

Collecting Antiquities—Evolving Museum Practices and Standards: The Legal Perspective

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The looting of archaeological sites, which increased significantly during the second half of the twentieth century largely in response to market demand, has diminished our ability to understand and reconstruct the past. In response to this looting, the international legal regime imposes adverse consequences on those who acquire or trade in antiquities that are the product of recent site looting. These adverse consequences provide a disincentive to the continued looting, thereby reducing the harm that is done to society. This paper will set out some of the basic principles of international and domestic U.S. law that intersect with and attempt to influence the market in antiquities.

One of the key elements of this legal regime is the U.S. implementation of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property through the Convention on Cultural Property Implementation Act. The second key element is the recognition that national ownership laws, which vest ownership of antiquities still in the ground in the nation, create ownership that will be recognized under U.S. statutes and in U.S. courts. This principle is best illustrated in the decision, *United States v. Schultz*, in which a prominent New York antiquities dealer was convicted under the National Stolen Property Act of conspiring to deal in antiquities obtained in violation of Egypt's national ownership law.

This legal regime has already had a significant impact on American museums as they have returned works of ancient art to their countries of origin, as the result of litigation, as a settlement of a claim, or simply in response to public pressure. The two leading museum organizations, the American Association of Museums and the Association of Art Museum Directors, have recently developed new guidelines in the shadow of the law for the acquisition of ancient art and archaeological objects. Whether these policies and those adopted by individual museums will be applied in such a way as to eliminate the need for restitutions in the future remains to be seen.