

# *When Communities Collide: Competing Claims for Archaeological Objects in the Market Place*

**Morag M. Kersel**

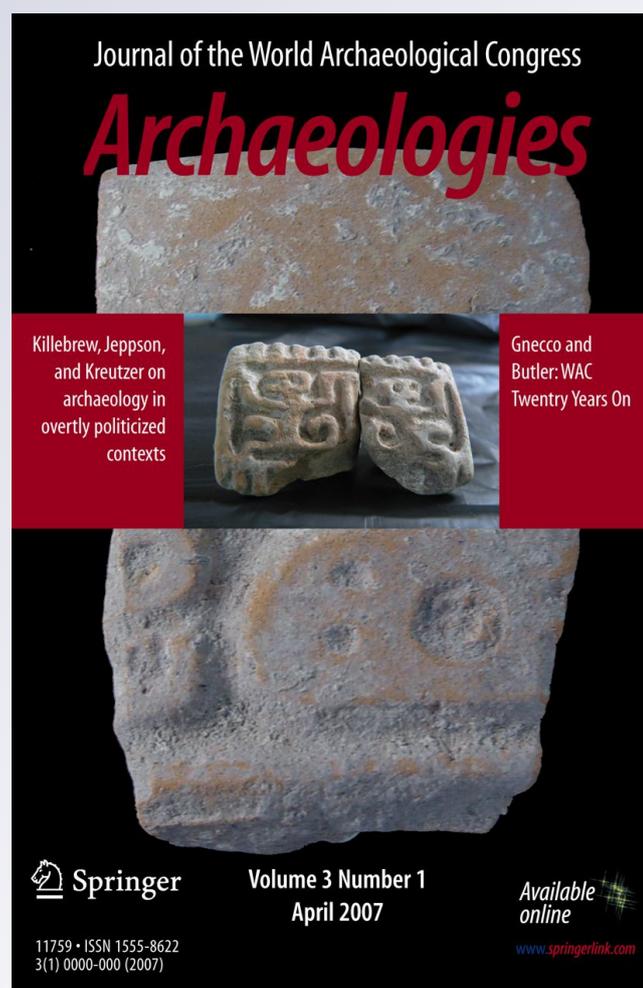
## **Archaeologies**

Journal of the World Archaeological Congress

ISSN 1555-8622

Arch

DOI 10.1007/s11759-011-9182-8



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# When Communities Collide: Competing Claims for Archaeological Objects in the Market Place

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## ABSTRACT

Rather than recount a specific archaeological project and its community relationships, in the following, I consider the competing claims for archaeological objects by the various groups associated with the illegal and legal trade in antiquities. For nearly a decade I have examined the efficacy of cultural heritage laws in the protection of eastern Mediterranean archaeological landscapes. More specifically, I am interested in the contentious issues surrounding legalized antiquities markets as a means of protecting the archaeological past. In order to assess the value of various legal instruments I attempt to engage with the communities who claim an interest in the buying, selling, protection or appreciation of antiquities. The list of communities is long, varied and often at odds with each other. Reconciling these competing claims is a Herculean task, but one worthy of investigation as questions of inclusion, responsibilities and ownership of cultural heritage are at the forefront of an engaged archaeology.

Résumé: Plutôt que de relater un projet archéologique spécifique et ses relations communautaires, j'examine dans l'article suivant les revendications concurrentes sur des objets archéologiques par les différents groupes associés au commerce illégal et légal des antiquités. J'ai étudié durant presque une décennie l'efficacité des législations sur le patrimoine culturel pour la protection des paysages archéologiques de la Méditerranée orientale. Je m'intéresse plus précisément aux questions litigieuses qui entourent les marchés légalisés d'antiquités en tant que moyen de protection du passé archéologique. Afin d'évaluer la valeur de différents outils juridiques je m'efforce de mieux connaître les communautés exprimant un intérêt pour l'achat, la vente, la protection ou l'estimation des antiquités. La liste des communautés est longue, variée et celles-ci sont souvent en conflit les unes avec les autres. La réconciliation de ces revendications concurrentes est une tâche herculéenne, mais elle justifie

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amment une étude car les questions d'inclusion, de responsabilités et de propriété du patrimoine culturel sont à l'avant-garde d'une archéologie engagée.

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Resumen: En lugar de relatar un proyecto arqueológico específico y sus relaciones con la comunidad, en lo siguiente, considero las pretensiones en conflicto por objetos arqueológicos por parte de los diferentes grupos asociados al tráfico legal e ilegal de antigüedades. Durante casi una década, he examinado la eficacia de las leyes sobre el patrimonio cultural en la protección del paisaje arqueológico del Mediterráneo oriental. De manera más específica, estoy interesado en las cuestiones contenciosas que rodean a los mercados de antigüedades legalizados como medio de proteger el pasado arqueológico. Con el fin de evaluar el valor de diversos instrumentos legales, trato de involucrarme con las comunidades que alegan un interés en la compra, venta, protección o revalorización de las antigüedades. La lista de comunidades es larga, variada y a menudo en desacuerdo entre ellas. Reconciliar estas pretensiones en conflicto es una tarea hercúlea, pero es digna de investigación, ya que las preguntas sobre inclusión, responsabilidades y propiedad del patrimonio cultural están a la vanguardia de una arqueología comprometida.

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**KEY WORDS**

Community, Antiquities trade, Law, Illegal excavation, Middle East, Dead Sea Scrolls

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## The Dynamics of Inclusion in the Antiquities Trade

In the Wenner Gren workshop—*The Dynamics of Inclusion in Public Archaeology*—statement participants were presented with a detailed set of instructions for discussing the dynamics of inclusion. Thinking about my own research on the efficacy of law in protecting the archaeological landscape and the dynamics inclusion I became increasingly aware of competing communities within my spheres of inquiry. Issues of conflict are endemic to an examination of the trade in archaeological artifacts—all communities stake a claim in “owning the past”—some to study, some to protect, some to buy, some to sell and some to enjoy. Is there common ground on these differing claims to objects in the marketplace? If the ultimate goal is archaeological site protection and there is irrefutable proof that the illegal excavation of sites is tied to the demand for artifacts—can

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the various claims for objects ever be reconciled? After identifying the communities and their position in the antiquities trade, I hope to illustrate the rival positions on archaeological objects in the market using the Dead Sea Scrolls. As part of this inquiry I will broach a number of issues and questions that I grapple with consistently throughout the course of this research—definitely raising more questions than answers.

### **Questions of Community**

When asked to participate in the Wenner Gren workshop I began thinking about the idea of community and what we actually mean by the interchangeable terms of community archaeology, outreach, indigenous archaeology, collaborative archaeology, postcolonial archaeology (Liebmann and Rizvi 2008), public archaeology, community-based archaeology, and participatory archaeology. I am a field archaeologist who has worked in the Eastern Mediterranean for over 20 years on various, but primarily, sites of prehistory. When considering community engagement and outreach in my period and region of the world traditional practice is the archaeological site tour and “goodie” show, what McDavid (2010) recently referred to as the performance of archaeology. But this outdated model of inclusion in Middle Eastern archaeology is evolving with ongoing innovative projects at Catal Hoyuk in Turkey (Atalay 2007), Dhiban, Jordan (Steen et al. 2010) and the work of Yuval Gadot and Taufik De’adle at Lod in Israel where Israeli and Arab–Israeli children are working together to investigate an Ottoman Khan (Bonn-Muller 2010). What are the best practices for community inclusion in the Middle East, what works, what doesn’t and how do researchers wrestle with conflicting desires of the publics with whom they wish to engage but who might not want to engage with the research or with each other? I turned to the influential work of Moser et al. (2002) as a guide for a working definition of community and best practice for the engagement with local communities in the Middle East. What I find most helpful is their assertion that collaborative practice is inevitably fraught with tension, disagreement and conflict (Moser et al. 2002:243)—aspects that pervade my work with the communities of trade. Moser and colleagues outline a set of what they refer to as methodological components that are essential for successful community inclusion:

1. communication and collaboration
2. employment and training
3. public presentation
4. interviews and oral history
5. educational resources

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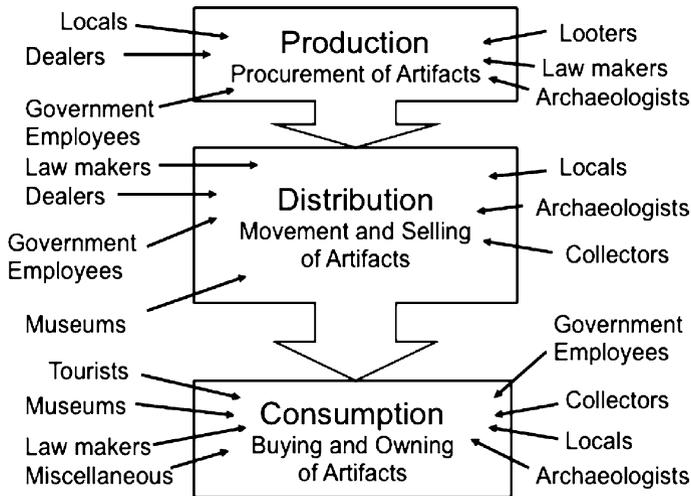
6. photographic and video archive
7. community-controlled merchandising

Moser et al. (2002) believe that these criteria can and should be used throughout the duration of an archaeological project. Smith and Waterton (2009:17) suggest that most projects achieve only a few of these standards, proposing that each collaborative project is situational and not all components are realistic and some may even suggest a reinforcement of the singularity of community engagement—the invitation to communities to “contribute” to the process. This is especially true in the Middle East where many of the community archaeology projects are initiated by foreign (predominantly Western) archaeologists. In her intriguing assessment of community collaboration, Marina La Salle (2010) suggests that while there are a wide variety of approaches to collaboration there remains a disjunction between conceptualization and the actual practice of collaborative archaeology. La Salle (2010:405) admonishes so-called community archaeologists to be suspicious of a legacy of exploitation rather than genuine collaboration. In my attempts to involve all of the relevant voices in my ongoing research into the antiquities trade as much as I might try to address each component I have yet to employ all of the criteria of Moser (2002) and colleagues, but I am ever mindful of the deeply entrenched colonial legacies in the trade and my own inherent biases as a white, western, female, archaeologist. In order to engage and collaborate with all of the communities involved in the trade I had to acknowledge my own academic predispositions and to consider all interest groups on equal footing, moving beyond my entrenched notions of good guys and bad guys in the trade in antiquities.

### **Identifying Communities**

It has been my experience that each community associated with the trade in Middle Eastern antiquities believe that they have a right to possess, or protect, or purvey (or any combination of the three) archaeological artifacts. In beginning this research I attempted to identify the various communities associated with the trade. In my original model—a three-part commodity chain comprised of production, distribution and consumption—participants were fairly self-evident (see Fig. 1). But as the research progressed I realized that there were additional communities that I had omitted or who were subsumed as part of larger communities, but who may have had differing opinions. Over the course of my initial 14 months living in Israel and the PA, and subsequent 7 months in Jordan, I frequently redefined the communities with whom I interacted (and I continue to do so).

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**Figure 1.** Three-part commodity chain identifying communities of the trade

This research, which includes a series of interviews and oral histories with the various participants, relies upon on prototype questionnaires tested on representatives of the various communities. All of the research and protocols are vetted by the Institutional Review Board process at the various institutions with which I am or have been affiliated (University of Cambridge, University of Toronto, Brown University, University of Notre Dame and DePaul University). I (or an assistant translator) only take written notes, record no personal details of interviewees and provide a typed up transcript for the informants to examine—participants can withdraw at any point in the study. Dealers from Israel, Palestine and the UK (where I was enrolled in a PhD program) were enormously helpful in the initial crafting of the questions. This testing process was not designed to determine the statistical reliability of the questions, but rather to assure that the queries were relevant, that the wording was clear, and that none of the questions were too intrusive or offensive to any of the potential communities. Discussions on the trade were intended to share information about the current national laws in Israel and Jordan and the draft legislation in Palestine—are the laws effective, do they protect the archaeological landscape, are they easy to circumnavigate? Most of the interviews are semi-structured with much deviation from the original interview guide. In this way community participants assist in fashioning the questions asked and the information gathered. McGill (2010:469) has suggested that this type of reciprocity in creating the interview guide can only strengthen the research, enhancing the relationships between archaeologists and informants. But as

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one might imagine some communities were more forthcoming than others in participating in the research.

### Categories of Communities

After almost 10 years and over 200 interviews with representatives of the various communities I feel like I have a good representation from the actors involved with the trade in antiquities. They include:

- Archaeologists—local, foreign, salvage, academic, avocational
- Government Employees—often trained archaeologists, from Israel, the PA and Jordan
- Dealers—Israelis, Palestinians, Jordanians, Americans, British, Canadians
- Collectors—local, foreign, internet, high-end, low-end
- Museum Professionals—curators, educators, collectors
- Illegal Excavators—Israelis, Palestinians, Jordanians
- Tourists—local and foreign
- Legal Professionals—Israelis, Palestinians, Jordanians, Americans, British, Canadian
- Locals—Israelis, Palestinians and Jordanians

As part of the research I met with individuals from each of these communities who either agreed to speak with me as an individual or as the “spokesperson” for their community. Some communities are more eager than others to discuss their interaction with archaeology and the trade in antiquities (see Fig. 2 for community response rates) which is not surprising given that some individuals are participating in illegal activities but there

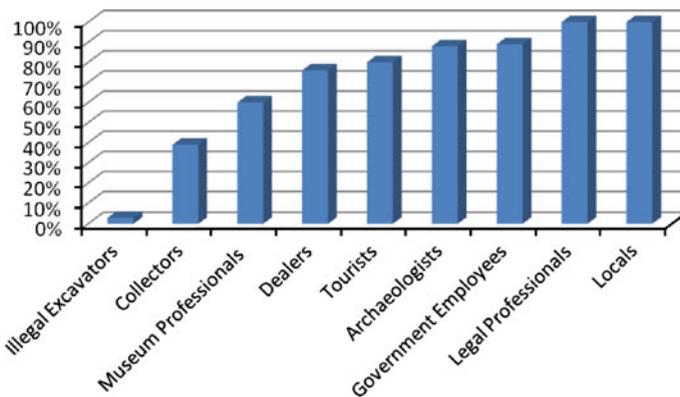


Figure 2. Community response rates

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were some surprises in the response rates. An analysis of the interviewee populations reflects the greatest hesitancy on the part of illegal excavators, which given their involvement with unlawful activities is not unexpected.

At times collectors are also reticent to speak given the less honest aspects of the trade. Collectors often turn a blind eye or refuse to inquire about provenience (archaeological findspot) when making a purchase. Tourists, on the other hand, are astonishingly forthcoming as a community divulging even the most sensitive information about purchase prices and ill-advised purchases of forgeries. The museum community offers a mixed participatory rate. Often vilified for their ongoing acquisition policies or stance on repatriation, many refuse to participate, often stating “I just curate I have nothing to do with archaeology, policy and/or law”. Much to my surprise the dealer community is typically one of the most forthcoming groups in the inquiry. I naively assumed that they would be the least likely to participate, thinking that as an interest group potentially they had the most to lose—their very livelihoods—by partaking in the study. Generally dealers are the most candid and tell the most outrageous tales about the trade—true or not they are definitely the most entertaining community and the most opinionated about the right to sell artifacts. Unsurprisingly the archaeologist, government employees, legal professionals and locals groups were the most sympathetic to my research and their higher rates of participation reflect their supportive positions. The high rate of involvement by the categories, which include archaeologists, may also be attributed to a tacit understanding between these communities and me a member of the archaeological community—a willingness to share with a so-called kindred spirit.

## **Trading Archaeological Objects**

Artifacts can and do act as effective cultural ambassadors—potent communicators of ethnic traditions, artistic inspiration and fundamental to the intellectual and spiritual development of humanity. But there is an ongoing tension between artifact movement and preservation, and with increasing movement; the potential harm to artifacts intensifies. This friction leads to a need for control of movement in the form of local, national, and international legislation—with some nations favoring unregulated movement and some enacting restrictive policies intended to halt virtually all traffic. In Israel, the transfer of artifacts is facilitated by the Antiquities Law of 1978, which established a licensed trade in antiquities from pre-1978 collections, officially sanctioned by the government. It is legal to buy and export artifacts purchased from licensed shops that were inventoried prior to 1978. I have written elsewhere about the legislative history of the development of

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the legal trade (Kersel 2008; 2010), but let me recap by saying that the practice of selling artifacts is deeply rooted in the region and is undertaken by both Palestinians and Israelis. Earlier stages of my research demonstrated that the artifacts recovered as part of current illegal excavations are entering the legal market through laundering processes in Palestine, Israel and Dubai (see Kersel 2007). Suffice it to say that there are illegal and legal elements involved in the trade in Middle Eastern artifacts and the end result is always the same—the destruction of the archaeological record and artifacts with no secure archaeological provenience (findspot). In Israel the legal trade in antiquities is a reality with assorted communities vying for artifacts for differing reasons.

### **Archaeologists**

For the archaeological community—foreign, local or governmental, academic, avocational or contract—archaeological objects found *in situ* are of utmost importance—finding an artifact in its original context is the bread and butter of the discipline. No group is more vocal about the negative impacts of causal relationship between the demand for archaeological artifacts and the illegal excavation and destruction of sites. Valuable information is gained through scientific excavation—information about associated architecture, finds, and mortuary contexts—which is all but destroyed by the illegal excavation process. According to archaeologists once artifacts enter the marketplace in their decontextualized state much of their relevant information and the knowledge that can be gained are lost.

Professional archaeologists can and do play a direct role in the trade in antiquities. Archaeologists routinely report the illegal excavation of sites and often assist government agencies in protecting sites and landscapes. By hiring local work forces, archaeologists may play a typically unacknowledged role in the training of locals as excavators, who later carry out illegal excavations in the pursuit of saleable artifacts. My research has also identified other ways in which the archaeological community engages with the trade. They can and do act as evaluators of archaeological material working in concert with dealers and collectors. One interview revealed a story involving a prominent archaeologist who was “caught” valuing archaeological material in a licensed shop on the west side of Jerusalem, while another archaeologist was monitoring the shop for licensing irregularities. Archaeologists can also collect artifacts for a wide variety of reasons—personal enjoyment, educational collection building and saving the past—but contributing to market demand and the eventual pillaging of sites.

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## **Dealers**

The dealing community is adamant about a continued legal trade in archaeological material. Licensed antiquities dealers—Israelis and Palestinians alike—insist on the right to do whatever they wish with the material remains of their ancestors, even if that means selling them to the highest bidder. After hearing a thought-provoking paper by Jennifer Goddard (2007) on human rights and the illegal excavators of archaeological sites in the American Southwest, I began to consider the human rights of the other communities involved in the trade in antiquities—specifically dealers and the desire to sell archaeological material as a essential human right.

If we begin with the basic premise that Article 23 of the UN Universal Declaration of Human Rights—the right to work and to a free choice of employment—is a fundamental human right, then are licensed dealers in archaeological material merely exercising their right to free enterprise? Logan (2007) identifies at least three examples in which cultural heritage and human rights are at odds and he recognizes that a cultural practice (here the trade in antiquities) framed as a human right in conflict with laws and/or other fundamental human rights is one of the most difficult to with which to deal. Anthropologists and archaeologists often champion the disenfranchised—the poor locals who pillage sites to feed their families. By using nomenclature such as “subsistence diggers” for the practice of illegally mining archaeological sites are we sanitizing the act, implying a virtuous motivation? Jennifer Goddard (2007) and others (Hollowell 2006; Matsuda 1998) have argued that there is a right to dig and that we should not perpetuate the colonial praxis that underpins questions surrounding “who owns the past” by regulating the nonscientific excavation of artifacts. I am not advocating for a position that undermines the rights and wishes of local populations and indigenous governments, but I would suggest that we also must consider the sliding scale on which we examine the trade in antiquities. If we agree that illegal excavators have rights, then all of the links and communities associated with the antiquities trade commodity chain also have rights. It is reconciling those rights and competing claims for archaeological objects that poses a significant quandary.

## **The Illegal Excavating Community**

As part of my investigations into the trade in antiquities I want to understand how the trade works—how artifacts actually go from the ground to the consumer—and why people want to own objects. In researching the mechanics of the trade I became very interested in the concept of “subsistence looting” and whether the engagement with archaeology by the illegal

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excavating community is always about an economic exchange. Elsewhere I have written (Kersel 2007) about the motivations for illegally excavating in Israel and Palestine. The results of this research were surprising to me in that not all illegal excavators were carrying out actions to feed their families and not all illegal excavators sell the objects they uncover. There are people who excavate illegally as a means of employment and ultimately they may use the proceeds from the illegal excavation to feed their families, but the act is also a form of weekend entertainment for families and a traditional practice carried out by generations of locals. In this region many illegal excavators work (or worked) as day laborers on archaeological sites, highlighting a sphere of conflict between communities. The training of future illegal excavators is an unintended consequence of hiring someone to work on an archaeological excavation, but it is a reality of archaeological work. This reality is another facet in attempts to reconcile disparate community desires for objects in the marketplace.

### The Museum Community

When asked about a museum acquisition policy during an interview in 1999, the late Ornit Ilan, an archaeologist and curator of the Rockefeller Museum (formerly The Palestine Archaeological Museum), laughed saying *Acquisition policy, you must be kidding? We buy whatever we want, whenever we want. We don't really have much money for acquisitions but we don't ask any questions when it comes to acquiring artifacts, either on the market or through bequests.* This statement was my introduction to the museum community and acquisition practices. I wanted to be sure that Ornit (who had a great sense of humor) was not just pulling my leg with her previous statement, so I set out to determine how the museum community fits into the trade in antiquities. As part of my ongoing investigations museum professionals from both private and public institutions are consulted, although they prove to be an elusive bunch. In recent years museums have come under closer scrutiny in the global cultural heritage arena, due to an increasing number of requests for the repatriation of “illegally” acquired artifacts (see Felch and Frammolino 2011 for a recent expose). Outspoken members of the museum community (James Cuno, director of The Getty Center) advocate for the concept of access for all through the paradigm of the Universal Museum. Equally outspoken are those (Zahi Hawass, former director of the Supreme Council of Antiquities, Egypt) who support the repatriation of artifacts to their country of origin, viewing the Universal Museum as the last bastion of colonialism. Like archaeologists, museum professionals are often asked to act as authenticators and valuers of archaeological material in the marketplace. The imprimatur of an expert from a

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well-known museum can add extra value to an artifact thereby assuring a higher price for the piece and adding to its value (see Kersel, in press 2012 for a discussion of value of illegally excavated artifacts).

The current economic climate notwithstanding, museums continue to acquire artifacts and build collections at times without asking difficult questions surrounding the original archaeological findspot. A legal trade in antiquities facilitates the purchase of artifacts for the museum community.

### **Communities of Collectors (High-End, Low-End, Tourists)**

The collecting community includes tourists (local and foreign), individuals interested in acquiring high-end material, and those collecting for museums and/or educational institutions. Approaching members of the collecting community is an interesting enterprise. Collectors are often chosen by default (I was in the shop interviewing the dealer when they arrived) or they agree to be interviewed after being referred by a dealer. Tourists are usually in search of artifacts that are reminiscent of their visit to the Holy Land and which may evoke a certain time, place and memory. At times collectors are a discerning group, buying only from reputable dealers (recommended by friends, locals, and/or their hotel concierge) and only from those dealers who provide a certificate of authenticity. In one instance when I asked a museum professional about acquiring material from dealers, they stated *I only buy from reputable dealers not those who have been involved with past scandals. I have a colleague who routinely makes purchases for a study collection for his institution from a certain dealer who is far more reputable.*

In their response to questions about the trade and the destruction of archaeological sites as a result of demand for artifacts, collectors asserted their right to purchase artifacts. At times admitting to the connection between demand and supply (illegal excavations), they uniformly stressed the desire to buy things from the Holy Land—as investments, as mementoes, or as metonymic devices. When I challenged individuals about their purchases—how could they be sure the items were not forgeries or don't they want to know where an item comes from?—the community exhibited an amazing ability to suspend all disbelief in the pursuit of the artifact.

### **Government Employees**

Government employees whose jobs entail cultural heritage protection are contacted for the purposes of this research. Those involved with the anti-theft initiatives of the Israel Antiquities Authority, and the Departments of Antiquities in Jordan and Palestine, customs and border patrol agents, directors of agencies involved with archaeology and tourism are all

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consulted as part of this project. The community ranges from those in administration to field archaeologists. Some government employees interviewed are assigned to the specific anti-theft units—divisions whose sole responsibility is the monitoring and protection of the archaeological landscape. Enforcing the law and archaeological site protection is a huge undertaking for any agency and requires the cooperation of a variety of governmental actors—law enforcement, administration, field archaeologists, customs and border patrol. The mandate of legal protection often brings this community into direct conflict with members of other communities involved in the trade in antiquities—those perpetrating illegal acts and those reporting such actions.

**Catchall Communities (Locals, Lawyers and Other Miscellaneous)**

There are other community members who expressed great interest in this issue. Lawyers and policy-makers who write and enact the legislation which is the object of my inquiry; conservators who are often asked to conserve or value the artifacts that enter the market place; and locals who may own land that has been looted or who are concerned with the ongoing destruction of the landscape, or who have an interest in the trade for myriad reasons. Within this catchall designation there may be competing desires for the disposition of the archaeological objects, so it not surprising that between the various communities with a vested interest in the trade there are colliding, often contentious positions on the perpetuation of the trade and the effects of the legal trade on the archaeological landscape. In the face of these competing claims I am sometimes mystified as to how to proceed with my research. How do I ensure that I am including and giving equal voice to all participants?

**Colliding Communities and Dead Sea Scrolls**

As an illustration of the dynamics of inclusion and colliding communities I want to use the always-contentious Dead Sea Scrolls, more specifically the recent exhibit of the Dead Sea Scrolls at the Royal Ontario Museum in Toronto—an event that engendered much controversy and which escalated into a diplomatic incident. This is an intriguing case study involving many of the communities with an expressed interest in archaeological objects in the marketplace. Each of the previously mentioned communities associated with the trade in antiquities is entangled in the Dead Sea Scrolls—historically and in the present day—and the interests and desires of those communities often come into conflict over these artifacts.

## **The Dead Sea Scrolls in Context**

There are almost more controversies surrounding the Dead Sea Scrolls than there are scrolls in existence. The academic community is undecided and goes to battle over who wrote the Dead Sea Scrolls, while nations routinely face off over who *owns* the Dead Sea Scrolls. From their humble (albeit contested) origins as sectarian and religious records of the period 200 BCE to 68 CE, the scrolls (and my use of the term scrolls is very misleading since the majority of the 900 + texts survive only as jagged remnants of parchment) written in Hebrew, Aramaic, and Greek, offer some of the earliest contemporary evidence for religious thought and theology in first century Judea (Silberman 2001:14).

Interpreted texts include passages about early Jewish religious law and legal discussions and the thinking and daily activities of a general messianic mindset that gave rise to Christianity. In a hugely reductionist analysis the academic divide over the scrolls can be broken down into two camps: those who believe that the scrolls were written in the area of Qumran by the local sectarians (many argue the Essenes), and those who believe that the scrolls were written in Jerusalem and transported to and hidden in Judean Desert caves by those fleeing unrest in the city. Debate is vitriolic to the degree that recently Raphael Golb, son of Dead Sea Scrolls scholar Norman Golb of the Oriental Institute of the University of Chicago and a main supporter of the Jerusalem origins of the Dead Sea Scrolls, was convicted of identity theft after allegedly creating dozens of Internet aliases and using them to harass and discredit other scholars who disagree with his father's theories about the Dead Sea Scrolls (Kolowich 2009). As integral parts of the Judaic and Christian imaginary the Dead Sea Scrolls are powerful symbols, which have come to represent many things to many communities.

Accounts of the initial findings in the Judean Desert near Qumran (within the present-day boundaries of Palestine) between the winter of 1946/1947 and 1956 vary widely, but Silberman (1995) disputes claims that it was a naïve shepherd tending his flock who made the initial discovery. Instead it was three members of the Taamireh Bedouin tribe, who having previously worked for eminent prehistorian Renee Neuville had some inkling of the importance of the archaeological material (reifying the concept of the unintended consequence of training local workmen on archaeological projects who eventually carry out illegal excavations). In the post-mandate era of the Middle East increasingly tightened border controls resulted in bounded movement for the Bedouin of the region. This restriction in traditional practice led to alternative choices for economic livelihoods, which included an increasing reliance on systematic plunder of archaeological sites for saleable artifacts. The Bedouin sold the scrolls to a well-known

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dealer from Bethlehem—Kando, who in turn sold the scroll to the archbishop of Jerusalem's Syrian Orthodox community. In the 1960s American biblical scholar John Trever (1979), seeking information regarding the exact findspot and associated archaeological remains, conducted interviews with the local Bedouin in order to reconstruct the unearthing of the Dead Sea Scrolls. The remarkable discovery of the scrolls started a flurry of interest into the region, the scrolls and the biblical past. As word of the scrolls got out archaeological artifact dealers, collectors, biblical scholars, archaeologists, Jordanians, Israelis and Palestinians all began vying for future scrolls. The scrolls became a desirable commodity for assorted communities, for varying reasons. National identities became enmeshed in the recovery, protection and presentation of the scrolls. Tales of the daring acquisition adventures of Israeli biblical scholar and archaeologist Eleazar Sukenik of the Hebrew University, representatives of the government of the newly formed state of Jordan, archaeological organizations like the American Schools of Oriental Research and others became the stuff of legend and added to the mystique of the Dead Sea Scrolls.

### **Archaeologists, Museums and the Dead Sea Scrolls**

The involvement of archaeology and archaeologists in the recovery, interpretation and display of the Dead Sea Scrolls has a long ongoing history. With the original excavations by prehistorian Rene Neuville—the so-called training ground for the eventual illegal excavators of the Dead Sea Scrolls from the Taamireh Bedouins to the secret negotiations by archaeologists Sukenik and his son Yigal Yadin to purchase scroll fragments on behalf of the State of Israel, to the supposed sale of a scroll brokered by the brother of the King of Jordan (Politis 2002), archaeologists have been involved with the Dead Sea Scrolls.

During the 1950s and 1960s many of the Dead Sea Scrolls made their way on to the antiquities market, while some were excavated in the caves surrounding Qumran during the 1940s to the 1960s under the auspices of the Palestine Archaeological Museum (known today as the Rockefeller Museum). Until 1967 most of the scrolls were placed on display and kept at the Palestine Archaeological Museum [PAM] then under the care and protection of the government of Jordan. When the State of Israel annexed East Jerusalem in 1967 the PAM and the scrolls were seized as property of the State of Israel and subsequently relocated to the Shrine of the Book at the Israel Museum. There the scrolls became the showpiece of the Israel Museum with thousands of visitors each year. The scrolls are an embodiment of competing facets of the trade in antiquities. Legally purchased or illegally appropriated the scrolls on display at the Israel Museum continue to be symbols of the victorious

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(Israeli success in the 1967 War), the vanquished (Jordan, who were once the care takers of the scrolls) and unrepresented (the original findspot and role of Palestine often goes unacknowledged).

## **The Dead Sea Scrolls Today**

The mystique of the scrolls and implicit involvement of the legal trade in antiquities continues, evidenced by the thousands of people who line up to see traveling exhibits and as educational institutions compete to purchase the few scrolls available for acquisition. In the fall of 2009 Azusa Pacific University (near Los Angeles) purchased five scroll fragments; and in April of 2010 Southwestern Baptist Theological Seminary purchased three—both for undisclosed sums of money. A family (collectors) who “owned” the scrolls for decades sold the fragments, stating that the scrolls were like “A 401(K) program that kicks in as family members need the money” (Howard 2010). The idea of the scrolls as a retirement fund reinforces the trope of antiquities as good investments, which given current economic instability seems to bear true. Despite expressed concerns by archaeologists at both institutions, APU and SBTS see themselves as trustees for the collective cultural heritage, bypassing all notions of political and/or ethical concerns associated with the contemporary purchase of the scrolls. The concept of saving the past for the future, with an emphasis on public access and the educational element of the scrolls as rationalizations for a purchase that may in fact lead to more illegal excavating of archaeological sites, is echoed in the Royal Ontario Museum’s invocation of fulfilling their duty to the public trust while defending their exhibition of the Dead Sea Scrolls from June 2009—January 2010.

Even before the highly anticipated 6-month, \$3 million collaboration between the Royal Ontario Museum [ROM] and the Israel Antiquities Authority [IAA] showcasing the Dead Sea Scrolls was officially launched in June of 2009, the exhibit was the subject of growing controversy (Cargill 2009). The exhibit *Dead Sea Scrolls: Words that Changed the World* first attracted media attention when the Canadian government and ROM executives received letters of protest from the Government of Palestine requesting that the Government of Canada seize the scrolls and return them to their rightful *owners* the government of Palestine. The official diplomatic note declared that the scrolls had been illegally seized by the Israeli government during the annexation of East Jerusalem and the West Bank in the aftermath of the 1967 War. The Palestinians asserted that scrolls represented the millions of other artifacts that have been systematically looted by Israel from the occupied Palestinian territory over the last several

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decades, and ultimately the on-going occupation and subjugation of the West Bank and Gaza by Israel.

Noted cultural property legal expert Patty Gerstenblith clarified the legal situation by explaining that any claim that Palestine might make would face significant legal obstacles, not the least of which is Palestine's lack of official status as a recognized state, which undermines any potential claims based in national and/or international legal instruments (Kaminer 2009). In December of 2009 Jordan, which is a legally recognized state, made a similar request of the Canadian government, asserting that *The Canadian Cultural Property Export and Import Act* states:

If the government of a State party submits a request in writing to the Minister for the recovery and return of any cultural property that has been exported from an occupied territory of that State Party and that is in Canada in the possession of or under the control of any person, institution or public authority, the Attorney General of Canada may institute an action in Federal Court or in a superior court of a province for the recovery of the property by the State Party

Cultural Property Export and Import Act, R.S.C. (1985)

In response to this request the Israel Antiquities Authority avowed that they were not claiming ownership of the scrolls, they “[A]re the custodians of the Dead Sea Scrolls and as such we have the right to exhibit them and to conserve them” (Martin 2009). In January of 2010, the Canadian Government declined to seize the scrolls issuing this statement “differences regarding ownership of the Dead Sea Scrolls should be addressed by Israel, Jordan and the Palestinian Authority. It would not be appropriate for Canada to intervene as a third party” (CBC Arts 2010).

## **Communities Collide Over the Dead Sea Scrolls**

Claims of “ownership” of the scrolls have arisen from at least three different states. Since the 1950s fragments of the Dead Sea Scrolls have legally and illegally appeared in the antiquities market. Educational institutions and private individuals alike continue to buy and sell the scrolls, which encourages local populations to “hunt” for scrolls knowing that there is a ready market for the material. In October of 2005 the late archaeologist Hanan Eshel and an associate were arrested under suspicion of violating the Israel Antiquities Law of 1978 after they purchased what is believed to be a 1,900-year-old biblical scroll from a Bedouin family for US \$3000 (Kersel et al. 2008). Eshel, a noted Dead Sea Scroll scholar, averred that he bought the scroll in order to save it for the state of Israel, and that his final intention was to donate the fragments to the Israel Museum once he had

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completed his studies and translations. In defense of his violation of the Antiquities Law, Eshel claimed that he did not report the find because he did not want the IAA to “steal the credit, for the miraculous find” (Kersel et al. 2008); he wanted the time to translate and interpret the scrolls before anyone else. Community desires to “own” the scrolls are fairly evident—financial, nationalistic, academic—but it is the market that facilitates the purchase of the artifacts. In returning to the question posed by the workshop organizers regarding the dynamics of inclusion in community archaeology, the Dead Sea Scrolls are an excellent example of colliding communities. Archaeologists, academic institutions, government employees, representatives of national governments, dealers, collectors, locals, tourists, legal experts and museum professionals all claim an interest in owning, displaying and interpreting the Dead Sea Scrolls. Who wrote the scrolls; who should interpret the scrolls; who owns the scrolls; who should be able to purchase the scrolls; and who should display the scrolls situate these antiquities market artifacts at the center of continuing debate.

## **Conclusion**

In a holistic approach to community archaeology through an examination of the antiquities trade in the Middle East I wonder how, and if, reconciliation, compromise, and inclusivity can be achieved. As I work to engage with all of the voices involved with the antiquities trade I heed the criteria set forth by Moser et al. (2002), but am reminded of the cautions set forth by Smith and Waterton (2009) about being overly optimistic and unrealistic about incorporating every voice and La Salle’s (2010) cautioning about eliding or subsuming varied positions. At the TAG (Theoretical Archaeology Group) meeting in April 2010, Paul Mullins (2010) in his discussion of racial displacement in Indianapolis stated that there were some communities that did not want to be involved. He then asked a salient question “do we have to include everyone?” In research where the communities are divided, for me the question is not whether to include everyone but how to include everyone. As I think about the dynamics of inclusion in my work into the competing claims for objects in the antiquities trade there are often more questions than answers but the Wenner Gren workshop highlighted that I am not alone in my questions and answers in the practice of community archaeology.

## **Acknowledgements**

There would be no research without the cooperation and many kindnesses of the communities who participate in this study. The Israel Antiquities

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Authority, the Jordanian Department of Antiquities and the Ministry of Tourism and Antiquities of the Palestinian Authority provide ongoing logistical and intellectual support for this project, for which I am very grateful. This research was generously supported by grants from the Wenner Gren Foundation, the Social Sciences and Humanities Research Council of Canada, The W.F. Albright Institute of Archaeological Research (Jerusalem) and the Council for American Overseas Research Centers (Amman and Ramallah). Robert Cargill's comments on an earlier version of this paper were enormously helpful.

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