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Dealing with Antiquity

Case Studies and Methodological Considerations in the Ethical Engagement of Ancient Materials

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Lauren Morris – Amanda Bledsoe – Fabian Heil

Table of Contents

Preface: Dealing with Antiquity
Case Studies and Methodological Considerations in the Ethical Engagement of Ancient Materials

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The Distant Worlds Journal is an online peer-reviewed journal established especially for presenting the research of early-career scholars on the ancient world. In seeking to encompass a broad range of distinct academic fields, each edition of the DWJ takes as its starting point a question or specific topic pertinent to the diverse disciplines engaged in the study of ancient cultures. In the opening edition of this journal, papers explored the question of how the meaning of an object changes throughout its "life" in the past and present. This second edition of the DWJ, "Dealing with Antiquity", has shifted in focus to the role and responsibilities of the researcher, and has served as a platform to consider how those working in academia could deal with unprovenanced, recently surfaced ancient materials in a way that advances knowledge, as well as being ethically sound. This is a persistent issue behind the scenes of research across academic disciplines, but one that is growing ever more relevant in contemporary times.

Often the evidence we draw on in researching antiquity does not reach us in a pure and unproblematic form, and we are faced with serious ethical quandaries in the process of research. Problems might occur when excavating or studying human remains, researching archaeological material excavated under difficult political circumstances, or in using manuscripts and other archaeological materials not obtained through modern controlled excavations, thus missing crucial contextual information. This edition of the DWJ is concerned with the latter issue in particular, considering ways in which academics may study such recently surfaced, unprovenanced material in an ethical manner. How to deal with ancient epigraphic material and manuscripts – which feature the qualities of both text and artefact – has been an especially contested in this discourse, and thus serves as the principal focus of this edition.

In the opening essay of this issue, Professor Christopher Rollston reflects on the problems that arise, particularly for junior scholars, in working with unprovenanced materials, namely the possibility of incorporating modern forgeries into research and, thus, corrupting the dataset. Rollston discusses some of the recent rulings made by academic societies in regard to the publication or presentation of unprovenanced objects, and questions the compliance of these rulings with the Hague and UNESCO adjudications on cultural property.

The following two essays, each provide case studies for dealing with unprovenanced materials in their respective fields. In his article about cuneiform tablets from the archives of Dūr-Abī-ešuḫ, Zsombor Földi uses this case study to shed light on the difficult position created by the antiquities market for cuneiformists, but also to show

how this material may be ethically published. Földi expresses the view that cuneiformists have the responsibility to publish discovered cuneiform tablets as soon as possible. He notes, however, that this publication should not only include the contents of the text, but also deal with its provenance. Földi presents the possibility of initial publication of such tablets emerging on the contemporary antiquities market—which, as pointed out by Professor Rollston, is a matter of controversy—after extensive and transparent research into their provenances and acquisition histories.

Michael Johnson picks up with another problematic issue raised by Professor Rollston: the secondary publication of unprovenanced artifacts. In treating a previously published "Dead Sea Scroll" fragment, Johnson notes that both the American Society of Oriental Research and Society of Biblical Literature only discourage the *initial* publication of questionable artifacts, without comment on potential further publication of these materials. Johnson argues that such publication is crucial to academic discourse, as first editions may make unsubstantiated claims, often benefiting the object's dealer or owner. Subsequent publication, therefore, is necessary for correcting these problems by exercising a greater degree of caution in assigning provenance to objects, and especially in highlighting the uncertain origins of the object. In the context of Dead Sea Scrolls research, Johnson's discussion is of particular relevance due to a large number of unprovenanced fragments which have flooded the antiquities market in the past decade or more.

These two pieces of meticulous scholarship demonstrate the possibility of engaging with this difficult topic even as an early career scholar. Furthermore, while these contributions make very clear that the complicated interrelations between political, economic, social and scientific interests necessitate a careful approach to unprovenanced artefacts, they also present constructive steps forwards for future work dealing with such material.

With the publication of this second edition of the Distant Worlds Journal, we would like to reiterate our thanks to the Munich Graduate School for Ancient Studies "Distant Worlds" for its generous support. We would also like to extend our gratitude to the members of our Advisory Board and the other scholars around the world who have acted as peer-reviewers, and to the members of the Editorial Board for their efforts in bringing this edition to final publication. We would also like to thank the Heidelberg University Library for hosting our journal. Finally we would like to thank the authors for their contributions to this volume and, especially, Professor Rollston for kindly agreeing to offer an introductory essay dealing with this controversial subject.

Munich, May 2017

Introduction: The Publication and Citation of Inscriptions from the Antiquities Market and Contested Regions

Christopher A. Rollston

Participation in the publication of an archaeological artifact that hails from the antiquities market or from a contested region (e.g., certain parts of Cyprus or Occupied Palestine) is not the sort of thing that I would encourage. Long ago, I was attempting to settle on a dissertation topic and had all but decided that I would be working on scores of Old Hebrew bullae and seals that had surfaced on the antiquities market. I had already submitted my dissertation proposal, and signals were auspicious that the proposal would be readily accepted. However, Assyriologist Jerrold Cooper of Johns Hopkins University (the institution at which I earned my doctorate) learned of my proposed dissertation topic, and he told me that he wanted to talk with me about the topic. I thought that he would indicate to me that he believed the proposed topic was useful and that it would serve the field well. But as Professor Cooper and I walked across the quad of the Homewood Campus of Johns Hopkins University, he told me that the topic was problematic and that I needed to jettison it. I was floored. Professor Jerrold Cooper was not on my dissertation committee, but I have long held him in the highest regard. So, as he suggested, I abandoned the proposed dissertation topic. As fate would have it, Jerrold Cooper's senses were on the mark. A number of these seals and bullae turned out to be modern forgeries. And through the years, I have had a hand in exposing a fair number of modern forgeries, including some seals, bullae, ostraca, pithoi inscriptions, and inscriptions in stone (including a few that would have been in my dissertation!). I have always been particularly grateful for Jerrold Cooper's wise counsel, as it saved me from the embarrassment of writing a dissertation that would have been plagued with tainted data from the modern period. Similarly, I have always been grateful for the sage warnings of the late Professor Joseph Naveh of Hebrew University about the presence of some very capable modern forgers in the late 20th and early 21st centuries. And I shall always treasure a letter from the late Professor Frank Moore Cross of Harvard University in which he stated that he considered my (2003) article on the subject of modern forgeries to be absolutely convincing.[1] Ultimately, I shall always be in the debt of Professors Cooper, Naveh, and Cross, as they saved me from a great deal of trouble.

So the first thing that I would say is that scholars of all ages must be careful, and junior scholars must be especially careful, as

[1] Rollston 2003.

an embarrassing publication is sometimes enough to derail entirely a promising career. Caveat Eruditus. The second thing that I would state is that all who reference or publish something from the antiquities market or from a contested region must be very careful to make the provenience (or the absence thereof) very clear in all presentations and publications. After all, this is a matter of professional ethics and it is also a means of ensuring the fact that transparency is the *modus operandi*. Along those lines, many years ago, I proposed that inscriptions from the antiquities market should be marked with a symbol (e.g., the name of the inscription preceded by: "ø," or by "non-prov"). I also suggested that references to inscriptions in lexica should also flag in the same fashion inscriptions from the market. Moreover, I suggested that in handbooks or text-collections, inscriptions from the market should be separated from inscriptions from excavations, thus, printed in two separate and distinct portions of a volume, as a matter of "truth in advertising." Furthermore, I also suggested that no constructs about ancient society or ancient language should be based primarily on inscriptions from the market. That is, I argued that our assumptions about antiquity should be based on the best of our archaeological data (i.e., excavated inscriptions), not on compromised data, including and especially data that might have been forged in the modern period. Finally, I also proposed that we should begin to attempt to categorize inscriptions from the antiquities market, with these categories: modern forgery, probable modern forgery, possible modern forgery, probable ancient, ancient.[2]

It should also be emphasized in this connection that, in addition to professional ethics, there is also the matter of international law as well as the strictures of learned societies. For example, the date of April 24, 1972 is of particular importance, as this is the date of entry into force of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.[3] Similarly, the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, entered into force on August 7, 1956.[4] Because of these sorts of world-heritage laws, those wishing to participate in the publication of something from the antiquities market, or something from a contested region, should be particularly circumspect. After all, no member of the scholarly community should fail to be in compliance with international laws. In addition, it is worth emphasizing that during the past decade, major learned societies have made a concerted effort to be leaders in these sorts of complicated matters of ethics, law, and cultural heritage. For this reason, as of 2015, the American Schools of Oriental Research has published a document on standards and practices that are to be in place in all presentations made at ASOR events and in all of its publication-venues.[5] Similarly, the Society of Biblical Literature put in place in 2016 very similar statements on standards and practices that are to be in place for all presentations made at SBL events and for all SBL publication-venues.[6] Thus, the days of the "wild west" (with regard to the way the field approached artifacts from the market and from contested regions) is no more. Rather, a new era has

[2] Rollston 2004.

[3] See UNESCO 1970.
[4] See UNESCO 1954.
[5] See ASOR 2015.
[6] See SBL 2016.

dawned in which learned societies are attempting to mandate that their memberships put into practice (at least at events and in publications of these learned societies) certain basic ethical standards and legal practices.

It is perhaps also worth emphasizing that at this time, there are certain "exceptions in place." For example, the American Schools of Oriental Research is not willing to be the place of "first publication" or "first presentation" for an artifact from the antiquities market, but an exception is made for cuneiform inscriptions. Here is the precise language used for this exception:

"limited exception to the publication and presentation policy noted immediately above is available for cuneiform texts because a. in zones of conflict since the early-1990s, most prominently in Iraq and Syria but also elsewhere, looting of cuneiform tablets has occurred on a *truly massive scale*; b. cuneiform texts may be authenticated *more readily* than other categories of epigraphic archaeological heritage; c. the content of a cuneiform text can provide information *independent* of archaeological provenience."[7]

One the one hand, I understand the desire for, and the place of, such an exception. On the other hand, I must state that I find the exception is striking because, of all of the written materials appearing on the antiquities market during the past twenty-five years, an overwhelming majority are cuneiform tablets from Iraq and Syria. Thus, the exception is large enough to drive a freight train through. And I find it ironic that a Northwest Semitic inscription, or a Greek inscription, or a Latin inscription that appears on the antiquities market is banned from first publication or first presentation, but the massive numbers of cuneiform tablets appearing on the antiquities market are not banned from first publication or first presentation in such a venue. Ultimately, I am quite certain that this policy is not entirely in conformity with the international laws or with the spirit of the Hague Convention or UNESCO statements.

In sum, it seems to me that scholars must be very careful about working with, publishing, or referencing archaeological artifacts that have appeared on the antiquities market or those that hail from contested areas of the world. However, if someone decides that they wish to work with, publish, or reference such an artifact, I would emphasize that truth in advertising is paramount and the provenience or absence thereof must be stated front and center: there must be no exceptions to this.

[7] See section II, E, 5 of ASOR 2015.

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Cuneiform Tablets and the Antiquities Market
The Archives from Dūr-Abī-ešuḫ*

Zsombor Földi

Abstract: In this paper, different issues of dealing with unprovenanced antiquities are discussed from the Assyriologist's point of view. How should one deal with unprovenanced artefacts? Should they be published at all? Is it satisfactory to publish only the artefacts? What is the importance of acquisition history, and to what extent should one trust the data provided by dealers and auction houses? Since the Old Babylonian (20th–17th centuries BCE) city of Dūr-Abī-ešuḫ was virtually unknown until the early 2000s, its unprovenanced archives offer an excellent opportunity to address these issues. One can observe the appearance of cuneiform tablets from these archives in the main European and American centres of antiquities trade, as well as the scarcity of data concerning their acquisition history. However, since the main bulk of tablets still await publication, these observations must be considered preliminary. In an Appendix a previously unknown tablet from Dūr-Abī-ešuḫ, housed in a German private collection, is published for the first time.

In the past two decades, thousands of clay tablets have been acquired by various museums and private collections. A considerable number of them come from sites previously neither officially excavated nor identified, such as Garšana (ĜARšana),[1] Iri-Saĝrig[2] and Dūr-Abī-ešuḫ. Since these texts were discovered through illicit excavations and their acquisition is, from a legal point of view, an offence against international law protecting cultural heritage, the publication of such materials has been subject to debate. This paper aims to present a brief overview of the already known—published and unpublished—tablets from Dūr-Abī-ešuḫ, focusing primarily on the provenance of these tablets as well as on the importance of publishing the corresponding data. It will also attempt to establish the date of the Dūr-Abī-ešuḫ archives' discovery by illicit diggers.

Let us begin with the question of the antiquities trade and academic involvement. In an attempt to remain brief for the purposes of this paper, the ethical and moral aspects cannot be discussed in detail here. The debate, principally between archaeologists and philologists, so far has focused primarily on the publishing of recently acquired cuneiform tablets, which

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* This is an updated version of a paper written in 2013–2014. Abbreviations are those of the CDLI database: http://cdli.ox.ac.uk/wiki/doku.php?id=abbreviations_for_assyriology; add MSCCT = Manuscripts in the Schøyen Collection, Cuneiform Texts. Relative dates are according to the Middle Chronology.

1 See Owen – Mayr 2007, supplemented by Owen 2011; 2012; and 2016b.

2 See Owen 2013a, supplemented by Sigrist – Gabbay 2014, nos. 6–10; Owen 2016a; and Sigrist – Gabbay – Avila *in press*, nos. 1–2; but cf. already Pettinato *apud* Menegazzi 2005, a volume which was, unfortunately, unavailable for the present study. The first tablet identified as originating from Iri-Saĝrig appeared on Ebay on the 28th April 2004 (BDTNS No. 167825; see Molina 2013, 72). On the archive itself see Owen 2013b.

often turn out to be illicitly excavated.[3] Philologists often claim that those who want to prevent the publishing of such tablets are, in fact, 'censoring knowledge.'[4] In the opinion of many archaeologists, the very act of publishing might increase the market value of archaeological objects (such as cuneiform tablets) and the demand for similar objects as well. Such tablets, however, are usually already acquired, and seldom re-sold.[5] Those who identify such tablets for dealers and auction houses are the ones who cause the gradual increase in value, rather than the scholars who publish them. As long as their age, content and value are not determined by a specialist, cuneiform tablets look very similar to the untrained eye.[6] Unfortunately, auction houses in the European and North-American centres of the antiquities market are always able to find specialists, who are willing to support the antiquities trade with their expertise—for financial gain or in the hope of being able to obtain publication rights.[7]

Some 'cuneiformists' do find it obvious that one should not identify objects of doubtful origin for dealers or auction houses, and yet there are some that do not. The remaining responsibility is that of museum curators and private collectors, who may be offered the opportunity to buy unprovenanced artefacts. Since they cannot be experts of all fields, it is the task of the cuneiformist to inform them about such objects' possible source and place of origin, being aware of the different materials which have been 'on the market' in certain periods. This would necessitate, however, that the actual ownership history of the published artefacts is also provided.

In the view of the author, the question is not whether such tablets should be published or not. After a cuneiform object is discovered, it is the responsibility of cuneiformists to publish it as soon as possible. This is especially true of tablets in private collections, where the tablets are often kept without taking appropriate actions to care for them, leading to their deterioration. One can agree with R. K. Englund in that the contents of every single text should be documented and published,[8] but one should not forget that the provenance of these texts is likewise important. Since the early days of Assyriology, only the minority of cuneiform tablets came from archaeological excavations, whereas the lion's share was acquired through the antiquities market. Consequently, the place where they were found and their archaeological context cannot be identified with certainty.

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3 For the arguments of those who support the acquisition and study of such tablets, see Owen 2009 and 2013a, 335–356 as well as Westenholz 2010a. For counter-arguments, see Brodie 2006; 2008; and 2011 (with further literature), as well as Müller-Karpe 2010.

4 See especially Owen 2009. In this relation, the importance of unprovenanced antiquities as historical evidence (e.g., the Etemenanki or *ziqqurrat* stele of Nebuchadnezzar II, see CUSAS 17, 76) is often emphasized.

5 As correctly pointed out by Owen 2009, 129.

6 See Brodie 2011, 129–131.

7 Compare, for instance, Westenholz 2010b, 455; Feliu 2006; 2010; 2012; 2013; 2014; Feliu – Millet [Albà] 2003; 2004; 2009; 2012; and Arnaud 2007; 2010 (see below).

8 '[I]t seems to me the ethical imperative of specialists to fully document the texts' content, and to communicate their findings to the scholarly community as well as to the general public. Those who are *not* prepared to utilize all sources in their research, including texts available to us through private collections, and certainly those who would presume to limit the access or use in scholarly communications of unprovenanced sources, as has begun to happen with submissions even to such politically neutral editorial boards as those that oversee the publication of papers on the *history of mathematics*, may want to reconsider the professional choices they have made in their lives' (Englund 2009, 5–6 n. 11).

Unlike the legal documents from the Neo- and Late Babylonian periods, most texts from ancient Mesopotamia do not mention the place where they were drawn up. This makes it often impossible to determine a tablet's place of origin. Therefore, any proposed identification must be based not only on the cuneiform text's actual contents (such as geographical names, prosopography, date etc.) and its palaeographical features, but also the history of the object's acquisition. The date of purchase, the name of the seller and—in an ideal scenario—the nature of other tablets belonging to the same lot, are essential for the reconstruction of the original archives, which cannot be excavated anymore.[9] The availability of such data led to very spectacular results in the case of private archives at Old Babylonian Sippar, found by illicit diggers by the end of the 19th and beginning of the 20th century.[10]

Consequently, it is not enough to publish the already acquired cuneiform tablets; it is also the editors' responsibility to clarify the circumstances of their acquisition. Unscholarly references to private collections whose owners 'wish to remain anonymous' and vague designations such as 'a private collection in GN' should be avoided. Those who retain this kind of information, which is usually known but left unpublished,[11] are ironically 'censoring knowledge' in their own way, just like those whom they criticize for trying to prevent the tablets' publication.[12] As more than a handful of examples show, it is possible to publish not only the cuneiform objects' present whereabouts, but also their real ownership history.[13]

Dūr-Abī-ešuḫ tablets in public and private collections

The town or fortress called Dūr-Abī-ešuḫ was virtually unknown before the discovery of its archives.[14] This circumstance makes the tablets from Dūr-Abī-ešuḫ a reasonable choice for an investigation of antiquities trade in the past two decades.

The question of these archives' origin can be approached from two directions. First, one can compile the information provided by museums and collections in which tablets from this site are located.

The greatest bulk of tablets from Dūr-Abī-ešuḫ is housed at Cornell University, Ithaca (NY). Besides the 92 texts published by K. Van Lerberghe and G. Voet,[15] the publication of approximately 400 other tablets of the same collection was

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9 On the early Old Babylonian tablets from the city of Kiš, before and after their dispersal through the antiquities market, see Johns 1910, 279; 1911a, 98; and 1911b, 128.

10 Esp. Renger 1986; van Driel 1989; and Kalla 1999.

11 For instance, compare Schøyen Collection's MS 1988, which is an agate eye-stone dedicated by king Kurigalzu. The publication (CUSAS 17, 62) contains a copy and a photo of the obverse, but tells nothing about its ownership history, as if M. Schøyen's 'Statement of Provenance' (see below) would free the editors of the scholarly duty of clarifying the provenance of each artefact. To the reverse side—as shown by the corresponding CDLI image—a label of Christie's is still attached, relating that the object was sold on the 7th December 1994 as lot 219 (Földi 2013a, 19; the description in the auction catalogue—possibly the work of W. G. Lambert—suggests Ilaba in l. 1 rather than the edition's Mār-bīti). For a positive example see now George 2016, 53 on CUSAS 32, 64.

12 Cf. Owen 2009.

13 See from the last years, e.g., Finkel 2006; Radner 2012; Földi 2013b; Siddall 2013; and Winitzer 2013.

14 Note that there was only one textual attestation (CT 52, 118 = AbB 7, 118, a Sippar letter) known to Groneberg 1980, 57.

15 CUSAS 8, 1–89; Van Lerberghe – Voet 2010, nos. 1–3 (no. 4 = CUSAS 8, 39).

promised.[16] No information concerning the exact date of acquisition or the seller is provided. By the time of CUSAS 8's publication, Van Lerberghe and Voet had been working for five years on the Dūr-Abī-ešuḫ tablets;[17] thus they may have very well begun in 2004.[18] By that time, a preliminary catalogue compiled by R. H. Mayr, was already available for their work.[19] Since the cleaning, baking and cataloguing of clay tablets are time-consuming tasks, the acquisition may have taken place around the early 2000's.

Another very remarkable group of texts from Dūr-Abī-ešuḫ is housed at the Schøyen Collection, Oslo and London. Besides the two literary texts edited in CUSAS 10,[20] A. R. George referred to twenty-four letters and archival documents,[21] as well as some texts of astrological content, which turned out to be lunar-eclipse omens.[22] Meanwhile, the divinatory texts from this site were edited by the same author;[23] the archival texts are going to be published by F. van Koppen. As for their acquisition, all the MSCCT volumes contain a 'Statement of Provenance' by M. Schøyen, claiming that 19 (in the earlier volumes only claiming 16) old private collections, by now dispersed, 'are the source of almost all the tablets, seals, and incantation bowls' in his possession.[24] In addition, 'other items were acquired through the auction houses Christie's and Sotheby's, where in some cases the names of their former owners were not revealed.'[25]

[16] See Van Lerberghe – Voet 2010, 181; according to Van Lerberghe – Voet 2016, 562, the next volume will focus on texts dealing with the military.

[17] Van Lerberghe – Voet 2010, 181.

[18] This calculation finds support at the KU Leuven homepage (http://www.arts.kuleuven.be/ono/meso/projects/cornell, 13.10.2016), where it is explicitly stated that the tablets were digitized by Van Lerberghe and Voet from 2004 on.

[19] Van Lerberghe – Voet 2009, V–VI.

[20] CUSAS 10, 16 (MS 3208) and 17 (MS 3209/1–3).

[21] Under the accession number MS 3218 (see George 2009, 136). According to the CDLI database (accessed 13.10.2016), there are 27 tablets under this number; note that MS 3218/06, an extispicy report has already been published as CUSAS 18, 4.

[22] MS 3117 and 3118 (see George 2009, 148–149), now published as CUSAS 18, 14 and 13, respectively.

[23] See especially CUSAS 18, 3–4 and 13–14, with George 2013, 70–71.

[24] Földi (2013a, 19, 21–22 with nn. 54–56) noted that 'from the material of these earlier collections at least one piece could be identified among the tablets, seals, and incantation bowls of the Schøyen Collection'. A quick survey of the CDLI database, which is necessarily incomplete, gives the following result for 20 of the ca. 4300 cuneiform objects from the Schøyen Collection included in the CDLI database:

- 6 Claremont (CUSAS 34, 69–74 = Fisher 1971);
- several Erlenmeyer (e.g., CUSAS 17, 100 = Friberg 2007, 233 MS 1686 = Sollberger 1954, text A; CUSAS 18, 36 = Leichty – Kienast 2003, 281ff.; CUSAS 32, 64 with George 2016, 53);
- 1 Amherst (MVN 5, 202);
- 1 Dring (Walker 1973, pl. 16 Dring 2 = AbB 10, 145);
- 1 Schaeffer (CUSAS 34, 27 = Garelli 1964, 66 Sch. 11);
- 1 (Seidl-)Geuthner (Friberg 2007, 137 MS 1984 = MVN 10, 214 = Allotte de la Fuÿe 1915, 49);
- 1 Frida Hahn (CUSAS 34, 26 = Lewy 1930, no. 35); according to Ulshöfer 1995, 383 auctioned at Charles Ede Ltd. in 1972; on the collection see now Michel *apud* George – Hertel – Llop-Raduà – Radner – van Soldt 2017, 48.
- 2 Walker Art Center, Minneapolis (SET 66; CUSAS 17, 70 ?=? RIMA 2.0.101.35, ex. 9 = Jones 1941, 326);
- 2 Pinches (MVN 5, 28 and 73); in fact, Pinches' wife's collection; according to Sollberger 1978, 16 n. 8 was auctioned at Sotheby's in 1958;
- 1 unclear (Allotte de la Fuÿe 1919, 19f.; from his own collection? Compare note 47 below);
- 1 Charles Ede Ltd., London (Lee 1985).

[25] Compare Schøyen *apud* Friberg 2007, XI; Alster 2007, XII; Dalley 2009, V–VI; George 2009, VII–VIII; Civil 2010, V–VI; George 2011, VIII–IX; 2013, VII–VIII; 2016, VII; and George –

D. Arnaud has reported a considerable number of tablets from the same site in an article.[26] His statements regarding the difference between 'origin' and 'provenance' as well as about the 'journey of objects, either inscribed or not'[27] makes one wonder if these texts were seen by him 'in passing,'[28] or even in a private collection. This matter will be discussed below in detail.

Other tablets, the number of which it is impossible to estimate, may be scattered around the world. One of them is housed at the Kunsthistorisches Museum, Vienna. It is the only one, part of whose ownership history has been published: it was purchased on the 23rd January 2003, supposedly in the United Kingdom.[29] More tablets have been reported to K. Van Lerberghe from Paris,[30] one from Israel[31] and one possibly from London.[32] In addition, the author recently identified two letters from the same site in the private collection of P. Kress in Bochum; one of them is edited in the Appendix.

Dūr-Abī-ešuḫ tablets on the antiquities market

A different approach is offered by the study of the material, which appeared on the antiquities market in the past two decades. From 1998 until recently, a number of cuneiform tablets, originating from Dūr-Abī-ešuḫ, have been offered for sale by various auction houses and sites.[33] The earliest appearance of such a tablet, to the knowledge of the author, dates back to 1998 (see Appendix);[34] the second to 7th November 2001, at a Christie's London auction in South Kensington.[35] The tablet was not sold at the time, but six months later it was offered for sale again. On 15th May 2002, the tablet was sold by the same auctioneer for £705.[36] But who was the purchaser?

By comparing the available photographs, it becomes obvious that the tablet under discussion is identical to MS 3218/04 of the Schøyen Collection.[37] Likewise, at least three more lots of the same auction can be identified in that collection: nos. 559–561 are identical to MS 3218/02, 05 and 03,

Hertel – Llop-Raduà – Radner – van Soldt 2017, VI–VII. The later versions omit the reference to incantation bowls, but do not undertake any change in the list of collections, although some of them were known for incantation bowls rather than clay tablets (e.g., Rihani; see Lundén 2005, 7 and Balter 2007, 555).

26 See Arnaud 2007, 41–44.

27 Arnaud 2007, 5 with n. 1.

28 Van Lerberghe – Voet 2009, V.

29 Földi 2014.

30 Some of these may be amongst those seen by Arnaud (see note 26).

31 Sigrist – Gabbay – Avila *in press*, no. 5.

32 K. Van Lerberghe, pers. comm. (08.10.2016).

33 This section is based on the author's own collection of data, with no claim of completeness.

34 Acquired by P. Kress (Bochum) from Galerie Jürgen Haering (Freiburg) for 450 DM. It was said to come from a collection in southwest Germany (information kindly provided by P. Kress, 24.10.2016). In light of this information, the tablet appears to have been imported into Germany after 1970 and if this were to be the case, the purchaser may have unintentionally contravened the UNESCO 1970 Convention, whatever documents the seller on the tablet's provenance did provide. In such cases, the decision of Jonathan Rosen and Cornell University, i.e., to give back these tablets to Iraq (see Owen 2013a, I, 352–353), after they have been fully recorded and published, might be followed.

35 Sale 9244, Lot 246.

36 Sale 9382, Lot 557. The estimated price was £600-900.

37 Note that a fragment appears to have been lost from the upper left corner of the reverse side. On the Christie's photos it is still attached to the tablet, but it is missing from the CDLI image.

respectively.[38] Furthermore, a group of ten cuneiform tablets were sold for £2938 at the same time.[39] It contained one Early Dynastic tablet (253j) and two Ur III records (253d–e); the remaining seven date back to the Old Babylonian period. Four of them are likely to have originated from Dūr-Abī-ešuḫ:[40]

• 253b is 'an economic text concerning sheep for a festival for Ninlil and Ninurta,' dated to the reign of Samsu-ditāna (1625–1595 BCE);

• 253g is 'a legal document which confirms that Iluninum has entrusted 23 animals to the shepherd called Belmanu, son of Tari-bum, who is henceforth responsible for them, with good seal impressions of the parties involved,' dated to the reign of Ammī-ṣadūqa (1646–1626 BCE);

• 253h is a 'contract concerning livestock for the festivals of Ninlil and Ninurta, with seal impressions,' dated to the reign of Ammī-ṣadūqa;

• 253i is a 'contract concerning livestock delivered for offerings, fine seal impressions,' dated to the reign of Samsu-ditāna.[41]

Parallels for 253b, 253h and 253i are known from the material published by Van Lerberghe and Voet, namely CUSAS 8, 23–38 and 40. As for 253g, 'Iluninum' is obviously a misreading for *i-lu-ni* nu-èš 'Ilūni, the *nêšakkum*-priest.' Likewise, 'Belmanu' must be, in fact, Bēlšunu. Compare the three herding contracts from the same archive: in CUSAS 8, 41, sheep and goats were entrusted to the same Bēlšunu, the son of Tarībum by the *nêšakkum*-priest Enlil-manšum. In CUSAS 8, 42 and 43, the livestock is entrusted by Ilūni, the *nêšakkum*-priest to Warad-Gula and another to Nabi-Gula, respectively. These four tablets, however, do not belong to the MS 3218 group in the Schøyen Collection. Consequently, they were most likely acquired by someone else.

The tablets sold in London were presumably identified and described by the late W. G. Lambert, one of the few scholars who was widely known—but seldom criticized—to support the marketing of Near Eastern antiquities by equipping them with detailed descriptions.[42] The same is true for the Vienna tablet.[43]

The situation is somewhat more complicated in the case of Paris auction houses. To the knowledge of the author, tablets from Dūr-Abī-ešuḫ were offered for sale by Piasa, Pierre Bergé et Associés, Millon et Associés, and Tajan, all belonging to the Drouot group.

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[38] This apparently confirms M. Schøyen's statement regarding the acquisition of cuneiform objects through Christie's (for references see note 25).

[39] Sale 9382, Lot 253; the estimated price was £2500-3000. For the sake of convenience, they will be referred to here as 253a–j, respectively.

[40] For the descriptions see Christie's 2002, 97 no. 253.

[41] For the sake of completeness, here follows the description of the remaining three Old Babylonian tablets, whose connection to the already known material cannot yet be determined: 253a is 'a private contract concerning 58 sheep, with multiple clear impressions of the cylinder seal of Geme[n]-Asalluhi, the priestess of Marduk and Zarpanitum,' dated to the reign of Samsu-ditāna; 253f is 'a legal document with 6 witnesses, itemizing a quantity of barley, silver and troops, fattened oxen and sheep in an estate on the banks of the Euphrates, signed with cylinder seal impressions, dated to the year the wall of Uruk was built,' possibly dated to the reign of Sîn-kāšid (see Falkenstein 1963, 9 no. 7), and 253i is 'a receipt for 5 gur of barley.'

[42] On Lambert's work and the academic involvement in this matter, see Brodie 2011 (esp. 129–131) in detail.

[43] See above and Földi 2014 in detail.

The first appearance of such objects corresponds with the first sale at Christie's: in the catalogue of Tajan's auction on the 5th June 2002, one finds four cuneiform texts from Dūr-Abī-ešuḫ (nos. 73–76),[44] although their place of origin is indicated to be the region of Sippar. All of them are dated to the reign of Abī-ešuḫ (1711–1684 BCE). They all are designated as accounts of payment for the personnel of a fortress, which must be, judging by the parallel texts, Dūr-Abī-ešuḫ on the Ḫammurāpi-nuḫuš-nišî canal.[45] In some cases these individuals are explicitly stated to be Kassites (no. 75),[46] or farmers, troops, brewers, and shipwrights (no. 76). What is remarkable is that the purchaser was promised full translations, as used to be the case with tablets authenticated by Lambert.

Five months later, according to the catalogue of the Tajan auction on the 30th October 2002, another two tablets (nos. 169, 171) from Dūr-Abī-ešuḫ appeared.[47] Like the ones discussed above, they are dated to the reign of Abī-ešuḫ, and both of them deal with the provisioning of troops. They are said to come from the region of Sippar; in one of the descriptions, Elamites are also mentioned in an unclear context.

On the 17–18th March 2003, Piasa offered at least two Dūr-Abī-ešuḫ tablets for sale, both from the reign of Abī-ešuḫ. (The identification of four more tablets as Dūr-Abī-ešuḫ ones is uncertain.) No. 415 of that sale is said to be an account of payments for troops by the royal administration, whereas no. 416 is labelled as an account of payments for troops at Dūr-Abī-ešuḫ and is said to have come from Sippar. As in the other cases, full translations of the texts were promised for the purchaser. Ten days later (on the 28th March 2003), another account of payments, also dated to the reign of Abī-ešuḫ, was offered for sale at a Tajan auction (no. 239).

The trade of such cuneiform objects continued after 2003, although the most important auction houses, such as Christie's, Sotheby's, and Bonhams decided not to auction illicitly excavated Iraqi antiquities.[48]

Three tablets, possibly—but not certainly—from Dūr-Abī-ešuḫ, were sold at a Piasa auction on the 13th April 2005. All of them are dated to the reign of Abī-ešuḫ. No. 63 is a long account of sheep (possibly a herding contract, see above), whereas nos. 416 and 440 are a house rental contract and a lentil-shaped account of barley, respectively.

The tablet offered for sale at Millon & Associés on the 14th November 2007 (as no. 228), judging by its measurements and contents given in the auction catalogue must be identical to the aforementioned no. 73 of Tajan's auction on the 5th June 2002. In this time, its estimated price went down from €1500-1800 to €900-1200.

Unusually, a full translation of a text (no. 231) was published in the catalogue of a Pierre Bergé & Associés auction on the 17th

[44] A fifth text (no. 79), which is a long list of payments to officials, might belong to the same dossier, but note that it is dated to Sd 17, i.e., four years later than the latest known text from Dūr-Abī-ešuḫ (see Van Lerberghe – Voet 2009, 2).

[45] On the existence of two fortresses called Dūr-Abī-ešuḫ see now Van Lerberghe – Voet 2016.

[46] On the soldiers of foreign origin at Dūr-Abī-ešuḫ see Földi 2014, 45–46.

[47] Several of the cuneiform objects—primarily Ur III tablets—offered for sale on that occasion, once belonged to the private collection of F.-M. Allotte de la Fuÿe.

[48] See Brodie 2011, 120–122. On the situation up to now, see Westenholz 2010a, 259–260 and Brodie 2011, 122–129.

January 2009.[49] It is another account of payments for troops at Dūr-Abī-ešuḫ, dated to the reign of Abī-ešuḫ. The translation reads as follows:[50]

> Ce grain qui est mesuré à la mesure du dieu Mardouk de la réception, selon la mesure du petit vase-mesheqoum.
>
> Il s'agit de farine moulue, pour la nourriture des troupes cassites, quand les troupes se trouvèrent avec Etel-pi-Mardouk, l'intendant, Samsou-ilouna-kashid, Sin-moushallim et Awil-Nabium à Fort-Abi-eshouh, sur la rive du canal 'Hammourapi-est-la-propriété-du-peuple', quand les troupes furent sous la responsabilité de Samsou-ilouna-kashid et Inbi-Sin.
>
> Cela a été livré à ceux qui sont stationnés à Fort-Abi-eshouh, sur la rive du canal 'Hammourapi-est-la-propriété-du-peuple'. Nourriture du mois de Kislim.
>
> Sortie de grain de l'impôt et du grain d'autre origine, pour le capital de la nouriture des troupes du Fort-Abi-eshouh, sur la rive du canal 'Hammourapi-est-la-propriété-du-peuple', sous la responsabilité d'Awil-Shamash et Sin-ouselli, administrateurs.

Besides well-known individuals, such as Awīl-Šamaš and Sîn-uselli, the two accountants (*šatammū*),[51] lesser known individuals also occur. The most curious among them is Samsu-ilūna-kāšid, whose name was previously unattested,[52] except for a reference to this name by Arnaud, in his discussion of his enigmatic Dūr-Abī-ešuḫ texts.[53]

The aforementioned data suggests that the tablets discussed by Arnaud must be identical to those offered for sale at various auction houses at Paris. A number of further documents published by him can also be identified in the same material.[54] This might lead one to conclude that he had provided the descriptions of these tablets, that made an estimation of their market value possible. In addition to the cuneiform tablets from Dūr-Abī-ešuḫ, the following artefacts can be identified in the auction catalogues:

- Arnaud 2007, no. 3, a prism containing the inscription of a certain Šarrī-Ēl, the king of Kumidi; it was sold at a Piasa auction on the 17–18th March 2003, as no. 406.[55] Note that its forthcoming publication by Arnaud was referred to in the auction catalogue.

- Arnaud 2007, no. 10 was published as a stamped brick of a certain 'Ḫammurāpi-

[49] Note that another tablet, belonging to lot 230, refers to Dūr-Sîn-muballiṭ, which was another fortress at the other outflow of the Ḫammurāpi-nuḫuš-nišî canal (see George 2009, 139). Therefore, it appears not impossible that it came from the same findspot.

[50] See Pierre Bergé & Associés 2009, 106 no. 231.

[51] On them see Van Lerberghe – Voet 2010, nos. 1–4 with Földi 2014, 42–44.

[52] Compare Pientka-Hinz 2008, 646. The personal names, in which the kings of the First Dynasty of Babylon occur as theophoric element, were first discussed by Klengel 1976; on such names in general, see Radner 2005, 31 (with further literature). Note also Samsu-ilūna-muštāl in another Dūr-Abī-ešuḫ text (CUSAS 8, 39).

[53] Arnaud 2007, 42 n. 115.

[54] Note that in the supplement of his article, Arnaud (2010) refers to some auction catalogues as containing images of the objects he just edited (see below).

[55] See Földi 2013b, §3.4. An inscription of a certain Baragsagnudi, sold at the same auction as lot 388 and edited since by Marchesi (2006, 216), was also referred to by Arnaud (2007, 9 n. 5).

andullī (or: -ṣulūlī),' a supposed Babylonian governor at Ešnunna. Judging by the available copy and the image, it must be identical to a brick that was housed at the Ifergan Collection, Málaga. According to their homepage, that artefact was acquired at a Pierre Bergé & Associés auction on the 29th April 2006 (Lot 413).[56] In fact, the brick turned out to be a duplicate of an already known inscription of Ipiq-Adad II of Ešnunna.[57]

• Arnaud 2007, no. 13 is the so-called Sutean funerary inscription, consisting of four inscribed bricks. At least two of these were apparently sold at a Piasa auction on the 13th April 2005 as nos. 426–427 (Arnaud's no. 13/3 and 13/4, respectively).

• Arnaud 2010, no. 2 contains three new fragments of Sîn-iddinam's inscription on the dredging the Tigris river, commonly referred to as 'Sîn-iddinam 2.'[58] These are apparently identical to the ones offered for sale at the Piasa auction on the 17–18th March 2003 (lot 49). The duplicate sold at a Pierre Bergé auction (on the 1st December 2007, lot 293), that Arnaud himself refers to, is a further one.[59] This inscription was known to D. R. Frayne's edition in only four manuscripts. In view of the fact that additional ones started to emerge in greater number by the middle of the 1990s,[60] they are commonly thought to be originating from some monumental building, uncovered in the course of recent illicit excavations.[61]

• Arnaud 2010, 3 is a diorite vase with a three-line inscription of Warad-Sîn; possibly a fake. The catalogue of the same Pierre Bergé auction contains an image of the same object.[62] It was acquired by the Musée Champollion at Figeac.[63]

• Arnaud 2010, 6 (=MVN 10, 57) is a duck-weight with an inscription of Tukultī-Ninurta II; as Arnaud notes, a fine image of the same object was to be found in the catalogue of a Drouot auction, on the 2nd October 2000 (no. 136).[64]

Conclusions

In conclusion: nothing was heard about Dūr-Abī-ešuḫ until 1998. Then, and especially after the year 2000, tablets from this site started to appear in the European and American centres of the antiquities trade. This may indicate—as pointed out by N. J. Brodie regarding the aforementioned Sîn-iddinam barrels as well as the so-called Nebuchadnezzar Larsa bricks[65]—that they had been excavated illicitly, not long before their appearance on the antiquities market. They were most probably discovered in 1998 or slightly before. Therefore, smuggling them out from Iraq obviously started well before the 2003 invasion of Iraq,[66] which is not necessarily the case with the archives from Garšana and Iri-saĝrig (see above). If A. R. George is right in

[56] http://www.trocadero.com/IFERGANGALLERY/items/901258/item90 (11.28.2012; no longer available).
[57] See Földi 2013b, §6.8.
[58] Frayne 1990, 158–160 (RIME 4.2.9.2).
[59] Arnaud 2010, 7 n. 11. The object under discussion is no. 293.
[60] Frayne 1990, 158; for the new duplicates see Beckman 1997; Westenholz – Westenholz 2006, 93–94; Brodie 2008, 50; and Földi 2013a, 21 n. 43; add CUSAS 17, 46–49 and Glassner 2013.
[61] See Brodie 2008, 43–44; 2011, 120–121.
[62] Arnaud 2010, 10 n. 24; the object is no. 292.
[63] With Pottier 2010, 47; see Földi 2013b, §6.5.
[64] Arnaud 2010, 13 n. 36.
[65] See Brodie 2011, 125–126.
[66] Consequently, the appearance of Dūr-Abī-ešuḫ tablets in collections may serve as an indicator for the purchase of unprovenanced antiquities in the early 2000s or thereafter.

identifying the mound where the Dūr-Abī-ešuḫ archives may have originally been situated,[67] it is also not impossible to find the original findspot. This would obviously result in further discoveries.

Another important conclusion is that besides great bulks of tablets, such as those acquired by Cornell University, a significant number of them were dispersed through the antiquities market. That these appear to be far fewer than the hundreds of tablets at Cornell, however, must be the result of our present ignorance.[68] The proportion of the Garšana as well as the Dūr-Abī-ešuḫ material between Cornell University and the Schøyen Collection[69] makes one think that the dispersal of these happened—at least partially—through the same channels. Information concerning the acquisition history of Dūr-Abī-ešuḫ tablets would nevertheless help in identifying more tablets from that site.

In order to stimulate further research, a list of tablets sold at auction houses and presumably originating from Dūr-Abī-ešuḫ, is presented here.[70] One may expect the appearance of each of these tablets in private as well as public collections, and should thus be aware of its background and historical context as an artefact.

[67] See George 2009, 139–141; compare now Van Lerberghe – Voet 2016.

[68] Next to nothing is known, e.g., of the Museum of the Bible (a.k.a. Green Collection; Oklahoma City), referred to by Civil *apud* George 2012 and recently Owen 2016b. According to the online resources (Brinkman 2011; Witherington 2012), the collection houses about 11,000 cuneiform tablets which have been assembled from 2009 on.

[69] As shown by the CDLI database (15.10.2016): 1571 Garšana tablets in total; 1421 (90%) at Cornell University, 16 (1%) in the Schøyen Collection. The Dūr-Abī-ešuḫ tablets are less well-represented at CDLI; one finds 247 in total with 246 at Cornell University and the remaining one from Vienna (the corresponding Schøyen Collection tablets are not marked with this label yet). The number of Dūr-Abī-ešuḫ tablets discussed on pp. 3–4 totals the number of known tablets to about 550, with approximately 500 (ca. 91%) at Cornell University and nearly 30 (ca. 5%) at the Schøyen Collection.

[70] Note that nos. 1 and 6 are identical; presumably nos. 10 and 26 too.

No.	Date (YY/MM/DD), auction house, lot no.	Housed today at	Description	Measurements (mm)
1	2001/11/07 Christie's no. 246	Schøyen Coll., MS 3218/04	account of barley rations for troops at Dūr-Abī-ešuḫ on the Ḫammurāpi-nuḫuš-nišî canal	184×82
2	2002/05/15 Christie's no. 253b		receipt of sheep for a festival for Ninlil and Ninurta	73×48
3	2002/05/15 Christie's no. 253g		herding contract (Ilūni, the *nêšakkum*-priest entrusted 23 animals to the shepherd called Bēlšunu, son of Tarībum)	81×46×23
4	2002/05/15 Christie's no. 253h		receipt of sheep for a festival for Ninlil and Ninurta	77×50×24
5	2002/05/15 Christie's no. 253i		receipt of livestock for offerings	72×44×24
6	2002/05/15 Christie's no. 557	Schøyen Coll., MS 3218/04	account of barley rations for troops at Dūr-Abī-ešuḫ on the Ḫammurāpi-nuḫuš-nišî canal	184×82
7	2002/05/15 Christie's no. 559	Schøyen Coll., MS 3218/02	account of barley rations for Kassite troops	?×?
8	2002/05/15 Christie's no. 560	Schøyen Coll., MS 3218/05	account of flour and beer rations for charioteers (Bimatî Kassites)	?×?
9	2002/05/15 Christie's no. 561	Schøyen Coll., MS 3218/03	account of barley rations for Kassite troops	?×?
10	2002/06/05 Tajan no. 73		account of payments for the personnel of a fortress	205×105
11	2002/06/05 Tajan no. 74		account of barley payments for the personnel of a fortress	150×75
12	2002/06/05 Tajan no. 75		account of payments for Kassite troops of a fortress	105×55
13	2002/06/05 Tajan no. 76		account of payments for farmers, troops, brewers and shipwrights	65×45
14	2002/10/30 Tajan no. 169		account of payments for troops sent for an expedition	133×67
15	2002/10/30 Tajan no. 171		account of payments for troops sent for an expedition to a fortress	132×65
16	2003/03/17–18 Piasa no. 32		account of …	91×54

17	2003/03/17–18 Piasa no. 46		account of silver, for the maintenance of the god Sîn (Enlil?)	94×52
18	2003/03/17–18 Piasa no. 415		account of payments for troops by the royal administration	155×76
19	2003/03/17–18 Piasa no. 416		account of payments for troops at Dūr-Abī-ešuḫ	185×90
20	2003/03/17–18 Piasa no. 420b		account of livestock(?)	60×45
21	2003/03/17–18 Piasa no. 421b		purchase of …	44×41
22	2003/03/28 Tajan no. 239		account of payments	88×50
23	2005/04/13 Piasa no. 63		account of sheep (herding contract?)	160×75
24	2005/04/13 Piasa no. 416		rent of a house	73×40
25	2005/04/13 Piasa no. 440		lentil-shaped account of barley	65×?
26	2007/11/14 Millon & Associés no. 228		account of payments for the personnel of a fortress	205×105
27	2009/01/17 Pierre Bergé no. 230a		account referring to troops under Asalluḫi-iddinam, leaving Dūr-Sîn-muballiṭ	36×35
28	2009/01/17 Pierre Bergé no. 231		account of payments for troops at Dūr-Abī-ešuḫ	83×52

Appendix: A letter from Dūr-Abī-ešuḫ

The tablet Kress 5 (CDLI P272792) is published here for the first time. It measures 54×40×22 mm and it is housed in the private collection of P. Kress (Bochum).[71] The corresponding CDLI entry dates back to 2005; the tablet itself was acquired by its present owner as early as 1998.[72]

The text is a letter, sent by Lugal-gubbani to Sîn-māgir; the same correspondents are also known from the unpublished letter MS 3218/19. Impressions of a five-line seal inscription can be found on the reverse as well as on the left and upper edges.

obv.

1.) *a-na* ^{d}EN.ZU-*ma-gir*
2.) *qí-bí-ma*
3.) *um-ma* lugal-gub-ba-ni-*ma*
4.) ^{d}EN.LÍL *li-ba-al-li-*ʿ*iṭ*ʾ*-ka*
5.) $^{!}$*sà-ap-ḫu-li-ip-ḫur*$^{!}$
6.) ʿ*ša*$^{?}$ *ip*$^{?}$ʾ-‹*pa*$^{?}$›*-ar-ku*
7.) 1.0.0; ʿ4ʾ SÌLA$^{?}$ IGI$^{?}$ ʿx ŠE$^{?}$.GUR$^{?}$ʾ
8.) x x x x x

lo.e.

(-)

rev.

9.) {…}
10.) {…}

(-)

up.e.

(-)

seal

1.) ʿ*la*$^{?}$*-qí*$^{?}$ʾ*-*[*pu*$^{?}$*-u*]*m*$^{?}$
GUDU$_4$ ^{d}EN.LÍL.LÁ
LÚ$^{!}$ KA.KEŠDA$^{?}$ LUGAL
DUMU ^{d}NIN.URTA-*ni-šu*
ARAD *a-bi-e-šu-uḫ*.KE$_4$

To Sîn-māgir say: thus (speaks) Lugal-gubbani. May Enlil keep you in good health! Sapḫu(m)-lipḫur, who stopped working(?), … (unclear traces).
Seal: Lā-qīpum(?), the *pašīšum*-priest of Enlil, member of the royal army(?), the son of Ninurta-nīšu, the servant of Abī-ešuḫ.

Notes

3.) The same name appears also in CUSAS 8, 2 l. 23, where the son of a Lugal-gubbani acts as witness. That name is read as *LUGAL-AB.BA.A.NI, claiming that it might be a reference to the king of the Sealand.[73]

7–8.) It is difficult to determine whether ll. 7–8 still belong to the letter. They are, in fact, incomprehensible and seem to be written by a different hand. The beginning of the reverse shows obvious erasures. Is it an unfinished letter that was never sent? One might even consider whether the end of the obverse was 'written' in modern times, but this is, to the knowledge of the author, not paralleled by any further Dūr-Abī-ešuḫ tablets.

Seal: Impressions of the same seal appear on MS 3218/19 as well. The exact nature of the relation between the sender of the letter and the seal owner is yet unclear. On the title KA.KEŠDA$^{?}$ LUGAL compare now Goddeeris 2016, I, 274.

[71] See Molina 2008, 25 on the Ur III tablets; the published Iri-saĝrig ones are Owen 2013a, nos. 122, 202, 337, 391, 452, 457, 470, 474, 662, 682, 908, 957, 973, 1010, 1063, 1116, and 1118. The only Old Babylonian text published from this collection is a literary one (Zólyomi 2015).

[72] See note 34 above.

[73] Van Lerberghe – Voet 2009, 13.

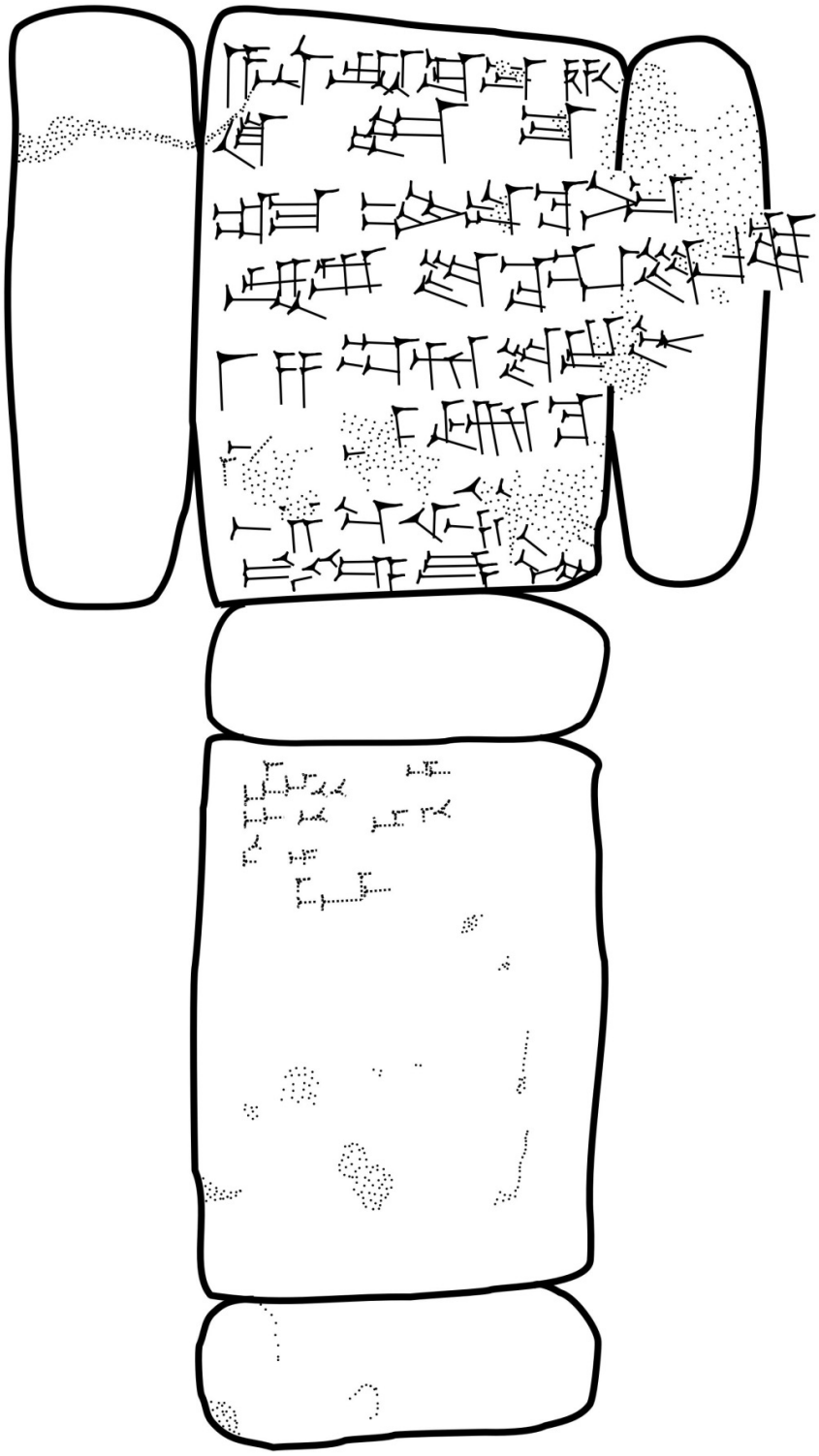

Fig. 1 Autograph of Kress 5 (drawing by author)

Fig. 2 Photo of seal impression on Kress 5 rev. (photo by author)

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A Case Study in Professional Ethics Concerning Secondary Publications of Unprovenanced Artefacts: The New Edition DSS F.Instruction1

Michael Brooks Johnson

Abstract: A recent development in scholarly discourse in the fields of early Judaism and early Christianity is an increased awareness of the influence that the publication of unprovenanced material has on the illicit trade in antiquities. The primary concerns are that publications legitimize artifacts that are potentially looted, forged, or illegally imported, and that such material has the capacity to contaminate the academic corpus of ancient texts. As a consequence, a number of scholarly societies, most recently the Society of Biblical Literature, have enacted policies that reject any initial announcement, presentation, or publication of unprovenanced material in their venues. This article discusses an ethical issue not considered thoroughly under these policies: the ethics of publishing unprovenanced material following the initial publication. Though technically permitted, do subsequent publications help or harm? In order to explore this topic, this article utilizes as a case study the publication of DSS F.Instruction1, an unprovenanced fragment formerly published as part of 4Q416 that was reconsidered in a new edition.

Introduction

In the wake of several high profile cases of forgeries and the tide of looted artefacts that flooded the antiquities market after the most recent invasions of Afghanistan and Iraq and the political and humanitarian chaos following the Arab Spring, scholars in the fields of early Judaism and early Christianity have become more aware of how their work influences the demand for antiquities and their value on the market. This recognition has raised ethical concerns about the complicity of scholars who publish unprovenanced artefacts in the trade of illicitly acquired and imported cultural heritage. Unprovenanced artefacts are items of cultural heritage that have not been excavated in an archaeological context and lack documentation of their possession from their discovery to their current owners. Archaeologists have been more attuned to the ethics of unprovenanced artefacts than textual scholars, but academic discourse in the field has begun to shift to the questions of just what textual scholars should do with recently surfaced manuscripts that lack provenance and what sort of professional ethics should guide the research of such material.

As a graduate student,[1] I was faced with these questions during an MA research

[1] I was a research assistant for Peter W. Flint, Canada Research Chair in Dead Sea Scrolls Studies, at Trinity Western University from 2011–2013.

assistantship when invited to write an edition of DSS F.Instruction1 (DSS F.Instr1).[2] This unprovenanced fragment was acquired by the Museum of the Bible[3] and contained two partial lines of a wisdom text called "Instruction," a composition hitherto only attested in Caves 1 and 4 at Qumran. An apparent parallel text is only found in 4QInstruction[d] (4Q418) frg. 148 ii 4–5, which is translated by its editors, John Strugnell and Daniel Harrington, as follows:

4. *vacat* A man of poverty art thou[…]

5. knowledge of thy work, And from there thou [shalt …][4]

When reconstructed with 4QInstruction[d], DSS F.Instr1 translates:

1. [*va*]*cat* A m[a]n of [… art thou … knowledge of]

2. thy work, And from there t[…][5]

The contents of this fragment—probably an aphorism holding up a particular kind of person as moral exemplar—is unremarkable, and provides no additional text that 4Q418 does not already have. Our knowledge of Instruction is only advanced because this saying is preserved in another manuscript, and DSS F.Instr1 may have minor implications for any future material reconstructions of copies of Instruction, though these implications remain to be seen. This unprovenanced fragment is not potentially controversial for its contents but for the sheer fact that it has been published as a Dead Sea Scroll fragment.[6] This paper reflects on the process of writing a new edition of this fragment as a case study for professional ethics regarding the publication of unprovenanced material. I argue that prior claims that this unprovenanced fragment is either part of 4Q416 or 4Q418 in previous publications are unwarranted and demand on ethical grounds its republication to correct the record. Moreover, I contend that such a case is not only permissible under the new SBL guidelines but should be encouraged as a legitimate and necessary form of academic discourse.

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2 DSS F.Instruction1 is a designation assigned to this fragment by Eibert Tigchelaar. Tov 2016, 6; Tigchelaar 2012, 214.

3 The Museum of the Bible was formerly called the Green Collection but has adopted new nomenclature as it has restructured itself from a collection into a museum. For sake of consistency and to avoid confusion, I will refer to the Green Collection organization as the Museum of the Bible, even though in some cases it will be an anachronistic designation.

4 Strugnell – Harrington 1999, 375.

5 Johnson 2016, 229. This translation of DSS F.Instr1 is adapted to match Strugnell and Harrington's translation of 4Q418 by replacing "are" with "art" and "you" with "thou" for the purposes of comparison. The reading for the word "poverty," רוש, is uncertain and is not adopted in my edition of DSS F.Instr1.

6 The volume in which DSS F.Instr1 is published is called "The Dead Sea Scrolls of the Museum Collection," and thus appears to make a basic overarching claim about the provenance of the fragments it includes, even if the editions themselves make no such claims. Furthermore, the "DSS F" nomenclature (Dead Sea Scrolls Fragment) assigned to each fragment is suggestive of a relatively general provenance at one of the sites where manuscripts have been discovered near the Dead Sea. If any of the post-2002 fragments titled as such are found to be forgeries or are from other locales, the sigla will need to be revised. A less speculative system would be preferable; however, the more nuanced a system is the less likely it will be consistently applied in subsequent cases, which was the pitfall of Tov's X and XQ siglum system in DJD 39 and the Revised List of the Texts from the Judean Desert according to Tigchelaar. It would be more accurate to omit references to the Dead Sea when such a provenance is not argued in the edition. Tov 2002, 89; Tov 2010, 10; Tigchelaar 2012, 214.

This study draws on the ethical guidelines of the American Schools of Oriental Research (ASOR), the American Institute of Archaeology (AIA), and the work of Neil Brodie, an archaeologist specializing in professional ethics, to reflect on an issue that our field has yet to address directly—the ethics of publishing editions of previously published unprovenanced material.

The Ethical Problem of Publishing Unprovenanced Material

Before discussing the particulars of the case of DSS F.Instr1, the larger discussion around the ethics of publishing unprovenanced material needs to be established. This ethical issue has been examined in detail by Brodie, a trained archaeologist who has researched the illicit trade of antiquities for the last twenty years and is an outspoken advocate for transparency in the transactions of dealers, museums, and private collectors.[7] He has also argued that scholars play a role in the market, even though their contribution is not often discussed in academic discourse.[8] Brodie argues that "[i]t is nondisclosure of provenance that allows illegal antiquities to infiltrate the market, and nondisclosure is a policy actively defended by dealers on the grounds of commercial necessity or client confidentiality."[9] As a consequence of the widespread implementation of these nondisclosure policies, Brodie notes that "most antiquities (between sixty and ninety percent) are sold without provenance, which means that legal and illegal material have become hopelessly mixed on the market."[10] An artefact could be legally acquired and transported by a museum, but without provenance, the likelihood that the material has been looted, altered, faked, or illegally transported at a prior stage of its chain of possession cannot be dismissed. In other words, without verifiable provenance data, it is impossible for a scholar to determine if an unprovenanced artefact is legally acquired and extremely difficult to determine from which site it came or if it is a partial or complete forgery.[11]

Many archaeologists and a growing number of textual scholars recognize that if an academic publishes an edition of an artefact, they contribute to the market for unprovenanced material, facilitating the sale of other unprovenanced and potentially looted or faked items. The publication of an item can establish a provenance or at least the beginning of an academic pedigree—that is, publication bestows upon the unprovenanced item a footprint in the scholarly literature that lends it some degree of academic legitimacy, even if only in a superficial

7 There is a growing body of literature on the ethical issues pertaining to unprovenanced artefacts and the antiquities trade. This article interacts primarily with Brodie because he has focused more than most on the topic of textual scholars' impact on the trade of unprovenanced material. The reader is also referred to the larger discussion. See, e.g., Brodie 2006b; Green – Mackenzie 2009; Hoffman 2006; Robson – Treadwell – Gosden 2006; Rutz – Kersel 2014; Ulph – Smith – Tugendhat 2012; Zimmerman – Vitelli – Hollowell-Zimmer 2003.

8 Brodie 2009, 41.

9 Brodie 2006a, 53.

10 Id., 53.

11 A clear distinction must be maintained between material without a provenance and inauthentic material that has been forged or deliberately altered. Not every unprovenanced fragment is a forgery, but the odds increase when there is no verifiable findspot. DSS F.Instr1 is certainly unprovenanced, but it remains to be seen whether it is inauthentic.

way or from the prospective of a potential buyer.[12]

Such publications increase the value of the particular item and raise the profile of similar items on the market, especially when a dealer contracts a scholar to verify the piece before it is sold. Brodie notes that "[a]lthough such behaviour may have been accepted in the past, today it contravenes the codes of practice that professional bodies have developed in recognition of the potential for destructive synergism that exists between the market and the profession."[13] He is referring to the field of archaeology, but since manuscripts are artefacts too, the remark applies to textual scholars as well. An anonymous certificate of authenticity or a published study on the artefact from a scholar boosts the confidence of the collector or museum who otherwise might be less inclined to risk investing in unprovenanced material. Brodie argues that "[o]nce material is accepted into the validated corpus, its academic significance might translate into monetary value and provide a spur for further looting."[14] The same incentive would be created for the production of forgeries and the assignment of legitimate artefacts to more lucrative findspots. Subsequently such publications can also nurture the demand for similar items, especially if they become a high-profile topic of discussion.

Publications also have an adverse effect on subsequent academic discourse and scholarship. The introduction of unprovenanced material into the corpus of texts of a particular period has the potential to contaminate literary, paleographic, and linguistic datasets upon which scholars rely.[15] In a very concrete way, unprovenanced material that has gained credibility through scholarly publications can find its way into popular databases used by many scholars. The contamination of the corpus, however, is not necessarily a mechanical process with a quantitatively significant impact, and it may take place through the entry of an unprovenanced artefact diffusely into disciplinary discourse on the basis of publications or its incorporation into such databases, where it is common for the item's questionable status to be forgotten when it is not clearly marked. Furthermore, even if there is not a statistically significant number of unprovenanced manuscripts in a single database, if any are forgeries or have been assigned to an incorrect manuscript, the introduction of their variants into the evidence used by textual critics is problematic. Likewise, items inaccurately assigned to a findspot skew the statistics for each locus and the interpretation of the documents found there. In other words, once an unprovenanced artefact has entered the discussion, especially when inaccurately marked, there are a number of ways that it can directly and indirectly contaminate academic corpora, datasets,

12 Brodie 2006a, 59.
13 Id., 58.
14 Id., 59.

15 The language of "contamination" is standard in ethical discourse about the incorporation of unprovenanced material into academic discussions, especially when unprovenanced status is not clearly marked. Though common-place, this language is susceptible to sensationalizing rhetoric, especially to readers unfamiliar with the broader ethical conversation. This article uses this language to describe the effects of the publication of DSS F.Instr1 as a fragment from Qumran but not the intentions of the authors of these publications who were writing in a different academic climate.

and discussions with effects that can be mutually compounding.

Although most would agree that unprovenanced material is problematic for its impact on the market and textual datasets, there is still a reluctance to ignore texts that may have value apart from their archaeological contexts. The archaeological societies AIA and ASOR have reflected on this question for many years and have developed slightly different but mostly overlapping approaches to handling unprovenanced material in their publications and conferences. ASOR requires authors to make a clear identification of unprovenanced material in any publication and does not permit its initial announcement in ASOR publications or meetings.[16] There is one notable exception to this rule—the so-called "cuneiform exception," which allows for the initial publication or presentation of cuneiform tablets in ASOR venues in light of the sheer number of items that have been looted, the relative ease with which they are authenticated, and the value of their content independent of their archaeological context.[17] These ASOR guidelines are becoming more prominent since the Society of Biblical Literature (SBL) has adopted them for their own meetings and publications beginning in 2017.[18] The AIA guidelines are somewhat less strict than ASOR's because, while they prohibit announcements or initial scholarly presentations of unprovenanced artefacts, exceptions can be made if one of the goals is to "emphasize the loss of archaeological context," whereas ASOR only allows for initial publications that serve "*primarily* to emphasize the degradation of archaeological heritage."[19] The same AIA rules apply to the programme of the AIA annual meeting.[20]

A competing view is that there should not be significant restrictions on the initial publication of textual artefacts. The Biblical Archaeological Society (BAS) posted a "Statement of Concern" in 2006 that advocated this position in response to the AIA's recommendation to refrain from participating in any activity that supports the market for unprovenanced material.[21] BAS argued the following: "We also recognize that artefacts ripped from their context by looters often lose much of their meaning. On the other hand, this is not always true, and even when it is, looted objects, especially inscriptions, often have much of scholarly importance to impart."[22] Without dismissing the inherent problems involved in dealing with unprovenanced material, the statement underscores that in many cases the textual information is important apart from its context. However,

16 ASOR 2015.

17 Id.

18 SBL policy adopts without amendment or qualification the ASOR guidelines, including the "cuneiform exception." The policy published on Sept 7, 2016 is primarily concerned with the mechanisms of implementation through the program unit chairs at SBL conferences and series editors for publications of the SBL press. The policy also calls for the formation of an Artifact Advisory Board (AAB) that will advise chairs and editors, resolve conflicts, and maintain a record of incidents. The policy is focused on initial publications and clear identification of unprovenanced material. No additional policies are adopted that restrict secondary publications or re-editions of unprovenanced materials. SBL 2016.

19 ASOR 2015; Norman 2005, 135–36.

20 AIA 2016.

21 This statement appears to have been removed from their website.

22 BAS 2006 as cited in Brodie 2009, 46. See Braarvig 2004, 35–38; Finkel 2004, 35–38.

the value of these artefacts is somewhat lessened by the danger of forged artefacts being introduced into the corpus of textual material, which is only possible when one enters unprovenanced material into consideration.

There are several principles that underlie these ethical codes that are helpful for considering other cases, including that of DSS F.Instr1. The greatest concerns are raised by initial publications, especially if they ignore, minimize, or fail to discuss fully issues of provenance. The worst case scenario is that an initial publication provides an unwarranted provenance for unprovenanced material. To a lesser degree, subsequent publications can also have a negative impact if they too ignore or misrepresent the artefact's unprovenanced status. Therefore, in view of the existing ethical guidelines, one should avoid introducing new unprovenanced material and make every effort to "keep the checkered past of an object out in the open and part of the continuing scholarly discussion" in secondary publications.[23] One aspect that needs to be more clearly emphasized in the SBL guidelines is the value of open discussions of provenance of artefacts at annual meetings, whether they be initial or non-initial discussions of an unprovenanced item, lest the concern for presentations that ignore provenance stifle more beneficial discussions. Such discussions should not be viewed as a gray area, but as a necessary counteraction to the problem the guidelines are intended to address.

In addition to avoiding initial publications and underscoring the unprovenanced character of the artefact, Brodie advocates that scholars should also undertake an independent investigation of provenance. He argues that it might be

> convenient for a scholar to remain ignorant of provenance as it makes for an easier judgment in favour of study and publication. This may be so, but unless the scholar is assiduous in researching and publishing provenance, he or she cannot claim to be acting in good conscience, and might even stand accused of passively colluding with the criminal trade.[24]

This point is illustrated by the case of the Gospel of Jesus's Wife, in which an independent investigation of provenance was not conducted by the scholar, and important concerns about its chain of ownership were neglected until a journalist conducted a separate investigation that called into question the legitimacy of the fragment.[25]

The Case of DSS F.Instruction1

Having discussed the bigger picture of the ethical discussion pertaining to unprovenanced artefacts, let us turn to the case of DSS F.Instr1. Because most of the guidelines on the publication of unprovenanced material have focused on initial publications, my edition of DSS F.Instr1 presents a less considered case. On the principle that one should do no harm, it might be argued that even a non-initial publication of the fragment should be avoided because it might have the same potential as an initial publication to spur

[23] Norman 2005, 136.

[24] Brodie 2009, 52.

[25] Hempton 2016; Sabar 2016. Hempton's formal statement has since been removed, but a copy is available from Mark Goodacre's blog. Goodacre 2016.

the trade in unprovenanced artefacts and to contaminate the scholarly record. However, in the case of DSS F.Instr1, the initial edition by Hanan and Esther Eshel made unsubstantiated claims about the fragment's provenance that have been incorporated into several other scholarly works. Thus, many of the undesirable effects were already achieved by the time the invitation to write a new edition of DSS F.Instr1 was offered. Furthermore, Lee Biondi, the dealer who facilitated the exhibition and sale of the fragment, had already established an unofficial rescue narrative that undergirded the legality of the acquisition and importation into the United States of DSS F.Instr1 and the other fragments in its lot. The relationship between the editors and dealers and the consistency of the academic and media-based narratives (detailed below) made the claim of provenance for DSS F.Instr1 all the more entrenched and thus all the more troubling. In this regard, the opportunity to publish a new edition of DSS F.Instr1 carried with it a substantially different ethical question. It was not a decision of whether to do no harm, but whether to attempt to reverse the harm that had been done.

In September 2003, Eshel and Eshel accepted the invitation of William Noah, a private collector, to serve as advisors to him and his fellow collectors, including Lee Biondi, Bruce Ferrini, and Craig and Joel Lampe, for their travelling exhibition, "From the Dead Sea Scrolls to the Forbidden Book." This exhibit began in April 2003 as a collaborative effort of several collectors, and it included material ranging from the fragments of so-called Scrolls to rare printed Bibles. The bulk of the Scrolls fragments appear to have belonged to Biondi, though the situation was very confused and the dissolution of the exhibition in bankruptcy court in April 2004 demonstrated that ownership and finances were not always indisputably demarcated.[26]

After the bankruptcy proceedings, the exhibition divided into two smaller traveling exhibitions, Noah's "Ink and Blood" exhibit, and Biondi and Lampe's "From the Dead Sea Scrolls to the Bible" exhibit. A photo of DSS F.Instr1 first appeared in 2004 in Biondi's first independent catalogue. It included a low-quality infrared photo and the caption, "a fragment from the Dead Sea Wisdom Text 4Q418 (4QInstruction)."[27] This caption was incorrect because the manuscript 4Q418 contained the same passage already in frg. 148 ii 4–5.

Before Biondi revised and reprinted the catalogue in 2009, Eshel and Eshel published the first edition of DSS F.Instr1 in 2007, which included a transcription, translation, provenance, and the identification of the fragment with one of the Qumran copies of Instruction.[28] They recognized that the fragment could not belong to 4Q418 for the reason stated above, and on the basis of palaeography, they identified it as a part of 4Q416. They even went so far as to count it as the 23rd fragment of the manuscript.[29] However, when Biondi's second catalogue came out in 2009, the caption still identified the

[26] It is not clear whether Biondi legally owned or possessed the fragments or whether they were on loan from another person or organization.
[27] Biondi 2004, 13.
[28] Eshel – Eshel 2007, 277–78.
[29] Id., 277–78.

fragment as 4Q418, despite Eshel and Eshel's consulting services and their edition.[30]

In November of the same year the Museum of the Bible purchased DSS F.Instr1 with DSS F.Exod6, DSS F.Lev5, and DSS F.Ps3. It is likely that the academic consultation services rendered to the exhibition and the publication of DSS F.Instr1 in 2007 as belonging to a known Cave 4 manuscript played a role in the acquisition of DSS F.Instr1 and the other fragments in the same lot.[31] Biondi would have been able to point to Eshel and Eshel's work on this fragment to claim that it was vetted and that it had been assessed as an authentic fragment by reputable scholars. Potentially this vetting would have allowed him to appraise the fragment at a higher value.[32]

The first publication of DSS F.Instr1 had also begun to contaminate the scholarship on Instruction and the textual corpus shared by Dead Sea Scrolls scholars. After the 2007 edition, DSS F.Instr1 began to appear in several publications as a fragment of 4Q416.[33] The most significant of these appearances was the fragment's incorporation into Qimron's critical edition as 4Q416 frg. 23.[34] All three subsequent publications took Eshel and Eshel's claim at face value, and did not consider the uncertain provenance of DSS F.Instr1. In this regard, the preliminary edition has demonstrably contaminated scholarship on Instruction to the point that the fragment has appeared in secondary literature and a critical edition of Instruction, and it would likely continue to be considered as 4Q416 frg. 23 in future studies, editions, and reconstructions of 4Q416.

Biondi also harnessed the media attention on his exhibitions to establish a narrative about the provenance of DSS F.Instr1 and other fragments in his possession in order to promote their sale. Biondi's promotion of his inventory as including legitimate fragments from Qumran is not necessarily deceptive; however, his claims were made from his stance as an antiquities dealer, which should not satisfy academic skepticism because the claims are undocumented and thus unverifiable. In 2005, Biondi's narrative was delivered in a promotional piece by Star News for his exhibit in High Point, North Carolina.[35] In the interview, he disclosed that he was contacted by someone in Scotland about purchasing the scrolls, and ultimately he went to Switzerland to examine them. He and other unnamed collectors purchased them after "having the fragments authenticated" in October 2002.[36] Later in the piece, Biondi explained that the owners of the scrolls were selling them because "[t]he children of the collectors don't want the thing anymore. They want

30 Biondi 2009, 15.

31 Eshel and Eshel published a preliminary version of DSS F.Ps3 in the same publication as DSS F.Instr1, so two of the four acquisitions were published two years before the Museum of the Bible purchased them. Eshel – Eshel 2007, 276–77.

32 The price of the fragment before and after the consultation is not publicly available.

33 Goff 2013, 2 n. 9. 4 n. 18; Kampen 2011, 38. 152; Qimron 2013, 174. DSS F.Instr1 is also referred to as 4Q416 in Hanan Eshel's posthumous contribution to a volume dedicated to the fragments from the Schøyen collection. Eshel 2016, 43–44.

34 Qimron 2013, 174.

35 Greene 2005.

36 Id.

the money for the thing."[37]

James Charlesworth was also interviewed and claimed that the influx of fragments on the market was the consequence of diminishing tourism in Israel and the failure of the peace process in the Middle East. The interviewer also indicated that Charlesworth was actively "trying to get wealthy Americans to buy pieces of the scrolls and send them back to museums in Israel so they can be studied."[38] In sum, this promotional piece established several important parts of a narrative of the legitimate purchase of the scrolls in Switzerland and their rescue from poor socio-political circumstances.[39] This narrative also highlighted scholarly involvement. Though Eshel and Eshel remain unnamed, they are perhaps alluded to in the verification of the fragments in 2002.[40] Moreover, the association of Charlesworth and his efforts to convince wealthy Americans to purchase these fragments and send them to museums in Israel also lent the exhibit a degree of academic legitimacy and ethical rectitude, while simultaneously flagging to potential buyers that the fragments were for sale.[41]

Attempts to reinforce this narrative followed the purchase of the fragments, possibly motivated by Biondi's desire to establish his reputation as a dealer of Scrolls and to sell additional fragments in his inventory.[42] In an interview with Public Radio International, Biondi and William Kando, the son of the antiquities dealer Khalil Iskander Shahin, famously known by the name "Kando," indicated that the fragments were being purchased and imported from Kando's safe deposit box in Switzerland, where they had been stored since the Kando home was raided in 1967.[43]

In another article in the Denver Post, additional pieces of this narrative were provided. According to this report, after the Norwegian collector and businessman Martin Schøyen suffered a financial setback and was unable to purchase the remainder of Kando's fragments, "Kando then took his business to the U.S., startling manuscript collectors who didn't know there was any scroll material available for purchase."[44] This explanation seems to come in part from Biondi, who is quoted immediately after as saying, "[t]hese were the hurdles I had to pass with collectors in America... [t]he impossibility of it; people

37 Id.

38 Id.

39 Brodie regards the "trope of rescue" as a common tactic to legitimate the purchase and publication of unprovenanced material: "The scholarly justification offered for acquiring, studying, and publishing [most recently 'appeared' ancient manuscripts] despite their illegal provenance is one of 'rescue'—the historical information they contain is rescued for posterity." Brodie is speaking about items that are almost certainly illegal, but the same story of rescue is used to justify more ambiguous cases too, including the fragments purchased by Biondi. Brodie 2009, 47.

40 Eshel and Eshel indicated that they began working with Biondi in 2003, so it is possible that Biondi was referring to another prior consultant. In any case, by 2005, when this interview took place, Eshel and Eshel had served as consultants in a similar capacity. Eshel and Eshel 2007, 277–78.

41 The reference to Charlesworth's search for wealthy buyers may be an example of how exhibitions alert other private collectors to the existence, value, and availability of hitherto unknown cultural heritage on the market. In this case, it seems to be an intentional effort to alert other collectors about new "Dead Sea Scrolls." Brodie 2009, 48–49.

42 On his CV Biondi lists the following credential: "I am, I believe, the only dealer ever to purchase and sell actual Dead Sea Scroll Biblical fragments." Biondi 2014.

43 Estrin 2013.

44 AP 2013.

saying, 'You can't get a Dead Sea Scrolls fragment. That's impossible.'"[45] In sum, this article provided another part of the account—that Kando began marketing his scrolls to or through Biondi and other collectors in the U.S. after Schøyen ran into financial difficulties.

These scattered articles not only established Biondi as a pipeline for authentic fragments, but they also implied that they were imported legally. As Biondi said in another interview, "Nobody is doing anything wrong here and Mr. Kando is perfectly entitled to sell his possessions to whoever he wants."[46] For William Kando and Biondi, it was important to establish that the fragments were part of a private collection before the 1970 UNESCO Convention treaty came into effect and that they were legally imported into the United States from Switzerland, both state parties to the UNESCO treaty. In other words, this narrative gave the impression that these fragments were not illicit cultural heritage, could be legally imported and purchased in the United States, and therefore were safe for US collectors or donors to purchase.[47] Thus, Biondi's traveling exhibitions, interviews, and preliminary sales of fragments were part of a larger effort to establish his credibility as a purveyor of legitimate Dead Sea Scroll fragments directly from Kando, which are legal to purchase in the United States.

It is hardly surprising that Kando and Biondi, a supplier and dealer of so-called Dead Sea Scroll fragments, would have wanted to establish such a narrative; however, their effort is at fundamental tension with the position of the Museum of the Bible, which does not disclose information about the seller or provenance of the fragment, a widespread but controversial practice in the museum industry.[48] Their rationale is that dealers and owners of private collections with fragments for sale do not want to be known and prefer to keep their transactions private, including any documentation about their provenance or verification by experts. However, in light of Biondi and Kando's efforts to establish their narrative in the full view of the public through various news outlets and travelling exhibitions, it is unclear why these details should remain sealed. It would seem to be in the interests of all parties if the Museum of the Bible corroborated the legality and authenticity of the fragments that has been publicly claimed by Biondi and Kando. It is not necessary to conclude that the media narrative was a "cover-up," as the situation was certainly more complicated than it appeared in the newspaper articles. However, the disparity between the apparent transparency of Biondi and Kando and opacity of the Museum of the Bible regarding the acquisition simply underscores that scholars should be wary

45 Id.

46 Parker 2013.

47 The UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property is a treaty under which the undersigned state parties, currently including the United States, Switzerland, and Palestine among others, agree to work against the illicit trafficking of unprovenanced artefacts and other classes of material culture. Unprovenanced items that can be established as part of a collection before 1972 are permitted to be traded, but any illegally acquired, purchased, or transferred artefacts are to be regarded as illegal and should not be imported or exported.

48 Brodie 2006c, 9.

when relying on unverifiable media narratives to form opinions on issues of provenance—whether for or against the claims of the narratives—because of the complex web of interests involved.

The Ethical Grounds for Publishing DSS F.Instruction1

When I was asked to write an edition of DSS F.Instr1, it presented an ethical dilemma. On the one hand, it is arguably better not to publish unprovenanced material to avoid inflating its value, even if a secondary publication is permitted according to the SBL, ASOR, and AIA guidelines. Yet, on the other hand, it seemed ethically problematic to forego an opportunity to question the emerging consensus that DSS F.Instr1 is 4Q416 frg. 23. In this case, I determined that the most ethical course of action was to publish a new edition of the fragment to counteract the previous publications. The remainder of this article will outline my approach. Guided by the principles underlying the AIA, ASOR, and SBL guidelines and Brodie's admonition to investigate provenance independently, my edition of DSS F.Instr1: 1) identified the fragment as unprovenanced, 2) provided the results of my independent investigation of the fragment's provenance, 3) drew attention to unusual characteristics, 4) examined a wide range of potential matches that the previous edition did not consider, and 5) offered conclusions that were framed by its unprovenanced status.

The edition opens with a discussion of provenance in the introduction, which indicated that this fragment is unprovenanced and contained the details of my independent investigation of its chain of ownership and history of publication, as described above. It identified the dealer, Biondi, and the touring exhibition of which it was a part.[49] The introduction also traced the history of how the fragment has been labeled by Biondi, Eshel, and Eshel in different phases and how subsequent scholarship has adopted the latter scholars' designation.[50] Most importantly, it emphasized that the provenance of this fragment is unknown, contradicting all previous claims that it comes from Cave 4.[51] Including a discussion of provenance in the introduction is not a common part of the genre of an edition—something that is obvious when one compares the DSS F.Instr1 edition to the others in the volume or the DJD editions. Typically, the issue of provenance is only occasionally mentioned with no extended discussion or attempt to independently trace the history of the fragment. As Brodie has noted, "one searches in vain through scholarly publications of unprovenanced manuscripts for a decent account of provenance, or even for any indication that a scholar has attempted to research provenance or to take a broad view—in terms of criminality—of what provenance might mean."[52] There needs to be a generic shift to include such discussions prominently in future scholarly editions.

Another way the edition of DSS F.Instr1 attempted to consider provenance is by noting unusual characteristics of the fragment that could be used in larger scale comparisons with other post-2002 fragments in order to identify

[49] Johnson 2016, 222.
[50] Id., 222–23.
[51] Id., 222–23.
[52] Brodie 2009, 51.

commonalities that might shed light on the authenticity of the fragments. DSS F.Instr1 has several peculiar letters, *e.g.* a possible *shin* on line 1, which falls well below the baseline and was possibly overwritten or reshaped at some point, an *ayin* at the beginning of line 2 with an uncommon orientation and shape, and a *tav* at the end of line 2 with thickened strokes that are somewhat cramped.[53] Evaluated on their own, these and other features of the fragment do not permit any conclusions about its authenticity; however, other scholars may find that they fall within broader trends in the characteristics of post-2002 fragments, which may provide a firmer basis for reflecting on issues of authenticity throughout the whole corpus of new fragments.

A large part of the analysis is dedicated to evaluating all of the possibilities of a match to a known manuscript rather than simply confirming Eshel and Eshel's claim or proposing a single alternative.[54] In view of the lack of provenance and the paucity of letters for making a paleographic comparison with other manuscripts, it was more appropriate to examine the entire range of possibilities and to highlight the most feasible matches without advancing a strong claim. The possibility of a match was explored with every copy of Instruction (1Q26, 4Q415–4Q418c, 4Q427) and Instruction-like Composition B (4Q424).[55] Establishing this list of possibilities makes it simpler for subsequent scholars to pursue the question of provenance further and allows them to see the rationale used for ranking each potential identification.

In the conclusion of the edition, I calculated its unprovenanced character into the final analysis so that all of the observations are couched in the primary concern about provenance. Although some consistencies were found in the writing of DSS F.Instr1 and other copies of Instruction (4Q415, 4Q416, and 4Q417), none were ultimately convincing, especially in light of "the fragment's uncertain provenance and its history of being mislabeled by scholars and collectors."[56] I recommended treating DSS F.Instr1 as a distinct unprovenanced copy of Instruction until more information is available.[57] Although the concern about provenance was already indicated in the introduction, it was important to remind the reader in the conclusion that any findings are ultimately framed by the unprovenanced status of the manuscript, and are thus tentative.

Beyond the need for a more critical study on DSS F.Instr1, this edition was necessary because of the broader work that remains to be done on the entire corpus of post-2002 fragments. The concern for forgery or intentional misrepresentation of a fragment's provenance is especially high because of the exorbitant price fetched by such small pieces of manuscripts when they are

53 Johnson 2016, 227. 230–34. See figure 18.1. Figure 18.2 is problematic in this regard because it normalizes the shapes of the *shin* and *tav* by pasting an example of the letter from elsewhere in the fragment. Id., 236.

54 Johnson 2016, 230–35.

55 Instruction-like Composition B is a composition that has the same genre of saying as appears in DSS F.Instruction1 and could conceivably have shared it with Instruction.

56 Johnson 2016, 235.

57 Id., 234.

believed to be from Qumran. Furthermore, it has been disclosed that some of the remaining fragments in Kando's collection are blank.[58] These uninscribed pieces of leather would be ideal for a forger to purchase, to inscribe with a known text from an edition or photograph, and to sell as new fragments from Cave 4. If a number of the post-2002 fragments are forgeries or have inaccurately assigned provenances, it is more likely to be discovered when the fragments are evaluated together rather than examining them on a case-by-case basis. The preliminary stages of this important work are currently being carried out by Eibert Tigchelaar, Årstein Justnes, and Kipp Davis among others,[59] and explicit provisions should be made in SBL policy not merely to permit, but also to encourage such discussions in the annual meetings and publications, even if they include previously unpublished material.

Furthermore, a more cautious edition of DSS F.Instr1 was needed because there may be forthcoming evidence that will shed additional light on DSS F.Instr1. After the Museum of the Bible purchased DSS F.Instr1 in 2009, another fragment of Instruction appeared in a new joint exhibition in Wasilla, AK in the Fall of 2010. Biondi and Lampe combined their manuscripts with Larry Lawson's collection of dinosaur fossils to create an exhibition called "Origins, The Museum," which was loosely and somewhat incoherently organized around the notion of biological origins and the history of the Bible. DSS F.Instr1 was in the possession of the Museum of the Bible at this point, and in its place a new fragment labelled 4Q418 appeared in the display case. It seems that DSS F.Instr1 was not the only so-called copy of Instruction in Biondi's inventory, and consequently the case of DSS F.Instr1 cannot be closed entirely until both fragments and the chains of their possession are fully and critically examined.

Conclusion

Since the influx of post-2002 fragments onto the market and their purchase by private collectors in the United States and Norway, scholars have been faced with the ethical question of what is the appropriate response to this material. The professional guidelines adopted by ASOR, AIA, and SBL have focused on initial publications and presentations, leaving open the question of how subsequent publications might also avoid any action that supports the illicit acquisition and trade in unprovenanced antiquities or that contaminates the scholarly record and whether such discussions are welcomed and encouraged at the annual meetings. Should one avoid secondary publications and presentations altogether or are there circumstances in which subsequent publications can have an ethical and beneficial influence? The case study of DSS F.Instr1 has been offered in order to

[58] Prigg 2013. On February 8, 2017, The Times of Israel reported that the archaeologists Ahiad Ovadia and Oren Gutfeld discovered blank writing material in the so-called Qumran Cave 12, a cave that shows evidence of having been looted in the mid-20th century. Ben Zion 2017.

[59] There are several articles in pre-publication stages, some of which were presented at the seminars, "The Lying Pen of the Scribes (Jer. 8:8): Manuscript Forgeries and Counterfeiting Scripture in the Twenty-First Century," April 13–15, 2016, University of Agder, Norway; "Fragments of an Unbelievable Past? Constructions of Provenance, Narratives of Forgery," September 14–16, 2016, University of Agder, Norway.

propose that in situations where initial publications have made unsubstantiated claims, especially when those claims benefit the dealers of the artefact, it is ethical to publish additional treatments in order to assert the unprovenanced status of a fragment, to highlight irregular features, and to advocate caution in subsequent discussions of the fragment. In the case of DSS F.Instr1, its republication in *Dead Sea Scrolls Fragments in the Museum Collection* rejects the claim that it should be regarded as 4Q416 frg. 23 and asserts its status as an unprovenanced fragment. It also provides a better starting point for scholars investigating the authenticity of the post-2002 fragments by offering a fuller range of options and by highlighting its problematic characteristics. Especially in view of the unpublished fragment of Instruction that surfaced immediately after DSS F.Instr1 was purchased, it is important to properly frame this fragment as an example of a growing corpus of new material that needs very open and thorough consideration before incorporation into the dataset of early Jewish manuscripts.

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