

# Chapter 27

## *Antiquities Trafficking and the Provenance Problem*

Donna Yates and Emiline Smith

Antiquities are rare, restricted, and in demand. Because the ownership of antiquities is equated in both European and Asian traditions as tangible evidence of a person's refinement and cultural achievement, collecting of antiquities has evolved into a pursuit by the wealthy and powerful, and an international market has grown to supply collectors with cultural objects. Although antiquities function as commodities within this market, numerous stakeholders resist this commodification of cultural items, as do local, national, and international heritage law and policy. Within a UNESCO-supported discourse of "heritage of all humankind," antiquities are seen as almost collective cultural property that should not be bought or sold, but rather held in trust for the benefit of everyone. While local policy varies, nearly all countries restrict or ban outright the unprofessional excavation (looting), sale, private ownership, and export of some or all types of antiquities. These policies are not new, and in some countries strong antiquities protection laws have existed for well over a century. With limited exceptions, there are few pathways for collectors to buy fully legal antiquities, and demand far outweighs the supply.

Because of high demand and low supply, the primary vector for antiquities to reach the international market is through looting, trafficking, and illicit sale. Significant research into antiquities sales over the past twenty years have shown the market to be composed almost entirely of antiquities that lack proof of licit origins. Chippindale and Gill, Brodie, Yates, Gilgan, Levine and Martínez de Luna, and others have shown that most antiquities for sale or in private collections are not accompanied by provenance information that clears them of suspicion of having been trafficked.<sup>1</sup> Many ancient objects (and for some types of antiquities, most) are sold and bought with no provenance provided whatsoever. As there is no legal pathway for nearly all of these unprovenanced antiquities to reach the market, and as truly legal antiquities almost always come with accompanying provenance documentation, it can be said with no reasonable doubt that all under- and unprovenanced antiquities are illicit in some way, that they have at some point been illegally excavated, exported, or imported. Yet despite this taint of illegality within the market, these objects are openly consumed by elite individuals who do not consider themselves to be criminals.

Accounting for the willingness of otherwise law-abiding antiquities collectors and dealers to engage with a criminal antiquities market is an area of ongoing criminological research.<sup>2</sup> Results

of this work indicate that actors in the antiquities market draw on internal and external false narratives about the provenance of the objects they consume. These false narratives obscure the illicit origins of antiquities and allow elite actors to engage in guilt-free purchases. These narratives include:

- fantastical stories of breaking the law to save a given antiquity from conflict, agriculture, development, or other neglect, despite there being no evidence that the object was ever under threat;
- pushing a false equivalence to the idea of “innocent until proven guilty” for humans, asserting the nearly impossible scenario that unprovenanced antiquities are fully legal but that they lost their provenance proof during long periods of sitting in someone’s grandmother’s attic;
- asserting that the antiquities market provides good income for poor people in low-income countries, despite strong evidence that this is not the case;<sup>3</sup>
- condescendingly and inaccurately arguing that, whatever the law may be, a wealthy private collector is better able to preserve an antiquity than heritage professionals in lower-income countries.

These narratives serve to neutralize the trauma of having to admit to being a criminal, and align with research conducted by criminologists on how criminal offenders avoid feelings of guilt.<sup>4</sup>

Accompanying these false narratives about antiquities ownership and trade are false provenances for the antiquities themselves. At times, these false provenances take the form of undocumented origin stories, sometimes written and sometimes spoken, invented by intermediaries or dealers to provide suitable quasi-ethical justifications for collectors to make illicit purchases. We have encountered many such false provenance narratives during the course of our research,<sup>5</sup> including claims that:

- farmers worried that if they revealed that their land contained antiquities it would be seized by the government, and thus they sold a given antiquity on the black market to keep their farm and so provide food for their children;
- groups of nuns who have fallen on difficult times and have sold the artistic contents of their convents to stay afloat, a common story provided alongside stolen Latin American ecclesiastical art;
- an antiquity was collected during the eighteenth century before it was illegal, but remained undocumented and in the hands of family because no one realized it was valuable;
- that an antiquity in question was unearthed during major infrastructure projects, such as dam building, were saved from destruction by locals who would not have bothered if it were not for market demand.

More complicated cases involve the forging of provenance documentation, including import and export certificates, letters of ownership, proofs of sale, and insurance documents, in order to make an illegal antiquity appear legitimate. Such origin stories and false provenance paperwork are accepted by buyers with little or no due diligence, resulting in an antiquities market that is decidedly “gray.”<sup>6</sup>

The antiquities trade has been linked to localized and general harms, not just for communities, but humankind as a whole. Antiquities trafficking is associated with armed conflict, organized and sometimes violent crime, and the loss of cultural heritage for sensitive and threatened communities. Preventing looted and trafficked antiquities from entering the gray market depends less

on how heritage sites are policed in source countries and more on actions taken by or imposed on market actors.

Protecting antiquities from crime depends on due diligence regarding provenance, and this is the subject of this chapter. We believe that researching the structure of the illicit antiquities trade represents a form of provenance research undertaken through the lens of criminology. This chapter will discuss some of the methods researchers in this field use to investigate the trafficking of looted cultural objects, including the challenges they face when employing such methods. Examples from our own fieldwork in Latin America and East Asia show how these methods, when put into practice, can reveal information about the illicit provenance of antiquities.

### **Methodological Hurdles and Overcoming Them**

In past decades, research into illicit antiquities has focused primarily on two areas: ethnographic studies of looters “on-the-ground,”<sup>7</sup> and market studies, primarily conducted by archaeologists and focused on publicly available auction catalogs and sales results.<sup>8</sup> While this work has succeeded in highlighting the extent of the ongoing issue of the commodification of illicit antiquities, such research has offered only a glimpse of the illicit pathways that antiquities follow to public sales rooms and international collections. In other words, decades of research have provided us with a competent understanding of what happens in antiquities source countries when objects are looted and how the final market for these items is shaped, but have left a missing middle. We are only just beginning to understand illicit antiquities in transit, and until we better understand antiquities trafficking, we lack complete illicit provenance stories for these pieces.

The main reason we lack information about the transit phase is that research into trafficking is complicated. Both people who engage in looting and those who engage in high-level antiquities sales and purchasing are relatively sedentary figures who are involved in these activities in predictable places at predictable times. They are at least approachable to researchers seeking to understand the illicit histories of antiquities, though perhaps not always willing to speak. Secondary information in the form of, for example, study of physical destruction of heritage sites or the previously mentioned auction catalog quantification at market is possible even when firsthand interviewing is not.

However, the transit phase is significantly more opaque. Transit’s transitional nature brings movement and impermanence. Illicit transit is only successful when antiquities can be hidden, laundered, and rebranded as something they are not, namely clean merchandise. The purpose of transit, then, is the antithesis of the purpose of provenance documentation: to obscure the true history of a piece, to provide it with a false provenance, and to make it appear legitimate enough for purchase. Further, in many situations, the people who engage in such trafficking can be characterized as participating in organized crime:<sup>9</sup> they may operate in multiple illicit economies, and, simply put, they may be dangerous.<sup>10</sup> Accessing these people for interviews is logistically difficult (i.e., we rarely know who and exactly where they are) and often unsafe.

How, then, do we reconstruct the illicit trafficking story, the component of an illicit antiquity’s provenance history that involves deception, shielding, movement, and possible danger to the researcher? We believe that through the careful application of a varied set of methods and strategies, a dedicated researcher focusing on a particular region can glimpse the movement of illicit antiquities and begin to reconstruct the transit phase of illicit provenances. These strategies are, necessarily, context- and location-specific and require the researcher to consider ideas,

frameworks, and methods from a variety of disciplines such as archaeology, criminology, legal analysis, anthropology, history of art, museum studies, geography, and economics, to piece together these complicated object histories.

In structuring this inquiry, researchers may choose to work either backward or forward along the smuggling chain, approaching the transit phase either from evidence at market or source, depending on which offers easier access to contacts. The researcher may opt to engage in long-term integration into a local context, in the form of traditional ethnography, slowly gaining the trust of individuals with connections to antiquities trafficking. The research may include information collected from social and other media using new tools for online data collection and discourse and network analysis. It may also include evidence collected from court cases, police actions, government inquiries, and other public or official sources. Indeed, a thorough project to investigate the illicit transit of antiquities is likely to include some component of all of these general strategies.

There is no easy way to collect information about the illicit trafficking phase of antiquities' provenances, and no set, standard framework that can be applied in all cases. Yet despite what various market actors assert, this does not mean that we must treat the trafficking histories of these objects as inherently unknown. Provenance can be obscured, but it is never fully erased. In the following sections, we will look at two examples from our own research to show how working forward from source or backward from market can reveal information about the trafficking histories of illicit antiquities.

### **Exploring Antiquities Trafficking from the Ground Up: Latin America**

Since 2003, Yates, one of the authors of this chapter, has conducted fieldwork and further research into the trafficking of antiquities through Central and South America. Employing a long-term regional strategy for approaching this multifaceted issue, Yates has conducted archaeological research with a focus on understanding antiquities trafficking in Belize (2003), Guatemala (2003), Bolivia (2004, 2005), and Ecuador (2007) and has conducted antiquities trafficking research employing criminological techniques in Bolivia (2013), Belize (2014), and Mexico (2015). She has augmented this work with years of desk and archive-based research into these topics in Latin America, including stakeholder interviews, market research, source-end media analysis, and analysis of official records. This long-term combined strategy to link the market for antiquities to their illicit sources has demonstrated that source-end research leads to information about the trafficking provenance histories of smuggled objects. Here we will discuss one example of this: how analysis of local media sources and local customs alerts can lead to information about the early-stage trafficking of sacred art stolen from Bolivian churches.

Concerned by the fatal lynching of two alleged thieves of sacred art at the small Bolivian village of Quilla Quilla in 2012, and then shocked by the 2013 theft of the gold and silver accoutrement of the Virgin of Copacabana, Bolivia's most holy icon, Yates conducted a preliminary review of existing literature, which revealed that little information was known about the nature of the illicit trafficking networks that move stolen ecclesiastical material out of the Andes.<sup>11</sup> In 2012 and 2013, Yates developed a desk-based study to investigate the trafficking of Andean sacred art starting from the point of initial theft, and supplemented it in mid-2013 with field research in highland Bolivia. Although this study did involve working backward from the market for South American sacred art, primarily in the form of analysis of online sales of that material, we focus here on the forward-from-source component of this project. Though limited to what could be accessed from

abroad in a very short amount of time before field research, this desk-based “working forward” approach shed light on a completely unexplored form of illicit antiquities trafficking.

The first step of this project was to explore what sources of information were available about the theft of Bolivian sacred art. At the time, limited official sources could be accessed at a distance: Bolivia’s official registry of cultural goods was not digitized at the time and remains inaccessible to researchers. Although Bolivia keeps files on stolen sacred art, those files are not made public. Bolivia has released no official statistics about sacred art theft in the country, and Bolivians working in an official capacity in this field proved difficult to reach or unable to talk openly about this issue. Court records for the few individuals convicted of offenses related to theft and trafficking of sacred art are not available, either inside Bolivia or from abroad. At first glance, these limitations appear to be an impenetrable barrier to desk-based investigation of early-stage trafficking of Bolivian sacred art. However, two sources of information about these thefts were identified, and both proved to contain valuable information about early-stage trafficking, with each serving as a check on the other: the local media and an official database of customs alerts transmitted to Bolivian customs agents to warn them about specific stolen pieces that may be trafficked across the border.

Bolivia benefits from a robust, competitive, and thoroughly digital local media, and many news outlets consider the theft of Bolivian heritage newsworthy. Focusing on the five-year period between 2008 and 2012 inclusive, keyword searches on Google News and in the search functions on the websites of all major Bolivian news outlets revealed information about numerous church thefts. Reporting in these articles included such information as how individual churches were penetrated, at what time of day or night the thefts occurred, who if anyone was suspected or arrested, how long it took authorities to respond to the theft, and the emotional responses of communities experiencing devastating losses. These articles also contained references to previous church thefts, allowing further news searches to gain information about those as well. What emerged was a picture of how church theft was accomplished (often at night, often while the community was distracted by a festival or other event, often mid-week when the church was not in use), who church thieves were thought to be (foreigners, usually Peruvians, though there is little evidence supports this), and the level of frustration felt by communities who perceived the authorities as being unable or unwilling to protect them from such loss.

Moving on from the media analysis, intense keyword web search related to the theft of Bolivian sacred art revealed that Bolivia’s Aduana Nacional, the Customs Service, maintains a database of customs alert circulars on a webpage that was not indexed by search engines. The site contained alert documents from a variety of internal government agencies and from the customs services of other South American countries related to changes in the laws and to items and people customs officers should be watching out for. Included among these alerts are those generated by Bolivia’s Ministry of Cultures following church thefts, accompanied by images of the items stolen, their measurements, descriptions, and some details about the thefts themselves. Cross-referenced with the media analysis, information about the nature of the earliest phases of Bolivian sacred art trafficking emerged.

While most of the results of this analysis have been published elsewhere,<sup>12</sup> a brief overview of some of the information gleaned displays the potential of desk-based antiquities trafficking analysis moving forward from source. Between 2008 and 2012 inclusively, this study documented twenty-nine church thefts and one attempted church theft occurring in Bolivia. The majority of those thefts occurred in the La Paz Department (sixteen), with the second-highest number

occurring in the Potosí Department (eight); the majority of Bolivia's ancient churches are located in these two highland departments. Twenty-three thefts occurred at very high altitude (over 3,500 m) and twenty-six thefts occurred in villages with fewer than one thousand residents (not including population of the hinterland and according to the 2001 census, the most recent at the time). Thus, twenty-six thefts occurred in rural areas with an average distance of 112 km from a population center (defined as a municipality with over fifty thousand inhabitants). These numbers support the assertion that early-stage traffickers target rural highland churches in locations where low populations mean a lack of presence by police and other authorities and very low incomes preclude the use of alarms or full-time security within the church buildings themselves. These churches are often locked and unused for long periods of time, for example between festivals, between visits from traveling priests, or simply between Sundays, meaning that some thefts would go unnoticed for days, allowing thieves to escape undetected.

Further, an analysis of the types of materials stolen from Bolivian churches in these twenty-nine thefts hints at two trafficking pathways outward from source. The objects stolen included paintings, sculpture, silver work, gilt work, and bells and other metal objects, among other items. Of 522 sacred art objects stolen from 2008 through 2012, 307 were silver pieces, 36 items were gilt pieces, 13 were large cast church bells, and 88 pieces were ultra-fine jewelry stolen in a rare urban theft from a cathedral museum, totaling 444 metal items. In contrast, only 22 paintings and 39 sculptural pieces were stolen, a total of 81 pieces. Most thefts either focused exclusively on metalwork, with paintings and sculptures left behind, or on paintings and sculpture, with metal objects left behind.

One explanation for this pattern may be that individual church thieves focus on the types of objects for which they have the connections to launder and sell, ignoring other valuable pieces for practical reasons. Thus, there may be two separate markets for illicit Andean sacred art: one for metal and one for paintings and sculpture, each with its own early-stage traffickers and trafficking pathways. This observation is particularly significant when one considers that precious metal is much more launderable than other artworks: a painting must always be sold as a painting, but the silver accoutrements of a saint can be melted down and sold for lucrative scrap value. Indeed, sale for scrap seems to be the only explanation for the widespread theft of heavy church bells. Investigation into the market for Bolivian sacred art in the United States revealed that dealers sell paintings and silver objects side by side, implying similar supply streams; in other words, there is no reason for church thieves to steal only one type of sacred art. Further, the proportion of Bolivian paintings to silver items on the United States market does not match the proportion of such objects stolen: there are fewer silver items available for sale than would be expected. With this in mind, the almost complete separation between painting thefts and metal thefts could support the argument that much of the metal work that is stolen from Bolivian churches is trafficked into the illicit scrap market, rather than the art market, and is thus destroyed.

To sum up, a desk-based "source-up" analysis of Bolivian sacred art theft provided a clear pathway into further research about the trafficking of these objects. In a few short weeks of work, numerous thefts were identified, allowing for follow-up during field research. A picture of what might constitute a church vulnerable to theft took shape, allowing for initial speculation as to who might target such locations, which could be investigated through targeted field research. Most importantly, two potentially separate trafficking pathways were identified by studying the object focus of these thefts, allowing the researcher to broaden the scope for subsequent investigations to include markets beyond the art market, while reconstructing sacred art trafficking networks. Although the outlined project was Bolivia specific, this approach can and should be

adapted for any context where there is more information about the theft of antiquities than there is about their subsequent smuggling. Although falling outside the scope of traditional provenance research, this type of inquiry serves to reconstruct the hidden provenance stories of trafficked objects, allowing researchers to approach the “missing middle” and follow stolen antiquities to their ultimate markets.

### **Exploring Antiquities Trafficking from the Market Down: China and Hong Kong**

The doctoral research of Smith, the other author of this chapter, approached the study of provenance of Chinese antiquities from a “top-down,” market-to-source perspective. Desk-based research revealed that, although much was known about the origin of Chinese antiquities and their market, there was limited existing research on the transit stage of the trade. Therefore, a qualitative, interview-based study with trade participants in the transit stage of the Chinese antiquities trade provided much-needed information regarding the missing links of objects appearing on the market.

China maintains a strict regulatory framework for the excavation, trade, and export of cultural property, yet the trade in illicit Chinese antiquities persists.<sup>13</sup> Within the marketplace, Chinese objects produced in the past for the international or internal open market mix with objects specifically created for particular indigenous settings (e.g., a temple, royal collection, or tomb) and thus not to be circulated, resulting in a gray market.<sup>14</sup> Many Chinese antiquities already exist outside of China, as part of private and public collections, a majority of which date back to periods of European colonial expansion.<sup>15</sup> The origin of these objects is questionable and may well be considered illegal, yet their existence in public or private collections creates at least some documentary trail. Other objects come without any information at sale, and such objects are much more likely to have been looted from their indigenous structures in recent times.

Prompted by the exponential growth of the market in Chinese antiquities in the last decade, as instigated by the increasing buying power of Chinese buyers,<sup>16</sup> this study started with a desk-based analysis of auction house records and the provenance provided at these sales. Problematically, although not surprisingly, Chinese antiquities offered for sale still regularly come without any (or very limited) information regarding their ownership history or geographical movement. The antiquities often do come with geographical information regarding the origin of the objects in the form of a very general findspot, such as a city or region, but details surrounding their excavation, export, and trade are obscured. The ethical and legal status of these objects is therefore difficult—though not impossible—to trace. Many Chinese antiquities come without (public) ownership information: for example, “Property of a Gentleman” is still commonly encountered. However, where provenance information is provided, Hong Kong regularly emerges as the place of purchase or exchange—a transition portal for Chinese antiquities. Hong Kong can therefore provide much-needed insight into the dynamics of antiquities in transit.

Hong Kong has a long-standing reputation as a transition portal for Asian objects, particularly for Chinese antiquities.<sup>17</sup> It is here where Hong Kong’s local context converges with the global antiquities market, ultimately resulting in the “laundering” of Asian antiquities. The first part of this research identified Hong Kong as an apparent frequent point of transit for Chinese antiquities, and its second part focused on developing local trade contacts, such as dealers, transporters, and auction house representatives, who could provide insight into the practicalities of a cultural property transition portal. Smith spent twelve months (2015–2016) developing contacts locally, which resulted in targeted interviewing over a three-month period. She identified trade participants

through research of trade magazines, association records, business registration records, and participant observation, coupled with an analysis of media sources and official records. A clear picture of the cross-border trafficking of Chinese cultural property emerged.

Regular media reports and official records of arrests and convictions of Chinese “tomb looters” show that the looting and trafficking of Chinese antiquities is ongoing. When smuggled across the China-Hong Kong border, the antiquities are then sold in Hong Kong to buyers globally. Hong Kong’s status as a freeport and global financial center, combined with its proximity to China, global interconnectedness, and absence of a suitable legal framework for the cultural property trade, provide the necessary infrastructure for this illicit trade.

Moreover, the false provenance narratives used by participants in other markets and locations are also used and, in fact, constructed in Hong Kong. Here, trade participants provide the buyer with the “story” they are looking for. Provenance information is not readily exchanged, and, if it is, trade participants are more concerned about authenticity than legality. Smith’s interviews therefore also reveal the ways in which opacity and customary illegality are essential in each trade interaction. From extractor to transporter to dealer to collector, minimal information is exchanged in order to facilitate the movement and enhancement of value of Chinese antiquities. Furthermore, Hong Kong’s interconnectedness eases the physical movement of objects (for example, from China to Hong Kong to the rest of the world). Opaque standardized trade practices and well-established infrastructures therefore converge in Hong Kong to facilitate the laundering of Chinese cultural property.

To summarize, the combination of fieldwork and desk-based research, taking a “market-down” approach, provided a much-needed picture of the context in which Chinese antiquities transit from source to market. Because the objects have already appeared, information about the pathways they took to end up on the market can be extracted by this mixed-method approach.

An essential part of such research is the interviewing of market participants, to establish the trade practices which facilitate the opacity and illegality that are still integral to the cultural property trade. This research project focused on Hong Kong, but this “market-down” approach can easily be applied in many of the other transition portals of which even less is known today. The methods can lead to a clearer understanding of the routes that antiquities take and the actors and participants who facilitate these routes.

### **Concluding Thoughts**

Illicit trafficking histories form an important part of the provenance of many of the antiquities that appear on the market or in prominent private and museum collections. These smuggling stories have long been considered impossible to reconstruct: a missing middle space between source and market that effectively allows the antiquities market to proceed without provenance. We believe that through careful and diverse research, we can begin to reconstruct the trafficking pathways of illicit antiquities, bringing more complete provenance narratives to academia, to the market, to repatriation efforts, and to criminal investigations.

### **Notes**

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