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**Chapter 11**

**Reducing the Market for Illicit Cultural Objects:**

**The Caribbean and Beyond**

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There are two main crime issues related to Caribbean cultural objects presented elsewhere in this book: fraud, related to the faking of Caribbean pieces, and the theft, trafficking, and illicit sale of looted and stolen archaeological material. Here I will discuss not the source of illicit or dubious Caribbean cultural objects, but the market for that material, and how market practices and market actors shield, negotiate, and neutralize wrongdoing. Ultimately, I argue that while measures to protect Caribbean cultural objects at source are worthwhile to discuss, a strategy of market reduction may be a more effective way of regulating the trade in this material. Taking into account the logistical realities of cultural heritage protection in many Caribbean jurisdictions, I assert that a market reduction approach is a realistic way to reduce the physical, social, and intellectual harms associated with forgery, theft, looting, and trafficking of cultural objects.

**Crime and the Antiquities Trade: Market and Market Actors**

Speaking generally, the trade in ancient and ethnographic cultural material is structured around the flow of objects from their origins, often in lower-income countries, for ultimate sale in higher-income countries. This mirrors greater global power imbalances and can thus be characterized as concentrating cultural heritage in the hands of those with the most power. While it is certainly the case that some antiquities markets are local, with source and sale occurring within the same region or even country, objects still move from the hands of the many to the hands of the few, from those without power to those with power, from the poor to the rich. The global illicit trade in antiquities largely depends on sources that, due to structural realities, are unable to protect their cultural assets, despite seemingly strong national law and policy.

 There is nearly no completely legitimate source of antiquities,[[1]](#footnote-1) with criminality of various kinds occurring at all points of the marketization pathway. While much discussion of this issue has focused on linking the destructive looting of heritage sites to the market (e.g. Brodie and Renfrew 2005; Coggins 1969; Elia 1997; Kersel 2007; 2008; Renfrew 2000) and ethnographic research into looting (e.g. Antoniadou 2009; Al-Houdalieh 2012; Kersel 2006, 2007; Matsuda 1998; Paredes Maury 1999; Van Velzen 1996), recent research has characterized the networks that move antiquities to market as organized crime (e.g. Alderman 2012; Bowman 2011b; Campbell 2013; Chappell and Polk 2011; Davis and Mackenzie 2014; Dietzler 2013; Mackenzie 2011a; Mackenzie and Davis 2014; Tijhuis 2006) and market actors as engaging in a variety of activities that can be seen as white-collar crime (e.g. Bowman 2008; Brodie and Bowman 2014; Brodie, Dietzler and Mackenzie 2013; Adler, Chappell and Polk 2009; Mackenzie 2007, 2011b). This later-stage white-collar crime, and the actions of ambivalent white-collar market actors, serves to shield the antiquities trade from the type of scrutiny that one might normally expect from a market that can be so closely linked to theft, smuggling, and fraud.

 The societal shielding of white-collar actors from the taint of dubious or criminal actions is a hallmark of white-collar crime, which is nonviolent crime that is able to be carried out due to an individual's public reputation or position of public trust. Further, there are particular features about the art market generally and the antiquities market specifically that serve to protect dealers and consumers of dubious goods. Speaking broadly, many practices and institutions of the modern antiquities market developed against the backdrop of the 18 and 19th century European "Grand Tour" voyages and the Age of Enlightenment, with period concerns such as sale confidentiality becoming embedded features in the trade. Critique of the antiquities trade's destructive effects on heritage sites and cultural knowledge, which gained considerable force in the 1960's onward, have been unable to counteract two centuries of opaque and unregulated art market practice. In most major antiquities market countries, sellers and auction houses are under no obligation to reveal the sources of the antiquities that they sell to anyone, nor are they required to identify their customers.

 This creates a situation where buyers are unable to fully evaluate the legality and authenticity of an antiquity for sale. In this "grey market" (Bowman 2008; Mackenzie and Yates 2016), further trade practices have developed so that buyers are able to justify their purchases, despite the unknowns, which center on risk mitigation. Research into the development of interpersonal relationships in the antiquities market has shown that both collectors and dealers seek to consume antiquities of unknown and dubious origins while retaining plausible deniability and, thus, avoiding potential social or criminal penalties (Mackenzie 2006, 2007a, 2014). Market actors learn not to ask questions that might reveal problematic information, and not to volunteer knowledge they have that might hint at theft, trafficking, or forgery. They also guide other market actors towards the creation of shared narratives about dubious antiquities. The illicit antiquities market, thus, protects and maintains itself, protecting market actors from consequences related to the consumption of illicit material. As I will discuss in the next sections, market practice has developed to shield not only the people who operate in the market, but also illicit and illegal antiquities from scrutiny.

**Looted and Fake Antiquities**

To be clear, the trafficking of looted antiquities is a transnational issue that connects heritage destruction in what are often lower-income countries to the art consumption practices of elites in higher or very high-income countries. Put simply, demand causes supply, and the willingness of white-collar actors to spend money on antiquities is the primary reason that looting in antiquities source countries exists. While the mechanics of the looting, trafficking, and illicit sale of antiquities falls outside the scope of this chapter (see Yates 2016 for a general overview and Mackenzie 2005 for a criminological perspective), it is worth noting some of the policy gaps that allow illicit artifacts to enter the market and the antiquities market practices that routinely obscure the illicit origins of artifacts for sale.

 On the policy front, the major international conventions that form the basis for international policy in this area[[2]](#footnote-2) are primarily concerned with protection of cultural heritage *in situ* and the return of a limited subset of looted cultural objects to their countries of origin. Neither disruption of trafficking nor disruption of the market are features of this framework. These conventions place the burden of preventing antiquities trafficking from occurring in the first place on source countries, many of which are economically unable to effectively respond to heritage crime (Yates 2015b); certainly this is the situation for many of the Caribbean nations (see, for example, Alverez et. al., Chapter 3, Byer, Appendix). At the same time, they do not require antiquities market countries to fully police the market or curb demand, and they give no attention to the development of transnational anti-trafficking measures. A looted antiquity that leaves its country of origin, then, slips through the cracks and is unlikely to ever be returned. If the prevention of antiquities trafficking is the goal, then the effectiveness of local law becomes paramount.

 When considering local/national antiquities protection law, it is important to note that although policy can be quite robust on paper, that does not mean that it is effective. A well-written and well-intentioned antiquities protection law is meaningless if it is neither implementable nor enforceable, and if the protection of heritage is not a government priority. This appears to be the case in many Caribbean jurisdictions. I have characterized as ‘aspirational’ those cultural heritage protection laws that appear to push for impeccable international-level standards for the prevention of looting and trafficking in places that do not have the police or customs capacity to maintain such standards (Yates 2014; 2015b). These laws speak to an ideal that cannot be practically achieved. In such circumstances, the policy is devalued by actors at the source and within the market, as everyone knows that the law will not be enforced. The result is little or no protection of antiquities on the ground and no respect for the laws of source countries among market actors (see, for example, Curet’s Epilogue for discussion of a US museum curator safeguarding, rather than denouncing, a broker of Puerto Rican ‘antiquities’, despite being fully aware of Puerto Rican heritage laws). While one option to explore is the crafting of better, more implementable local policy in antiquities source countries, I strongly advocate for the development of a parallel approach that may be significantly more effective in preventing the trafficking of illicit and faked antiquities: market reduction (Sutton 1998; Mackenzie 2007b; Brodie 2015), which will be discussed later in this chapter.

 Regarding the market practices that allow the trade to become saturated with looted and trafficked material, perhaps none is so important than the previously-mentioned acceptance of absent, misleading, or outright false provenance intended to shield market actors. Since the 19th century, antiquities source countries have been enacting policy that clearly outlaws the unauthorized extraction, export, and marketization of antiquities. While, as discussed above, these laws may not be effectively enforced, the movement of antiquities out of the ground, out of the country, and on to the market is still illegal in most cases. Yet with no parallel policy to curb market demand, antiquities remain popular items for sale; they are a hot commodity with few legitimate sources. For demand to be met, illicit or illegal sources of antiquities must be found.

 Yet, unlike consumers of most other illicit commodities (e.g., narcotics, arms, counterfeit goods, or people), antiquities buyers, as part of a Bourdieusian quest for increased ‘cultural capital,’ require the ability to, as Velben would say, ‘conspicuously consume.’ A primary purpose of a collected antiquity is, literally and figuratively, ‘for display,’ and to display a looted antiquity, the piece must be cleansed of the stigma of crime. Market acceptance of absent and false provenance, then, becomes a laundering technique; it is a method by which the market creates a shared false reality in order to self-preserve and self-justify. Numerous analyses of antiquities sales have shown that accurate provenance information is not required for sale or provided for antiquities (e.g. Chippendale and Gill 2000, 2001; Davis 2011; Gilgan 2001; Levine and Martínez de Luna 2013; Yates 2006), and various prominent cases affirm that the market is willing to accept demonstrably false histories for looted artifacts (e.g. see Felch and Frammolino 2011, Watson and Todeschini 2007).

 The antiquities market then, does not and will not police itself with regards to stolen or otherwise illicit material. Provenance information related to ownership history and provenience information related to locational origins are optional across the trade and nearly non-existent in the sales of many types of antiquities. For Caribbean antiquities, as for all types of antiquities, the result is a market saturated not just with looted artifacts that are indistinguishable from the very few legitimate arifacts available for purchase, but also fake pieces that are indistinguishable from authentic ones.

 Fake antiquities, alongside antiquities that are of questionable authenticity due to extensive ‘restoration’ or modification to increase market value, are what consumers fear the most (Yates 2015a). Questionable authenticity, at least anecdotally, appears to contribute more to an antiquities consumer's rejection of a piece than the possibility of illegality; buyers of these items place extreme value on authenticity, prizing ‘genuine ancientness’ and perceiving fakes as being without value (see Geurds, Chapter 10). Within a Caribbean context, if value is associated with the authentically ancient, it would be logical for dealers and buyers to favor objects with demonstrable find spots among Caribbean archaeological sites, reducing the risk of buying fakes. However, such well-provenienced Caribbean pieces are largely unavailable to the market, their excavation and export being illegal in most jurisdictions. As discussed above, the type of provenience information that would reduce the chances of buying a faked antiquity would, in turn, reveal authentic antiquities to be definitively looted, and thus bar them from open consumption. This is a strange situation for the market to navigate. To get around this impasse, we often see incredible contortions to assert the authenticity of looted or faked objects (including forging letters from eminent Caribbeanists – see Curet, Epilogue): a necessity if a seller wishes to obtain maximum profit for their investment. Commercial scientific testing, and more importantly the interpretation of scientific testing, becomes a marketing tool, a stand-in for secure proof that the object was found in situ at an archaeological site.

 The prevalence of both fakes and illicitly-obtained archaeological material within the antiquities market persists due to a continued market acceptance of the lack of legitimate provenance and provenience documentation. From the standpoint of the shared human endeavor to explore our past as part of our experience of individual and collective identity, we end up in a position where we have a tainted corpus of source material. Objects in private and public collections that are unprovenanced and perhaps fake have trickled into our understanding of the cultures of the Caribbean and elsewhere. Elizabeth Marlowe (2013) has referred to this foundation as the "shaky ground" on which our constructions of the past stand.

**A Market Reduction Approach**

I, along with others within the field of illicit antiquities research, have long argued that the illicit trade in cultural objects, be they fake or authentic, cannot be regulated effectively by policy or practice at source. Structural inequalities, economic failures, lack of access to development opportunities, natural disaster, and climate change all contribute to the context in which archaeological looting and trafficking occurs. Looting of archaeological sites in Caribbean and other countries is a symptom of greater societal challenges that cannot be solved though heritage training programs or targeted preservation laws. Incorporating heritage protection into greater efforts towards development may disrupt the illicit antiquities trade to some degree, but such an approach is best thought of as long-term. A far more effective approach may be to focus targeted anti-antiquities trafficking efforts on a less loftier goal than the economic and infrastructural changes required in antiquities source countries.

 Professionals within heritage and preservation fields should focus on what we can reasonably influence: the antiquities market. While the antiquities trade is composed of white-collar individuals who occupy a place of social prestige and power in our society, we professionals also have a significant amount of social prestige and influence over the market. Professionals add value to the market by interacting with illicit antiquities in various ways: restoration, research, authentication, even denunciation. The market depends on this kind of professional participation to maintain validity among buyers (see Brodie 2011a and 2011b). If professionals give that value, we can also take it away. We can use our authority and expertise to make the purchase of unprovenanced antiquities from the Caribbean and elsewhere a socially unacceptable practice. We can be part of a market reduction approach.

 To simplify Ayres and Braithwaite's (1995) concept of responsive regulation nearly to the point of non-recognition (see Mackenzie 2011b for a thorough application to the antiquities trade), if our goal is to get people to comply with policy, we need to go beyond the black and white dichotomy of harsh criminalization vs. total deregulation. Rather, we need to develop a range of social regulatory options that can be applied to the context of specific situations. This means options that, in most cases, encourage people not to offend by, for example, reaching out to potential offenders and encouraging them to not break the law, or even offering social rewards for compliance. Criminal sanctions would apply in only the most severe and most unrepentant cases. This is a particularly important aspect of such a regulatory model when dealing with white-collar crime, as white-collar actors are often able to avoid harsh sanctions anyway due to wealth, connections, or reputation.

 The market end of the antiquities trade is entirely composed of white-collar actors, and some argue that those who flagrantly ignore the law and buy looted antiquities should be punished at least to the same extent as lower-income ‘looters.’ The reality is this is never going to happen. While a person looting an archaeological site in the Dominican Republic has a chance of being arrested, fined, or jailed, white-collar antiquities consumers who break the law are rarely punished. Any policy that ‘expects’ white-collar antiquities criminals to face criminal sanctions is just as ‘aspirational’ as source country laws that ‘expect’ total site protection; both are ineffective. Responses that, instead, encourage compliance among white-collar antiquities consumers and punishes offenses with ostracism and social shame, however, may serve to reduce the market.

 Just what form such market reduction initiatives should take is context specific, and should fit within local legal and social frameworks. However, for the sake of inspiration and adaptation, I'd like to offer some general ideas for market reduction approaches:

1. Mass public education in antiquities market countries about the trade in illicit antiquities, through popular media, websites, online courses, etc. The goal of such initiatives would be to make as many people as possible aware of the issue to foster a general societal unease about the consumption of antiquities as a commodity, leading to ostracism of offenders. A particularly effective example of such an approach can be seen in decades of public awareness campaigns against the consumption of elephant ivory.

2. Directly connecting the looting and trafficking of antiquities to harm and to loss, in as poignant a way as possible, and then sending that message through the previously mentioned mediums. Again, this has been effective in campaigns such as those to reduce the consumption of animal furs, whale meat, and the previously-mentioned elephant ivory.

3. Reduction or elimination of professional cooperation with trade actors. This would include no restoring, authenticating, or publishing of unprovenancenced or unprovenianced material that entered museum or private collections after relevant heritage protection laws took effect in source countries, and being clear to all parties involved why.[[3]](#footnote-3)

4. Using that same authority to publicly undermine sales of illicit or unprovenanced antiquities. One method that has been gaining traction among some governments of source countries is to release a public statement from the ministry of culture in advance of a major antiquities auction. This statement indicates that a specific number of objects within the antiquities sale are fake, but does not identify which ones are suspect. This serves to introduce doubt into the minds of buyers about all of the antiquities for sale, and undermines the legitimacy of both the seller and the sale.

5. Naming and shaming of bad behavior among white-collar antiquities market actors, within the boundaries of local defamation law. We need to collectively overcome our tendency to be over-protective of the social status of elite wrong-doers. While such market actors will likely avoid criminal sanctions, we can still give them criminalized labels and thereby reduce the elite cachet that the collecting of unprovenanced antiquities retains in our society.

6. Pushing for more market transparency and oversight from dealers and auction houses. This might, under some circumstances, be done in collaboration with antiquities buyers who care a lot about authenticity. Approached in the right way, buyers might come to agree that an opaque market increases their own investment risks, as unprovenanced antiquities are often fakes. The potential for consumer-led antiquities market reform is under-explored.

7. Explore new technologies for replicating, experiencing, and participating in the understanding of antiquities. In particular, the development of creative ways for people to satisfy their legitimate love of these objects through means other than illicit consumption (see Swogger, Chapter 7, for how replicas might be used in this way).

 Our goal should be to develop a combination of formal policy and social initiatives at the market end of the antiquities smuggling chain that rewards good behavior with social accolades and distinctions and punishes bad behavior largely with social stigma. If people consume antiquities, at least in part, due to the social benefits of collecting, the social is where our responses should be focused, and where we should develop our sticks and our carrots, so to speak. We need to make it socially unacceptable to collect unprovenanced and unprovenianced antiquities. And when I say this, I mean our social focus must move beyond the big-name corporate sellers (the auction houses, the online platforms), to policy that has an effect on individual collectors. While this may seem harsh, it is worth remembering that buyers drive the market: auctions houses/websites and dealers sell what they do, in this case unprovenanced and poorly provenienced Caribbean artifacts, because buyers are willing to pay for them. The goal, then, is not to make auction houses/sites and dealers avoid selling questionable antiquities – they have no business incentive to do so. The goal is to make potential buyers not wish to buy; this, then, will force a change in market practice.

 Many approach the antiquities trade, and indeed the art market as a whole, as an inflexible entity whose policies and practices represent an unchangeable order; that the market is how it must be. Yet the norms which currently allow for the largely unchallenged sale of illicit, unprovenanced, and unprovenienced Caribbean cultural objects were developed to maximize dealer profit and shield key actors, not for any inherent structural reason. A ‘cleaned-up’ antiquities market is, necessarily, a reduced antiquities market as illicit material makes up a significant majority of what is available for sale. But that reduced market could represent an open and transparent marketplace that relieves consumers of the risk of buying loot or fakes and ensures that there is no market for illicit antiquities.

1. In limited circumstances and in a handful of jurisdictions, some antiquities are legal to dig up and sell; this was the case with the Grenadian government legalizing the sale of artifacts from the site of Pearls, in Grenada, in the early 2000s (see Hanna, Chapter 6). Another example of this are antiquities found on private land in the United States. These situations are exceptions, not the rule, with the majority of antiquities source countries banning all extraction, marketization, and export. [↑](#footnote-ref-1)
2. i.e., The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transport of Ownership of Cultural Property; The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects; The 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)