



# CREOGN Research Note

Gendarmerie Nationale Officers College Research Center

## **Endangered works of art: cultural property trafficking in the context of armed conflicts, terrorism and organized crime**

Cultural heritage and its artefacts provide an essential legacy to understand the economic, social and historical contexts of any civilization—like footprints evidencing the presence and activities of humankind at a given period in its development. This legacy has always been threatened in many ways: gratuitous or irrational destruction - from vandalism to deliberate attempts to annihilate the identity of specific communities -, large-scale removals or ruthless plunder linked to armed conflicts. Human greed is also at work through large networks of organized crime connecting plain thieves looking for profit with obsessive collectors, forgers, drug traffickers, arms dealers and even terrorists.

### **Plunder in the context of armed conflicts**

Resulting from an overall regional context of political instability, recent conflicts in various countries of the Middle East still provide contemporary instances of plunder. Favored by times of war, this phenomenon consists in the brutal seizure of assets—frequently with damage. The taking of spoils is as old as warfare itself but also occurs during times of occupation, as witness the systematic operations carried out by Nazis in continental Europe during WWII.

We'll first examine the case of Afghanistan where armed conflicts have been going on since 1979 when local insurgents began to resist the Soviet invasion of their country. Once the Russians had left, the Taliban imposed an oppressive regime inspired by religion and opposed by the international community led by the United States and a coalition of its Western allies. After their direct intervention following the 9/11 terrorist attacks, the local conflict became part of a global struggle against terrorism, involving the Al-Qaeda network and its leader Osama bin Laden. The use of explosives by the the Taliban to blow up the Buddhas of Bamiyan in 2001 expressed their permanent hate towards figurative images and marked the beginning of a slow but devastating campaign against Afghan cultural heritage.

As a result of these successive conflicts, hundreds of artefacts have gone missing from the National Museum in Kabul and the seriousness of the situation has led the International Council of Museums (ICOM) to issue a red list of endangered antiquities in 2007.

Also gripped by armed conflicts, Iraq has suffered similar forms of plunder and destruction. In March 2003, the country was invaded by a coalition of US and British forces intending to topple the regime of Saddam Hussein. During the same year, the National Museum in Baghdad was literally laid to waste by both amateur looters and professional teams operating on the international art market—leaving only worthless items and a few replicas behind them. Some 15,000 artefacts were stolen, including rare testimonies to the invention of writing among the earliest civilizations of the region. Numerous archaeological sites everywhere across Iraq have also been defaced, plundered or sometimes subjected to unauthorized excavations ruining scientific efforts to preserve the initial terrain.

More recently, revolutions of the so-called “Arab Spring” of 2011 have led to other savage attacks against cultural heritage. Egypt saw its world-famous museum in Cairo looted during a spate of street riots—with nearly 54 missing artefacts according the official list, including priceless statues of Tutankhamun and Nefertiti<sup>1</sup>.

The adverse socio-political context of a country, its lack of stability and the often resulting armed conflicts and civil wars undeniably favor criminal activities targeting cultural heritage and property.

1 [https://www.sciencesetavenir.fr/archeo-paleo/exclusif-pillage-du-musee-du-caire-la-liste-des-objets-voles\\_21340](https://www.sciencesetavenir.fr/archeo-paleo/exclusif-pillage-du-musee-du-caire-la-liste-des-objets-voles_21340)

In May 2012, INTERPOL and UNESCO launched a world appeal to call attention on the cultural heritage of Syria and its endangered status in view of the on-going armed conflict tearing the country apart; this appeal underlines how much archaeological sites, historical monuments, religious buildings and Roman antiquities are exposed to theft, looting and destruction. Indeed, territories currently occupied by Jihadi fighters of the so-called “Islamic State” have already witnessed systematic plunder. According to UNESCO reports, Islamic State terrorists have actually carried out archaeological looting on an industrial scale through thousands of unauthorized excavations. The international cultural organization calls for utmost vigilance to thwart the appearance of corresponding artefacts on the art market and is currently working to implement emergency measures.

### **Trafficking of cultural property as a growth industry**

Illegal trafficking of cultural property may be defined as the illicit and clandestine trade in assets belonging to cultural heritage. Obviously fed by theft, it is also connected to forgery, money laundering and even the financing of organized crime. Currently booming and developing its operations on a worldwide scale, it thrives in the modern context of globalization and permanent international exchanges.

In 2011, Director-General of UNESCO Irina Bokova stated that “*the illegal trafficking of cultural property is the third most important form of illicit trade after drug trafficking and arms dealing—and with obvious links to them. It helps criminals with money laundering and can be used to finance terrorism*”<sup>2</sup>. This collaboration with other types of major crime is essentially harmful to cultural heritage since – along successive sales and re-sales - cultural property is often damaged or comes to disappear altogether in the labyrinth of the underworld economy. Various criminal phenomena such as human trafficking, arms dealing and drug trafficking – already interconnected on their respective markets – are also boosted by this new interaction: the produce of looted archaeological sites is now believed to be financing not only other types of trafficking but even terrorist activities<sup>3</sup>.

FBI statements<sup>4</sup> have explained how most terrorist groups – and the so-called “Islamic State” in particular – regularly use the sale of looted archaeological artefacts as financial resources. Mohamed Atta is a case in point: the 9/11 terrorist had tried in 1999 to sell a number of looted Afghan antiquities in Germany in order to gather the necessary funds for the already planned attacks on the World Trade Center. According to investigative journalist Romain Bolzinger<sup>5</sup>, numerous artefacts plundered in the Middle East regularly end up being sold by Western auction houses to finance terrorism through an unbelievably complex network connecting looters to terrorists and intermediaries to art dealers—all the way up to auctioneers and collectors.

Jihadis from the so-called “Islamic State” are keen to advocate “cultural cleansing” and tend systematically to destroy archaeological sites under their occupation to erase any traces of civilizations prior to Islam. Looting and the trafficking of cultural property is also considered a prime method of financing their cause. According to CIA reports, works of art too bulky to be removed are immediately destroyed while smaller objects are fed into the international art market where they generate between 6 and 8 million dollars of revenue, i.e. their second largest source of income after oil<sup>6</sup>. Well-functioning routines are available: artefacts are warehoused, then sold via intermediaries in Turkey or Lebanon to resurface years later on the European art market. The terrorist organization is even reported – specifically in Syria – to be delivering “archaeological permits” for which it collects “duties” worth between 20 and 50 percent of the overall value of finds.

According to a recent article in the British daily *The Guardian*<sup>7</sup>, Germany and Switzerland are the central hubs of this trafficking world, which now extends its tentacles to many other prestigious art scenes in New York, London and Paris. However well reported in the media, these obviously illegal transactions based on theft and the possession of stolen goods are probably only a few of the multiple facets of this worldwide industry—the tip of an iceberg.

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2 Bokova, Irina, “Combattre le trafic illicite des objets culturels”, *Le Figaro*, March 15, 2011.

3 Charney, Noah, *Art Crimes and Art Historical Mysteries*, Praeger, 2009, p. 261.

4 Cf. postings on the FBI website: <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/march-2012/protecting-cultural-heritage-from-art-theft> ; <https://www.fbi.gov/news/stories/isil-and-antiquities-trafficking>

5 Bolzinger, Romain, dir. “Trafic d’art: le trésor de guerre du terrorisme”, *Spécial Investigation*, Canal+, TV documentary broadcast on June 20, 2011.

6 <https://www.theguardian.com> “How western art collectors are helping to fund Isis”

7 <https://www.theguardian.com> “Looted in Syria and sold in London: the British antiques shops dealing in artefacts smuggled by Isis”

Such varied but regular attacks against cultural heritage have made state authorities aware of the need for more effective protection. This has led to the creation of a number of legal tools and institutional structures

### **Creating an efficient system of protection**

Considerable worldwide efforts to protect cultural heritage have already been made in the past through well-known international agreements and institutions. Most prominent are the many and efficient UNESCO conventions--among which the Convention for the Protection of Cultural Property in the Event of Armed Conflict; the Convention concerning the Protection of the World Cultural and Natural Heritage; the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects or the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property<sup>8</sup>.

Nevertheless, new challenges are being faced through new forms of trafficking connected to organized crime and terrorism—demanding new answers.

In February 2015, the Security Council of the United Nations adopted Resolution 2199 condemning the destruction and prohibiting the trade of cultural property illegally exported from Iraq since 1990 and from Syria since 2011. This Resolution mandates all UN Member States to take appropriate measures to prevent this trade and states that: “*ISIL [the so-called “Islamic State”], ANF [the Al-Nusra Front] and other individuals, groups, undertakings and entities associated with Al-Qaeda, 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*”<sup>9</sup>.

At France's national level, the array of legal instruments governing the protection of cultural property is already vast and includes – among others - Chapter I of the *Code du patrimoine* (Heritage Code) which deals with the protection of cultural assets, the inventory of “national treasures”, the protection of public collections, the protection of designated heritage property (including classified historical buildings) and the regulation of sales. Likewise, France's Penal Code provides for specific incriminations targeting cases of theft, destruction, defacement or degradation of cultural property<sup>10</sup>.

However, the law dated June 3, 2016 marks a turning point in French law and provides added support to the efforts of law-enforcement agencies fighting against organized crime, terrorism and their financing, by facilitating criminal proceedings in this field and creating new offenses to answer the most recent challenges. Amended Article 322-3-2 of the Penal Code – for instance – now incriminates “*the import, export, transfer, transport, possession, sale, acquisition or exchange of any cultural property of archaeological, artistic, historical or scientific interest--with prior knowledge of its removal from a territory which – at the time of removal – constituted an area of operation for terrorist entities and without acceptable means of evidencing the lawful origins of the aforesaid property*”<sup>11</sup>. Nonetheless, this wording is probably too obscure and renders the implementation of the new law fairly difficult. In fact, since France itself has recently been targeted by terrorists, isn't our national territory to be considered as one such “*area of operation for terrorist entities*”?

Taking such elements into account, it appears that the protection of cultural property will remain a priority concern on a national level but must necessarily be approached with an international perspective; the globalization of threats to cultural property necessitates to integrate our response within the international protection framework.

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8 Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 14 May 1954); the Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 16 November 1972); the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 24 June 1995) or the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970). Cf. [http://portal.unesco.org/en/ev.php-URL\\_ID=12025&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=-471.html](http://portal.unesco.org/en/ev.php-URL_ID=12025&URL_DO=DO_TOPIC&URL_SECTION=-471.html)

9 Article 16 of Resolution 2199 (2015) adopted by the Security Council on February 12, 2015. Cf. <http://unesdoc.unesco.org/images/0023/002321/232164f.pdf>

10 Articles 311-4-2 and 322-3-1 of the Penal Code, cf. <https://www.legifrance.gouv.fr>

11 Amended Article 322-3-2 of the Penal Code, cf. <https://www.legifrance.gouv.fr>

## **Major actors and institutions**

Many players are active in the service of cultural property protection and their tasks are made permanently more difficult by the rapidly changing nature of criminal activities in this field. These actors and institutions operate for both preventive and repressive purposes, nationally as well internationally.

Upstream interventions are intended to prevent attacks. Institutions such as UNESCO (the United Nations Educational, Scientific and Cultural Organization), the International Council of Museums<sup>12</sup> and the various national Ministries of Culture mainly rely on the creation of international standards and monitoring of compliance. Others are involved in downstream repression, for instance via the identification and reporting of persons responsible for attacks against cultural property. Such is the task assigned to INTERPOL and its “Works of Art” branch, EUROPOL, the World Customs Organization (WCO) and the various national specialized police units<sup>13</sup>. Both types of institutions collaborate on the improvement of the protective legal framework but also on a number of preventive measures (INTERPOL's database of stolen artefacts, UNESCO's “world heritage” and “heritage in danger” lists, creation and spreading of legal or practical guidelines).

On a national level, Ministries of Culture are the institutions in charge of conducting conservation and protection policies; they also create and maintain reference inventories through nationwide databases (public collections, repertoires, grading lists for designated heritage property, etc.).

As mentioned above, most Member States of the European Union have created specialized police units in charge of repression, for instance the *Art and Antiques Unit* of the London Metropolitan Police or – in countries severely affected by heritage-related crime - the *Brigada de Patrimonio Histórico* in Spain and the *Comando Carabinieri Tutela Patrimonio Culturale* in Italy.

In 1975<sup>14</sup>, France created its own *Office central de lutte contre le trafic des biens culturels* (OCBC) with a mission to coordinate investigative and repressive efforts across the whole country. Focused on theft and the “fencing” of stolen cultural property, this unit is also in charge of studying appropriate protective measures in partnership with other institutions such as the Ministry of Culture, the Ministry of the Interior, customs services, the national observatory of the art market and INTERPOL. Its 26 officers – from both the national police and the national Gendarmerie<sup>15</sup> – are specialists fully acquainted with the art market and its inner workings. Offenses in their remit include theft, receiving and possession of stolen goods, art forgeries and art-related frauds; they also take care of restitution and return procedures.

The OCBC operates within the framework of both repressive and preventive policies (also governing expert authentication, auditing and consultancies). Its main assignment is to carry out investigations in order to recover stolen or missing cultural property and arrest perpetrators, i.e. thieves and traffickers. It also carries out a parallel assignment to document cultural property involved in such investigations via the use of a strategic tool—the TREIMA II central file<sup>16</sup>. This central digitized database gathers descriptions and photographic evidence corresponding to more than 90,000 artefacts involved in some 42,000 past or present cases. Always accessible to police and Gendarmerie forces, this database is also accessible to art professionals (subject to an approved request).

Permanently updated by the OCBC and the “Stolen Antiques and Artefacts” branch of the Gendarmerie's central intelligence unit (SCRC), TREIMA II is one of the most effective tools in the field. The SCRC takes part in the struggle against trafficking by centralizing and forwarding information from/to other police databases. It also carries out spot checks on persons and premises connected with the art market.

Interaction between the various national and international actors plays a fundamental role in the protection of cultural property. Whether preventive or repressive, their operations ensure the preservation of heritage against destructions, removals and thefts that – unfortunately – remain ever too frequent. The recent pillaging of the archaeological site of Palmyra as a result of its occupation by Daesh forces reminds us of the necessity to implement truly effective protection of cultural heritage even in the context of armed conflict. However and in spite of considerable international efforts over the last decades, effectiveness of protection remains limited while multiple threats remain on the increase.

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<sup>12</sup> <http://icom.museum/>

<sup>13</sup> Such as the OCBC in France (<http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Judiciaire/Lutte-contre-lacriminalite-organisee/Office-central-de-lutte-contre-le-traffic-de-biens-culturels>) or the *Comando Carabinieri per la Tutela Patrimonio Culturale* in Italy (<http://www.carabinieri.it/cittadino/tutela/patrimonio-culturale/introduzione>).

<sup>14</sup> Ministerial Order no. 75-432 dated June 2, 1975. This created the OCBC as a specialist unit reporting to the Ministry of the Interior.

<sup>15</sup> As specified by Article 2 of Ministerial Order no. 75-432 dated June 2, 1975.

<sup>16</sup> TREIMA is the acronym for “*Thésaurus de Recherche Électronique et d'Imagerie en Matière Artistique*” (electronic search and art iconography thesaurus). Mark II is an improved version of the original TREIMA database.