

# **International Antiquities Trafficking: Theft by Another Name Protecting Archaeological Sites Abroad by Prosecuting Receivers, Sellers, and Smugglers of Looted Antiquities under United States Domestic Law**

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International antiquities trafficking is theft by another name, which is why American prosecutors should vigorously employ domestic laws such as the National Stolen Property Act, the federal smuggling statute, state receiving stolen property laws, and charities enforcement authority to combat this crime. Holding responsible receivers, sellers, and smugglers of looted antiquities can reduce trafficking, thereby protecting archaeological sites abroad. Prosecutors, nevertheless, will only combat antiquities trafficking to the extent that they perceive the crime's magnitude, to the degree that the public and policymakers support action, and to the extent that resources are available. Creating these conditions requires education, advocacy, and partnership.

Keywords: antiquities trafficking, National Stolen Property Act, smuggling, receiving stolen property, charities enforcement

## **1. INTRODUCTION**

Trafficking antiquities looted from archaeological sites is a crime. This simple concept is oftentimes overlooked amid complex legal discussions surrounding the application of treaties and conventions to solve the international trafficking problem. In America, efforts have largely focused on seizing and repatriating looted objects. But authorities would likely find greater success battling the international antiquities trafficking chain by also prosecuting, under domestic law, the individuals and institutions who receive, sell, or smuggle stolen antiquities. Pursuing this option could ultimately enhance the protection of archaeological sites from looters.

Some American prosecutors have already demonstrated a willingness to combat the illegal antiquities trade by applying federal criminal law. The published cases of *United States v. Schultz*, *United States v. McClain I* and *II*, and *United States v. Hollinshead* are examples of successful prosecutions using the National Stolen Property Act. However, the small number of federal prosecutions has provided no meaningful deterrent. State prosecutors, meanwhile, have played almost no role in targeting international antiquities crime.

Federal prosecutors can diminish international antiquities trafficking by more aggressively enforcing statutes outlawing theft and smuggling. State prosecutors should understand that they too can confront antiquities trafficking by enforcing receiving stolen property statutes. Additionally, state attorneys general possess power to act

against museums that are complicit in antiquities trafficking through their charities enforcement authority.

Increased prosecutions necessarily require increased public resources. However, it is unlikely that federal, state, county, or local governments will award significant taxpayer dollars to prosecutors in the foreseeable future to combat antiquities trafficking. It is also unlikely in the next few years that chief prosecutors will launch major campaigns to target antiquities receivers, sellers, and smugglers. That is because antiquities trafficking does not rank high on either the public safety or the public policy agenda. This perception can change.

Prosecutors in the United States enforce the law, but they do so to the extent that they perceive a criminal problem, to the degree that the public and policymakers endorse the law's enforcement, and to the extent that resources are available. To create the conditions under which prosecutors can effectively target antiquities trafficking requires a threefold approach: education, advocacy, and partnership. The potential outcome is that the combined effect of federal and state prosecutions, bolstered by support from the public and policymakers, can mitigate the damage inflicted on worldwide archaeological sites caused by the illegal trade in global culture.

## **2. THE ANTIQUITIES TRAFFICKING CHAIN**

International antiquities trafficking is a crime that steals our ability to understand human history. Prosecutors will recognize that the damage caused by pilfering archaeo-

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logical sites is the same harm caused when evidence is removed or destroyed prior to investigators documenting and preserving a crime scene: valuable information is forever lost, which cannot be recovered. That is why antiquities trafficking is not an offense against an object, it is a serious crime against people's heritage and culture.

The U.S. National Central Bureau of Interpol estimates that the illegal international antiquities trade is the fourth largest global crime, finding that "[t]he annual dollar value of art and cultural property theft is exceeded only by trafficking in illicit narcotics, money laundering, and arms trafficking" (United States Department of Justice). Looters, smugglers, dealers and auction houses, and buyers like collectors and museums can be found at the heart of this chain.

Looters who steal from archaeological sites are found at the beginning of the trafficking chain. They go by such seemingly romantic titles as tomb raiders, treasure hunters, *huaqueros*, and *tombaroli*, ransacking sites in Cambodia, China, India, Kenya, Belize, Peru, Egypt, Turkey, Italy, the United Kingdom, and elsewhere.\* Yet whatever their name and wherever they dig, looters inevitably leave behind signature holes that transform archaeological sites into pockmarked landscapes emptied of any archaeological context.

Many looted antiquities are removed from their country of origin and secreted into America by smugglers. Smuggling networks are international in scope, stretching across sovereign borders so that antiquities from Peru, for example, reportedly travel through Chile before entering the United States. Moreover, according to one dealer, non-stop flights between Hong Kong and New York have made it easier to bring illegally excavated Chinese antiquities to American galleries (Atwood 28, 31).

Once an object is smuggled into the United States, a seller moves the artifact into the market. Sellers predominantly take two forms: dealers and auction houses. While there are legitimate and scrupulous antiquities dealers and auction houses, there are others who operate in the shadows. Over the years several dealers have been implicated in antiquities trafficking. For example, Italian authorities indicted longtime New York antiquities trader Robert Hecht (Felch). American authorities convicted New York antiquities dealer and former president of the National Association of Dealers in Ancient, Oriental and Primitive Art Frederick Schultz, sentencing him to 33 months in prison plus a \$55,000 fine ("Art Dealer"). Federal authorities also convicted Hicham Aboutaam, co-owner of Phoenix Ancient Art in New York and Geneva, with smuggling (Meier). Auction houses too have been implicated. Peter Watson's investigative report, *Sotheby's: The Inside Story*, describes how the auction house sold smuggled antiquities in London. Meanwhile Ibrahim Abdel Megid Ramadan, the director of a stolen artifacts department in Egypt, re-

\* For a more complete discussion of archaeological site looting, see Brodie et al.

ports that his country recovered 2,000 antiquities from abroad, largely from auction houses and dealers in a recent three year period ("Tomb-Robbing").

Receivers are located at the end of the antiquities trafficking chain. They include museums and collectors, but it is important to stress that not all museums and collectors behave with culpability. Museums and collectors, nevertheless, have been identified as purchasers of illicit antiquities. Italian prosecutor Paolo Ferri contends that "[t]raffic in archaeology goes from Italy to Switzerland, and from there, it's sold to most art museums in America" ("Tomb-Robbing"). Ferri's charges against convicted dealer Giacomo Medici, and his indictments against Robert Hecht, and former Getty Museum curator Marion True declare that major museums house illicit artifacts, including New York's Metropolitan Museum of Art, Boston's Museum of Fine Arts, New Jersey's Princeton University Art Museum, and Ohio's Cleveland Museum of Art ("Tomb-Robbing;" see also Felch and Frammolino). "The problem of Western museums is, they buy stolen artifacts," charges Zahi Hawass, Secretary General of the Egyptian Supreme Council of Antiquities ("Tomb-Robbing"). Currently Hawass is seeking the return of an allegedly stolen mummy mask from the Saint Louis Art Museum (Associated Press: "Egypt Asks"). Private collectors, innocently or intentionally, also receive stolen antiquities. Allegedly looted artifacts such as a bronze statuette purchased for \$1.2 million and seven vases bought for at least \$5 million are in a collection owned by Shelby White, and photographs have been uncovered of looted objects that found their way into the famed Levy-White and Fleischman collections ("Met's Antiquities").

The antiquities trafficking chain may be global in scope, but American prosecutors possess the legal tools to target many of those involved in criminal conduct.

### 3. PROSECUTORS AND UNITED STATES LAW

The criminal justice system is society's premier method to redress criminal behavior, and prosecuting culpable participants in the antiquities trafficking chain through the judicial process should be no exception. Prosecutions under American law remained an option even after the 1983 enactment of the Convention on Cultural Property Implementation Act (CPIA), which gave legal force to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (the UNESCO Convention). The United States Senate plainly declared that the CPIA "neither pre-empts State law in any way nor modifies any Federal or State remedies that may pertain to articles to which the provisions of this bill apply" (United States Senate Report 22). Lawmakers therefore ensured that the CPIA would leave existing federal and state laws accessible to authorities to act against antiquities trafficking.

Not all the links in the trafficking chain can be broken,

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however. Looters cannot be prosecuted because they operate on foreign soil, outside the jurisdiction of the United States. But many other important groups likely would be covered under federal and/or state law, including receivers, sellers, and smugglers. Federal attorneys could apply the National Stolen Property Act (NSPA) and the smuggling statute against receivers, sellers, and smugglers; and state prosecutors could employ receiving stolen property laws and charities enforcement statutes to target receivers and sellers.

#### **3.1 U.S. Attorneys, the National Stolen Property Act, and the federal smuggling statute**

The NSPA is the federal law, principally enforced by United States Attorneys, that prohibits theft. It states, in relevant part:

Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any goods, wares, or merchandise ... of the value of \$5,000 or more ... which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken ... [s]hall be fined under this title or imprisoned not more than ten years, or both (18 U.S.C. § 2315).

An additional section of the statute forbids the transportation of stolen items valued at \$5,000 or more (18 U.S.C. § 2314). While it may be impossible for federal authorities to prosecute a looter who commits a theft in a foreign country, the NSPA broadens the proscription against stealing by making it illegal for one to receive, sell, or transport a stolen item. The purpose of this broader language is to deter the original theft (see e.g., U.S. v. Bolin, U.S. v. Moore). By pursuing criminal convictions and penalties against those who receive stolen antiquities, prosecutors can stop crime in the United States while also deterring looters from plundering archaeological sites abroad.

To secure a conviction under the NSPA against a criminal defendant, a prosecutor must prove all elements of the statute beyond a reasonable doubt to a unanimous jury of twelve citizens. Consequently, U.S. Attorneys must be mindful of several challenges. The NSPA, for instance, requires proof of value of \$5,000 or more.\* Proving that an antiquity is worth \$5,000+ would likely require the testimony of an expert trial witness to fend off defense challenges that the antiquity at issue is actually worth less than the threshold amount.\*\*

The NSPA also requires proof that an object was stolen. Proving that an antiquity was stolen does not re-

\* The *U.S. Attorneys' Manual* at 1316 explains the law on value in more detail. See also 18 USC § 2311 for the statutory definition of value.

\*\* Despite the terms of the NSPA, many federal prosecutors have instituted an alternative minimum value threshold in an effort to allocate limited resources to only the more important cases. So even if a stolen antiquity is valued at \$5000 or more, a U.S. Attorney might decline to prosecute the case as a matter of policy.

quire a prosecutor to show how the original theft was committed, relieving the prosecution of a heavy burden. But the prosecution still must show that the antiquity possesses a stolen character. Authorities have two leading options to accomplish this task: relying on foreign patrimony laws or employing sting operations.

Where a foreign country's patrimony law vests ownership of an antiquity with that nation, the removal of the antiquity from that country without its permission characterizes the artifact as stolen for purposes of the NSPA (U.S. v. McClain I and II, U.S. v. Schultz; see also U.S. v. Hollinshead). To illustrate, the case of *United States v. Schultz* recognized that Egypt's patrimony law, Law 117, infused a stolen character to the antiquity at issue. In that case, antiquities dealer Frederick Schultz acquired a sculptured bust of Amenhotep III for \$800,000, knowing the bust was stolen, and later transferred it to a private collector for \$1.2 million. A federal jury convicted Schultz of conspiring to violate the NSPA. Upholding the conviction, the appeals court stated "that the NSPA applies to property that is stolen from a foreign government, where that government asserts actual ownership of the property pursuant to a valid patrimony law" (*United States v. Schultz* 416).

It is important to add that securing a conviction under the NSPA requires a showing that the foreign nation's patrimony law is one that absolutely asserts ownership rather than simply regulating antiquities as in the case of an export control law. In the words of *United States v. McClain I*: "a declaration of national ownership is necessary before illegal exportation of an article can be considered theft, and the exported article considered 'stolen', within the meaning of the National Stolen Property Act. Such a declaration combined with a restriction on exportation without consent of the owner ... is sufficient to bring the NSPA into play" (1000-01).

An antiquity can also possess a stolen character when it is part of a sting or surveillance operation. An object is considered stolen when undercover police represent that it is stolen during a staged business deal (18 U.S.C. § 21). An object is also deemed stolen in instances where the police continue to monitor a truly stolen antiquity during the course of a transaction. Court decisions explain that an object remains "stolen" when it is under surveillance by police and not in their sole possession (U.S. Attorneys' Manual 1317 (citing U.S. v. Muzii, U.S. v. Dove)).

The NSPA, furthermore, requires proof that the criminal defendant knew the property was stolen. Factors showing that a defendant knew an antiquity was stolen could include evidence that the defendant acquired the item during an usual time or at an unusual place, concealed the item, purchased the item for an uncommon price, made dishonest remarks concerning the item, used an alias when acquiring the item, obtained the item while being aware that it had been separated from a matching or complementary object, masked the item, or covered up evidence related to the item's purchase. To counter a defendant's claim that he did not know an antiquity was stolen because he

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was uninformed, a prosecutor can rely on a doctrine known as willful blindness, conscious avoidance, or the ostrich rule. That doctrine states “that deliberate ignorance and positive knowledge are equally culpable” (*U.S. v. Jewell* 700). Convictions can therefore be secured against persons who purposely remain unaware of an antiquity’s stolen character.\*\*

The statute titled Smuggling Goods into the United States is another law in the U.S. Attorney’s arsenal that potentially can be used to combat the antiquities trafficking chain. The federal statute reads, in part:

Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law [s]hall be fined under this title or imprisoned not more than 20 years, or both.

Proof of defendant’s possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section (18 U.S.C. § 545).

The United States has, over the years, imposed import restrictions on a variety of cultural and ethnographic items from several countries including Bolivia, Cambodia, Canada, Colombia, Cyprus, El Salvador, Guatemala, Honduras, Iraq, Italy, Mali, Nicaragua, and Peru. Many import restrictions have been instituted under the authority of the CPIA, which authorizes the president to enter into a bilateral agreement with a country that requests protection of its cultural heritage (19 U.S.C. § 2602). The president can grant immediate protection by authorizing “Emergency Action” when an emergency condition exists, but only after the country has requested a bilateral agreement; such action is typically followed by a bilateral agreement (19 U.S.C. § 2603). If the president determines, among other criteria, that the requesting country’s cultural patrimony is in jeopardy, he may authorize the imposition of import restrictions on cultural artifacts originating from the requesting country (19 U.S.C. § 2602). The restrictions can require an importer of the item to produce evidence that the item was exported lawfully (19 U.S.C. § 2606). Otherwise, the item may be seized and subject to forfeiture by federal authorities (19 U.S.C. § 2602).

The CPIA’s civil remedy of forfeiting an unlawfully imported object is arguably complemented by the smuggling statute’s criminal remedy of prosecuting the perpetrator. That is because the federal anti-smuggling law declares that a person is subject to criminal prosecution when he fraudulently or knowingly imports an item “contrary to law.” One U.S. Attorney applied similar legal reasoning in the unpublished case of *United States v. Joseph Braude*, charging Braude in part with knowingly and intentionally importing three Mesopotamian cylinder seals contrary to the import restrictions set forth by the Iraqi Sanctions Regulations (Superseding Indictment). Braude pleaded guilty in 2004 to

smuggling and making false statements (Associated Press: “Scholar”). The *Schultz* court also mentioned that civil and criminal penalties could overlap in the context of the CPIA and the NSPA (*United States v. Schultz* 409). To date, however, no known prosecutions involving the CPIA and the smuggling statute have either been suggested or attempted.

### 3.2 State prosecutors, receiving stolen property laws, and state charities enforcement

The laws potentially available to state prosecutors are twofold. District and county attorneys can rely on receiving stolen property statutes to target culpable receivers and sellers of antiquities. Attorneys general, meanwhile, can use their charities enforcement power to pursue museum misconduct.

Every state has enacted a receiving stolen property statute in some form. These laws prohibit a person from receiving property of another when the person knew the property was stolen. Many of these same statutes also criminalize situations where the person should know, had reason to know, had reason to believe, or simply believed that the property was stolen or probably stolen. New Hampshire’s statute is one example:

A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it has probably been stolen, with a purpose to deprive the owner thereof (R.S.A. § 637:7, I).

While state receiving stolen property laws are fundamentally similar to the federal NSPA, many provide distinct advantages to prosecutors. First, several state statutes establish lower mental states. The NSPA requires proof that a person *knew* the received property was stolen, but several states only require proof that the actor should know, had reason to know, had reason to believe, or simply believed that the property was stolen or probably had been stolen. Thirty six states and the District of Columbia have enacted laws with a lesser *mens rea*.<sup>\*</sup> Second, almost one quarter of the states possess some form of dealer provision, making it easier to prosecute antiquities traders.<sup>\*\*</sup> Where a dealer

<sup>\*</sup> Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Vermont (in the case of dealers), Virginia (in the case of sellers), West Virginia, and Wyoming.

<sup>\*\*</sup> Alabama, Arizona, Florida, Hawaii, Iowa, Maryland, Michigan, New Hampshire, New Jersey, New Mexico, New York, and Utah. Other states with dealer provisions have more unique statutes. California’s statute criminalizes dealers who fail to make inquiry into the property they receive; Colorado places more severe penalties on dealers who deal in stolen goods; Texas requires, subject to criminal penalty, dealers in secondhand property to obtain identifying information from the owner, identifying information from the property, and a warranty of ownership or possession from the person selling the item to the dealer; and Vermont lowers the *mens rea* for dealers by criminalizing situations where the dealer simply believes the property received was stolen.

<sup>\*\*\*</sup> The doctrine was applied in the case of *United States v. Schultz*.

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takes possession of an item and either (a) does not reasonably gather information about whether the item was lawfully sold or delivered to the dealer, (b) acquires the item for payment far below reasonable value, or (c) purchases or sells the item outside of the regular course of business, these statutes generally declare that the dealer is presumed to have known that the item was stolen. The New York Penal Law serves as an illustration of scenario “a”:

A ... person in the business of buying, selling or otherwise dealing in property who possesses stolen property is presumed to know that such property was stolen if he obtained it without having ascertained by reasonable inquiry that the person from whom he obtained it had a legal right to possess it (§ 165.55(2)).

Third, state receiving stolen property statutes provide criminal penalties for defendants who possess property of most any value as compared with the NSPA’s \$5,000 threshold. New Mexico’s statute is a typical example:

Whoever commits receiving stolen property when the value of the property is one hundred dollars (\$100) or less is guilty of a petty misdemeanor.

... when the value of the property is over one hundred dollars (\$100) but not more than two hundred fifty dollars (\$250) ... a misdemeanor.

... when the value of the property is over two hundred fifty dollars (\$250) but not more than two thousand five hundred dollars (\$2,500) ... a fourth degree felony

... when the value of the property is over two thousand five hundred dollars (\$ 2,500) but not more than twenty thousand dollars (\$20,000) ... a third degree felony.

... when the value of the property exceeds twenty thousand dollars (\$20,000) ... a second degree felony (§§ 30-16-11, D-H).

The legal advantages of lower mental states, dealer presumptions, and decreased value thresholds make prosecuting antiquities trafficking under state law an appealing option, particularly when targeting receivers or sellers.

Another statutory tool available to state prosecutors is charities enforcement power, which can be used to ensure that deliberately unscrupulous or simply reckless museums are held to account for acquiring looted antiquities. Most museums are designated as nonprofits, charities, charitable trusts, education corporations, or public benefit corporations that are held accountable to the public by state officials.\* The state’s top prosecutor, the attorney general, is the person typically assigned to oversee museums and other charities operating within a state.\*\* To that end, the duties of the attorney general are to investigate abuses.

Museum participation in the antiquities trafficking chain can take several forms—many at the object accession stage—including (a) using funds raised through public do-

nations to purchase illegally excavated, exported, or imported antiquities and (b) purchasing or accepting donations of antiquities that have been illegally excavated, exported, or imported. Under any of these circumstances, state laws potentially can be applied to curb such improprieties. The California attorney general, for example, is delegated with the responsibility to regulate charitable corporations and charitable assets to ensure that business is conducted for a public purpose (e.g., Cal. S.T.F.C.P.A. § 12588, § 12598(a)). Buttressing this authority is the attorney general’s subpoena power that can “require any agent, trustee, fiduciary, beneficiary, institution, association, or corporation, or other person to appear, at a named time and place ... to give information under oath and to produce books, memoranda, [or] papers ...” (Cal. S.T.F.C.P.A. § 12588; see also § 12589).

There are several areas that the California attorney general could investigate pursuant to his charities enforcement authority. Among them are whether a museum’s collection contains looted antiquities purchased with public contributions and whether a museum’s board of directors would have violated its fiduciary duty to the corporation if the board accepted looted objects without adequately inquiring about their provenance. The attorney general could issue subpoenas for documentation and depositions as necessary, and the evidence collected by the attorney general could ultimately lead to a variety of outcomes including taking no action; initiating a criminal probe of the museum and/or its directors and officers under the Penal Code (Title 7 and Title 13) or under the Nonprofit Public Benefit Corporation crimes and penalties section of the Corporations Code (§§ 6810-6815); pursuing civil penalties and lawsuits against the museum and its governing body (S.T.F.C.P.A. § 12591 and § 12598); revoking or suspending the registration of the museum, thereby hampering its ability to fundraise (S.T.F.C.P.A. § 12598(e)(1)); or pursuing a negotiated resolution that brings about compliance with the law (S.T.F.C.P.A. § 12591.2).

#### **4. CREATING A FAVORABLE CLIMATE FOR PROSECUTORIAL ACTION**

U.S. Attorneys, district and county attorneys, and attorneys general will aggressively confront a particular criminal problem when they judge it to be a priority, and when they possess both the public’s and policymaker’s support as well as adequate funding and resources. Education, advocacy, and partnership can create the climate in which American prosecutors can confidently confront international antiquities trafficking.

Education is required to alert prosecutors, the public, and policymakers that antiquities trafficking attacks people’s history and culture. Experts in the field must enthusiastically step forward to demonstrate how antiquities trafficking destroys humanity’s past by obliterating the archaeological record. For example, museums could host special public exhibitions highlighting the looting problem; ar-

\* While there may be technical distinctions between the terms listed, they are all used here flexibly to stress that museums, as charitable institutions, are subject to state regulation.

\*\* Some states task an official other than the attorney general to supervise charities, but that official is still a public representative whose duty it is to supervise and regulate.

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chaeologists could organize trips to communities possessing plundered archaeological sites; conservator-restorers could host public forums to explain the damage caused by improper excavation, storage, and transportation of artifacts; anthropologists could produce popular writings for magazines that highlight the need to scientifically document sites in order to evaluate context; art historians could teach courses to college students that explain antiquities trafficking; and various experts could hold educational seminars for members of the National District Attorneys Association or offer antiquities identification courses to federal customs officials. The objective would be to make prosecutors, the public, and policymakers aware of the harm caused by criminals plundering antiquities abroad and then distributing the objects in the United States.

Advocacy must supplement education in order to convince prosecutors, the public, and policymakers, that taking action against antiquities trafficking should be given the same attention as other serious international crimes such as money laundering and counterfeiting. A personal visit with a U.S. Attorney or a local district attorney can alert these authorities that antiquities trafficking requires an assertive criminal justice response. Meetings with congressmen, county commissioners, and others with authority over criminal justice budgets can stimulate funding for the prosecution of cases. Participation in education and advocacy groups such as SAFE/Saving Antiquities for Everyone can kindle public encouragement for prosecutors to take action. Because effective advocacy requires credibility, experts in the field must show that they too are working to end antiquities trafficking by refusing to authenticate suspect antiquities and by diligently publishing the results of archaeological excavations.

Criminal justice intervention necessarily requires resources. Because it is unlikely that large sums of money and manpower will be forthcoming, prosecutors must attack the problem in the short term by relying on existing funds and personnel. Federal and state officials should therefore foster cooperation to investigate and prosecute antiquities trafficking. U.S. Attorneys should be willing to share information with district attorneys; the FBI should seek out investigative cooperation from local police departments; and customs officers should contact state attorneys general about suspect objects. Meanwhile when an antiquity becomes the subject of a criminal case, professionals in the museum, archaeological, anthropological, art history, conservation-restoration, and related fields should be willing to assist authorities for free or at reduced cost.

It takes time to encourage action against a criminal problem. Nevertheless, the threefold approach of education, advocacy, and partnership can create an environment whereby federal and state prosecutors vigorously target receivers, sellers, and smugglers of plundered artifacts. Indeed, there was a time in the United States when society was not mindful of the traffic deaths caused by driving while under the influence of alcohol or drugs (DWI). However, because of education and advocacy efforts by groups

such as Mothers Against Drunk Driving and because of partnerships promoted by organizations like the National Highway Transportation Safety Administration, DWI today is a crime that receives significant law enforcement and public attention. In the same way, antiquities trafficking can become a matter of important societal concern.

## 5. CONCLUSION

International antiquities trafficking is simply theft by another name. Thinking about antiquities trafficking this way better promotes the application of the American criminal justice system toward mitigating the plunder of archaeological sites abroad. Despite evidence of a large criminal problem, there has been little prosecution response. But a combination of federal and state prosecutions, leading to prison and/or fines, could deter criminally culpable receivers, sellers, and smugglers.

The recent successful conviction and imprisonment of Frederick Schultz should encourage authorities to increase their commitment to prosecuting antiquities offenders. The result in that case squares firmly with U.S. Attorneys' prosecution philosophy that "[h]ighest priority should be given to the prosecution of [those] who operate legitimate businesses and sell stolen property to the public" (U.S. Attorneys' Manual 9.61-400). The case should also serve as an impetus for state prosecutors to apply state receiving stolen property laws to the fight against antiquities trafficking. Meanwhile, Italy's current indictments against two antiquities dealers and a museum official, along with its declarations that stolen antiquities are located in several American museums, should prompt attorneys general to more aggressively oversee suspect institutions within their own states. With support from the public and policymakers, prosecutors working cooperatively can help protect archaeological sites abroad from the damage caused by the illegal trade in antiquities.

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