

Panel Title: Antiquities Trafficking – Complementary Countermeasures

Abstract: Reports that implicate the crime-terror nexus in trafficking in antiquities warrant closer inspection of the risks posed by the tactical exploitation of cultural patrimony. This panel explores the means of interdiction and diplomacy for countering transnational trafficking in antiquities. The historically clandestine nature of the antiquities trade and disconnect between due diligence and laws governing the transfer of cultural property have challenged countermeasures to looting and trafficking in antiquities. The challenges create opportunities for terrorist groups and insurgencies that operate in proximity to coveted archaeological sites to collaborate with transnational organized crime in exploiting the multibillion-dollar illicit trade in cultural patrimony. Legal cases for repatriations of Greek and Roman antiquities have publicized negotiations between market and source nations and, in turn, have brought greater transparency to the antiquities trade. Simultaneously, increasing awareness of the political clout of cultural patrimony has motivated collection of intelligence on the lucrative market, and insights into the value of cultural patrimony to security policy in source nations create opportunities to compel due diligence in market nations. Difficulties and risks in following through with prosecution suggest the need for complementary methods to counter trafficking.

The Difficulty in Using Criminal Offences to Police the Antiquities Trade
Derek Fincham, Loyola University, New Orleans College of Law, Louisiana

Abstract: There has been a dramatic increase in recent years in the investigation and prosecution of individuals connected to the trade in stolen and illegally excavated antiquities, particularly in the United States. The antiquities trade routinely fails to effectively distinguish illicit and illegally-obtained objects. The current regulatory framework in nations of origin and in market nations puts far too much pressure--and expects too much--of investigators and prosecutors. This produces a number of negative consequences, including the loss of archaeological context, the illegal acquisition of objects by museums, and the destruction of objects. This paper will examine the U.S. criminal penalties for dealing in looted antiquities, focusing in particular on the vigorous use by Federal Prosecutors of the Archaeological Resources Protection Act both to police domestic looters, but also objects from abroad which enter the American antiquities trade. The paper looks at the risks and benefits of applying this federal criminal law in these novel contexts and concludes that many of the reasons for the difficulty in prosecuting these crimes may also make the trade of interest to organized criminals such as terrorist networks.

Cultural Intelligence: data sources on the motivation and means for trafficking
Erik Nemeth, ARCA, Santa Monica, California

Abstract: Over the past decade, the proximity of coveted antiquities to armed conflict with non-state actors has warranted consideration of the tactical value of cultural property. "Cultural intelligence" enables assessments of the value of antiquities to insurgencies and terrorist groups. This paper identifies sources of cultural intelligence as fundamental assets in countering looting and facilitating interdiction of trafficking in antiquities. Looting of antiquities in developing nations and targeting of religious monuments in acts of political violence offer potential tactical advantage to insurgencies and terrorist groups. The clandestine nature of the licit, let alone the illicit, trade in art challenges the collection of data on the financial value of antiquities in the primary market. Open-source publications, such as auction archives, that report on the art market provide a means to assess the relative value of antiquities across source nations, and players in the illicit trade offer opportunities for the collection of data on the networks that transfer antiquities internationally.

Cultural Property and International Relations: implications in dialogue
Yasmeen del Rosario Hussain, CUSP, Dhaka, Bangladesh

Abstract: Dialogue necessarily, purposefully, and effectively influences foreign policy, capacity building, and security. Governments and civil society organizations use dialogue to voice concerns and highlight issues, thereby affecting public perception. Government and civil society dialogue on cultural property may counter looting, build socio-political bridges, and encourage national and cultural pride. Examples of these facilities include the following government/civil society-driven exchanges on cultural property: Greece – cultural spending requests for monument restoration and maintenance at a time of financial woe; Britain – debates over the effect of returning looted artifacts from Magdala and manuscripts from Ethiopia; Iraq - looted artifacts from the National Museum smuggled through Dubai; Kenya - repatriation of stolen vigango statues from two United States Museums by the National Museums of Kenya; China – auction of Chinese animal head bronzes claimed by the Chinese to have been looted and refused to be repatriated by YSL/Berge as a statement against the situation in Tibet; United States – repatriation of looted Khmer artifacts and coordination with Cambodian Ministry of Culture; and Mali - solicitation of domestic support to counter looting and create solidarity against outsiders such as Al Qa'ida. The exploration of these and other instances evidence the potential of dialogue on cultural property to impact international relations, increase cultural understanding, prevent antiquities trafficking, alter political maneuvers, and build capacity.

Honor Amongst Thieves: The International Subculture of Art Crime
Kimberly L. Alderman, Alan Maestas Law Office

Abstract: In the past few decades, there has been an exponential increase in legislation of the antiquities trade by way of import/export restrictions and criminalization of the trade in objects subject to those restrictions. By way of this regulation, national governments may have inadvertently created fertile ground for the development of an international subculture of art crime. There is a growing movement of people who are willing to organize in order to subvert an increasingly repressive system regarding the trade in antiquities. The motivation for organized subversion is sometimes money, but may sometimes be ideological, as cultural property has taken on political value to national governments, evident in their intense interest in restricting their trade. This presentation will discuss the various groups and organizations which have grown despite (or perhaps because of) criminalization, and it will consider how and if criminalization is deterring the trade in illegally excavated materials or creating a market for it.