

Provenance for cultural objects: Several difficulties and some lines of actions. The issue in Latin American countries

Background paper

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for participants in the ROUND TABLE:

The movement of cultural property in 2016: regulation, international cooperation and professional diligence for the protection of cultural heritage.

Section: The difficulty of establishing provenance for cultural objects issued from plundered archaeological sites.

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The fight against the illegal trade of cultural heritage is not an easy task to be carried out anywhere across the world. In Latin America, this is mainly difficult due to a number of legal, administrative, social and economic reasons. However, as Yates (2015) has pointed out, “looting and trafficking of Latin American cultural property cannot be viewed in isolation”. It is a small component of some of the biggest issues of the region, “such as deforestation, human migration, narcotics trade, local and regional instability, community insecurity, poverty, globalization, and developmental disparities”. In this talk I intend to widen the analysis perspectives in order to promote a deeper topic debate leading to the design of more efficient cultural heritage protection policies.

Illicit trade has traditionally focused on archaeological objects from central and northern Andes and Mesoamerica. However, in the last decades, the ‘primitive’ and ‘tribal’ art of the whole region has increasingly attracted the interest of international trade.

Most Latin American heritage laws establish the national domain over all archaeological sites and collections and thus pre-Columbian items cannot be exported from the country. For this reason, Latin American archaeological pieces on the international market should be treated with suspicion until it is proven otherwise. However, in many cases, problems in the implementation of these laws did not substantially alter the illegal activities of collectors. Most Latin American countries have ratified the 1970 conventionⁱ but a few of them are State Parties of the 1995 UNIDROIT on Stolen or Illegally Exported Cultural Objects Conventionⁱⁱ. This constitutes a weakness because some States based on Articles 7 and 9 of the 1970 Convention have required previous inventory of the items requested for return or to have a bilateral agreement in place between the claiming State and the holding State.

Previous inventory is a key problem in order to claim clandestinely excavated objects. The UNIDROIT (1995) is more clear in this issue, because it covers all undiscovered objects which have not been inventoried, but its application is still limited.

It worth noting that some countries, including those of the Andean Community, have developed a clear policy requesting not only the “Export certificate for cultural objects” but also the “Certificate of cultural property not belonging to the National heritage for exportation”, therefore reverses the burden of proof of the crime. Peru has developed the most active policy in this issue.

One of the biggest problems probably lies in the huge territory of the region in which plenty of archaeological sites are to be found yet. In this context, frontier controlling makes the prevention of looting along bordering countries a complex job to do. Airport checkpoints are generally very effective, but they are not in the land transportation terminals.

The increase of the trade has generated a reaction of many national Authorities in the last few years. Several measures were implemented including changing of legislation, the creation of committees to fight against illegal traffic and capacity building programs in national police forces. As a result of these efforts several cultural objects have been returned.

In Argentina a special police department and a free access database of stolen objects were createdⁱⁱⁱ. The joint action of the police working with Interpol and specialists in archaeological museums managed to recover and identify some stolen items.

I would like to remark that identifying the provenance of archaeological objects is difficult but not impossible. The experience in Argentina with collections excavated in the early twentieth century shows that it is possible to know or at least suggest hypotheses about the origin of materials through scientific research. Cooperation between experts and the museums staff from different countries is essential.

For example Alberto Rex González after studying different pieces of the Zavaleta collection held at the Museum für Völkerkunde, Berlín, and the Field Museum of Natural History, USA, concluded that they came from the same site, somewhere at the centre of the Santa Maria Valley, Catamarca, Argentina (González 1983). There are similar studies concerning ceramic and textile collections held at the Ethnographic Museum of Buenos Aires, whose provenance has been clarified thanks to collaboration among experts of Argentina, Perú and Chile (Marchegiani, M., V. Palamarczuk and A. Reynoso 2009; Myriam Tarragó, pers. com., 29.02.2016).

However, there are other more complex questions whose analysis goes beyond the legal, administrative and police fields of application and which call for more research with an anthropological approach to analyze the social and cultural context in which these trading situations arise.

It is necessary to observe the particular modalities looting has acquired in the different areas in each country, the types of archaeological objects searched, the trading networks, and the socio-political contexts of the actors involved (Londoño 2003).

In its broad sense, *huaquero* refers to a contingent and heterogeneous group of people, which links unequal socioeconomic contexts ranging from the rural poor to the rich metropolitan collectors. The variability of actors needs to be considered, taking into account the material and symbolic interests that motivate them and their socio-cultural contexts.

For example, recent studies conducted in Catamarca province, Argentina, have concluded that traditional looting has diminished due to recent laws, the actions of security agencies and provincial authorities, as well as the availability of new sources of employment and better living conditions of the local population. Yet, other forms of clandestine excavations take place, such as recreational and occasional looting made by collectors often related to public infrastructure works, including the construction of routes or gas pipelines or mining private activities, as well as artisans who make and sell replicas based on archaeological models, often obtained from their own excavations (Endere and Bonnin in press).

Sometimes the *huaquero* is made by indigenous people, the underlying assumptions are based on the legitimacy and right of their practices, which take on an aura of spirituality with a strong symbolic significance. They create their own museums characterized by a discourse based on traditional local mythology and religion (Haber 2011).

Thus, the nature of inalienable public property of archaeological heritage often contrasts with the complexity of the social contexts in which such property is located. A more holistic, broader approach is necessary to seek a solution for the protection of heritage. This includes the involvement of different disciplines in a task which is probably more ethnographic than archaeological and legal. It should be focused on regional and local factors in order to be able to deal with the diversity of actors and visions related to heritage. This would result in a more effective preventive action and would probably contribute to changing practices and attitudes towards heritage. In addition, it is necessary to work further into heritage education at a local level, in schools and in regional museums, in order to encourage the care of archaeological heritage and the in situ preservation from an early stage. It is also necessary to foster contact with the new actors who show genuine interest in archaeological heritage, in order to build avenues of communication that enhance common spaces for reflection and debate on the best practices of managing archaeological heritage (Endere and Bonnin in press).

In short, relying on legal regulations and punitive actions is not enough to fight illicit traffic. It is necessary to raise public awareness and develop spaces for debate and consensus among different actors involved in order to cope with this issue.

Further References

Alva, W. 2001. The destruction, looting and traffic of the archaeological heritage of Peru. In: Brodie, N., Doole, J. y Renfrew, C. (Edit.), *Trade in Illicit Antiquities: the Destruction of the World's Archaeological Heritage*, pp. 89-96. Vambridge: McDonald Institute.

UNESCO Regional Office for the Culture in Latin American and the Caribbean 2013. *Stop the Illicit Traffic of Cultural Property. Culture & Development* 10, pp.30-35. UNESCO Regional Office for the Culture in Latin American and the Caribbean, La Habana.

Endere, M. 2013. Tráfico ilícito y protección legal de los bienes arqueológicos en Argentina. En libro: "Bienes arqueológicos: una lectura transversal sobre legislación y políticas culturales - Argentina, Colombia, China, Francia, Gran Bretaña, e Italia", edited by Carlos Emilio Piazzini and Luis González Jaramillo, pp. 33-41. Universidad de Los Andes, Bogotá.

Endere, M. and M. Bonnin 2014. The protection of movable cultural heritage in Argentina. Recent advances and great challenges. *The (Un)virtuous Cycle: Looting, Traffic, Commerce and Repatriation of Material Heritage*, editado por Alvaro Higuera & James A. Zeidler. Serie "Heritage and Identity: Issues in Cultural Heritage Protection", Brill Editors, Amsterdam. In press.

Giovannetti, M. and Páez, M. C., 2009. El tráfico de objetos arqueológicos en los tiempos modernos. Discusiones y críticas en torno al mercado. *Cuba Arqueológica*, Revista digital de Arqueología de Cuba y el Caribe II (2): 90-102.

Haber, A. F. 2011. Excavation, *wakas* and illicitness: changing frames. *Illicit excavations and gvaquería*. Bogotá, Villa de Leyva.

González, A.R, 1983. “Nota sobre religión y culto en el Noroeste Argentino Prehispánico”, *Baessler-Archiv, neuw Folge, Band XXXI*: 219-282. Berlin.

Londoño, W. 2003. Discurso jurídico versus discurso cultural: el conflicto social sobre los significados de la cultura material prehispánica. *Boletín Museo del Oro* 51. Bogotá.

López Morales, F and F. Vidargas (ed.) 2013. *Convenciones UNESCO. Una visión articulada. desde Iberoamérica*. Instituto Nacional de Antropología e Historia, México D.F.

Marchegiani, M., V. Palamarczuk and A. Reynoso 2009. Las urnas negro sobre rojo tardías de Yocavil (Noroeste Argentino). Reflexiones en torno al estilo. *Boletín del Museo Chileno de Arte Precolombino* 14(1): 69-98.

Prott, L. 2012. Protection of Archaeological Objects under the 1970 UNESCO Convention. Background paper for participants in the *Second Meeting of States Parties to the 1970 Convention*. Paris, UNESCO Headquarters, 20-21 June 2012.

Sánchez Cordero Dávila, J.A. 2004. *Les biens culturels précolombiens. Leur protection juridique* Bibliothèque de Droit privé, tome 404, LGDJ 2004, p.186, n°586. París

Schávelzon, D. 2002. What's Going on Around the Corner? Illegal Trade of Art and Antiquities in Argentina. In: N. Brodie y K. Tubb (eds.). *Illicit Antiquities. The Theft of Culture and the Extinction of Archaeology* (pp.228-234). Londres: Routledge.

UNESCO, 2006. *Legal and Practical Measures Against Illicit Trafficking in Cultural Property. UNESCO HANDBOOK*. International Standards Section Division of Cultural Heritage, UNESCO, Paris.

Yates, D. 2015. Illicit Cultural Property from Latin America:Looting, Trafficking, and Sale In: *Countering Illicit Traffic in Cultural Goods: The Global Challenge of Protecting the World's Heritage*, F. Demaris (ed). Paris: ICOM.

ⁱ Zone III: Cuba, Honduras, Bolivia, Ecuador, Perú, Uruguay, Venezuela, El Salvador, Paraguay, Brazil, Panamá, República Dominicana, Barbados, Argentina, Chile, Haití, Belice, Colombia, Costa Rica, México, Granada, Bahamas, Guatemala, Nicaragua.

ⁱⁱ Argentina, Bolivia, Brazil, Colombia, Guatemala, Ecuador, El Salvador, Honduras, Panamá, Paraguay y Perú .

ⁱⁱⁱ A program for the protection of cultural heritage was created at Interpol's headquarters in Argentina in coordination with the Cultural Heritage Department of the Argentine Federal Police. In addition, a National

Database of Stolen Objects was set up, freely accessible via the Internet (www.interpol.gov.ar) and where useful information is provided in relation to victims of crimes such as holders in good faith of cultural property.