Failing History: How Multinational Institutions Cannot Prevent Cultural Racketeering

Molly Luce

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Abstract

Cultural racketeering, the looting and trafficking of cultural heritage sites to fund conflict, violence, or terrorism, has become a prevalent issue across the globe in recent years. This paper identifies the main actors, the sellers and buyers, of the looted antiquities and outlines several cases. Sellers, such as ISIS or Al-Qaeda, pillage and traffic sites of cultural, religious, or historic importance as a funding source for their illicit activities. Buyers, which include museums and elite private collectors, purchase these antiquities and inadvertently fund terrorism. The international community has condemned these actors and implemented policies in response. The conventions that multinational institutions like the United Nations have ratified have been insufficient in counteracting these practices. This paper analyzes the efficacy of international organizations’ responses and examines the reasons why they fail. These reasons include (1) challenges of national sovereignty, (2) inadequate buy-in from member states, (3) flaws in the top-down policy implementation approach, and (4) lack of sufficient resources. Failing to respond effectively not only poses a grave security threat, but also risks the loss of crucial sites and objects of human history.
Acronym List

CBP - U.S. Customs and Border Protection
EU - European Union
EES - British Egypt Exploration Society
IO - International Organization
IGO - Intergovernmental organization
IMF - International Monetary Fund
ISIS - Islamic State of Iraq and al-Sham
NGO - Nongovernmental organization
NSA - Non-State Actor
UN - United Nations
UNESCO - United Nations Educational, Scientific and Cultural Organization
UNIDROIT - International Institute for the Unification of Private Law
VNSA - Violent Non-State Actor
Introduction

The Fertile Crescent, otherwise known as the “cradle of civilization,” was once home to the Sumerians, Akkadians, Assyrians, Babylonians, Persians, Macedonians, Umayyads, Ottomans, Mongols…among dozens of other peoples over the course of 7,000 years. Each of these societies built dynamic and sophisticated civilizations that are still evident today, covering what are now southern Iraq, Syria, Lebanon, Jordan, Palestine, Israel, Egypt, and parts of Turkey and Iran.¹ Across these nations, there are about 100 UNESCO World Heritage or State sites and thousands of smaller archaeological, heritage, and historical spaces and monuments.² These properties are the remains of thousands of years of history, culture, religion, and knowledge that provide crucial insight into the story of humankind.

Over the course of these sites’ existences, natural processes or human development cause them to collapse or otherwise be destroyed.³ Despite this, their ruins leave much to be discovered. Many of the sites in the fertile crescent area have been studied since the 19th century, however, far more have yet to be thoughtfully and carefully examined. For example, this past year a team of archeologists discovered a 9,000-year-old shrine in the Jordanian desert which is shedding “an entire new light on the symbolism, artistic expression as well as spiritual culture of these hitherto unknown

³ Galadini, “Defining the Causes of Ancient Building Collapse (Structural Decaying vs. Seismic Shaking) in Archaeological Deposits of Central Italy,” 73.
Neolithic populations.” Dozens of new revelations are made each year due to careful excavation projects, providing key insights into our collective memory and a deeper understanding of what it means to be human. Since the early 20th century, increased emphasis has been placed upon the preservation and conservation of cultural and heritage sites by intergovernmental organizations, state institutions, and private corporations. These efforts either aim to restore the properties for academic and cultural purposes, export the findings to museums across the globe, or after study and proper documentation, to sell them on the art and antiquities market.

While natural degradation, land development, and human movement have posed a consistent threat to these efforts, within the past few decades, cultural racketeering has become the prominent danger. Cultural racketeering is the looting of heritage properties and the trafficking of those antiquities to fund crime, conflict, and terrorism. These practices destroy the preservation and integrity of ancient sites, as well as present major international security risks throughout the globe. Most of the cultural racketeering committed today is in the fertile crescent or Mediterranean areas and has been described by scholars as “a problem of epidemic proportions”. As stated in the European Union Action Plan against Trafficking in Cultural Goods:

> Interpol counts over 850,000 artifacts seized globally in 2020, with more than half of these in Europe. Since 2016, the annual global Operation Pandora has led to 407 arrests and the recovery of 147,050 cultural goods. This data belies a more

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extensive problem – given that a large number of cases go undetected, the real scale of cultural goods trafficking is likely much larger.\(^6\)

Furthermore, the infographic “Illicit Excavated Items: In-Depth Comparison” shown below highlights the extent of the situation not only in West Asia but around the world.

“Illicit Excavated Items: In-Depth Comparison,” Interpol, Assessing Crimes Against Cultural Property Report. 2020.\(^7\)

Who is committing acts of cultural racketeering? Both individuals and groups of individuals conduct looting, though cultural racketeering is mainly being committed by terrorist organizations. The remnants of the cradle of civilization, in particular, are under attack by armed non-state actors, such as ISIS and Al-Qaeda. These terrorist groups have looted and destroyed hundreds of sites throughout the region and, in turn, sold the artifacts and objects on the black market. Private collectors, elites, and museums from

\(^6\) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: on the EU Action Plan against Trafficking in Cultural Goods (2022), 1.

\(^7\) INTERPOL, “Assessing Crimes Against Cultural Property 2020: Survey of Interpol Member Countries,” 16.
around the world have purchased these antiquities. The profits garnered from these sales funded their activities.

This issue has not gone unnoticed by the international community. The United Nations, European Union, dozens of individual nations, and private organizations have condemned these atrocities and have attempted to take action. Much of the international response has come in the form of condemnations, committee formations, and report submissions. Despite these efforts, powerful institutions have been unable to adequately prevent cultural racketeering.

This thesis aims to identify and explain the failings of multinational institutions to properly counteract the trafficking of looted antiquities and artifacts by armed non-state actors. The first chapter will provide historical context and an overview of the international law related to cultural patrimony. The second chapter will serve as a literature review, to recognize the main failings of multinational institutions in respect to minimizing trafficking and prosecuting non-state actors. The third chapter will identify and describe the actions of the “sellers” using two case studies of cultural racketeering in West Asia: ISIS and Al-Qaeda. The fourth chapter will dive into the motivations and practices of the “buyers” which are cultural institutions and private collectors through two main case studies: the Museum of the Bible and the Getty Museum. The fifth chapter will analyze the international response by multilateral organizations, primarily the United Nations, and how effective they are. The sixth chapter will discuss why this issue is crucial, not only in terms of traditional security but of historical preservation and identity erasure.
Chapter 1: Background on the Issue

The looting and plundering of cultural patrimony is not a new phenomenon. Some form of cultural racketeering has existed for centuries.\(^8\) The Romans were notorious for plundering and looting cultural objects and spaces of those they were invading, as were the French and English in the 19th and early 20th centuries. Pillaging has been one of the main practices of war since the beginning of war itself:

the Visigoths pillaged Rome in 409 and the Vandals pillaged the city in 455; the Crusaders pillaged Belgrade and many villages and towns in Asia Minor in 1096, Jerusalem in 1099, and Constantinople and the Greek islands in 1204; the Napoleonic armies looted Italian towns in 1805–6, and in return the Russian army looted the French countryside. These lootings included destruction and plunder of food, gold, silver, art treasures, holy relics (as in the case of Constantinople), literary classics, and all kinds of transportation resources.\(^9\)

It wasn’t until the early 20th century that the international community recognized plundering practices during times of war were undesirable during land conflict. European nations did not want to risk losing their cultural patrimony, which was then solidified into international law during the Hague Convention of 1907. Three different articles of the 1907 Hague Convention prohibit pillaging, but it is Article 47 that explicitly forbids it.\(^10\)

\(^8\) Fannon, Molly. “The looting of cultural heritage has been happening since the very existence of cultural heritage, it is not anything new, but what we see now is that looting has become highly organized.” World Customs Organization News. https://mag.wcoomd.org/magazine/wco-news-81/the-looting-of-cultural-heritage-has-been-happening-since-the-very-existence-of-cultural-heritage-it-is-not-anything-new-but-what-we-see-now-is-that-looting-has-become-highly-organized/.


Pillaging was again explicitly proscribed when the international community came together for the Geneva Convention in 1949 after World War II. As stated by Tuba Inal:

The Geneva Conventions continue to impose a high degree of obligation on state parties to observe the prohibition against pillage by both repeating the fact that it is prohibited and including “appropriation of property” (along with other war crimes) in the category of grave breaches.\textsuperscript{11}

This reiteration was deemed necessary in the wake of the war crimes committed by the Nazi Regime. Over the course of several years, from 1933 to 1946, “upwards 20% of the art of Europe was looted by the Nazis” (not including other forms of cultural patrimony).\textsuperscript{12} The catastrophic campaign of the Third Reich rallied the international community together to implement a higher criterion of the prohibition regime against pillage.\textsuperscript{13} The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict further solidified these norms into international law by directly identifying cultural property as:

monuments of architecture, art or history, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, as well as scientific collections of any kind regardless of their origin or ownership.\textsuperscript{14}

This convention was far more comprehensive than the Geneva Convention or 1907 Hague Convention combined insofar as clearly addressing what it means to protect

\textsuperscript{11}Inal, 23.
\textsuperscript{13} Inal, 24.
cultural heritage. Not only did it reinstate plundering as an illegality, it (1) required its signatories to implement preventative measures in cases of emergency to protect cultural patrimony; (2) mandated the establishment of special units with the military forces responsible for the protection of cultural property; and (3) had all important monuments and buildings marked with a distinctive emblem of the Convention.\footnote{UNESCO, “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.”} Under the 1954 Convention, states were also obliged to implement several other measures to actively safeguard their cultural heritage.

In the late 1950s and 1960s, formerly colonized nations were gaining their independence and joining the United Nations. Between 1957 and 1970, the United Nations acquired 47 new member states.\footnote{“Growth in United Nations Membership.” United Nations. https://www.un.org/en/about-us/growth-in-un-membership.} As these nations were emerging, so were their economies. While the formal economies were having difficulty, the black markets boomed, specifically the looted antiquities trade. As stated by the Antiquities Coalition:

archaeological sites that local communities had preserved for millennia were being destroyed in mere months and years, the target of thieves in search of buried treasures to sell on the international black market.\footnote{The Antiquities Coalition. “The 1970 UNESCO Convention,” December 18, 2020. https://storymaps.arcgis.com/stories/0bb299194f3e46d38978213e04ada549.}

It was a poorly kept secret among art collectors, museum curators, and elites around the world that most of what they were buying during the 1960s was looted and smuggled – most notorious among them were the rapidly expanding collections of J. Paul Getty and Norton Simon.\footnote{Felch and Frammolino, \textit{Chasing Aphrodite}, 5.} Articles highlighting the looting, trafficking, and celebrity buyers were
published in newspapers from Los Angeles to Istanbul. To combat this, UNESCO member states came together over the course of several months in 1969 and finalized their work at the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

While the 1954 Convention was focused primarily (though not exclusively) on times of armed conflict, the 1970 Convention aimed to protect cultural heritage regardless of conflict status. As of 2022, 143 states had ratified the 1970 Convention. The 1970 Convention had three main points: preventative measures, restitution provisions, and international cooperation. Preventative measures designed to fight against illicit trafficking of cultural patrimony include:

- the regular establishment of inventories; the establishment of export certificates; the application of controls and approval of traders; the application of criminal or administrative sanctions; the organization of information and education campaigns.

Article 7 and 13 were the two primary provisions to focus on restitution:

For objects inventoried and stolen from a museum, public or religious monument, or a similar institution, article 7 paragraph (b) (ii), provides that States Parties should undertake appropriate measures to seize and return any cultural property stolen and imported. Article 13, states that parties are responsible at the national level in term of restitution and cooperation.

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21 “List in Chronological Order: Fight Illicit Trafficking (Convention 1970).”
22 Ibid.
The international corporation guidelines within the 1970 Convention are in Article 9, which:

commits States Parties to participate in any concerted international operation. It provides for the possibility of more specific actions within the framework of international cooperation such as the negotiation of bilateral treaties on the basis of Article 9 or the control of the export, import and international trade of cultural property.\(^{23}\)

In addition to the convention articles, five statutory bodies were formed to superintend their aims: Meeting of Party States, Subsidiary Committee, UNESCO Secretariat to the 1970 Convention, UNESCO Intergovernmental Committee, and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

While the vast majority of states have since adopted the resolution, it was not initially popular among many Western countries:

It has to be said that many of the States which might be designated as "holding States" because of their large public and private collections of art and artefacts, or "art market States" because the majority of commercial trade in cultural objects took place in those countries, were not enthusiastic to have such an international agreement.\(^{24}\)

The United States did not ratify the Convention until 1983, China in 1989, France in 1997, the United Kingdom and Japan in 2002, Switzerland in 2003, Germany in 2007 and the Netherlands in 2009.\(^{25}\)

\(^{23}\) "List in Chronological Order: Fight Illicit Trafficking (Convention 1970)."
\(^{25}\) Ibid.
As of 2007, the Global Art Market Share by Value was distributed as indicated in the graph above. The United States, China, and the United Kingdom are the three largest art markets – which is in line with their reluctance to buy into the 1970 Convention. The Convention would limit the extent to which their markets would be able to operate.

In an analysis of the triumphs and failures of the 1970 Convention, Lyndel V. Prott asserts that the main achievements lie in its “persuasive effect on public attitudes on this issue” and the general education on the topic, as well as it being the catalyst for “the passage of national legislation in many countries to bring their practice into conformity with the Convention.”

While she argues that the successes of the Convention have been substantial, so have its weaknesses. These include “the clumsiness of some of the

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27 Prott, 3.
drafting,” and “certain provisions of national law which limit the effectiveness of the Convention and which were not dealt with in the final text.”

Another major problem with the Convention is the “issue of ‘good faith’ acquisition and mandatory compensation, which is mentioned in Article 7(b)(i) of the Convention – a provision which has been widely criticised as inadequate.”

The 1970 Convention was the last formal resolution submitted by the United Nations to protect, preserve, and promote cultural heritage. Since then, the issue of cultural looting and trafficking by armed non-state actors to finance terror has been on the rise. Currently, the international community has been relying on a 50-year-old convention to resolve a contemporary and ever-present problem.

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28 Prott, 4.
29 Ibid.
Chapter 2: Literature Review

The international laws and conventions that were described in the previous section were created by multinational institutions, primarily the United Nations and its subsidiaries and specialized agencies, such as UNESCO. The purpose of this section is to provide a theoretical framework for understanding the weaknesses of multinational organizations, particularly with regard to handling issues perpetuated by armed non-state actors. The weaknesses of IOs is where cultural racketeers are able to conduct their illicit activities. This literature review will focus on three questions: (1) what are the general weaknesses of multinational organizations; (2) why do IOs struggle to respond effectively to non-state actors and; within that, (3) can IOs leverage international cultural laws to constrain NSAs?

What are weaknesses within multinational institutions?

Intergovernmental organizations (IGOs), such as the United Nations (UN) and the International Monetary Fund (IMF), among hundreds of others, are institutions of collaboration created by and for nations to pursue common goals. They are one facet of the global governance strategy—which are “cooperative problem-solving arrangements on a global plane” that may come in the form of “rules (laws, norms, codes of behavior) as well as constituted institutions and practices (formal and informal) to manage collective affairs by a variety of actors (state authorities, intergovernmental organizations, nongovernmental organizations, private sector entities).”30 In their book *Power and Interdependence*, Robert Keohane and Joseph Nye describe the role of international

organizations (of which intergovernmental organizations are one type) as assistants in setting up “the international agenda, [that] act as catalysts for coalition-formation and as arenas for political initiatives and linkage by weak states.”\(^{31}\) Keohane and Nye articulate that IOs help decide what are the salient issues and determine governmental priorities.\(^{32}\)

IGOs serve three main functions. Clive Archer lists them as the “instrument, arena, and actor.”\(^{33}\) As the instrument, multinational institutions are merely the tool used by members to meet their own goals and objectives. This can prove to be quite detrimental to the world order, because the international organization “is likely to become fought over by the most powerful members eager to utilize it, and thus its chances of independent action are limited.”\(^{34}\) When the IGO is an arena, or the setting for international actions to occur: “the organizations provide meeting places for members to come together to discuss, argue, co-operate or disagree. Arenas in themselves are neutral – they can be used for a play, a circus or a fight.”\(^{35}\) IGOs as a forum set all members on as even a playing field as possible – whether they “want to negotiate, agree or publicly disagree, they can of course do so on a bi- or multilateral basis. They can arrange an ad hoc meeting for their purpose.”\(^{36}\) When there is an issue to discuss among the international community, preexisting intergovernmental organizations remove the barriers to entry for these discussions to take place, as Archer describes:

be they members of the International Olympic Committee planning the next Olympics, delegates of the Médecins Sans Frontières discussing activities in war

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32 Keohane and Nye, 35.
34 Archer, 115.
35 Archer, 118.
36 Archer, 122.
zones, the Council of the European Union airing their views on a trade agreement, or the 190-plus members of the UN General Assembly gathering in New York to discuss a new world economic order.\textsuperscript{37}

The final role IGOs fulfill, as described by Archer, is that of an independent actor. While there are many definitions of what “independent actor” means in an international capacity (which alters the number of institutions that fit within that criteria), Archer asserts that “the presence of these international organizations collectively and individually has an effect on the international system, and some of them are more active than some of the weaker sovereign states.”\textsuperscript{38} Examples of IGOs that behave as independent actors are the International Court of Justice and European Court of Human Rights—their actions are “given a separate capacity to act on the international scene.”\textsuperscript{39} Whether or not an IGO is serving as an instrument, arena, or actor, multinational organizations have the opportunity to effect change in ways that sovereign states cannot.

While the merits of intergovernmental organizations are incalculable in certain situations, they are not always fit to solve international problems, crises, or disputes. No matter the function an IGO serves, its efficacy and effectiveness are dependent on a multitude of factors. Most important among these is the level of support provided to the IGO by its members. In order for international institutions to function, there needs to be adequate buy-in by all member states, meaning that all nations involved must understand the benefit of the organization and decide that it is in their best interest to be involved. This can be particularly difficult if members need to relinquish sovereignty in significant

\textsuperscript{37} Archer, 123.
\textsuperscript{38} Archer, 124.
\textsuperscript{39} Ibid.
ways. This presents the first weakness of intergovernmental organizations. As stated by Charles Boehmer, Erik Gartzke and Timothy Nordstrom in their article “Do Intergovernmental Organizations Promote Peace?:”

IGOs are not broadly effective in the way they should be if international organizations alter preferences or form a web of constraining commitments. Neither are IGOs universally ineffective…cohesion among IGO members increases IGO effectiveness.40

Without uniform buy-in by members and a general consensus that the institution is a priority (which only occurs when the institution offsets more costs than it imposes), it will not be effective. John J. Mearsheimer outlines the number of weaknesses and failings in intergovernmental organizations from the realist perspective in his article “The False Promise of International Institutions,” one of which is the international cooperation buy-in logic. He states that:

States contemplating cooperation must consider how the profits or gains will be distributed among them. They can think about the division in two different ways. They can think in terms of absolute gains, which means each side focuses on maximizing its own profit, and cares little about how much the other side gains or loses in the deal. Each side cares about the other only to the extent that the other side's behavior affects its own prospects for achieving maximum profits.

Alternately, states can think in terms of relative gains, which means each side not only considers its individual gain, but also how well it does compared to the other side.41

The benefits liberals anticipate from international cooperation and organizations’ effectiveness cannot possibly surface in all scenarios, as each member will weigh its

profits differently. More simply put, “cooperation takes place in a world that is competitive at its core—one where states have powerful incentives to take advantage of other states.” This is an added complexity to intergovernmental organizations’ ability to solve global issues and promote peace, since their members may perceive that they are operating in a zero-sum world.

Not all members or potential members are weighing the pros and cons of joining an IGO independently. The international power dynamics can allow for certain strong states to bully and coerce weaker ones into submission — not necessarily for their own good. Jonas Grimheden, of the European Union Agency for Fundamental Rights, has articulated how the European Union uses of “all of its tools—political and judicial—to try to reach an understanding, and is now using funding as a means to push member states less convinced by the rule of law arguments that they have to change in order to access these funds.”

An IGO’s effectiveness depends not only on member states determining that their priorities are in line with the organization’s mission, but the institution’s structure as well. In an assessment of IGOs, Karen Mingst and Michael G. Schechter came to the conclusion that the:

scope of an organization's activities and the size of its membership are the primary indicative independent variables. The scope and size of the organization jointly determine organizational ability and decision capacity. The narrower the scope of activities and the fewer the members, the more the organizational ability will be regulative and the decision capacity operational. The broader the scope

42 Mearsheimer, 13.
and the greater the number of members, the more the organizational ability will be information-gathering and decision capacity information-handling. Organizational ability and decision capacity are seen jointly to determine the degree and type of impact of the organization on the environment. The more regulative the organizational ability and the more operational the decision capacity, the greater the impact of the organization on the environment. The more information-gathering the organizational ability and the more information-handling the decision capacity, the less direct impact the organization is expected to have on the environment.\textsuperscript{44}

Due to the multitude of variables at play – IGOs’ structures, members, and the various issues with which they may be dealing with at any given time – it is incredibly difficult to compare IGOs and determine their impact on their desired project. Using this outline and framework provided by Mingst and Schechter, IGOs can be compared more uniformly. The diagram below highlights the independent and dependent variables that can be used to assess IGOs’ effectiveness.

\textsuperscript{44} Mingst and Schechter, “Assessing Intergovernmental Impact: Problems and Prospects,” 201.
Understanding the strengths and weaknesses of IGOs and IOs is essential for evaluating their responses to cultural racketeering, as many of the failings of the conventions and preventative measures, correlate to flaws in the IO structures themselves.

*Why do IOs struggle to respond effectively to non-state actors?*

As indicated in the previous section, international organizations, particularly the United Nations, are designed for and by nation-states. Nonetheless, IOs experience difficulties managing the varied interests, agendas, and politics present among the member states. Non-state actors (NSAs), which have increased in prominence on the international stage, present an added complexity into IO operations. NSAs are more easily defined against the characteristics of nation-states:

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45 Mingst and Schechter, 204.
To begin with, a Non-State Actor does not exercise formal power over, or on behalf of, a given population. However, this does not mean that it has no constituency of its own. Many Non-State Actors have formal membership bases, employees (in the case of large corporations and NGOs) and sympathizers. Sometimes Non-State Actors act as official representatives of designated groups in a country (e.g. an ethnically defined political party). As a result, a Non-State Actor can sometimes be very influential, in some respects even more powerful than a state itself. Secondly, a Non-State Actor does not formally control territory. This is true as a rule, but separatist movements, large companies, or the Catholic Church can in fact be in effective control of territory. Conversely, the state itself may not always be in control of all territory under its jurisdiction, as in the tribal areas of Pakistan. Finally, the cornerstone rule that international relations are built on formalized state-to-state relations is also becoming questionable.46

Non-state actors operate between the rigid structures that delineate states and have become more influential on issues that were once designated to states. In the report “State and Non-State Actors: Beyond the Dichotomy” written by Peter Wijninga, Willem Theo Oosterveld, Jan Hendrik Galdiga and Philipp Marten, four reasons are highlighted as the reasons for the rise of Non-State Actors: (1) the emergence of a multipolar international world post-Cold War; (2) interdependence and increased globalization; (3) the third wave of democratization across the globe; and (4) the continued technological developments, particularly of information and communication.47 Under the umbrella of NSAs are: “NGOs, charities, political parties, lobby groups, the media and multinational companies, super-empowered individuals such as ‘oligarchs’, but also terrorist groups and international crime syndicates, as well as diasporas and organized ethnic minorities.”48

More recently, there has been a push to differentiate non-violent NSAs and violent NSAs

46 Wijninga et al., “State and Non-State Actors,” 144.
47 Wijninga et al., 146-7.
48 Wijninga et al., 143.
(VNSAs). VNSAs would include terrorist organizations, organized crime groups, and others. VSNAs are defined as:

an organization that has some degree of prominence (globally, regionally, or within a state or locality) but that also engages in operations that are objectively considered to be illicit (violent, criminal, corrupt, or otherwise objectionable and, in most cases or circumstances, illegal). 49

The reason to specify VNSA, particularly in regard to international law and order, is the capacity of VNSAs to wage war, inflict violence, and engage in vast transnational criminal activity make them a persistent danger. Countering these organizations is difficult because they are generally flexible and structured in ways that facilitate their ability to adapt to changes occurring within their operational environments and, in some cases, beyond. 50

IOs have difficulties responding to non-state actors, but most especially with VNSAs, because of NSAs’ ability to operate outside the set norms, guidelines, and laws created by the IOs. In the report “Understanding and Reducing the Ability of Violent Nonstate Actors to Adapt to Change,” authors Michael Vasseur, Chad C. Serena, Colin P. Clarke, Irina A. Chindea, Erik E. Mueller, and Nathan Vest determine that this is because NSAs, particularly VNSAs, have the unique ability to adapt quickly and retain an adaptive capacity. 51 The areas in which VSNAs are able to adapt quickly are alliance formation, motivation, structure, location and reach, material adoption, tactics and violent versus nonviolent means. 52 For large multinational organizations, the bureaucratic structures and

49 Vasseur et al., “Understanding and Reducing the Ability of Violent Nonstate Actors to Adapt to Change,” 2.
50 Vasseur et al., 1-2.
51 Vasseur et al., 6.
52 Vasseur et al., 8.
proceedings cannot respond to NSA or VNSAs’ adaptations in a timely manner. Many
IOs are structured in the democratic and liberal tradition, which requires buy-in from all
member states. In the case of the United Nations, the five permanent members (the
United States, China, France, Russia, and the United Kingdom) have veto power, which
can be an additional complicating factor in responding to NSA or VNSA actions in a
timely manner.

Not only is response time an issue for IOs reacting to NSA action (due to the
structure of IOs) but also the level of interest from individual member states. Depending
on the national interest of a state, they may not vote or act against the interest of the NSA
or VNSA. As stated in “State and Non-State Actors: Beyond the Dichotomy:”

> even the relationship between states and aggressive Non-State Actors cannot be
> regarded as zero-sum. There are examples of states and aggressive Non-State
> Actors benefiting from close cooperation. Terrorist groups like Hezbollah in
> Lebanon, and Al Qaida in pre-9/11 Afghanistan might not have flourished without
> the help of Iran and Syria, and the Taliban regime, respectively. 53

Differences in perspectives or interest regarding a NSA makes it harder for IOs
composed of diverse nation states to adequately coalesce around a response. Ultimately,
the organizational structures of IOs makes it difficult for IOs to respond effectively and
efficiently against VNSAs, which is only exacerbated by their swift adaptability.

This difficulty then begs the question of how can IOs leverage international law to
constrain NSAs (and by extension, VNSAs)? Similar to the weaknesses of IOs and their
trouble responding to NSAs, IOs struggle to enforce international law. International

53 Wijninga et al., 151.
tribunals, which are often different from the IOs creating international law, need to (1) recognize that violations of cultural heritage laws are worth prosecuting and (2) have the capability to do so. As stated by Federico Lenzerini in the chapter “The Role of International and Mixed Criminal Courts in the Enforcement of International Norms Concerning the Protection of Cultural Heritage:”

the inherent limit of international judicial enforcement of international crimes in general, and crimes against cultural heritage in particular, rests in the fact that it is practicable only whether and to the extent that specific tribunals exist having the competence to adjudicate the crimes in point.54

That is a difficult balance to strike, but not impossible. The ICTY (International Criminal Tribunal for the former Yugoslavia) prosecuted the case Kordić & Cerkez and ruled that the targeted attacks against cultural and religious buildings and monuments on the World Heritage List “manifests a nearly pure expression of the notion of ‘crimes against humanity,’ for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects.”55 This ruling was then confirmed in the appeals court. Kordić & Cerkez was groundbreaking and “the way seems to be paved for the ICC to make a very important decision on the issue of destruction of cultural heritage,” and yet despite the numerous atrocities committed against cultural heritage since then (1995), there has been no action.56 This is due to the fact that the prosecution of actors committing atrocities against cultural heritage takes political will which clearly does not exist.

55 Lenzerini, 50.
56 Lenzerini, 63.
Chapter 3: The Sellers

There are two sides to the cultural racketeering coin: the buyers and the sellers. The sellers are what most focus on — whether that be the international community, the media, or academics. The sellers are the armed non-state actors (VNSAs) who loot, destroy, and traffic the objects from cultural heritage sites to fund their illicit activities. As stated by Deborah Lehr in a hearing before the Subcommittee on Counterterrorism and Intelligence of the Committee on Homeland Security: “Millions of archeological, historic, and religious sites in this region--including the Cradle of Civilization--are threatened by organized plunder or destruction from armed conflict by terrorist organizations.” The two organizations best known for utilizing cultural racketeering as a funding source are ISIS and Al-Qaeda. As such, they are the focus for the following section. These cases highlight the details and implications of cultural racketeering, and what they have sponsored.

ISIS

Perhaps the most commonly cited case for cultural antiquities trafficking by a terrorist organization is the Islamic State of Iraq and al-Sham (ISIS). After its inception in 2004, ISIS rose to prominence as a global terrorist group by 2014 through violence, oppression, and terror. Between June 2014 and 2016, “ISIS conducted “more than 140

terrorist attacks in 29 countries other than Iraq and Syria...[which] have killed at least 2,043 people and injured thousands more.” Not only was ISIS inciting violence across the globe, it was amassing territory throughout Iraq and Syria. Strategizing, organizing, and executing terrorist operations comes at an immense cost – in time, resources, and human life. While ideology and practicality enticed acolytes to ISIS, many of their 8 million followers were not in a financial position to internally sponsor their activities. Since internal funding was a limited option, and as a group that is categorized by the rest of the world as a terrorist organization, ISIS had to rely on a “relatively complex system to manage its far-reaching networks. Its currencies of choice—cash, crude oil and contraband—allowed it to operate outside of legitimate banking channels.” The group’s funding sources were quite diverse (despite their constant illegality) – smuggling, royal donations, kidnapping ransoms, laundering, and trafficking – were all utilized to fund ISIS’s activities and support their population. One of its methods was trafficking looted antiquities.

While the amount of funds garnered by ISIS through cultural racketeering remains unknown, it is certain to have contributed to ISIS being the “wealthiest terrorist organization in history, valued at about $2 billion USD”. In a US House of

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61 Which reached its peak of 10 million people in controlled territory in 2015.

62 “Money Matters: Sources of ISIS’ Funding and How to Disrupt Them.” Centre for Geopolitics & Security in Realism Studies, October 25, 2015.
Representatives Task Force to Investigate Terrorism Financing meeting, Michael G. Fitzpatrick (the Chair of the committee) stated: “While not as lucrative as oil or extortion, Iraqi officials believe that ISIS could be generating as much as $100 million from the sale and trafficking of antiquities alone.” In one analysis of seized ISIS financial records, it was discovered that in “one region of Syria alone, the group reportedly netted up to $36 million from activities that included the smuggling of plundered artifacts.” Due to the murkiness and lack of regulation of the art market, most especially the black art market, it is almost impossible to accurately discern the scope of ISIS’s cultural racketeering. Evaluations, made by archeologists, art dealers, and public officials range from the tens of millions to a couple of billion dollars. The cultural racketeering perpetrated by ISIS, if not incredibly profitable, was extraordinarily grandiose. According to the RAND Corporation:

the looting campaigns orchestrated by the Islamic State were notable more for their scope and organization than for their attempt to profit from cultural resources. In contrast to the disorganized, ad hoc destruction wrought by other militant and criminal groups, the Islamic State reportedly sought to monopolize and impose order in its looting.

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65 Sargent et al., “Tracking and Disrupting the Illicit Antiquities Trade with Open Source Data,” 11.

66 Sargent et al., 14-15.
ISIS’s involvement in cultural patrimony was not limited to cultural racketeering. Alongside the looting and trafficking of the ancient antiquities and objects, ISIS also leveled heritage sites and targeted individuals dedicated to their preservation. In a 2016 report on the Protection of Iraqi and Syrian Antiquities, the United States Accountability Office briefly summarized the scope of the archeological and cultural damage:

By around July 2014, ISIS had destroyed hundreds of religious sites throughout the territory it controlled, including Christian statues of the Virgin Mary and the tomb of the Prophet Jonah in Mosul. Furthermore, according to a United Nations Educational, Scientific and Cultural Organization (UNESCO) official, ISIS bombed two temples in Palmyra, Syria, and brutally murdered a Syrian archaeologist in August 2015, after reportedly questioning him about the location of valuable artifacts in the city.67

While the murder of Khaled al-Asaad and destruction of Palmyra is not definitionally cultural racketeering, those events contribute to the intensity and urgency of the issue.68 In addition, it exemplifies how cultural racketeering among ISIS members was accepted, because it was a purging practice. ISIS was motivated not only by monetary gains, but by eradicating things that it deemed haram.69 What the ancient cities and their protectors (like Khaled al-Asaad) represented were not in line with its ideology, hence they needed to be expunged. This motivation also sets ISIS apart from prior looters.

One of the primary examples of cultural pillaging perpetrated by ISIS is that of the libraries, museums, and cultural institutions in Mosul, Iraq’s second largest city. ISIS

69 Haram is what is proscribed by Islamic Law.
invaded Mosul in June 2014 and quickly occupied and destroyed much of the area. By March 2015, ISIS fighters had looted and damaged more than 42 sites, including mosques, churches, shrines, and libraries. Most of these sites were mosques and shrines that belonged to the Abbasid era and churches that were centuries old. Some of the most important included the Castle of Tal Afar, the mosque of Prophet Jonah, the mosque of Prophet Sheet, the mosque of Prophet Zarzis, al-Ta'hera (the Pure) Church and the Virgin Mary Church.\(^7\)

Not only were the mosques and religious sites damaged, but those of historic and cultural importance as well. Perhaps the most infamous ransacked institution in Mosul was the city’s museum.

The Mosul Museum is Iraq’s second largest museum, behind the National Museum in Baghdad, and houses four halls of Iraqi history: Assyrian hall, the Hatrene hall, the Islamic hall, and the Prehistoric hall. Months prior to the ISIS invasion of Mosul, 1,700 out of 2,200 artifacts in the museum’s collection had been moved to Baghdad for safekeeping.\(^7\) By the time ISIS arrived in Mosul, only 500 or so objects were still in the museum. ISIS did not spare them. In February 2015, ISIS members filmed a five-minute video showing a group of men taking sledge hammers and drills to several large statues in the Mosul Museum, “including one depicting a winged-bull Assyrian protective deity that dates back to 9th century BC.”\(^7\) Shortly thereafter, the museum was bombed extensively. Two of the main halls, the Assyrian and the Hatrene periods, bore the brunt


71 Ibid.

of it. Some archaeologists and museum officials do not believe that ISIS destroyed all of the objects, but rather looted them and then fabricated destruction, similar to the Nazi strategy 70 years prior. Abdullah al-Jumaili, an archaeology professor and adviser to the Mosul Museum stated:

ISIL deliberately filmed while they were destroying the pieces, but we do not believe that they really did...They [ISIL] were breaking the big pieces, which would be difficult to transfer from one place to another. We believe that they have been smuggling these antiquities to Turkey and Syria.

Those items would have ended up on the black antiquities market — shipped across the world with forged provenances and into the hands of elites.

During ISIS’s brief occupation of the city (31-36 months), the cultural racketeering and destruction did not stop at the Mosul Museum. The University of Mosul was “was gradually closed down and then torched. Quite intentionally, the library was hardest hit. ISIS sought to kill the ideas within its walls—or at least the access to them.”

The University of Mosul library was home to many premier manuscripts, “among its prize acquisitions was a Quran from the ninth century, although the library also housed thousands of twenty-first-century volumes on science, philosophy, law, world history, literature, and the arts.”

100,000 books and manuscripts were burned during the

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73 al-Salhy, “The Full Story behind ISIL’s Takeover of Mosul Museum.”
74 The Nazi Party was notorious for their art plundering – particularly of Jewish homes and cultural institutions of nations they invaded. While the perpetrators would often steal openly, sometimes the looting needed to be covert. To hide their actions, some Nazi plunderers would feign destruction of the art to make the owners or stewards think it was destroyed so that they could steal it without the risk that it may be searched for. One such case of this is the Amber Room. It was said to have been dismantled and then destroyed, but many historians believe it to be hidden away.
75 al-Salhy, “The Full Story behind ISIL’s Takeover of Mosul Museum.”
77 Wright, “Mosul’s Library Without Books.”
pillage.⁷⁸ At least nine missiles hit the library – which penetrated through three layers of cement – to destroy almost the entire structure.⁷⁹ As stated by the Director General of UNESCO, Irina Bokova, the Mosul attacks against museums, libraries, and universities is a “systematic destruction of heritage and the persecution of minorities that seeks to wipe out the cultural diversity that is the soul of the Iraqi people.”⁸⁰

While there are a few major examples of known ISIS cultural racketeering, much of their activity can only be seen using comparative satellite images of sites, taken over the course of a couple of years. These landscape images show deep holes in the sites, which are the looting holes puncturing the cultural heritage areas. Part of the difficulty in understanding the gravity of the cultural racketeering problem, especially under terrorist occupation, is the lack of prior reference photos from before the site was looted (even if that was only to 2011). Archeological research has attempted to catalog each site through satellite images, and some researchers have even tried to manually count the visible looting pits.⁸¹ As described by Jesse Casana:

The scope and severity of war-related looting in Syria is best understood in reference to that which took place prior to the war. Of the 966 sites for which we have been able to make assessments of pre-war looting, 227 (25%) show evidence of looting (… 18% minor, 5% moderate, and 2% severe).⁸²

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⁸⁰ Fadhil, “Isis Destroys Thousands of Books and Manuscripts in Mosul Libraries.”


⁸² Ibid.
One of the many sites that endured extensive damage by ISIS, especially between 2012 and 2014, was the Dura Europos site in eastern Syria. The Dura Europos is described by many scholars as a “crossroad of cultures” because it was home to the “long-buried settlement [which] was ruled successively by the Macedonians, Parthians, and Romans until its destruction in A.D. 256.” Dura has provided scholars with a plethora of information to better understand the complexities in religious traditions present in Greco-Syrian and Roman cities, and “discoveries included a shrine to the god Mithras, a synagogue whose assembly room walls were covered with painted biblical scenes, and one of the earliest Christian house churches.” The image below shows the Dura Europos site in June 2012 versus April 2014, after extensive looting had been done.

Satellite Images of Looting Pits at Dura Europos in Syria, June 2012 and April 2014, U.S State Department GAO Report.\textsuperscript{85}

The early Byzantine city of Tell es-Sinn, located on the left side of the Euphrates River, was severely looted by ISIS. Tell es-Sinn, or “Hill of the Teeth”, “represents one of the most important necropolis from the Fertile Crescent to the Near East”.\textsuperscript{86}

Researchers have wanted to study the remains to gain further “knowledge of frontier populations in the Byzantine Empire during the 6th-7th centuries, a period in which


necropolis and skeleton remains are not abundant." The destruction caused during the
ISIS occupation will limit the scope in which these studies can occur and the elements
that were not destroyed are “essential to study”. The image below shows the Tell es-
Sinn site irreparably damaged by heavy machinery used to loot ancient objects.


On the right bank of the Orontes River in the northern Syrian Desert was Apamea,
an ancient Greco-Roman city. The site’s first city dates back to the Stone Age – however
the area is best known for its importance to the Roman Empire in the second century
AD. This site is iconic for the Great Colonnade, situated along the main avenue of
Apamea that are excellent examples of Byzantine columns, and the Roman theater. Beginning in 2011, with the Syrian Civil War, Apamea fell victim to war-time looting, and continued throughout the ISIS occupation. The following images are satellite shots from 2011, 2012, 2013, and 2015 – before and during the looting by both the Syrian regime and ISIS.

“The major Roman/late Roman city of Apamea in western Syria was severely looted during 2012-2013.” Imagery © Digital Globe 2015.

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92 Casana, 148.
Under ISIS occupation, it was not just Syrian sites that were at risk but Iraqi ones as well.

As reported by the Global Initiative Against Transnational Organized Crime:

Within its Iraqi territory, in 2015, IS occupied more than 4,500 archaeological sites. These included two UNESCO World Heritage sites – the 1st-century Parthian city of Hatra and the Old Assyrian capital, Ashur; as well as two other sites on UNESCO’s ‘tentative list’, Nimrud and the ancient city of Nineveh.

One of the most notable among these sites is the Parthian city of Hatra, as it was “one of the best-preserved of Iraq's archaeological sites before it was seized by IS in 2014.” Just as ISIS filmed videos of members destroying objects at the Mosul Museum, videos of militants destroying “statues and friezes deemed idolatrous” at the Hatra site were

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circulated. Thankfully, the destruction of Hatra was relatively minor compared to others across Iraq and Syria, and according to one BBC source, only “the exterior wall was damaged, shots fired by Daesh [IS militants] left holes in some buildings, two grand halls of the ancient palace suffered fires, and shrapnel from shells affected the western part.”

Other sites, such as the ancient Assyrian city Nimrud, were not as lucky: “ISIS fighters using sledgehammers, power tools, and bulldozers to demolish priceless sculptures and stone carvings. What they didn’t destroy with explosives they tore down by hand.”

Contrary to popular belief, the manner in which ISIS looted, destroyed and propagated its activities was systematic and intentional. The ISIS network was extensive and multifaceted, with an “elaborate state-like bureaucracy” that allowed for the utilization of many funding sources. In order to maximize cultural racketeering activities for the highest amount of profit, ISIS granted acolytes permits to loot sites for a portion of the proceeds. This system was confirmed by ISIS officials in a memo from its General Committee. “It is prohibited for any brother from the Islamic State to excavate antiquities or give the permit to anyone from the public without receiving a stamped permit.” Permit holders are expected to give 20 percent of their profits to ISIS—a traditional Islamic “war booty” fee—or face punishment. According to the captured memos, in the four months leading up to April, ISIS received $265,000 in taxes on total sales of $1.25 million.
This process allowed for local ISIS members, with intimate knowledge of the area and need for income, to loot nearby sites on behalf of the terrorist organization for a portion of the profits. This is why much of ISIS looting has been difficult to detect, as it occurred in areas without much official archeological presence, but also by such a vast network of perpetrators.

Al-Qaeda

While the cultural racketeering perpetrated by ISIS is more widely known and studied, the Sunni military organization, Al-Qaeda, was the first terrorist organization to utilize routinized looting as a means of financing. Founded in 1988 by Osama bin Laden as a reaction to the Afghan War, the group started to recruit throughout West Asia and the Islamic world to fight back against the Soviet Union.101 After the USSR’s withdrawal from Afghanistan in 1989, Al-Qaeda was focused on opposing Western influences, foreign presence, and corrupt Islamic regimes.102 The United States became Al-Qaeda’s primary target in 1991 after the Gulf War, when Saudi Arabia agreed to host US troops.103 While there were numerous attacks against the United States across the globe, the most infamous atrocity committed by Al-Qaeda were those on September 11, 2001. Even though the terrorist attacks against the United States were more widely publicized

den,in%20conflicts%20around%20the%20world.
103 Ibid.
by main-stream media, Al-Qaeda also conducted lethal assaults against civilians in Kenya, Indonesia, Morocco, the United Kingdom, and many other nations.

The United States government initially thought Al-Qaeda was financed through the personal fortune of Bin Laden. However, it was quickly discovered that the organization relied heavily on outside fundraisers and other financing sources, such as corrupt charities and, to a lesser extent, trafficked antiquities. \(^{104}\) Regardless of the amount of capital gained from cultural racketeering, utilizing looting and trafficking of heritage as a strategy for terrorism financing is beyond problematic (as it trivializes the importance of antiquities in addition to destroying their integrity). The vast majority of the looted antiquities co-opted by Al-Qaeda originated in Iraq. In 2006, a report titled “Heritage at Risk,” Lebanese archaeologist Joanne Farchakh stated:

> There are 10,000 archaeological sites in the country [Iraq]. In the Nassariyah area alone, there are about 840 Sumerian sites; they have all been systematically looted. Even when Alexander the Great destroyed a city, he would always build another. But now the robbers are destroying everything because they are going down to bedrock. What's new is that the looters are becoming more and more organised with, apparently, lots of money. \(^{105}\)

At the outset, archeologists were not making the correlation of increased lootings with Al-Qaeda’s presence. Farchakh described the looters’ activities in the early 2000s as “systematically destroying the remains of this civilisation in their tireless search for sellable artefacts”. \(^{106}\) The organized, systematic looting was not a coincidence with the increased activity of Al-Qaeda in the area. Al-Qaeda in Iraq (AQI) “first appeared in

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105 “Heritage at Risk,” 95.
106 “Heritage at Risk,” 94.
2004, when Abū Muṣʿab al-Zarqāwī, a Jordanian-born militant already leading insurgent attacks in Iraq, formed an alliance with al-Qaeda”.\textsuperscript{107} Quickly, waves of attacks in Iraq were brought forth against civilians, governmental institutions and officials, and security personnel. In order to raise funds for their activities, Al-Qaeda had to utilize every possible funding source, including cultural racketeering.\textsuperscript{108} It wasn’t until the overt and widespread cultural racketeering of ISIS that multinational organizations and the academic community realized the correlation between increased looting and terrorism.

Similar to cultural activities of ISIS, Al-Qaeda targeted heritage sites as a means of financing its operations but also to destroy and purge. One of Al-Qaeda’s most identifiable attacks on heritage and cultural patrimony is the bombing of the Askariya Shrine in Samarra, Iraq. Built in 944, the mosque is one of the oldest and significant sites of Shiite Islam:

\begin{quote}
It contains the tombs of the tenth and eleventh imams, Ali al Hadi (d. AD 868) and his son Hassan al Askari (d. AD 874). The Askariya shrine has been continually added to since the tenth century, often by Iranian rulers – its great dome was rebuilt in 1623 by the Safavid Shah Abbas and was first covered in golden tiles by the Qajar Shah Nasir al Din in 1868.\textsuperscript{109}
\end{quote}

In February 2006, and then again in June 2007, the mosque was bombed. The temple is quintessential to Iraqi culture and to Islam, so much so that in the immediate aftermath of the attack, it “was so horrifying that many here blamed foreigners, saying that no Iraqi

\textsuperscript{107} “Al-Qaeda: History, Meaning, Terrorist Attacks, & Facts.”
\textsuperscript{108} “Following the Money: Examining Current Terrorist Financing Trends and the Threat to the Homeland.”
\textsuperscript{109} “Heritage at Risk,” 94.
would do such a thing.”

Targeting cultural and religious sites, while not an issue of financing, demonstrates Al-Qaeda’s instrumental use of heritage as a means of inducing terror.

Al-Qaeda’s motivation, same as ISIS, is to purge the world of things deemed haram. This materialized into action as the complete destruction of culture as well as the looting of it to finance its operations – both of which achieve their ultimate goal. As VSNAs, Al-Qaeda and ISIS were able to adapt quickly to any responses made by the international community. The vastness of Al-Qaeda and ISIS also posed a unique challenge to IOs because it was not dealing with one particular state, but rather independent actors located in a number of states. This has made it difficult for IOs (even more so given their bureaucratic structures) to aptly respond, in either preventative or punitive ways.

Chapter 4: The Buyers

“95 percent of the ancient art material in this country has been smuggled in.”
Anybody who thought otherwise, he added, would have to be “naïve or not very bright.”

- John D. Cooney, curator at the Cleveland Museum of Art

The other side of the cultural racketeering coin are the buyers. Cultural racketeering would not be possible without the demand for ancient objects and antiquities throughout the world, predominantly by elites from the West and Eastern Asia. The main buyers of this looted and trafficked cultural patrimony are museums and private collectors. Despite the 1970 Convention, which was established due to the high volume of black-market antiquities ending up in well-regarded institutions, this remains an issue today. The opaque nature of the art market makes it difficult for law enforcement to recover looted antiquities from museums, but especially from private collectors. The following section describes those two main groups of buyers, and specific cases in which looted and trafficked cultural objects were purchased by prominent museums and famous individuals. The cases involving museums focus on the Getty Museum and the Museum of the Bible. The section explaining private collectors’ role within this issue will name a few major cases of individuals, but will primarily focus on the group at large.

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Museums

Museums are at “the center of history, and provide people with a sense of place, purpose, and a place to celebrate achievements”. They house humanity’s creations, triumphs, and defeats through the preservation and exhibition of art, objects, architecture, and nature. Without museums, society would be at risk of losing not only the appreciation of history, but the history itself. The museums that receive the most visitors, and oftentimes funding, are encyclopedic museums. Encyclopedic museums, large institutions that span both time periods and regions, are:

dedicated to collecting, cataloging, and presenting a representative sample of the world’s many cultures in a scientific and objective manner, thereby allowing visitors to use their own faculties of reason to make conclusions about the complex world in which they live.

Such institutions include the Metropolitan Museum of Art, the British Museum, and the Louvre. These museums, which are all located in Western states, are constantly working to acquire “new” objects and artifacts to showcase in their exhibitions or add to their collections. Not only do they allow visitors to observe and interact with historical objects, compared to others from around the world and from different time periods, but also facilitate academic research.

These are undoubtedly positive impacts of encyclopedic museums, however some museum leaders and curators use those benefits as misguided rationale for illegal and illicit acquisitions. Many museum curators argue that the provenance of an object does

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not matter if ultimately that piece will serve the public. One such curator and the former
director of the Art Institute of Chicago, James Cuno, argues that antiquities cannot be
cultural property due to the time distance of that civilization from the present:

Cultural property is a political construct: whatever one sovereign authority claims
it to be (property, after all). Cultural property is presumed to have a special
meaning to the powers that claim it (also to the people governed by those
powers). It is said to derive from them and to be a part of them. It is central to
their identity. And they are attached to it emotionally. But is that possibly true of
antiquities? Antiquities are often from cultures no longer extant or of a kind very
different from the modern, national culture claiming them.\textsuperscript{114}

There are many examples of museums purchasing stolen or looted art and artifacts for
their galleries. Most recently, the Metropolitan Museum of Art has been forced to return
several objects: “Throughout 2022, U.S. authorities seized at least 29 items from the
Met’s collection — including Greek busts, Egyptian bronzes and ancient plates, helmets
and statues.”\textsuperscript{115} The following two cases — the Museum of the Bible and the Getty
Museum — both involved the purchase of looted antiquities which resulted in
governmental response.

Museum of the Bible Case:

Founded by the Hobby Lobby president, Steve Green, the Museum of the Bible
opened its doors on November 17, 2017 in Washington D.C. According to its mission
statement, the Museum aims:

\textsuperscript{115} Woodman, Spencer, Malia Politzer, Delphine Reuter, and Namrata Sharma. “More than 1000 Artifacts
in Metropolitan Museum of Art Catalog Linked to Alleged Looting and Trafficcking Figures - ICIJ.” The
to be among the most technologically advanced and engaging museums in the world. Showcasing rare and fascinating artifacts spanning 4,000 years of history, the museum offers visitors an immersive and personalized experience with the Bible and its ongoing impact on the world around us.\textsuperscript{116}

Boasting a collection “comprising more than 40,000 objects, the Museum Collection spans artifacts from the time of Abraham to Dead Sea Scroll fragments, biblical papyri and manuscripts, Torah scrolls, and rare printed Bibles.”\textsuperscript{117} Even before its grand opening, the Museum of the Bible was surrounded by controversy. 17,000 objects and antiquities purchased by Green for the Museum were seized by the United States government and returned to Iraq, due to their inconclusive provenances.\textsuperscript{118}

Steve Green began collecting antiquities and ancient objects in 2009.\textsuperscript{119} Initially, these objects were only related to the Bible,

but word quickly got around about a new billionaire collector. Soon dealers offered all manner of irresistible ancient artifacts: rare museum-quality objects, crates containing hundreds of unstudied pieces that held the promise of major scientific discoveries, and apparent fragments of the famous Dead Sea Scrolls.\textsuperscript{120}

\begin{footnotesize}
\textsuperscript{119} Ibid.
\textsuperscript{120} Ibid.
\end{footnotesize}
In less than a decade, Green grew his collection to an estimated 44,000 artifacts, which was an expensive endeavor.\textsuperscript{121} In US Tax code, art “collectors” may not deduct “expenses related to insuring, displaying, preserving, shipping or other costs associated” because it is considered a hobby.\textsuperscript{122} As a collector, Green was losing millions of dollars keeping his collection private. While “wealthy collectors, of course, have long saved millions of dollars in federal taxes by donating art and money to museums and foundations,” art collectors can create “tax-exempt exhibition spaces [i.e museums]...[and] can deduct the full market value of any art, cash and stocks they donate”.\textsuperscript{123} This is precisely what Green did with the creation of the Museum of the Bible. Establishing the museum and donating his collection provided a major tax-write off.

Not only did the transformation of his private collection into a museum serve Green financially, but ideologically as well. The Green family, through its corporation Hobby Lobby, has disseminated evangelical Christian ideals and traditions through the company’s policies and practices. Prior to the looting scandal, the Green family was most widely associated with the 2014 Supreme Court case, \textit{Burwell v. Hobby Lobby}. It was a victory ensuring that business owners are not required to provide coverage for contraception for their employers if doing so is inconsistent with the owners’ religious

beliefs. Embedded within the Hobby Lobby mission statement is “Honoring the Lord in all we do by operating the company in a manner consistent with Biblical principles.” Promoting Green’s religious beliefs was also a major motivator for establishing the museum.

Whatever his financial and religious motivations for the creation of the Museum of the Bible, Green routinely overlooked and neglected the provenance of the antiquities he was amassing. From the onset, there had been discussions regarding artifacts’ origins:

According to the Justice Department's statement, Hobby Lobby had been warned of the "conflicting information where the Artifacts had been stored," raising the possibility they may have been looted by other parties from archaeological sites. In 2010, Hobby Lobby purchased over 5,500 artifacts for $1.6 million. Those warnings were clearly ignored. The objects acquired in 2010 from a dealer in the United Arab Emirates and were shipped to a variety of Hobby Lobby locations labeled “tile samples” to avoid suspicion from US Customs. This was a deliberate ploy to deceive law enforcement because it was evident that these objects were looted. Within those packages were “cuneiform tablets, cylinder seals and inscribed clay bullae once used in commercial transactions, dating back to the third millennium B.C.” These objects were looted from Iraqi archaeological sites. Journalist Jane Arraf reported that

124 Bailey, “Hobby Lobby’s $3 Million Smuggling Case Casts a Cloud over the Museum of the Bible.”
128 Ibid.
129 Ibid.
“Archaeologists say some of these items may have even come from Iraq's national museum, which was looted after the U.S. invaded Iraq in 2003 and troops failed to protect cultural sites.”¹³⁰ This acquisition resulted in the Eastern District of New York filing a civil complaint in July 2017 under the name *United States of America v. Approximately Four Hundred Fifty Ancient Cuneiform Tablets and Approximately Three Thousand Ancient Clay Bullae.*¹³¹ US Customs and Border Protection (CBP) intercepted five of the ten shipments, which began the process of indictment. The case was resolved by filing a stipulation of settlement in which

Hobby Lobby consented to the forfeiture of the artifacts in the complaint, approximately 144 cylinder seals and an additional sum of $3 million, resolving the civil action. Hobby Lobby further agreed to adopt internal policies and procedures governing its importation and purchase of cultural property, provide appropriate training to its personnel, hire qualified outside customs counsel and customs brokers, and submit quarterly reports to the government on any cultural property acquisitions for the next eighteen months.¹³²

In response to the investigation and subsequent settlement, Green stated: "We should have exercised more oversight and carefully questioned how the acquisitions were handled…We have accepted responsibility and learned a great deal."¹³³

¹³³ Choi, “Hobby Lobby Agrees to Pay $3 Million over Smuggled Ancient Iraqi Artifacts.”
The Museum of the Bible was not a party to either the investigation or the settlement. None of the artifacts identified in the settlement are part of the Museum’s collection, nor have they ever been. The Museum adheres to the current Association of Art Museum Directors standards on the Acquisition of Archaeological Material and Ancient Art, as well as guidelines set forth by the American Alliance of Museums.\textsuperscript{134}

Regardless of whether the objects in question were part of the museum’s collection, the Museum of the Bible is still implicated. The museum was sourcing the vast majority (if not all, at the time of their opening) of their artifacts from the Green collection. If 5,000 of those objects were sourced under illegal pretenses, the rest of the collection should be scrutinized. While the museum attempts to distance itself from their founder, Candida Moss, the co-author of \textit{Bible Nation: The United States of Hobby Lobby}, stated:

\begin{quote}
The Greens remain very much involved. Green is still head of the board. The fact is, they’re not as separate as they claim. Many of the artifacts will be on loan from the Green collection. There are other items in their collection that scholars are asking questions about.\textsuperscript{135}
\end{quote}

This was not the only incident Green and Hobby Lobby had with stolen cultural artifacts. In October 2019, the British Egypt Exploration Society (EES) submitted the results of a three-month long probe of Professor Dirk Obbink,

\begin{quote}
one of the most celebrated classics professors in the world, a Nebraska native and MacArthur "genius grant" recipient who had long directed - and allegedly looted - Oxford's Oxyrhynchus Papyri Project, a collection of centuries-old literature recovered from an ancient Egyptian garbage dump in 1896.\textsuperscript{136}
\end{quote}

\textsuperscript{134} Bailey, “Hobby Lobby’s $3 Million Smuggling Case Casts a Cloud over the Museum of the Bible.”
\textsuperscript{135} Ibid.
Obbink acted as a source and consultant for some of Green’s acquisitions and “between 2010 and 2013, the chain says it paid about $7 million dollars to Obbink for seven batches of antiquities including ancient papyri with New Testament writings.” Due to Obbink’s pedigree and reputation, Green hoped that he would validate and legitimize the Museum of the Bible. As it turns out, many of those early papyri fragments purchased from Obbink were stolen.

For years, academics and University of Oxford officials had been attempting to locate first century Bible fragments, and in 2019 one was found among the Hobby Lobby collection in the Museum of the Bible. According to the British Egypt Exploration Society, the nonprofit organization that oversees the Papyri Project, Professor Obbink sold 11 missing pieces to Hobby Lobby Stores (i.e. the Green Collection), one of which was the fragment of the first chapter of the Gospel of Mark. As a result of Obbink’s looting and trafficking,

On March 26 [2020], Steve Green announced that he was giving 5,000 of his papyri to Egypt. It was an admission that virtually every papyrus in his collection lacked sufficient evidence of not having been stolen, looted, or acquired by other improper means. For the same reasons, he said, he was repatriating 6,500 clay relics to Iraq—on top of the 3,500 Iraqi antiquities Hobby Lobby had surrendered to settle a 2017 federal smuggling case.

139 Ibid.
The origins of many of those ancient papyri fragments and objects remain unclear. The Obbink debacle demonstrates a blatant disregard that buyers and even some academics have for the legitimate provenance of antiquities and cultural objects.

Into 2021, Green was forced to return additional looted artifacts. This time it was the “Gilgamesh Dream Tablet,” illegally looted and trafficked from Iraq.\(^\text{140}\) Green purchased this 3,600-year-old cuneiform artifact “in 2014 to display at the Museum of the Bible, but the sale was predicated on a false assurance of its provenance” the Justice Department stated.\(^\text{141}\) The tablet is one of the oldest surviving works of literature, as it contains sections of the Sumerian epic poem, “in which the hero, Gilgamesh, recounts his dreams to his mother. Some of the stories are mirrored by the Old Testament – for instance the reference to the Great Flood – making it one of the world's oldest known religious texts.”\(^\text{142}\) In September 2021, Hobby Lobby surrendered the tablet to the United States government, before it was returned to Iraq. In response to the various Hobby Lobby scandals, prominent papyrologist, Roberta Mazza, accused the Green family of “pour[ing] millions on the legal and illegal antiquities market without having a clue about the history, the material features, cultural value, fragilities and problems of the objects.”\(^\text{143}\)

Ultimately, the Green family, through the Hobby Lobby corporation and the Museum of the Bible, has spent the past thirteen years purchasing illicit cultural objects,

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\(^\text{141}\) Ibid.


either for personal or public observation, and being intermittently forced to return them due to their illegal nature. The Museum of the Bible demonstrates how a museum can (and often does) neglect the origin and provenance of the antiquities they acquire. There is a complete disregard for legitimate provenances in many museums’ acquisition policies, even if it means participating in “the same market from which ISIS profits.”

The Getty Museum Case:

The Getty Museum was founded in 1953 by J. Paul Getty, an oil tycoon of the early 20th century. Alongside being a cutthroat businessman, he had a penchant for collecting European art and objects, spanning from the late-antiquity period to the mid-20th century. Not dissimilar to the motivations behind the Museum of the Bible, the museum was founded to house his ever-growing collection and to serve as a tax shelter. As articulated in the book *Chasing Aphrodite: The Hunt for Looted Antiquities*:

Getty’s longtime accountant and personal aide, Norris Bramlett, suggested a more lucrative way to dispose of the art. Rather than donate it to various institutions, Getty should create his own non profit museum and run it out of his Malibu home. That way, the oilman could take even bigger deductions by contributing stock, paying for operational expenses, and purchasing art — all while holding on to the collection.

Initially, the museum was incredibly inaccessible: visitors had to reserve their admission time in advance, during their limited open hours of 3-5pm on Wednesdays and Fridays. It

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146 Felch and Frammolino, *Chasing Aphrodite*, 21.
wasn’t until 1974 that the Getty Museum moved beyond Getty’s personal home to a newly constructed replica of the Roman Villa dei Papiri and adopted normal operational hours. The Getty Museum was, and is, supported by the Getty Trust. In 2017, it was worth $6.9 billion, making the Getty the richest museum in the world. It was already the wealthiest museum in the world by 1982, following J. Paul Getty’s death in 1976, as he allocated the remains of his fortune to the museum. It took until 1982 for the finances to be properly appropriated due to disputes over J. Paul Getty’s will. While the Getty Museum has not been caught purchasing and exhibiting looted antiquities from the Fertile Crescent region specifically, it has been the subject of several high-profile looting scandals in the past 30 years that exemplify the tenebrous acquisition policies and organizational cultures of modern museums that contribute to cultural racketeering.

The Getty Museum, in its comparatively brief tenure, has been embroiled in several scandals and demonstrated patterns of impropriety. Under the leadership of Jiri Frel, a Czech archaeologist and the Getty Museum curator of antiquities between 1973 and 1984, there was a policy of purchasing looted antiquities and forging their provenances, a scheme to exploit US tax codes and swindle donors, and even guidelines for acquiring fakes. These problematic practices stemmed from a desire for the Getty

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to gain intellectual and international legitimacy as an academic institution. In his
Washington Post obituary, it states that:

Mr. Frel's determination to collect hundreds of ancient Greek and Roman vases, 
statues and pottery shards helped transform the Getty from a rich man's boutique 
into a considerable cultural force during the late 1970s and early 1980s. His 
activities also spawned two of the museum's earliest scandals. He was responsible 
for acquiring some of the museum's most problematic pieces -- among them the 
Getty kouros, a statue widely believed to be a fake. Mr. Frel was demoted in 1984 
after revelations that he engineered a tax manipulation scheme to drastically 
expand the collection.151

Frel’s scheme was “one of the largest museum tax frauds in American history. More than 
a hundred donors had given six thousand antiquities valued at $14.7 million to a museum…Frel was raking in antiquities from nobodies in embarrassingly huge 
numbers.”152 Many of these “donated” objects were acquired by Frel from various 
antiquities dealers in New York City, London or Geneva, purchased by susceptible 
donors Frel identified, and then re-donated to the museum with a fudged provenance. 
This behavior was understood and accepted by museum leadership, particularly the 
museum director, Stephen Garrett. One of his junior curators, Marion True (who would 
eventually be indicted for purchasing looted antiquities in 2005), stated that she believed 
“Frel’s true motive for the donation scheme: to build the study collection and disguise the 
provenance of recently excavated objects, not line his own pockets.”153 Frel’s activities 
were the foundation of the problematic behaviors of the Getty Museum.

https://www.washingtonpost.com/archive/local/2006/05/15/controversial-getty-curator-jiri-frel/f03e89f9-
b4b6-44bf-b289-7f9b2e1a2709/.
152 Felch and Frammolino, Chasing Aphrodite, 36.
153 Felch and Frammolino, 50.
The largest, and most publicized, Getty Museum scandal was that of Marion True herself.\textsuperscript{154} In the 1990s and early 2000s, Paolo Ferri, an Italian prosecutor, started to gather evidence against the Getty Museum for their purchases of looted antiquities. In 2005, the investigation came to a head as the Italian authorities identified “dozens of objects in the Getty collection as looted, including ancient urns, vases and a 5-foot marble statue of Apollo.”\textsuperscript{155} This case was broken by the \textit{Los Angeles Times}, as there were whistleblowers within the museum that leaked memos and other internal documents, that highlighted decades of illegal practices:

*A 1985 memo shows that Getty officials learned from dealer Giacomo Medici that three objects the museum was acquiring had been taken from ruins near Naples decades after Italian law made it illegal. The Getty completed the $10.2-million acquisition anyway.\textsuperscript{156}

*In 1987, Harold Williams, then chief executive of the Getty Trust, and John Walsh, then director of the museum, discussed the “prevailing assumption” that antiquities with no documented ownership had probably been looted, according to Walsh’s handwritten notes.\textsuperscript{157}

\textsuperscript{154} While Marion True was at the forefront of many of the illegal practices, she did not work alone. Her acquisitions were signed off by the Getty Director, and depending on the size, the Board. As Frel’s activities indicate, there was a culture of deceit and fraud throughout the Getty’s leadership and organizational structure. These malpractices were enabled and perpetuated by the institution, not one singular person. According to the Washington Post, True was singled out by the Italian prosecutors in order to strike fear into The Getty and museums like it, in order to return thousands of stolen objects.


\textsuperscript{156} Felch and Frammolino, “Getty Had Signs It Was Acquiring Possibly Looted Art, Documents Show.”

\textsuperscript{157} Ibid.
*In correspondence with Marion True, the Getty’s curator of antiquities, Medici and another dealer, Robert E. Hecht Jr., described artifacts they were offering for sale in terms that suggested they were illegally excavated. In one letter, Hecht told True that an ancient urn was being sought by Italian police. The Getty later purchased the object.*\(^{158}\)

The writing was on the wall: the Getty Museum was knowingly purchasing looted antiquities.

In 2005, the Italians made an unprecedented indictment of True “for conspiring to receive antiquities that had been illegally excavated and exported from Italy.”\(^ {159}\) Her trial began on November 16, 2005, after she lost her position at the Getty and career in the museum space. It was the first time a foreign government had targeted individuals within an institution suspected (and very guilty) of purchasing looted and trafficked antiquities. The trial of True lasted five years, with no final judgment.\(^ {160}\)

As a result of this massive public scandal and groundbreaking trial, many American museums were quick to make deals with various governments (predominantly Italy and Greece) regarding the ownership of their antiquities. Institutions such as the Metropolitan Museum of Art or Art Institute of Chicago have preemptively approached the topic, in order to avoid the public shaming and possible legal action that the Getty endured. While some museums have put in some effort to rectify past wrongs and return looted objects (“The Denver Art Museum shipped four antiquities back to Cambodia, The Smithsonian Institution returned 29 Benin bronzes to Nigeria”),

\(^ {158}\) Felch and Frammolino, “Getty Had Signs It Was Acquiring Possibly Looted Art, Documents Show.”
\(^ {160}\) True, Marion. “The Marion True Case Has Concluded, but How Does the Former Antiquities Curator of the Getty Museum Feel about the Outcome?″
Looting continues around the globe, and wealthy collectors in Asia, Russia, and the Middle East have quickly filled the void left by American museums in the antiquities market. Even in America, some museums appear not to have gotten the message. Even as the Getty scandal made international headlines, several other southern California museums were caught in a tax fraud scheme to accept donations of looted Southeast Asian artifacts.\textsuperscript{161}

The Getty Museum case provides two main insights: (1) museums knowingly purchase looted antiquities and often operate in an environment that condones such behaviors; and (2) while Marion True was not convicted, her indictment helped pressure museums into returning stolen objects. The Getty Museum, along with other institutions (especially the Museum of the Bible), indicate how strong and deeply embedded the desire to purchase antiquities is, regardless of the cost.

\textit{Private Collectors}

Museums are not the only buyers on the looted antiquities market, but are rather part of a much larger network of private collectors. Individual buyers operate with significantly less oversight and with far more agency than museums do, especially when it comes to navigating the turbid antiquities network. Museums function under a hierarchical corporate structure, where acquisitions need to be approved by department curators, chief curators, and occasionally (depending on the size of the acquisition) the executive director of the museum and the board of trustees. Unlike museums, there are no barriers between a private collector and an acquisition beyond financial feasibility and

logistics. If the collector has the desire, connections, and resources to obtain an object, no one else is standing in the way.

Since the 1970 Convention, there has been a commonplace understanding that purchasing looted objects means, at the very least, supporting organized crime and more recently, terrorism. This, however, does not seem to curb wealthy collectors’ activities. Elites with an interest (or perversion) for ancient history feel compelled to obtain objects, art, and antiquities of significance, no matter their origins. Private collectors seem to rely on a few chief justifications for acquiring looted art and antiquities to mitigate the scope of their crimes. As articulated by Erin L. Thompson in her article “‘But We Didn’t Steal It:’ Collectors’ Justifications for Purchasing Looted Antiquities:”

Modern collectors profess concern that source countries have already excavated so many antiquities that these finds are now buried in warehouses and museum basements, moldering away without anyone able to study or appreciate them. A second, and even more pervasive justification for breaking the laws of source countries is collectors’ belief that the current possessors of antiquities are unworthy owners who are neglecting or damaging artifacts.162

These rationales all boil down to the idea of “saving” or “preserving” history through purchasing unprovenanced artifacts. Not only is this steeped in a parentalist and savior-complex mindset, but it completely ignores the reality that these sales support the enterprises that looted them. One collecting duo, Elie and Batya Borowski, embodied and utilized these justifications publicly when defending their collection and acquisition methods. Batya Borowski issued a statement for the Baltimore Sun in 1992:

You’re right. It’s stolen. But we didn’t steal it. We didn’t encourage it to be stolen. On the contrary, we have collected it from all over the world and brought

162 Thompson, “‘But We Didn’t Steal It:’ Collectors’ Justifications for Purchasing Looted Antiquities,” 60.
it back to Jerusalem. Elie’s not a stealer of artifacts. He has saved and preserved so much of our history and heritage by collecting these artifacts.\textsuperscript{163}

The Borowskis are not the only collectors to believe that their work is honorable. Throughout history, elites, predominantly members of Western aristocracies, have taken interest in ancient times and removed objects from other cultures under the guise of “rescuing” them. In 1674, France’s ambassador to the Ottoman Empire, Charles-Francois Olier, Marquis of Nointel, requested funds to “save” the Parthenon Marbles and take them to Paris: “There they would be safe from the insults and injuries done to them by the Turks, who, in their horror of what they call idolatry, deem it a worthy act to break off a nose or some other part.”\textsuperscript{164} Olier was unsuccessful, and eventually those marbles would be taken by Thomas Bruce, the 7th Earl of Elgin in 1801. Those marbles now reside in the British Museum.

These rationales are still motivating acquisitions today, however they are no longer utilized publicly to defend collectors. Since looted antiquities originating from the fertile crescent area are now associated with terrorism, collectors that have been charged with possession of looted and smuggled antiquities attempt to distance themselves from the crime and feign ignorance. A prime example of this is in the case of Michael H. Steinhardt, a billionaire hedge fund manager with an obsession for antiquities, who in December 2021 surrendered 180 objects worth $70 million and was subsequently “barred for life from acquiring any other relics.”\textsuperscript{165} This was the conclusion of a four-year long

\textsuperscript{164} Thompson, 61.
investigation that determined Steinhardt purchased dozens of objects looted from 11
different countries (Bulgaria, Egypt, Greece, Iraq, Israel, Italy, Jordan, Lebanon, Libya,
Syria, and Turkey). Steinhardt’s lawyer issued a statement in response and said:

Mr. Steinhardt is pleased that the District Attorney’s yearslong investigation has
concluded without any charges, and that items wrongfully taken by others will be
returned to their native countries. Many of the dealers from whom Mr. Steinhardt
bought these items made specific representations as to the dealers’ lawful title to
the items, and to their alleged provenance. To the extent these representations
were false, Mr. Steinhardt has reserved his rights to seek recompense from the
dealers involved.166

It would have been very difficult for Steinhardt to not be aware of these objects’
inconclusive provenances, when he sourced some of them from known black market
antiquities dealers like Giacomo Medici and Giovanni Becchina.167 Not only that, but this
was not the first time Steinhardt had to cooperate with prosecutors regarding suspected
looted antiquities:

In 1997, a federal judge ruled that Mr. Steinhardt had illegally imported a golden
bowl, known as a phiale, from Italy in 1992. The object, dating to 450 B.C. and
costing $1 million, was seized from Mr. Steinhardt’s home in 1995. The judge
rejected his contention at the time that he was an “innocent owner” with no
knowledge of irregularities.168

Despite Steinhardt being a repeat offender, the consequences remained relatively minor.
The objects were returned to their native countries and the now 82-year-old Steinhardt
was banned from the antiquities market. As stated in the New York Magazine, if it is “any

166 Mashberg, Tom. “Michael Steinhardt, Billionaire, Surrenders $70 Million in Stolen Relics.”
167 Both Giacomo Medici and Giovanni Becchina were involved in the Getty Museum scandal, as some of
the primary antiquities traffickers utilized among the art world.
168 Mashberg, “Michael Steinhardt, Billionaire, Surrenders $70 Million in Stolen Relics.”
consolation, Steinhardt can always head to the Greek and Roman wing of the Metropolitan Museum of Art, where an airy, sun-dappled gallery just off the main concourse still bears his name.”

Other private collectors who have knowingly purchased looted antiquities and objects include (but are certainly not limited to): Shelby White, George Ortiz, Jonathan Rosen, Herbert Cahn, Robert Hecht, and to a certain extent, Sir John Boardman. Many of these individuals are philanthropic and contribute to a wide range of charitable organizations in addition to curating their antiquities collections. This “philanthropic status,” along with their connections, is how many of these collectors, including Steinhardt, have avoided prosecution. Most notably, Shelby White, a major donor and trustee of the Metropolitan Museum of Art, had several stolen artifacts seized from her home in December 2022. Information on whether or not those objects will be restituted is unreleased, as it is an ongoing case being investigated by the Manhattan DA’s office.

Private collectors of ancient antiquities and art are well-connected, affluent, and prominent in their communities. They see themselves as protectors of human history and argue that the origins of the objects are irrelevant to their acquisitions, yet it is their demand that fuels the market and incentivizes terrorist networks and organized crime to loot.

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169 Donahue, “Crime of the Centuries.”
170 Thompson, Erin L. “Tweet Thread.” Twitter (blog), March 30, 2021. https://twitter.com/artcrimeprof/status/1376879973412311040?lang=en. While the private collectors listed are predominantly US-based, it is important to note that private collectors throughout the world (especially in Europe and east Asia) are also guilty of purchasing looted antiquities.
171 Donahue, “Crime of the Centuries.”
Chapter 5: International Response

The cultural racketeering and destruction of heritage sites naturally raises concern among the international community. The United Nations, but particularly its subsidiaries such as UNESCO, UNODC, INTERPOL, WCO, UNIDROIT, have been tasked with handling the widespread and pressing problem. There are three distinct types of possible IO responses: preventative or deterrence-based responses, punishment and punitive responses, or protective responses. The vast majority of responses made by IOs fall into either the preventative or punishment categories. As of yet, the international community has made no substantive move to physically protect cultural heritage sites. The two main actions taken from the most powerful body in the United Nations network, the Security Council, are Resolutions 2199 and 2347. Resolution 2199 (2015) prohibits the trade in cultural property from Iraq and Syria, as stated in articles 15, 16, and 17:

15. Condemns the destruction of cultural heritage in Iraq and Syria particularly by ISIL and ANF, whether such destruction is incidental or deliberate, including targeted destruction of religious sites and objects;¹⁷²

16. Notes with concern that ISIL, ANF and other individuals, groups, undertakings and entities associated with Al-Qaida, are generating income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives, and other sites in Iraq and Syria, which is being used to support their recruitment efforts and strengthen their operational capability to organize and carry out terrorist attacks;¹⁷³

¹⁷³ Ibid.
17. Reaffirms its decision in paragraph 7 of resolution 1483 (2003) and decides that all Member States shall take appropriate steps to prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from Iraq since 6 August 1990 and from Syria since 15 March 2011, including by prohibiting cross-border trade in such items, thereby allowing for their eventual safe return to the Iraqi and Syrian people and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph.¹⁷⁴

Two years later in 2017, the United Nations Security Council unanimously adopted Resolution 2347 which:

Condemns the unlawful destruction of cultural heritage, including the destruction of religious sites and artefacts, and the looting and smuggling of cultural property from archaeological sites, museums, libraries, archives, and other sites, notably by terrorist groups. Encourages Member States to propose listings of ISIL (Da’esh), Al-Qaida and associated individuals, groups, undertakings and entities involved in the illicit trade in cultural property to be considered by the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida Sanctions Committee. Urges Member States to develop broad law enforcement and judicial cooperation in preventing and countering trafficking in cultural property and calls upon Member States to consider adopting a number of measures specified in the resolution.¹⁷⁵

The destruction of UNESCO World Heritage Site Palmyra, one of the most devastating and widely cited cases of cultural racketeering, occurred after Resolution 2199 passed. As a result, Resolution 2347 goes a step further from Resolution 2199, as it affirms that

some acts of cultural racketeering may be considered a war crime and must be brought to justice.\textsuperscript{176}

Not only did the United Nations turn its attention to this problem, but the European Union incorporated anti-cultural trafficking action into their EU Security Union Strategy 2020-2025.\textsuperscript{177} The Arab Parliament has also addressed the issue by passing the “Guiding Law for the Preservation and Protection of Arab Antiquities” which established guidelines for member states to pass laws regarding cultural patrimony protection.\textsuperscript{178}

While not the focus of this analysis, it is important to note that other organizations and independent states are also working to counter cultural racketeering. Non-governmental organizations, such as the International Council of Museums (ICOM), and independent nations, like the United States, have been at the forefront of the response. ICOM, an NGO dedicated to museums and coordinating with UNESCO, “issued a new ‘red list’ of categories of art and antiquities at risk of being looted from Libya in December [2016]. One for Syria was published in 2013, while the list for Iraq, first issued after the American invasion in 2003, was updated last year.\textsuperscript{179} The Clooney Foundation for Justice and the Antiquities Coalition also respond to cultural racketeering issues, largely through research and education. Since 2015, the United States has taken

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antiquities trafficking seriously. Congressional hearings were held on the topic, the Immigration and Customs Enforcement agency established the Cultural Property, Art and Antiquities Program, and cultural racketeering has become a focus of many federal prosecutors.

While the steps IOs have taken in regard to cultural racketeering are important and necessary, they have not accomplished what they set out to do. Sites continue to be pillaged and their contents sold on the black market to fund conflict and violence. There are four reasons why multinational organizations, such as the United Nations, European Union, or Arab Parliament, struggle with effectively responding to and hindering cultural racketeering practices: (1) inadequate buy-in from member states, (2) flaws in a top-down approach, (3) lack of resources, and (4) limitations in scope. These failures correlate to the organizational characteristics provided in the Mingst and Schechter framework.

Challenges of Sovereignty

What frames the failures of the international responses to cultural racketeering are the challenges of sovereignty. National sovereignty is arguably the most important principle guiding international organizations. In Article 2 of the United Nations charter, subsection 1 states: “The Organization is based on the principle of the sovereign equality of all its Members.”180 The European Union is a collection of sovereign states that come together to collectivize sovereignty in some key areas, particularly the economy. In the Arab League’s charter, it states:

The League has as its purpose the strengthening of the relations between the member-states, the coordination of their policies in order to achieve co-operation between them and to safeguard their independence and sovereignty; and a general concern with the affairs and interests of the Arab countries.\textsuperscript{181}

Since national sovereignty is at the heart of every multinational institution, IOs cannot supersede it. Consequently, this limits the operational purview of multinational organizations attempting to implement policy or guidelines on an issue happening within a variety of territories. The looting and pillaging of the antiquities occur in the “source” or “production” countries while they ultimately end up in “market” or “demand” countries. In between, the objects and antiquities get trafficked to a variety of states, primarily the UAE, Turkey, or Israel for forged provenances. Since IOs cannot infringe upon the national sovereignty of these states, in order for their responses to be effective, there needs to be adequate buy-in among all members. Beyond the requirement of needing all member states to prioritize the issue of cultural racketeering, their resource allocations and implementation structures need to reflect that.

\textit{Inadequate Buy-In}

As indicated in Chapter 2, one significant weakness of intergovernmental organizations are the multifarious levels of buy-in for particular initiatives within agencies. The 1970 Convention, which has been previously stated, is the primary resolution on which the vast majority of nations base their antiquity looting and trafficking laws. Over the past 52 years, 143 states have ratified, notified of succession, \textsuperscript{181}“Charter of Arab League.” League of Arab States, March 22, 1945. https://www.refworld.org/docid/3ae6b3ab18.html.
or otherwise approved the convention.\textsuperscript{182} Those different treaty actions, alongside when states took those actions, indicate how important the treaty is to their national interest. Ratification means that the state consents to being legally bound to the treaty, and “grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty.”\textsuperscript{183} Acceptance, or approval, has the same legal impact of ratification but the states that ‘accept,’ as opposed to ‘ratify,’ usually do so because, at the national level, “constitutional law does not require the treaty to be ratified by the head of state.”\textsuperscript{184} Notification of succession demonstrates that a state understands the legal importance of the treaty, but does not bind itself to it. The table shows (see Appendix), in order of ratification, countries that have approved the 1970 Convention, and, if they had any, their declarations or reservations.

The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property was submitted to the 16th session of the General Conference of UNESCO and adopted on November 14\textsuperscript{th}, 1970.\textsuperscript{185}

In the early years of the 1970 Convention, the Treaty was predominantly ratified and approved by source nations (states that experience the looting of their cultural property). This was expected, as the Treaty itself was proposed by states emerging from their colonial pasts, in an attempt to squander the further trafficking of their national heritage.


\textsuperscript{184} Ibid.

\textsuperscript{185} “About 1970 Convention.”
These countries had more to gain from the Treaty, therefore their buy-in was higher. On the flip side, it took much longer for other nations, such as the United States, United Kingdom, or France, to ratify or approve the Treaty. This is because they are the market or demand countries, where the demand for the looted antiquities is high and are often the final destinations for many of the stolen objects. It was not until 1978 that a Group I country (Canada) ratified the Convention. The United States approved the convention in 1983, France in 1997, and the United Kingdom in 2002. This indicates that the former imperial or colonialist states were against binding themselves, or at the very least hesitant to bind themselves, to the guidelines established by the convention. In addition to falling in line with the convention’s directives, states would be obligated to prosecute those that violate the treaty. As previously stated, the two major classifications of buyers of looted cultural patrimony are either cultural institutions, which often have strong ideological ties to the state, or private collectors, who (by and large) are prominent and wealthy members of society. The political will to investigate institutions such as the Metropolitan Museum of Art or preeminent figures like Steve Green was low. Even now, many market member states are reluctant to crack down on those that engage in the looted antiquities and art market.

Not only did dozens of countries wait to ratify or accept the Convention, some nations like France, Sweden, Denmark, and the United States made stipulations (in the form of declarations or rejections) to circumvent some of the stricter regulations of the Convention. In the case of France, the state explicitly listed the French art and objects with identified valuations that would qualify under the convention. Sweden also listed, in great detail, the art, objects, and antiquities that would be considered as their specific
cultural property. While France and Sweden outlined what qualifies as cultural patrimony for their individual states, Denmark specified that art, objects, or antiquities from either the Feroe Islands or Groenland would not apply to the Convention. The Faroe Islands are a self-governing archipelago and Groenland (Greenland) is an island country, both in the Kingdom of Denmark. Upon ratifying the Convention, Denmark made it clear that any objects originating in either the Faroe Islands or Greenland housed in Denmark would not be returned. The United States made a less definite stipulation but asserted that all articles of the convention would be implemented to the level of the state’s discretion. The inconsistencies with each member state’s implementation of the convention allows for actors of cultural racketeering to slip through the cracks.

*Flaws in the Top-Down Approach*

Very rarely does a top-down approach to policy implementation work on a grand scale, and those regarding cultural racketeering are no exception. Almost all policies, conventions, and initiatives proposed and enacted by multinational institutions are designed with a top-down methodology. Many of the weaknesses in multinational institutions are paralleled in the flaws of the top-down approach. The 1970 Convention is a prime example of this, as it is a treaty drafted and ratified by an international organization that relies on each member state to implement its policies. Not only is the execution of the convention’s policies up to the individual member state, but within that state, there are an infinite number of factors that may impact the manner in which those conventions are implemented. The top-down approaches lack the local nuances present (that are oftentimes evolving) in communities and ignore the political and social dynamics or interests influencing the execution of those guidelines.
One of the main criticisms of top-down models, as explained by Paul A. Sabatier, in his article “Top-down and Bottom-up Approaches to Implementation Research: A Critical Analysis and Suggested Synthesis” is that they are “difficult to use in situations where there is no dominant policy (statute) or agency, but rather a multitude of governmental directives and actors, none of them preeminent.” With the issue of cultural racketeering, there are a number of actors, primarily non-state, that span a range of territories. It is not mandatory for states to adopt, for example the 1970 Convention, and member states are not held responsible for breaking it if they do. Due to a lack of enforcement, there is no higher statute or agency to incentivize states into implementing the top-down approaches thoroughly. In addition, there are a number of agencies within each state with their own interests that may alter the efficacy of such policies.

Ultimately, cultural racketeering is a problem at the local, domestic, and international levels that encompasses many actors. The top-down approach to handling the problem ignores variations within source and market countries, interests of agencies, and the power of individuals or NSAs. The international responses by multinational institutions attempt to remedy the situation by passing general and overarching conventions, when the issue demands far more nuance and a greater attention to detail.

*Lack of Resources*

The funding to protect cultural heritage sites remains minimal. Under the United Nations, the specialized agency responsible for responding to the issue is UNESCO. UNESCO “focuses on everything from teacher training to helping improve education

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worldwide to protecting important historical and cultural sites around the world.”\textsuperscript{187} The budget is divided into four main parts: general policy and direction, programs and program-related services, corporate services, and loan payments. Within the program section, it is divided between the seven UNESCO focuses, one of which is culture. Cultural racketeering prevention strategies, educational resources, and restitution services fall within that category. One of the main objectives of the UNESCO 2022-2023 Budget is the enhancement of “the protection and promotion of the diversity of heritage and cultural expressions,” which includes:

- Member States’ capacities strengthened to identify, protect and manage tangible Heritage; Member States’ capacities strengthened to fight the illicit trafficking of cultural property and promote its return and restitution, to protect underwater cultural heritage and to promote the role of museums for societies; Member States’ capacities strengthened for better preparedness, mitigation and response to emergencies affecting culture, including in situations of armed conflict and disaster; Member States’ and communities’ capacities strengthened to identify, safeguard and promote living heritage; Member States’ and civil society’ capacities strengthened to protect and promote the diversity of cultural expressions through dynamic and inclusive cultural and creative industries; Member States’ capacities strengthened to promote, monitor and measure the contribution of culture to the implementation of the 2030 Agenda for Sustainable Development at the local, national and regional levels.\textsuperscript{188}

For the 2022-2023 budget (UNESCO’s budget spans two fiscal years), $244,933,236 were allocated to “Major Programme IV - Culture”, which is roughly 16% of the total budget.\textsuperscript{189} UNESCO has thousands of sites (1,157 World Heritage sites across 167 countries), programs, and administrative networks that fall under the “Culture” budget.

\textsuperscript{188} “1 C/5 Approved Programme and Budget 2022-2025: First Biennium 2022-2023,” 163.
\textsuperscript{189} “1 C/5 Approved Programme and Budget 2022-2025: First Biennium 2022-2023,” 19.
Even though the protection of cultural heritage is a goal, the vast majority of the funding will not be allocated to those sites. Unfortunately, due to a lack of open-source budget information, it is impossible to verify how UNESCO divides its budget within the “Major Programme IV - Culture” category. While it is unviable to ascertain precisely how much attention is paid to cultural heritage sites and their protection via monetary resources, it is clear that UNESCO is overextended.

Outside of budget allocations, another indicator of how resources are not abundant enough for the protection of cultural patrimony is the placement of UNESCO offices and how many staff members they have. Theoretically, the more UNESCO offices located in a region, the more attention that area would receive. In West and Central Asia there are 8 offices, both national offices and cluster offices, whose staff (115 people in 2022) is divided among 18 countries. The UNESCO offices are shown in the map below.

The offices marked in purple signal that those are “cluster” or “regional” offices with specific missions — none of which focus on culture, nevermind mitigating cultural racketeering. Furthermore, UNESCO staff in “Arab States” only make up 15% of field office staff members, yet only 5% of UNESCO staff are on fixed-term appointments focusing on the “Arab States,” as seen in the UNESCO 2022 Staff Report below. There are dozens of initiatives and hundreds of issues those staff members tackle every day, only some of which involve culture. This is highlighted by the statistic provided in the UNESCO 2022 Staff report that only 16% of all UNESCO staff members (in field offices and in its headquarters) focus on cultural issues. It is unreasonable to assume that the protection of cultural heritage sites, even those restricted to the World Heritage list,

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would receive adequate attention. For instance, the Baghdad UNESCO Field Office (the national office of Iraq) is primarily concerned with educational initiatives such as the quality and inclusivity of education based on gender, reforming the TVET (technical and vocational education and training), and rehabilitating primary schools.191

For the staff members that do work on cultural issues (and within that umbrella of culture, cultural heritage protection), it is important to note that these staff members are not police. They can only work with local authorities and law enforcement to educate and create policy recommendations for the protection of heritage sites. Not only is it the resource limitations, like the number of personnel or in-adequate funding, that impact how effective UNESCO can be in the field but their mission and authority limitations. As indicated in the “flaws in the top-down approach” section, UNESCO staff members are beholden to the states in which they operate. If the local authorities do not want to broach the issue of cultural racketeering, then the UNESCO staff members are unable to work on the issue, as they do not have the authority to impose policy prioritization.

Regardless of what indicator is used to measure it, it is readily apparent that UNESCO is spread thin. Consequently, cultural heritage sites will suffer.

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Map of all UNESCO Offices throughout the globe.\textsuperscript{192} See footnote \textsuperscript{193} for the full list and footnote \textsuperscript{194} for the color code.

\textsuperscript{192} With the notable exception of the Office for the Pacific States located in Samoa. It is the Cluster Office to Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia (the Federated States of), Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu and Tokelau (Associate Member).


\textsuperscript{194} The site color code: blue - national office of individual state; purple - cluster or regional office; red - headquarter or UN liaison office.
UNESCO Staff, by region. January 2022 Key Data on UNESCO Staff Report.¹⁹⁵

16% of UNESCO Staff work within Program IV - Culture.¹⁹⁶

¹⁹⁵ “Key Data on UNESCO Staff,” 3.
¹⁹⁶ “Key Data on UNESCO Staff,” 8.
Chapter 6: Impacts of Failing

There are a multitude of negative ramifications if multinational institutions continue to fail at combating cultural racketeering. The three dominant impacts are as follows: (1) the pillaged sites have cultural, historic, artistic, religious, economic or social value — looting and trafficking the goods from these places destroys their integrity which in turn renders scholars and communities unable to learn from or connect with these important sites; (2) throughout the world, cultural institutions and private collectors, who are often prominent elites, go virtually unpunished for purchasing looted objects and for creating a demand in a market that funds violence, which disincentivizes a change in behavior; (3) cultural racketeering becomes another issue in a long line of problems that the international community cannot work together to solve, despite a shared common interest: to preserve remaining elements of human history.

Once a site has been looted, it is a tedious and long process to manage around the damage, if salvaging is even possible. As stated by Michelle J. Lundeen in her article, "Looted Archaeological Sites: Are They Worthy of Scientific Investigation?:" “With looting comes destruction to archaeological sites and with that comes the irrereplaceable loss of valuable information.”197 It becomes incredibly difficult to accurately assess a site and interpret the objects if part(s) of the space had been looted — archaeologists may make incorrect inferences and false claims due to a lack of contextual information. Not only does looting disrupt study and historical preservation, but it is the violation of a population or nation’s culture and identity. The World Heritage sites and other cultural

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spaces and objects around the globe are closely tied to the identities of their communities, if not humanity as a whole. In the journal article, “Cultural Psychology, Social Identity, and Community Engagement in World Heritage Conservation Sites” Rosilawati et al. assert that “cultural heritage and social identity exists in correlation and are interconnected. The shared identity associated with one’s cultural background and historic setting may initiate feelings of pride in one’s culture.” Cultural racketeering, which involves the direct destruction of cultural, historic, or religious sites, would therefore be an act of cultural erasure.

Granted that many of the cited cases of museums and private collectors resulted in the restitution of the looted and trafficked objects, the consequences of purchasing antiquities from the black market remain relatively minor. Returning the objects, a possible fine, and maybe in a private collector case (like Michael H. Steinhardt), removal from further activity in the market is the extent of the comeuppance. For museums with gigantic endowments (the Met’s was $3.3 billion as of 2020) and collections amounting to thousands of objects and millions of dollars, returning a hundred fragments or even one sizable piece is less of an economic burden than a blow to the ego. Even though Marion True’s arrest and indictment were strategic fearmongering, and worked in some cases, they did not deter cultural institutions from purchasing the looted antiquities altogether. For private collectors, who for the most part are multi-millionaires or billionaires with deep connections with their communities and those in power, restitution

and fines of a few million dollars mean even less. Hobby Lobby’s Steve Green has had a multitude of looted antiquities scandals over the past decade, each time having to return pieces and pay a “substantial” fine. Unfortunately, he doesn’t seem to learn his lesson. The consequences for the buyers of looted antiquities are disproportionate to the impact of the crime, especially considering how the funds used to purchase said objects may be utilized.

143 (out of a 193) states have either ratified or accepted the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.200 As indicated in the first chapter, international organizations composed of member states experience a myriad of issues and weaknesses due to their structure. A variety of people, from individuals to academics to politicians, criticize IOs for their lack of action, bureaucracy, and inability to respond effectively to issues they proclaim to either prevent or protect. It is in the vast majority of member states’ interest to implement and execute policy in line with the convention for institutional reasons but also to preserve humanities’ legacy. Not only that, but cultural racketeering is a significant issue that encapsulates several others, including: traditional security, cultural erasure, and colonialism/imperialism.

While this paper highlights the cultural racketeering cases stemming from West Asia and the Fertile Crescent areas, it is important to note that this issue is pervasive throughout the world. Currently, as the war in Ukraine rages on, Russia has been directly targeting sites of cultural significance. The Ukrainian city of Kherson was looted and

pillaged by Russian military personnel and civilians before withdrawing after an 8 month occupation. Countless Ukrainian artifacts and objects were stolen from two museums (the Kherson Regional Art Museum and the Kherson Regional Museum), St. Catherine’s Cathedral, and the Kherson Region National Archives. According to a crisis and conflict associate director at Human Rights Watch, Belkis Wille:

In the final days of occupying Kherson, Russian forces loaded paintings, gold, silver, ancient Greek artifacts, religious icons, and historical documents onto trucks bound for Russian-controlled territories. This systematic looting was an organized operation to rob Ukrainians of their national heritage and amounts to a war crime for which the pillagers should be held to account.201

Between October 26, 2022 and November 11, 2022, thousands of relics, objects, and art were loaded onto trucks and shipped out of Kherson into Russian controlled territories. In this case, the cultural racketeering practices would not only be contributing to cultural erasure, but a broader genocide. Guatemala and Peru have also experienced extensive cultural racketeering — significant Mayan and Incan sites have been pillaged or destroyed — which is not only devastating to the local communities and populations on a historical and cultural level, but threatens their principal industry: tourism.202 Very little has been done in either of those cases. The implications of continuing this trajectory are broad and serious – and long term – more detrimental than we can initially realize.


Conclusion

Cultural racketeering is a salient problem with a number of negative ramifications, including the funding of terrorism and conflict, destruction of history, and the erasure of communities’ identities. Individuals and cultural institutions that purchase looted antiquities rarely face the consequences of their actions, and if they do, the repercussions are not enough of an incentive to curb the behaviors and problematic acquisition practices. This demand then reinforces the sellers’ motivations for utilizing the practice as a funding source. Cultural racketeering encompasses traditional security concerns as well as philosophical debates like “how much value does the international community place on heritage?” It is clear that the international community, ranging from great powers to small states, cares about rectifying this problem. The United Nations, European Union, and Arab Parliament have all passed legislation or incorporated measures to counteract cultural racketeering in some capacity. Unfortunately, the policies and conventions passed and imposed by the multinational institutions have not minimized the practice or implications.

There are four main reasons for the failing of these multinational organizations to resolve this issue: (1) there is a limited scope in which the multinational institutions can operate, due to national sovereignty constraints; (2) there is a lack of buy-in among the member states due to conflicting interests; (3) the initiatives implemented by these institutions are top-down driven, which ignores local nuances and intricacies; and (4) there are an insufficient amount of resources dedicated to the issue, from budget allocations to staff members. These failings are strongly tied to the general weaknesses of international organizations, especially when handling non-state actors.
Moving forward, if the international institutions wanted to overcome these failings, a significant amount of work would need to be done. Member states would need to be incentivized to implement dynamic policies, allocate more resources (funds, staff, research) into the issue, and prioritize it in their national (or even municipal) strategies. Not only would the IOs need to work with their member states more closely, but NGOs as well.

The cultural racketeering conducted by ISIS and Al-Qaeda and perpetuated by actors like Steve Green, illustrates the devastating impacts of this increasingly common phenomenon. It has been decades since the last notable convention on antiquities trafficking, and it is time for an update.
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### Appendix

The Table referenced in Chapter 5, “Inadequate Buy-In” section:

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<td>&quot;The Government of the United Mexican States has studied the text of the comments and reservations on the convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property made by the United States of America on 20 June 1983. It has reached the conclusion that these comments and reservations are not compatible with the purposes and aims of the Convention, and that their application would have the regrettable result of permitting the import into the United States of America of cultural property and its re-export to other countries, with the possibility that the cultural heritage of Mexico might be affected.&quot;203</td>
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<td>“Articles 12, 22 and 23 of the Convention contradict United Nations General Assembly Resolution 1514(XV) of 14 December 1960, which proclaimed the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations. Article 20 of the Convention is not in conformity with the principle of the sovereign equality of States; in view of the matters it regulates, the Convention should be open to all States without restriction.”</td>
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subparagraph (d) are the judicial actions referred to in subparagraph (c) of Article 13, and that such actions are controlled by the law of the requested State, the requesting State having to submit necessary proofs."²⁰⁶

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<td>Senegal</td>
<td>December 9, 1984</td>
<td>Ratification</td>
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</tbody>
</table>

"The Republic of Guatemala, mindful that, in conformity with the Fundamental Statute of Government, monuments and archaeological vestiges are the property of the nation and that, furthermore, national law prohibits the unauthorized export of property constituting its cultural wealth, makes an express reservation concerning paragraph (b) (ii) of Article 7 of the Convention to the effect that it does not consider itself obliged to pay any compensation to any person or persons holding cultural property that has been looted or stolen in Guatemala or exported illicitly to another State Party and that, at the request of the Government of Guatemala, has been the subject of appropriate steps for its confiscation and/or restitution by that other State Party. In any case, the Republic of Guatemala does not consider that the purchase of property forming part of its cultural wealth is in good faith solely through having been made in ignorance of the law. Concerning Article 3 of the Convention, the Republic of Guatemala shall also consider to be illicit the import and transfer of ownership of cultural property effected contrary to the national provisions in force that are not in conflict with the provisions of the Convention."²⁰⁷

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<td>52</td>
<td>Guatemala</td>
<td>January 14, 1985</td>
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<td>Zambia</td>
<td>June 21, 1985</td>
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<td>Portugal</td>
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<td>56</td>
<td>Mali</td>
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<td>57</td>
<td>Burkina Faso</td>
<td>April 7, 1987</td>
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<tr>
<td>58</td>
<td>Bangladesh</td>
<td>December 9, 1985</td>
<td>Ratification</td>
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</table>

²⁰⁶ "Declarations and Reservations: Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property."

²⁰⁷ "Declarations and Reservations: Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property."
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<td>59</td>
<td>Belarus</td>
<td>April 28, 1988</td>
<td>Ratification</td>
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<td>60</td>
<td>Russian Federation</td>
<td>April 27, 1988</td>
<td>Ratification</td>
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<tr>
<td></td>
<td>“The Union of Soviet Socialist Republics declares that the provisions of Articles 12, 22 and 23 of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, providing for the possibility for the contracting parties to extend its application to the territories for the international relations of which they are responsible, are outdated and contrary to the Declaration of the United Nations General Assembly on the Granting of Independence to Colonial Countries and Peoples (resolution 1514/XV of 14 December 1960).” ²²⁰⁸</td>
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<td>61</td>
<td>Ukraine</td>
<td>April 27, 1988</td>
<td>Ratification</td>
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<td></td>
<td>“The Ukrainian Soviet Socialist Republic declares that the provisions of Articles 12, 22 and 23 of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, providing for the possibility for the contracting parties to extend its application to the territories for the international relations of which they are responsible, are outdated and contrary to the Declaration of the United Nations General Assembly on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514/XV of 14 December 1960).” ²²⁰⁹</td>
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<td>62</td>
<td>Colombia</td>
<td>May 24, 1988</td>
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<td>63</td>
<td>Madagascar</td>
<td>June 21, 1989</td>
<td>Ratification</td>
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<td>64</td>
<td>Australia</td>
<td>October 30, 1989</td>
<td>Acceptance</td>
</tr>
<tr>
<td></td>
<td>“The Government of Australia declares that Australia is not at present in a position to oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject. Australia therefore accepts the Convention subject to a reservation as to Article 10, to the extent that it is unable to comply with the obligations imposed by that Article.” ²²¹⁰</td>
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<tr>
<td>65</td>
<td>China</td>
<td>November 28, 1988</td>
<td>Acceptance</td>
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²²⁰⁹ Ibid.

²²¹⁰ Ibid.
<table>
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<tr>
<td>66</td>
<td>Belize</td>
<td>January 26, 1990</td>
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<td>67</td>
<td>Côte d’Ivoire</td>
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<td>71</td>
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<td>73</td>
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<td>75</td>
<td>Slovenia</td>
<td>November 5, 1992</td>
</tr>
<tr>
<td>76</td>
<td>Czechia</td>
<td>March 26, 1993</td>
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</table>

    “Accepting the Convention, the Government of the Czechoslovak Socialist Republic wishes to declare that preservation of the state of dependence of certain countries from which the provisions of Articles 12, 22, and 23 proceed is in contradiction with the contents and objective of the Declaration of the United Nations General Assembly No. 1514 on the granting of independence to colonial countries and nations of 14 December 1960. The Government of the Czechoslovak Socialist Republic further declares in connection with Article 20 that the Convention, according to the problems it regulates, should be open also to non-Member States of the United Nations Educational, Scientific and Cultural Organization without the need of invitation by the Executive Council of the United Nations Educational, Scientific and Cultural Organization.”

| 77 | Slovakia                 | March 31, 1993       | Notification of succession |
| 78 | Bosnia and Herzegovina   | July 12, 1993        | Notification               |

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<td>80</td>
<td>Romania</td>
<td>December 6, 1993</td>
<td>Acceptance</td>
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<td>81</td>
<td>Kyrgyzstan</td>
<td>July 3, 1995</td>
<td>Acceptance</td>
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<td>82</td>
<td>Estonia</td>
<td>October 26, 1995</td>
<td>Ratification</td>
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<td>83</td>
<td>Costa Rica</td>
<td>March 5, 1996</td>
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<td>84</td>
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<td>March 14, 1996</td>
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<td>85</td>
<td>France</td>
<td>January 7, 1997</td>
<td>Ratification</td>
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<tr>
<td>86</td>
<td>North Macedonia</td>
<td>April 20, 1997</td>
<td>Notification of succession</td>
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212 List taken from the LA/DEP/1997/1: 1. Archaeological objects over 100 years old sourced from: terrestrial and submarine excavations and discoveries, archaeological sites, archaeological collections (0 ECUs). 2. Elements over 100 years old that form an integral part of artistic, historic or religious monuments which have been dismembered (0 ECUs). 3. Pictures and paintings produced entirely by hand on any support and in any material (150,000 ECUs). 4. Mosaics, other than those included in categories 1 or 2, and drawings produced entirely by hand on any support and in any material (15,000 ECUs) 5. Original engravings, prints, serigraphs and lithographs and their respective matrices, and original posters (15,000 ECUs). 6. Original works of statutory art or sculpture and copies obtained by the same means as the original, other than items included in category 1 (50,000 ECUs). 7. Photographs, films and their negatives (15,000 ECUs). 8. Incunabula and manuscripts, including geographical maps and musical scores, singly or in collections (0 ECUs). 9. Books more than 100 years old, singly or in collections (50,000 ECUs). 10. Printed geographical maps more than 200 years old (15,000 ECUs). 11. Archives of any sort comprising elements more than 50 years old, whatever their medium (0 ECUs). 12. (a) Collections and specimens from collections of fauna, flora, minerals, and anatomy (50,000 ECUs); (b) Collections of a historical, palaeontological, ethnographic or numismatic interest (50,000 ECUs). 13. Means of transport over 75 years old (50,000 ECUs). 14. Any other ancient object not included in categories 1 to 13 between 50 and 100 years old (a) toys or games, glassware, objects made of precious metals, furniture and furnishings, optical, photographic or de cinematographic instruments, musical instruments, timepieces, objects made of wood, pottery, tapestries, carpets, wallpapers, weapons (50,000 ECUs); (b) More than 100 years old (50,000 ECUs).

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<th>Country</th>
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<th>Action</th>
<th>Remarks</th>
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<td>87</td>
<td>Bahamas</td>
<td>October 9, 1997</td>
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<td>88</td>
<td>Lithuania</td>
<td>July 27, 1998</td>
<td>Ratification</td>
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<td>89</td>
<td>Finland</td>
<td>June 14, 1999</td>
<td>Ratification</td>
<td>“The Government of Finland declares that it will implement the provisions of Article 7(b)(ii) of this Convention in accordance with its obligations under the Unidroit Convention on Stolen or Illegally Exported Cultural Objects done at Rome on 24 June 1995.”²¹⁴</td>
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<tr>
<td>90</td>
<td>Azerbaijan</td>
<td>August 25, 1999</td>
<td>Ratification</td>
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<td>91</td>
<td>Serbia</td>
<td>September 11, 2001</td>
<td>Notification of succession</td>
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<td>92</td>
<td>Rwanda</td>
<td>September 25, 2001</td>
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<td>93</td>
<td>Barbados</td>
<td>April 10, 2002</td>
<td>Acceptance</td>
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<td>94</td>
<td>Albania</td>
<td>June 13, 2002</td>
<td>Acceptance</td>
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<tr>
<td>95</td>
<td>United Kingdom of Great Britain and Northern Ireland</td>
<td>August 1, 2002</td>
<td>Acceptance</td>
<td>“(a) the United Kingdom interprets the term “cultural property” as confined to those objects listed in the Annex to Council Regulation (EEC) No. 3911/1992 of 9 December 1992, as amended, on the export of cultural goods and in the Annex to Council Directive 1993/EEC of 15 March 1993, as amended, on the return of cultural objects unlawfully removed from the territory of a Member State; (b) As between EC member states, the United Kingdom shall apply the relevant EC legislation to the extent that that legislation covers matters to which the Convention applies; and (c) The United Kingdom interprets Article 7(b)(ii) to the effect that it may continue to apply its existing rules on limitation to claims made under this Article for the recovery and return of cultural objects.”²¹⁵</td>
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<td>96</td>
<td>Japan</td>
<td>September 9, 2002</td>
<td>Acceptance</td>
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<td>97</td>
<td>Bhutan</td>
<td>September 26, 2002</td>
<td>Ratification</td>
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</table>
| 98 | Sweden           | January 13, 2003  | Ratification   | “The property designated as ‘of importance for archaeology, prehistory, history, literature, art or science’, in accordance with Article 1 of the Convention, are the following properties: [see | ²¹⁴“Declarations and Reservations: Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.” ²¹⁵Ibid.
The instrument contained the following temporary reservation:

---

216 1. Archaeological objects – Swedish archaeological objects, regardless of material or value, dating from 1650 or before and not belonging to the State. 2. Pictures and paintings which include a. Swedish paintings are more than 100 years old and worth more than SEK 50,000; b. portraits picturing a Swede or other persons who were active in Sweden, which are more than 100 years old and worth more than SEK 20,000; and c. foreign paintings worth more than SEK 50,000. 3. Drawings which include a. Swedish drawings, water-colors, gouaches and pastels more than 100 years old and worth more than SEK 50,000; b. portraits picturing a Swede or other persons who were active in Sweden, in the form of water-colors, gouaches and pastels more than 100 years old and worth more than SEK 20,000; c. foreign drawings, water-colors, gouaches and pastels worth more than SEK 50,000. 4. Original engravings – Swedish woodcut and copperplate engraving, made before 1650, regardless of value. 5. Original sculptures that include a. Swedish original sculptures and copies produced by the same process as the original, regardless of material, are more than 100 years old and worth more than SEK 50,000; b. foreign original sculptures and copies produced by the same process as the original, regardless of material, which are worth more than SEK 50,000. 6. Incunabula and manuscripts which include a. Swedish incunabula, regardless of value; b. Swedish manuscripts on parchment or paper produced before 1650, regardless of value; c. Swedish unprinted minutes, letters, diaries, manuscripts, music, accounts, hand-drawn maps and drawings, which are more than 50 years old and worth more than SEK 2,000; d. collections of foreign incunabula and Swedish unprinted material in category (b) and (c), which are older than 50 years and are worth more than SEK 50,000. 7. Books such as a. Swedish books printed before 1600, regardless of value; b. other Swedish books, which are older than 100 years and are worth more than SEK 10,000, (c) foreign books worth more than SEK 10,000. 8. Printed maps including a. Swedish printed maps, which are older than 100 years and worth more than SEK 10,000; b. foreign printed maps, worth more than SEK 10,000. 9. Archives – Swedish unprinted minutes, letters, diaries, manuscripts, music, accounts, hand-drawn maps and drawings, which are more than 50 years old and are worth more than SEK 2,000. 10. Means of transport which are a. Swedish means of transport which are older than 100 years and are worth more than SEK 50,000; b. foreign means of transport worth more than SEK 50,000. 11. Any other antique item not included in categories 1-10: a. Swedish items of wood, bone, pottery, metal or textile which are produced before 1650, regardless of value; b. Swedish furniture, mirrors and boxes which are made before 1860, regardless of value; c. Swedish drinking-vessels, harness and textile implements if they are made of wood and have painted or carved decorations, folk costumes and embroidered or pattern-woven traditional textiles, tapestry paintings, long-case clocks, wall clocks and brackets clocks, signed faience, firearms, edged weapons and defensive weapons and musical instruments, which are more than 100 years old, regardless of value; d. Swedish items of pottery, glass, porphyry, gold, silver or bronze, with exception of coins and medals, chandeliers, woven tapestries and tiled stoves, which are older than 100 years and worth more than SEK 50,000; e. Swedish technical models and prototypes and scientific instruments, which are older than 50 years and worth more than SEK 2,000; f. foreign furniture, mirrors, boxes, long-case clocks, wall clocks and brackets clocks, musical instruments, firearms, edged weapons and defensive weapons, items of pottery, glass, ivory, gold, silver or bronze, with exception of coins and medals, chandeliers and woven tapestries, which are worth more than SEK 50,000. 12. Lapp (Sami) items which are more than 50 years old and worth more than SEK 2,000. The term Swedish items of historic interest refers to items which were actually or presumably made in Sweden or in some other country by a Swede. The term foreign items of historic interest refers to items made in another country by a non-Swede. This list is in conformity with rules in force in Sweden at present.

“... until further decision, the Convention will apply neither to the Feroe Islands nor to Groenland”.

and was accompanied by the following declaration:

"The property designated as "of importance for archaeology, prehistory, history, literature, art or science", in accordance with Article 1 of the Convention, are the properties covered by the Danish legislation concerning protection of cultural assets and the Danish Museum Act."\(^{218}\)

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<td>South Africa</td>
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<td>Seychelles</td>
<td>May 28, 2004</td>
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<td>Venezuela</td>
<td>March 21, 2005</td>
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<td>Afghanistan</td>
<td>September 8, 2005</td>
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<td>Vietnam</td>
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<td>May 30, 2006</td>
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<td>111</td>
<td>New Zealand</td>
<td>February 1, 2007</td>
<td>Acceptance</td>
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“AND DECLARES that, consistent with the constitutional status of Tokelau and taking into account the commitment of the Government of New Zealand to the development of self-government for Tokelau through an act of self-determination under the Charter of the United Nations, this acceptance shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Depositary on the basis of appropriate consultation with that territory.”\(^{219}\)

\(^{218}\) “Declarations and Reservations: Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.”

\(^{219}\) Ibid.
<table>
<thead>
<tr>
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<th>Note</th>
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<td>Ratification</td>
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<td>113</td>
<td>Montenegro</td>
<td>April 26, 2007</td>
<td>Notification</td>
<td>of succession</td>
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<tr>
<td>114</td>
<td>Republic of Moldova</td>
<td>September 14, 2007</td>
<td>Ratification</td>
<td>“Until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the convention shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova.”(^{220})</td>
</tr>
<tr>
<td>115</td>
<td>Germany</td>
<td>November 30, 2007</td>
<td>Ratification</td>
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<td>116</td>
<td>Chad</td>
<td>June 17, 2008</td>
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<td>March 22, 2012</td>
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<td>July 17, 2013</td>
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<td>Myanmar</td>
<td>September 5, 2013</td>
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<td>Bahrain</td>
<td>March 7, 2014</td>
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<tr>
<td>127</td>
<td>Chile</td>
<td>April 18, 2004</td>
<td>Ratification</td>
<td>“The Republic of Chile understands that the provisions of the Convention will not apply</td>
</tr>
</tbody>
</table>


\(^{221}\) Ibid.
128 Luxembourg  | February 3, 2015  | Ratification  
129 Austria  | July 15, 2015  | Ratification  
130 Lao People’s Democratic  | December 22, 2015  | Acceptance  
131 Ghana  | January 20, 2016  | Ratification  
132 Benin  | March 1, 2017  | Ratification  
133 Botswana  | August 23, 2017  | Acceptance  
134 Monaco  | August 25, 2017  | Ratification  
135 United Arab Emirates  | October 9, 2017  | Ratification  
136 Ethiopia  | November 22, 2017  | Ratification  
137 Djibouti  | April 9, 2018  | Ratification  
138 Togo  | November 19, 2018  | Ratification  
139 Latvia  | January 21, 2019  | Ratification  
140 Yemen  | June 3, 2019  | Ratification  
141 Comoros  | March 17, 2021  | Ratification  
142 Turkmenistan  | June 1, 2022  | Ratification  
143 Malawi  | July 7, 2022  | Acceptance

223 Ibid.