghassan Rihani dealership in Jordan. One of the Collection’s authenticators and publishers, Jens Braarvig, has claimed that there is paperwork that goes back to the 1930s; even Schøyen has only claimed paperwork that goes back to the 1960s. But other authenticators and publishers for the Collection, Mark Geller and Dan Levene, recognise that most of the bowls have no paperwork at all.

Norwegian documentary-makers NRK believe that the bowls are loot from the 1990s⁹¹, which would then have been acquired in violation of United Nations Security Council resolutions 661⁹² and 1483⁹³, which have prohibited any trade in antiquities that

⁸⁵ paraphrased by Omland – Prescott 2002, 5; see also Lundén 2005, 3-4; Prescott – Omland 2003, 10

⁸⁶ Lundén 2005, 4

⁸⁷ Lundén 2005, 5

⁸⁸ Lundén 2005, 5

⁸⁹ Lundén 2005, 8

⁹⁰ Lundén 2005, 7

⁹¹ Lundén 2005, 6-7

⁹² UNSC 1990

⁹³ UNSC 2003

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

have been exported from Iraq since 6th August 1990⁹⁴. And, apparently, Schøyen has antiquities from Egypt, which Egypt claims are illicit.⁹⁵ Were they “rescued” too?

The Schøyen Collection includes apparently illicit antiquities from Egypt; illicit antiquities from Afghanistan, which were misrepresented as “rescued” antiquities from Taliban territory; illicit antiquities from Pakistan, which were misrepresented as “rescued” antiquities from Afghanistan; and apparently illicit antiquities from Iraq. How many other buyers have used “rescue” to excuse any illicit purchases of antiquities from conflict zones?

Furthermore, during the extraction of the antiquities that form the Schøyen Collection, the diggers not only destroyed the archaeological context of the objects. They destroyed objects that contained manuscripts; objects that they could not sell; even objects that they could have sold, but that they did not know they could have sold, such as small fragments of manuscripts.⁹⁶ So, the “rescue” of some texts directly caused the destruction of others.

Fraud and embezzlement in the United States

A premium price for conflict antiquities

Fraud is one of the more general features of the illicit trade. However, it is especially troublesome in acts of “rescue”, because “rescue” excuses otherwise intolerable acts; it tricks affected communities and sympathetic communities into participating in the illicit economy.

For example, for years, the “Jewish Indiana Jones”, Rabbi Menachem Youlus advertised that he “saved” Torahs by pillaging the Nazi concentration camp of Bergen-Belsen in Germany; digging up the cemetery in the extermination camp of Auschwitz-Birkenau in Poland; digging up a cemetery outside the extermination camp of Lublin/Majdanek in Poland; digging up a mass grave from the Holocaust in Ukraine; buying manuscripts that had been confiscated from prisoners by a camp guard at Auschwitz, plundered from Jewish communities by a KGB general in Russia or

⁹⁴ Prescott – Omland 2003, 9

⁹⁵ Prescott – Omland 2003, 9

⁹⁶ Lundén 2005, 5

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

plundered from abandoned properties by soldiers in Iraq; bribing local community representatives; then smuggling his finds to Jewish communities in return for a fee for conservation and restoration.⁹⁷

As the chairperson of the Jewish community of Bielsko-Biała, Dorota Wiewióra, told the *Washington Post*: ‘No-one would sell’ a recovered Torah. ‘It’s not ethical.’⁹⁸ However, many people were willing to buy what they believed were looted manuscripts, and they paid a premium price for the opportunity. The collectors either bought the manuscripts from Youlus, or paid a fee for conservation and restoration to him or his charitable foundation, Save a Torah. Charging thousands or tens of thousands of dollars a time, Youlus and Save a Torah earned more than a million dollars in total.

One of the recipients of the alleged Torah from Bergen-Belsen, Rabbi Leila Gal Berner, said that its preservation meant that the ‘community [had not] die[d] when Hitler tried to kill it’.⁹⁹ The great-grandchild of a survivor of Majdanek, who was alive at the moment of that Torah’s recovery, explained that it was an act of ‘[self-]reparation’.¹⁰⁰ In a story that echoed the Nazis’ destruction of “degenerate art”, Youlus told his clients that the Auschwitz-Birkenau camp guard had advertised a Torah on eBay for \$17,000 but threatened that, ‘if nobody bought it within two weeks’, he ‘would burn it and post pictures on the Internet’.¹⁰¹

Disparity and divisiveness in Iraq

In one of Youlus’s widely-reported stories, American soldiers found a historic Torah in an abandoned building in Mosul and ‘arranged’ for it to be ‘smuggl[ed]’ from Iraq to the United States.¹⁰² Youlus ‘broke the manuscript into 60 pieces’, smuggled it, reconstructed it and sold it to a Jewish congregation.¹⁰³

Alongside the immediate removal and conservation of the Iraqi Jewish Archives, the apparent “rescue” of the Torah contributed to ‘resentment’ at the incompetent

⁹⁷ cf. Anonymous 2012; Kay 2007; Prince 2007; Wexler – Lunden 2010

⁹⁸ Wexler – Lunden 2010

⁹⁹ Wexler – Lunden 2010

¹⁰⁰ Anonymous 2012

¹⁰¹ Southern Jewish Life 2012

¹⁰² al-Tikriti 2010, 104

¹⁰³ al-Tikriti 2010, 105

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

negligence of the Ottoman/Hashemite Archives in the Iraqi National Library and Archives (INLA).¹⁰⁴ No Torah was “rescued” from Mosul. However, the very real resentment shows how a difference in the treatment of communities’ property may worsen division in already dangerous situations.

Fraud and embezzlement

In fact, Youlus had been buying Torahs on the market, then ‘fabricat[ing] a story to match [the] donor’s familial Holocaust story’ and redirecting the charitable donations for conservation to himself.¹⁰⁵ On the 2nd of February 2012, Youlus pleaded guilty to fraud.¹⁰⁶

Corruption and laundering of illicit assets in Bulgaria

According to a leaked cable from the Deputy Chief of Mission at the U.S. Embassy to Bulgaria in Sofia, Roderick W. Moore, Vasil Krumov Bozhkov was a ‘shady “business[man]”’, a ‘reputed organised crime figure’, who was nicknamed “the Skull”.¹⁰⁷ He was also ‘close’ to political figures such as the then prime minister Simeon Saksoburggotski’s ‘notorious’ chief of staff, Stoyan Ganev.¹⁰⁸ According to a leaked cable from the Chargé d’Affaires at the U.S. Embassy, John Ordway, Bozhkov grew to be ‘Bulgaria’s most infamous gangster’.¹⁰⁹

He was a ‘close associate’¹¹⁰ of Ilya Pavlov, who ran Multiart (later, Multigroup), which was a privatised successor to a Communist state trafficking service, which specialised in cultural property¹¹¹. And he was alleged to have collaborated with state

¹⁰⁴ al-Tikriti 2010, 104

¹⁰⁵ Anonymous 2012; Jaffe 2013

¹⁰⁶ Gearty – Connor 2012

¹⁰⁷ Moore 2003

¹⁰⁸ Moore 2003; see also Novinite 2011a

¹⁰⁹ Ordway 2009; see also Novinite 2011b

¹¹⁰ Dimitrov 2009, 22

¹¹¹ Ganev 2007, 100-103; Glenny 2009 [2008], 16-19

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

prosecutor Kamen Mihov to facilitate the movement of antiquities trafficker Ali Aboutaam.¹¹²

Meanwhile, he built up a massive private collection of antiquities. Its estimated value was between 100 and 200 million euros or more. ‘Many [mnogo]’ prominent people ‘praised [khvalyat]’ him, because he had ‘saved [spasil]’ the objects ‘from export to foreign countries [iznasyane v chuzhbina]’.¹¹³

Bozhkov himself claimed that he ‘[bought] from people who [bought] from looters [kupuvam ot khora, koito kupuvat ot imanyari]’.¹¹⁴ Newspapers published PR-derived reports (churnalism) that he ‘[bought] antiquities from rich collectors in foreign countries [kupuva antikite si ot bogati kolektsioneri v chuzhbina]’.¹¹⁵

No evidence was published that Bozhkov had been performing rescue-by-purchase. Yet he was seemingly allowed to continue until 2015, when his private museum was investigated as part of Europol’s Operation Aureus.¹¹⁶

Corruption in China and transnational organised crime around the world

In China, ‘patriotic buybacks and donations’ show that collectors are loyal and useful to the state, as the “rescuers” finance and realise the wishes of the state.¹¹⁷ As long as it is convenient for the state, such purchases may secure protection for the “rescuers”.

Their targets include blood antiquities that were plundered and collected by British and French armed forces¹¹⁸ and conflict antiquities that were auctioned to pay those armed forces’ officers, soldiers and casualties’ families.¹¹⁹ Curator Ma Baoping explained that the Poly Art Museum had freed three ‘hostages’ at Christie’s and Sotheby’s auctions

¹¹² cf. Albertson 2015

¹¹³ Bakalov 2011

¹¹⁴ interviewed by Trad 2006, cited by Bakalov 2011; the same claim is made by “rescue” purchasers in Ukraine, cf. Gershkovich 2005, 93

¹¹⁵ Bakalov 2011

¹¹⁶ Albertson 2015; Trad 2015a; Trad 2015b

¹¹⁷ Fiskesjö 2010, 230

¹¹⁸ cf. Tythacott 2015

¹¹⁹ cf. Bowlby 2015

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

in Hong Kong.¹²⁰ The Poly Group’s chairman, Shan Yihe characterised the activity as ‘rescue’.¹²¹

Furthermore, it appears that self-perceived patriots are financing theft-to-order by transnational organised crime groups in order to repatriate looted antiquities to China, albeit to their own illicit private collections.¹²² At least between 2010 and 2015, they have targeted museums, galleries and private collections in Sweden, Norway, the UK and France, because those sites contain antiquities that were plundered by international armed forces during the Second Opium War of 1856-1860 or the Boxer Rebellion of 1899-1901. Indeed, having been robbed twice, KODE Art Museums arranged to deliver its loot from 1860 to Peking University.¹²³

Financing of political violence in Ukraine

As noted, whether they are victims or other interested parties, some people defend or attempt the purchase of illicit cultural property from politically-motivated armed groups. For instance, 24 Dutch paintings, which had been stolen from a museum in the Netherlands in 2005, resurfaced in the hands of an ultranationalist militia in eastern Ukraine in 2015.

Westfries Museum declared that its ‘first priority’ was ‘to get the art back before it disappear[ed] again’ or got ‘even more’ damaged.¹²⁴ Although the offer was not accepted, Hoorn Municipality did offer a ransom (potentially, €50,000) to the militia for the artworks, through antiquities collector and private investigator Arthur Brand.¹²⁵

Conclusion

People across five continents have experimented with buying back stolen cultural property for at least seventy years. From Guatemala to Afghanistan, looting destroys material as well as extracts material, so such “rescue” is always destructive as well as

¹²⁰ cited in Cuno 2008, 99

¹²¹ Shan 2001, n.p., cited in Cuno 2008, 100

¹²² cf. Meyer 2015, SR4; Peachey 2016

¹²³ Meyer 2015, SR4

¹²⁴ museum director Ad Geerdink, paraphrased by Pieters 2015

¹²⁵ Pieters 2015

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

extractive. From Bulgaria to China, trafficking incentivises corruption. Furthermore, where the trafficking of antiquities is associated with the trafficking of other commodities, as in Guatemala and Cyprus (through Turkey), “rescue” of antiquities will provide a stream of revenue to the traffickers of those other commodities, whether they are drugs, guns or people.

“Rescue” from the market *creates* a market for antiquities that can be “rescued”, such as the artefacts that were stolen in order to be ransomed back to the Republic of Cyprus.¹²⁶ It also creates a market for exploitative fraud. Societies and communities have been threatened and tricked into “rescuing” antiquities by buying them, as in the case of Menachem Youlus in the USA.¹²⁷

Furthermore, the policy creates a mechanism for criminals to legalise illicit activities or illicit assets.¹²⁸ It also creates a mechanism for buyers to launder illicit antiquities, as they have laundered illicit cultural property from Afghanistan, Pakistan and Bulgaria.

Most seriously, it is known that politically-motivated armed groups have trafficked antiquities in Cyprus, Cambodia, Afghanistan, Iraq, Syria, Ukraine and elsewhere. Willingly or unwillingly, rescue can constitute a funding mechanism for human rights abusers.¹²⁹

Rescue-by-purchase in crisis

If the international community accepted the rescue-by-purchase of cultural property from zones of crisis and conflict, it is not clear how such a policy would or could be implemented. Despite the bureaucracy that any such policy would entail, the museum would apparently (and conveniently) assume that its money “likely” went to refugees or small-scale traffickers. Evidently, it would not know that its money had not gone to paramilitaries, terrorists or state criminals. Then again, apparently, the museum would judge it acceptable to finance politically-motivated armed groups, so it would not need to identify and avoid the possibility.

¹²⁶ Herscher 2001, 148; see also Flynn 2014; Hardy 2014b, 94

¹²⁷ e.g. Anonymous 2012

¹²⁸ cf. Hardy 2014a

¹²⁹ e.g. Barker 2013

Hardy, S A. Under review: “Antiquities rescue or ransom? The cost of buying back stolen cultural property.” In Republic of Turkey Ministry of Culture and Tourism (Ed.). *Proceedings of the 5th International Conference of Experts on the Return of Cultural Property, Nevşehir, Turkey, 18th-22nd October 2015*. Ankara: Republic of Turkey Ministry of Culture and Tourism.

Advocates even appear to disagree over whether buyers should avoid financing the Islamic State or whether they should directly finance the Islamic State (or any other iconoclastic force) in the hope that it would sell instead of destroy monuments. It is not clear why it would be acceptable to finance other politically-motivated armed groups.

Considering Syria, it is not clear how buyers would distinguish between, for example, coins that had profited the Islamic State, coins that had profited the al-Nusra Front, coins that had profited the Assad regime and coins that had profited any number of other groups. After all, Palmyra alone has been looted under the control of the Free Syrian Army (FSA), the Assad regime and the Islamic State.¹³⁰

Similarly, it is not clear how buyers would identify antiquities from territories that were outside Islamic State territory, but at risk of Islamic State conquest, in order to rescue those antiquities without financing the Islamic State. After all, dealers and collectors already struggle to categorise their objects more specifically than “Mesopotamian” or “Near Eastern”.

It is not clear how buyers would categorise objects and buildings that were at significant risk of iconoclasm and objects and buildings that were not at significant risk of iconoclasm. It is also not clear how buyers would rescue the most prominent targets for iconoclasm, unless they commissioned looting-to-order. And it is not clear how suppliers could operate on the ground, unless their systematic dismantling of entire monuments was protected as a constituent element of the rescue process.

Considering the evidence from elsewhere and the arguments for the Middle East and North Africa, “rescue-by-purchase” appears incoherent, counter-productive and dangerous for the victimised communities that it is supposed to support.

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¹³⁰ Hardy 2015a

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