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Cultural Property: How Italy is Addressing the Theft of Artistic Heritage

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Cultural Property: How Italy is Addressing the Theft of Artistic Heritage

Abstract

The purpose of this paper is to identify the correlation between the Italian *tombaroli* and Italy's fight to reclaim its lost cultural heritage. The *tombaroli* steal priceless artifacts and sell them on the international market which has recently led to legal allegations against prominent American museums and art dealers. Modern day international agreements such as the Hague, UNESCO and UNIDROIT conventions have all proved unsuccessful in dealing with such theft. Italy is leading the way in the battle to reclaim what they feel is an integral part of their rich history and is now claiming such pieces as historical relics and demanding their return from countries worldwide. Italy is also striving to strengthen international laws and is implementing stricter local laws. Italy is at the forefront in opening communications between nations, thereby fortifying bonds and demonstrating good faith by allowing museums with stolen works to retain them on extended loan. Finally, Italy is leading by example. It is showing reciprocity toward other nations by returning their cultural heritage. The discussion in this paper may be useful for other source nations who are trying to stem the tide of cultural theft.

Faculty mentor: Allison Smith

In recent years, the idea of cultural property has been highly debated and is prominently featured on the news, art blogs and in magazines worldwide. Countries throughout the world are engaged in a constant battle to retain their heritage through the large number of artifacts that are excavated yearly.

A nation's loss of cultural property can come as a result of several factors. For instance, due to rising seas in California, archeologists are witnessing the erosion of many Native American sites. It is a race against time to secure these historically significant areas from destructive weathering (The California Report). In addition, frescos in Pompeii and Herculaneum are deteriorating rapidly because of light exposure. Once frescos are unearthed, they quickly lose their color and vibrancy (Sheldon). Egypt has long been concerned with the negative effects which tourism has had on their priceless archeological sites. Monuments, once protected from sand drifts, are now fading into the desert floor. Archeologists blame tourists for the change in topography saying, "Not until the early part of this century have most of the relics been exposed and made accessible and susceptible to the effects of modern humans". In a case study discussing the effect tourism has had on Egypt's artifacts, author Gil Bindlegas states, "In the 4,500 year old pyramids, encrustations of salt, left in part by the evaporations caused from throngs of tourists, have eaten away at the walls [of many] burial chamber[s]". These salty deposits are also destroying the walls in the Temple of Luxor and "about a quarter of the wall paintings at the tomb of Nefertari" (Bindlegas). Mankind has contributed to the unintentional destruction of cultural heritage, but they have also participated in the deliberate, reckless, and malicious eradication of historical artifacts. War and terrorism have long been cited as the cause of destruction of countless cultural properties. NBC reports that Islamic extremists "have destroyed the iconic Buddhas of Bamiyan, smashed down the fabled 'end of the world' gate in

the ancient city of Timbuktu and even called for the destruction of Egypt's ancient pyramids and the Sphinx". In addition, it has been confirmed that 2,000 manuscripts at Mali's Ahmed Baba Institute have been "destroyed or looted during a 10-month occupation of Timbuktu by Islamist fighters" (NBC News).

While many factors can contribute to the annihilation of historical artifacts and sites, the nation of Italy, a country overflowing with ancient history throughout its landscape, is an emerging leader in the battle to regain their cultural property from another imminent threat. This enemy grows from within Italy itself making its betrayal to Italy's past more offensive. This battle is hard-fought and is waged against those who steal relics at a staggering pace, scattering Italy's pieces of history all over the world: the Italian *Tombaroli*.

Who Are The *Tombaroli*?

The Italian *tombaroli*, or "tomb-robbers," are considered a menace to archaeologists and thieves by the government. The *tombaroli* are professional full-time looters who, according to scholars, do more than steal billions of dollars a year in artifacts. What troubles many in the art history community is that these looters also destroy the archaeological record. Clemency Coggins, an archaeologist writes,

Once a site has been worked over by the looters in order to remove a few saleable objects, the fragile fabric of its history is largely destroyed. Changes in soil color, the traces of ancient floors and fires, the imprint of vanished textiles and foodstuffs, the relation between one object and another, and the position of the skeleton—all of these sources of fugitive information are ignored and obliterated by the archeological looters (Borodkin 382).

In addition to destroying the archaeological record, the *tombaroli* are notorious for deliberately defacing artifacts in order to sell them for a higher price. Antonio Induno, a self-proclaimed *tombarolo* has plundered tombs in the ancient Etruscan city of Veii for over thirty

years. He has created a system of getting more money out of each of his stolen treasures. He brags,

If I find an exceptional object, like a vase with the head of a god, then I might break off a piece of the head. Then I sell the object to a middleman for say, \$1,000. Two weeks later I call him back and tell him I returned to the tomb and found another fragment. Then he'll pay me another \$1,000 to have the piece (Ruiz).

Some *tombaroli* have been known to “destroy human remains” as well as “behead statues, melt down ancient coins, and chisel reliefs from tombs” (Borodkin 383). This massive scale looting intimidates archeologists from publishing their findings in fear that the *tombaroli* will come and steal what has not already been excavated.

In 2006, the J. Paul Getty Museum was forced to return twenty-six objects that Italy believed had been acquired by the hands of the *tombaroli*. Twenty out of the twenty-six objects were directly linked to a known associate of the *tombaroli*, Giacomo Medici. Medici sold many Italian artifacts to several prominent U.S. museums including the Getty. Some pieces returned to the country of Italy were purchased one fragment at a time until the entire artifact had been recovered (“J. Paul Getty Museum Returns to Italy”).

Some examples of these objects are:



Figure 1: *Etruscan Red-Figured Ceramic Duck Askos*, 4th Century, Italy (Image provided by the J. Paul Getty Museum and is found in Appendix A)



Figure 2: *Attic Red-Figured Kylix* By Carpenter Painter, 510-500 BC, Athens
(Image provided by the J. Paul Getty Museum and is found in Appendix A)



Figure 3: *Attic Red-Figured Kalpis* Attributed to the Kleophrades Painter, ca 480 BC
(Image provided by the J. Paul Getty Museum and is found in Appendix A)

(A complete list provided by the Getty of the returned objects can be found in Appendix A)

What has the International Community Done to Secure Cultural Property?

As a result of the rampant looting during World War II, the Hague Convention was created and was the first “multilateral international agreement drafted solely for the protection of cultural property” (DiFonza 543). The Hague Convention was used most recently in connection with the Iraq-Persian Gulf Conflict in 1991. However, the Hague Convention is weak in that it is limited to “situations resulting from military actions” and does not respond to looting or destruction of art done outside of war (Borodkin 388).

As the need for protection of antiquities at all times grew, both in times of war and peace, the UNESCO Convention was drafted in 1970. This convention was created to allow all

countries to “enter into pacts” so that they could “enforce each other’s cultural property laws” (Borodkin 388). While some claimed the goals of UNESCO to be “groundbreaking” and “lofty,” it also came with some rather significant deficiencies. For one, the scope of the UNESCO Convention was much like that of the Hague Convention--it was too narrow. Critics also cite other flaws such as the “lack of enforcement legislation in most of the signatory countries” and there is also an “inconsistent interpretation of provisions” (DiFonza 547). Such weaknesses proved to hinder the goals of the UNESCO Convention, limiting its effectiveness.

As a way to amend the flaws of the Hague and UNESCO Conventions, the UNIDROIT Convention was created in 1995. This convention was intended to “complement the UNESCO Convention” and it was hoped that it would “address the shortcomings that led to the ineffective restitution and reclamation efforts” in the past (DiFonza 541). Unfortunately, the UNIDROIT Convention was considered overly ambitious by critics. Although the UNIDROIT Convention “makes significant strides in improving the international standards on restitution and reclamation” (542), it has yet to gain international support and thus falls flat. Whereas the UNESCO Convention had 120 signatures from nations all around the world, UNIDROIT only has thirty nations in agreement.

What is Italy Doing to Protect their Property Culture?

Italy is among the world’s most looted countries. It is essentially a six- thousand acre outdoor museum. However, Italian officials are making great strides in fighting back against cultural theft and the *tombaroli*. According to Monica DiFonza, an art historian, they have

created the following five-point plan to slow down and ultimately stop the effect the *tombaroli* have had on their property culture (DiFonza 539).

1. Proclaiming that Artifacts are a Heritage of the Italian People and Demanding their Return

During the Second World War, General Dwight Eisenhower organized a group of men nicknamed the Monuments Men to monitor and deter looting in England. Worried that the White House was actually planning on “assuming custody of German treasures”, a group of museum curators drafted and signed the Wiesbaden Manifesto. This document affirmed, in part:

We wish to state that from our own knowledge, no historical grievance will rankle so long, or be the cause of so much justified bitterness, as the removal, for any reason, of a part of the heritage of any nation, even if that heritage may be interpreted as a prize of war. And though this removal may be done with every intention of altruism, we are none the less convinced that it is our duty, individually and collectively, to protest against it (Meyer 85).

Italy is now protesting and is doing so loudly against the pieces of their history being sold at auction the world over. The Italian government believes, and is now aggressively touting, that its cultural heritage is a “fundamental part” of Italian identity. With this in mind, legislation regarding property culture, Law 1089/39 was enacted. This law states that the Italian government owns all antiquities, whether they knew of their existence or not, and such items must immediately be returned to the government. Further, this law recognizes the “supremacy of the public interest over any kind of proprietary rights over the properties concerned” (Borodkin 553). Because of Italy’s nationalistic belief that the cultural heritage is owned by the people, the government has pledged to protect this heritage no matter the cost.

In keeping with this desire to protect the cultural property of the Italian people, the government is trying to reclaim all of their stolen antiquities. According to the Editor of *Old*

World Archaeology, Michelle Miller, the current antiquities debate has “taken on a more serious tone as source countries such as Italy...have begun more rigorously defending their cultural patrimony through the use of the courts against major US museums.” She continues that this is a “broad-scale effort to retrieve stolen artifacts” and return them to their source country (Miller). Because of their efforts, the Italian government and police department have investigated several prominent U.S. museums, including the Metropolitan Museum of Art in New York, the J. Paul Getty Museum in Los Angeles, and the Museum of Fine Arts (MFA) in Boston. These efforts are resulting in hundreds of items beginning their slow journey back home to Italy.

2. Making International Agreements

In an effort to strengthen property culture laws, Italy has made several international agreements within the past thirty years. In addition to taking part in the Hague Convention and both the UNESCO and UNIDRIOT Conventions, Italy has also made bilateral agreements with foreign nations such as Greece, Switzerland, and the United States. For example, a little over a decade ago, Italy and the United States entered into an agreement entitled the “Memorandum of Understanding”. This bilateral agreement states that the United States agrees to adopt “import restrictions on archaeological material ranging approximately from the ninth century B.C. to the fourth century A.D.” In return, Italy agreed to help protect archeological sites so that it could better maintain archaeological patrimony of artifacts. In addition, Italy also agreed to “devote more funds to guard museums and...sites” (DiFonza 555). Since many market nations do not have strong import laws to protect property culture, making such bilateral and even multinational agreements can help “fill the gap”. This allows “source nations, developing or developed, [to better] enforce controls over export of their cultural property and facilitate the return of stolen and illegally exported property” (Park 953).

3. Implementing and Enforcing Laws

In an attempt to stop the *tombaroli*, the Italian government has created a task force to hunt down looters, hired persistent attorneys, and implemented more laws to protect their heritage.

The *Carabinieri* is the police unit that is responsible for protecting Italian antiquities. They scour the countryside looking for looters in the act and have raided warehouses, such as Giacomo Medici's, which was full of stolen artifacts. The *Carabinieri*'s one mission is to stop the destruction of their Italian heritage and bring the *tombaroli* to justice.

Maurizi Fiorilli is the "uncompromising" state attorney who has gone head-to-head with prestigious American museums such as the Metropolitan Museum of Art, the Museum of Fine Arts and the J. Paul Getty Museum to "relinquish 100 dubiously acquired masterpieces and return them to Italy" (Elingism). He is tireless in his efforts to reclaim lost Italian artifacts putting in 16-hour days, if necessary. Fiorilli was integral in prosecuting the case against the former Getty curator, Marion True, and American dealer, Robert Hecht, both accused of purchasing known antiquities stolen by the Italian *tombaroli*.

In addition to increasing security and their legal counsels, Italy has created stricter national ownership laws and export control regulations. Such laws makes any "illegal excavation and exportation of artifacts an act of theft". This allows Italy the opportunity to "reclaim stolen goods later located outside of Italy" without the bureaucratic red tape (Park 940).

4. Fostering Open Communication between Countries

The trials of Hecht and True have "sent a message to museums and other art institutions around the world to operate in good faith and exercise due diligence in acquiring works" (DiFonza 558). The implications of these trials have been felt in American museums. In

February 2006, Italy and the Metropolitan Museum of Art negotiated the return of the Euphronios Krater (see figure 4).



Figure 4: Euxitheos, and Euphronios, *Red Figure Krater*, 515 BC, terra cotta, 55.1 cm, Italy, Trafficking Culture, accessed Sept, 6 2012

This Krater was made famous when it was sold by Robert Hecht to the MET and became the most “publicized and notable acquisitions in the art world” (558). Art enthusiasts were ecstatic, however Italy alleged that the Euphronios Krater had actually been stolen by the *tombaroli* and was still the property of Italy. Despite its murky acquisition, in an effort to foster goodwill, Italian officials permitted the MET to borrow the Krater until 2008, providing that the piece was displayed along with a placard stating “Lent by the Republic of Italy” (559). In a conscious effort to keep international relationships open, Italy further agreed to offer “extended loans of other antiquities that have rarely or never been seen outside Italy” (Kennedy).

Likewise, New York’s Metropolitan Museum of Art agreed to return twenty-one pieces that were known to have been stolen from Italian sites in exchange for loans of other treasures. “Our agreements with the Americans aren’t just one-way, though,” insists state attorney Maurizi Fiorilli. “In return, they’ll receive other antiquities on long-term loan from Italian museums.” In other American museums, Italy has agreed on “broad cultural collaboration that will include loans of significant art works, joint exhibitions, research and conservation projects” (Elginism).

5. Reciprocity

Italy hopes to lead by example and help other countries retain their own cultural property. Scholars are observing that “Italy seems to be in the forefront of voluntary cultural property restitution” (DiFonza 561). For example, Italy has most recently returned hundreds of artifacts to their countries of origin in both Pakistan and Iran. Italy has also returned a 1,700 year old obelisk to Ethiopia. This piece was pillaged under the direction of Benito Mussolini in 1937 (562). And in 1983, Italy returned over 12,000 pre-Columbian objects to Ecuador acknowledging that these pieces were significant to the people of Ecuador and their culture (“UNESCO”).

Italy and Missouri: A Working Partnership

We have been privileged to have the beautiful *Fauno Rosso* visit the Nelson-Atkins Museum of Art in Kansas City, Missouri this past summer. This red marble sculpture was commissioned by Hadrian, the second-century emperor of Rome. Scholars believe that it was most likely sculpted by Aristeas and Papias of Aphrodisias in modern day Turkey. This magnificent piece of work made its first voyage away from home by way of a new international program of exchanges and cultural events between Italy and the United States. This new program, entitled “The Dream of Rome”, resulted in the loan of the *Fauno Rosso* (see figure 6), the program’s first extension. This occurred after months of negotiations, meticulous planning, and fundraising.



Figure 6: Aristeas and Papias, *Fauna Rosso*, 2nd Century C.E., red marble, 66 inches, Italy, The Nelson-Atkins Museum of Art , accessed November 2013

While we are pleased to be given the opportunity to see such a rare work, we must note that such art will only be seen as a loan from this point into the future. Italy's strict cultural property laws created as a result of the actions of the *tombaroli* are in evidence locally. Exhibits such as the *Fauna Rosso* will be carefully monitored and then returned immediately to their source nations.

Conclusion

For thousands of years the ownership of antiquities has gone to the discoverers. Whether acquired from archaeological finds or as spoils of war, these ancient treasures have been taken all around the globe. In the past century, the issue of reclaiming lost cultural property has become an international point of contention. Consequently, the legal issues surrounding ownership of ancient art continue to evolve. Finding the delicate balance between allowing people around the world to enjoy the cultural property of other nations and returning all art to source nations is a difficult challenge, at best. Further complicating the issue are thieves like the *tombaroli* who are always waiting for their next cache and art dealers as well as museums eager for a new find.

Italy is striving to maintain its property culture as it is demanding the return of its historical effects, making agreements with other nations in order to strengthen laws, implementing and enforcing such laws, fostering goodwill among nations and committing to reciprocity. The Italian government is also encouraging continued excavation of their rich, undiscovered artifacts. It is their ardent hope to one day secure as much of their invaluable antiquities as possible for posterity.

Italy should be commended for their willingness to share what was once stolen, given the great injustices perpetrated upon the entire Italian nation at the hands of the *tombaroli*. In this regard they have set the standard for all nations to discover and protect historical artifacts which foster deep international respect for the cultures of the world and their priceless identities.

APPENDIX A

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The J. Paul Getty Trust

Objects to be Transferred to the Italian State

1.



Askos in Shape of a Siren – 92.AC.5

2.



Fresco Fragments – 71.AG.111

3.



Lekanis – 85.AA.107

4.



Two Griffins Attacking a Fallen Doe – 85.AA.106

5.



Apulian Red-Figured Pelike – 87.AE.23

6.



Apulian Red-Figured Loutrophoros – 84.AE.996

7.



Attic Black-Figured Zone Cup – 87.AE.22

8.



Attic Red-Figured Kalpis – 85.AE.316



Objects to be Transferred to the Italian State

9.



Attic Red-Figured Kylix – 84.AE.569

10.



Apulian Pelike with Arms of Achilles – 86.AE.611

11.



Attic Red-Figured Calyx Krater – 88.AE.66

12.



Douris Phiale Fragments – 81.AE.213 (various)

13.



Apulian Red-Figured Volute Krater – 85.AE.102

14.



Attic Red-Figured Calyx Krater – 92.AE.6 and 96.AE.335

15.



Attic Red-Figured Mask Kantharos – 85.AE.263 (various)

16.



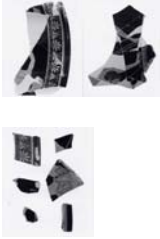







Etruscan Red-Figured Plastic Duck Askos – 83.AE.203

17.



Statue of Apollo – 85.AA.108

Objects to be Transferred to the Italian State

18.  **Group of Red Figure Calyx Fragments (Berlin Painter, Kleophrades Painter) – 77.AE.5**
19.  **Pontic Amphora – 96.AE.139**
20.  **Antefix in the Form of a Maenad and Silenos Dancing – 96.AD.33**
21.  **Attic Red-Figured Bell Krater – 81.AE.149**
22.  **Apulian Red-Figured Volute Krater – 77.AE.14**
23.  **Statuette of Dionysos – 96.AA.211**
24. No Image Available **Fragmentary Corinthian Olpe – 81.AE.197.2**
25.  **Paestan Squat Lekythos – 96.AE.119**
26.  **Apulian Red-Figured Volute Krater – 77.AE.13**