The Role of National and International Institutions in Addressing the Illicit Traffic of Cultural Property

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Introduction

At the crossroads of Asia — criss-crossed by invaders from Alexander the Great to Babur, the first Mughal emperor — Afghanistan has acquired one of the world’s richest cultural heritages. But since the civil war in 1979 Afghanistan’s heritage has been exposed to severe destruction and robbery. Architectural masterpieces, museums and archaeological sites have been bombed and looted. It seems that the country is heading straight towards a cultural catastrophe. Well-known are the dynamiting of the Bamyan Buddha’s by the Taliban in 2001 and the plunder and destruction of the National Museum in Kabul. According to the director the museum lost 70,000 objects during the past generation of looting, iconoclasm, and fighting.

Less is known about the pillaging and looting of the archaeological sites. The government estimates that Afghanistan has 2000-3000 sites and since 2001 100 new sites are discovered every year, says DAFA (Délégation archéologique française en Afghanistan). Half of the sites have been subject to plunder and the artefacts with any market value have been smuggled out of the country. In the process numerous broken objects and items of little interest have been left behind. The illegally traded artefacts are by nature not registered and represent a ‘culture without context’ No one will ever know the other objects found in their vicinity, nor the geological layer or any other context determining data. They become practically ‘meaningless’ artefacts with only esthetical value. Apparently, the entire northern part of the country has already been ransacked. Some even estimate that close to 80% of Afghanistan’s rich historical past has been robbed of its material culture.

Most of the digging itself is done by local residents, even by people from refugee camps. Sometimes a site is raided by former warlords or criminal gangs who chase anybody off the site, including the archaeologists. The local diggers are not much to blame as most of them have no alternative way to support themselves. The stolen artefacts are traded by a network (qawm) of criminal gangs, former warlords and the Taliban. They make the most money of it. For these stakeholders it does not make any difference whether they deal in stolen antiquities, drugs or weapons. Interpol considers the illicit trade in art objects as the number five of organized crime worldwide. In Iraq it was the third source of income for the insurgents.

The first main stops on the smuggling route are Peshawar or Islamabad in Pakistan. From there the stolen items are redistributed to ports in the Middle East (Kuwait, Dubai), Europe (Switzerland, United Kingdom, Denmark, Belgium) and the United

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States. In February, 2011 the British government has returned 3.4 tons of stolen antiquities from Afghanistan. The 1,500 items were confiscated over the past six years at London's Heathrow Airport and span thousands of years of Afghan culture, the oldest artefact dating to the Mesolithic and Neolithic periods, as far back as 8,000 years. None of the Heathrow objects came from the museum, they are from recently illegally excavated sites exported without permit. Almost all of the smugglers had the Pakistan nationality. The vast majority of the thousands of artefacts confiscated every year at Heathrow come from Afghanistan.

In 2002 the Italian Archaeological Mission in Afghanistan gathered documentation on the Ghaznavid marbles in Afghan public collections. The rumours were spreading about the dispersal of these artefacts, and more and more often marbles coming from Afghanistan were found in western and oriental collections and on public auctions. Together with the identification of Ghaznavid marbles in the foreign collections, it has been possible to obtain recent information about 70% of the 854 marbles previously known, i.e. 596 artefacts whose current location is now ascertained, while at the moment the remnant 30% (i.e. 257 artefacts) is still missing. Among the missing artefacts some have been retrieved in foreign public collections: Asian Art Museum in San Francisco, Brooklyn Museum of New York, Institut du Monde Arabe in Paris, Linden Museum in Stuttgart, Reiss Engelhorn Museen in Mannheim, and David Collection in Copenhagen. Ghazni marbles are also kept in private collections in Italy, Kuwait (al-Sabah Collection), Malaysia (Islamic Art 2000) and the UK (London, Khalili collection). Other Ghazni marbles were sold at the auction houses Christie’s (1994-2003) and Bonhams (2005-2008).

These two examples give only a partial insight into the complex trade in illegally excavated Afghan artefacts. In a country where violent struggle is almost part of daily life it is difficult to make out the extent of this trade. Also, because of the criminal nature of the business it will be complicated to map the trade. The numbers of confiscated artefacts abroad are not very reliable either as there seems to be no systematic data collection. Obviously, there is a great need for more systematic research on the illicit trade in Afghan artefacts.

_Mutual problem_

Worldwide art and cultural property crime is on the rise. It is a looming criminal enterprise with estimated losses running as high as US $6 billion annually. Interpol assesses the international illicit trade is among the top five organized crime activities. Clearly, looting is not a minor offence but a threat to major parts of society. This organized crime affects developed and developing countries alike. The source countries where the stolen object originates from are most of the time developing countries. In particular, countries that suffer from a natural disaster or violent conflict are very vulnerable, such as Afghanistan. The market countries where the well-to-do buyers of the stolen objects live are more often part of the developed world. Hence, the trade, plunder and smuggling of artefacts are not a specific Afghan problem — it is everybody’s problem.

Another important feature of this trade is that it is not a standalone activity but that it mingles and co-exists with other criminal subcultures like smuggling drugs or weapons. The economics of illicit trade functions like narcotics or diamonds as a
high-value and highly profitable means of storing and transporting wealth. One tendency is that the farther an artefact travels towards its ultimate point of sale, the higher the profit. We also know that the article changes hands in source countries for a fraction of their ultimate value at an auction house or gallery. Some other facts on the illegal trade in cultural goods:

- By nature the items are difficult to trace
- The object stay relatively anonymous - certainly the illegally dug up archaeological artefacts as they could not have been catalogued
- The trade is sustained by the demand from the arts market

The market countries hardly realize that the iron law of ´supply and demand´ also applies to the trade in stolen artefacts. If the demand in the market countries would decrease so would the supply in the source countries. This lays a heavy burden on the market countries as they are co-responsible for the illicit trade.

**Systematic Data Collection**

In Afghanistan there is no systematic collection of data on the illicit trade in artefacts and/or illegal excavations on archaeological sites. On request a list of confiscated and/or returned artefacts could not be produced by the responsible authorities. Presently the only data available are scattered eyewitness accounts, newspaper and magazine articles, and TV reports. Nevertheless, some of these reports like the Belgium documentary Blood Antiques broadcasted in October 2009 leave not much to the imagination. It shows a shocking picture of the ruthless traders. An undercover reporter with a hidden camera visited several antiques shops in Brussels and Knokke. He found that some of them were selling Afghan artefacts and that they knew very well what they were selling – stolen goods.

The need for systematic data collection in Afghanistan is great in order for the Ministry of Information and Culture to get control over this criminal activity and to cooperate with other Afghan ministries and foreign agencies. Only under the express condition of a substantial report on the extent of this problem will governments and civil society be willing to fund projects. Next, it is crucial for awareness raising.

The situation in the market countries is not much different. The foreign authorities do not systematically keep track of the confiscated and/or returned items. Nor do they share their information with Interpol on a regular basis. If stolen artefacts are confiscated abroad it is not clear what the route or procedure is on how and to whom to return the stolen items to in Afghanistan.

Some scholars concentrate their research on the sale of stolen artefacts. Research on this issue is not easy at all, it is not physics, and the illegal nature of the business will not make it surface easily but scholars like Neil Brodie do a very good job on auction sale analyses and internet sales. Michael Mueller-Karpe from the Roemisch-Germanisches Zentralmuseum in Mainz, Germany for example was very successful to convince the internet auction sale company eBay to demand from all people who offer antiquities for sale on eBay in Germany, Austria and Switzerland to list the provenance of the antiquities offered for sale on their website.
Awareness raising

It is clear that the local population who do the actual illegal digging on the sites, next to organized diggings by criminal gangs, former warlords and insurgents, are often not aware of the fact that they rob their own history. They seem not to realize that the material evidence of where they come from and who they are is crucial to their future and that of Afghanistan. Their main drive to dig is lack of resources and income. By understanding their heritage people will value it, will care for it and help to enjoy it (Heritage Circle).\(^{11}\) It is clear that a national information campaign to raise awareness of the ancient and rich history of Afghanistan among the general population, both literate and illiterate, is badly needed.

After the landing of the Coalition Forces in Iraq, 2003 and the subsequent robbing of its heritage the international community was unanimous in its public outcry. Since, many western countries ratified the relevant international heritage laws and slowly but surely started to take measures to curb the illicit trade in Iraqi artefacts. In this course of events the plunder of Afghan artefacts was hardly noticed. Occasional critical reports and documentaries did not succeed to change that. The lack of international attention of the illicit trade in Afghan artefacts is substantial.

The market countries do not realize enough that Art Crime is a serious crime. Neither do these countries realize that on the market for illegal antiquities their citizens are the end-users in a sequence of criminal acts. If there would be no market for stolen artefacts there would be no illicit trade. It is the Afghan government that should point out the mutuality of the illicit trade to the market countries and raise their awareness. They should ask their European partners why there is a European Council Regulation concerning certain specific restrictions on economic and financial relations with Iraq, including sanctions on the trade in stolen Iraqi artefacts [(EC) No 1210/2003 of 7 July 2003] and why none such European Council Regulation for Afghanistan exists.\(^{12}\)

Return of artefacts

In their campaigns to repatriate stolen artefacts the source countries, including Afghanistan, frequently measure their success in terms of the recovery of individual art treasures. They forget, however, the preceding destruction of the archaeological context and to safeguard archaeological sites from future looting. After all, in the process to uncover one marketable object dozens of others are damaged or destroyed, leaving the site disturbed and robbing the country forever from the contextual knowledge. Museums and private collectors that acquire looted archaeological objects are the end-users in a systematic and destructive process that plunders cultural sites. As such the home countries have to bear that responsibility and act accordingly. The return of stolen artefacts alone is not enough. The collecting institutions should also take measures to prevent the looting in the future. For one, their acquisition policy should change and demand a clear provenance for all cultural goods entering their collection.

Numerous repatriation claims for artefacts removed from their countries of origin before 1970 - that is, before the UNESCO Convention – stagnated because the recovery process was too expensive.\(^{13}\) As the majority of these items stem from illicit excavations there is no single registry or formal document certifying their
provenance. Besides, foreign courts hardly accept as sufficient evidence modern identification methods and techniques. As the burden of proof still rests on the claimant legal proceedings in these cases are considered long, costly and fruitless. However, the return of stolen objects did meet with success as a result of a series of actions and long negotiations. The so-called ethical approach is more fruitful than the straightforward legal one, in relation to both the prompt repatriation of cultural items and better dialogue between curators and archaeologists of different countries. Finally, cultural diplomacy opens doors to all forms of agreements, with win-win solutions.

Civil Society

Around 1,300 non-governmental organizations (NGOs) are registered in Afghanistan, including 360 foreign organisations, employing 45,000 people. Only a few are working in the field of cultural heritage. Yet, globally culture and development are increasingly considered two sides of the same coin. Unfortunately, this is hardly reflected in the work and the outputs of the NGOs in Afghanistan. It is especially the illicit trade in Afghan artefacts and the illegal excavations on the archaeological sites that are closely connected to the multitude of socio- economical and political problems Afghanistan is facing today as is the case with the safeguarding and protection of Afghanistan’s cultural heritage. In short, when there is work and food, good governance and rule of law there would be less need and opportunity for the people to rob their own history. The NGOs could easily contribute in this way to preserve Afghanistan’s past.

All the heritage plans and proposals from civil society should be part of the overall Afghan development plans. Especially, the Afghan National Development Strategy (2008-2013), a strategy for Security, Governance, Economic Growth and Poverty Reduction. It is the overarching reconstruction and development policy guidance thus also for the heritage sector. Of course the same goes for any other Afghan sectorial plan. This is the Integrated Approach – Cultural Heritage and Development.

Lessons learned from natural disasters in Aceh and Haiti as well as from conflicts in former Yugoslavia and Iraq show a general lack of Communication, Coordination and Cooperation between the aid agencies. This resulted in the fragmentation of aid and consequently a deceleration in rebuilding the crisis-effected society. It seems that for the same reasons the reconstruction of Afghanistan is hampered, including the rehabilitation of the cultural heritage sector. Perhaps the Afghan authorities should be more demanding. Ultimately, there remains the possibility to refuse aid!

International Military Forces

Since 2001 two international military forces entered Afghanistan: International Security Assistance Force (ISAF) and Operation Enduring Freedom (OEF). From the beginning OEF is a US-lead operation and since 2003 ISAF is lead by NATO. The total force comes close to 180,000 foreign troops (Oct 2010). These military forces are accompanied by a huge amount of equipment, devices and appliances that could possibly be brought into action to stop the illicit trade in artefacts and the illegal diggings. After all, the illicit trade and illegal excavations are for a major part
controlled and organized by criminal gangs, local powerbrokers and the Taliban. The revenues from these activities are utilized to continue their 'core business'.

Therefore, the international military forces should make the fight against the illicit trade in artefacts part of their counter-insurgency strategy (COIN). In Iraq, next to the trade in weapons and kidnappings the illicit trade in artefacts was a third source of financing for the insurgents. There is ample reason to believe that in Afghanistan the Taliban also support their activities with the trade in stolen artefacts. Another reason for the military to join this fight is that most of the participating countries ratified The Hague Convention (1954 and 1999) and the UNESCO Convention (1970). Thus, by international law the military should consider this fight as part of their duties. Besides, it very well fits the 'Comprehensive Approach' and the new 'People-Centered' strategy of ISAF.

Military teams such as CIMIC (Civil-Military Cooperation) or Civil Affairs units can play a significant role in the fight against illicit trade. They are the proper military institution that could provide site security by patrolling a site at irregular intervals. They are the ones who could enter an insecure area and show force, areas that are inaccessible to others. With the same token the military could put some of their high teach means to the protection of cultural heritage. Satellite imagery could give us valuable information on the most endangered sites. Comparison between the images over time could even show trends in the illegal diggings, whether it is increasing or decreasing. The same goes for the use of video images from the drones.

Even the Provincial Reconstruction Teams (PRTs) can play a role in enabling security, governance and development. Depending on the country the PRTs are a combination of military and civilian staff and lead by either the military or civilians. They come together at a regular basis and could even take on the task of first coordination in cooperation with the proper heritage Afghan authorities. The task of cultural heritage protection would enhance the security of the region and development, thus fit their program well. PRTs are perhaps an even better tool to fight smuggling of artefacts as the cooperation between military and civilians would give them more possibilities and a variety of resources.

Afghan Heritage Police

At present the 500 men strong Afghan Heritage Police is badly equipped and heavily underpaid. The Afghan National Police receives US$ 150 a month after their wages were brought up to the same level as the Afghan National Army last year whereas the Heritage Police receives US$ 8 a month only. In fact, too little to live on. Next, this police force is not housed in proper quarters, they live in tents, and lack basic equipment as helmets, flack jackets, radio communication equipment and gas for vehicles. Also their training leaves much to be desired. In spite of the modest successes of the Afghan Heritage Police, this situation is intolerable causing too many casualties and wounded officers in the police force.

The international community is supporting several police trainings missions like the NATO Training Mission Afghanistan (NTM-A) and European Union Police Mission in Afghanistan (EUPOL Afghanistan). The training of the Afghan Heritage Police could equally benefit from these missions. The basics in cultural heritage should be trained by local
archaeologists. ISAF and OEF could help this police force out with basic equipment, especially those leaving Afghanistan.

**Afghan Authorities**

The main responsibility of the protection of cultural heritage in Afghanistan bears with the Afghan authorities themselves. The Afghan government took already decisive steps to protect their cultural heritage. Since 2004 a special police force was formed: the Afghan Heritage Police. Today, Afghanistan’s cultural heritage is protected under the new Law on the Preservation of Historical and Cultural Heritage (2004) and in the recent past Afghanistan has ratified several important conventions such as the UNESCO Convention (1970), Convention Concerning the Protection of the World Cultural and Natural Heritage (1972), and the Unidroit Convention (1995). Also, the restoration of the National Museum is near to completion, and ten provincial museums are under construction.

It is clear that the Ministry of Information and Culture is doing whatever they can but with only 0.017% of the national budget for culture there is only so much they can do. In contrast to the global trend, the Afghans most probably still consider culture as a luxury, including the Afghan government. Yet, many of the international political bodies and international development agencies changed their views and consider culture and heritage as drivers for the Millennium Development Goals. That is why culture and heritage should be included in the overall development planning process. In fact, culture deserves to become a cluster in itself in Afghan development policies.

As often occurs in reconstruction in crisis-effected countries Afghanistan suffers from uncontrolled building activities. Some of the sites, like Bamyan, are threatened by advanced construction from nearby villages. Also people use antique foundations for building their houses on or they take building materials from a site to use for their own building construction. In Herat residents have re-opened a road previously blocked by the UN and the Afghan government to preserve some of the city's most historic monuments. The road that has been blocked twice before runs through the remaining four minarets. The causes of these uncontrolled activities are partly due to sheer ignorance and partly due to the fact that local authorities fail to maintain the law.

One serious cause of the trade in stolen artefacts is that the objects themselves are not well protected or sometimes even not protected at all. 75% Of the 600 historic monuments suffer from serious neglect. Many excavated objects on archaeological sites are left unguarded and many heritage institutions lack proper security. Thus, Afghanistan is exposed to many internal threats to their cultural heritage that, if not solved, continues to encourage the illicit trade in antiquities. What the country needs is a national risk management program.

**Concluding remarks**

The illegal trade in antiquities is very significant and is related to all the illegal activities which are going on in Afghanistan. There is absolutely no site in this country which is unaffected, says Philippe Marquis the director of DAFA.
With no immediate solution to the armed conflict in Afghanistan in sight the need to combat the illicit traffic in cultural objects is greater than ever before both at the domestic and international level.

It is apparent that the looting on Afghan soil is not only an Afghan problem but a problem that concerns us all. As long as greedy art lovers acquire stolen artefacts and keep discarding the proper provenance, antiquities will be smuggled out of Afghanistan. Many smuggling routes are known. The time to act has arrived.

To improve the struggle against illicit traffic in artefacts several recommendations have been made. Not all of them will be easy to accomplish and some of them might even take a long time to realize. All the same, the recommendations have been made as close to reality as possible and the advocated steps are to assist the Afghan Ministry of Information and Culture (MoIC) and other stakeholders to implement these recommendations. The execution of a single recommendation will not solve the art crimes on Afghan soil. All of them have to be regarded as part of one framework. Only working from different sides at the same time will the MoIC be able to mitigate or halt the illicit traffic and only with the help of the market countries. It is clear that these measures call for an integrated approach.

For Afghanistan the continuing insecurity and lack of resources is devastating for their cultural heritage. The international community should, in spite of the present financial crisis find ways to support Afghanistan in this struggle as they do with other problems the country has to tackle. Only through cooperation, partnership, goodwill and mutual appreciation and intercultural dialogue ‘the twain shall meet’. But in the end there is only one possible conclusion - that peace and stability are unconditionally the primary factors for preserving and protecting Afghanistan’s heritage.

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2 Personal communication Dr Roland Besenval, former director DAFA, Kabul 22 October 2010
7 Opening speech of General Franz Lang, Director of the Bundeskriminalamt Vienna, at the 6th International Conference on the Illicit Traffic in Cultural Property Stolen in Central and Eastern Europe in Vienna, Austria, from 8 to 10 June 2010.
See the website of the Swiss Bundesamt für Kultur http://www.news.admin.ch/message/index.html?lang=de&msg-id=29602

For more on the Heritage Circle see http://www.cultureindevelopment.nl/Cultural_Heritage/What_is_Cultural_Heritage


See for example the 2010 MDG Summit High-Level Round-Table on Culture for Development at http://portal.unesco.org/ culture/en/ev.php-URL_ID=41259&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html

For more on the NMT (A) see http://www.ntm-a.com/ and for more on EUPOL Afghanistan see http://www.eupol-afg.eu/