

Abstract

By Jane A. Levine¹

Over the past five years, the international market in ancient art has been beleaguered with scandal and controversy. Theft of archaeological objects², and the efforts to penalize this type of theft, has made headline news. The sale of archaeological material continues to be a source of risk for museums, dealers, auction houses and collectors. Whether or not the media attention and claims have diminished the pillage and looting of archeological sites worldwide is fiercely debated. Regardless of one's views on that issue, it is impossible to ignore that there has been a perceptible shift in the market toward more rigorous provenance standards.

Provenance, or ownership history, is the buffer zone that stands at the intersection of the elite world of antiquities collection and the dirty business of site looting. If the market demands and requires solid blue chip provenance for archaeological objects, artifacts that are fresh out of the ground are far less likely to circulate on the legitimate, legal market. Higher provenance standards reduce the chances that law abiding and legitimate institutions, collectors and vendors contribute to the cycle of looting and destruction of archaeological sites – and the irreparable loss of historical context and information that goes hand in hand with looting. A higher standard of care in due diligence research provides the best mechanism to distinguish between objects that are legal to sell because they have been excavated and exported legally or because they have been out of the ground and their countries of modern discovery for so long that they are not reasonably connected with recent criminal looting, and objects that are the products of recent and ongoing looting and destruction of sites.

This past summer the AAMD and AAM issued new recommendations regarding archeological materials and ancient art, recognizing November 17, 1970 (the date of the 1970 UNESCO Convention) as the pertinent threshold for requiring documentation that an object was out of its probable country of modern discovery. Staking out new standards of documentation will not necessarily be easy. There are some serious obstacles to documenting ownership history, including lingering hostility to transparency, the legitimate lack of documentation or inability to track it down, and fiduciary obligations of confidentiality.

The question is whether the roadblocks swallow up the entire story, and will the enactment of more rigorous provenance standards be the death knell for the legal and legitimate antiquities market? Or will the discretion provided under the new guidelines to exercise “informed judgment” turn into an exception that will threaten to eviscerate the bold provisions calling for documentation of provenance until at least 1970?

¹ The views expressed in this paper are the author's and do not necessarily reflect the views of her employer.

² For purposes of this abstract an archaeological object is defined as an object that has, over time, been buried in the ground with an associated assemblage of other artifacts, architectural remains, and natural features.

It will take time for the antiquities market to adjust to November 1970 and all participants may not uniformly adopt that date. It is equally important to develop generally accepted standards concerning the quality of documentation and substantial evidence that will be accepted in making the informed judgments that go into establishing provenance, as acceptance of documentation or evidence that is lacking in basic indicia of reliability and credibility threatens to undermine what the guidelines are trying to accomplish in the first place. More rigorous provenance research and greater transparency for the findings of that research would seem to be critical to effecting change and reducing looting of archaeological sites, as well as to mitigating the legal and reputation risk that has hung over the antiquities world for buyers and sellers, museums and donors.