

Archaeological University Collections and Cultural Heritage Protection. A Blind Spot?

Sarah Krienen 

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Museums and Cultural Heritage Protection

Questions of cultural heritage protection, looting and the trade in historical objects have been widely discussed in the last years. While museums have come under a great deal of scrutiny, university collections have barely been considered in this context. However, the reasons why museums can be and often are complicit in the illicit antiquities trade also apply to any scientific institution that acquires historical objects from the art market. The fact that the art market is used to sell illegally obtained antiquities on a large scale has been established numerous times, so that purchases from said market should be treated with skepticism.¹ Museums and other institutions contribute to this issue in multiple ways. The acquisition of an object itself furthers demand on the market which could

lead to increased criminal activity to obtain objects for the market.² It also gives illicit artifacts an air of legitimacy if a museum or university can be listed in its provenance record.³ The same applies to issuing expert opinions and including objects from private collections in exhibitions, both of which are mostly executed by scientific institutions. These formats legitimize the acquisition of such artifacts and also increase their market value.⁴ The acquisition, collection and presentation of artifacts originating from contexts of colonial violence or objects that have been confiscated by the German National Socialist government during World War II have also been widely criticized as unethical, provoking numerous initiatives for restitution.⁵

1 For example: Daniel Graepler / Marina Mazzei: Fundort unbekannt. Raubgrabungen zerstören das archäologische Erbe. Eine Dokumentation, Munich 1993; Hans Georg Niemeyer (ed.): Archäologie, Raubgrabungen und Kunsthandel. Podiumsdiskussionen auf der 23. Mitgliederversammlung des Deutschen Archäologen-Verbandes in Münster. 26. Juni 1993, Hannover 1995; Christopher Chippindale / David Gill: Material Consequences of Contemporary Classical Collecting, in: *American Journal of Archaeology* 104 (2000), No. 3, 463-511; Vinnie Nørskov: Greek Vases in New Contexts. The Collecting and Trading of Greek Vases. An Aspect of the Modern Reception of Antiquity, Aarhus 2002; Peter Watson / Cecilia Todeschini: Die Medici-Verschönerung. Der Handel mit Kunstschätzen aus Plünderungen italienischer Gräber und Museen, Berlin 2006; Robin Rhodes (ed.): The Acquisition and Exhibition of Classical Antiquities. Professional, Legal and Ethical Perspectives, Notre Dame 2007; Wolf-Dieter Heilmeyer / Cordelia Eule (eds.): Illegale Archäologie? Internationale Konferenz über zukünftige Probleme bei unerlaubtem Antikentransfer. 23.-25.5.2003 in Berlin. Aus Anlass des 15. Jahrestages der Berliner Erklärung, Berlin 2004; Neil Brodie (ed.): *Archaeology, Cultural Heritage and the Antiquities Trade*, Gainesville 2008; Simon Mackenzie et al.: *Trafficking Culture. New Directions in Researching the Global Market in Illicit Antiquities*, London 2019.

2 Patty Gerstenblith: The Acquisition and Exhibition of Classical Antiquities. The Legal Perspective, in: Rhodes 2007 (see FN 1), 47-60, here: 57; Charles Rosenberg: Response to James Cuno, in: Rhodes 2007 (see FN 1), 27-30, here: 29 f.; Colin Renfrew: *Museum Acquisitions. Responsibilities for the Illicit Traffic in Antiquities*, in: Brodie 2008 (see FN 1), 245-257, here: 246, 253, 255.

3 Renfrew 2008 (see FN 2), 245.

4 Neil Brodie: Congenial Bedfellows. The Academy and the Antiquities Trade, in: *Journal of Contemporary Criminal Justice* 27 (2011), 411-440, here: 414; Abdul Salam Taha: Chapter 5. The Role of Academia in Enabling the Illicit Antiquities Market. The Damage to Iraq's Cultural Heritage, in: Lorenzo Kamel (ed.): *Collapse and Rebirth of Cultural Heritage. The Case of Syria and Iraq*, Bern 2020, 129-153, here: 131, 142.

5 For example: Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände zur Auffindung und zur Rückgabe NS-verfolgungsbedingt entzogenen Kulturgutes, insbesondere aus jüdischem Besitz, Berlin 9.12.1999; Felwine Sarr / Bénédicte Savoy: *The Restitution of African Cultural Heritage. Toward a New Relational Ethics*, Paris 2018; Dan Hicks: *The Brutish Museums. The Benin Bronzes, Colonial Violence and Cultural Restitution*, London 2020; Alexander Herman: *Restitution. The Return of Cultural Artifacts*, London 2021, 57-59; Shimrit Lee: *Decolonize Museums*, New York / London 2022, 17 f.

University Collections as Museums?

The main difference between museums and university collections is a matter of visibility. Museum collections can usually be viewed publicly which makes it easier for external investigators to identify potentially illicit objects. The primary purpose of university collections is their internal use for teaching which means that objects are often not publicly accessible, or at least not to the same extent. Therefore, the conversations on university collections have revolved primarily around large institutions with noted public museums like Oxford University and its Ashmolean Museum, the University of Cambridge's Museum of Archaeology and Anthropology, or the Yale University Art Gallery.⁶ Considering the extent of illicit objects on the market, it is reasonable to assume that at least some of the historical artifacts acquired by other universities might also have come from illegal sources. Thus, there is likely a large number of objects in need of detailed provenance research. Therefore, the lack of discussion and data on university collections results in a blind spot regarding the understanding of the complicity of academia in antiquities trafficking, the scope of illicit materials that exist in such collections and possible repatriation efforts.

Surveying Universities

Given the aforementioned accessibility issues it is difficult to gain insight into these collections. In 2003, Daniel Graepler from the Archaeological Institute of Göttingen University, Department of Classical Archaeology, conducted a survey of a number

of university collections to obtain relevant data.⁷ He limited the selection of institutions to those that focus on Classical Archaeology, his own area of expertise, and are located in Germany, Austria, and Switzerland, surveying 28 universities in total. This selection was chosen to keep the scope of the survey manageable as well as to use existing relationships with the curators of those other universities to achieve a higher rate of participation. I conducted a similar survey in 2021, focusing primarily on the comparability with the 2003 data, therefore using the same selection of institutions and largely identical questions, receiving 27 answers. The curators of the university collections were asked a number of questions regarding their views on cultural heritage protection, former acquisitions, acquisition policies, and relationships with the art market and private collectors. To minimize the risk of inaccurate or incomplete answers anonymity was assured.

The results of the 2003 survey show a significant link between universities, the art market, and collectors. Around 60% (17 universities) purchased objects, only four stated that they never conduct purchases as a matter of principle. Eleven institutions (~40%) received budget allocations specifically for collection purchases. A similarly high involvement can be observed in regard to private collectors. Ten universities (~36%) stated that they are in contact with private collectors and nine (~32%) that they actively counselled them on purchasing decisions as well as regarding the identification and exhibition of objects. The vast majority (78%) of curators also did not consider it important to educate private collectors on the issues with antiquities purchases from the art market. This hesitancy to engage with the role of the market with regards to looting and trafficking also shows itself in the opinions on the *Berlin Declaration*. This statement was signed in Berlin in 1988 and relates to the value of archaeological objects, the acquisition of such objects, and international cultural exchange.⁸ The signees recognize the historical importance of

6 Yale University Art Gallery: Media Statement, in: Yale University Art Gallery Online, [31.03.2022], <https://artgallery.yale.edu/news/media-statement>, <08.08.2022>; Alex Greenberger: Yale will return a temple sculpture to Nepal in latest museum repatriation, in: Art News Online, [06.05.2022], <https://www.artnews.com/art-news/news/yale-university-nepal-sculpture-temple-return-1234627942/>, <15.08.2022>; University of Cambridge: Cambridge supports Nigeria's claim for return of Benin artefacts from University collection, in: University of Cambridge Online, [18.07.2022], <https://www.cam.ac.uk/stories/beninreturn>, <05.08.2022>; Craig Simpson: Oxbridge agrees to return looted Benin Bronzes to Africa, in: The Telegraph, [29.07.2022], <https://www.telegraph.co.uk/news/2022/07/29/britain-agrees-return-looted-benin-bronzes-treasure-africa/>, <13.08.2022>.

7 Daniel Graepler: Archäologie und illegaler Antikenhandel. Die Rolle der Universitätssammlungen, in: Heilmeyer / Eule 2004 (see FN 1), 116-130, here: 116-130; Daniel Graepler: Erwerbungspolitik archäologischer Universitätssammlungen, in: Georg-August-Universität Göttingen. Archäologisches Institut Online, <https://www.uni-goettingen.de/de/661060.html>, <15.08.2022>.

8 Heilmeyer / Eule 2004 (see FN 1), 227-229.

archaeological objects and their context as well as the necessity for detailed documentation. It also states that museums are responsible for undertaking any research necessary to guarantee that objects they consider for acquisition have been legally exported from the respective country of origin and that they do not contribute to trafficking by the means of acquiring or giving written expertise on objects without sufficiently proven provenance. Instead international loan cooperation should be expanded.

While this declaration is certainly less detailed than more recent laws and agreements, many of the curators surveyed in 2003 still expressed vehement concern about it. Respondents thought the declaration went too far, unduly limiting the antiquities trade, playing into nationalist sentiments, and hindering museums in their collecting efforts. By contrast, the Deutscher Museumsbund, which in 2022 comprised of over a thousand German museums and equivalent institutions, fully complies with the International Council of Museums (ICOM) *Code of Ethics for Museums* which defines much stricter rules.⁹ The large number of museums in this organization seems to show more agreement with stringent regulations since the ICOM regulations are part of the basic guidelines of the Deutscher Museumsbund.

This development can be underlined by the 2021 survey data which demonstrates a significant decrease in almost all factors that contribute to university complicity in the illicit art trade. The purchasing rate dropped to 33.3%, eight institutions now never buy objects on principle. This decrease in purchases contrasts with increased acquisitions by other means, like loans and bequests, which do not directly contribute to trafficking. The number of institutions with dedicated purchasing budgets also decreased to seven of which some did not utilize the available funds. This indicates that funding is likely not the primary reason for the decrease in purchases.

78% of the institutions surveyed currently deem it important to educate private collectors, showing an exact reversal of the 2003 position. While

by now twelve universities, a slight increase, are in contact with private collectors, only five assist them in purchasing and other matters, almost reducing this practice by half.

Based on the increase in awareness around antiquities trafficking one might expect an expansion of provenance research at the universities, but this does not seem to be the case, the numbers stay relatively stable compared to 2003. The reason given by participants is a lack of funding for projects and specialized positions dedicated to provenance research as well as missing documentation for collection pieces. Despite this issue, the majority of universities stated that they would be willing to initiate repatriation efforts towards the countries of origin of questionable objects or that they had already conducted such repatriations.

The developments indicated by the survey results can at least partly be attributed to changes in leadership. A number of curators explicitly stated the appointment of new administrations as the reason for decreased purchases. In 2003, there were already differences in purchasing policies regarding collections which had recently seen shifts in curatorial staff compared to those that had not. In 2021, four institutions expressed that they categorically do not purchase objects since a change in leadership.

Broader Developments

This phenomenon is by no means restricted to universities. A number of institutions have seemed to adjust their behavior since a new management has been inserted. The Metropolitan Museum of Art, for example, has conducted a significant number of repatriations since the resignation of Thomas

⁹ Deutscher Museumsbund: Standards für Museen, Kassel / Berlin 2006; Deutscher Museumsbund: Mitgliedsmuseen, in: Deutscher Museumsbund Online, <https://www.museumsbund.de/mitglieds-museen/>, <19.08.2022>.

Campbell as director in 2017.¹⁰ However, this increased effort has not kept the Metropolitan Museum from purchasing the controversial Howard Hodgkin Indian Collection which was previously rejected by the Ashmolean Museum over provenance concerns.¹¹ Authorities also confiscated dozens of objects from the Metropolitan Museum since 2017, some of which had gone through the hands of notorious traffickers like Giacomo Medici and Gianfranco Becchina.¹² Had the museum done their due diligence in researching their objects history, especially of those artifacts that might have come from dubious sources, repatriation should have been initiated by the museum before seizures would have become necessary. In the case of the Getty Museum the recent change in director to Katherine Fleming could be a sign of a change

in attitude for the museum which has knowingly contributed to antiquities trafficking in the past.¹³ Fleming has emphasized the importance of repatriation in an interview, even if this might mean the end of some European museums.¹⁴ On the other hand, the British Museum's continued refusal to return the Parthenon Marbles to Greece, despite a change in leadership in 2017, shows that this trend is by no means all encompassing.¹⁵

Similarly, the universities' tendency towards stricter policies and more awareness seems to be in line with overall developments in public opinion, museum guidelines and new legal approaches. A number of countries have converted new cultural heritage protection rules into law. With regards to the surveyed countries, Germany lastly passed a relevant law in 2016, regulating import and export of cultural or historical objects as well as repatriations.¹⁶ Austria also passed a new law in 2016 which codified both the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property as well as relevant EU guidelines.¹⁷

Conclusion

In conclusion it can be said that while universities with antiquities collections have historically contributed to the looting and trafficking of historical objects through a multitude of practices, significant efforts have been made in the last decades to reduce this issue. While there seems to be a significant shift in attitudes and policies, a lack of resources slows down provenance research and

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- 10 Himalayan News Service: Stolen Idols Returned to Nepal, in: The Himalayan, [05.04.2018], <https://thehimalayantimes.com/kathmandu/stolen-idols-returned-to-nepal>, <14.08.2022>; The Metropolitan Museum of Art: The Metropolitan Museum of Art Returns Coffin to Egypt, in: The Metropolitan Museum of Art Online, [15.02.2019], <https://www.metmuseum.org/press/news/2019/metropolitan-museum-of-art-returns-coffin-to-egypt>, <25.07.2022>; The Metropolitan Museum of Art: The Metropolitan Museum of Art and New York State Department of Financial Services Announce the Return of a 16th-Century Silver Stem Cup to the Heirs of the Eugene Gutmann Estate, in: The Metropolitan Museum of Art Online, [19.02.2020], <https://www.metmuseum.org/press/news/2020/the-met-and-nysdfs-announce-return-of-16th-century-silver-stem-cup-to-heirs-of-eugen-gutmann-estate>, <25.07.2022>; Art Forum: Metropolitan Museum of Art to Repatriate Two Benin Bronzes, in: Art Forum Online, [10.06.2021], <https://www.artforum.com/news/metropolitan-museum-of-art-to-repatriate-two-benin-bronzes-86088>, <07.08.2022>; Zachary Small: Met Museum to Return Ancient Sculpture to Nepal, in: The New York Times Online, [29.07.2021], <https://www.nytimes.com/2021/09/29/arts/design/met-museum-nepal-sculpture.html>, <07.07.2022>; The Metropolitan Museum of Art: The Metropolitan Museum of Art and the Nigerian National Commission for Museums and Monuments Gather to Mark the Transfer of Three Works of Art to the Nigerian National Collections, in: The Metropolitan Museum of Art Online, [22.11.2021], <https://www.metmuseum.org/press/news/2021/the-met-and-ncmm-mou>, <02.08.2022>.
- 11 The Metropolitan Museum of Art: The Metropolitan Museum of Art Acquires More Than 80 Paintings and Drawings from the Howard Hodgkin Indian Collection, in: The Metropolitan Museum of Art Online, [21.07.2022], <https://www.metmuseum.org/press/news/2022/howard-hodgkin-collection>, <17.08.2022>; Alexandra Tremayne-Pengelly: The Metropolitan Museum of Art Acquired a Collection of Indian Works Previously Rejected Over Questionable Provenance, in: Observer Online, [22.07.2022], <https://observer.com/2022/07/the-metropolitan-museum-of-art-acquired-a-collection-of-indian-works-previously-rejected-over-questionable-provenance/>, <17.08.2022>.
- 12 Spencer Woodman / Malia Politzer: Flurry of Seizures Intensify Pressure on the Met over Artifacts Linked to Accused Traffickers, International Consortium of Investigative Journalists, [31.08.2022], <https://www.icij.org/investigations/hidden-treasures/flurry-of-seizures-intensify-pressure-on-the-met-over-artifacts-linked-to-accused-traffickers/>, <31.08.2022>.

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- 13 Jason Felch / Ralph Frammolino: Getty had signs it was acquiring possibly looted art, documents show, Los Angeles Times, [25.09.2005], <https://www.latimes.com/archives/la-xpm-2005-sep-25-me-getty25-story.html>, <19.08.2022>; Watson / Todeschini 2006 (see FN 1) 221-230.
- 14 Tasos Kokkinidis: NYU Provost's Love Affair With Greece Started at a Taverna on Crete. Meet Dr. Katherine Fleming, in: Greek Reporter, [15.04.2021], <https://greekreporter.com/2021/04/15/new-york-university-provosts-love-affair-greece-started-taverna-crete-meet-katherine-fleming/>, <12.08.2022>.
- 15 Naomi Rea: The British Museum Says it Will Never Return the Elgin Marbles, Defending their Removal as a Creative Act, in: Artnet News Online, [28.01.2019], <https://news.artnet.com/art-world/british-museum-wont-return-elgin-marbles-1449919>, <27.07.2022>.
- 16 Bundesgesetzblatt der Bundesrepublik Deutschland 1/1914: Gesetz zum Schutz von Kulturgut, 31.7.2016.
- 17 Bundesgesetzblatt der Republik Österreich 19/2016: Bundesgesetz über die Rückgabe unrechtmäßig verbrachter Kulturgüter (Kulturgüterrückgabegesetz), 13.4.2016.

repatriation efforts. To eliminate the blind spot of university collections it would therefore be desirable to increase the accessibility of those collections, potentially bridging the gap between limited internal investigations due to funding issues and the need for the identification of illicit objects.

ORCID®

Sarah Krienen 

<https://orcid.org/0000-0002-4355-0956>

Reference

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