ANTIQUITIES COALITION

Middle East Institute

Asia Society

# #CultureUnderThreat:

# Recommendations for the U.S. Government

April 2016

Photo Courtesy of Katie A. Paul

Photo Courtesy of : Diane Flynn

April 2016

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## Recommendations for the U.S. Government

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# EXECUTIVE SUMMARY

## #CultureUnderThreat: Recommendations for the U.S. Government

Culture has become a weapon of war and a fundraising tool for violent extremist organizations across the Middle East and North Africa (MENA). Millions of archaeological, historic, and religious sites in the MENA region are under threat from organized plunder or destruction from armed conflict and violent extremist organizations.

The #CultureUnderThreat Task Force was convened by the Antiquities Coalition, the Asia Society, and the Middle East Institute to explore solutions to this growing crisis and serve as an ongoing resource to policy makers. This report details the current situation and puts forward a series of recommendations for the U.S. government, international community, and art market that address the core issues. Action to halt antiquities looting and trafficking is critical in the fight against violent extremism and organized crime. Cultural crimes are also closely linked to security threats, including money laundering, transnational organized crime, and international terrorist financing.

**"The fight to protect the peoples of the MENA region and their heritage cannot be separated"**

Terrorist groups like Daesh have razed entire temples at the ruins of Palmyra in Syria and Nimrud in Iraq, dynamited the Judeo-Christian Tomb of Jonah and the Sunni mosque of the Prophet Yunnis, pillaged the Mosul Museum, and obliterated countless Shiite and Sufi places of worship. The loss of life in the region from these extremists is reprehensible. So is the destruction of those institutions that represent the region's storied history. From Egypt to Libya to Yemen, and across the region, cultural crimes have proliferated in the vacuum of political instability and breakdown of security created by the 2011 Arab Spring.

The fight to protect the peoples of the MENA region and their heritage cannot be separated: the destruction of culture has long been an integral component of war crimes, crimes against humanity, and genocide. Daesh, the Al-Nusra Front, and Al-Qaeda have now institutionalized cultural crimes as an instrument of war, using them to erase the collective memory, culture, and accomplishments of a people and replace it with their own ideology. Left unchallenged, this is not only a physical threat to heritage, but a threat to human rights and international peace. The looting of heritage sites directly funds terrorist activity and creates long-lasting economic damage in the region.

Cultural crimes are closely linked to security threats, including money laundering, transnational organized crime, and international terrorist financing. The

#CultureUnderThreat Task Force, accordingly, is comprised of experts from diverse backgrounds, including the heritage, law enforcement, legal, military, and national security communities. This is the first time such a diverse group has developed such a wide range of recommendations for new policies, practices, and priorities for the United States to implement—both on its own and in conjunction with the international community and art market.

Active looting in Daesh occupied territory. Credit: The Day After Project, Heritage Protection Initiative

The Task Force's focus on the United States, international organizations, and the art market in its initial set of recommendations does not imply that they bear sole or primary responsibility in stopping cultural crimes. Source countries, for example, have an important role to play. Yet, given the unique challenges that source countries plagued by armed conflict, civil, and political unrest face, a separate report is required to fully address steps they should consider taking to monitor and protect their heritage.

The United States makes up 43% of the global art market, and leads world demand for licit and potentially illicit antiquities. Therefore, the United States can play a leadership role in the fight against cultural racketeering and deal an effective blow against the overall black market. It is crucial that the United States takes advantage of this opportunity, not only in the interests of preservation, but in the interests of national security.

The Task Force intends the recommendations presented below to serve as a critical step in the war against cultural crimes. In focusing on the Middle East, the #CultureUnderThreat Task Force seeks to develop a framework that can help to prevent and combat cultural crimes committed in other conflict zones as well. We urge leaders across the international community to use them as a guide for their own countries and organizations. A follow-up report will address actions by governments in source countries, NGOs, and private stakeholders to prevent cultural racketeering and cleansing within and across their borders.

We hope that the United States government will view these recommendations as an opportunity to extend its leadership in the prevention of cultural crimes around the world. The Task Force stands ready to assist in this effort.

## For the Federal government, the Task Force calls on:

- **The President** to block the import of conflict antiquities through executive action; and to designate a senior director at the **National Security Council** to drive U.S. policy in the fight against blood antiquities and terrorist financing.

- **The U.S. Congress** to pass the Protect and Preserve Cultural Property Act (H.R. 1493/ S. 1887) to restrict antiquities imports from Syria; and to grant the limited waiver requested by the **State Department** to rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO) to maintain U.S. leadership and influence in the global battle against heritage destruction.

- **The U.S. Defense Department** to consider, as appropriate, the launch of air strikes when extremists organizations threaten heritage sites; to further identify "no strike lists" of cultural sites; to improve and standardize cultural property protection training for all military personnel; and to increase the number of cultural heritage specialists in U.S. Army and Marine Corps Civil Affairs units to better prepare the modern "Monuments Men and Women" for future missions.

- **U.S. law enforcement** to buttress **Immigrations and Custom Enforcement's** "seize and repatriate" strategy with investigations and prosecutions that dismantle criminal networks engaged in the antiquities black market, as well as to provide additional resources for these efforts; and for the **U.S. Justice Department** to end impunity by appointing dedicated prosecutors with expertise in heritage crimes, modeled on its wildlife trafficking unit.

- The Task Force recommends further coordinated actions by the **Congress, Departments of Defense, Homeland Security, Justice, and State, Internal Revenue Service, Peace Corps**, and other U.S. agencies.

## For the international community, the Task Force calls on:

- **The United Nations** to urge the **International Criminal Court** to open an investigation of cultural crimes in Iraq and Syria; to include the safeguarding of cultural resources in peacekeeping training and mandates; to incorporate heritage protection in post-conflict planning; and to support the capacity of national courts to conduct domestic prosecutions of cultural racketeering and cleansing.

## For the art market, the Task Force calls on:

- **Museums, dealers, and auction houses** to commit to greater transparency and make publicly available documentation of legal title and known ownership history for all antiquities.

- **An art dealers' trade organization** to establish a registry of antiquities dealers who are verified to abide by prescribed ethical codes and industry best practices.

- **Collectors, dealers, museums, and other market players** to cease using stolen art database certificates as the sole proof of due diligence for antiquities acquisitions.

Funerary stele recently looted from Palmyra and put up for sale at the auction in Raqqa in March 2016. Credit: The Day After Project, Heritage Protection Initiative

# BACKGROUND

## A Security, Economic, and Cultural Crisis in the Cradle of Civilization

On the night of 15 May 2015, the U.S. Special Operations Forces led a mission in eastern Syria to capture the senior Daesh leader Abu Sayyaf—the group's director of financial operations and its proclaimed "Emir of Oil and Gas." At this time, Daesh's trade in natural resources had already been well documented, along with a thriving business in extortion and ransom. But the Special Forces uncovered proof that Daesh had developed another critical stream of income: ancient art ripped from archaeological ruins in the "Cradle of Civilization."[1]

Artifacts in Abu Sayyaf's possession seized in raid. Photo Credit: U.S. Department of State

A treasure trove of documents exposed this illicit trade in detail. They confirmed earlier warnings from experts—that Daesh's antiquities operations are far more systematic than the opportunistic grave robbing that has taken part in the region for centuries.[2] Its cultural racketeering is industrial, methodical, and strictly controlled from the highest levels of the organization's leadership.

The recovered papers revealed that Abu Sayyaf (who did not survive the raid) headed Daesh's Natural Resources Diwan Al-Rikaz (chief administrative office). This office includes an entire antiquities department, itself subdivided by geography and specialization. Bureaus have been carved out for administration, exploration and identification of new sites, investigation of known sites, excavation, and marketing and sale of antiquities. By placing the antiquities departments under the Diwan Al Rikaz, Daesh clearly indicated that it views cultural heritage as a resource to be exploited like any other.

Under this system, Daesh also issues permits to others to loot and sell antiquities, subject to the traditional 20% khums tax, a religious levy on spoils of war. Receipts for these transactions, signed by Sayyaf or other top officials in the Diwan, were also discovered. Just three months of these receipts indicated total sales worth $1.25 million. Moreover, a cache

of antiquities was also found in the compound, presumably awaiting sale beyond the group's borders. While most of these were small and easily transportable, photos found on a computer showed larger items that had likely already been sold.

Some of these recovered antiquities came from the Mosul Museum in northern Iraq. In February 2015, Daesh had proclaimed its intention to destroy the museum's collection of "idols," in an archaeological propaganda film that made front page news around the world. Yet these pieces—with their museum inventory numbers—were still clearly intact at Sayyaf's compound.

While Daesh was destroying artifacts on camera, as part of their propaganda and recruitment efforts, behind the scenes they were plundering and trafficking them for profit.

الدولة الإسلامية
ديوان الركاز
قسم الآثار

بسم الله الرحمن الرحيم

التاريخ 6 R/14 1436هـ 2014/12/6م

رقم ١٠١

(( ايصال قبض ))

[redacted]

أنا الموقع أدناه : أبو سياف العراقي

تسلمت من الأخ [redacted]

مبلغ وقدره : 2,960,000 كتابة : الفان وتسعمائة وستون الف دينار لا غير

ملاحظة : [redacted]

توقيع المستلم

الدولة الإسلامية
ديوان الركاز - الآثار
الرئيس

| The Islamic State<br>Diwan of Natural Resources<br>Antiquities Division | In the name of Allah, the merciful, the compassionate<br>[redacted]<br>Collection receipt | Date: 06 *DEC 2014*<br>Number 101 |
|---|---|---|
| I, the below signed: | *Abu-Sayyaf al-Traqi* | |
| Received from the brother: | [redacted] | |
| The amount: | *2,960,000 SYP* | Written: *Two million nine hundred sixty thousand SYP exactly* |
| Notes: | *1/5th the value of the Antiquities Sold in Al Khayr governorate* | |
| Recipient signature:<br>[*Signature*] | Submitter signature:<br>[*Signature*]<br>[Seal of the Diwan of Natural Resources, head of Antiquities] | |

Receipts for payment of "war booty" tax (Arabic original copy above, English translation below) found during the 2015 raid of the Daesh leader Abu Sayyaf's compound. Credit: U.S. Department of State

## Cultural Racketeering and Cleansing

The Abu Sayyaf raid further confirmed what archaeologists, criminologists, law enforcement agents, and military officials have long warned: the illicit antiquities trade is funding crime, armed conflict, and international terrorism.

Looting is as old as the sites under attack. But in the modern world, this destruction is taking place on an unprecedented scale, driven by a multi-billion dollar demand for art and antiquities.[3] The organized looting and trafficking of antiquities, or cultural racketeering, is a criminal industry that spans the globe. All countries with a past worth protecting are at risk, but countries in crisis are most at risk, especially during times of war.

## Our Challenge and Our Responsibility

Iraq and Syria, as well as Afghanistan, Egypt, Libya, Mali, Tunisia, Yemen and others in the MENA region are now facing times of crisis. Some are fully embroiled in civil war and political chaos. Others face economic instability. It will be impossible to fully safeguard their cultural heritage until they are able to bring about peace and rebuild civil society.

But protecting the region's past is critical to protecting its future. Cultural cleansing aims to destroy the collective memory and very fabric of coexistence in areas under terrorist

control. In addition to funding crime and terrorism, cultural racketeering can be economically devastating for source countries. Damages far exceed the worth of what has been stolen, as looters often irreparably destroy potential tourist destinations. Taken together, these crimes damage the future foundations of peace, stability, and economic growth.

The scale and urgency of the problem provides the United States with an opportunity to take a leadership position on this issue. The *#CultureUnderThreat Task Force* was convened by the Antiquities Coalition, the Asia Society, and the Middle East Institute to explore

Screen grab of extensive looting at tentatively listed UNESCO site Mari in Syria. Imagery sourced via Digital Globe using Hexagon Geospatial Smart M.App technology.

solutions to this growing threat against culture. The Task Force builds upon the 2015 Cairo Conference, where ministers from Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Saudi Arabia, Sudan, and the United Arab Emirates agreed to take steps to combat cultural racketeering. Their collective action plan—the Cairo Declaration—was reinforced by the #CultureUnderThreat Forum held on the margins of the 70th Session of the United Nations General Assembly in September 2015. This report also builds off the excellent work done by the Louvre Museum, the Norwegian Institute for Cultural Heritage Research, and other cultural protection groups.[4]

The #CultureUnderThreat Report presents a holistic and comprehensive approach to combatting cultural crimes. It draws on the expertise of leaders in fields as diverse as heritage, law enforcement, international law, defense, and national security. It also represents the most extensive set of recommendations yet produced for the United States, which is a leading market destination for illicit antiquities. The Task Force's focus on the United States government does not imply that source countries do not bear responsibility

for this problem; rather, given the unique challenges that many supply countries face due to civil and political strife, as well as armed conflict, a separate report is needed to fully address actions they must take.[5] A follow-up report will do this.

Like "blood diamonds" in Africa or "blood timber" in Southeast Asia, conflict antiquities are cultural objects that are looted from archaeological sites (or stolen from collections such as museums) in conflict zones and then trafficked by organized groups to either finance hostilities or exploit them for personal gain. In recent decades, they have helped to arm such groups as Al-Qaeda, the Taliban, and the Khmer Rouge. Since war is an expensive business, this international trade is booming.

After being looted, stolen artifacts often travel on established trafficking routes, disguised with forged ownership histories or "provenances." They then either disappear into the black market—or are laundered onto the legitimate market.[6] This process has grown easier in recent years: with today's technology, once an antiquity is out of a conflict zone, it can reach market hubs like London, New York, or Tokyo in a matter of days if not hours. And the internet—which now makes up 7% of global art sales by value—has made it easier to buy and sell pieces than ever.[7]

**The United Nations recognizes both cultural destruction and plunder as indicators of impending genocide, crimes against humanity, and war crimes. However, cultural cleansing is an atrocity crime in and of itself, and under the jurisdiction of the International Criminal Court (ICC).**

As we are seeing today in Iraq and Syria, while this illicit trade itself is a serious threat to global security, cultural racketeering often goes hand in hand with cultural cleansing, the deliberate and systematic destruction of a targeted group and their heritage. Cultural cleansing aims to eliminate not only a people, but all evidence of them, and has long been an instrument of war. As we have witnessed throughout the twentieth century—from the Holocaust, to Cambodia's Killing Fields, to the ethnic cleansing in the Balkans—it is a hallmark of genocide.

While cultural cleansing and racketeering are global threats, they have reached crisis levels in today's Middle East and North Africa, driven by a near-complete security breakdown in Iraq, Syria, Yemen, Libya, and beyond.

## Cradle of Civilization

This Middle East is the birthplace of the world's earliest civilizations and cities, the invention of writing and government, and the first recorded laws. The story of these developments is the story of civilization itself, passed down to us through the

The Mausoleums of Palmyra lie near the ancient Roman archaeological site of Palmyra, a UNESCO World Heritage Site. This mausoleum is one of two Palmyra mausoleums destroyed by Daesh explosives. Photo via militant social media account

archaeological and historical record. This is the cultural legacy that is now at risk.

Since the 2011 Arab Spring—and the start of the Syrian Civil War, which spilled over to northern Iraq in 2014—the region has been plagued by crisis and conflict. The situation is now the worst humanitarian crisis since World War II. Even the most detailed statistics on casualties—the millions of lives lost, injured, or displaced, the homes and even cities leveled—fail to reveal the full extent of the tragedy. The human toll is beyond measure.

It will likewise never be possible to calculate the complete cultural toll. Heritage sites, architectural wonders, and cultural objects that had survived millennia have violently disappeared in a matter of weeks and months. The historic value of their context is lost forever. World-renowned sites like Palmyra in Syria have been the victim of targeted attacks, as militants sought to destroy the cultural identity and memory of their enemies. Numerous other historical and archaeological sites have suffered collateral damage from indiscriminate attacks. Countless artifacts have vanished into the market, leaving behind a devastated landscape marked by thousands of looters' holes. The losses can never be replaced.

These attacks against heritage are first and foremost attacks against the Iraqi and Syrian people. Daesh, the Al-Nusra Front, and Al-Qaeda—and farther afield, the Taliban in Afghanistan and Pakistan, and Ansar Al-Dine in Mali—are using cultural crimes to wage war and enforce brutal regimes. Heritage is deliberately targeted as part of a broader campaign to intimidate civilians and erase their very identity.

Attacks upon significant Christian sites along with famous ancient sites like Nineveh, Nimrud, and Palmyra have gotten the most headlines from the western press, yet the majority of cultural sites targeted by Daesh have been those sacred to Islam, especially to the Shiite and Sufi sects. For example, research by the American Schools of Oriental Research (ASOR) indicates that in northern Iraq, 39% of sites destroyed were Shiite, 17% were Sufi, and 8% were Sunni. Only 3% were classified as ancient. The destruction of this

Islamic heritage illustrates Daesh's efforts to rewrite the history of Islam in furtherance of their political agenda.

While cultural cleansing is an attack on these populations, their cultural identity, and their heritage, cultural racketeering is also funding additional violence in the Middle East and across the globe. The U.S. government has publicly warned that Daesh has earned several million dollars from antiquities trafficking since mid-2014.[8] Analysts warn that this number may rise as their other revenue streams are cut off, for example, as oil prices continue to plummet.[9] Many of the armed forces operating in Iraq and Syria are also implicated in plunder for profit—from the Syrian regime, to the various Syrian opposition factions, to Kurdish paramilitary forces.[10]

Daesh's Department of Antiquities. By placing this under the Natural Resources Diwan, Daesh has proven it views cultural heritage as a resource to be exploited. Credit: The Day After Project, Heritage Protection Initiative

The resulting damage is so severe that it is visible from space. Satellite imagery indicates that more than 3,000 of 15,000 identified archaeological sites have been looted in Syria since the war began.[11] In Daesh-controlled areas, 42% of these pillaged sites have been heavily plundered, suggesting "state" sanctioned operations. This destruction has been corroborated on the ground by numerous civil society activists supported by local nongovernmental organizations like the Day After project who are documenting this carnage often at great risk to themselves.[12]

It is important to remember that this cultural racketeering and cleansing is taking place against a backdrop of wider violence. Heritage has been one of many casualties of war, as even when it has not been targeted directly, it has suffered collateral damage. This is especially true in Syria. Five of the country's six UNESCO designated world heritage sites—including the Krak De Chevalier, the old city of Aleppo, and the sites of Palmyra and Bosra—have been damaged extensively.[13]

## Beyond Iraq and Syria

The threat to cultural heritage from crime, armed conflict, and violent extremist organizations extends far beyond Iraq and Syria's borders. Oxford University estimates there are three to five million archaeological sites across in the Middle East and North Africa.[14] In the Arab League countries, there are 209 inscribed and tentative UNESCO World Heritage Sites. These sites span millennia, countless cultures and civilizations, and numerous religions. With the breakdown in civil society in the region, archaeological sites, museums, and religious institutions have become targets for those seeking to send a political message.

In Egypt, on 25 January 2011 during the height of Arab Spring protests in Cairo, the Egyptian Museum centrally located in Tahrir Square—the nexus of the revolution—fell victim to looters during the chaos. Museum cases were smashed and artifacts damaged, 18 priceless pieces were stolen. The Mallawi Museum in Minya outside of Cairo was targeted by armed protesters after the ouster of President Mohamed Morsi in August 2013. Over 1,000 artifacts were stolen or destroyed, objects too large to carry were smashed, and many of those remaining were set ablaze.[15]

In Libya, alleged Salafist[16] extremists bulldozed the Sidi Sha'ab Mosque—one of the most well known mosques in Tripoli—in August 2012.[17] Militants bulldozed the site, cracking open 15th century graves and destroying a historic library, while security forces failed to intervene.[18] The destruction of Libyan heritage continues, as in March 2016, Islamist militants were suspected in the bombing of the historic Mizran Mosque. [19]

Libya has not been the only North African nation whose heritage sites were targeted by Salafists. In 2013, 40 historic Sufi sites were attacked, burned, or destroyed by Salafist extremists.[20] The wave of destruction set off a firestorm of anti-Islamism[21] in Tunisia, and while extremist destruction within the country waned, Tunisia now serves as one of the largest suppliers of foreign fighters to Daesh.[22]

In Yemen, the Al-Qaeda affiliated terrorist group Ansar Al-Sharia attacked the Tomb of Sufi Saint and Islamic scholar Sufyan bin Abdullah—an 800-year-old shrine to a legendary anti-Crusader fighter—in February 2015.[23] Militants ransacked and bombed the tomb, tore down the structure, and dug up the grave of the Sufi saint, leaving his remains strewn across the rubble of the ruined tomb. Air strikes and firefights during the ongoing civil war have also devastated the capital Sana'a, one of the oldest cities in the world and a World Heritage Site. More than fifty nearby archaeological sites, 6,000 historical homes, multiple museums,[24] and several Sufi shrines have also been destroyed since the outbreak of the conflict.[25]

On the margins of the Middle East and North Africa, cultural heritage remains at risk from these same threats. During the 2012 Malian Civil War, the Al-Qaeda affiliated Ansar Al-Dine attacked historic mosques and razed sacred mausoleums in Timbuktu, a UNESCO World Heritage treasured for its rich Islamic architecture dating back to the 13th century.[26] Over 4,000 religious manuscripts were also burned or stolen by the extremists. However, 90% of

the several hundred thousands of documents in the ancient city were saved by the people of Timbuktu, at great risk to their own lives.[27] An Ansar Al-Dine leader is now on trial in the Hague for these war crimes, the first such prosecution by the International Criminal Court.[28]

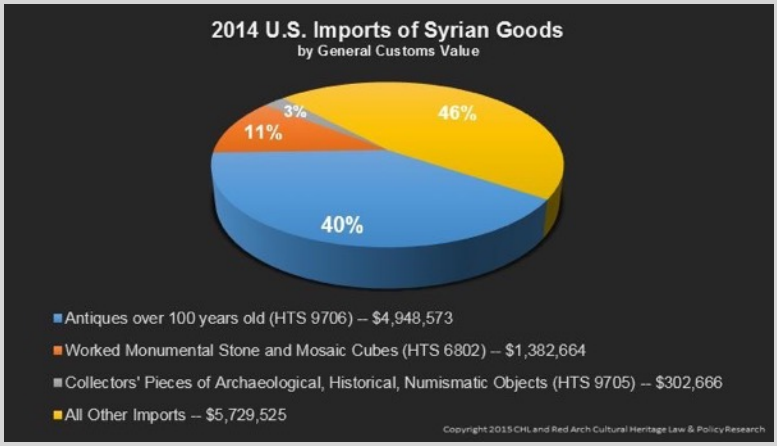
## Recommendations

The recommendations that follow begin with actions that the Task Force believes the United States government can and must take to end cultural crimes. These are also intended to serve as a guide for leaders across the international community in their own countries. The report then provides recommendations for international organizations and the art market.

It is important to recognize that the success of all these recommendations will depend on adequate funding being made available, not only for their implementation, but for additional research to help us better understand the illicit trade in antiquities.

Ending the cultural crisis in the Middle East is a national security and human rights imperative. Adoption of these recommendations would go far in addressing this crisis. We stand ready to assist in this effort.

## Where Are Daesh-Looted Antiquities Going?




Copyright: CHL and Red Arch Cultural Heritage Law and Policy Research

In August 2015, the FBI warned it had received "credible" evidence that Daesh-looted antiquities were reaching the U.S. market, but as of printing no such cases have been publicly revealed. However, import statistics maintained by the U.S. International Trade Commission Interactive Trade DataWeb, and collated by cultural heritage lawyer and former prosecutor Ricardo A. St. Hilaire, serve as a further warning.

"Antiques of an Age Exceeding 100 Years" (Harmonized Tariff Schedule 9706) were the top import of Syrian origin by value in 2014, making up an incredible 40% of the total value of all goods of Syrian origin imported into the United States. According to the trade data, every imported Syrian "antique" was shipped to the customs district of New York City, the location of one of the largest and most important art and antiquities markets in the world. "Antiques" were also the number four import by value from Iraq in 2014.

Said St. Hilaire, "We know that antiquities smugglers hide contraband imports in the stream of commerce by mislabeling and misclassifying them. That is why legitimate suspicion is raised by the trade data." He asks, "What exactly are these imports of antiques that are over 100 years old? Are they $5 million worth of great grandmothers' rocking chairs? Or are they ancient archaeological artifacts masquerading as 'antiques?' Customs officials need to find out exactly what goods were inside those crates so that suspicions are either confirmed or dispelled."

# TASK FORCE REPORT

# RECOMMENDATIONS OVERVIEW

## THE UNITED STATES GOVERNMENT

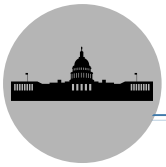
*The United States should immediately and fully implement United Nations Security Council Resolutions 2199 and 2253 to cut off terrorist financing from antiquities trafficking.*

## THE WHITE HOUSE

*The National Security Council (NSC) should allocate staffing resources to track antiquities trafficking and its links to terrorist financing and organized crime.*

*The President should prohibit the import of illicit antiquities through Executive Order, as a means to cut off key sources of terrorist financing.*

*The President should use his powers as Commander in Chief to instruct the Secretary of Defense and the Joint Chiefs of Staff to prioritize the protection of cultural property in military operations.*



## CONGRESS

*The United States Congress should expeditiously pass the Protect and Preserve International Cultural Property Act (H.R. 1493/ S. 1887).*

*The House of Representatives and Senate Committees on Appropriations should approve a limited waiver allowing the United States to regain its vote in the United Nations Educational, Scientific, and Cultural Organization (UNESCO).*

## THE ARMED FORCES AND DOD

*The Department of Defense should support the United States Committee of the Blue Shield's continuing work to create "no strike lists" of cultural heritage sites that should not be targeted during armed conflict.*

*U.S. armed forces and their coalition partners should engage in military air strikes, as appropriate, against targets threatening known heritage sites as part of their comprehensive mission to defeat violent extremism.*

*The Department of Defense should conduct a full review and report on the status of the Arts, Monuments, and Archives section—the modern day incarnation of the "Monuments Men"—in light of the heritage crisis in the Middle East.*

*Training for civil affairs—for both active duty and reservists—should provide a general background in cultural property protection (CPP).*

*Training for Special Operations Forces (SOF) should be expanded to provide a basic knowledge of antiquities trafficking.*

*The armed forces, through the Manpower and Personnel Directorate (J-1), should maintain a roster of active duty personnel with a demonstrated expertise in heritage-related fields, who can be quickly identified, tasked, and deployed to protect cultural property.*

*The Department of Defense should review the 1954 Hague Convention's Second Protocol with the ultimate goal of ratification.*

*The Department of Defense (DOD) should expand its cultural resources program, which protects heritage sites on DOD properties, internationally to to help U.S. forces better protect cultural property when deployed overseas.*

## AGENCIES AND DEPARTMENTS

*U.S. law enforcement should shift its focus from seizure and repatriation of antiquities to the dismantling of criminal networks through criminal prosecution.*

*The Department of Justice (DOJ) should appoint designated prosecutors to bring criminal cases against individuals and organizations involved in the illicit antiquities trade.*

*The State Department should educate foreign nations about proactive steps that can be taken to restrict the import of their illegally exported cultural property into the United States, including through the use of bilateral agreements under the Convention on Cultural Property Implementation Act .*

*The Department of Homeland Security, or another relevant agency, should restrict the import and export of cultural property to designated ports, in order to more effectively and efficiently control the antiquities trade.*

*The Internal Revenue Service should require proof of legal title and known ownership history before granting tax deductions for art and antiquities.*

*U.S. Customs and Border Protection (CBP) should work with the World Customs Organization (WCO) to join and further develop ARCHEO, a web based application that allows real time communication between government authorities and international experts to prevent antiquities trafficking.*

*The Peace Corps should create a program sector for cultural preservation.*

## THE UNITED NATIONS

*In recognition that crimes against culture are human rights violations, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Special Rapporteur in the Field of Cultural Rights should develop responses to cultural cleansing and racketeering.*

*The United Nations Department for Peacekeeping Operations (DPKO) and other intergovernmental organizations, such as the North Atlantic Treaty Organization (NATO), should include the safeguarding of cultural resources in their peacekeeping training and mandates.*

*The United Nations should incorporate heritage protection and reconstruction—as well as legal actions to prosecute crimes against culture —into its post-conflict planning.*

*The United Nations Security Council (UNSC) should refer the crisis in Iraq and Syria to the International Criminal Court (ICC), allowing the Prosecutor to open an investigation into cultural heritage crimes and other violations of international law.*

*UNESCO should request that the International Court of Justice (ICJ) issue an advisory opinion on the nature of war crimes committed through the destruction of cultural property in the current conflicts in the Middle East and North Africa.*

*The United Nations should encourage and support national prosecutions of cultural racketeering and cultural cleansing by domestic legal systems through the Department of Peacekeeping Operations (DPKO)'s Rule of Law Program.*

## THE MARKET

*Art market players should pledge to be fully transparent in their dealings, making publicly available documentation of legal title and known ownership history for all antiquities.*

*Museums that receive public funding should adopt a disclosure policy that follows the intent of the Freedom of Information Act (FOIA).*

*A relevant professional organization should establish a registry of antiquities dealers who are verified to abide by prescribed ethical codes and industry best practices.*

*Because incidents of looting most often remain undiscovered until the objects surface on the market, and thus no records of their theft exist, we call upon stolen art databases to cease certifying antiquities.*

# RECOMMENDATIONS

## THE UNITED STATES GOVERNMENT

***The United States should immediately and fully implement United Nations Security Council Resolutions 2199 and 2253 to cut off terrorist financing from antiquities trafficking.***

In 2015, with Resolutions 2199 and 2253, the United Nations Security Council took action to cut off terrorist financing to Daesh, the Al-Nusra Front, and other Al-Qaeda affiliates from oil, hostages—and of most relevance to this report—antiquities.[29] While the United States gave its full support to 2199, and co-sponsored 2253, it has not yet restricted the import of Syrian antiquities as required—leaving the U.S. market open to Syria antiquities for over a year.

We urge the Administration to explore all means necessary to implement these resolutions fully and immediately. Swift implementation would stop Daesh and these other extremist organizations from profiting from the United States market. It would also demonstrate Washington's leadership in the fight against terrorism, as well as its commitment to safeguarding cultural heritage.

Resolution 2199 explicitly warned that "the looting and smuggling of cultural heritage items" by violent extremist organizations is "being used to support their recruitment efforts and strengthen their operational capacity to organize and carry out terrorist attacks." It called upon all Member States to "take appropriate steps to prevent the trade in Iraqi and Syrian cultural property" which has been "illegally removed from Iraq since 6 August 1990 and from Syria since 15 March 2011 [...] including by "prohibiting cross-border trade in such items." Member States had 120 days to comply.

As both resolutions were adopted under Chapter VII of the U.N. Charter, and are thus legally binding on all Member States, they provide the legal justification and create the political will necessary for the fight against cultural cleansing and cultural racketeering.

Full implementation of these resolutions requires a comprehensive approach. A significant first step would be passage of the Protect and Preserve International Cultural Property Act, which passed the House as H.R. 1493 on 1 June 2015 and is pending in the Senate as S. 1887. H.R. 1493/ S. 1887 would restrict the import of Syrian antiquities into the United States. Passage of an Executive Order to halt the important of antiquities similar to the 2011 Executive Order passed to block oil imports from Syria would also help implement these resolutions.

## THE WHITE HOUSE

***The President should prohibit the import of illicit antiquities through Executive Order, as a means to cut off key sources of terrorist financing.***

When there is credible evidence that illicit antiquities are funding violent extremism —as evidence shows is now occurring throughout the Middle East and Northern Africa—the United States should take advantage of its full range of legal tools to respond quickly and decisively. The Task Force urges the President to use his executive power, as well as existing legislation such as the International Emergency Economic Powers Act, to restrict the import of conflict antiquities into the United States through Executive Order.

U.S. Federal law justifies this action. Specifically, the President is authorized to regulate commerce "to deal with any unusual and extraordinary threat" to the country's security, foreign policy, or economy from a foreign source, if the President declares a national emergency. The President has already made this declaration of a national emergency with regard to Iraq, Syria, and "foreign terrorists who threaten to disrupt the Middle East peace process."[30] When drafted, this Executive Order should not conflict with or duplicate existing regulations or legislation (for example, the so-called "Safe Harbor Provision," should H.R. 1493/S. 1887 pass).

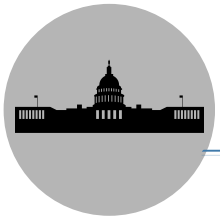
***The President should use his powers as Commander in Chief to instruct the Secretary of Defense and the Joint Chiefs of Staff to prioritize the protection of cultural property in military operations.***

Leadership at the highest levels is needed to make cultural property protection a priority among the Joint Chiefs of Staff and the entirety of the military. By demonstrating the political will to safeguard cultural resources at home and abroad from the top down—not just for the sake of preservation, but as a tool to fight Daesh and violent extremism more broadly in the MENA region—the President can create the momentum needed for the armed forces to combat cultural crimes through a variety of measures. This direction can be issued either through an Executive Order or as a policy directive.

***The National Security Council (NSC) should allocate staffing resources to track antiquities trafficking and its links to terrorist financing and organized crime.***

The U.S. response to cultural racketeering is currently decentralized and implemented on an ad hoc basis, with several agencies involved but no single agency coordinating the efforts. Better organization and coordination in the fight against cultural racketeering will improve information-sharing and create a higher level of operational efficiency.

The National Security Council (NSC), as the President's "principal forum" on national security and foreign policy, should take the lead in coordinating and developing United States government policy in the fight against antiquities trafficking and its linkages to terrorist financing and organized crime. We propose that the NSC assign an existing Senior Director with the responsibility for cultural racketeering and terrorist financing on a day-to-day basis. Oversight at this senior level would ensure better coordination between the various departments and agencies, as well as the development of more comprehensive and effective policies in the fight against violent extremism.



## CONGRESS

***The United States Congress should expeditiously pass the Protect and Preserve International Cultural Property Act (H.R. 1493/ S. 1887).***

The Protect and Preserve International Cultural Property Act—which passed the House as H.R. 1493 on 1 June 2015, and is now pending in the Senate as S. 1887—is a critical first step towards fulfilling the United States' obligations under United Nations Security Council Resolutions 2199 and 2253. These resolutions were passed over a year ago with unanimous support, but the United States still has not taken the necessary action to fully comply. This lack of action has kept the U.S. market open to the import of Syrian antiquities—making it a potential source of funding for extremist organizations.

The legislation, if passed, would restrict the import of Syrian antiquities illegally removed from the country since 15 March 2011, building on restrictions in place for

Iraqi antiquities since 2004. It additionally provides for additional measures to safeguard cultural heritage at risk from "political instability, armed conflict, or natural or other disasters."[31] Passage of this legislation would signal the United States' intention to take the lead in the global fight against cultural racketeering, while cutting off a major source of demand for illicit antiquities.

In addition, the current legislation would allow the import of otherwise restricted Syrian antiquities for "protection purposes," so long as doing so would not contribute to illicit trafficking or terrorist financing. Some heritage experts have raised concerns that this exception would make the United States a "safe haven" for looted as well as endangered art. The Association of Art Museum Directors (AAMD) has issued protocols regarding how such asylum would work in practice, but the Task Force urges the art market to maintain constant vigilance to make sure the safe haven provision is not abused.[32] Should the legislation pass, we strongly urge the U.S. government to issue its own regulations on safe havens to ensure that this exception is not exploited.

***The House of Representatives and Senate Committees on Appropriations should approve a limited waiver allowing the United States to regain its vote in the United Nations Educational, Scientific, and Cultural Organization (UNESCO).***

As a founding member, the United States has been instrumental in working with UNESCO, the United Nations' sole agency with a mandate to safeguard cultural and natural heritage. The United States has been one of UNESCO's largest contributing members, historically providing $80 million or 22% of the agency's annual budget.[33] However, the United States lost its vote for non payment of dues after withholding funding to UNESCO after it admitted the Palestinian Authority as a full member in 2011.

This reduction in funding has reduced the United States ability to drive policy and impact the broader agenda of UNESCO. UNESCO has a critical role to play in Iraq and Syria; U.S. financing and other support would help the organization mobilize the international community to raise awareness of the crisis, push for action in the U.N. Security Council and International Criminal Court, and complete work on the ground to conduct damage assessments, as well as provide capacity building and training. We strongly urge Congress to approve a limited waiver if submitted by the Administration that would enable the United States to pay sufficient dues for the U.S. to regain its vote and thus fully engage and participate in UNESCO.

***The Department of Defense should support the United States Committee of the Blue Shield's continuing work to create "no strike lists" of cultural heritage sites that should not be targeted during armed conflict.***

The United States Committee of the Blue Shield (USCBS), created by the 1954 Hague Convention as the cultural equivalent of the Red Cross, has led the effort to create cultural heritage inventories to assist the U.S. military in developing its "no strike lists"—coordinates of archaeological sites, museums, libraries, archives, and other cultural locations that should be avoided in armed conflict. These registers form part of a broader sphere of military preparation for potential or actual conflict. However, existing lists are in continuous need of updating as new sites are discovered, and registers of "no strike lists" are still needed for other at-risk countries such as Egypt and Yemen.

"No strike lists" are required to fulfill our duties under international law, including the 1954 Hague Convention. They have also proven to be crucial tools in past armed conflicts. For example, the USCBS's work to gather such information was critical to protecting heritage during the 2011 NATO mission in Libya, during which no heritage sites were damaged during an extensive aerial campaign, because armed forces had the precise coordinates of each of the significant cultural sites.[34] The Task Force urges the Department of Defense to support the USCBS's work to create "no strike lists" by providing financial and non-financial resources such as training and staff.

***U.S. armed forces and their coalition partners should engage in military air strikes, as appropriate, against targets threatening known heritage sites as part of their comprehensive mission to defeat violent extremism.***

The armed forces often have information about the actions and patterns of violent extremist organizations, including their intent to target heritage sites, from intelligence, social media, and even the terrorist groups themselves. For example, before the dynamiting of the Bamiyan Buddhas, Taliban leader Mullah Muhammad Omar issued a decree ordering their destruction.[35] As Daesh expanded its campaign in Syria, there was also advance knowledge that it intended to capture Palmyra, one of the most significant archaeological sites in the Middle East.

When there is strong evidence that heritage sites are being targeted, air strikes should be considered as an option to protect them as part of a larger air campaign in the fight against violent extremism. This is permitted under international law when sanctioned by the United Nations Security Council or requested by the state in which the operation would occur. An international mandate and a clearly defined mission plan would be prerequisites for these air strikes.

***The Department of Defense should conduct a full review and report on the status of the Arts, Monuments, and Archives section—the modern day incarnation of the "Monuments Men"—in light of the heritage crisis in the Middle East.***

The U.S. military has historically been a leader in preserving cultural heritage during armed conflict. During the Second World War, the Allied Monuments, Fine Arts, and Archives Section (MFAA)—members of which were commonly known as the "Monuments Men—safeguarded historic sites, architecture, and monuments in the European Theater and recovered millions of artworks and other cultural objects looted by the Nazis. Following the war, responsibility for cultural heritage protection was assigned to Arts, Monuments, and Archives (AMA), now organized under the Army Reserve Civil Affairs and Psychological Operations Command (USACAPOC).

While a small but experienced AMA team was active during Operation Iraqi Freedom, there is currently little forward movement to reestablish a full monuments officer program. Given the conflicts now occurring in the Cradle of Civilization, there is a great need for more cultural heritage specialists in U.S. Army Civil Affairs, as well as its counterpart in the Marine Corps.

To build on the United States' successful legacy of protecting cultural heritage in conflict, a thorough review of the AMA by the Department of Defense could help in rejuvenating this much-needed operation. Such a review could examine how best to make the AMA relevant in during today's cultural crises in the Middle East. The Task Force urges the Defense Department both to study the AMA "as is"—to determine its current capabilities and capacity—and to present recommendations for how to adapt it for today's pressing challenges.

***Training for civil affairs—for both active duty and reservists—should provide a general background in cultural property protection (CPP).***

The Department of Defense (DOD) lacks an institutionalized approach to training in cultural resources management and protection.[36] Current cultural property

> Safeguarding cultural monuments will [...] affect the relations of armies with the peoples whose countries they occupy, and it will affect the relations between those people and the governments of the United Nations. It will show respect for the beliefs, the culture, and the customs of all men; it will bear witness that the cultural heritage of any particular group is the cultural heritage of all mankind; it will help lay the firm basis for activity in the arts, the sciences and learning after the war; it will conserve things that are often of considerable economic value to the countries concerned [....] cultural monuments, once gone, are gone forever.
>
> - Notes on Safeguarding and Conserving Cultural Material in the Field, Part I, American Defense Harvard Group, Committee on the Protection of Monuments, 1943

protection initiatives within the DOD have been relegated to voluntary "additional duty" status for a group of dedicated cultural resource managers, lawyers, and other professionals interested in the topic at DOD.

In order to build capacity and institutionalize cultural property protection as a core part of the civil affairs mission, a training program in cultural property protection (CPP) could be designed and implemented at the John F. Kennedy Special Warfare Center and School at Fort Bragg, which educates personnel from Civil Affairs. This program would be designed with the assistance of heritage protection experts and could be integrated into existing training programs. A training program would better equip our next generation of servicemen to protect property and would help make this a priority in the military.

The importance of cultural property protection should additionally be part of general training at all levels of the armed forces, with country specific training conducted pre-deployment; and that CPP should be edin all levels of military operations, particularly operational planning.

***Training for Special Operations Forces (SOF) should be expanded to provide a basic knowledge of antiquities trafficking.***

Special Operations Forces (SOF) are often the first military organization on the ground in a foreign conflict zone. In the current crisis in the Middle East, SOF is often involved in operations related to antiquities trafficking—such as the Abu

Sayyaf raid. It is essential that SOF are equipped with a basic understanding of antiquities trafficking, so that they know how to identify and recover evidence of terrorist financing. The training should ensure that SOF understands how antiquities are trafficked and used to fund actors in the regions where SOF operates. It should also include a discussion on the ideologies and motivations driving the exploitation and destruction of cultural heritage in conflict zones (e.g., Iraq and Syria, Mali, Balkan Wars, and Cambodia). This will be requisite knowledge for shaping the military information support operations' responses to cultural heritage crises.

***The armed forces, through the Manpower and Personnel Directorate (J-1), should maintain a roster of active duty personnel with a demonstrated expertise in heritage-related fields, who can be quickly identified, tasked, and deployed to protect cultural property.***

Many experts in cultural property protection currently exist within the ranks of the United States armed forces, particularly within the Army and Marine Corps Reserves. However, their knowledge and skills are not being fully put to use, often because the military is unaware of their capabilities.

The Manpower and Personnel Directorate (J-1), which is responsible for ensuring personnel readiness to serve the needs of the military, should develop and maintain a roster of active duty personnel with demonstrated expertise in relevant fields, including anthropology, archaeology, architecture, archives, art history, conversation, libraries, heritage, historic preservation, and museum studies. Once identified, these individuals could then be quickly tasked and deployed as short term "Monuments Officers," for specific missions as necessary. This approach allows a very rapid response, at low or no additional cost to the military, as it does not require the maintenance of a freestanding and permanent cultural property protection unit.

***The Department of Defense (DOD) should expand its cultural resources program, which protects heritage sites on DOD properties, internationally to to help U.S. forces better protect cultural property when deployed overseas.***

In the United States, responsibility for the protection of cultural resources is currently located under the Office of Secretary of Defense's (OSD) Environmental Management Directorate, which acts as "stewards of the nation's largest inventory of Federally owned or managed historic properties." Their expertise includes managing archaeological sites, preserving historic buildings, and conserving and curating collections. They are responsible for 72 National Historic Landmarks, 694

entries on the National Register for Historic Places, 16,7000 known archaeological sites, and 3,200 historic buildings.[37]

At this time, the Environmental Management Directorate only operates domestically, leaving overseas bases and postings in desperate need of comparable expertise and resources. The DOD should expand this program to make this same high standard of cultural heritage management available internationally. These individuals would bear the responsibility of protecting cultural heritage when U.S. forces deploy, and would also help the military to comply with international law and best practices.

This would likewise help to fulfill the DOD's obligations under §402 of the National Historic Preservation Act, which requires that the United States consider adverse impacts on historic properties when undertaking Federal activities overseas.

***The Department of Defense should review the 1954 Hague Convention's Second Protocol with the ultimate goal of ratification.***

The 1954 Hague Convention, adopted in the wake of World War II, is the only international legal instrument aimed at ensuring that both movable and immovable cultural heritage is protected in the event of armed conflicts and occupation. After the wars in the Persian Gulf and in the former Yugoslavia highlighted some of this agreement's shortfalls, a second iteration—the 1999 Second Protocol—was adopted.

The Second Protocol supplements the 1954 Convention by strengthening and clarifying several provisions that Member States must follow both during peacetime and armed conflict. These include preparing cultural property inventories; designating competent authorities responsible for safeguarding cultural property; incorporating guidelines and instructions in military regulations; creating a new category of "Enhanced Protection" for particularly important sites, monuments, and institutions; and improving enforcement mechanisms by defining serious violations leading to criminal sanctions. These are all critical parts of a heritage protection plan.

While the Task Force commends the United States for ratifying the 1954 Hague Convention in March 2009, we call on the United States to now ratify the Second Protocol. To begin this effort, the Department of Defense, in conjunction with the Department of State, should first conduct an interagency review of the Protocol with the goal of ratification. Ratifying the Protocol would help to make the United States a more effective global partner in combatting the destruction of cultural heritage, particularly during times of armed conflict.

***U.S. law enforcement should shift its focus from seizure and repatriation of antiquities to the dismantling of criminal networks through criminal prosecution.***

The U.S. law enforcement community—including the Federal Bureau of Investigation (FBI), Immigrations and Customs Enforcement (ICE), and National Park Service (NPS)—has done excellent work recovering and returning looted antiquities and stolen art to their home countries. ICE alone has repatriated over 8,000 pieces to more than 30 countries of origin, including Iraq, Peru, China, Argentina, and Italy, since 2007.[38] While repatriations are critical for protecting heritage, few of these cases have resulted in arrests, indictments, prosecutions, or convictions.

The Task Force calls upon the Departments of Homeland Security and Justice to allocate greater resources and attention to securing criminal convictions for cultural property crimes. This would enable law enforcement to disrupt more effectively existing trafficking networks. A greater focus on criminal prosecution is also critical given the illicit trade's links to organized crime, money laundering, and terrorism, as well as to serve as a meaningful deterrent to other transnational traffickers. The Task Force strongly believes that the mere forfeiture of contraband heritage through the civil courts or through the administrative process is not sufficient to achieve these objectives.

***The Department of Justice (DOJ) should appoint designated prosecutors to bring criminal cases against individuals and organizations involved in the illicit antiquities trade.***

Illicit antiquities trade investigations and prosecutions often involve links to organized crime, money laundering, and terrorism, and carry broader implications for U.S. foreign policy. Designating specialized attorneys with an expertise in heritage law would help DOJ pursue these cases more effectively.

Specialized Federal prosecutors could support law enforcement investigations and increase the number of prosecutions to hold individual and institutional cultural

racketeers criminally accountable. These attorneys could offer early legal advice and direction on investigations regarding critical matters such as search warrants, evidence collection, undercover investigations, and arrest warrants. Most importantly, these prosecutors would be in the best position to formulate effective trial strategies to secure felony convictions. They would be expected to train other prosecutors and investigators, and moreover, could help shape legislation that could give law enforcement the tools needed in the fight to end the illicit global trade in cultural heritage.

An initial step could be the creation of a point person at "Main Justice" who is an expert on cultural property cases. This expert could be consulted by Assistant U.S. Attorneys when bringing these cases anywhere in the country. Eventually, a full system could be developed of special heritage prosecutors that support criminal cases across the country, based on the model used to prosecute wildlife trafficking violations for the department's Environmental Crimes Section (ECS).

***The State Department should educate foreign nations about proactive steps that can be taken to restrict the import of their illegally exported cultural property into the United States, including through the use of bilateral agreements under the Convention on Cultural Property Implementation Act (CPIA).***

Bilateral agreements, or memoranda of understanding (MOUs), between demand ("market") countries and supply ("source") countries are an effective tool in discouraging the illicit trade in antiquities. Many foreign governments are unaware that this MOU option is required to implement the 1970 UNESCO Convention or do not understand how to pursue it. The United States should proactively educate foreign nations about bilateral agreements, including why they are needed, how they work, and what the application process is. This is especially important for countries whose cultural heritage is at risk (or may soon be at risk) from armed conflict or violent extremist organizations. It is critical that the MOU process be transparent to all, and handled in an efficient and effective manner.

The 1983 Convention on Cultural Property Implementation Act (CPIA) grants the President authority to enter such agreements imposing U.S. import restrictions on designated archaeological and ethnological material.[39] To date, the United States has signed MOUs with 15 nations and imposed one emergency action with similar terms for Iraq.[40] However, this emergency action aside, not one of these bilateral agreements is with a Middle East or North African nation. Given the ongoing crises in the region—and the threat they pose to both our shared history and global security—this must change.

These MOUs benefit all parties. The restriction of imports of undocumented cultural goods to the United States would significantly constrain global black market, given the U.S. position as a leading market for art and antiquities. From the U.S. perspective, MOUs serve the United States' interest in decreasing international criminal activity, while strengthening relationships with its allies.

***The Internal Revenue Service should require proof of legal title and known ownership history before granting tax deductions for art and antiquities.***

We call upon the Internal Revenue Service (IRS) to require documentation of an artifact's legality before granting tax deductions for all charitable donations to museums. While the IRS currently requires evidence of authenticity and physical condition in a mandatory written appraisal by a qualified art appraisal, this information should now be expanded to include proof of legal title and full provenance. [41]

The IRS should dedicate additional resources to monitoring antiquities coming from areas of conflict or other crises. More stringent requirements for tax deductions for art and antiquities would ensure that tax-exempt organizations do not deal in stolen property or unintentionally support foreign terror groups. Charitable donations of antiquities to museums can be exploited by tax evaders, given the subjective and highly challenging nature of antiquities appraisals. In light of Federal warnings that the antiquities trade is funding terrorist organizations like Daesh, this practice also raises the risk that tax breaks could support the acquisition of conflict antiquities.

***The Department of Homeland Security, or another relevant agency, should restrict the import and export of cultural property to designated ports, in order to more effectively and efficiently control the antiquities trade.***

By funneling cultural property through designated ports, the Department of Homeland Security (or another relevant agency, such as the Department of Justice or State) would be able to better monitor and measure antiquities entering and exiting the United States. Such an arrangement would allow the government to act more efficiently, by concentrating its anti-trafficking resources in fewer locations. This would also enable it to act more effectively, by ensuring that cultural objects are reviewed by customs officials with adequate training in the specialized skills of identification and authentication.

There is precedent for such a step. The U.S. Fish and Wildlife service requires that all wildlife—including animal parts and products, like ivory, and for commercial, non-commercial, scientific, or personal purposes—be imported or exported through designated ports. The Department of Agriculture also requires the same for the import or export of plants regulated by the Endangered Species Act, as well as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

***U.S. Customs and Border Protection (CBP) should work with the World Customs Organization (WCO) to join and further develop ARCHEO, a web based application that allows real time communication between government authorities and international experts to prevent antiquities trafficking.***

The World Customs Organization (WCO) recognizes that "that international borders still offer the best opportunity to intercept stolen cultural artIfacts," and as a result, customs agents are the "first line of defense" against transnational trafficking. However, customs officials are not cultural experts and often lack the necessary tools to authenticate objects crossing their borders.

To meet customs agents' needs, the WCO has supported the development of a prototype electronic information exchange platform called the ARCHAEO system, which is internet-based but accessible only to a closed user group. ARCHAEO will facilitate fast and accurate authentication and appraisal of objects in question by enabling customs officials and law enforcement agencies to communicate in real time with experts, NGOs, universities, and other professionals around the world.

***The Peace Corps should create a program sector for cultural preservation.***

The Task Force recommends that the Peace Corps add cultural preservation to its existing six program sectors, which currently include agriculture, community economic development, education, environment, health, and youth in development. As part of this effort, it would deploy volunteers around the world to help communities protect and manage their heritage objects and sites and launch training efforts to build local capacity. In times of crisis, this team of trained volunteers could work with local officials, experts and volunteers to ensure that heritage sites are appropriately protected.

Established in 1961, the Peace Corps prides itself as the United States' "preeminent service organization." The Peace Corps currently maintains a network of 6,919 volunteers working in 63 countries to help further development and promote better understanding between Americans and the people of other nations. Given the importance of cultural heritage preservation to national identity, economic development, and security, the Peace Corps is well-suited to become a player in the global fight against cultural racketeering and cleansing.

The Task Force recommends that the Peace Corps add cultural preservation to its existing six program sectors, which currently include agriculture, community economic development, education, environment, health, and youth in development. As part of this effort, it would deploy volunteers around the world to help communities protect and manage their heritage objects and sites and launch training efforts to build local capacity.

While the Peace Corps does not work in conflict zones, deploying volunteers to protect and manage heritage would serve as a proactive long-term step that would help countries strengthen their capacity to face any future heritage crisis. Volunteers could work on the ground alongside local colleagues to safeguard heritage in a number of ways. Possibilities include public education (and especially youth) about preservation, helping to inventory museum collections, promoting responsible cultural tourism, and developing emergency preparedness plans for sites.

## THE UNITED NATIONS

***In recognition that crimes against culture are human rights violations, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Special Rapporteur in the Field of Cultural Rights should develop responses to cultural cleansing and racketeering.***

International law and declarations establish that the intentional destruction and looting of heritage, particularly when it is used to fund groups engaged in gross human rights violations, are an important human rights issue. As such, we strongly encourage the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Special Rapporteur in the Field of Cultural Rights to explore further innovative and robust ways in which they can highlight the problem of cultural cleansing and racketeering in their work, including by exploring training for staff and the solicitation of extrabudgetary resources for initiatives in this area. To this end, we are encouraged by the Special Rapporteur's preliminary report on the intentional destruction of cultural heritage as a violation of human rights, which was released in February 2016. [42]

OHCHR is the principal United Nations office mandated to promote and protect human rights. Specifically, it has a mandate to "provide a forum for identifying, highlighting and developing responses to today's human rights challenges, and act as the principal focal point of human rights research, education, public information, and advocacy activities in the United Nations system."

Within the field of cultural rights, the Special Rapporteur for Cultural Rights is tasked with identifying obstacles to the

promotion and protection of human rights, as well as best practices and specific measures that aim to promote and protect cultural rights. As such, both OHCHR and the Special Rapporteur are in excellent positions to be leaders on this critical issue.

***The United Nations Department for Peacekeeping Operations (DPKO) and other intergovernmental organizations, such as the North Atlantic Treaty Organization (NATO), should include the safeguarding of cultural resources in their peacekeeping training and mandates.***

In November 2015, UNESCO called for "the integration of a module on the protection of cultural heritage and diversity within the standard training of peacekeeping forces." Italy and other states have also called for "Blue Berets" or "Blue Helmets" to protect heritage sites, a proposal that promisingly had the support of 53 countries during a vote on 16 October 2015.[43] There is precedent for this, as U.N. peacekeepers were tasked with securing cultural heritage sites in Mali, in collaboration with UNESCO. They have also been used to protect natural resources, for example, oil fields in South Sudan. But so far these have been ad hoc efforts.

The U.N. Department of Peacekeeping Operations (DPKO) is currently deployed in 16 field missions around the world. DPKO brings together military and police personnel and civilian advisors to assist Member States and the Secretary-General in their efforts to maintain international peace and security. Because of its global presence, we strongly encourage DPKO to explore the inclusion of cultural heritage protection in its peacekeeping missions, either through its Civil Affairs Officers corps or the appointment of a mission Cultural Affairs Adviser, or if resources permit, the recruitment of dedicated Cultural Affairs Officers. Working in collaboration with OHCHR and other relevant partners, these officers would be responsible for monitoring compliance with international law regarding cultural heritage protection in times of conflict and using their offices to facilitate implementation of best practices.

Any peacekeeping mandate adopted should include training for peacekeepers on cultural heritage protection and preservation, as well as restrictions on their activities that may endanger or damage cultural heritage.

***The United Nations should incorporate heritage protection and reconstruction—as well as legal actions to prosecute crimes against culture—into its post-conflict planning.***

It is also in the interest of all parties to protect sites in conflict zones for post-conflict economic recovery. However, the lingering instability, abject poverty, and rampant crime associated with post-conflict countries often threatens heritage more than outright war. Many reconstruction schemes also fail to account for the inevitable discovery of significant archaeological remains and then fail to allow adequate funding for long-term storage and processing.

Many of these problems can be avoided by including provisions on cultural preservation in ceasefire and peace agreements, as was done in Annex 8 of the Dayton Peace Agreement that ended the Bosnian War. Heritage preservation should also be considered in reconstruction planning, and provided for in post-conflict recovery trust funds.

***The United Nations Security Council (UNSC) should refer the crisis in Iraq and Syria to the International Criminal Court (ICC), allowing the Prosecutor to open an investigation into cultural heritage crimes and other violations of international law.***

In light of the gravity and urgency of the crisis in Iraq and Syria, the United Nations Security Council should refer the situation to the International Criminal Court (ICC). This referral would allow the ICC Prosecutor to proceed with a preliminary investigation, irrespective of the nationality of the accused or the location of the crimes, which constitutes the usual bases for the court's jurisdiction.[44] ICC action is a crucial first step to end the ongoing impunity for violent attacks against the people of Iraq and Syria and their cultural heritage.

We commend the ICC for opening its first case on cultural heritage crimes in September 2015—*Prosecutor v. Ahmad Al Faqi Al Mahdi*—for the intentional destruction of historic and sacred sites in the ancient Malian city of Timbuktu. This case sets an important precedent and hopefully will pave the way for subsequent investigations and eventual prosecutions for the deliberate or reckless destruction of cultural heritage, including that now taking place in the Middle East and Northern Africa.

***The United Nations should encourage and support national prosecutions of cultural racketeering and cultural cleansing by domestic legal systems through the Department of Peacekeeping Operations (DPKO)'s Rule of Law Program.***

The International Criminal Court (ICC) is a tribunal of "last resort." State parties hold the primary responsibility for addressing violations of international law; therefore, a case is generally only admissible to the ICC if a national jurisdiction is unable (or unwilling) to investigate or prosecute it. National prosecutions have many advantages—they can generally act more quickly, handle a heavier case load, and have better access to the parties and evidence—and thus potentially have a much larger impact at the local or regional level. National courts can also take on cases that, while important, may not meet the "gravity" or other jurisdictional requirements of the ICC.

Recognizing the difficulty that many governments, particularly those in conflict or post-conflict areas, face in investigating and prosecuting these cases, the United Nations should provide funding as well as capacity building for countries willing to pursue national prosecutions. This could be executed through the United Nations' Department of Peacekeeping Operations (DPKO)'s Rule of Law Program. All major DPKO operations now include provisions to strengthen the justice system—from promulgating laws, to rebuilding judicial institutions, to to training judges, lawyers, and law enforcement—which would provide a vehicle for this support.

***UNESCO should request that the International Court of Justice (ICJ) issue an advisory opinion on the nature of war crimes committed through the destruction of cultural property in the current conflicts in the Middle East and North Africa.***

In addition to acting as a de facto world court and solving legal disputes between states, the ICJ provides advisory opinions to decide complex questions of law. These are issued at the request of United Nations organs or specialized agencies (including UNESCO). While opinions have no binding effect (except in rare cases decided in advance) such opinions carry immense moral authority and legal pressure.

The intentional destruction of cultural property absent military necessity is a recognized violation of international humanitarian law. However, there is less clarity on the status of indiscriminate attacks, such as the Assad regime's bombing of the Ma'aara Mosaic Museum, or the Saudi bombing of the Dhamar Regional Museum in Yemen. These raise questions, which the ICJ might answer, as to the extent to which the rules of proportionality and

distinction limit the military necessity exception as a part of the Law of Armed Conflict and customary international law.

By calling on the ICJ to issue an advisory opinion on the reckless destruction of cultural property, as well as organized looting and trafficking, UNESCO could clarify international law on heritage crimes. This would help lay the foundation for eventual prosecutions under the International Criminal Court or other international tribunals.

## THE MARKET

***Art market players should pledge to be fully transparent in their dealings, making publicly available documentation of legal title and known ownership history for all antiquities.***

International agreements, national law, industry codes, and best practices already require the art market to practice due diligence when dealing in cultural property. Likewise, the Association of Art Museums Directors' guidelines include an additional "requirement for provenance demonstrating that the object was out of its country of modern discovery prior to or legally exported therefrom after 17 November 1970, with certain exceptions."[45] These laws and policies seek not only to prevent antiquities trafficking—as well as fraud and money laundering — but also to protect individual and institutional collectors from unknowingly dealing in looted antiquities, fakes, or forgeries.

However, the existing system has largely relied on self enforcement, and compliance is often weak or nonexistent, as shown by a series of recent scandals, investigations, litigation, and prosecutions. In light of these system failures, art market players and the museum community should publicly reaffirm their existing legal and moral obligations and pursue full transparency dealings by making publicly available documentation of legal title and known ownership history for all antiquities.

***Museums that receive public funding should adopt a disclosure policy that follows the intent of the Freedom of Information Act (FOIA).***

Virtually all museums receive "public funding" in the form of their tax exempt status. With this comes increased responsibility. to adhere to the highest possible standards of transparency. Although museums are not legally subject to the Freedom of Information Act (FOIA) —which gives the public the right to request access to records from any Federal agency—those who receive direct or indirect public funding should operate consistently with its principles of disclosure. Such a position is already practiced by the Smithsonian, which operates a records request policy that follows the "spirit" of FOIA, in order "to foster openness and accountability."[46]

***A relevant professional organization should establish a registry of antiquities dealers who are verified to abide by prescribed ethical codes and industry best practices.***

Recent arrests, prosecutions, and convictions of art dealers for cultural property crimes have exposed some industry practices in the art market that are unethical and unlawful. These illegal activities often harm responsible dealers as much as they do our shared cultural heritage.

The Task Force urges the art market to establish a registry of approved antiquities dealers who would be screened for compliance with industry ethics codes and relevant criminal records. Similar registries exist in other trades and are critical in protecting both consumers and law - abiding market players. Any registered dealer found to be in violation would be removed. The database should also be fully open to law enforcement. Such a registry could be developed and maintained by a dealers' trade organization. Ideally, the registry would eventually be codified and made permanent by legislation, and regulated by the government.

***Because incidents of looting most often remain undiscovered until the objects surface on the market, and thus no records of their theft exist, we call upon stolen art databases to cease certifying antiquities.***

While databases are a valuable tool in tracking, reporting, and recovering art stolen from public and private collections, they are of limited use for looted antiquities. When an object is removed clandestinely from an archaeological site, as opposed to a storeroom or museum, no records of theft are recorded. Stolen art databases are routinely able to issue certificates stating that antiquities were not registered as stolen, which are then used as a sign of due diligence by some collectors, dealers, and museums. For example, the Art Loss Register, "the world's largest database of stolen art," has provided certificates for a number of illicit antiquities that were later linked to such prolific traffickers as Subhash Kapoor and Giacomo Medici.

Databases of stolen art should thus make the limitations of their certificates better known to potential clients. Art market players should not rely on them for ancient art, but should instead treat them as just one step of many in the due diligence process.

Each year, the Internal Revenue Service audits a handful of the 100,000 or more tax returns that include art donations, which allow the donors to reap nearly $1 billion in tax write-offs. A Los Angeles Times analysis of 20 years of those audits suggested tax fraud is rampant in art donations. Half of the donations checked over the last 20 years had been appraised at nearly double their actual value, the IRS found.

In 2004, the IRS' appraisers checked only seven of the 108,554 tax returns with donations of art. They found that more than a third of the 184 objects claimed on those 7 returns were overvalued—by an average of more than three times their true worth. In recent years, the IRS has reduced the number of appraisals it checks, part of a broader decline in the number of tax returns audited, despite the fact that overvaluations appear to be getting worse.

*Source: Los Angeles Times*

# ADDITIONAL VIEWS

The question of whether to use military force in the protection of archaeological sites remains problematic. It cannot be denied that people have often risked their lives to protect heritage, whether in a military uniform (such as the WWII Monuments, Fine Arts and Archives section); in the service of the government (such as the staff of the Syrian Directorate General of Antiquities and Museums, who have lost 15 staff to date); or whether acting on their own behalf, such as the human chain that formed around the Cairo Museum during the 2011 uprising. Yet military action may necessitate both a risk to the lives of the military force and the loss of the lives of those under attack, for what—to some—is no more than stone and so not worth any human life.

Assuming in the first instance the conflict is mandated under international law, I believe it is in keeping with the principles of international humanitarian law for the heritage of a people to be protected as well as the people. A country which has implemented the 1954 Hague Convention for the Protection of Cultural Property in Armed Conflict is obliged to safeguard cultural property during conflict, although it falls to the military organization to decide upon appropriate use of lethal force within their doctrine. Nonetheless, assuming such actions are undertaken, I believe that air strikes alone, with no supporting action are insufficient, on their own, as a recommendation.

Firstly, they are not a strategically sound way to achieve a goal. The goal will never be to simply protect a heritage site from extremists. That will be one part of a broader remit, usually to defeat or remove those who threaten the heritage, as it is extremely likely that the destruction of heritage will be just one facet of their strategy, often reflecting the targeting of population groups, or the imposition of their ideology. To only engage in air strikes is a half-hearted way to achieve a goal which will ultimately prolong the conflict.

Secondly, it is not an ethically sound option, as it will keep military forces who have agreed to risk their lives in service safer, it could (and probably will) risk the lives of local civilians who have made no such agreement, and in fact should be kept safe under the discrimination principle of the Law of Armed Conflict. It could also affect the site as it may not be possible to target forces using air strikes alone before they reach the site, particularly if those forces (or the site itself) are located in populated areas.

Any military action, if undertaken, should be with the sanctioning of an appropriate authority, such as the UN Security Council; should be part of a broader set of actions that aim to end the conflict as swiftly as possible with the minimum amount of harm done; and which should have the ultimate goal of protecting the people who are threatened, of which the destruction of heritage is just a symptom.

*Emma Cunliffe, University of Oxford*

# CONCLUSIONS & NEXT STEPS

As this report makes clear, there are many immediate and long term steps that the United States government should consider, both on its own or in conjunction with the international community and art market. These policies and practices aim to confront the current crisis head on, while also putting measures in place to prevent future crises. For these efforts to succeed, it will require a coordinated effort among the key players: the government, the art market, the archaeological communities, counter terrorism experts, and, of course, the source countries. Time is of the essence however as our shared heritage continues to be a target of attack.

Our organizations—the Antiquities Coalition, Asia Society, and Middle East Institute—are proud to have joined with such a diverse group of experts in developing these recommendations. We have had the honor of working with leading experts in the heritage, law enforcement, legal, military, and national security communities. But we realize that our work is just beginning.

We now look forward to partnering with the #CultureUnderThreat Task Force members and the wider community to begin implementing these proposed solutions. Follow up reports are needed to address the role of other market countries and regions, such as the European Union, as well as that of nations in the Middle East, North Africa, Asia, and beyond. Additional research is required, especially in determining the size of both the legitimate global market for antiquities, as well as the illicit market. Investigations need to be coordinated with global authorities into the work of the middlemen, who often are involved in other criminal activities including drug running and weapons smuggling. Our efforts should also include international campaigns to raise awareness of the linkages between antiquities trafficking and criminal activity, as well as campaigns in source countries about the importance of protecting heritage and the opportunities for economic opportunity built around heritage. There is much to be done ahead of us.

These subsequent efforts will be a focus of our second annual #CultureUnderThreat summit, which will take place in Jordan the summer of 2016. This Ministerial level conference will convene the MENA Task Force, created by the Cairo Declaration, at the first #CultureUnderThreat summit hosted by the Arab Republic of Egypt in May 2015. There is interest on behalf of these countries in developing their own Task Force report, with the support of the Antiquities Coalition, the Middle East Institute, and the Asia Society, which would address actions that source countries could take in this important fight to preserve our shared heritage.

We hope that you will join us in this effort.

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# Task Force Partners

## The Antiquities Coalition

The Antiquities Coalition is a nonprofit organization founded in 2014 leading the global fight against cultural racketeering and cultural cleansing worldwide. We work with a range of actors from governments to civil society groups to empower communities and countries in crisis. Through independent research and outside collaboration with partners in the heritage, business, technology, and legal fields, we implement programs that preserve the past for future generations while cutting off a key source of funding for criminals and terrorists.

## The Asia Society

Asia Society is the leading educational organization dedicated to promoting mutual understanding and strengthening partnerships among peoples, leaders and institutions of Asia and the United States in a global context. Across the fields of arts, business, culture, education, and policy, the Society provides insight, generates ideas, and promotes collaboration to address present challenges and create a shared future. Founded in 1956 by John D. Rockefeller 3rd, Asia Society is a nonpartisan, nonprofit institution with headquarters in New York, centers in Hong Kong and Houston, and offices in Los Angeles, Manila, Mumbai, San Francisco, Seoul, Shanghai, Sydney, Washington, DC and Zurich.

## The Middle East Institute

Founded in 1946, the Middle East Institute is the oldest Washington-based institution dedicated solely to the study of the Middle East. Its founders, scholar George Camp Keiser and former US Secretary of State Christian Herter, laid out a simple mandate: “to increase knowledge of the Middle East among the citizens of the United States and to promote a better understanding between the people of these two areas.”

MEI has earned a reputation as an unbiased source of information and analysis on this critical region of the world, a reputation it has meticulously safeguarded since its creation. Today, MEI remains a respected, non-partisan voice in the field of Middle East studies.

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