


ARTICLE

## Conflict antiquities' rescue or ransom: The cost of buying back stolen cultural property in contexts of political violence

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### Abstract

Rescue has long been a defense for the removal of cultural property. Since the explosion of iconoclasm in West Asia, North Africa, and West Africa, there has been a growing demand for cultural property in danger zones to be “rescued” by being purchased and given “asylum” in “safe zones” (typically, in the market countries of Western Europe and North America). This article reviews evidence from natural experiments with the “rescue” of looted antiquities and stolen artifacts from across Asia and Europe. Unsurprisingly, the evidence reaffirms that “rescue” incentivizes looting, smuggling, and corruption, as well as forgery, and the accompanying destruction of knowledge. More significantly, “rescue” facilitates the laundering of “ordinary” illicit assets and may contribute to revenue streams of criminal organizations and violent political organizations; it may even weaken international support for insecure democracies. Ultimately, “rescue” by purchase appears incoherent, counter-productive, and dangerous for the victimized communities that it purports to support.

**Keywords:** conflict financing; cultural property crime; illicit trafficking of cultural goods; organized crime; terrorist financing

### Introduction

Between 1933 and 1945, the Nazi state destroyed politically unacceptable cultural property – literature from 1933 onwards, art from 1939 onwards. Yet it also sold such assets, which served to “cleanse” the territory while subsidizing the state’s crimes. Many pieces that “could not be liquidated” quickly, despite the market’s awareness of their political unacceptability, “were simply destroyed.”<sup>1</sup> However, destruction and trafficking were intertwined processes, and many pieces remained and were sold. At one point in the process, when Bernhard Böhmer, Karl Buchholz, Hildebrand Gurlitt, and Ferdinand Möller – private dealers who had been appointed as buyer-sellers by the Nazi Commission for the Exploitation of Degenerate Art – had failed to sell all of the supposedly “degenerate art” that had been confiscated,<sup>2</sup> the commission publicly burned

<sup>1</sup> Jacques Schuhmacher, “‘Entartete Kunst’: The Nazis’ Inventory of ‘Degenerate Art,’” *Victoria and Albert Museum*, n. d., <https://www.vam.ac.uk/articles/entartete-kunst-the-nazis-inventory-of-degenerate-art> (accessed 8 April 2021).

<sup>2</sup> In total, 16,000 pieces were displayed, but a total of 19,500–21,000 pieces were confiscated. Daniela Späth, “Conspiracies Swirl in 1939 Nazi Art Burning,” *Deutsche Welle*, 20 March 2014, <https://www.dw.com/en/conspiracies-swirl-in-1939-nazi-art-burning/a-17510022> (accessed 8 April 2021).

up to 14,829 of the remaining pieces.<sup>3</sup> Following this destruction, public institutions and private collectors abroad, in countries ranging from Switzerland to the United States,<sup>4</sup> bought many of the remaining pieces, while dealers and collectors in Germany bought some through the appointed dealers, and these appointed dealers also kept some for themselves.<sup>5</sup>

It was discussed “internationally ... at the time, that one could not buy art from Germany because the proceeds would be used [to buy] armaments.”<sup>6</sup> For some buyers, the identity and intent of the ultimate seller may have been a moral concern that needed to be assuaged, or at least a reputational problem that needed to be obscured, by indirect dealing. For others, it was not. The director of Kunstmuseum Basel, Georg Schmidt, dismissively set the value of “eternal cultural assets against [those of] rapidly aging cannons [ewiges Kulturgut gegen rasch veraltende Kanonen].”<sup>7</sup> The museum’s government loan-financed purchase of 21 artworks was “celebrated as a “rescue operation,” “while the director was “celebrated ... as an ‘escape helper’.”<sup>8</sup>

Such purchases of conflict art or conflict antiquities, which have funded, facilitated, or otherwise incentivized genocide, warfare, espionage, oppression, and/or terrorism, have long been defended as “rescue.” They exist as one point in a broader line of defense of sincerely temporary handling, ostensibly temporary handling, and explicitly permanent possession of looted antiquities and other stolen cultural goods. In turn, it is one line in a broader array of defenses of various acts and processes of acquisition of cultural property as “rescue” from destruction,<sup>9</sup> “protection” from supposedly unacceptable stewardship,<sup>10</sup> and “rescue” from the market.<sup>11</sup>

For as long as those logics have existed, they have been exploited. For example, the Kunstmuseum Basel’s shopping spree was not “rescue from destruction [Rettung vor Vernichtung]” because the works were “too valuable [zu wertvoll]” and “would have found ... other buyers [es hätten ... andere Käufer gefunden].”<sup>12</sup> Thus, the international public subsidy of the Nazi regime had only “rescued” those artworks from obscurity in the international private market. This study explores this kind of “rescue” by purchase of cultural property from conflict zones or through conflict actors.

<sup>3</sup> Chechi 2014, 203n14; Godfrey Barker, “The Unfinished Art Business of World War Two,” *BBC News*, 4 November 2013, <http://www.bbc.co.uk/news/world-europe-24812078> (accessed 8 April 2021).

<sup>4</sup> Sarah Hucal, “Ausstellung in Berlin: Warum Hitler Gemälde gestohlen hat – und unter einem verborgen war” [Exhibition in Berlin: Why Hitler stole paintings – and was hidden under one], *Deutsche Welle*, 20 November 2015, <http://www.dw.com/de/ausstellung-in-berlin-warum-hitler-gem%C3%A4lde-gestohlen-hat-und-unter-einem-verborgen-war/a-18865495> (accessed 8 April 2021).

<sup>5</sup> “Gurlitt: Status Report: An Art Dealer in Nazi Germany, 14 September 2018 to 7 January 2019,” *Bundeskunsthalle*, 13 September 2018, [https://www.bundeskunsthalle.de/fileadmin/user\\_upload/01Ausstellungen/gurlitt/PM\\_Gurlitt\\_Gropius\\_Bau\\_eng.pdf](https://www.bundeskunsthalle.de/fileadmin/user_upload/01Ausstellungen/gurlitt/PM_Gurlitt_Gropius_Bau_eng.pdf) (accessed 8 April 2021); “Degenerate Art” Research Centre, “Confiscation,” *Freie Universität Berlin*, n.d., [https://www.geschkult.fu-berlin.de/en/e/db\\_entart\\_kunst/geschichte/beschlagnahme/index.html](https://www.geschkult.fu-berlin.de/en/e/db_entart_kunst/geschichte/beschlagnahme/index.html) (accessed 8 April 2021).

<sup>6</sup> Seraina Werthemann, “‘Degenerate Art’ for Basel,” *Kunstmuseum Basel*, 16 April 2020, <https://www.kunstmuseumbasel.ch/en/agenda/blog/2020/38> (accessed 8 April 2021).

<sup>7</sup> Cited in Georg Kreis, “Geschäfte in der Grauzone” [Business in the grey area], *TagesWoche*, 11 November 2013, <https://tageswoche.ch/politik/geschaefte-in-der-grauzone/> (accessed 8 April 2021).

<sup>8</sup> According to Werthemann, “Degenerate Art.”

<sup>9</sup> For a review of the self-justifications of collectors, see Thompson 2015.

<sup>10</sup> Gunning 2009, 2.

<sup>11</sup> Pierides 2002, 15.

<sup>12</sup> Cited in Kreis, “Geschäfte in der Grauzone.”

### The argument in principle

The defense of and for “rescue” is made by public institutions in victimized countries, which buy looted antiquities on the black market to prevent their disappearance into foreign collections, as well as by public institutions in market countries, which buy looted antiquities to prevent their disappearance into private collections. The claim of “rescue” is also deployed by dealers, private collectors, and private institutions that defend the practice yet obscure the activity, as they may risk prosecution in one or another jurisdiction for one or another offence and by dealers, private collectors, and private institutions that defend the practice and detail the activity since they leverage public sympathy and political interest to discourage prosecution.<sup>13</sup> Private actors may or may not enjoy protection by sympathetic authorities or toleration by powerless authorities. Furthermore, due to its visible success as a technique of neutralizing threats to the conduct of criminal activity, it is also deployed by professional criminals (as opposed to professionals who commit crimes).

### The cost of keeping cultural property in the country of origin

Resignation to the loss of community symbols is particularly difficult for citizens, professionals, officials, and institutions in victimized communities, especially as they are often lost to the markets of former colonial masters or enemy states. It may also raise suspicions that the local representatives who refuse to buy pieces are in league with the international market actors who consume the pieces that are not bought. Hence, the argument for “rescue” is deployed not only by members of victimized communities who act independently,<sup>14</sup> but also by poor states that encourage private subsidy of public campaigns, functionally weak states that encourage private conduct of acts in the national(ist) interest, and functionally weak states that orchestrate the private conduct of acts in the national(ist) interest.

For instance, since 2003, the National Archives of Afghanistan have been “buy[ing] antiquities” on the local market, “no questions asked,” with money from Afghanistan and Germany.<sup>15</sup> Also since 2003, Suleymaniyah Museum and the Directorate of Antiquities in Suleymaniyah in Iraq have been buying illicit antiquities, seemingly with money from politically exposed individuals, such as the one-time First Lady of Iraq, Hero Ibrahim Ahmad.<sup>16</sup> The museum and the directorate have also paid smugglers to recover antiquities before they have been smuggled abroad.<sup>17</sup> These programs immediately demonstrate the practical difficulties of implementing “rescue” by purchase. They offer far less than the commercial price, so some possessors continue to sell to the international market. Yet they still offer far more than the average national wage, so some people may loot in order to sell to the “rescuers.”<sup>18</sup>

<sup>13</sup> Kersel 2016; Hardy 2021.

<sup>14</sup> Hardy 2021.

<sup>15</sup> David Orr, “Afghanistan Bids to Buy Back Its Looted Heritage,” *Scotsman*, 1 June 2003, <https://web.archive.org/web/20030704053106/http://www.news.scotsman.com/topics.cfm?id=611262003&tid=444> (accessed 8 April 2021).

<sup>16</sup> Al-Rawi and George 2014, 72; see also Ruby Mellen, “Ancient Artifact Goes on Display in Kurdistan after Museum Deal with Smuggler,” *World Post*, 6 October 2015, [http://www.huffingtonpost.com/entry/gilgamesh-tablet-iraq\\_5612a747e4b0af3706e16f28](http://www.huffingtonpost.com/entry/gilgamesh-tablet-iraq_5612a747e4b0af3706e16f28) (accessed 8 April 2021); Andrew George, “How Looting in Iraq Unearthed the Treasures of Gilgamesh,” *Aeon*, 5 February 2016, <https://aeon.co/opinions/how-looting-in-iraq-unearthed-the-treasures-of-gilgamesh> (accessed 8 April 2021).

<sup>17</sup> Osama Amin, “The Newly Discovered Tablet V of the Epic of Gilgamesh,” *Ancient History et cetera*, 24 September 2015, <http://etc.ancient.eu/2015/09/24/gilgamesh-enkidu-humbaba-cedar-forest-newest-discovered-tablet-v-epic/> (accessed 8 April 2021).

<sup>18</sup> David Orr, “Afghans Restore Their Cultural Collections,” *Irish Times*, 16 June 2003, <http://www.irishtimes.com/news/afghans-restore-their-cultural-collections-1.362687> (accessed 8 April 2021).

### Safe haven

In recent years, on the back of the wave of iconoclasm in West Asia, North Africa, and West Africa, most prominently in Syria and Iraq, public institutions, private institutions, and private organizations in the global North/West have taken the opportunity of the crisis to represent themselves as “asylums,”<sup>19</sup> “refuge[s],” or “safe haven[s]”<sup>20</sup> for endangered cultural heritage from the global South/East.<sup>21</sup> For instance, the J. Paul Getty Trust in the United States presents collections that are outside the country of origin as facilities to distribute risk because “calamity can happen anywhere, but it won’t happen everywhere.”<sup>22</sup> The Museum of the Louvre in France has proposed that the storehouse for its permanent collection could also serve as a host for cultural property that is endangered by war, terrorism, and other forms of crisis.<sup>23</sup>

Likewise, there has been a resurgence in the argument that individuals and institutions in safe countries should be able to “rescue” antiquities from danger zones by buying them. For example, the founder of the Biblical Archaeology Society (BAS), Hershel Shanks, has argued that “museums, antiquities dealers and collectors who have access” to looted antiquities should be “enlist[ed] ... to rescue them by ransoming them” and “turn[ing them] over to the proper international authorities.”<sup>24</sup> While the BAS has since removed the statement from its website, it has petitioned that “important artifacts and inscriptions must be rescued and made available to scholars even though unprovenanced. ... To vilify such activity results only in the loss of important scholarly information.”<sup>25</sup> This implies that to valorize such activity results only in the recovery of important scholarly information. Academics have used the same justification to benefit from the trade – and to support the market – by authenticating and publishing its otherwise undocumented material.<sup>26</sup>

Gary Vikan, the former director of the Walters Art Museum, former member of the United States’s Cultural Property Advisory Committee, and current member of the market-aligned Committee for Cultural Policy, recognizes that such “rescue” might fuel the illicit market. Nonetheless, Vikan believes that “we should accept looted antiquities” from Syria and Iraq and accept the costs of their curation and repatriation in order to save them from the Islamic State of Iraq and Syria (ISIS).<sup>27</sup> At the same time, he states,

<sup>19</sup> For example, president of the Musée du Louvre, Jean-Luc Martinez, cited in “Save Our Stones,” *Economist*, 13 June 2015, <http://www.economist.com/news/middle-east-and-africa/21654065-well-killing-people-islamic-state-smashing-up-ancient-works-art-only> (accessed 8 April 2021).

<sup>20</sup> Chechi 2014, 89.

<sup>21</sup> Cf. Kersel 2016; Carruthers 2017, who has highlighted the moral failures of even practical successes in creating safe zones for objects yet not for people; Paumgartner and Zingg 2018, who have analyzed the theory and practice of offering safe haven for cultural objects.

<sup>22</sup> President of the J. Paul Getty Trust, James Cuno, cited in James Cuno and Scott Simon, “As ISIS Destroys Artifacts, Could Some Antiquities Have Been Saved?” *National Public Radio*, 5 September 2015, <https://web.archive.org/web/20150908204413/http://www.npr.org/templates/transcript/transcript.php?storyId=437616132> (accessed 8 April 2021).

<sup>23</sup> Claudia Barbieri, “A Shelter for Art Caught in the Crossfire,” *New York Times* (international edition), 11 March 2017, S1.

<sup>24</sup> Hershel Shanks, “How to Save Iraq’s Looted Heritage,” *Chicago Tribune*, 28 April 2003, [http://articles.chicagotribune.com/2003-04-28/news/0304280159\\_1\\_looted-antiquities-museums](http://articles.chicagotribune.com/2003-04-28/news/0304280159_1_looted-antiquities-museums) (accessed 8 April 2021).

<sup>25</sup> “Statement of Concern,” *Biblical Archaeology Society*, 21 April 2006, <http://web.archive.org/web/20060503220857/http://www.bib-arch.org/bswbOOunprovenancedstatement.html> (accessed 8 April 2021).

<sup>26</sup> Brodie 2009, 47–49; 2011a, 413; 2011b, 129–31; see also Prescott and Omland 2003, 11; Lundén 2005, 7–8.

<sup>27</sup> Gary Vikan, “The Case for Buying Antiquities to Save Them,” *Wall Street Journal*, 19 August 2015, <http://www.wsj.com/articles/the-case-for-buying-antiquities-to-save-them-1440024491> (accessed 8 April 2021).

[n]o one, anywhere, should buy art from ISIS. Should U.S. museums buy antiquities from Syria and Iraq, some of the money will likely go to refugees fleeing the region, and some will undoubtedly pass into the hands of the small-time looters and smugglers. ... But there is no verifiable evidence ... that ISIS obtains significant funding by selling antiquities or taxing art looters.<sup>28</sup>

Notably, while Vikan recognizes “rescue” by purchase as a revenue stream for petty crime and asserts that it might even provide financial support to asylum seekers, he does not assert that there is no verifiable evidence that ISIS obtains any funding by selling antiquities and taxing art looters. In other words, he implicitly acknowledges that ISIS does obtain some funding from the illicit traffic in cultural goods.

Vikan insists that no one should buy art from ISIS, yet he defends the purchase of art from Syria and Iraq when some of it will have passed through the hands, or roadblocks, of ISIS. Since he encourages his audience to imagine that some of those purchases might benefit refugees, he is clearly not defending purchases only when the buyers have confirmed that the suppliers are refugees or have otherwise conducted whole supply chain due diligence. Since Vikan specifies that it would be unacceptable to buy art from ISIS, his statement implies that it would be acceptable for museums to buy looted antiquities from other politically motivated armed groups in order to save those objects from destruction by ISIS. Alternatively, it suggests ignorance of the involvement of other armed groups.

This perception misunderstands the calculated jihadist political economy of iconoclasm and trafficking. Unsellable objects are destroyed for propaganda, and their destruction thereby increases the marketability of the sellable objects that are supposedly threatened, while trafficking and racketeering finance not only acts of iconoclasm but also the most serious human rights violations. Trafficking and racketeering also finance the conduct of other warring parties, which may not have committed genocide but may have committed other gross human rights abuses. For instance, many of the artifacts that were removed from the Synagogue of Jobar during the war in Syria were held by Failaq al-Rahman. Amongst others, representatives of the Syrian Jewish community sought to buy back those stolen cultural goods.

This sprawling case demonstrates the intertwining of destruction and looting; the politics and economics of the war; the propaganda within Syria, across the region, and around the world; and the exploitation of the war in Syria by antiquities markets in Western countries. For example, the regime that destroyed the site presented the destruction as tampering with evidence by the rebels that had looted it. Failaq al-Rahman, which was an element of the rebel Free Syrian Army and an ally of the jihadist Jabhat al-Nusra, was variously described as a group of rebels who were safekeeping the artifacts and as a group of jihadists who were ransoming them. And the threat to the remnants of the synagogue in Jobar was used to advertise the scarcity value of the elements that had been on the market since before the war.<sup>29</sup>

### *A global practice and its global consequences*

Based on a review of open sources, in the last 20 years, in one form or another, the defense of “rescue” has been made for antiquities from countries including Afghanistan,<sup>30</sup>

<sup>28</sup> Vikan, “Case for Buying Antiquities.”

<sup>29</sup> Hardy 2020.

<sup>30</sup> Leaman 2006, 37–38; Dalya Alberge, “Prized Afghan Antiquity Is Rescued by British Art Dealer,” *The Guardian*, 29 May 2011, <http://www.theguardian.com/artanddesign/2011/may/29/buddha-kabul-museum-looted> (accessed

Angola,<sup>31</sup> Bosnia,<sup>32</sup> Bulgaria,<sup>33</sup> Cambodia,<sup>34</sup> China,<sup>35</sup> Egypt,<sup>36</sup> Ethiopia,<sup>37</sup> France,<sup>38</sup> Guatemala,<sup>39</sup> Iraq,<sup>40</sup> Israel-Palestine,<sup>41</sup> Jordan,<sup>42</sup> the Netherlands,<sup>43</sup> Nigeria,<sup>44</sup> Pakistan,<sup>45</sup> Syria,<sup>46</sup>

8 April 2021); Orr, “Afghanistan Bids”; Orr, “Afghans Restore”; see, e.g., Tom Swope, “Asia Week 2016,” *Tom Swope’s Blog*, 20 March 2016, <http://tomswope.blogspot.com/2016/03/asia-week-2016.html> (accessed 8 April 2021).

<sup>31</sup> Cristina Ruiz, “Africa’s Top Collector Returns Ancestral Works to Angola,” *The Art Newspaper*, 22 December 2015, <http://theartnewspaper.com/market/art-market-news/africa-s-top-collector-returns-ancestral-works-to-angola/> (accessed 8 April 2021).

<sup>32</sup> See, e.g., Leaman 2006, 37–38.

<sup>33</sup> See, e.g., private collector Vasil Bozhkov. Cf., Ivan Bakalov, “Васил Божков изложи като свое изкопаното от тракийските могили” [Vasil Bozhkov exhibits as his own unearthed Thracian mounds], *E-vestnik*, 7 April 2011, <http://e-vestnik.bg/11401/vasil-bozhkov-izlozhi-kato-svoe-izkopanato-ot-trakiyskite-mogili/> (accessed 8 April 2021).

<sup>34</sup> See, e.g., antiquities collector Douglas A. J. Latchford. Cf., Davis and Mackenzie 2014, 295; Tom Mashberg and Ralph Blumenthal, “The Met Plans to Return Art to Cambodia,” *New York Times*, 4 May 2013, A1, <http://www.nytimes.com/2013/05/04/arts/design/the-met-to-return-statues-to-cambodia.htmlA1> (accessed 8 April 2021).

<sup>35</sup> See, e.g., Poly Art Museum Curator Ma Baoping in 2000, cited in Cuno 2008, 99; see also Shan 2001, n.p., cited in Cuno 2008, 100.

<sup>36</sup> Maram Mazon, “Antiquities Ministry Urges Egyptians to Donate to Buy Back Ancient Statue,” *Global News*, 22 August 2015, <http://globalnews.ca/news/2180535/antiquities-ministry-urges-egyptians-to-donate-to-buy-back-ancient-statue/> (accessed 8 April 2021).

<sup>37</sup> Arthur Brand, “He Is Now Trying to Let Everyone Believe That He Smuggled It Out of Ethiopia to ‘Save’ It. We Have All the Proof That He Stole It. An Innocent Man at the Time Was Sentenced for the Theft,” *Twitter*, 1 March 2020, [https://twitter.com/brand\\_arthur/status/1234088985946972160](https://twitter.com/brand_arthur/status/1234088985946972160) (accessed 8 April 2021).

<sup>38</sup> “A Broken Book of Hours: Saving a Medieval Manuscript,” *Medievalists*, 8 April 2015, <http://www.medievalists.net/2015/04/08/a-broken-book-of-hours-saving-a-medieval-manuscript/> (accessed 8 April 2021).

<sup>39</sup> See, e.g., antiquities collector Fernando Paiz, cited in Erik Vance, “Losing Maya Heritage to Looters,” *National Geographic*, 10 August 2014, <http://news.nationalgeographic.com/news/2014/08/140808-maya-guatemala-looter-antiquities-archaeology-science/> (accessed 8 April 2021).

<sup>40</sup> Amin, “Newly Discovered Tablet V”; see, e.g., Tom Swope, “Civilization under Attack, What Can We Do?” *Tom Swope’s Blog*, 28 September 2015, <http://tomswope.blogspot.fr/2015/09/civilization-under-attack-what-can-we-do.html> (accessed 8 April 2021); see also the president of the American Council for Cultural Policy (ACCP), Ashton Hawkins, cited in John Wilford, “Curators Appeal for a Ban on Purchase of Iraqi Artifacts,” *New York Times*, 16 April 2003, <http://www.nytimes.com/2003/04/16/international/worldspecial/16ANTI.html> (accessed 8 April 2021).

<sup>41</sup> Daniel Estrin, “Ancient Tablets Displayed in Jerusalem Part of Debate over Looting of Antiquities in Mideast,” *Minneapolis Star Tribune*, 12 February 2015, <http://www.startribune.com/world/291620891.html> (accessed 8 April 2021); “Save Our Stones.”

<sup>42</sup> Kersel and Chesson 2013, 681.

<sup>43</sup> Janene Pieters, “Ukrainian Secret Service Accused of Trading in Stolen Dutch Paintings,” *NL Times*, 7 December 2015, <http://www.nltimes.nl/2015/12/07/ukrainian-secret-service-accused-of-trading-stolen-dutch-paintings/> (accessed 8 April 2021).

<sup>44</sup> Toluwani Eniola, “Minister Condemns Illegal Trafficking of Artefacts,” *Punch* [Nigeria], 17 November 2016, <http://punchng.com/minister-condemns-illegal-trafficking-artefacts/> (accessed 8 April 2021); Naomi Rea, “A Group of Principled French Art Dealers Teamed Up to Buy 27 Looted African Artifacts at Auction – So They Could Return Them to Benin,” *Artnet News*, 17 January 2020, <https://news.artnet.com/art-world/french-collective-returns-benin-heritage-1755405> (accessed 8 April 2021).

<sup>45</sup> See, e.g., antiquities dealer and confessed smuggler John Bryan McNamara, cited in Matt Zapotosky, “Fla. Dealer Pleads Guilty to Smuggling Artifacts from Grave Sites in Pakistan,” *Washington Post*, 13 November 2015, [https://www.washingtonpost.com/local/public-safety/fla-dealer-pleads-guilty-to-smuggling-artifacts-from-grave-sites-in-pakistan/2015/11/13/fc886cda-89a9-11e5-9a07-453018f9a0ec\\_story.html](https://www.washingtonpost.com/local/public-safety/fla-dealer-pleads-guilty-to-smuggling-artifacts-from-grave-sites-in-pakistan/2015/11/13/fc886cda-89a9-11e5-9a07-453018f9a0ec_story.html) (accessed 8 April 2021).

<sup>46</sup> See, e.g., “Jewish Life,” *Amaliah*, 2016, <https://amaliah.org/preservation-of-syrian-jewish-heritage>; “Civilization under Attack, What Can We Do? Comment,” *Tom Swope’s Blog*, 3 October 2015, <http://tomswope.blogspot.com/2015/09/civilization-under-attack-what-can-we-do.html?showComment=1443913427206#c4589621973028522873> (accessed 8 April 2021); anonymous antiquities collector, cited in Paul Barford, “Sayles: “Archaeologists and Museums May Be Involved in Syrian and Iraqi Artefact Smuggling,” *Portable Antiquity Collecting and Heritage Issues*, 28 October 2014, <http://paul-barford.blogspot.it/2014/10/sayles-archaeologists-may-be-involved.html> (accessed



Turkey,<sup>47</sup> and Ukraine<sup>48</sup> as well as for cultural objects belonging to vulnerable communities, such as Holocaust torahs.<sup>49</sup> More generally, rescue has been defended as the “only plausible strategy,” the “only feasible strategy” to preserve cultural property from any territories that are controlled by kleptocratic regimes or threatened by iconoclastic forces.<sup>50</sup>

There have also been various experiments with amnesties for officially unapproved and/or outright illicit collections, some of which have been explicitly characterized as programs of rescue.<sup>51</sup> Even the notoriously brutal and culturally destructive Kingdom of Saudi Arabia has engaged in a project for the “homecoming” and “preservation” of antiquities, which has secured the “almost entirely ... voluntar[ly] ... return [of] more than 46,000 objects” that had been held in more than 100 collections, 30,000 or more from collections of expatriates (14,000 of those from 14 collections in the United States), and 16,000 or more from collections of Saudis,<sup>52</sup> which had been collected both before and after the prohibition of unlicensed excavation, trading, and export of antiquities.<sup>53</sup>

There has been extensive study of the material<sup>54</sup> and intellectual<sup>55</sup> consequences of negligent and criminal collecting in general, which include the incentivization of looting, smuggling, and corruption; the destruction of archaeological evidence through unscientific extraction; and the subversion of archaeological knowledge through the acceptance of fakes, forgeries, and counterfeits as genuinely ancient works. There has also been some analysis of the claims and consequences of “rescue” by purchase in particular.<sup>56</sup> However, there has been extensive experimentation with “rescue” by purchase, which has been excused in accord with the law of necessity, as an activity that may involve complicity in lesser crimes in order to end or prevent greater crimes. So it is possible and necessary to ask whether those experiments have produced evidence of unjustifiable negative consequences and whether such experiments should continue.

Another article tests the theory that the only consequence of rescue is the recovery of important scholarly information, in relation to purchases by private collectors, by exploring the risks of financing organized crime in Guatemala and Iran; financing global transnational

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8 April 2021); anonymous collectors, cited in David D’Arcy, “Isil Holds Heritage to Ransom to Fund Fighters, US Expert Warns,” *The Art Newspaper*, 2 July 2015, <http://theartnewspaper.com/news/news/157627/> (accessed 8 April 2021); Matthew Bell, “ISIS Wants to Erase the Middle East’s Christian History – and Make a Few Bucks along the Way,” *Public Radio International*, 22 January 2016, <http://www.pri.org/stories/2016-01-22/isis-wants-erase-middle-east-s-christian-history-and-make-few-bucks-along-way> (accessed 8 April 2021); Swope, “Civilization under Attack”; cf., David Gill, “Syria and Iraq, a Continued Black Market and a Cycle of Corruption,” *Looting Matters*, 27 January 2016, <http://lootingmatters.blogspot.co.uk/2016/01/syria-and-iraq-continued-black-market.html> (accessed 8 April 2021).

<sup>47</sup> See, e.g., ultranationalist politician Fazlı Koç, cited in Cihan Haber Ajansı, “Tarihi eser kaçakçıları avukatı koleksiyoner yaptı” [Antiquities smugglers made lawyer collector], *Haberler*, 30 March 2015, <https://www.haberler.com/tarihi-eser-kaçakçilari-avukati-koleksiyoner-yapti-7134740-haberi/> (accessed 8 April 2021).

<sup>48</sup> Gershkovich 2005, 93.

<sup>49</sup> Robert Gearty and Tracy Connor, “Jewish Indiana Jones’ Rabbi Menachem Youlus Admits to Torah Scam and Faces Jail,” *New York Daily News*, 2 February 2012, <http://www.nydailynews.com/new-york/rabbi-menachem-yulus-admits-torah-scam-faces-jail-article-1.1016263> (accessed 8 April 2021).

<sup>50</sup> Leaman 2006, 37; 38; see also “US Antiquities Black Market Helps Fund ISIS, Experts Say,” *Israel Hayom*, 10 December 2015, [http://www.israelhayom.com/site/newsletter\\_article.php?id=30315](http://www.israelhayom.com/site/newsletter_article.php?id=30315) (accessed 8 April 2021).

<sup>51</sup> Cf., Hardy 2021.

<sup>52</sup> Arthur Clark, “Returning Treasures to the Kingdom,” *AramcoWorld*, March/April 2016, <https://www.aramco-world.com/Articles/March-2016/Returning-Treasures-to-the-Kingdom> (accessed 8 April 2021).

<sup>53</sup> *Regulations for Antiquities*, Royal Decree no. M/26, 3 August 1972.

<sup>54</sup> See, e.g., Chippindale and Gill 2000; Nørskov 2002; Prescott and Rasmussen 2020.

<sup>55</sup> See, e.g., Gill and Chippindale 1993; Muscarella 2001; Prescott and Rasmussen 2020.

<sup>56</sup> See, e.g., Brodie 2005; Müller-Karpe 2010; Bauer 2015; Hardy 2015a; Thompson 2015; Kersel 2016; Hardy 2021; Prescott and Rasmussen 2020.

organized crime and the serious corruption that enables the supply chain in China; facilitating fraud and embezzlement in the United States; and facilitating corruption, laundering of illicit assets, and the art-washing of reputations of politically exposed persons in Angola and Bulgaria.<sup>57</sup> This article explores whether participants in (and facilitators of) “rescue” by purchase risk complicity in serious crime (beyond cultural property crime itself) and other serious harms, in relation to purchases of cultural objects from conflict zones or through conflict actors, by exploring the consequences in exceptionally well-documented cases in Cambodia, Afghanistan, Pakistan, and Ukraine.

### Financing of political violence in Cambodia and laundering of reputations around the world

The situation in Cambodia is convoluted, but “rescue” by purchase has featured in the debate around the illicit trade. For instance, the Metropolitan Museum of Art in the United States long denied any illicit activity surrounding the Kneeling Attendants from the Koh Ker temple, pieces of which were donated to the museum between 1987 and 1992 by Raymond G. Handley and Milla Louise Handley and the auction house from which they had bought their pieces, Spink and Son, in the United Kingdom. Conversely, once the statues had been repatriated to Cambodia, another Khmer antiquities collector who had been associated with the donations, Douglas A. J. Latchford, who had been lauded by cultural heritage professionals and honored by Cambodia,<sup>58</sup> argued that if the statues had not been “moonlighted” (smuggled) out, “they would likely have been shot up for target practice by the Khmer Rouge.”<sup>59</sup>

Yet, in the course of the conflicts in Cambodia between 1970 and 1998, the communist Khmer Rouge, its ally-then-enemy the Vietnam People’s Army, and its opponent nationalist Khmer Republic all conducted industrial looting.<sup>60</sup> Since then, trafficking has been dominated by the military and its shadow state.<sup>61</sup> Hence, “rescue” by purchase has run, and continues to run, the risk of contributing to conflict antiquities trafficking. At the time of his death, Latchford was being prosecuted for conspiracy to commit wire fraud, smuggling, and other charges that related to the trafficking of stolen cultural goods from Cambodia, Thailand, and India.<sup>62</sup>

### Fuelling of an illicit market and financing of political violence in Afghanistan

A range of public institutions, community initiatives, and private collectors have participated – or have claimed to participate – in “rescue” by purchase of looted antiquities from Afghanistan. For instance, one Gandharan Buddha that had been looted from the National Museum of Afghanistan was sold to a private collector in Japan, where the collector could not be prosecuted. With the support of the British Museum, a British antiquities dealer did something that he believed was “very moral, but illegal”: he bought the sculpture.<sup>63</sup> Subsequently, it was exhibited at the British Museum and then returned to Kabul.

<sup>57</sup> Hardy 2021.

<sup>58</sup> Lynda Albertson, “Dying to Get Away with It: How One Defendant’s Death May Thwart Justice for the People of Cambodia, Thailand, and India,” *Association for Research into Crimes against Art*, 11 August 2020, <https://art-crime.blogspot.com/2020/08/dying-to-get-away-with-it-how-one.html> (accessed 8 April 2021).

<sup>59</sup> Cited in Mashberg and Blumenthal, “Met Plans,” A1.

<sup>60</sup> Davis and Mackenzie 2014, 297–98.

<sup>61</sup> Lafont 2004, 39, 54–56.

<sup>62</sup> *United States of America v. Douglas Latchford, a/k/a “Pakpong Kriangsak,” United States Department of Justice*, November 27, 2019, <https://www.justice.gov/usao-sdny/press-release/file/1221291/download>.

<sup>63</sup> Cited in Alberge, “Prized Afghan Antiquity.”



The British Library bought (and received a donation that matched the cost of) unprovenanced birch bark manuscripts “in the interests of scholarship”<sup>64</sup> and committed to “consider[ing] any future claims for restitution.”<sup>65</sup> The Museum of Indian Art (Museum für Indische Kunst) in Germany asserted that it was “try[ing] to save the pre-islamic [sic] culture of Afghanistan and [it] plan[ned] to give everything back to the country.”<sup>66</sup> When challenged, Pakistan’s then prime minister, Benazir Bhutto, confirmed that she had “a number of Begrami ivories” that had been stolen from the National Museum of Afghanistan (also known as the Kabul Museum), which she claimed were “in ... safe keeping until ... Afghanistan return[ed] to peace,” when the stolen goods would return to Kabul.<sup>67</sup> Her internal security minister, Naseerullah Khan Babar, was known to have numerous antiquities and later “admitted” that he too had bought a stolen Begrami ivory sculpture, for US \$100,000, which he also claimed was “‘in safe keeping’ until peace return[ed] to Afghanistan.”<sup>68</sup> Manifestly, not only did they employ the same “techniques of neutralisation” – “excuses and justifications”<sup>69</sup> for their persistence in, or non-desistance from, criminal activity – but they also deployed the same narrative and the same script, almost word for word.

Similarly, Norwegian businessman Martin Schøyen, who is a decades-long collector of cultural objects with a focus on historical texts, asserted that he “rescu[ed]” Buddhist manuscripts that were at risk of iconoclastic destruction by the Taliban “for scholarship and for the common heritage of mankind,” through an operation where they were smuggled out of Afghanistan either with or for monks or refugees.<sup>70</sup> Contrarily, he never wished to return or sell any piece of his collection to an Islamic country because “one [could] never know what [would] happen in the Muslim states,”<sup>71</sup> where any non-Islamic object “would [be] at risk [ville vært i faresonen],”<sup>72</sup> though he has since been compelled to return stolen artifacts to Afghanistan and looted antiquities to Pakistan.<sup>73</sup>

<sup>64</sup> British Library, 11 May 1994, cited in Brodie 2005, 6.

<sup>65</sup> British Library, 11 May 1994, paraphrased by Brodie 2005, 6.

<sup>66</sup> Cited in *People of the State of New York v. Sanjeeve Asokan* (M 55), *Dean Dayal* (M 87), *Ranjeet Kanwar* (M 55), *Subhash Kapoor* (M 70), *Aditya Prakash* (M 50), *Vallabh Prakash* (M 89), *Richard Salmon* (M 63), and *Neil Perry Smith* (M 56), Case no. CR-022431-19NY, Criminal Court of the City of New York, County of New York, 8 July 2019, <http://www.artcrimeresearch.org/wp-content/uploads/2019/08/19-07-08-Criminal-Complaint-Subhash-Kapoor-et-al.pdf>, 26.

<sup>67</sup> Bruce Richardson, “Trafficking in Antiquities during a Time of War – Analysis,” *Middle East Institute*, 5 June 2012, <https://www.mei.edu/publications/trafficking-antiquities-during-time-war> (accessed 8 April 2021).

<sup>68</sup> Paraphrased by Luke Harding, “Lost Treasures of Kabul,” *The Guardian*, 17 November 2000, <https://www.theguardian.com/g2/story/0,3604,398808,00.html> (accessed 8 April 2021); see also Hasibullah Noori, “In Pursuit,” *The Killid Group*, 21 May 2017, <https://tkg.af/english/2017/05/21/in-pursuit/> (accessed 8 April 2021).

<sup>69</sup> Maruna and Copes 2005, 222; see also Mackenzie and Yates 2016.

<sup>70</sup> “Buddhist Bamiyan Manuscripts on Public View for the First Time in Thailand,” *Schøyen Collection*, 12 November 2010, <https://www.schoyencollection.com/news-items/bamiyan-buddhist-thailand-exhibition-2010>; see also Omland and Prescott 2002, 5; Prescott and Omland 2003, 10; Lundén 2005, 3–4; “Statement in Response to Recent Media Attacks on the Integrity of the Schøyen Collection,” *Schøyen Collection*, 15 February 2020, <https://www.schoyencollection.com/news-items/statement-on-fake-news>; Schøyen Collection, 23 October 2000 and 21 November 2001, translated and cited in Prescott and Rasmussen 2020, 71; 72.

<sup>71</sup> Cited in Prescott and Omland 2003, 8–9.

<sup>72</sup> Interviewed by Dagens Næringsliv, 29 March 2004, cited in Ola Flyum, “SKUP-rapport for NRK Brennpunkts prosjekter: Skriftsamleren (del 1); De magiske krukkene (del 2)” [Foundation for a Critical and Investigative Press Report for NRK Hot Topic projects: The Manuscript Collector (Part 1); the Magic Jars (Part 2)], NRK, 31 January 2005, 6, <https://www.skup.no/sites/default/files/metoderapport/2004-54%2520skriftsamleren.pdf>.

<sup>73</sup> Lundén 2005, 8; Ministry of Foreign Affairs of Afghanistan, 8 March 2008, cited in van Krieken-Pieters 2010, 95n13.

### *The realities of “rescue” from Afghanistan and Pakistan*

In a way that suggests a cultural-historical genealogy, the Schøyen Collection comprises more than 20,000 texts from around the world, which focus on the Ancient Near East, the Classical world, medieval Europe, and modern Scandinavia. Specific categories include more than 2,000 palaeographic texts, more than 1,200 historical texts, around 630 literary texts, and more than 400 biblical texts; 19 special collections include things such as Dead Sea Scrolls, papyri plus ostraca, seals, objects that relate to China, and objects that relate to Buddhism. Various smaller collections include objects that relate to religions such as Judaism, Islam, and Hinduism. One of Schøyen’s researchers challenged an investigation into his collection by pointing out that the British Library had been the first to get “many important Buddhist scrolls” that had been “discovered in Hadda in East Afghanistan” through the “grave robbing market.”<sup>74</sup> This explanation shows how the institution constituted a public model for socially accepted action, providing a narrative with which market actors could claim that their activity had moral validity, thereby neutralizing objections and burnishing (if not laundering) their reputations.

Indeed, looters in Pakistan have indicated that there had been practically “no market for such manuscripts ... before the British Library ... began to buy up these manuscripts [noe marked for slike skrifter ... før British Library ... begynte å kjøpe opp slike skrifter].”<sup>75</sup> So the institution did not merely constitute part of the market; it practically created the demand that incentivized the supply from Pakistan. Furthermore, the institution’s actions advertised the potential for the donation of assets from the market, which is a tax-deductible expense in some jurisdictions as well as a reputation-laundering strategy around the world. As with the public model for the private collection of looted antiquities, it consolidated a narrative with which the market could divest itself of inconvenient – and possibly otherwise unsellable – assets. Sometimes, private donors of rescued antiquities will have received a public subsidy in the form of a tax deduction that will have covered some or all of the costs of the acquisition. If the market value at the time of the donation was (or was valued as) greater than the cost of the acquisition, they may even have profited through the act of donation. Indeed, in any case, there is an incentive for receivers to conspire with donors to mis-value assets in order to secure their donation/reception. Thus, tax fraud through value manipulation is a broader problem, which again is worsened when it involves antiquities that have been extracted from conflict zones, potentially through violent action and/or for the benefit of violent actors.<sup>76</sup>

Once it had been exposed, that initially denied marketization process was then increasingly valorized as rescuing the byproducts of the looting of other materials from discard or destruction. For instance, before the sources of the objects had been exposed, having interviewed and seemingly paraphrasing Schøyen’s researcher Jens Braarvig, the *Art Newspaper* rhetorically queried “what would have happened if those fleeing the Taliban and seeking refuge in the cave had not been able to sell their find” and concluded that “the fragile items might simply have been discarded or allowed to disintegrate.”<sup>77</sup> Narrating its supposed “rescue operation” since the exposure of its sources, the Schøyen Collection has noted: “Many of the micro-fragments were either being discarded or used” as components of

<sup>74</sup> Corresponding between Kazunobu Matsuda and David Hebditch, 12 July 2004, cited in Flyum, “SKUP-rapport for NRK Brennpunkts prosjekter,” 7.

<sup>75</sup> Paraphrased by Flyum, “SKUP-rapport for NRK Brennpunkts prosjekter,” 12; see also Brodie 2005, 10; Lundén 2005, 10n12.

<sup>76</sup> Yates 2015.

<sup>77</sup> Martin Bailey, “Oslo: Buddhism’s “Dead Sea Scrolls” for Sale to Norway,” *The Art Newspaper*, 1 September 2002, <https://www.theartnewspaper.com/archive/oslo-buddhism-s-dead-sea-scrolls-for-sale-to-norway> (accessed 8 April 2021).

amulets.<sup>78</sup> Two of Schøyen's researchers, Paul Harrison and Jens-Uwe Hartmann, have appealed for realism over idealism as they have acknowledged that the illicit market incentivizes looting and the looting process destroys knowledge, yet they have observed that "illegal raiders" would be "less inclined to throw away a manuscript or use it to fuel their camp fires" if they knew that they could traffic it instead.<sup>79</sup>

### **Obstacles to the return of cultural property and implications for acquisition**

Sheer unwillingness to act is a major obstacle to restitution. Pakistan's internal security minister Naseerullah Khan Babar was openly accused of "plot[ting] to sell" – in other words, to ransom – "the ivories back to Afghanistan."<sup>80</sup> Neither Babar, nor Prime Minister Benazir Bhutto, nor their heirs after their deaths, returned the stolen goods to the National Museum in Kabul.<sup>81</sup> The destruction of knowledge through the process of looting and trafficking is another significant obstacle to the return of cultural property. Depending on the case, the realization of return might require the plundered state to prove the plunderer's illicit export, which can be difficult or impossible to do for antiquities that have been looted, where they have not been documented during extraction, and even for artifacts that have been stolen, when they have not been exactly catalogued during archiving or when those records have not been protected from theft and destruction.

The British Library, for instance, inventoried the manuscripts as originating in Afghanistan,<sup>82</sup> yet it would only return the manuscripts if the state could demonstrate that it was the country of origin when the institution itself could not confirm whether the manuscripts were from Afghanistan, Pakistan, or Tajikistan. Such insecure supply chains have significant implications for any acquisition. Since the British Library did not even know from where the objects had been extracted, it could not know to whom its money had been paid, and it could not know that it had not contributed to a revenue stream for a kleptocratic regime, a criminal organization, or an armed group – or all three.<sup>83</sup>

### **Laundering of antiquities and reputations with claims of "rescue" from Afghanistan**

It is difficult to discuss this case because Schøyen has decried compilations of public facts – from sources that include his collection's own database and publications<sup>84</sup> – as "questionable research by activist researchers [tvilsom forskning fra aktivistiske forskere]," "conspiracy theories [konspirasjonsteorier]," and "fake news [falske nyheter]."<sup>85</sup> He has insinuated that

<sup>78</sup> "Introduction: Buddhism collection," *Schøyen Collection*, 15 April 2011, <http://web.archive.org/web/20160608072438/https://www.schoyencollection.com/23-religions/living-religions/23-15-buddhism/item/849-introduction-buddhism-collection>.

<sup>79</sup> Harrison and Hartmann 2014, xxi.

<sup>80</sup> Harding, "Lost Treasures of Kabul."

<sup>81</sup> Noori, "In Pursuit."

<sup>82</sup> Salomon 1999.

<sup>83</sup> British Library, 11 May 1994, paraphrased in Brodie 2005, 6.

<sup>84</sup> Josephine Munch Rasmussen and Christopher Prescott, "Schøyens bortforklaringer om Taliban" [Schøyen's explanations about the Taliban], *Morgenbladet*, 21 February 2020, <https://morgenbladet.no/ideer/2020/02/schoyens-bortforklaringer-om-taliban> (accessed 8 April 2021).

<sup>85</sup> Cited in Anders Firing Lunde, "Mener forskere sprer konspirasjonsteorier" [He believes that scientists are spreading conspiracy theories], *Morgenbladet*, 20 February 2020, <https://morgenbladet.no/kultur/2020/02/mener-forskere-sprer-konspirasjonsteorier> (accessed 8 April 2021).

they include “libellous claims [injurierende påstandene]” about his activity.<sup>86</sup> Meanwhile, even though his onward sales of material have been enabled by his possession of Norwegian export permits, he has neither confirmed nor denied that “the material was exported [from Afghanistan] with the Taliban’s cooperation [Er materialet eksportert med Talibans medvirkning].”<sup>87</sup> Likewise, he has neither confirmed nor denied that Zahid Pervez Butt (or Zahid Parvez Butt), who was a “notorious narco and arms dealer [beryktede narco- og våpenhandleren],”<sup>88</sup> who was “suspected of selling weapons to the Taliban,”<sup>89</sup> was one of those “from whom [he had] directly or via intermediaries [received] manuscripts [av dem Schøyen direkte eller via mellomledd har handlet manuskripter fra],” let alone who all of his other sources were.<sup>90</sup>

Nonetheless, as uncovered through an investigation by the Norwegian Broadcasting Corporation (NRK) and confirmed by the subsequent return of the artifacts by Schøyen, it is known that some of the manuscripts had been stolen from the National Museum in Kabul. Schøyen, and academics who were authenticating and publishing his collection, had known for years that those manuscripts had been stolen and had withheld this information.<sup>91</sup> As indicated by a fax from Schøyen and an undercover recording of antiquities dealer William “Bill” Veres, which were secured by the NRK, it is also known that hundreds of fragments were not from Afghanistan but, rather, from Pakistan. Schøyen knew that his “primary source” had been “in the cave [in Gilgit] with the diggers” when they looted it.<sup>92</sup>

Schøyen averred that the “rescue mission” consisted of notifying the market in the United Kingdom that he “would pay a fixed price per square inch for Buddhist manuscripts” from Afghanistan and Pakistan.<sup>93</sup> And he incidentally revealed that those manuscripts had been “looted and smuggled” out of Afghanistan and Pakistan before the Taliban took control, while he continued to make purchases afterwards, even though the Taliban profited from protection racketeering.<sup>94</sup> Later, due to investigations by the NRK, Schøyen “admitted” that he knew three smugglers who supplied his intermediary in the United Kingdom, and smuggler-turned-informant Michel van Rijn released leaked documents that demonstrated that Schøyen was supplied with looted antiquities directly by smugglers from victimized countries.<sup>95</sup> Protected sources asserted that one of Schøyen’s suppliers was Zahid Pervez Butt, the aforementioned alleged smuggler of arms and drugs as well as of antiquities.<sup>96</sup> Indeed, the NRK alleged that the Taliban “used [Butt’s] network to sell artefacts from Kabul Museum in order to buy weapons [brukte hans nettverk til å selge gjenstander fra Kabul museum for å kjøpe våpen].”<sup>97</sup>

Furthermore, it appears that Schøyen laundered his and his collection’s reputation through the Schøyen Human Rights Foundation. The foundation was expected “to profit

<sup>86</sup> Cited in Anders Firing Lunde, “Schøyen har en systematisk historie med å kjøpe tvilsomme varer” [Schøyen has a systematic history of buying questionable goods], *Morgenbladet*, 14 February 2020, <https://morgenbladet.no/kultur/2020/02/schoyen-har-en-systematisk-historie-med-kjope-tvilsomme-varer> (accessed 8 April 2021).

<sup>87</sup> Rasmussen and Prescott, “Schøyens bortforklaringer.”

<sup>88</sup> Flyum, “SKUP-rapport for NRK Brennpunkts prosjekter,” 7.

<sup>89</sup> Prescott and Rasmussen 2020, 76.

<sup>90</sup> Rasmussen and Prescott, “Schøyens bortforklaringer”; see also Flyum, “SKUP-rapport for NRK Brennpunkts prosjekter,” 7.

<sup>91</sup> Lundén 2005, 5.

<sup>92</sup> On 24 July 2001, cited in Lundén 2005, 5; see also Prescott and Rasmussen 2020, 78, fig. 1.

<sup>93</sup> On 10 September 2004, translated and cited in Prescott and Rasmussen 2020, 77.

<sup>94</sup> Prescott and Rasmussen 2020, 77.

<sup>95</sup> Prescott and Rasmussen 2020, 76.

<sup>96</sup> Flyum, “SKUP-rapport for NRK Brennpunkts prosjekter,” 7.

<sup>97</sup> Flyum, “SKUP-rapport for NRK Brennpunkts prosjekter,” 15.

from [his] sale of antiquities” from his collection<sup>98</sup> so that the work of the foundation whitewashed the formation of the collection, and both of his creations “whitewash[ed]” his reputation, with the knowing or ignorant assistance of the academics and professionals who authenticated and published his purchases and the political actors and state officials who pressed for the public acquisition of his private collection.<sup>99</sup>

### *The realities of extraction from Afghanistan and Pakistan*

The shifting narratives of some market actors who operate in Western countries stand in stark contrast to the consistent explanations of other market actors who are rooted in victimized countries as well as reports by journalists, studies by archaeologists, investigations by law enforcement agents, and testimony from violent political actors who engage in cultural property crime. For example, the Society for the Preservation of Afghanistan’s Cultural Heritage (SPACH) is a repository of last resort, which has been buying looted antiquities from the market in order to repatriate them to Afghanistan. SPACH does not feign ignorance of the potential consequences of its actions. Its own members have reported that the Taliban has bulldozed monasteries in order to uncover antiquities for sale.<sup>100</sup> When compiled, this body of evidence manifests the consequences of “rescue” by purchase from Afghanistan and Pakistan.

In Afghanistan, antiquities have been looted from archaeological sites, artifacts have been stolen from museums, and/or cultural property criminals have been “taxed” (extorted) by factions in every conflict since the Soviet-Afghan War.<sup>101</sup> In Pakistan, factional-economic conflict has been financed by the looting of antiquities – for instance, by pseudonymous antiquities trafficker Zaman Khan, who has looted and sold antiquities in order to employ and arm a force that has fought for him in conflicts over other resources for at least 30 years.<sup>102</sup> Likewise, international terrorist activity has been financed by the transnational Haqqani Network, which is allied with the Taliban, has operated under the protection of Pakistan’s Inter-Services Intelligence, and has raised funds by trafficking antiquities as well as by other means.<sup>103</sup>

The interconnections of looting and smuggling with political violence and organized crime are demonstrated in one case that spans this transnational conflict zone. According to the United States’s felony arrest warrant for Indian antiquities dealer Subhash Kapoor, German museum director Marianne Yaldız, “travel[led]” to South-Central Asia “in search of new acquisitions” from around 1993 and, potentially, until 2006. In a letter to Kapoor on 10 December 1996, Yaldız justified her collaboration with him by asserting that there was an “essential difference” between the Museum of Indian Art in Berlin, which she directed, and the Art of the Past Gallery in New York, which he directed.<sup>104</sup> The museum was “try[ing] to save the pre-islamic [sic] culture of Afghanistan and [it] plan[ned] to give everything back to the country ... while [the gallery] and the people in Pakistan” were “mak[ing] money out of this political situation.”<sup>105</sup> In other words, the museum was conducting “rescue” by purchase. According to Informant no. 1 for that arrest warrant, “the people in Pakistan” were Zahid Pervez Butt and his son Zeeshan Butt. Both Butts have been identified as

<sup>98</sup> Prescott and Rasmussen 2020, 72.

<sup>99</sup> Prescott and Rasmussen 2020, 74.

<sup>100</sup> Omland and Prescott 2002, 6.

<sup>101</sup> Hardy 2019, 94.

<sup>102</sup> Hardy 2019, 97.

<sup>103</sup> Campbell 2013, 127–28; Hardy 2019, 97.

<sup>104</sup> Cited in *People of the State of New York v. Asokan et al.*, 26.

<sup>105</sup> Cited in *People of the State of New York v. Asokan et al.*, 26.

“supply[ing] the international art market with stolen antiquities from countries including, but not limited to, Afghanistan, Pakistan and India. ... To this day, the Butts supply dealers, auction houses, private clients, and museums worldwide with illegal cultural property.”<sup>106</sup>

In 1995, Yaldız “travelled to Afghanistan” where, according to Informant no. 1, she “selected” looted antiquities “for purchase” from the “local warlord,” Mujahideen Commander Zaman, and she “negotiated excavation rights” with Zaman.<sup>107</sup> Indeed, in a letter to Kapoor on 12 July 1995, Yaldız explained that she had “visited a Buddhist site where Zaman’s forces were excavating,”<sup>108</sup> where “Zaman offered to stop digging at the site “if [they could] make the offer to [Zaman] to give the money for [their] own excavations and pay [Zaman] some money for his efforts. Then [they would have to] bring the objects out of the country.”<sup>109</sup> The US Department of Homeland Security “presum[ed]” that Yaldız was negotiating for herself “and her associates, ... including Kapoor.”<sup>110</sup> In the letter to Kapoor on 10 December 1996, Yaldız promised Kapoor that she would “send ... the money at once” upon the arrival of the antiquities, which were duly delivered on 27 January 1997.<sup>111</sup> Informant no. 1, who participated in the transaction, explained that Yaldız was discussing payment upon delivery through Kapoor, by the Butts, for the antiquities that had been looted by Zaman that she had selected in person.<sup>112</sup> Altogether, then, this transaction manifests looting by armed forces in Afghanistan, smuggling by organized criminals in Pakistan, laundering through a private business in the United States, and collection by a public institution in Germany, where the fact of conflict financing was known by both the gallery and the museum and was considered to be a morally acceptable price for “rescue” by purchase.

### Incentivization of “art-napping” for ransom in the Netherlands, financing of political violence in Ukraine, and weakening of international support for insecure democracies

As noted, whether they are victims or other interested parties, some people defend or attempt the provision of assets in exchange for illicit cultural property from – which they would not describe as the purchase of illicit cultural property from (or the payment of ransom to) – violent political organizations. And such “rescue” is practiced – or attempted – for illicit cultural property from countries in the global North/West as well as in the global South/East.

For instance, 24 Dutch paintings were stolen from a museum in the Netherlands in 2005. The theft from the museum and the smuggling out of the Netherlands are still unsolved. The paintings resurfaced in Ukraine in 2015. According to volunteer fighter Borys Humeniuk, they were found “in a private mansion, owned by a member of ousted Ukrainian president Yanukoych’s inner circle.”<sup>113</sup>

<sup>106</sup> People of the State of New York v. Asokan et al., 24.

<sup>107</sup> People of the State of New York v. Asokan et al., 25.

<sup>108</sup> Paraphrased by People of the State of New York v. Asokan et al., 25.

<sup>109</sup> Cited in People of the State of New York v. Asokan et al., 25–26.

<sup>110</sup> People of the State of New York v. Asokan et al., 26.

<sup>111</sup> Cited in People of the State of New York v. Asokan et al., 26.

<sup>112</sup> Cited in People of the State of New York v. Asokan et al., 26.

<sup>113</sup> According to Humeniuk, translated by “Stolen Dutch Painting Found in Militant-controlled Area of East Ukraine – Humeniuk,” *Ukraine Today*, 20 December 2015, <http://uatoday.tv/crime/stolen-dutch-painting-found-in-militant-controlled-area-of-east-ukraine-humenyuk-551291.html> (accessed 8 April 2021). According to a protected source, “the paintings ... never appeared on the black market,” and he never heard that any of “the influential Donbas people had acquired them.” Otherwise, potential candidates would have included pre-revolutionary prosecutor-general Gennadiy Vasyliiev; icon collector and oligarch Viktor Nusenkis; and painting collector, painting trader, and pre-revolutionary presidential adviser Anton Pryhodskyi. See Serhiy Rakhmanin, “Stolen Paintings, the



According to private investigator Arthur Brand, they were offered through Humeniuk, “the deputy commander of the OUN battalion,” the ultranationalist militia (also characterized as the volunteer battalion) of the Organization of Ukrainian Nationalists (OUN).<sup>114</sup> Again according to Brand, the resurfacing of the paintings can ultimately be traced to Oleh Tyahnybok, an ultranationalist who was a member of parliament before the revolution and still is the leader of the far-right extremist or “fascist” movement Svoboda, and Valentyn Nalyvaichenko, a nationalist who has shifted between right-wing politics and the security service before and since the revolution.<sup>115</sup> Svoboda has decried the accusation as “defamatory.”<sup>116</sup> Nalyvaichenko has “categorically denie[d] [it].”<sup>117</sup> And it is extremely difficult to corroborate key claims in all narratives, some of which have included inaccurate claims that have been asserted with ambiguous evidence, all of which have been asserted without concrete evidence by parties with vested interests in the narrative of the case. For instance, Humeniuk, who had been buying paintings and “making money by selling paintings on the art market for the [previous] 10 years,”<sup>118</sup> had actually been discharged from the OUN on suspicion of (unrelated) “theft and abuse of power”<sup>119</sup> and had rejoined the fascist Azov Battalion, while the OUN had been dissolved and absorbed into the 81st Airborne Brigade<sup>120</sup> and the 93rd Mechanized Brigade<sup>121</sup> of the Armed Forces of Ukraine. Meanwhile, Humeniuk himself has made various claims, such as that the paintings were discovered by a unit of spies and saboteurs from the free areas in the occupied territories. As reported, it is “not convincing” that spies and saboteurs took a newspaper from the free areas with them into “enemy territory,” yet the “proof-of-life” photo set a Ukrainian newspaper alongside one of the paintings.<sup>122</sup>

At one point, it was even possible to assert that there were “no [material] indications” that the paintings were or ever had been “located ... in Ukraine.”<sup>123</sup> Yet, on 14 April 2016, the Ukrainian Security Service recovered four paintings. It had conducted a four-month-long

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Netherlands and Ukraine,” *Euromaidan Press*, 17 December 2015, <https://euromaidanpress.com/2015/12/17/stolen-paintings-ukraine-the-netherlands-and-the-truth/> (accessed 8 April 2021).

<sup>114</sup> By Arthur Brand, “Westfries Museum in Hoorn: Een spannende lobby om gestolen schilderijen uit handen van corrupte Oekraïense milities te krijgen” [Westfries museum in Hoorn: an exciting lobby to get stolen paintings out of the hands of corrupt Ukrainian militias], *Arthur Brand Blog*, 12 February 2019, <http://web.archive.org/web/20190212124540/https://www.arthurbrand.com/track-record/westfries-museum/> (accessed 8 April 2021).

<sup>115</sup> Brand, “Westfries Museum in Hoorn”; see also De Visser, “Ukraine Extremists with Stolen Dutch Art Try to Sell It Back,” *Daily Beast*, 12 December 2015, <http://www.thedailybeast.com/articles/2015/12/12/ukraine-extremists-with-stolen-dutch-art-try-to-sell-it-back.html> (accessed 8 April 2021).

<sup>116</sup> Cited in Daniel McLaughlin, “Ukraine Scrambles to Solve Riddle of Stolen Dutch Art,” *Irish Times*, 10 December 2015, <http://www.irishtimes.com/news/world/europe/ukraine-scrambles-to-solve-riddle-of-stolen-dutch-art-1.2461662> (accessed 8 April 2021).

<sup>117</sup> Paraphrased by Interfax-Ukraine, “Ukraine’s Interior Ministry Engaged in Tracing Dutch Paintings – Klimkin,” *Vector News*, 9 December 2015, <http://en.vnews.agency/news/accident/14594-ukraines-interior-ministry-engaged-in-tracing-dutch-paintings-klimkin.html> (accessed 8 April 2021).

<sup>118</sup> According to Humeniuk, as reported by Rakhmanin, “Stolen Paintings.”

<sup>119</sup> According to Organization of Ukrainian Nationalists spokeswoman Lydia Guzhva, cited by Veronika Melkozerova, “Ukraine defense Unit Suspected in Case of Stolen Dutch Artwork,” *Kyiv Post*, 10 December 2015, <http://web.archive.org/web/20151210135300/https://www.kyivpost.com/article/content/ukraine-politics/ukraine-defense-unit-suspected-in-case-of-stolen-dutch-art-work-403880.html> (accessed 8 April 2021).

<sup>120</sup> “У Києві відбудеться прем’єрний показ документального фільму ‘Кіндрат’ [the premiere of the documentary film ‘Kindrat’ will take place in Kyiv],” *Міністерство культури України*, 22 February 2018, [http://mincult.kmu.gov.ua/control/uk/publish/article?art\\_id=245338832&cat\\_id=244913751](http://mincult.kmu.gov.ua/control/uk/publish/article?art_id=245338832&cat_id=244913751) (accessed 8 April 2021).

<sup>121</sup> “День з 93-ою окремою механізованою бригадою Холодний Яр [day with the 93<sup>rd</sup> Separate Mechanized Brigade of Kholodniy Yar],” *Армія FM*, 3 July 2018, <https://www.armyfm.com.ua/den-z-93-oju-okremoju-mehani-zovanoju-brigadoju-holodnij-jar/> (accessed 8 April 2021).

<sup>122</sup> Rakhmanin, “Stolen Paintings.”

<sup>123</sup> Rakhmanin, “Stolen Paintings.”

operation that spanned the country and affirmed that the theft had been “organised by one of the international criminal groups, which included natives of Donbass [організувало одне з міжнаціональних кримінальних угруповань, до якого входили вихідці з Донбасу].”<sup>124</sup> As further explained, “[s]ome [other] paintings are in the occupied territories and in the Russian Federation [частина картин знаходяться на окупованих територіях і в Російській Федерації].”<sup>125</sup> “After several meetings” with Brand, on 30 May 2016, a Ukrainian citizen surrendered possession of one painting to the embassy of the Netherlands in Ukraine.<sup>126</sup>

Westfries Museum declared that its “first priority” was “to get the art back before it disappear[ed] again” or got “even more” damaged.<sup>127</sup> Although the offer was not accepted, the municipality of Hoorn, through Brand, did offer assets to the militia in exchange for the artworks.<sup>128</sup> The museum appeared to recognize the structure of the operation and the politesse around refusing to pay a ransom since it insisted that it did not engage in “negotiations” or “dialogue” while simultaneously recognizing that Brand had engaged in “dialogue in [its] name”;<sup>129</sup> it insisted that it “refused to pay [the militia] money for [its] very own paintings” while simultaneously recognizing that it “offered [the militia] 50,000 euros as a ‘finder’s fee’ – and as a token of our gratitude.”<sup>130</sup> It was further insinuated that the militia might have exchanged, or might later “exchange,” the paintings “for arms” from operators in Kazakhstan, Tajikistan, and/or Afghanistan.<sup>131</sup> No evidence was presented, and none has since emerged. It also appears to contradict the assertion that the militia was only an intermediary. Nonetheless, this assertion was used to underpin the further assertion that the paintings would then “be lost for ever.”<sup>132</sup> If – indeed, as – the museum and its intermediary believed that the militia was engaged in an “ongoing quest for arms” and that the militia would have exchanged the paintings for arms, the museum and its intermediary must have believed that the “token of gratitude,” which would have been exchanged for the paintings, would itself in turn have been exchanged for arms.<sup>133</sup>

Like the other cases, this case has far-reaching consequences. According to foreign minister Pavlo Klimkin, it has become a “critical” diplomatic problem for Ukraine.<sup>134</sup> The saga – “from a corrupt Yanukovich ally acquiring the stolen art to a nationalist militia trying to negotiate its handover for a fat ransom”<sup>135</sup> – gives the impression of “very un-European lawlessness,” which has weakened support in the Netherlands for an agreement of

<sup>124</sup> Sluzhba Bezpeky Ukrainy, “СБУ знайшла чотири картини, викрадені з голландського музею” [SBU finds four paintings, stolen from Dutch museum], *Служба безпеки України*, 15 April 2016, <https://ssu.gov.ua/ua/news/1/category/21/view/761>; see also “Four Stolen Paintings Westfries Museum Retrieved,” *Westfries Museum*, 15 April 2016, <http://www.westfriesmuseum.info/stolen-art/> (accessed 8 April 2021).

<sup>125</sup> “СБУ виявила чотири картини, вкрадені з музею в Нідерландах” [The SBU found four paintings, stolen from a museum in the Netherlands], *РБК-Україна*, 14 April 2016, <https://www.rbc.ua/ukr/news/sbu-obnaruzhila-chetyre-kartiny-vykradennye-1460646238.html> (accessed 8 April 2021).

<sup>126</sup> “Stolen Painting Returned,” *Westfries Museum*, 30 May 2016, <https://www.westfriesmuseum.info/stolen-art/> (accessed 8 April 2021).

<sup>127</sup> Westfries Museum Director Ad Geerdink, paraphrased by Pieters, “Ukrainian Secret Service.”

<sup>128</sup> Pieters, “Ukrainian Secret Service.”

<sup>129</sup> Cited in Rakhmanin, “Stolen Paintings.”

<sup>130</sup> Cited in Pete Baumgartner, “Ukraine Jumps into Stolen Dutch Paintings Mystery with Eye to Referendum,” *Radio Free Europe / RadioLiberty*, 10 December 2015, <http://www.rferl.org/content/ukraine-mystery-stolen-dutch-paintings/27419243.html> (accessed 8 April 2021).

<sup>131</sup> Brand, “Westfries Museum in Hoorn.”

<sup>132</sup> Brand, “Westfries Museum in Hoorn.”

<sup>133</sup> Brand, “Westfries Museum in Hoorn.”

<sup>134</sup> Cited in Interfax-Ukraine, “Ukraine’s Interior Ministry.”

<sup>135</sup> Leonid Bershidsky, “Stolen Art Hampers Ukraine’s EU Progress,” *Bloomberg*, 9 December 2015, <http://www.bloomberg.com/view/articles/2015-12-09/stolen-art-hampers-ukraine-s-eu-progress> (accessed 8 April 2021).

association between the European Union and Ukraine, even though one of the benefits of an agreement would have been the consolidation of the rule of law.<sup>136</sup> The disclosure of the Ukrainian Security Service's operation "could have affected the results of the vote in favour of Ukraine, but would [have] disrupt[ed] the continuation of the operation [могло вплинути на результати голосування, але зірвати продовження операції]" to recover the paintings and return them to the Netherlands.<sup>137</sup> Thus, the operation was kept secret, and, although the referendum was obviously a far more complex decision-making process for Dutch voters, the vote went against Ukraine.<sup>138</sup>

## Conclusion

"Rescue" from the market creates a market for antiquities that can be "rescued," such as the publicly documented, "portableised" artworks from churches in Cyprus,<sup>139</sup> which could not have been sold to private collectors on the open market and were stolen in order to be ransomed back to the Republic of Cyprus.<sup>140</sup> Furthermore, the policy creates a mechanism for the laundering and legalization of illicit assets. For example, illicit antiquities in Cyprus were bought by private collectors in accordance with a secret government policy, then legalized through amnesty,<sup>141</sup> including antiquities that were seemingly acquired from areas under government control yet registered in collections of antiquities that had been "rescued" from areas outside government control.<sup>142</sup> Furthermore, they were originally bought by formally approved collectors in Cyprus to prevent their disappearance into the international market or by informally assisted collectors abroad to prevent their dispersal across the international market, yet some antiquities in Cyprus have since been sold into the international market,<sup>143</sup> and some antiquities abroad have since been dispersed across the international market.<sup>144</sup> Illicit antiquities from Pakistan have been laundered through their

<sup>136</sup> Bershidsky, "Stolen Art." On the one hand, for instance, a blogger perceived the case to provide "context" for efforts to identify the perpetrators of the shooting down of Flight MH17. See Marcel van den Berg, "Ukraine Politicians, Former Head Secret Service and Militia Allegedly Involved in Art Robbery the Netherlands," *What Happened to Flight MH17?*, 7 December 2015, <http://www.whathappenedtoflightmh17.com/ukraine-politicians-former-head-secret-service-and-militia-involved-in-art-robbery-the-netherlands/> (accessed 8 April 2015). In fact, Flight MH17 was shot down by pro-Russia paramilitary forces that had been armed by Russia's armed forces. See "MH17 Missile Owned by Russian Brigade, Investigators Say," *BBC News*, 24 May 2018, <https://www.bbc.com/news/world-europe-44235402> (accessed 8 April 2018). On the other hand, the president of the Kyiv-Netherlands Business Club perceived the case to constitute one of several "political attacks" on Ukraine by Russia. See Hans Ramaekers, "Dear Facebook Friends," *Facebook*, 16 February 2016, <https://www.facebook.com/hans.ramaekers/posts/1049966508401592> (accessed 8 April 2021). In fact, as detailed in this article, the paintings were being held in Ukraine as well as in Russia; they were being trafficked by a transnational organized crime group that was rooted in Ukraine as well as in Russia, and one of the intermediaries was a former member of a pro-Ukraine paramilitary organization.

<sup>137</sup> Sluzhba Bezpeky Ukrayiny, "СБУ знайшла чотири картини."

<sup>138</sup> Later, the text of the treaty was revised by European Union member states, and the agreement was approved by the Dutch Parliament.

<sup>139</sup> Paul Barford coined this term to characterize a part of immovable cultural property that had been extracted from its whole and so converted into movable cultural property. Paul Barford, "Katie Paul: The U.S. Market in Cambodian Cultural Property," *Portable Antiquity and Cultural Heritage Issues*, 24 October 2017, <http://paul-barford.blogspot.com/2017/10/katie-paul-us-market-in-cambodian.html> (accessed 8 April 2021).

<sup>140</sup> Herscher 2001, 148; see also Hardy 2015b.

<sup>141</sup> Hardy 2015b, 336–37.

<sup>142</sup> Hardy 2014.

<sup>143</sup> David Gill, "Cyprus and Private Collections," *Looting Matters*, 23 August 2008, <https://lootingmatters.blogspot.com/2008/08/cyprus-and-private-collections.html> (accessed 8 April 2021).

<sup>144</sup> Marc Fehlmann, "Cyprus and Private Collections: Comment," *Looting Matters*, 25 August 2008, <https://lootingmatters.blogspot.com/2008/08/cyprus-and-private-collections.html?showComment=1219660680000#c4526099442797454669> (accessed 8 April 2021).

characterization as beneficiaries of rescue from looting in Afghanistan. Illicit antiquities from Afghanistan have been laundered through their characterization as beneficiaries of rescue from destruction by iconoclasts rather than as desirable commodities that were acquired in a process that itself intensified the destruction of knowledge by intensifying looting. Potential conflict antiquities from Cambodia have been laundered through their characterization as beneficiaries of rescue from destruction by iconoclasts, wherein the identified iconoclasts were one of the violent political organizations that may have profited from their trafficking.<sup>145</sup>

This evidence, then, prompts reflection upon the fact that the US Association of Art Museum Directors (AAMD) instructs museums in North America that they “can and should” offer “safe haven” to cultural objects that are “in danger of damage, destruction or looting as a result of war, terrorism or natural disasters.”<sup>146</sup> While the AAMD advises that the arrangements should be “loans” of objects that would be “returned,” these loans might facilitate the transfer of looted antiquities to the United States and lend false legitimacy to the handling of objects without secure collecting histories.<sup>147</sup> While a spokeswoman for the AAMD insists that museums should “not ... violate the rights of lawful owners or cause the museum to be involved in any legal [*sic* – illegal] or unethical activity,” which would seem to encompass the handling of looted antiquities, a former chair of the AAMD’s antiquities task force positively argues that “the protocols will ‘help rescue looted works that might otherwise disappear into the art market’.”<sup>148</sup> Indeed, according to these protocols, cultural objects that are “in danger of damage, destruction or looting” specifically include ones that have already been “looted and brought into a country such as the United States.”<sup>149</sup> Although an object may not be declared immediately, no work of cultural significance from any country in crisis has been declared publicly in the five years since the declaration.<sup>150</sup>

### “Rescue” by purchase in contexts of political violence

The Schøyen Collection may be the exemplar of the problem – from the automatic consequences of all such actions, to the potential consequences of such actions during conflicts and other crises, to the common responses of state, society, and academia, which often begin with the facilitation of harm and end with the failure to restore justice. The collection includes illicit antiquities from Afghanistan, which were misrepresented as “rescued” antiquities from Taliban territory but which were extracted from a conflict zone where all of the warring parties trafficked antiquities or racketeered traffickers to finance their violence. It also includes illicit antiquities from Pakistan, which were misrepresented as “rescued” antiquities from Afghanistan but which were extracted from a conflict zone where warlords looted antiquities to finance violence within Pakistan and elements within and outside state structures controlled or supported by traffickers or racketeers in Afghanistan.<sup>151</sup> How many other buyers have used “rescue” to excuse any illicit purchases of antiquities from conflict zones? How many have used conflict to excuse any illicit purchases of antiquities that resemble antiquities from conflict zones?

<sup>145</sup> Davis and Mackenzie 2014, 297–98, 302–3.

<sup>146</sup> AAMD 2015.

<sup>147</sup> AAMD 2015.

<sup>148</sup> Cited in Emily Sharpe, “We’ll Store Your Artefacts, US Tells Syrian Museums,” *The Art Newspaper*, 8 November 2015, <http://theartnewspaper.com/news/museums/160505/> (accessed 8 April 2021).

<sup>149</sup> AAMD 2015.

<sup>150</sup> Cf., AAMD 2020.

<sup>151</sup> For a review of evidence of conflict antiquities trafficking and organised cultural property crime in Afghanistan and Pakistan, see Hardy 2019.

It is known that, in the last 20 years, violent political organizations have profited from antiquities from societies where state and/or non-state actors have experimented with “rescue” by purchase, such as Afghanistan, Iraq, and Syria, and violent political organizations in other territories, such as Ukraine, have attempted to traffic art from societies where actors have attempted to experiment with “rescue” by purchase, such as the Netherlands. Willingly or unwillingly, rescue can constitute a funding mechanism for human rights abusers.<sup>152</sup>

### “Rescue” by purchase in crisis

Although it was initially refused by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in order to preserve cultural property inside Afghanistan, after which artifacts of the un-Islamic past were destroyed by the Taliban, the Afghanistan Museum-in-Exile in Switzerland has since been established as a UNESCO-approved refuge for endangered cultural property outside the country.<sup>153</sup> The museum receives sometimes-anonymous donations of Afghan cultural property, which may have been bought in order to be donated by “rescuers.” However, according to its contract with UNESCO, the museum does “not acquire objects on the market (i.e., by commercial transactions).”<sup>154</sup> Thus, it demonstrates that rescue without purchase is possible.

If the international community accepts the “rescue” by purchase of cultural property from zones of crisis and conflict, it is not clear how such a policy would or could be implemented. According to the arguments of its advocates, the rescuers would apparently (and conveniently) assume that their money “likely” went to refugees or small-scale traffickers. Manifestly, they would not know that their money had not gone to paramilitaries, terrorists, or state criminals. Advocates even appear to disagree over whether buyers should avoid financing ISIS or whether they should directly finance ISIS (or any other iconoclastic force) in the hope that it would sell, instead of destroy, monuments. It is not clear why it would be acceptable to finance other politically motivated armed groups. In any event, in order for such endeavors to function, states would have to collaborate with buyers, and therein with sellers, as states would have to choose not to police the activity even while the purchasers publicly state that the activity involves criminal acts (or play language games by claiming that the delivery of financial assets is not connected to the reception of cultural assets).

With respect to Syria, it is not clear how buyers would distinguish between, for example, coins that had profited ISIS, the al-Nusra Front, the Assad regime that rules the Syrian Arab Republic, the Free Syrian Army, and any number of other groups. After all, Palmyra alone has been looted under the control of the Free Syrian Army, the Assad regime, and ISIS. Similarly, it is not clear how buyers would identify antiquities from territories that were outside ISIS territory, but at risk of ISIS conquest, in order to rescue those antiquities without financing ISIS at the same time. After all, dealers and collectors already appear to struggle to categorize their objects more specifically than “Mesopotamian” or “Near Eastern.”

It is not clear how buyers would categorize objects and buildings that were at significant risk of iconoclasm and objects and buildings that were not at significant risk of iconoclasm. It is also not clear how buyers would rescue the most prominent targets for iconoclasm unless they arranged looting to order or theft to order. And it is not clear how suppliers could

<sup>152</sup> See, e.g., Barker, “Unfinished Art Business.”

<sup>153</sup> Kwame Appiah, “Whose Culture Is It?” *New York Review of Books*, 9 February 2006, <http://www.nybooks.com/articles/2006/02/09/whose-culture-is-it/> (accessed 8 April 2021).

<sup>154</sup> On 12 July 2001, cited in UNESCO 2007.



operate on the ground unless their systematic dismantling of entire monuments was protected as a constituent element of the rescue process. All of this would require the bought-or-bartered protection of the local military power. Ultimately, “rescue” by purchase appears incoherent, counter-productive, and dangerous for the victimized communities that it is supposed to support.

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**Cite this article:** Hardy, Samuel Andrew. 2021. "Conflict antiquities' rescue or ransom: The cost of buying back stolen cultural property in contexts of political violence." *International Journal of Cultural Property* 28, no. 1: 5–26. <https://doi.org/10.1017/S0940739121000084>