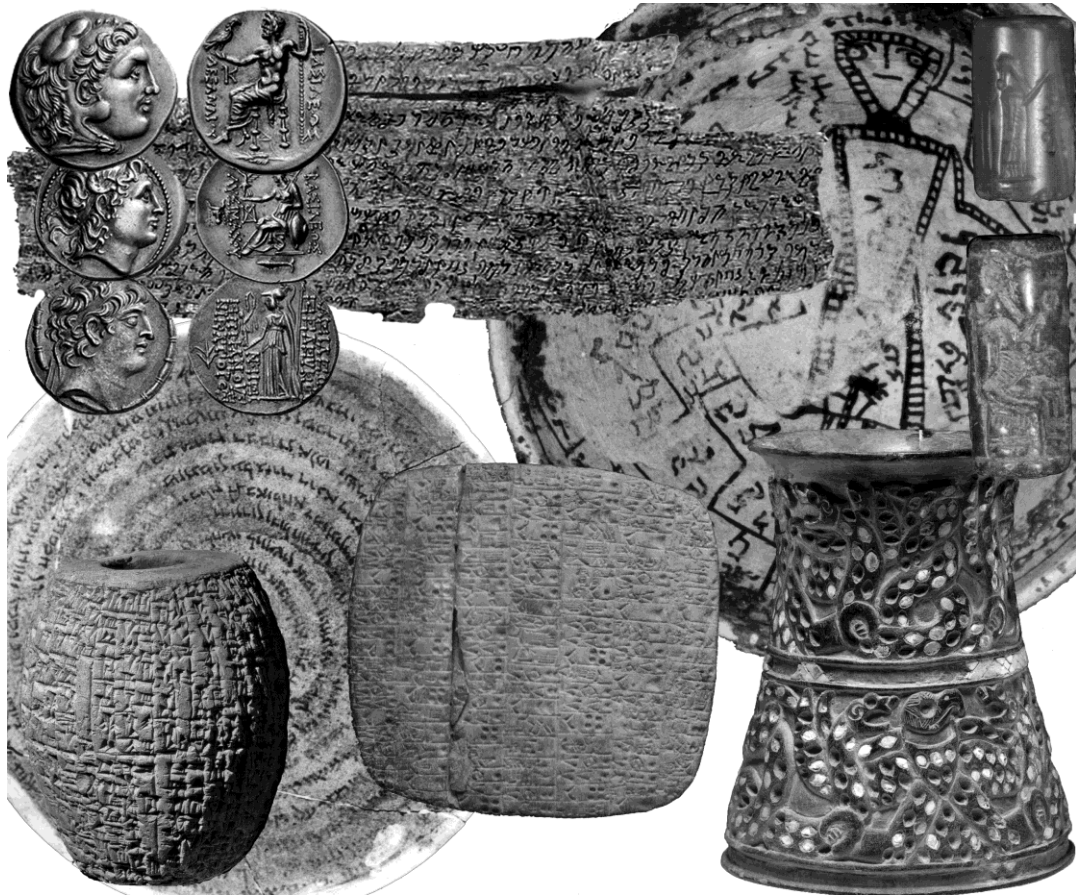


UCL - INSTITUTE OF ARCHAEOLOGY

ARCLG185: *Antiquities and the Law*

2018
15 credits

Turnitin Class ID: 3225968
Turnitin Password: loA1718



Courtesy of Stuart Laidlaw

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Jacqueline Laurence will support seminar sessions

1. OVERVIEW

Short description

This course will examine legislation that has been enacted at both national and international levels in attempts to protect cultural heritage from pillage, with particular emphasis on UNESCO conventions. Examples of actions for recovery, prosecutions under the Theft Act and the Stolen Property Act, and Italy's pursuit of its artefacts in US museums will be studied in some depth in seminar sessions. The course is intended to provide an acute awareness of the looting of archaeological sites to supply artefacts for the trade in antiquities, an understanding of the workings of the market, and a solid grounding in the relevant legal instruments that exist to protect cultural heritage.

Further important information, relating to all courses at the Institute of Archaeology, is to be found at <http://www.ucl.ac.uk/archaeology/handbook/common/> and in the general MA/MSc handbook. It is your responsibility to read and act on it. It includes information about originality, submission and grading of coursework; disabilities; communication; attendance; and feedback.

Week-by-week summary

- 1. Introduction.** Marina Papa-Sokal. 10/01/18. Course organisation and objectives.
- 2. Fundamental Legal Principles.** Marina Papa-Sokal and Jacqueline Laurence. 17/01/18.
- 3. The 1970 UNESCO Convention and the 1995 UNIDROIT Convention.** Marina Papa-Sokal. 24/01/18.
- 4. The Cultural Property (Armed Conflicts) Act 2017.** Marc Altaweel. 31/01/18
- 5. Protection of Underwater Cultural Heritage.** Marina Papa-Sokal and Rosanna Volpe. 07/02/18.

READING WEEK (NO TEACHING): 12/02/18 – 18/02/18

- 6. Fakes, the Trade and the Law.** Kathryn Walker Tubb. 21/02/18.
 - 7. Nationalism vs. Internationalism.** Marina Papa-Sokal 28/02/18.
 - 8. The Treasure Act and the Portable Antiquities Scheme.** Ian Richardson. 07/03/18.
 - 9. Enforcement.** Philip Clare (Art and Antiques Squad, Scotland Yard). 14/03/18.
 - 10. Repatriation and Universal Museums.** Marina Papa-Sokal. 21/03/18.
- N.B. Meet at 11:30 in the British Museum's African Galleries.**

Methods of Assessment

This course is assessed by coursework, in the form of a 3800-4200 word dealership report based on market research into an auction house or dealer of the student's choice.

Alternatively, an essay or project can be substituted for the report by agreement with the Course Co-ordinator following discussion of a suitable topic or focus.

If students are unclear about the nature of an assignment, they should contact the Course Co-ordinator. The Course Co-ordinator will be willing to discuss an outline of their approach to the assessment, provided this is planned suitably in advance of the submission date.

Teaching Methods

The course is taught through a mixture of lectures by the instructors and by seminar discussions with presentations by the students.

Seminar presentations are required but do not affect the final mark. It is intended that seminar sessions will address examples of actions for recovery (see below) such as the Kanakaria mosaics and the Sevso treasure, the Jonathan Tokeley-Parry and Frederick Schultz prosecutions under the Theft Act and the National Stolen Property Act respectively, and Italy's pursuit of its artefacts in US museums. Students

will be asked to divide into groups, select a topic, and commit to a date for presenting the seminar. Much of the information for the seminars is available on the Internet but additional material is available from the Course Co-ordinator and on Moodle.

Workload

There will be 20 hours of lectures, 8 hours of seminars and 2 hours of DVD documentaries for this course. Students will be expected to undertake around 80 hours of reading for the course, plus 40 hours preparing for and producing the assessed work. This adds up to a total workload of some 150 hours for the course.

2. AIMS, OBJECTIVES AND ASSESSMENT

Aims

The course is intended to provide an acute awareness of the dangers faced by the world cultural heritage: from conflict situations to the looting of archaeological sites to supply artefacts for the trade in antiquities. It will provide an understanding of the workings of the market, and a solid grounding in the relevant legal instruments that exist to protect cultural heritage.

The course is also intended to prepare students for independent research and careers in the management of sites and monuments, in museums and in professions such as archaeology, museology and conservation.

Objectives

On successful completion of this course a student should:

- Have an overview of the international and national legislation of cultural-heritage protection and its implementation;

- Understand the basic principles of law involved in this sphere;

- Recognise the polarized views engendered by the trade in antiquities and its regulation;

- Be familiar with ethical codes of practice and their efficacy;

- Be able to integrate ethical and legal concerns into professional practice in archaeology, museology, heritage management and conservation.

Learning outcomes

On successful completion of the course students should be able to demonstrate/have developed:

- Critical analysis of arguments;

- Application of acquired knowledge to new situations;

- Written and oral skills in analysis and presentation.

Coursework

Assessment tasks

This course is assessed by coursework, in the form of a 3800-4200 word report based on the trade in cultural objects, often with particular emphasis on antiquities, usually by means of internet research. This is a piece of market research to gain some understanding of the market in antiquities, art and collectibles.

Alternative essay topics can be discussed and agreed with the Course Co-ordinator.

For example, an alternative project could be to select a country and to research how the trade in antiquities impacts on it. For example, is it an art-importing country? What is the estimated market value of this trade? Is its cultural heritage subject to illicit trafficking? What is the market demand for its antiquities internally and externally? Are particular types of objects especially sought after? What is it doing to protect its heritage? Does the loss of its heritage concern the local population?

Students are not permitted to re-write and re-submit essays in order to try to improve their marks. However, the nature of the assignment and possible approaches to it will be discussed in class, in advance of the submission deadline.

The 3800-4200 word report will be due on FRIDAY, 4TH MAY 2018.

ANTIQUITIES MARKET REPORT

This report is intended to serve as the coursework for the Antiquities and the Law course.

Students are expected to explore the market in antiquities or other cultural objects. You have a great deal of latitude in deciding how to focus your research, for example, by culture, date, object type and so forth.

The report is usually based primarily on web-based research. In the event that you contact any of the websites or physical dealerships, you must explain clearly who you are and the nature of your research.

Central to the report is a description of the material on display on a variety of websites. This should be tied into the broader issues concerning the trade in antiquities and other cultural objects, including protective legislation and codes of conduct/ethics. It is intended to provide an insight into the extent and range of the market.

Incorporating illustrations and/or tables in the report is recommended, if possible and relevant.

1. Methodology employed and findings:

Explain how you have explored the market and the objects that are being offered for sale. Describe the features on which you have chosen to focus.

Note also whether the virtual market is paralleled by a physical entity.

Note which cultures are represented, how the objects are presented, whether prices are given, and if so their ranges, whether objects are labelled, and whether certificates of authenticity are offered. It is worth visiting sites several times to try to assess turn-over. Also provide any other information that you consider to be relevant.

In short, explore how objects that are being offered for sale are marketed. (ca 2200 words)

2. Critical review of the findings:

This should include an evaluation of your findings in light of the broader issues that have been addressed during the course. It should also examine the usefulness or otherwise of the exercise. (ca 1800 words)

Word-counts

3800-4200

The following should not be included in the word-count: title page, contents pages, lists of figure and tables, abstract, preface, acknowledgements, bibliography, lists of references, captions and contents of tables and figures, appendices.

Penalties will only be imposed if you exceed the upper figure in the range. There is no penalty for using fewer words than the lower figure in the range: the lower figure is simply for your guidance to indicate the sort of length that is expected.

In the 2018 session penalties for over-length work will be as follows:

* For work that exceeds the specified maximum length by less than 10% the mark will be reduced by five percentage marks, but the penalised mark will not be reduced below the pass mark, assuming the work merited a Pass.

* For work that exceeds the specified maximum length by 10% or more the mark will be reduced by ten percentage marks, but the penalised mark will not be reduced below the pass mark, assuming the work merited a Pass.

Coursework submission procedures

* All coursework must normally be submitted both as hard copy and electronically. (The only exceptions are bulky portfolios and lab books which are normally submitted as hard copy only.)

* You should staple the appropriate colour-coded IoA coversheet (available in the IoA library and outside room 411a) to the front of each piece of work and submit it to the red box at the Reception Desk (or room 411a in the case of Year 1 undergraduate work)

* All coursework should be uploaded to Turnitin by midnight on the day of the deadline. This will date-stamp your work. It is essential to upload all parts of your work as this is sometimes the version that will be marked.

* Instructions are given below.

Note that Turnitin uses the term 'class' for what we normally call a 'course' or 'module'.

1. Ensure that your essay or other item of coursework has been saved as a Word doc., docx. or PDF document, and that you have the Class ID for the course (available from the course handbook) and enrolment password (this is IoA1617 for all courses this session - note that this is capital letter I, lower case letter o, upper case A, followed by the current academic year)

2. Click on http://www.turnitinuk.com/en_gb/login

3. Click on 'Create account'.

4. Select your category as 'Student'.

5. Create an account using your UCL email address. Note that you will be asked to specify a new password for your account -- do NOT use your UCL password or the enrolment password, but invent a new one of your own (Turnitin will permanently associate this password with your account, so you will not have to change it every 6 months, unlike your UCL password). In addition, you will be asked for a "Class ID" and a "Class enrolment password" (see point 1 above).

6. Once you have created an account, you can just log in at http://www.turnitinuk.com/en_gb/login and enrol for your other classes without going through the new-user process again. Simply click on 'Enrol in a class'. Make sure you have all the relevant "class IDs" at hand.

7. Click on the course to which you wish to submit your work.

8. Click on the correct assignment (e.g. Essay 1).

9. Double-check that you are in the correct course and assignment and then click 'Submit'.

10. Attach document as a "Single file upload".

11. Enter your name (the examiner will not be able to see this).

12. Fill in the "Submission title" field with the right details: It is essential that the first word in the title is your examination candidate number (e.g. YGBR8 In what sense can culture be said to evolve?).

13. Click "Upload". When the upload is finished, you will be able to see a text-only version of your submission.

14 Click on "Submit".

If you have problems, please email the IoA Turnitin Advisers on ioa-turnitin@ucl.ac.uk, explaining the nature of the problem and the exact course and assignment involved.

One of the Turnitin Advisers will normally respond within 24 hours, Monday-Friday during term. Please be sure to email the Turnitin Advisers if technical problems prevent you from uploading work in time to meet a submission deadline: even if you do not obtain an immediate response from one of the Advisers, they will be able to notify the relevant Course Coordinator that you had attempted to submit the work before the deadline.

3. SCHEDULE AND SYLLABUS

Teaching schedule

Lectures will be held from 11:00-13:00 on Wednesdays, in room 612. The lectures will normally be 2 hours long, allowing for questions and discussion.

There will be **3 seminar groups**, each of which will tackle the same subject set for each of the days, to allow greater participation by those taking the course.

The seminar groups will follow the lectures from 13:00-14:00, 14:00-15:00 in room 412 and 16:00-17:00 in the Roberts building, Rm 105b. The final lecture will take place in the Sainsbury Galleries at the British Museum.

To keep seminar groups small enough for effective discussion, it is essential that students attend the seminar group to which they have been assigned. If they need to attend a different group for a particular session, they should arrange to swap with another student from that group, and confirm this arrangement with the Course Co-ordinator.

Syllabus

The following is an outline for the course as a whole, and identifies essential and supplementary readings relevant to each session. Information is provided as to where in the UCL library system individual readings are available; their location and Teaching Collection (TC) number, and status (whether out on loan) on the *Explore* computer catalogue system. The recommended readings are considered essential to keep up with the topics covered in the course sessions, and it is expected that students will have read these **prior to** the session under which they are listed. Copies of individual articles and chapters identified as essential reading are in the Teaching Collection in the Institute library (where permitted by copyright).

Students should check Moodle/their e-mail frequently as any changes to arrangements and other messages will be communicated by this means.

SPRING TERM:

I. Introduction. Marina Papa-Sokal. 10/01/18

Course organisation and objectives. The lecture will include examples to demonstrate the importance of context; a brief review of the extensive nature of looting; an introduction to the trade and the growth in the commodification of antiquities and its destructive effect on the preservation of the past.

Essential:

Brodie, Neil, Jenny Doole and Peter Watson. 2000. *Stealing History: the Illicit Trade in Cultural Material*. Cambridge: McDonald Institute for Archaeological Research. Available at: http://www.mcdonald.cam.ac.uk/projects/iarc/research/illicit_trade.pdf

Further reading:

Tubb, K.W. and N.J. Brodie 2001. From Museum to Mantelpiece: The Antiquities Trade in the United Kingdom. In *Destruction and Conservation of Cultural Property*. R.L. Layton, P.G. Stone and J. Thomas, eds. 102-16. London:Routledge.

Renfrew, Colin. 2000. *Loot, Legitimacy and Ownership: the Ethical Crisis in Archaeology*. London: Duckworth.

Robson, E., L. Treadwell and C. Gosden. eds. 2006. *Who Owns Objects? The Ethics and Politics of Collecting Cultural Artefacts*. Oxford: Oxbow Books.

2. Fundamental Legal Principles. Marina Papa-Sokal and Jacqueline Laurence. 17/01/18.

Topics to be discussed include: National laws vs. international agreements; criminal laws vs. civil laws; differences between national legal systems concerning the treatment of stolen property; licensing of archaeological excavations; national patrimony laws; export control laws; enforcement or non-enforcement of patrimony laws and export control laws in foreign courts.

Essential:

Bator, Paul M. 1982. An essay on the international trade in art, *Stanford Law Review* 34, 275-384. [This article can be downloaded from JSTOR or from Hein Online. It was also republished in book form under the title *The International Trade in Art*, University of Chicago Press, 1983.]

The whole article is interesting and you should read it all eventually, but the parts of most relevance for this week are Sections I and III B,D.

Please note that some of Bator's policy recommendations are controversial and should not be accepted unquestioningly; we will analyze them later in this course and will evaluate opposing points of view. Also, some parts of Bator's article (e.g. concerning U.S. implementation of the 1970 UNESCO Convention) have been superseded by more recent developments; we will discuss this later as well. Still, this is a classic article that gives a good overview of some of the relevant legal and policy issues.

Further reading:

Goldberg, Adam. 2006. Reaffirming McClain: The National Stolen Property Act and the abiding trade in looted cultural objects, *UCLA Law Review* 53, 1031-1071.

Seminar: The case of the dancing Siva. Compare with recent claims regarding New York dealer Subhash Kapoor, owner of Art of the Past.

3. The 1970 UNESCO Convention and the 1995 UNIDROIT Convention. Marina Papa-Sokal 24/01/18.

We shall begin by examining the 1970 UNESCO Convention on the Means of Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which has 129 States Parties. We will also analyze the different approaches to implementing the UNESCO Convention that were taken by major art-importing countries such as the US, the UK, Canada, Australia and Switzerland. Finally, we shall examine the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which has been 37 contracting States.

Essential:

Text of the 1970 UNESCO Convention - can be found at the UNESCO website (www.unesco.org), among many other places.

Text of the 1995 UNIDROIT Convention - can be found at the UNIDROIT website (www.unidroit.org), among many other places.

Papa-Sokal, Marina. 2006. The U.S. legal response to the protection of the world cultural heritage. In *Archaeology, Cultural Heritage, and the Antiquities Trade*, Neil Brodie, Morag M. Kersel, Christina Luke and Kathryn Walker Tubb, eds. Gainesville: University of Florida Press, pp. 36-67.

Further reading:

O'Keefe, Patrick J. 2000. *Commentary on the UNESCO 1970 Convention on Illicit Traffic*. Leicester: Institute of Art and Law.

Prott, Lyndel V. 1997. *Commentary on the Unidroit Convention 1995*. Leicester: Institute of Art and Law.

Seminar: The case of the Kanakaria Mosaics. Compare with wallpaintings from the small chapel of St. Euphemianos near Lysi, Cyprus, and the Menil Foundation.

4. The Cultural Property (Armed Conflicts) Act 2017. Marc Altaweel. 31/01/18.

The UK has finally ratified provisions from the Protection of Cultural Property in the Event of Armed Conflict of 1954 and the Protocols to the Convention of 1954 and 1999. The process of this happening took events in the Middle East and elsewhere to press parliament to vote on the new measures. This session discusses this process and the types of input and actions undertaken in parliamentary sessions and lobbying that enabled it to become law. Some firsthand experience and background will be discussed in this lecture and presentation.

Essential:

Brosché, J., Legnér, M., Kreutz, J., & Ijla, A. (2017). Heritage under attack: motives for targeting cultural property during armed conflict. *International Journal of Heritage Studies*, 23(3), 248–260. <https://doi.org/10.1080/13527258.2016.1261918>

Cunliffe, E., Muhesen, N., & Lostal, M. (2016). The Destruction of Cultural Property in the Syrian Conflict: Legal Implications and Obligations. *International Journal of Cultural Property*, 23(1), 1–31. <https://doi.org/10.1017/S0940739116000011>

Cultural Property (Armed Conflicts) Act 2017:

http://www.legislation.gov.uk/ukpga/2017/6/pdfs/ukpga_20170006_en.pdf.

Further reading:

Helga, T. (2017). *The destruction of cultural property as a weapon of war: Isis in Syria and Iraq*. New York, NY: Springer Berlin Heidelberg.

O'Keefe, R. (1999). The Meaning of "Cultural Property" under the 1954 Hague Convention. *Netherlands International Law Review*, 46(1), 26. <https://doi.org/10.1017/S0165070X00002084>

Toman, J. (2009). *Cultural property in war: Improvement in protection: commentary on the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict*. Paris, France: UNESCO Pub.

Woudenberg, N. van, & Lijnzaad, L. (Eds.). (2010). *Protecting cultural property in armed conflict: an insight into the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict*. Leiden ; Boston: Martinus Nijhoff Publishers.

Seminar: The case of the Sevso Treasure. Consider circumstances of Hungary's repatriation of part of it in 2014.


5. Protection of Underwater Cultural Heritage. Marina Papa-Sokal and Rosanna Volpe. 07/02/18

This lecture will address the problems regarding underwater cultural heritage with particular reference to the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage.

Essential:

Dromgoole, S. 2002 Law and the Underwater Cultural Heritage: A Question of Balancing Interests. In N. Brodie and K. Tubb, eds. *The Illicit Trade in Antiquities: Destruction and Response*. London: Routledge. 109-36.

Dromgoole, S. 2007. The Legal Framework for the Management of the Underwater Cultural Heritage beyond Traditional Territorial Limits: Recent Developments and Future Prospects. In: J. Satchell and P. Palma, eds. *Managing the Marine Cultural Heritage: Defining, Accessing and Managing the Resource*. Council for British Archaeology.

Papa-Sokal, M. 2005. International Law for the Protection of the Underwater Cultural Heritage: Can Our Past be Salvaged? In *Culture without Context*, issue 16, pp. 20–23. The McDonald Institute for Archaeological Research, University of Cambridge. 

Further reading:

Dromgoole, Sarah, ed. 1999. *Legal Protection of the Underwater Cultural Heritage: national and international perspectives*. London: Kluwer Law International.

O'Keefe, Patrick. 2002. *Shipwrecked Heritage: A Commentary on the UNESCO Convention on Underwater Cultural Heritage*. Leicester: Institute of Art and Law.

Seminar: The case of the 'Steinhardt' Phiale, also known as the phiale of Caltavuturo, or the phiale of Achyris, and the fresco from Paestum. Consider forfeiture due to violation of Customs regulations as opposed to criminal prosecutions.

READING WEEK (NO TEACHING): 12/02/18 – 18/02/18.

6. Fakes, the Trade and the Law. Kathryn Walker Tubb 21/02/18.

What is a fake? What effect do fakes have on scholarship and the market? Authentication in its various guises and dealer guarantees will be discussed. Examples of fakes and their manufacturers will be presented.

Essential:

Muscarella, Oscar White. 2000. *The Lie Became Great: the forgery of Ancient Near Eastern Cultures*. Groningen: Styx. Chapter I. Introduction and Polemic: 1-29.

Further reading:

Burleigh, Nina. *Unholy Business: A True Tale of Faith, Greed and Forgery in the Holy Land*. New York: Smithsonian Books/Collins.

Craddock, Paul. 2009. *Scientific Examination of Copies, Fakes and Forgeries*. Oxford: Butterworth-Heinemann.

Craddock, P. and S. Bowman. 1991. Spotting the Fakes. In *Science and the Past*. S. Bowman ed, 141-157. London: British Museum Press.

Jones, M. ed. 1990. *Fake? The Art of Deception*. London: British Museum Press.

Jones, M. 1992. Introduction. In *Why Fakes Matter: Essays on problems of authenticity*. M. Jones ed, 7-10. London: British Museum Press.

Olsburgh, Carolyn. 2005. *Authenticity in the Art Market: A Comparative Study of Swiss, French and English Contract Law*. Leicester: Institute of Art and Law.

Instead of a seminar, a **documentary** entitled 'Blood Antiquities' will be shown.

7. Nationalism vs. Internationalism. Marina Papa-Sokal. 28/02/18.

Some advocates of the private trade in antiquities have put forth a dichotomy between 'nationalist' and 'internationalist' approaches to the protection of cultural heritage in which 'nationalist' is assumed to be a synonym for 'anti-market' and 'internationalist' for 'pro-market'. Other commentators argue that the conflation of these two questions is improper, as internationalists can oppose the private collecting of antiquities, just as nationalists can support it. We shall explore the pros and cons of nationalist and internationalist approaches to cultural-heritage policy as well as various intermediate positions. We shall also examine the arguments for and against the private trade in antiquities.

Essential:

Merryman, John Henry. 2005. Cultural property internationalism, *International Journal of Cultural Property* 12, 11-39.

Prott, Lyndel V. 2005. The international movement of cultural objects, *International Journal of Cultural Property* 12, 225-248.

Papa-Sokal, Marina. 2009. Beyond the nationalist-internationalist polarisation in the protection of archaeological heritage: A response to Professor Merryman, *Art Antiquity and Law* 14, 237-274.

Further reading:

Elia, Ricardo. 2001. Analysis of the looting, selling and collecting of Apulian red-figure vases: A quantitative approach. In Brodie et al 2001, pp. 145-153.

Gerstenblith, Patty. 2009. Schultz and Barakat: Universal Recognition of National Ownership of Antiquities, *Art Antiquity and Law* 14.

Gilgan, Elizabeth. 2001. Looting and the market for Maya objects: A Belizean perspective. In Brodie et al 2001, pp. 73-88.

Seminar: The Tokeley-Parry and Frederick Schultz cases.

8. The Treasure Act and the Portable Antiquities Scheme. Ian Richardson. 07/03/18.

Essential:

Bland, R. 2005. A pragmatic approach to the problem of portable antiquities: the experience of England and Wales. *Antiquity* (79).

Bland, R. 2005. Rescuing Our Neglected Heritage: The Evolution of the Government's Policy on Portable Antiquities in England and Wales, *Cultural Trends* Vol. 14 (4) No. 56, 257-296.

Lidington, H. 2002, The Role of the Internet in Removing the 'Shackles of the Saleroom': Anytime, Anyplace, Anything, Anywhere, *Public Archaeology* 2 No. 2, 67-84.

Further reading:

Portable Antiquities Scheme website - www.finds.org.uk

Portable Antiquities Scheme and Treasure Annual Reports

<http://www.finds.org.uk/news/reports.php>

Suenson-Taylor, K., Heywood, C. & Dillon, J., eds. 2006. *Whose Find Is It Anyway? Treasure, Metal Detecting, Archaeology and Conservation - The Life of Detected Finds After Recovery*. Institute of Conservation.

Seminar: The case of Iran v. Barakat Galleries.

9. Enforcement – Philip Clare. Art and Antiques Squad, Scotland Yard. 14/03/18.

This lecture will introduce the work of the Art and Antiques Squad, demonstrating the scale of the trade in unprovenanced antiquities and discussing the legislative remedies available to the police and their relative effectiveness.

Essential:

Mackenzie, Simon. 2005. *Going, going, gone: regulating the market in illicit antiquities*. Leicester: Institute of Art and Law. Chapter 4.

Mackenzie, Simon and Green, Penny. 2007. Criminalising the Market in Illicit Antiquities: An Evaluation of the Dealing in Cultural Objects (Offences) Act 2003 (July 2007). Available at SSRN: <http://ssrn.com/abstract=1004267>

Mackenzie, Simon and Penny Green. 2008. Performative Regulation: A Case Study in How Powerful People Avoid Criminal Labels. *British Journal of Criminology* 48(2), 138-53.

Further reading:

Watson, P. and C. Todeschini. 2006. *The Medici Conspiracy: The Illicit Journey of Looted Antiquities, From Italy's Tomb Raiders to the World's Greatest Museums*. New York: Public Affairs.

Seminar: Italy's pursuit of its stolen cultural heritage and the case against Robert Hecht and Marion True.

10. Repatriation and Universal Museums. Marina Papa-Sokal. 21/03/18.

N.B. Meet at 11:30 in the British Museum's African Galleries.

Should museums, curators, academics, collectors, dealers and the trade respect national patrimony laws? Should museums publish acquisitions policies and make public the history of the artifacts in their collections? How do those involved rationalize their participation in trafficking antiquities? Is a licit trade possible under current conditions? These questions will be raised and varied responses discussed.

Essential:

Cuno, James. 2008. *Who Owns Antiquity? Museums and the Battle Over Our Ancient Heritage*. Princeton: Princeton University Trust.

Forum. Irreconcilable Differences? 2007. *Papers from the Institute of Archaeology* 18, 1-25. Tubb, Boardman, Brodie, Elia and Kaye.

Singh, Kavita. 2009. Universal Museums: The View from Below. In *Witnesses to History: a compendium of documents and writings on the return of cultural objects*. L.V. Prott, ed, 123-9 Paris: UNESCO.

Further reading:

Mackenzie, Simon. 2005. *Going, going, gone: regulating the market in illicit antiquities*. Leicester: Institute of Art and Law. Chapter 6.

Prott, L.V. 2009. *Witnesses to History: a compendium of documents and writings on the return of cultural objects*. Paris: UNESCO.

Turnbull, Paul and Michael Pickering, eds. 2010. *The Long Way Home: the Meaning and Values of Repatriation*. New York, Oxford: Berghahn Books.

Waxman, Sharon. 2008. *Loot: the Battle Over the Stolen Treasures of the Ancient World*. New York: Henry Holt and Co.

We will return to the Institute after the visit for a general discussion in which the course can be reviewed and any matters of interest can be raised.

Seminars:

DVDs will be shown in Weeks 1 and 6.

Seminars will be arranged in Week 1 with students dividing themselves into groups to present the seminars by choosing from a number of legal cases involving looted and trafficked antiquities. See above under 'teaching methods'.

Course Reading List

- Askerud, Pernille, and Etienne Clément. 1997. *Preventing the Illicit Traffic in Cultural Property: a resource handbook for the implementation of the 1970 UNESCO CONVENTION*. Paris: UNESCO.
- Atwood, Roger. 2004. *Stealing History: Tomb Raiders, Smugglers, and the Looting of the Ancient World*. New York: St. Martin's Press.
- Barkan, E. 2000. *The Guilt of Nations: Restitution and negotiating Historical Injustices*. New York and London: W.W. Norton and Co.
- Barkan, E. and R. Bush. eds. 2002. *Claiming the Stones, Naming the Bones: Cultural Property and the Negotiation of National and Ethnic Identity*. Los Angeles: Getty Research Institute.
- Bator, Paul M. 1982. An essay on the international trade in art, *Stanford Law Review* 34, 275-384.
- Bevan, Robert. 2016. *The Destruction of Memory: Architecture at War*. London: Reaktion Books
- Blake, J. 2015. *International Cultural Heritage Law*. Oxford: Oxford University Press.
- Bond. P. 2006. *Looting Africa: the Economics of Exploitation*. Chapter 4 Unequal Exchange Revisited: trade, investment, wealth depletion. Pietermaritzburg: University of KwaZulu-Natal Press.
- Boylan, Patrick J. 2001. The Concept of Protection in Times of Armed Conflict: from the Crusades to the new millennium. In *Illicit Antiquities: the theft of culture and the extinction of archaeology*. N.J. Brodie and K.W.Tubb. eds, 43-108. London, Routledge.
- Briat, Martine , and Judith A. Freedberg, eds. 1996. *Legal Aspects of International Trade in Art*. Vol. V, *International Sales of Works of Art*. Paris, The Hague: ICC Publishing S.A. and Kluwer Law International. Note particularly John Merryman's and Clemency Coggins' papers in Section A and skim through all of Section B.
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Other useful sources:

Journals to consult are *Art, Antiquity and Law* and the *International Journal of Cultural Property* [especially Vol 7, No. 1, Ethical Considerations and Cultural Property (1998)].

Library Services are now able to provide access to the journal *Art, Antiquity and Law* online from volume 6 (2001) onwards as part of our EBSCO content.

The Library has a series of *Seminar Papers* from the Institute of Art and Law, which are also valuable references.

4 ONLINE RESOURCES

The full UCL Institute of Archaeology coursework guidelines are given here:

<http://www.ucl.ac.uk/archaeology/handbook/common/markings.htm>.

The full text of this handbook is available here (includes clickable links to Moodle and online reading lists if applicable) <http://www.ucl.ac.uk/silva/archaeology/course-info/>.

A link to the online reading list is available on Moodle.

Useful websites

ICOMOS

<http://www.icomos.org/>

UNESCO

http://portal.unesco.org/en/ev.php-URL_ID=12025&URL_DO=DO_TOPIC&URL_SECTION=-471.html

For Conventions, Recommendations, and Declarations

<http://www.unesco.org/library/>

All UNESCO documents and periodical publications recorded in UNESBIB appear in UNESDOC in full text, from 1995 onward (but of course any document previously published can be scanned into UNESDOC on request). <http://www.unesco.org/unesdoc>

LCCHP (The Lawyers' Committee for Cultural Heritage Preservation)

<http://www.culturalheritagelaw.org/resources/articles>

Bureau of Educational and Cultural Affairs US Department of State

<http://exchanges.state.gov/culprop/>

chasingaphrodite.com is a blog set up by investigative journalists who are interested in uncovering significant information that relates to the illicit trade in antiquities.

SAFE (Saving Antiquities for Everyone)

<http://www.savingantiquities.org/>

IFAR (International Foundation for Art Research)

<http://www.ifar.org/home.php>

Native American Graves Protection and Repatriation Act:- NAGPRA

References on National Archaeology Database

<http://www.cast.uark.edu/other/nps/nagpra/>

<http://www.cast.uark.edu/other/nps/nagpra/nagpra.dat/lgm003.htm>

David Gill's blog 'Looting Matters' contains much interesting information. Available at:

<http://www.lootingmatters.blogspot.com/>

Rick St Hilaire's blog <http://culturalheritagelawyer.blogspot.co.uk/> is very useful in following developing cases in the USA.

University of Glasgow's <http://traffickingculture.org/> website is concerned with research into the global traffic in looted cultural material and includes an encyclopaedia and news among other things.

The Museum Security network is also a useful source of information.

Newsletter *Culture without Context*, formerly published by the Illicit Antiquities Research Centre, a former project of the McDonald Institute, University of Cambridge. Available at: <http://www.mcdonald.cam.ac.uk/projects/iarc/culturewithoutcontext/contents.htm>

The *Art Newspaper* is issued 11 times a year and is another useful source. It is also available electronically. You can get on the list by emailing them at subscribe@theartnewspaper.com or at <http://www.theartnewspaper.com/>

Moodle

The access code is ARCLG185.

5 ADDITIONAL INFORMATION

Libraries and other resources

In addition to the Library of the Institute of Archaeology, other libraries in UCL with holdings of particular relevance to this degree are: Main Library and DMS Watson Library.

Libraries outside of UCL which have holdings which are also relevant to this course are: Institute of Advanced Legal Studies Library, Charles Clore House, 17 Russell Square, London WC1B 5DR. The entire run of the journal *Art Antiquity and Law* is available here.

Information for intercollegiate and interdepartmental students

Students enrolled in Departments outside the Institute should collect hard copy of the Institute's coursework guidelines from Judy Medrington's office.

INSTITUTE OF ARCHAEOLOGY COURSEWORK PROCEDURES

General policies and procedures concerning courses and coursework, including submission procedures, assessment criteria, and general resources, are available on the IoA website. It is essential that you read and comply with these. Note that some of the policies and procedures will be different depending on your status (e.g. undergraduate, postgraduate taught, affiliate, graduate diploma, intercollegiate, interdepartmental). If in doubt, please consult your course co-ordinator.

GRANTING OF EXTENSIONS: Note that there are strict UCL-wide regulations with regard to the granting of extensions for coursework. Note that Course Coordinators are not permitted to grant extensions. All requests for extensions must be submitted on a the appropriate UCL form, together with supporting documentation, via Judy Medrington's office and will then be referred on for consideration. Please be aware that the grounds that are acceptable are limited. Those with long-term difficulties should contact UCL Student Disability Services to make special arrangements. Please see the IoA website for further information. Additional information is given here <http://www.ucl.ac.uk/srs/academic-manual/c4/extenuating-circumstances/>

HANDOUTS:

Full Titles of Some Legal Instruments and Ethical Codes

1954 UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict. – commonly referred to as the Hague Convention. 1st (14 May 1954) and 2nd (26 March 1999) Protocols to the Convention.

1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

1972 UNESCO *Convention Concerning the Protection of the World Cultural and Natural Heritage*. – often referred to as the World Heritage Convention.

1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

The Return of Cultural Objects Regulations 1994, 51. No 501 of 1994, is the statutory instrument which implements the **EC Directive**. The EC Directive is the Council *Directive on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State*. There is also a Council *Regulation on the Export of Cultural Goods*.

2001 UNESCO Convention on the Protection of Underwater Cultural Heritage.

2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage.

Dealing in Cultural Objects (Offences) Act 2003. (UK except Scotland)

UN Security Council Resolution 1483 and the Iraq (UN Sanctions) Order. 2003

UN Security Resolution 2199. Articles 15-17. 2015

Federal Act on the International Transfer of Cultural Property (Cultural Property Transfer Act, CPTA) 2003. (Switzerland)

2005 UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*.

ICOM (International Council of Museums) *Code of Ethics for Museums*. 2001.

MA (Museums Association) *The Code of Conduct for Museum Professionals* (1991) and *The Code of Practice for Museum Governing Bodies* (1994). Revised 2001.

ECCO Professional Guidelines (II): Code of Ethics Revised version adopted 2003.

AIA (Archaeological Institute of America) *Code of Ethics* (1991).

SAA (Society for American Archaeology) *Principles of Archaeological Ethics* (1996).

IADAA (International Association of Dealers in Ancient Art) *Rules of the International Association of Dealers in Ancient Art* (1993).

Christie's, Sotheby's, The Society of London Art Dealers, The British Antique Dealers' Association, The Society of Fine Art Auctioneers, The Incorporated Society of Valuers and Auctioneers, The Antiquarian Booksellers' Association, The Royal Institution of Chartered Surveyors, The Fine Art Trade Guild, The British Association of Removers, and The Antiquities Dealers' Association are all party to the *Code of Practice for the Control of International Trading in Works of Art* (1984).

Adopted by the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its 10th Session, January

1999 and endorsed by the 30th General Conference of UNESCO, November 1999. *International Code of Ethics for Dealers in Cultural Property* (1999).

LAW:

N.B. Restitution/Recovery of clandestinely excavated artifacts: archaeology has already lost through destruction of context and associated fragile material
extreme difficulty establishing title

Criminal law:

governs relationships between the State and its individual members
Offences such as theft must be proven beyond reasonable doubt - guilty or not guilty

Civil law:

private law concerns dealings between individual members of the State
lower order of proof - balance of probabilities
Actions for recovery (see definition below) are an example of such litigation.

2 Codes of Civil Law:

Common Law – English legal system - *nemo dat quod non habet*, where the victim of theft is protected over the innocent purchaser

Civil Code - Napoleonic - *bona fide*, where the innocent purchaser is protected over the victim of theft

National regulations of many different countries state that all archaeological objects are the property of the State. e.g. Greece, Italy, Jordan, Spain, Turkey. National patrimony laws.

Concealment or misappropriation = theft

Material heritage often categorised as either:

moveable or **immovable**

Pillaging often converts immovable to moveable.

Two broad categories involved in return cases:

1. **historically removed** objects
2. **contemporarily removed** illicitly trafficked objects

Restitution:

restoration of anything to its rightful owner;
act of making good, or of giving an equivalent for loss, damage etc.

Repatriation:

act of restoring/returning to one's country or place of origin.

Recovery:

The obtaining in a suit of law of a right to something by a verdict, decree, or judgement of the court.

Legal Definitions:

title:

a combination of all the elements which constitute ownership of property; generally, the evidence of right which a person has to the possession and ownership of property.

good faith/bona fide purchaser:

one who pays valuable consideration in the absence of actual or constructive notice of outstanding rights of others as to property.

due diligence:

such a measure of prudence, activity, care or attention, as is properly to be expected from and ordinarily exercised by a reasonable and prudent person under particular circumstances' not measured by any absolute standard, but depending on the relative facts of the special case.

nemo dat quod non habet:

nobody can give a title which s/he does not have.

lex situs:

general rule of common law

rule under which a title validly acquired in England will be lost if a later sale to a good faith buyer in an overseas country has the effect under that country's law of giving the buyer good title.

the earlier title defers to the later, and becomes inexigible even if the cultural object later returns to this country.

replevin:

an action brought to recover possession of goods unlawfully taken, if the party from whom the goods were taken wishes to have the goods themselves returned, rather than damages which represent the value of the goods taken; a possessory action in which the plaintiff may recover only on the basis of the strength of his own title, rather than on the weakness of the defendant's title.

laches:

a defence relying on the principle that it would be inequitable to permit a claim to be enforced based on a delay accompanied by or inducing a change of condition or relations or a delay or lack of diligence on the part of the plaintiff that results in disadvantage, injury, injustice, detriment or prejudice to the defendant; neglect or omission to assert a right such that, taken in conjunction with lapse of time and other circumstances, causes prejudice to the adverse party.

tort:

a private or civil wrong or injury, independent of contract or private agreement.

bona vacantia:

ownerless property

SCOTLAND:

2 ancient common law rights of the crown
the right to Treasure Trove
the right to ownerless property

1. Treasure Trove

relates to precious objects which were concealed under ground, in a building or elsewhere.

'Precious' not restricted to gold, silver and their alloys.

'Concealed' whether deposited with intent to recover (*animus revertendi*) immaterial.

2. right to bona vacantia

applies to ALL artifacts whose owner/rightful heir cannot be identified.

quod nullius est sit domini regis = that which is the property of no one; belongs to the crown.

Scots Treasure Trove law appears to have no statute of limitations.

Until and unless the Crown chooses to give up its right to an ownerless item, it is illegal to sell or buy it
- nor can it be donated.

When an ownerless object is found the owner of the land has NO claim to it or to any monetary reward
which may be paid to the finder.

Policy regarding the illicit trade in antiquities

(as amended Dec 2008)

1. Introduction

As archaeological and heritage professionals and students, Staff and Students of the Institute of Archaeology deplore the looting of archaeological sites, the removal of material from context and the illicit trade in antiquities. This document presents the Institute of Archaeology's policy on the implications of an ethical position against illicit excavation and the illicit trade in antiquities.

It should be noted that the document has been formulated with 1970 as the benchmark before which the principles of the conventions are not applied since neither the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property nor the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects are retroactive. Indeed, the entry into force of the 1970 UNESCO Convention is regarded as having formally alerted the international community to the problems that the Convention addresses. From this time onwards, ignorance of these issues can no longer be put forward as an excuse for trafficking in illicit cultural property. An allowance is thus made for the ways in which such material has been collected in the past while making it plain that continuation along these lines is unacceptable.

2. Legal instruments

The Institute supports the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and should be seen to be amongst those urging the Government to: (a) sign and then ratify the UNIDROIT Convention on Stolen and Illegally Exported Cultural Objects 1995; (b) sign and then ratify the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage; and (c) expeditiously effect the process of ratifying the 1954 UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict. – commonly referred to as the Hague Convention, and the 1st (14 May 1954) and 2nd (26 March 1999) Protocols to the Convention.

The implications for the Institute of Archaeology as a body, and for individual staff members, of supporting the UNESCO and UNIDROIT conventions, follow.

2.1. *Implications for Staff and Students of the 1970 UNESCO Convention*

In supporting the ratification of the Convention, Staff and Students by implication support its principles and can lend support to it in the following ways:

Article 5 requires that States Parties to the Convention establish a series of services to protect the cultural heritage, including the following:

Article 5b covers the establishment of national inventories of protected property. Many States find this commitment is beyond their resources and struggle to meet it. This is probably the most commonly voiced lament expressed when the convention is discussed. Staff and Students could collaborate with those experiencing such difficulties and offer assistance.

Article 5f covers the duty to educate and make known the provisions of the Convention, and this should be reflected, both implicitly and explicitly, in our teaching and in our involvement with the wider community. In particular, it should be Institute policy that all students are taught about the dangers of looting and of the illicit trade in antiquities as part of their courses. Article 10 also advocates educating the public. To that end, Staff and Students should strive to make clear the importance and significance of the concept of context especially to collectors and dealers.

Article 5g requires that States see that 'appropriate publicity is given to the disappearance of any items of cultural property'. This implies that Staff Members and Students should document, report to the authorities and urge appropriate public exposure of damage to sites caused by clandestine excavation, theft of artefacts and architectural elements when/if they are privy to such information.

Article 6 requires States to provide certification of legal exportation of cultural property. The Standing Conference on Portable Antiquities has urged the government to re-evaluate the system in the UK. Since it has been alleged that the UK system is being used to establish false provenances for illicit material and that the legislation does not adequately protect the heritage, Staff should support such a re-examination of the status quo (See Brodie 1999 and Cook 1995).

Article 7 concerns taking steps to prevent the import of illicitly exported material and its acquisition by museums and similar institutions. By extension, although not specifically stated, such material has also often been stolen. The implication is that, if Staff or Students are shown material which they suspect to be illicit, they should alert the relevant authorities such as the Art and Antiques Squad of the Metropolitan Police, Interpol, HM Revenue and Customs, the Cultural Property Unit of the Department of Culture, Media and Sport and the original owner (See Protts and O'Keefe 1988).

2.2. Implications of the 1970 UNESCO Convention for the Institute Collections

The Convention has another series of implications for the Institute as a body that curates archaeological material as part of UCL's collections. The following two paragraphs are Staff policy covering all Institute collections. Similar wording is present in the ICOM Code of Professional Ethics, the Museums and Galleries Commission Registration Guidelines, and the Acquisition and Disposal Policy of the Petrie Museum.

The Institute must not acquire by purchase, loan, gift, bequest or exchange any object or specimen unless the Director and curatorial Staff are satisfied that valid title to the item in question can be acquired, and that in particular it has not been acquired in, or exported from, its country of origin (or any intermediate country in which it may have been legally owned) since 1970, in violation of that country's laws (including the UK since 1970). This also applies to any objects that may be temporarily borrowed for exhibition in-house.

In addition, the Institute will not acquire objects in any case where the Director and curatorial Staff have reasonable cause to believe that the circumstances of their recovery involved the recent (since 1970) unscientific or intentional destruction or damage of ancient monuments or other known archaeological sites, or involved a failure to disclose the finds to the owner or occupier of the land, or to the proper legal or governmental authorities.

2.3. Implications for Staff and Students of the 1995 UNIDROIT Convention

Recovery of illicitly obtained material under the terms of the 1970 UNESCO Convention was complicated by the fact that the private law in individual countries falls into roughly two categories: the Common Law Code and the Civil Code. Under the former, the interests of the victim of a theft are protected over those of the innocent purchaser of a stolen item. Generally, under Common Law, a thief cannot pass good title therefore all transactions following that theft are invalid (although there are some restrictions on making claims such as statutes of limitation and issues of jurisdiction). By contrast, under the Civil Code, the good faith purchaser's rights are given priority which may mean that the original owner loses his claim to the object or can only reclaim it if he pays the possessor compensation. The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects was developed by the International Institute for the Unification of Private Law to resolve this difference. Its primary requirement under Article 1 is that the possessor of a stolen cultural object shall return it. This is accomplished by focusing principally on the concept of 'due diligence'. In Articles 4.1 and 4.4, the conflict between the thief not passing good title and protecting the good faith purchaser has been resolved by placing a duty on the prospective buyer to have exercised due diligence before making the purchase. Inability to demonstrate such care revokes entitlement to compensation upon return of the item. The trade in cultural objects is characterised by secrecy. The due diligence requirement is designed to tackle this. Article 4.4 cites some of the criteria upon which a judgement as to whether due diligence had been exercised will be determined. (See also DCMS Combating the Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material 2005).

It should be noted that, unlike the UNESCO Convention, under the UNIDROIT Convention individuals do have a statutory right of action. However, as UNIDROIT relates to the recovery of stolen cultural property rather than its study, it has no direct legal implications for Staff and Students unless they are involved in transactions themselves, or on behalf of the Institute for its collections (see below). Nevertheless, as with the UNESCO Convention, urging the UK to ratify the Convention assumes that Staff and Students support the principles of the Convention, which is to assist individuals and groups who have lost cultural property through illegal means, to recover their material.

Of particular relevance is Article 3.2, which states that unlawfully excavated objects or those which have been lawfully excavated but unlawfully retained 'shall be considered stolen' provided such a definition of the material is consistent with the law of the country in which the excavation took place.

This is significant because the size of the market in antiquities and the large turnover of artefacts are inconsistent with suggestions that material on the market all comes from long-standing collections made prior to 1970. A clear indication that an object has been looted and/or illegally exported from its country of origin is the lack of a provenance (and here a provenance would also include clear documentation that it had been in a collection before 1970). Recent research suggests that between 80% and 90% of the objects being traded have no clearly established provenance. Such unprovenanced material must be regarded with deep suspicion and, in the absence of evidence to the contrary, is deemed to have been unlawfully excavated or lawfully excavated but unlawfully retained. Under the terms of Article 3.2, this material is considered stolen.

Staff and Students must think of such material as stolen, treat it as such and alert the relevant authorities as stated above under Article 7 of the 1970 UNESCO Convention.

While none of the Conventions place legal obligations on Staff Members and Students, Staff and Student support for them presupposes a critical stance towards the widespread practices of illicit excavation, and the illicit import, export and trade in antiquities. It is this general critical stance rather than the specific strictures of the Conventions, which informs the Institute's policy on illicit excavation and on the illicit antiquities trade. The policy must therefore be an ethical one rather than one which is purely driven by legal requirements.

3. Implications for Staff and Students of the 1954 Hague Convention and its two Protocols

Staff and Students can lend support for the Convention and its two Protocols by assisting in the safeguarding of cultural property in peace time as stipulated in Article 3 of the Convention and elaborated in Article 5 of the 2nd Protocol which stipulates such measures as inventory preparation and disaster planning to protect against fire or building collapse and plan for the protection of cultural property in situ or for its removal if moveable.

Article 5 of the Convention and Article 9 of the 2nd Protocol are concerned with the protection of cultural property in occupied territory which enjoins States Parties to prohibit and prevent:

- a. any illicit export, other removal or transfer of ownership of cultural property;
- b. any archaeological excavation, save where this is strictly required to safeguard, record or preserve cultural property;
- c. any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical or scientific evidence.

It also specifies that 'Any archaeological excavation of, alteration to, or change of use of, cultural property in occupied territory shall, unless circumstances do not permit, be carried out in close co-operation with the competent national authorities of the occupied territory'.

Staff Members and Students should thus avoid working on material that falls under Article 9a and alert the relevant authorities as previously specified if they encounter suspect material. They should not participate in excavations unless sanctioned by the national authorities whose territory is under occupation.

The UK government has published the Cultural Property (Armed Forces) Bill to be enacted, perhaps in amended form, as implementing legislation to the Hague Convention and its two Protocols.

4. Implications for Staff and Students of the 2001 Convention on the Protection of the Underwater Cultural Heritage

Although this convention has not yet entered into force it is seen as essential to protect underwater cultural heritage outside territorial waters and thus outside the jurisdiction of nation states by providing an international legal framework.

Staff Members and Students should seek to raise public awareness of the importance of underwater cultural heritage and the need to protect it in accordance with Article 20 of the Convention and should alert the Receiver of Wreck of any material they suspect as having been recovered contrary to this Convention according to Article 14.

The Institute abides by the UNESCO convention annex: http://portal.unesco.org/en/ev.php-URL_ID=13520&URL_DO=DO_TOPIC&URL_SECTION=201.html

5. Relevant ethical codes

Opposition to looting and to the illicit antiquities trade is enshrined in the ethical codes of many museum and archaeological professional bodies.

The ICOM Code of Professional Ethics, for example, opposes acting 'in any way that could be regarded as benefiting such illicit trade, directly or indirectly', and this was enshrined in the (then) Institute of Archaeology Services Division Policy on the Acceptance of Objects and Materials (1990) which states that 'The Institute of Archaeology is totally opposed to the looting and illegal export of antiquities and adheres to the ICOM Code of Professional Ethics'.

Article 1.6 of the Institute of Field Archaeologists Code of Conduct states that 'an archaeologist shall know and comply with all laws applicable to his or her archaeological activities whether as employer or employee, and with national and international agreements relating to the illicit import, export or transfer of ownership of archaeological material. An archaeologist shall not engage in, and shall seek to discourage, illicit or unethical dealings in antiquities.'

The Archaeological Institute of America's Code of Ethics advises archaeologists to refuse to participate in the trade in 'undocumented antiquities' by refraining from activities that enhance the commercial value of such objects. This Code identifies undocumented antiquities as 'those which are not documented as belonging to a public or private collection before December 30, 1970 ... or which have not been excavated and exported from their country of origin in accordance with the laws of that country'.

6. Ethical implications for Staff and Students of a stance against the illicit trade in antiquities

The following ethical implications arise from a stance against looting and the illicit trade:

Work must not be undertaken (except on behalf of the police, courts or government of origin) on objects where there is insufficient information to establish a licit provenance or where the material is known to be illicit. Before agreeing to study, analyse or conserve material, Staff Members and Students must exercise due diligence in establishing that the material has not been illegally excavated, acquired, transferred and/or exported from its country of origin since 1970. Research into the illicit trade may involve investigating the provenance history of cultural objects and must be taken to the Institute Ethics Committee for consideration. (N.B. Metal-detecting on unscheduled sites is not illegal in England and Wales and artefacts recovered by this means are not subject to the above. However, Staff Members and Students must attempt to ensure that finders have valid title to their objects).

Staff Members and Students must not undertake scholarly publication of unprovenanced material unless it can be demonstrated clearly that the artefact or specimen has been in a collection since before 1970 or was legally exported from its country of origin. This is in line with the publishing policy of the *American Journal of Archaeology* which states that it 'will not serve for the announcement or initial scholarly presentation of any object in a private or public collection acquired after 30 December 1973, unless the object was part of a previously existing collection or has been legally exported from the country of origin'. This applies also to unpublished reports, including condition reports, given to the possessor of an object, which have also been used to enhance the value of such pieces on the market and should therefore not be undertaken on unprovenanced material.

Staff Members and Students must not undertake valuations of material, unless for insurance purposes for public bodies or to assist the authorities.

The formation by Staff Members and Students of personal teaching collections is permissible provided that the material has been acquired in compliance with all the above conditions. Any personal collections should be declared to the Institute's Ethics Committee. Staff Members and Students must not buy or sell such material.

Staff Members and Students must not buy or sell antiquities nor act as an intermediary for profit in any such transactions. Staff Members and Students must not accept gifts or emoluments from dealers and collectors for professional services, in support of excavations or for research projects.

Staff Members and Students need to protect themselves at all times from situations of conflict of interest and must consult the Institute's Ethics Committee in such situations. There is most danger of being compromised in the area of sponsorship and funding.

Notwithstanding the above, Staff Members and Students should strive to increase the dialogue between themselves and dealers, collectors, the government and the public to ensure archaeological concerns are heard and clearly understood and to ensure that we understand and have considered opposing viewpoints. In particular, Staff Members and Students should campaign for transparency in the dealings of the antiquities market.

7. Ethics Committee

In some cases, it may not be immediately clear to Staff Members and Students what the appropriate ethical course of action should be. The Institute has therefore established an Ethics Committee which meets on an ad hoc basis to consider individual cases and provide advice.

References

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Cook, Brian. 1995. 'The Antiquities Trade: a curator's view' in K.W. Tubb, (ed.), *Antiquities: Trade or Betrayed*. London: Archetype, 186-189.

DCMS. 2005. *Combating the Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material*. London: DCMS.

Prot, Lyndel V., and Patrick J. O'Keefe. 1988. *Handbook of national regulations concerning the export of cultural property*. Paris: UNESCO.

The texts of the UNESCO conventions are available at <http://portal.unesco.org/culture/en>

The text of the UNIDROIT Convention is available at

<http://www.unidroit.org/english/conventions/1995culturalproperty/main.htm>.

UCL'S Cultural Property Policy

In June 2009 UCL adopted a Cultural Property Policy to ensure compliance with national and international property laws.

The policy applies to all staff and students at UCL, and to all UCL sites and activities whether in the UK or elsewhere.

The Policy is based on the following **principles**:

- UCL has obligations under international and national laws relating to cultural property
- UCL intends that those obligations will be discharged by UCL as a body corporate and its employees and students
- To fulfil this intention UCL has a duty of care to inform and advise staff and students so that they are able to exercise due diligence in the acquisition of cultural property for any purpose, whether for corporate or personal interests
- The process of acquisition and disposal of cultural property should be fully documented
- UCL will make available adequate resources to enable the Policy to be implemented

See <http://www.ucl.ac.uk/cultural-property/policy.shtml> for pdf link to full policy.

Legget, J. 2000. *Restitution and Repatriation: guidelines for Good Practice*. London: Museums and Galleries Commission.