Scholarship and insurgency? The study and trade of Iraqi antiquities

Neil Brodie

Scottish Centre for Crime and Justice Research
University of Glasgow
63 Gibson Street
Glasgow
G12 8LR

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Introduction

Archaeologist: 'The academic study and publication of looted cuneiform tablets and other inscribed artifacts from Iraq is unwarranted. Their value as historical documents has been compromised by the loss of contextual information caused by their looting. Furthermore, study and publication increases their monetary value, thereby promoting the market, which is particularly regrettable as the illegal antiquities trade within Iraq is controlled and organized by armed insurgents.'

Epigrapher: 'No. This analysis is mistaken. The value of looted tablets and other inscribed artifacts as historical documents is only minimally reduced by the loss of contextual information, and the loss to historical knowledge will be greater if they are not studied and published. There is no evidence to suggest that academic study and publication promotes the market, or that the antiquities trade is in the hands of armed insurgents.'

This imaginary exchange is intended to summarize a debate that has rumbled on since the 1990s over scholarly engagement with unprovenanced cuneiform tablets and other inscribed artifacts. With no object biographies, these artifacts are generally assumed to have been looted from archaeological sites and museums within Iraq. The interlocutory 'archaeologist' and 'epigrapher' are disciplinary stereotypes, and are employed as an expository convenience. Like all stereotypes, they simplify more than they clarify. Not all archaeologists would agree with the view set out above, and some epigraphers would side with the archaeologist. Some individuals straddle the disciplinary divide. Nevertheless, the exchange is generally representative of views held by the respective disciplinary communities.

The looting of archaeological sites and museums within Iraq has been in progress since the late 1980s, and large numbers of previously unknown artifacts of

[1] I would like to thank Ana Vrdoljak for inviting me to participate in the workshop where this paper was first presented. It was written while I was writer-in-residence at the Association for Research into Crimes against Art (ARCA) in Amelia, Italy, for six weeks during spring 2011. I would also like to thank the ARCA executive and staff for offering me the position and for their generous support and hospitality during my stay.

presumed Iraqi origin have been ‘surfacing’ in private collections in North America, Europe, the Middle East and Japan. While the archaeologist and the epigrapher agree that much of this material is useless for historical study, divorced as it is from any archaeological context, their opinions diverge when it comes to cuneiform tablets and other text-bearing artifacts. The epigrapher believes that these artifacts can be studied productively as the associated historical information is intrinsic to their texts, not their find contexts. They also disagree about the possible commercial and social outcomes of scholarly research. The archaeologist maintains that research and publication of privately-held artifacts increases their monetary value and promotes the antiquities market, thereby causing more looting in Iraq. But more than that, if, as is sometimes claimed, the trade of looted antiquities is organized and controlled by armed insurgency groups, then scholarly research and publication is indirectly funding the insurgency, and putting innocent lives at risk. The epigrapher hotly denies these propositions, and asks for proof. As a result of concerns voiced by the archaeologist, some academic journals now refuse to publish scholarly articles concerning unprovenanced artifacts. The epigrapher believes this policy to be a form of censorship – an infringement of the academic responsibility to produce and disseminate knowledge.

Empirical verification is in short supply on both sides. The terms of debate have been set by the disciplinary norms of the two protagonists, and framed by talk of responsibilities to the public, archaeology and the future. This talk sounds more like normative discourse than open consideration of the issues in question. Still, in terms of producing evidence, the onus would appear to be on the archaeologist, who is in effect arguing for the abandonment of what has in the past been accepted practice, and thus for a departure from the status quo. Yet archaeologists have done little to substantiate their claim that scholarly engagement with looted artifacts is commercially beneficial and socially harmful. There are several compelling studies of the material damage caused by archaeological looting, both to museums and sites, but nothing to detail the scholarly reception of looted artifacts and its commercial and criminal consequences. Thus, to all intents and purposes, two of the central issues disputed in the opening exchange remain unresolved. First, does the scholarly study and publication of unprovenanced inscribed artifacts in private collections promote the antiquities trade within Iraq? Second, are profits from the antiquities trade used to support criminal or armed insurgency groups?

In a perfect world, the evidence necessary to answer these questions would be assembled through primary research in Iraq (though in a perfect world such research would not be necessary). Clearly, though, primary research in Iraq would pose obstacles of access and real physical danger to any researcher, and cannot be countenanced at the present time. Thus this paper, written by an archaeologist, sets out in a preliminary way to organize and interrogate what evidence can be assembled from a variety of public sources. It is, in effect, a literature review. Before proceeding, however, it is worth mentioning a couple of methodological points. Most credence is awarded to the testimony or reporting of what might be called ‘reliable witnesses’ – people who are likely to have first-hand experience of the events or practices in question. The intention is to screen out the alarmist and polemical claims of the uninformed. The reliable witnesses include collectors, scholars working with collectors, archaeologists – particularly Iraqi archaeologists – working on the ground in Iraq, and a small number of archaeologically-aware journalists who have been

brave enough to report from inside the warzone. When appropriate, the credentials of these witnesses are presented in the main body of the text or in footnotes. Whenever possible, an attempt is made to triangulate factual claims emanating from different sources.

The looting of Iraq

The unauthorised excavation and export of antiquities from Iraq is illegal because it contravenes the country's 1975 Antiquities Law[2]. Unexcavated antiquities are the property of the Iraqi State. Since 1973, Iraq has also been a State Party to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Following the end of the Iran-Iraq war in 1988, and particularly after the August 1990 United Nations Security Council Resolution (UNSCR) 661 imposition of economic sanctions on Iraq following its occupation of Kuwait, there was a marked increase in the incidence of illegal excavation and trade. This looting reached new heights around the time of the Coalition invasion of 2003, when the ransack of the previously untouched National Museum in Baghdad made headlines worldwide[3]. The illegal digging of archaeological sites received less media attention, but was heavy nevertheless[4], particularly in the south of the country, the 'cradle of civilization'[5].

There is a general consensus of opinion that the illegal digging in Iraq during this time was at base a socio-economic problem. As living standards worsened through the late 1980s and 1990s, for some communities the artifacts in archaeological sites and museums came to constitute an economic resource in an emergent 'coping economy'[6]. It is estimated that the annual per capita income in Iraq dropped from $3,600 in the early 1980s to about $1,000 in 2001[7]. When viewed

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[2] M.T. Bernhardsson, *Reclaiming a Plundered Past. Archaeology and Nation Building in Modern Iraq* (2005), at 215.

[3] Bogdanos, 'The casualties of war: the truth about the Iraq Museum', 109 *American Journal of Archaeology* (2005a), at 477-526; M. Bogdanos, *Thieves of Baghdad* (2005b); D. George, 'The looting of the Iraq National Museum', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008), at 97-108; D. George and M. Gibson 'The looting of the Iraq Museum complex', in G. Emberling and K. Hanson, *Catastrophe! The Looting and Destruction of Iraq's Past* (2008), at 19-27.

[4] P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008); L. Rothfield (ed.), *Antiquities Under Siege: Cultural Heritage Protection after the Iraq War* (2008); G. Emberling, and K. Hanson (eds) *Catastrophe! The Looting and Destruction of Iraq's Past* (2008).

[5] E.C. Stone, 'Robbing the cradle of civilization, five years later', 82 *Antiquity* (2008a), at 125-138; E.C. Stone, 'Archaeological site looting: the destruction of cultural heritage in southern Iraq', in Emberling, G. and K. Hanson 2008. *Catastrophe! The Looting and Destruction of Iraq's Past* (2008b), at 65-80.

[6] Goodhand, 'Frontiers and wars: The opium economy in Afghanistan', 5 *Journal of Agrarian Change* (2005) at 206.

[7] United Nations/World Bank, *Joint Iraq Needs Assessment* (2003), at vi. http://siteresources.worldbank.org/IRFFI/Resources/Joint+Needs+Assessment.pdf [Last accessed 9 January 2012]

against that statistic, the sums of money being paid on-the-ground for excavated artifacts in the early 2000s were substantial. At Umma, Joanne Farchakh Bajjaly[8] reported that a cylinder seal or cuneiform tablet would fetch about $50 for its finder[9]. At Isin, Roger Atwood was asked $100 for a cuneiform tablet and $200 for a cylinder seal[10]. Assuming asking prices are in excess of expected sale prices, that was not far off Farchakh Bajjaly's figure of $50 a piece. Micah Garen[11] spoke to one Iraqi who had sold 700 cuneiform tablets for $20,000 – that is $30 each[12]. $50 for an artifact in 2003 was about half the monthly salary of an average government employee[13]. Then there was always the possibility of an exceptional find whose sale value would far exceed $50.

The market in Iraqi antiquities

Throughout the 1990s and 2000s, given the large scale looting of archaeological sites, it was assumed that large quantities of artifacts were being taken out from Iraq, though it was far from clear where they were being sold or who was buying them[14].

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[8] Joanne Farchakh Bajjaly is an archaeologist and journalist who visited Iraq twice in 2003 to report on archaeological looting.

[9] Farchakh Bajjaly, 'Will Mesopotamia survive the war? The continuous destruction of Iraq's archaeological sites', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008), at 137.

[10] Atwood, 'Day of the vulture', September/October MotherJones.com (2003). http://motherjones.com/politics/2003/09/day-vulture [Last accessed 9 January 2012]

[11] Micah Garen is a journalist and filmmaker who spent eight months in Iraq between June 2003 and August 2004 investigating the antiquities trade, including four months in Dhi Qar province. In August 2004, he was kidnapped in Nasiriyah and released two weeks later; M. Garen and M.H. Carleton, *American Hostage* (2007)).

[12] Breitkopf, 'A reflection of the chaos: Iraq's cultural heritage in crisis', November/December *Museum News* (2006). http://www.aam-us.org/pubs/mn/MN_ND06_iraq-chaos.cfm [Last accessed 30 June 2011]

[13] Farchakh Bajjaly, 'Will Mesopotamia survive the war? The continuous destruction of Iraq's archaeological sites', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008), at 50.

[14] Brodie, 'Iraq 1990–2004 and the London antiquities market', in N. Brodie, M. Kersel, C. Luke and K.W. Tubb (eds), *Archaeology, Cultural Heritage, and the Antiquities Trade* (2006), at 206–26; Brodie, 'The market background to the April 2003 plunder of the Iraq National Museum', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008a), at 41-54; Brodie, 'The Western market in Iraqi antiquities', in L. Rothfield (ed.) *Antiquities Under Siege: Cultural Heritage Protection After the Iraq War* (2008b), at 63-74; Brodie, 'Academic involvement in the market in Iraqi antiquities', in S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011a), at 117-133; Gibson, The looting of the Iraq Museum in context', in G. Emberling, and K. Hanson (eds) *Catastrophe! The Looting and Destruction of Iraq's Past* (2008), at 13-18; Gibson 'Legal and illegal acquisition of antiquities in Iraq, 19th century to 2003', in J.A.R. Nafziger and A.M. Nicgorski (eds), *Cultural Heritage Issues: The Legacy of Conquest, Colonization, and Commerce* (2009) 185-198; Russell, 'The modern sack of Nineveh and Nimrud', 1 *Culture Without Context* (1997), at 8-20.

There was some evidence of increased sales on the open market (comprising auctions by the major London and New York companies Sotheby's, Christie's and, by the 1990s, Bonhams), though not much, and certainly not enough to reflect the scale of looting, despite the appearance of some material of clearly dubious provenance such as a series of terracotta barrels dating to about 1850 BC, each barrel carrying an identical inscription reporting the dredging of the Tigris by King Sin-iddinam of Larsa[15]. After UNSCR 1483 reconfirmed sanctions on cultural property in 2003, the auction houses stopped handling unprovenanced artifacts from Iraq altogether. Quantities of suspicious artifacts began to appear for sale on the Internet, where most small dealers, together with major dealers and auction houses, now maintain a presence. For example, eight sawn-down clay 'bricks' that were offered for sale in the late 2000s carrying identical inscriptions celebrating the Neo-Babylonian King Nebuchadnezzar's restoration of the Temple of Shamash in Larsa[16]. In December 2008, Christie's New York advertised for auction a pair of Assyrian gold earrings, claimed by Iraqi authorities to have been stolen from a hoard of gold and jewelry that had been discovered at Nimrud in 1988. The earrings were withdrawn from sale at the request of the FBI[17], and subsequently returned to Iraq in February 2010[18].

There were no signs through the 1990s or 2000s that actively collecting museums were acquiring much that might have been smuggled out of Iraq, despite their seeming lack of scruples when it came to acquiring suspect material from other countries[19]. As time wore on, however, what Nørskov has characterized as the 'invisible market' started to become increasingly visible[20]. Nørskov developed the concept of the invisible market during her study of Classical Greek pottery to describe the 'high-end' trade of exceptional and expensive artifacts sold away from public scrutiny by private treaty sales to wealthy museums and private collectors. Rumours started to circulate in the late 1990s of important pieces from Iraq available for sale, if the price was right[21]. Sometimes there was even hard evidence. Photographs were in circulation of pieces of relief sculpture known to have been taken from the Assyrian palaces of Nineveh and Nimrud in north Iraq, though not appearing on the open

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[15] Brodie, 'The market background to the April 2003 plunder of the Iraq National Museum', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008a), at 43-44.

[16] Brodie, 'Academic involvement in the market in Iraqi antiquities', in S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011a) at 125-126.

[17] Bailey, 'Christie's withdraws "Nimrud" gold earrings after FBI tip', January *Art Newspaper* (2009), at xx.

[18] ICE, 'ICE returns artifacts and antiquities to Iraq embassy', February 26 press release. http://www.ice.gov/news/releases/1002/100225washingtondc.htm [Last accessed 30 June 2011]; Spencer, '3,000-year-old earrings returned to Iraq from US', 22 August *Telegraph* (2010).

[19] P.Watson and C. Todeschini, *The Medici Conspiracy* (2007, 2nd edition); V. Silver, *The Lost Chalice* (2010); J. Felch and R. Frammolino, *Chasing Aphrodite: The Hunt for Looted Antiquities at the World's Richest Museum* (2011).

[20] V. Nørskov, *Greek Vases in New Contexts* (2002), at 291-292

[21] Gibson, The looting of the Iraq Museum in context', in G. Emberling, and K. Hanson (eds) *Catastrophe! The Looting and Destruction of Iraq's Past* (2008), at 13-14.

market[22]. They received widespread publicity at the time, but there were few known buyers, perhaps because of the publicity, and the whereabouts of most of them remains unknown[23]. Also during the 1990s, and perhaps even into the 2000s, some large private collections of Iraqi artifacts were assembled, partly or largely on the invisible market. Three collections in particular have come to public attention, and have been the source in one way or another of some controversy. They belong to Jonathan Rosen, Martin Schøyen and Shlomo Moussaieff.

The collectors and their collections

Each one of these three collections contains a broad range of artifacts from different time periods and a variety of ancient cultures. The discussion that follows will focus upon two types of object in particular. First, there are cuneiform tablets. Cuneiform tablets are clay tablets measuring anything up to 30 cm square (though usually with a maximum dimension in the range 4-10 cm) inscribed with the cuneiform script in one of several different languages. They were used mainly for record keeping by the literate administrations of ancient Mesopotamia from the 3rd to the 1st millennia BC. Today, they are found mainly, though not exclusively, in Iraq. Dedicatory and celebratory cuneiform inscriptions are also found on other objects and materials, such as the clay barrels and bricks described above. The second type of object comprises Aramaic incantation bowls dating to the 7th and 8th centuries AD. They are hemispherical or flat-based pottery bowls with Aramaic inscriptions written in ink on their inner surfaces. Each inscription, usually spiraling out from the centre, records a magical incantation intended to ward off malevolent spirits. The bowls have been found exclusively in Iraq. Excavated examples have been recovered from under door thresholds or from under the floor in room corners, where it is thought they were placed as apotropaic charms. Rosen appears to have collected cuneiform tablets but not incantation bowls. Both Schøyen and Moussaieff have large declared holdings of cuneiform tablets and incantation bowls.

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[22] Russell, 'The modern sack of Nineveh and Nimrud', 1 *Culture Without Context* (1997), at 8-20.

[23] A photograph of one of the Nimrud pieces was sent to the Metropolitan Museum by the dealer Robin Symes, but nothing more was heard of it. In 1995, two of the Nineveh pieces were bought by the collector Shlomo Moussaieff in Geneva from the Brussels-based Lebanese dealer Nabil Asfar (Alberge, 'Collector to fight Iraq over "stolen" sculpture', 28 October *The Times* (1998); Feldinger, 'The genuine article', 12 November The Jerusalem Post Online Magazine (2009). http://www.jpost.com/Magazine/Article.aspx?id=160250 [Last accessed 30 June 2011]; Watson, 'Stolen biblical gems touted in London', 18 May *Observer* (1997)). The pieces came to the attention of the Metropolitan Police in 1996 when Moussaieff applied for a licence to authorize his export of one of the pieces to Israel. The Iraqi government sued for its return, and Moussaieff subsequently returned both pieces to Iraq in return for appropriate compensation, said to have been $14,000 (Gottleib and Meier, 'Of 2000 treasures stolen in Gulf war of 1991, only 12 have been recovered', May 1 *New York Times* (2003a); Lawler, 'Sale of Nineveh fragments exposes looting network', 293 *Science* July 6 (2001a), at 37).

Jonathan Rosen has been collecting artifacts since at least the 1980s, when he was partner with dealer Robert Hecht in Atlantis Antiquities[24]. Rosen described his role in the partnership as that of collector and financier[25]. His special area of interest is the ancient Near East, and by the early 2000s he was being described as 'one of the world's most important private collectors of Mesopotamian art'[26]. He is said to have underwritten purchases for the Metropolitan Museum[27] and in 1986 donated 452 cylinder and stamp seals to the Morgan Library[28]. In 2003 it was reported that he had donated 1,500 cuneiform tablets to Cornell's Department of Near Eastern Studies[29], which were accepted only after his assurances that the material was legally acquired[30]. Cornell established the Jonathan and Jeannette Rosen Ancient Near Eastern Studies Seminar in the Department of Near Eastern Studies to study and curate the tablets. Its collection now comprises around 9,000 cuneiform inscribed artifacts[31], either lent or donated by Rosen[32]. It is not clear exactly how many tablets passed to Cornell in 2003, nor whether Rosen has loaned or donated more material since that time. Cornell is organizing study and publication by scholars from several universities worldwide.

Shlomo Moussaieff started collecting in the 1950s, and now claims to own more than 60,000 artifacts[33], which are stored in his London apartment and warehouses in Geneva[34]. Most of his artifacts date from periods recorded in the Bible, including many from Iraq. His acquisition and return of two stolen Assyrian reliefs has already been described (see note 23), but he has also built up significant collections of cuneiform tablets and Aramaic incantation bowls. He supported the establishment at Bar-Ilan University of the Programme for the Research of the Cuneiform Tablet Collection, but by 2011 this collaboration had ceased and he had

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[24] Mazur 'Add NYT to Bob Hecht antiquities ring organigram?', 17 August Scoop (2006). http://www.suzanmazur.com/?p=111 [Last accessed 9 January 2012]

[25] Mazur 'Merrin Gallery in Italy's antiquities dragnet', 8 May Scoop (2006). http://www.scoop.co.nz/stories/HL0605/S00135.htm [Last accessed 9 January 2012]

[26] Gottleib and Meier, 'Ancient art at Met raises old ethical objections', August 2 *New York Times* (2003b).

[27] Ibid.

[28] http://www.themorgan.org/research/collectionsSeals.asp [Last accessed 30 January 2012]

[29] D'Arcy, 'Collector gets tax break for donating cylinder seals to university', September *Art Newspaper*, at 5.

[30] Gottleib and Meier, 'Ancient art at Met raises old ethical objections', August 2 *New York Times* (2003b).

[31] http://cuneiform.library.cornell.edu/about-0. Acessed 11 June 2011

[32] Owen, 'Acknowledgments', in D.I. Owen and R.H. Mayr, *The Garšana Archives* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2007) at v.

[33] Feldinger, 'The genuine article', 12 November The Jerusalem Post Online Magazine (2009). http://www.jpost.com/Magazine/Article.aspx?id=160250 [Last accessed 30 June 2011].

[34] N. Burleigh, *Unholy Business* (2009), at 11.

withdrawn his tablets from the university[35]. They remain unpublished at the present time. His incantation bowls are being studied at Southampton University[36].

Martin Schøyen collects books, manuscripts and other written materials. According to his collection website, he started collecting seriously in the 1970s, and became interested in archaeological material after the Christie's London 1998 sale of the Erlenmeyer collection of cuneiform tablets[37]. His website states that he acquired a collection of 430 pictographic tablets[38] in 1989, and a further three groups of 2,350 archival, historical, mathematical, and literary cuneiform tablets in 1989 and early 1990. The total size of his holding has not been made public. He also owns 654 Aramaic incantation bowls. Again, his tablets and bowls are being studied by scholars from universities around the world.

None of these three collectors has been accused of breaking any law or of knowingly acquiring stolen or illegally traded material. Nevertheless, despite general assertions of good provenance, by and large they have been unable or unwilling to produce any documentary proof of ownership prior to their own. Although it is well known that large numbers of cuneiform tablets were taken out of Iraq during the 19th and early 20th centuries[39], the fact that the overwhelming majority of tablets in these collections are previously unknown has suggested to scholars with the relevant expertise that they must be recent finds. It is hard for these scholars to believe that such important tablets in old-established and long-standing collections would have escaped their discipline's notice. The actual physical condition of the cuneiform tablets in these collections has also attracted comment[40]. Clay cuneiform tablets have to be baked or otherwise conserved after excavation to prevent their disintegration[41], though it has been noted that tablets were baked after their acquisition by a

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[35] Ben Zvi, 'Solomon's treasures', Segula (n.d.), at 2. http://www.segulamag.com/articles/view-article.asp?article=2 [Last accessed 9 January 2012]

[36] D. Levene, A Corpus of Magic Bowls. Incantation Texts in Jewish Aramaic from Late Antiquity (2003); Shanks, 'Magic incantation bowls', January/February *Biblical Archaeology Review* (2007), at 62–5.

[37] http://www.schoyencollection.com/history.html [Last accessed 30 January 2012]

[38] The pictographic script was a precursor of cuneiform.

[39] Gibson 'Legal and illegal acquisition of antiquities in Iraq, 19th century to 2003', in J.A.R. Nafziger and A.M. Nicgorski (eds), *Cultural Heritage Issues: The Legacy of Conquest, Colonization, and Commerce* (2009), at 185-188; Westenholz, 'Illicit cuneiform tablets. Heirlooms or stolen goods?', in A. Kleinerman and J. M. Sasson (eds) *Why Should Someone Who Knows Something Conceal It? Cuneiform Studies in Honor of David I. Owen on his 70th Birthday* (2010), at 258.

[40] Mayr 2007 'Acknowledgements', in D.I. Owen and R.H. Mayr, *The Garšana Archives* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2007) at ix.

[41] Westenholz, 'Illicit cuneiform tablets. Heirlooms or stolen goods?', in A. Kleinerman and J. M. Sasson (eds) *Why Should Someone Who Knows Something Conceal It? Cuneiform Studies in Honor of David I. Owen on his 70th Birthday* (2010) at 257-8.

collector[42]. Again, it is questionable whether unbaked tablets would have remained in good condition when sequestered in old collections for decades or more. Thus even Schøyen's supporters in the academic community seem skeptical about his claim that most of his cuneiform tablets derive from collections that were first assembled in the late 19th and early 20th centuries[43]. Joran Friberg, publishing a collection of mathematical tablets belonging to Schøyen, states that 'the great majority of the mathematical cuneiform texts in the Schøyen Collection are new additions to the corpus, probably emanating from relatively recent excavations in Iraq'[44]. Yale is said to have refused an offer of Rosen's tablets because of their lack of provenance[45], and one archive of 1,411 tablets previously owned by Rosen but now housed at Cornell is thought to be the product of clandestine excavation in the last (i.e. 20th) century[46].

If the circumstances surrounding the recent appearances of cuneiform tablets are questionable, then those surrounding the appearances of Aramaic incantation bowls are downright suspicious. By 1990, fewer than 1,000 Aramaic bowls were known. There were about 300–500 bowls outside Iraq, and an estimated 600 more in the Iraq National Museum. Although something like 240 had been published, only a few had been recovered in verifiable archaeological circumstances, and they had all been found in Iraq[47]. Thus when many hundreds of previously unknown incantation bowls began to appear in private collections and on the market during the 1990s, it was generally believed, even by those involved in their study and publication, that they must have derived from looted archaeological sites in Iraq[48]. Again, the collectors asserted good pedigree. Schøyen, for example, claimed that his 654 bowls were already in the 1960s in the possession of the Rihani family of Irbid and Amman in Jordan. Unfortunately, his account is not widely believed. In September 2004, a

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[42] A. George, *Babylonian Literary Texts in the Schøyen Collection* (2009), at 28, 29, 37; A. George and J. Friberg, in D. Minuto and R. Pintaudi (eds), *Papyri Graecae Schøyen. Essays and Texts in Honour of Martin Schøyen* (Papyrologica Florentina 40) (2010), at 124; Owen, 'Acknowledgments', in D.I. Owen and R.H. Mayr, *The Garšana Archives* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2007), at viii.

[43] Claim about provenance made on Schøyen website at http://www.schoyencollection.com/archeoprov.html [Last accessed 11 January 2010]. Doubts expressed by B. Alster, *Sumerian Proverbs in the Schøyen Collection* (2007), at xi; Westenholz, 'Illicit cuneiform tablets. Heirlooms or stolen goods?', in A. Kleinerman and J. M. Sasson (eds) *Why Should Someone Who Knows Something Conceal It? Cuneiform Studies in Honor of David I. Owen on his 70th Birthday* (2010) at 264.

[44] J. Friberg, *A Remarkable Collection of Babylonian Mathematical Texts* (Manuscripts in the Schøyen Collection Cuneiform Texts I) (2007), at 142.

[45] D'Arcy, 'Collector gets tax break for donating cylinder seals to university', September *Art Newspaper*, at 5.

[46] D.I. Owen and R.H. Mayr, *The Garšana Archives* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2007), at 1.

[47] Brodie, 'The market background to the April 2003 plunder of the Iraq National Museum', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008a). at 44-48.

[48] Geller, 'Spies, thieves and cultural heritage', (2003). http://www.ucl.ac.uk/hebrew-jewish/ijs/news.htm [No longer available]

Norwegian Broadcasting Corporation (NRK) television documentary questioned their provenance[49], and it is widely believed that the bowls must have left Iraq sometime after August 1990[50]. NRK alleged from the testimony of an unnamed Iraqi archaeologist that the bowls had been recovered in 1992 by clandestine digging in the area of Najaf and transported by road to Amman[51]. It has also been suggested from textual parallelisms between bowls in the Moussaieff and Schøyen collections that they must all be derived from a single find[52].

The problem or perhaps the convenience for collectors lies in the commercial secrecy of the antiquities market, which is often described as a ‘gray’ market. Artifacts are generally transacted without reliable documentation of provenance, so that stolen or smuggled objects can be fed into the market and mixed with those in legitimate circulation as ‘unprovenanced’. Every artifact has a provenance, of course, but details of provenance can be deliberately discarded or suppressed so as to facilitate the entry onto the market of illicit material, and in passing impede criminal investigation and frustrate the discriminating customer (not to mention the inquisitive researcher). Thus collectors can acquire ‘unprovenanced’ artifacts safe in the uncertainty that clouds questions of origins and title, questions that are further confounded by the lack of coincidence between ancient cultural boundaries and modern political ones. Although cuneiform tablets are mainly found in Iraq, for example, they can also be found in Syria and other neighbouring countries. Rosen summed up the situation when he was quoted as saying ‘You only know what the seller tells you … If there is a problem with Iraq, they could tell you it is from Syria or Jordan. There's no real way to know. You don't think of countries, you think of civilizations - and they could span the borders of several modern countries’[53]. The answer for the good faith collector is to avoid buying any object without a clear and legitimate pedigree. Many collectors, however, including the ones discussed here, have chosen not to follow that course. Sometimes, when questioned about their actions, the justificatory nature of their reply suggests that they are under no real illusions about the ultimate sources of their acquisitions[54].

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[49] Lundén, ‘TV review: NRK (Norway) Skriftsamleren [The Manuscript Collector]’, 16 *Culture Without Context* (2005) at 3–11.

[50] Balter, ‘University suppresses report on provenance of Iraqi antiquities’, 318 *Science* (2007) at 554-5; Brodie, ‘Comment on “Irreconcilable Differences?’, 18 *Papers from the Institute of Archaeology* (2007), at 13; Thorpe and Doesser, ‘UK scholars linked to “stolen” bowls of Babylon. Suppressed report reveals archaeological treasures were dug up after Gulf War’, 8 November *Observer* (2009).

[51] David Hebditch, personal communication. The archaeologist in question is said to have demanded anonymity because of fears over his personal safety. David Hebditch produced the NRK documentary Skriftsamleren.

[52] Muller-Kessler ‘Of Jesus, Darius, Marduk …: Aramaic magic bowls in the Moussaieff collection’, 125 *Journal of the American Oriental Society* 2 (2005), at 221.

[53] Kates, ‘Picking up the pieces in Iraq. US is aiding in search for museum’s plunder’, 29 April *NY Daily News* (2003).

[54] When challenged about his possession of Buddhist manuscripts from Afghanistan, Schøyen claimed to have funded a rescue mission which saved them from destruction by the Taliban. An NRK investigation concluded that this account was false (Omland,

The demand nexus of scholars and collectors

Epigraphers maintain that the scholarly publication of cuneiform tablets and other inscribed objects in private hands does nothing to enhance their commercial value:

> By the time a scholar publishes a tablet from a private collection the value of that tablet has already been established and the tablet is rarely, if ever, resold. Thus its value has nothing whatsoever to do with scholarly publication in journals or elsewhere. Publication does not hurt the value of a tablet but neither does it substantially increase the value if the tablet had been correctly identified in the first place, although there might be a slight increase in its prestige value[55].

This analysis is correct insofar as it goes, but it does leave hanging the (major) question of just who exactly is responsible for identifying a tablet, and thus establishing its value. Identification is accomplished through translation, which is an expert activity, and so must be the work of scholars, employed by museums or universities or even retained by the collectors themselves. Furthermore, identification establishes authenticity. Identification allows monetary valuation and authentication assures material confidence, both conditions necessary for the formation and maintenance of an efficient market. So while it might be true, as Owen suggests, that scholarly publication does not usually have any significant commercial outcomes, it is nevertheless also true that more general scholarly engagement with unprovenanced tablets is of vital importance for the ongoing health of the market.

The most blatant example of scholars actively participating in the market is when they work directly with dealers to translate and identify texts. Auction catalogue entries describing cuneiform tablets, for example, nearly always incorporate if not a translation then at least an indication of the tablet's textual content, presumably to advertise the interest of the tablet but also and perhaps more importantly to vouch for its authenticity. One or more scholars must have translated the Sin-iddinam and Nebuchadnezzar texts referred to above, despite or in disregard of the suspicious circumstances of their appearances on the market. Internet dealers, too, offering cuneiform tablets for sale often provide a translation. For example, in September 2008, 211 out of 332 unprovenanced cuneiform tablets identified for sale on the Internet were accompanied by signed translations from Wilfred Lambert of Birmingham University. One UK-based Internet dealer (Collector Antiquities) offers a cuneiform transliteration and translation service, with translations said to be accomplished by an 'academic Assyriologist'[56]. Potential customers are invited to

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'Legitimizing ownership on Buddhist manuscripts', in J. van Krieken-Pieters (ed.), *Art and Archaeology of Afghanistan: Its Fall and Survival* (2006) at 233-235).

[55] Quote from Owen, 'Censoring knowledge: The case for the publication of unprovenanced cuneiform tablets', in J. Cuno (ed.), *Whose Culture? The Promise of Museums and the Debate Over Antiquities* (2009), at 129; see also Westenholz, 'Illicit cuneiform tablets. Heirlooms or stolen goods?', in A. Kleinerman and J. M. Sasson (eds) *Why Should Someone Who Knows Something Conceal It? Cuneiform Studies in Honor of David I. Owen on his 70th Birthday* (2010) at 261.

[56] http://www.collector-antiquities.com/314/

submit high quality images of the tablet, with prices ranging from £30 upwards, depending upon the length and complexity of the text.

Scholarly collaboration with dealers is probably a minority pursuit, though from the evidence discussed here it appears that an active minority might cause a disproportionately large commercial effect. Sometimes scholars advise collectors about possible purchases. Moussaieff, for example, is said to have bought many of his tablets 'one by one, relying on the advice of a well-known Assyriologist in London' [57]. It is inconceivable given the thematic nature of Schøyen's cuneiform collection that he could have assembled it himself. He must have secured some kind of expert opinion at point of purchase[58]. A significantly larger number of scholars, however, while disapproving of and disassociating themselves from direct commercial involvement of that type, are nevertheless prepared to work with collectors towards publication of their unprovenanced material. It is collaborations of this sort that Owen defends in the quotation above as having little or no effect on the monetary value of a piece. But the process of 'publication' entails more than simply writing a book or a scholarly paper. The book or paper is merely the end result of what might be a prolonged programme of intensive study and research. Thus 'publication' should really be read as meaning 'study and publication', and study and publication sometimes will produce monetary benefits for the collector.

Owen himself offers a possible example, in his account of the preliminary identification and study of Rosen's cuneiform tablets. These tablets were first brought to Owen's attention in 1997 by a fellow scholar who was at the time working to curate Rosen's collection, and who had recognised the presence there of an important administrative archive. Owen and the curator commenced work together and they had already been working on the tablets for six years by the time Rosen decided to donate them to Cornell, and continued to study them for a further four years before they produced the definitive publication in 2007[59]. If as has been claimed Rosen did receive a tax deduction for his donation[60], an allegation that has not been confirmed

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[57] Quote from Jacob Klein in Ben Zvi, 'Solomon's treasures', Segula (n.d.), at 2. http://www.segulamag.com/articles/view-article.asp?article=2 [Last accessed 9 January 2012]. Jacob Klein is Professor of Assyriology at Bar Ilan University. Together with Kathleen Abraham, he has prepared a catalogue of Moussaieff's cuneiform tablets.

[58] James Robinson of Claremont University tells how when he became aware of the existence on the market of a previously unknown Coptic papyrus codex, subsequently found to contain the 'lost' Gospel of Judas, he alerted Schøyen to its existence and persuaded him to buy it (J.R. Robinson, *The Secrets of Judas* (2006), at 111-113). In the event, the purchase never materialized, but this instance might offer an insight into the mechanics of scholarly collaboration with private collectors. Robinson writes: 'The experience of not being able to engender enough funds to negotiate successfully for the purchase of the manuscripts in 1983 made me realize that having contacts with wealthy patrons collecting such things might prove useful' (J.R. Robinson, *The Secrets of Judas* (2006), at 111).

[59] D.I. Owen and R.H. Mayr, *The Garšana Archives* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2007)

[60] D'Arcy, 'Collector gets tax break for donating cylinder seals to university', September *Art Newspaper*, at 5.

nor denied, the appraised value of his donation would most likely have reflected the earlier scholarly input. That fact is one that remains to be ascertained, but the example does demonstrate quite clearly that 'publication' can entail a prolonged period of collaboration between the scholar and the collector, and the added scholarly-value of identification and interpretation can enhance the monetary value of the collection to the financial benefit of the collector.

But what about Owen's claim that once a tablet has come to rest in a private collection it is hardly ever resold? Westenholz concurs[61]. The implication is that that the financial impact of scholarly collaboration with a collector is immaterial as the collected objects have been taken off the market for good. The collector is acting as a firewall, separating the worlds of scholarship and commerce. Owen is probably wrong though to suggest this prophylaxis. Schøyen, for example, states openly on his website that:

> In the future The Schøyen Collection will have to be placed in a public context …. The proceeds will go to The Schøyen Human Rights Foundation to give emergency aid and fight poverty in emerging nations, and to promote Freedom of Speech and Human Rights worldwide.

Clearly, a sale is envisaged, even if not for personal gain but to sponsor worthy causes. It is reported that an initial attempt by Schøyen to sell his collection to the Norwegian state failed 'mainly due to its cost'[62]. And Schøyen is not alone in contemplating a sale. When asked what would happen to his collection after his death, Moussaieff replied: 'Museums put everything in storage. My wife should auction my collections to people who will not put them in cellars but will love them like I do'[63]. In all likelihood, then, at some point in the future, the Schøyen and Moussaieff collections will both be sold, and the financial benefits of their scholarly collaborations will be realized.

Thus the relationship between the scholar and the collector is not just an academic one – it has financial implications. Epigraphers such as Owen are wrong to assert otherwise. Scholarly publication, broadly defined, does have the potential to add monetary value to antiquities. Nevertheless, none of the three collectors discussed here seems motivated by financial gain. They are all wealthy men and they are wealthy in spite of rather than because of their collections. They also seem willing as benefactors to spend money supporting academic research into their collections.

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[61] Westenholz, 'Illicit cuneiform tablets. Heirlooms or stolen goods?', in A. Kleinerman and J. M. Sasson (eds) *Why Should Someone Who Knows Something Conceal It? Cuneiform Studies in Honor of David I. Owen on his 70th Birthday* (2010), at 261.

[62] Omland, 'Legitimizing ownership on Buddhist manuscripts', in J. van Krieken-Pieters (ed.), *Art and Archaeology of Afghanistan: Its Fall and Survival* (2006), at 232.

[63] Feldinger, 'The genuine article', 12 November The Jerusalem Post Online Magazine (2009). http://www.jpost.com/Magazine/Article.aspx?id=160250 [Last accessed 30 June 2011].

Rosen, for example, has funded research and technical support at Cornell[64]. So, even if as successful businessmen they seem unlikely to reject the chance of turning a profit on their collections should such an opportunity arise, the need to profit monetarily does not seem to be uppermost in their minds. They are different from dealers in that respect, and the intention of scholarly collaborations with the collectors discussed here is different to those of collaborations with more mercenary collectors and with dealers, though the outcome might be the same – market inflation. This is not the place to speculate upon the collectors' motives for collecting antiquities, but their attraction does seem broadly scholarly in that they are interested in the historical interpretations of the artifacts they collect. Given that scholarly disposition, it must be questionable whether they would spend large sums of money acquiring antiquities if there was no possibility of scholarly collaboration (which often verges on the adulatory). Thus the commercial synergy of scholar and collector can go beyond financially enhancing artifacts, and extend to creating a demand nexus – a confluence or network of interests and resources able to participate decisively in the market as an agent of demand. From that perspective, scholars are not simply exerting a facilitating effect on the market as arbiters of value, they are an integral part of market demand. As such, they claim they are 'rescuing' material that has been looted and that otherwise would be lost to scholarly attention. But they must bear some responsibility for the consequences of that demand, which will include damage to tangible cultural heritage caused by market-induced looting, but also any social harms that might ensue.

The political and criminal economies of archaeological looting

The social harms that can be caused by the theft and illicit trade of cultural objects are becoming increasingly well characterized[65]. In Iraq, most attention has focused on the possible involvement of organized criminals and armed insurgents[66]. The claim that profits from the antiquities trade go to sustain armed insurgency groups has proved particularly contentious, and is one that epigraphers working with unprovenanced material are quick to discount[67]. Indeed, they are right to point out that the claim is based more on unsubstantiated rumour than documented fact. But if the claim was proven to be true, it would have serious implications for the public policy of countries such as the United Kingdom and the United States, as the trade would be 'upgraded' from a cultural to a security issue, a change in attitude from that expressed by Donald

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[64] Owen, 'Acknowledgments', in D.I. Owen and R.H. Mayr, *The Garšana Archives* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2007), at viii.

[65] Brodie, 'Congenial bedfellows? The academy and the antiquities trade', 27 *Journal of Contemporary Criminal Justice* (2011b), at 413-415.

[66] Bogdanos, 'The terrorist in the art gallery', 10 December *New York Times*, (2005c); De la Torre, 'Terrorists raise cash by selling antiquities', 20 February *Government Security News* (2006), at 1, 10, 15.

[67] Owen, 'Censoring knowledge: The case for the publication of unprovenanced cuneiform tablets', in J. Cuno (ed.), *Whose Culture? The Promise of Museums and the Debate Over Antiquities* (2009), at 128; Westenholz, 'Illicit cuneiform tablets. Heirlooms or stolen goods?', in A. Kleinerman and J. M. Sasson (eds) *Why Should Someone Who Knows Something Conceal It? Cuneiform Studies in Honor of David I. Owen on his 70th Birthday* (2010), at 257.

Rumsfeld's cavalier observation that 'Bad things happen in life'[68] to Mathew Bogdanos's mordant 'The illicit side of the trade is in effect supporting the terrorists killing our troops in Iraq'[69]. Governments would be forced to adopt a more proactive stance, perhaps by enacting or enhancing prohibitory criminal legislation, and certainly by increasing the material and human resources available for enforcement of pre-existing laws aimed at interdicting the trade and protecting archaeological sites and museums[70]. Perhaps of more concern to some scholars, though, is the likelihood that a convincing demonstration of insurgent involvement would also change the ethical context of their work, with the human and social cost of insurgent violence and normative spillover from hardened legislation having to be factored into the ongoing debate over the merits or otherwise of engaging with unprovenanced material. Opinion within the broader academy might swing decisively against it. Thus the question asked in the introduction whether the antiquities trade within Iraq profits armed insurgency groups is a serious one with material and professional consequences.

There is a large monetary difference between what people might be paid on-the-ground for a freshly dug up artifact, and what might be paid for the same artifact in Europe or North America, where cylinder seals and cuneiform tablets can command prices in the region of $300-1000 or more[71], a mark-up of several hundred percent from the $50 paid to diggers. This mark-up represents profit to be divided between the various dealers, intermediaries and smugglers that constitute the trade. As far as the antiquities trade generally is concerned, this magnitude of profit is normal[72], but – until recently, at least – only rarely has it been a cause of any concern. A seemingly relaxed attitude towards the illegal profits persisted, presumably because antiquities smuggling was believed to be victimless crime offering monetary or material benefits for all concerned. Even though this belief was most likely always an illusion, because nothing much was known about what went on in the trade behind the legitimising façade of high profile dealers and auction houses (nor was there any interest in knowing), it was a convenient ignorance that benefited criminals and collectors alike. Things started to change during the 1980s and 1990s, first because of reports from Central America that antiquities smuggling was associated with drugs trafficking[73], and second because it became known in Afghanistan that proceeds from the sale of smuggled antiquities were being appropriated by warlords and might be used to launder drugs money[74]. The antiquities trade was coming to be seen as more of a violent and anti-social affair. Finally, post 9/11, the fear of terrorism and – after

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[68] Quoted in L. Rothfield, *The Rape of Mesopotamia* (2009), at 111.
[69] Bogdanos, 'The terrorist in the art gallery', 10 December *New York Times*, (2005c).
[70] L. Rothfield, *The Rape of Mesopotamia* (2009), at 149-150.
[71] Brodie, 'Academic involvement in the market in Iraqi antiquities', in S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011a), at 126-129.
[72] Brodie 'Pity the poor middlemen', 3 *Culture Without Context* (1998), at 7–9.
[73] Brodie, 'Congenial bedfellows? The academy and the antiquities trade', 27 *Journal of Contemporary Criminal Justice* (2011b), at 3.
[74] Brodie, 'Consensual relations? Academic involvement in the illegal trade in ancient manuscripts', in P. Green and S. Mackenzie (eds), *Criminology and Archaeology: Studies in Looted Antiquities* (Oñati International Series in Law and Society) (2009), at 50.

the 2003 invasion of Iraq – insurgency focused minds on the possibility that within Iraq insurgents might control or at least profit from the illegal trade[75].

The criminalization of the Iraqi economy dates back to the closing years of the Iran-Iraq war and was one result of the progressive political decentralization that set in at that time, gradual at first but then abrupt with the toppling of Saddam Hussein in 2003 and the concomitant withdrawal of state authority from government and public security. The onset of sectarian violence in 2004 was an unsurprising end product of that withdrawal. The decay of state authority was hurried along by the UN's imposition of economic sanctions in 1990 and the extensive bombing that accompanied Operation Desert Storm in 1991, which destroyed nearly all of Iraq's service and industrial infrastructure[76]. High unemployment followed, associated with a widespread drop in living standards and an alarming increase in the number of poverty-related health problems[77]. Smuggling, particularly of oil, to evade sanctions began to take root. In April 1995, UNSCR 986 established the oil-for-food programme, which was implemented in 1996. The proceeds were intended for humanitarian aid and repayments to Kuwait[78], but the oil-for-food programme also offered multiple opportunities for profiteering. Saddam Hussein's government skimmed an estimated 10% off this revenue[79], with more money being made from oil smuggling outside the programme. From 1990 to 2003, Iraq's government made $11-13 billion from oil[80]. More illicit money was forthcoming from smuggling other commodities. Saddam's son Uday, for example, was heavily involved in smuggling cigarettes[81]. Largely as a result of the sanctions-associated corruption and smuggling, between 1991 and 2003 Iraq passed from being a command economy to what has been termed a 'command kleptocracy'[82]. Government came to resemble a Mafia-style organization with Saddam at its head, and security and economic responsibilities abdicated down through the Ba'ath party and traditional tribal structures (Williams 2009: 24-25). By the late 1990s and into the early 2000s, tribal authorities were becoming politically and economically autonomous, with income derived from smuggling commodities and animals[83].

It was during this time that the large-scale looting of archaeological sites and the cross-border smuggling of antiquities first became established. There were several

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[75] Atwood, 'The loot route', February Artnews (2005), http://www.rogeratwood.com/articles.php?id=128 [Last accessed 9 January 2012]; Bogdanos, 'The terrorist in the art gallery', 10 December *New York Times*, (2005c).
[76] J. Gordon, *Invisible War: The United States and the Iraq Sanctions* (2010), at 1.
[77] Ibid, at 3.
[78] Ibid, at 25.
[79] Ibid, at 188.
[80] P. Williams, *Criminals, Militias and Insurgents: Organized Crime in Iraq* (2009), at 30. http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=930 [Last accessed 9 January 2012].
[81] Ibid.
[82] A.H. Cordesman with E.R. Davies, *Iraq's Insurgency and the Road to Civil Conflict.* Volume 1 (2008a), at 89.
[83] P. Williams, *Criminals, Militias and Insurgents: Organized Crime in Iraq* (2009), at 25-26. http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=930 [Last accessed 9 January 2012].

reports that much of the looting in southern Iraq was organized and controlled by Arshad Yashin, Saddam Hussein's brother-in-law, though apparently without Saddam's knowledge or permission[84]. Saddam ultimately disowned him on account of his involvement with the antiquities trade, and forced him to desist, but rumours that he might have planned the looting of the National Museum in 2003 have not been wholly discounted[85]. Otherwise, the illegal digging and antiquities trade appears to have been in the hands of criminal groups operating outside state control or mandate.

An insight into the organization (and potential violence) of the trade was gained in 1998 after a series of murders in Amman, Jordan[86]. A gang of eight people had smuggled a gold statuette stolen from the Iraq National Museum into Jordan, and passed it on to an intermediary who had subsequently sold it in Europe for $1 million. The arrangement had been for the smugglers to receive 10% of the final sale price, but they believed the statue to have been sold for more than $1 million and accused the intermediary of cheating them. Over a period of several weeks and in a series of encounters 13 people were killed, including the intermediary, two gang members and 10 seemingly innocent people. Jordanian police arrested the six surviving gang members. This case demonstrates clearly some degree of organization and forward planning, with the cross-border smugglers (Iraq to Jordan) acting in concert with the Amman-based international smuggler (Jordan to Europe) according to a pre-arranged agreement (which went wrong). These types of collaboration were probably typical, though to what extent they were opportunistic or else persisted through time is difficult to know. Another Amman-based dealer, Ghassan Rihani, sold Schøyen his incantation bowls in a series of 11 transactions between 1994 and 1996, some passing first through the hands of London dealer Chris Martin[87]. If, as is suspected, these bowls were originating in Iraq, it does speak for the persistence over several years of an organized network moving artifacts out of Iraq through Jordan to London, thence to Martin and Schøyen.

The murders in Amman were unusual, but not exceptional. Violence was a growing accompaniment of archaeological looting during this period. Gangs of looters would arrive with armed escorts, and on more than one occasion there were gun battles. In 2001, Donny George, who was at the time director general for research at the State Board of Antiquities (SBA), reckoned that half-a-dozen SBA personnel

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[84] Garen, 'The war within the war', July/August *Archaeology* (2004). at 30; Gibson 'Comment on Lauren Sandler, "The thieves of Baghdad"', April *Atlantic Magazine* (2005). http://www.theatlantic.com/magazine/archive/2005/04/letters-to-the-editor/3826/ [Last accessed 9 January 2012].
[85] Gibson 'Comment on Lauren Sandler, "The thieves of Baghdad"', April *Atlantic Magazine* (2005). http://www.theatlantic.com/magazine/archive/2005/04/letters-to-the-editor/3826/ [Last accessed 9 January 2012].
[86] Cockburn, 'Curse of ancient Babylon claims 13', 9 June *Independent* (1998).
[87] D.J. Freeman, S. MacDonald and C. Renfrew, *An Inquiry into the Provenance of 654 Aramaic Incantation Bowls Delivered into the Possession of UCL by, or on the Instruction of, Mr Martin Schøyen* (2006), at 8-23.

had been killed or injured during fighting at sites[88]. At least one looter was killed – at Warka by a site guard.

The security situation deteriorated rapidly around 2003. Saddam released tens of thousands of convicts in 2002, and in May 2003 they were joined by hundreds of thousands of soldiers when the Coalition disbanded the Iraqi army[89]. An upsurge of looting and theft in urban areas followed through middle 2003[90]. By 2004, criminal activities had become more organized and more violent[91], and interwoven with the insurgency to such an extent that despite their differing agenda it was constructive to talk of "hybrid" crime or violence[92]. Major illicit money earners were oil theft and smuggling, kidnapping and ransom, and protection and extortion[93]. A classified US government report obtained by the *New York Times* in 2006 estimated that insurgent groups were raising between $70-200 million a year through illegal means, with $25-100 million coming from oil-related crime and perhaps $36 million paid in ransoms for kidnap victims[94]. More money was forthcoming from fraud and simple theft. In May 2004, the US government airlifted $12 billion in $100 bills to Iraq[95]; by 2011, $6.6 billion had gone missing and could not be accounted for[96]. The disbanding of the army also left the borders unprotected, so that the smuggling of cigarettes, consumer goods and livestock thrived[97], and though by 2005 border control had been reestablished, it was still under-resourced and poorly manned[98].

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[88] Lawler, 'Rifle-toting researcher fights to protect ancient sites', 293 *Science* July 6 (2001c).
[89] P. Williams, *Criminals, Militias and Insurgents: Organized Crime in Iraq* (2009), at 40, 46. http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=930 [Last accessed 9 January 2012].
[90] A.H. Cordesman with E.R. Davies, *Iraq's Insurgency and the Road to Civil Conflict. Volume 1* (2008a).
[91] Ibid, at 180.
[92] P. Williams, *Criminals, Militias and Insurgents: Organized Crime in Iraq* (2009), at 12-13, 16, 51-53. http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=930 [Last accessed 9 January 2012].
[93] A.H. Cordesman with E.R. Davies, *Iraq's Insurgency and the Road to Civil Conflict. Volume 1* (2008a), at 180; P. Williams, *Criminals, Militias and Insurgents: Organized Crime in Iraq* (2009), at 53. http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=930 [Last accessed 9 January 2012].
[94] Burns and Semple, 'U.S. finds Iraq insurgency has funds to sustain itself', November 26 *New York Times* (2006).
[95] The money was derived from seized and frozen Iraqi assets.
[96] Richter, 'Missing Iraq money may have been stolen, auditors say', June 13 *Los Angeles Times* (2011).
[97] P. Williams, *Criminals, Militias and Insurgents: Organized Crime in Iraq* (2009), at 165-166. http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=930 [Last accessed 9 January 2012].
[98] Wong, 'Kurdish guards patrol Iraq's extensive borders', 27 March *New York Times* (2005).

The looting and trading of antiquities during this period continued to be a violent affair, with gun battles reported at several sites between looters and Iraqi guards or Coalition personnel[99]. In Dhi Qar province, Farchakh Bajjaly reported hundreds of people digging sites with armed guards blocking access roads[100]. In November 2003, a suicide bombing killed 13 Italian Carabinieri who were present in Iraq for archaeological site protection and associated capacity building. In all, the bombing killed or wounded more than 100 people[101]. In 2005, Iraqi customs officers arrested several antiquities dealers and seized hundreds of artifacts in the town of al-Fajr in Dhi Qar province. They were subsequently ambushed while transporting the dealers and artifacts back to Baghdad and the eight customs officers were shot dead[102]. Nevertheless, despite the political sensitivity of the issue, and the attention shown by both Iraqi authorities and Coalition forces towards interdicting the trade, the evidence of a direct link between antiquities trading and armed insurgency is tenuous. The most reliable and perhaps only report to appear in the media is from June 2004, when US marines in north-west Iraq arrested five men in possession of weaponry and other military gear, together with 30 artifacts that had been stolen from the National Museum[103].

The virtual absence of evidence for any link between the antiquities trade and the armed insurgency can be interpreted in one of two ways. First, it might reflect reality – there is and has been no substantive organizational or financial articulation between the antiquities trade and the insurgency. Alternatively, the link might exist, but not yet have been exposed by media or academic investigations because in financial terms it is relatively unimportant as far as insurgency funding is concerned. There are large disparities in aggregate value between antiquities trading and other forms of illicit activity. So, for example, in 2006 kidnapping and ransom alone generated $36 million[104]. To equal that sum on the international market, at $500 apiece, something like 72,000 artifacts would have needed to be sold. There is no evidence that anything approaching that number was sold. In any event, smugglers and illicit traders in Iraq would receive nothing like that final price. Even if they were receiving half the final price, which is a generous estimate, they would have needed to shift 144,000 artifacts in one year. Not even the most alarmist commentator has suggested an antiquities trade within Iraq on anything like that scale. Nevertheless, although the antiquities trade cannot compare with kidnapping and ransom or oil-

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[99] Garen, 'The war within the war', July/August *Archaeology* (2004), at 31.
[100] Farchakh Bajjaly, 'Will Mesopotamia survive the war? The continuous destruction of Iraq's archaeological sites', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008), at 138.
[101] Russell, 'Efforts to protect archaeological sites and monuments in Iraq, 2003-2004', in G. Emberling, and K. Hanson (eds) *Catastrophe! The Looting and Destruction of Iraq's Past* (2008), at 34-37.
[102] Farchakh Bajjaly, 'Will Mesopotamia survive the war? The continuous destruction of Iraq's archaeological sites', in P.G. Stone and J. Farchakh Bajjaly (eds), *The Destruction of Cultural Heritage in Iraq* (2008), 138; Fisk, 'It is the death of history', 17 September *Independent* (2007).
[103] Bogdanos, 'The terrorist in the art gallery', 10 December *New York Times*, (2005c).
[104] Burns and Semple, 'U.S. finds Iraq insurgency has funds to sustain itself', November 26 *New York Times* (2006).

related crime in terms of profitability, there is still money to be made, and just because it does not attract media or any other kind of attention does not mean that insurgents would ignore the financial opportunities of trading antiquities if and when they presented themselves.

Although the proceeds from antiquities trading appear small when compared in aggregate to those from other criminal activities, they might still constitute a significant if not dominant proportion of the economy of some localized areas or 'specialized' communities. Archaeological site looting since 1995 has been concentrated in the south of the country, in the partially desert and thinly settled area between the Tigris and the Euphrates straddling northwestern Dhi Qar, southeastern Qadissiya and southwestern Wasit provinces[105]. In this area, several towns have been mentioned as possible centres of the antiquities trade, but one town is mentioned repeatedly – al-Fajr, in Dhi Qar province[106]. Abdul-Amir Hamdani[107] has been quoted as saying that the antiquities trade accounted for more than 80% of the town's economy[108]. It was the site of the customs action referred to earlier that resulted in the deaths of eight customs officers. It is said that artifacts looted from sites can be sold to local dealers who are based there, and who can then organize shipment out of the country, but also that dealers travel there from Jordan and Iran[109]. Al-Fajr and other nearby towns that are central to the antiquities trade are in the Shi'ite heartland in an area loyal to Muqtada al-Sadr. Al-Sadr issued a fatwa in 2003 to the effect that looters should provide one-fifth of the value of their plunder to the local Sadrist office[110]. Donny George claimed this fatwa would extend to cover the digging and selling of

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[105] Russell, 'Efforts to protect archaeological sites and monuments in Iraq, 2003-2004', in G. Emberling, and K. Hanson (eds) *Catastrophe! The Looting and Destruction of Iraq's Past* (2008), 29; E.C. Stone, 'Robbing the cradle of civilization, five years later', 82 *Antiquity* (2008a), at 125-138; E.C. Stone, 'Archaeological site looting: the destruction of cultural heritage in southern Iraq', in Emberling, G. and K. Hanson 2008. *Catastrophe! The Looting and Destruction of Iraq's Past* (2008b), at 65-80.

[106] Eakin 'The devastation of Iraq's past', 14 August *New York Review of Books* (2008). http://www.nybooks.com/articles/archives/2008/aug/14/the-devastation-of-iraqs-past/?pagination=false [Last accessed 30 June 2011]; Garen and Carleton, 'New concern over fate of Iraqi antiquities', 9 September *New York Times* (2006); Lawler, 'Preserving Iraq's battered heritage', 321 *Science* 4 July (2008), at 28-30; D. George and M. Gibson 'The looting of the Iraq Museum complex', in G. Emberling and K. Hanson, *Catastrophe! The Looting and Destruction of Iraq's Past* (2008), at 31. E.C. Stone, 'Archaeological site looting: the destruction of cultural heritage in southern Iraq', in Emberling, G. and K. Hanson 2008. *Catastrophe! The Looting and Destruction of Iraq's Past* (2008b), at 27.

[107] In 2003, Hamdani was archaeological inspector of Dhi Qar province for the SBAH. From 2003 to 2009 he was director of the Nasiriyah Museum.

[108] Eakin 'The devastation of Iraq's past', 14 August *New York Review of Books* (2008). http://www.nybooks.com/articles/archives/2008/aug/14/the-devastation-of-iraqs-past/?pagination=false [Last accessed 30 June 2011].

[109] Al-Wazzan, 'Iraq's lost antiquities: smuggling, corruption, negligence', 16 July (2008). http://www.niqash.org/articles/?id=2245 [Last accessed 12 january 2012].

[110] P. Cockburn, *Muqtada: Muqtada al-Sadr, the Shia Revival, and the Struggle for Iraq* (2008), at 130.

antiquities[111]. In response, Hamdani persuaded Grand Ayatollah Sistani to issue an ameliorating fatwa forbidding the looting of archaeological sites[112], but the material outcome of these competing religious edicts is not on record. So the possibility must be borne in mind that even if armed insurgency groups are not controlling or organising the antiquities trade within Iraq, they might in effect be 'taxing' it. Skimming or 'taxing' the proceeds of illegal antiquities trading has been reported in Afghanistan[113]

The Iraq War Logs

More information about the links between antiquities trading and armed insurgency is potentially forthcoming from the Iraq War Logs. The Iraq War Logs comprise 391,832 previously secret though redacted US military field reports dating from 2004 to 2009 that were made available electronically on Wikileaks in October 2010[114]. They can be searched according to keyword or browsed according to category. Thus the data contained in the reports are open to interrogation in a variety of different ways, and offer opportunities for temporal and geographical analysis. Two analyses were attempted here. First, the entire archive was searched several times with a range of nearly synonymous keywords relating to archaeological artifacts (i.e. artifacts, antiquities, antiques, archaeology). The aim was to identify any reports of artifacts found in the possession of or in any way associated with armed insurgents. The second analysis collated and tabulated reports grouped together under the category heading 'smuggling', with a view to assessing the magnitude of antiquities smuggling in comparison to other types of smuggling. Although at first glance the War Logs data might appear to comprise a representative sample of a larger whole, closer examination revealed the presence of structuring or bias, which meant that the evidence of the War Logs could not be taken at immediate face value. The sources of bias remain unknown.

The key word search recovered 12 reports mentioning archaeological artifacts. Two reports refer to the interruption of archaeological site looting, and six to the seizure of artifacts without any mention of weapons. Two reports record a clear association between weapons and artifacts. One from 2008, describing a raid on a house on the Kut-Baghdad road that had been selling weapons and artifacts, the other from 2009, recording the seizure of two artifacts with a pistol and two 'guardian systems' (which were probably electronic jamming devices). Finally, there are two potentially important reports, both from An Nasiriyah in Dhi Qar province, though both rendered ambiguous by redaction. The first, from 2004, seemingly describes a search operation that recovered a range of weapons and munitions including RPG rounds and electronic detonators, as well as some prehistoric artifacts. Unfortunately, because of redaction, it is not clear that the weapons and artifacts were discovered in

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[111] Atwood, 'The loot route', February Artnews (2005) at 87. http://www.rogeratwood.com/articles.php?id=128 [Last accessed 9 January 2012].
[112] L. Rothfield, *The Rape of Mesopotamia* (2009), at 129.
[113] Brodie, 'Consensual relations? Academic involvement in the illegal trade in ancient manuscripts', in P. Green and S. Mackenzie (eds), *Criminology and Archaeology: Studies in Looted Antiquities* (Oñati International Series in Law and Society) (2009), at 50.
[114] http://wikileaks.org/irq/ [Last accessed 12 January 2012].

the same location, or even recovered as part of the same operation. The second, from 2005, records the detention of a group in possession of eight rockets on suspicion of planning an attack, and includes the phrase '%%% allegedly was affiliated with %%%/antiquities in An Nasiriyah.' Again, the nature of the affiliation is not made clear. Thus the keyword search did uncover some evidence of armed groups involved with antiquities trading, and the presence of more sophisticated weaponry such as 'guardian systems' and RPG rounds suggesting that the weapons were intended for something more than personal defense. Nevertheless, at best, although the evidence is suggestive, it is hardly conclusive. It is also noticeable that the numbers of artifacts reported are never large. There is no sign in the War Logs of the large-scale transport or trade of artifacts that is expected from the extent of illegal digging documented at archaeological sites. In an attempt to place this information in some kind of comparative context, the second analysis examined all relevant reports in the category 'smuggling'.

Table 1. Number of incidents reported in Iraq War Logs under heading 'smuggling', tabulated according to type of material seized.

Type of material	*Number of seizures*
Oil and oil products	37
Cigarettes	31
Weapons	23
Sheep	18
Drugs	7
Alcohol	3
Vehicles	3
Antiquities	3
Metal	2
US currency	2
Livestock	1
Eggs	1
Total	*131*

There are 201 reports listed under the heading 'smuggling', though not all are relevant or useable. Some refer to operations in Afghanistan, while others make no mention of the material being smuggled. Not all the reports are from border areas, suggesting that the category should be regarded as illicit trade rather smuggling. In total, there are 125 incidents reported with useable information. Usually the intercepted smugglers were found to be in possession of only one type of material, though occasionally two, so that there are 130 records of the type of material being smuggled. Although weapons are included here as a smuggled commodity, it is likely that often the weapons were possessions rather than trade goods. The total numbers of seizures are recorded in Table 1. Not surprisingly, oil and weapons are among the four most frequent seizures. More surprising perhaps is the fact that cigarettes and sheep are also high up on the list. Antiquities' seizures were relatively infrequent. Most of the reports, however, are from the Syrian border area in Ninawa province (Table 2), and most reports of sheep and cigarette smuggling are from Ninawa (Table 3). When the data from Ninawa province are put to one side, a different picture appears (Table

3). The heavy emphasis on oil and weapons is still apparent, but with widespread illicit trade in other materials and commodities, including antiquities. The figures are in broad agreement with Iraqi border police statistics reported elsewhere. In 2004, the border police seized 13,039 sheep (mostly being taken into Syria), 2,200 tons of oil, and 3,350 artifacts[115]. The artifact seizures recorded in the War Logs were made one each in Al-Anbar, Al-Muthanna and Al-Qadisiyah provinces, accounting for 66% of all seizures in the last two provinces. Two out three is probably not significant in a statistical sense, but it does draw attention the fact that in the War Logs smuggling reports from the archaeologically-rich and heavily looted provinces of Dhi Qar, Al-Qadisiyah and the adjoining areas of Al-Muthanna are exceedingly few in number. If more reports were available it might well emerge that antiquities smuggling was as important in those provinces as, say, sheep smuggling in Ninawa. Again, then, the War Logs offer no evidence in support of the large-scale involvement or profiteering of insurgency groups, but because of their geographical bias neither can they be used to discount such activities.

Table 2. Number of incidents reported in Iraq War Logs under heading 'smuggling', tabulated according location (province) of incident.

Province	*Number of reports*
Arbil	3
Ninawa	65
At-Tamim	1
Salah ad-Din	8
Diyala	6
Al-Anbar	15
Babil	2
Wasit	4
Al-Qadisiyah	2
Dhi Qar	1
Maysan	2
Al-Muthanna	1
Al-Basrah	15
Total	*125*

Table 3. Number of incidents reported in Iraq war Logs under heading 'smuggling', tabulated according to type of material seized and location (province) of incident.

Type of material	*Ninawa province*	*All other provinces*
Oil and oil products	16	21
Cigarettes	28	3
Weapons	3	20
Sheep	18	0
Drugs	1	6
Antiquities	0	3

[115] Wong, 'Kurdish guards patrol Iraq's extensive borders', 27 March *New York Times* (2005).

Vehicles	0	3
Alcohol	0	3
US currency	0	2
Metal	0	2
Total	*66*	*63*

Discussion

Discussions of the involvement of organized criminal groups with the antiquities trade make a distinction between two different types of involvement. First, it is now well-established that the trade is organized, in the hands of reasonably stable networks of criminals that persist over time. It is not the opportunistic and relatively disorganized affair that many of its apologists would like to portray. Numerous case studies outside Iraq have exposed long-term transnational collaborations among criminals, as exemplified by the *cordata* of the Italian antiquities trade depicted on the organizational chart (organigram) seized by Carabinieiri from an Italian dealer[116]. Thus the antiquities trade is in itself an organized criminal activity. The 'market is criminal' according to Mackenzie[117]. Second, is the more controversial idea that larger mafia-type organizations might involve themselves in the antiquities trade, using the material or monetary profits to support further non-antiquities-related criminal activities – 'criminals in the market'[118]. There is, however, precious little evidence to substantiate this second type of criminal involvement[119], though for reasons already discussed in relation to Iraq, it might simply be because the evidence has not been sought out in any systematic fashion. While the Carabinieri are convinced that in Italy the antiquities trade does not attract Mafia interest[120], the question remains open in more poorly governed areas of Iraq during the period discussed here. Yet although the distinction between the 'criminal market' and 'criminals in the market' is thought to be of potential importance for public policy, with the possibility of concern about mafia-type involvement hardening the legislative response and increasing the level of resources provided for combating the trade, a closer look at policy options shows that its significance is not so apparent. If mafia-

[116] P. Watson and C. Todeschini, *The Medici Conspiracy* (2007, 2nd edition), at 362.
[117] Mackenzie, 'The market as criminal and criminals in the market: Reducing opportunities for organized crime in the international antiquities market', in S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011), at 70.
[118] Mackenzie, 'The market as criminal and criminals in the market: Reducing opportunities for organized crime in the international antiquities market', in S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011), at 70.
[119] Chappell and Polk, 'Unraveling the "cordata": Just how organized is the international trade in cultural objects?', In S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011), at 99-100.
[120] Chappell and Polk, 'Unraveling the "cordata": Just how organized is the international trade in cultural objects?', In S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011), at 100.

type groups really are being attracted to the antiquities trade, it is because of the trade's perceived profitability, and so the solution is not to target the criminals, but to deter their involvement by diminishing the trade's profitability[121]. Thus although there is little evidence to suggest that the antiquities trade within Iraq is controlled or organized by mafia-type or insurgency groups, and only a little more to suggest that they profit from it, policy wise, in the first instance, that does not matter. What does matter is that the antiquities trade is in itself an organized criminal market, a fact which opens up the possibility of disrupting the trade by applying pressure to vulnerable points in its organization, and thus diminishing its profitability.

The next step then is to consider the extent or nature of its organization. Conventionally, the organization of the antiquities trade has been portrayed in quite straightforward terms, with diggers on the ground selling to local intermediaries who then arrange for material to be smuggled out onto to the international market, where it is acquired by auction houses or other major dealers for sale to private collectors and museums. As demonstrated in this paper and described more fully elsewhere[122], however, this portrayal fails to capture the full complexity of the trade. In reality, if the trade is dependent for its health upon the ready availability of professional expertise, deployed in a variety of capacities, then the museum and academic professionals who provide this expertise must be considered to be part of the broader organization, even if in themselves they are not acting in a criminal fashion. The organization of the trade, like the trade itself, is gray, or perhaps piebald, with the necessary participation of licit and illicit actors. This being the case, the trade is open to intervention and reduction by persuading licit actors that their activities are not beneficial, nor even benign, but are demonstrably harmful[123], if that is in fact the case.

Such persuasion is likely to be resisted. Epigraphers and other scholars who routinely engage with unprovenanced and likely looted archaeological material defend their position with arguments about scholarly responsibilities and freedoms. Owen, for example, thinks that it is a scholar's 'role' or 'primary responsibility' to promote knowledge[124], and that censorship or suppression of knowledge through policies of non-publication is not acceptable[125]. Saul Shaked of the Hebrew

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[121] Mackenzie, 'The market as criminal and criminals in the market: Reducing opportunities for organized crime in the international antiquities market', in S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011), at 83.

[122] Brodie, 'Congenial bedfellows? The academy and the antiquities trade', 27 *Journal of Contemporary Criminal Justice* (2011b) at 411-440.

[123] Chappell and Polk, 'Unraveling the "cordata": Just how organized is the international trade in cultural objects?', In S. Manacorda and D. Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (2011), at 106-111.

[124] Owen, 'Censoring knowledge: The case for the publication of unprovenanced cuneiform tablets', in J. Cuno (ed.), *Whose Culture? The Promise of Museums and the Debate Over Antiquities* (2009), at 125.

[125] Owen, 'Censoring knowledge: The case for the publication of unprovenanced cuneiform tablets', in J. Cuno (ed.), *Whose Culture? The Promise of Museums and the Debate Over Antiquities* (2009), at 126-127; see also Boardman, 'Archaeologists,

University, who is studying Schøyen's incantation bowls, has said that 'It is my responsibility as a scholar to work on an ancient artifact that has information to tell us'[126] This type of defence invokes academic freedom, the idea that scholars must be left free from outside interference to pursue objective knowledge, or truth, the implication being that truth is a public good. But apart from philosophical uncertainties about the nature of truth, it is a defence that is open to challenge on pragmatic grounds. First and most germane for this discussion is the idea of freedom. Academic freedom is a classic case of Berlin's 'negative freedom'[127], where ideally a scholar's intellectual curiosity is protected from outside interference. It is well recognized, however, that individual negative freedoms can come into conflict with one another, and that one person's freedom can infringe upon that of another, so that the exercise of even negative freedom can become an exercise of power. Such is the case here. The access of epigraphers to unprovenanced material in private collections appears to be conditional upon their disinterested acceptance of whatever account of provenance, or lack or provenance, the collector sees fit to offer. Andrew George, for example, has expressed his opinion that the:

> … importance of primary sources for the reconstruction of man's past makes it imperative that all cuneiform texts be published without prejudice, no matter what their origin, history, and present location, and whether or not their owner makes public what he knows of their recent history …[128]

Inasmuch as the refusal by collectors to countenance the publication of provenance constrains the freedom of academics who have chosen to study the trade, and thus 'censors' or 'suppresses' knowledge, the necessary acquiescence of epigraphers as part of their own 'free' study impacts negatively upon the differently focused agenda of their colleagues. The results are all too clear. It is sobering to reflect, for example, that thanks to the committed scholarship of Owen and his colleagues[129], more is now known about the ancient economy of Garšana than about the late-twentieth-century economy of the town or village in the vicinity of its remains, wherever they may be, or about the criminal exploitation of those remains. When such conflicting claims of freedom occur, their resolution lies in judging them against other moral or social values, such as justice, security, happiness and public order[130]. That is exactly the point being made in this paper, which asks whether the freedom to study unprovenanced artifacts from Iraq is warranted considering what is known about the possible criminal circumstances of their acquisition and the commercial consequences of scholarly engagement. It is at this point that the presence of criminals in the market achieves its real significance. When judging the possible benefits and harms of studying unprovenanced material, the known existence of criminal or insurgent profit

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collectors, and museums', in J. Cuno (ed.), *Whose Culture? The Promise of Museums and the Debate Over Antiquities* (2009), at 107, 114, 117.

[126] Balter, 'University suppresses report on provenance of Iraqi antiquities', 318 *Science* (2007) at 555.

[127] Berlin, 'Two concepts of liberty', in I. Berlin *Four Essays on Liberty* (1969).

[128] A. George, *Babylonian Literary Texts in the Schøyen Collection* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2009), at xvi.

[129] D.I. Owen and R.H. Mayr, *The Garšana Archives* (Cornell University Studies in Assyriology and Sumerology. Volume 3) (2007)

[130] Berlin, 'Two concepts of liberty', in I. Berlin *Four Essays on Liberty* (1969), at 30.

is more likely to cause a decision against study than is a demonstration that the market is simply criminal. As noted above, antiquities smuggling has long been thought a victimless crime.

A second criticism of academic freedom concerns the choice of subject or material to be studied. Angela Brew has written that 'Research sometimes avoids attempting to solve society's closest and most pressing problems, instead choosing to escape from the world to pursue knowledge of that which is distant and socially unproblematic'[131]. It is hard not to view the study of ancient artifacts in this light, particularly in cases like Iraq, when the distancing from social problems is maintained by a stubborn refusal to consider the possible origins of the research material and the consequences of study. Brew argues that research choice can be governed as much by personal, historical, social and political factors as it is by dispassionate intellectual curiosity, and by disciplinary and individual inertia. Outside attempts to break this inertia can be met with hostility and prejudice[132]. She questions this state of affairs, because it 'can lead to a neglect of moral responsibility because it allows researchers to detach themselves from the moral consequences of their actions'[133]. Again, these generalized observations seem pertinent to the issues at hand here. Are epigraphers justified in ignoring the possible consequences of their work, especially when it is thought that those consequences are likely to be socially harmful?

Nevertheless, and in support of the epigraphers' position, although the evidence assembled and discussed in this paper for criminal and perhaps even insurgent involvement with the antiquities trade is suggestive, it is hardly conclusive. Moral or ethical injunctions against studying unprovenanced objects from Iraq, and indeed from other countries, that are founded upon such weak evidence will continue to be ignored by epigraphers who derive significant professional capital from such a pursuit (in the form of publications, grants, jobs and promotions), and who believe their actions to be for the public good. Loud but uncorroborated claims of criminal or insurgent involvement are counterproductive, creating an atmosphere of distrust and confirming them in their opinion that the archaeologists' case is a weak one. To convince them otherwise will require systematic and empirical demonstration of the harms that their work allegedly causes. It is unfortunate, however, that the epigraphers who might be most affected by such research are also the ones best placed to facilitate it. Their personal and professional connections to collectors are better by far than those of critical archaeologists or more neutral social scientists, and they should be in a position to convince collectors that it is in both the public and scholarly interest to release information about the provenance of material in their possession. It may, after all, transpire that the origins of the unprovenanced material in question are indeed innocuous, and that its study is fully justified. But freedom implies choice, as does ethics, and until epigraphers and other scholars are fully informed about the consequences of their research into unprovenanced artifacts, and able to make knowledgeable choices about their engagement, they will not be free to conduct ethical research. At the present time, their research falls far short of that ideal.

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[131] A. Brew, *The Nature of Research Inquiry in Academic Contexts* (2001), at 78.
[132] Ibid, at 78-94.
[133] Ibid, at 103.