

# Illicit trafficking in cultural goods: impacts and policies



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Title: Illicit trafficking in cultural goods with special emphasis on Mauritius.

## INTRODUCTION

The international market place for cultural goods is a billion rupees market. Every day in the world thief or looters are smuggling out cultural goods from their countries of origins and sold them to foreign countries.

My aim in this project is to improve our understanding of trafficking in cultural objects in order to make people aware that illegal trading of cultural goods is an offense as cultural objects function as a repository of memory and which enable each culture around the world to speak about themselves and about their origins. Furthermore cultural goods are the only evidences left for us to promote and to safeguard one's culture and origins. Cultural goods are the key artefacts and are part of universal story of humanity so once those cultural objects are crossing boundaries of countries to be sold illegally to foreign countries, at the same time our cultural identity is fading. And once those cultural goods are stolen, looted or destroyed, they will be lost forever, thus we must stop illicit trafficking in cultural objects.

## LITERATURE REVIEW

### Definition

What is cultural good?

We often see the terms cultural " property", " heritage", " goods" and " objects" interchanged. Each state has its own definition of cultural " goods", " heritage" or " property". And that's why the two big international

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conventions addressing illicit trafficking in cultural objects, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects was created for the purpose of helping each state to get a more appropriate legal definition of the term cultural goods so as for them to be able to prevent trafficking in cultural objects and also to prevent the provenance of an cultural good.

Under article 1 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property and under article 2 of the 1995 UNIDROIT Convention, both convention define the term ‘ cultural property’, “ as property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science”[1]. And both conventions have set up a categories of cultural objects so as for each states to get a clear understanding of what cultural goods really consist of and as well this will help states to classify and draw a list of heritage which their countries possessed with the reference to the listed categories of cultural objects which both Convention have catered for.

[2]

Types of cultural heritage:

1) Tangible heritage

2) Intangible heritage

tangible heritage is one that can be stored and physically touched. This includes items produced by the cultural group such as traditional clothing, utensils (such as beadwork, water vessels), or vehicles (such as the ox wagon). Tangible heritages include great monuments such as temples, pyramids, and public monuments. An intangible heritage is what exists intellectually in the culture. It is not a physical or tangible item. Intangible heritage includes songs, myths, beliefs, superstitions, oral poetry, as well as various forms of traditional knowledge such as ethno botanical knowledge. For example for the Southern Kalahari San, each tree and many other physical sites are part of their intangible heritage as their history is associated with these sites through stories, names and songs.[3]

#### WHAT IS ILLICIT TRAFFICKING IN CULTURAL GOODS?

The illicit trafficking of cultural goods is a very complex problem. Illicit trafficking can be classified under various forms and it is a lucrative business. Factors like geography, political environment and socio-economic, are sometimes responsible for the rise of illegal trafficking of those cultural goods.[4] Illicit trafficking in cultural objects is when an individual or a group of people is generating a profitable underground market at the expenses of stolen artefacts or objects, of illegal excavation of archaeological and paleontological sites and of illegal import and export of cultural property.

Trafficking in cultural objects allows criminals to seize an opportunity to deal with high amount of items that are very often lack protection. Thus, since these merchandise are poorly protected, the thieves or looters can do illegal import and export from countries to countries. In the paper, Perspective on

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the organisation and control of the illicit traffic in antiquities in South East Asia written by Christine Alder, associate researcher in criminology University of Melbourne, Duncan Chappell, Professorial Fellow, Center for Transnational Crime Prevention, University of Wollongong, Australia and by Kenneth Polk, Professor of Criminology, University of Melbourne, Australia during the International Conference on “ Organised crime in art and antiquities” Courmayeur Mont Blanc, Italy 12-14 December 2008 , the authors noted that since illicit trafficking is a lucrative business, thus that type of market can become very dangerous as it dealt with a huge amount of laundered money. And when money is made while selling cultural goods, those making that money are often connected to police or military authorities, and take an unpromising and gloomy view of interference in their lucrative business.[5] The fact that illicit trafficking often deals with political development and economic crisis; this further worsens the fight of illegal trafficking of cultural goods.

Moreover when a country possesses a rich culture, it is more vulnerable to cultural pillage. For example countries like Cambodia, Italy, Africa, Oceania, Eastern Europe, Greece and Turkey are very prone to plundering of cultural materials. Countries like Cambodia with a rich culture but with a poor economy are more likely to be victims of illicit trafficking of cultural goods. As Etienne Clement, UNESCO, Director says “ Cambodia’s culture is very rich, but the country itself is very poor. It’s an ideal situation for illegal trafficking” (BBC online, 2004)[6]. In Cambodia since their economic situation is poor, the looters are usually local people hoping to earn a few dollars. In Cambodia has faced massacre of its cultural goods and the problem is still going on

even if the UNESCO has intervene in Cambodia. Hundreds of statues are without heads and walls are often marked with Graffiti. “ Hundreds and hundreds of sites are being dug up every day,” said Dougald O’Reilly, the director of Heritage Watch, an independent group aiming to safeguard Cambodia’s cultural heritage. In Cambodia heritage sites are often difficult to get access and that’s why it is difficult for the authorities to police the sites. And as Dougald O’Reilly said to the BBC online, sometime UNESCO tend to focus on particularly size only then paying less attention to other important sites which dated from Bronze and Iron Ages(BBC online)[7]. And something which is more sad and alarming is when we witness how people little by little are selling their cultural identity and destroying their origins just for the sake of a few coins. This demonstrate that those thief or looter who are selling those cultural treasure lack notions on the history of their countries and on other hands they are forced to indulged themselves to this illegal act because they are also living in a poor conditions. Mr O’Reilly put further to the BBC online that in Cambodia, “ In some parts of the country, you can buy 10 kilograms of ancient iron from these cemeteries for just 25 cents, it’s very openly sold in local markets.”[8]

Moreover cultural objects can easily be sold as shop owner or dealers to promote their goods they even present evidences of plunder as a means of guaranteeing the authenticity of their merchandise.[9]Another problem why cultural goods are being able cross boundaries and reach foreign countries is because there is a lack of documentation regarding the provenance of cultural goods. And also, officials working in the field of exporting and importing have no or minimum knowledge of archaeology or lack notion of

cultural studies therefore it is difficult for them to capture criminals and identify cultural goods. All these factors, contribute further for “ heritage plundering”. And today, the illicit traffic in cultural property continues internationally and is estimated to be worth \$4. 5 million dollars a year.[10]

Furthermore according to Dr. George Abungu, an archaeologist and the founding Director at Okello Abungu Heritage Consultant, he said that colonialism and the spread of Christianity are also responsible for the huge plunder of African heritage. African heritage was destroyed with the new religion such as for example, “ the evangelisation of the African continent and the Black man’s heart”, and other were collected and transported in the name of His or Her majesty’s government.[11] Invasion by the British, German and the French are also responsible for heritage destruction. For example the British expedition in Benin City, Nigeria and those of the Asante Kingdom at Kumasi in Ghana. And such expedition were undertaken in Asia, South America, and in Africa and as well as in North America. And cultural goods were looted and those responsible for this illegal act were considered as lawful collecting rather than plunder.[12]

The fact that cultural goods has the ability to communicate, either directly or by association, an aspect of reality which transcends time or space gives it special significance and is therefore something to be sought after and protected.

Legal instruments to combat illicit trafficking in cultural goods

Every day around the world, massive pillage of cultural heritage is taking place. Cultural heritage since it is irreplaceable by nature; therefore it should <https://assignbuster.com/illicit-trafficking-in-cultural-goods-impacts-and-policies/>

be protected at any cost. The illegal trafficking of cultural goods affects humanity greatly. This type of trafficking affects museums, private and public collections, legitimate owner or possessors, worship buildings, cultural institution and as well as archaeological sites if we do not take actions immediately. As we all know if cultural goods are destroyed completely, nothing will be left for our future generations. And today since many people want a rich and better future for their children and family and for their countries as well so as not to kill the rich culture of one's family or country, many states have decided to work together to create severe laws so as to punish those responsible for the destruction of our only cultural objects left by our people and by nature.

The magnitude of this type of trafficking is becoming very alarming and developed countries are not excluded from illicit trafficking like developing countries. For example countries like France, Poland, Russia, Germany and Italy are known to be the most targeted countries for heritage traffickers. For example in 40 years, the Italian Carabinieri ( The National Military Police of Italy) has recovered 800 thousands stolen or illegally excavated artefacts[13]. Furthermore, the destruction of our world cultural heritage should not be held responsible mainly by theft or looters, as factors like climate change, globalisation, wartime, pollution and uncontrolled tourists are also factors contributing to the destruction of cultural objects. Iraq, Afghanistan and Syria are facing massive heritage plundering. For example in Afghanistan, according to the Afghan Ministry of Culture, 35 artefacts and approximately 7000 books, housed in the department building were destroyed in the 4th September attack. Over a hundred cultural artefacts

were rescued as well as 5000 books.[14]And the Director and the Representative of the UNESCO in Afghanistan, Mr Paolo Fontani has put forward in a statement at the UNESCO office in Kabul and has expressed his deepest concern on the protection of the cultural artefacts that, “ Our first thoughts go to the victims of this ruthless act, and to their families”, adding that “ the irreversible loss of these unique artefacts should be equally condemned, since such artefacts underpin the cultural identity of the local communities and provide the foundation over which the fabric of society should be rebuilt”.[15]

For the purpose to protect the culture of the humanity and in order to preserve and conserve our cultural goods, a set of legal instrument has been created. The three main legal instrument to cater for our cultural heritage are the Convention on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property of 1970, the UNIDROIT 1995 Convention and the 1954 Hague Convention on the Protection of cultural Property in the Event of Armed Conflict. The Hague convention was adopted in 14 of May 1954 during the Second World War so as to combat massive destruction of cultural heritage. And the Hague convention was the first international convention aimed to protect cultural goods during armed-conflicts. The Hague convention deals with both movable and immovable cultural heritage including architecture, art or history, archaeological sites, work of art , manuscripts , books and other objects of artistic, historical and of archaeological interest and as well as scientific collections of all kinds regardless of their origins and ownership. The article 4(3) of the Hague convention as follows “ The high contracting

parties further undertake to prohibit, prevent, and if necessary, put a stop to any form of theft, pillage or misappropriation of, any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another high contracting party” clearly said that each country should respect their cultural property and the cultural property of other foreign states.

Concerned about the new phenomenon of trafficking in cultural property in times of peace, the international community, through the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted in 1970 the Convention on the Means of Prohibiting and

Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, which currently has 116 States Parties, including Mauritius. The 1970 UNESCO convention has set up 3 measures as follows: efforts in drawing up inventories, in certification and in education in order to fight illicit trafficking in cultural goods. The convention recommends each party who has ratified the UNESCO 1970 convention to prohibit the exportation of cultural property from its territory unless these cultural properties are accompanied by an export certificate. And the 1970 Convention also states that each nation should define their national treasure in a list and then these will be protected when stolen. The convention also provides mechanism for states to recover stolen property, but the nominated cultural property must be of national importance. The convention also consider that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation and that that, as cultural institutions, museums, libraries and archives should ensure that their <https://assignbuster.com/illicit-trafficking-in-cultural-goods-impacts-and-policies/>

collections are built up in accordance with universally recognized moral principles.

Furthermore, since we lack a list of cultural goods and services at the international level, the UNESCO has established a list to define cultural goods and services namely the UNESCO Framework for cultural statistics (FCS). This list classified each cultural goods and services in their respective categories. But this FSC was created in the 1980's and has not been revised since then, nevertheless the FSC still serves us to get the proper definition of cultural goods and services.[16]The UNESCO also raises questions on previous cases which the 1970 convention does not covered which is a very good initiative taken so as to protect our heritage at the maximum. And moreover, in 1978 the UNESCO during intergovernmental committee, for promoting the return of cultural property for its country of origin or its restitution in case of illegal appropriation the ICPRCP[17]was established as a permanent intergovernmental advisory body by the UNESCO. Set up in 1978 by the resolution 20 C4/7. 6/5 at the 20th Session of the UNESCO General Conference of UNESCO, the return and restitution committee comprises 22 Member States, which meet every two years and can also organize meetings. The main objective of this committee, is, to search for new solutions and means of facilitating bilateral negotiations, promoting multilateral and bilateral cooperation purposely to the restitution or return of cultural property as well as encouraging a public information campaign on the issue, and promoting exchanges of cultural property.

Moreover, the 1970 Convention's most important attribute are a provision for export certification. The cooperative measures are often enshrined in <https://assignbuster.com/illegal-trafficking-in-cultural-goods-impacts-and-policies/>

international agreements, that were noted earlier and also a mandate that parties retribute properties within their jurisdiction stolen from museums, monuments and so on. The UNESCO regime to protect cultural heritage also include non-binding declarations and recommendation to amplify the treaty framework. For example the 2003 declaration concerning the International Destruction of cultural Heritage largely responded to the demolition of two colossal Buddhist statues in Bamiyan, Afghanistan by the Taliban government of that country. This declaration addresses the problem of intentional destruction, whether in peace time and wartime. mnbb

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[1]Article 1, 1970 UNESCO CONVENTION

<http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/1970-convention/text-of-the-convention>

[2]article 1 of the 1970 UNESCO convention on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property and also see the Annex of the 1995 UNIDROIT convention

. Article 1 of the 1970 UNESCO Convention and the Annex to the 1995 UNIDROIT Convention read as follows:

“... (a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;

(b) property relating to history, including the history of science and technology and military and social history,

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to the life of national leaders, thinkers, scientists and artist and to events of national importance;

(c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;

(d) elements of artistic or historical monuments or archaeological sites which have been dismembered;

(e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;

(f) objects of ethnological interest;

(g) property of artistic interest, such as:

(i) pictures, paintings and drawings produced entirely by hand on any support and in any material

(excluding industrial designs and manufactured articles decorated by hand);

(ii) original works of statuary art and sculpture in any material;

(iii) original engravings, prints and lithographs;

(iv) original artistic assemblages and montages in any material;

(h) rare manuscripts and incunabula, old books, documents and publications of special interest

(historical, artistic, scientific, literary, etc.) singly or in collections;

(i) postage, revenue and similar stamps, singly or in collections;

(j) archives, including sound, photographic and cinematographic archives;

(k) articles of furniture more than one hundred years old and old musical instruments.”

[3][www. sanculture. org](http://www.sanculture.org)

[4]Illicit trafficking in cultural goods is, as other types of illicit traffics, a complex, vast and multifaceted issue.

[http://icom. museum/programmes/fighting-illicit-traffic/.](http://icom.museum/programmes/fighting-illicit-traffic/)

[5]Organised crime in art and antiquities, Courmayeur Mont Blanc, Italy12-14 December 2008, p 93 edited by Stefano Manacorda, 2009.

[6]Race to save cambodia’s heritage, Kate Mcgeown, BBC online, 2004.

[http://news. bbc. co. uk/2/hi/asia-pacific/3784135. stm](http://news.bbc.co.uk/2/hi/asia-pacific/3784135.stm)

[7]Race to save cambodia’s heritage, Kate Mcgeown, BBC online, 2004.

[http://news. bbc. co. uk/2/hi/asia-pacific/3784135. stm](http://news.bbc.co.uk/2/hi/asia-pacific/3784135.stm)

[8]Kate McGeown, ‘ Race to Save Cambodia’s Heritage’, BBC News. 9 June 2004

[http://news. bbc. co. uk/2/hi/asia-pacific/3784135. stm](http://news.bbc.co.uk/2/hi/asia-pacific/3784135.stm)

[9]Organised crime in art and antiquities, Courmayeur Mont Blanc, Italy12-14 December 2008, p 98 edited by Stefano Manacorda, 2009

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[10]UTIMUT, Discussion on repatriation in the 21<sup>st</sup> century, Copenhagen 2008, p36, by Mille Gabriel and Jens Dahl.

[11]UTIMUT,“ UNIVERSAL MUSEUMS”: NEW CONTESTATIONS, NEW CONTROVERSIES, by George Abungu, p34

[12]UTIMUT,“ UNIVERSAL MUSEUMS”: NEW CONTESTATIONS, NEW CONTROVERSIES, by George Abungu, p35

[13]www. unesco. org, 40 Years of Fighting the Illicit Trafficking of Cultural Goods | Culture and development – UNESCO Multimedia Archives

[14]UNESCO office in Kabul, Statement by the Director UNESCO Kabul Office concerning the destruction of ancient artefacts in Ghazni, Afghanistan, www. unesco. org.

[15]UNESCO office in Kabul, Statement by the Director UNESCO Kabul Office concerning the destruction of ancient artefacts in Ghazni, Afghanistan, www. unesco. org.

[16]A note on the list of cultural goods and services, 2004, [http://www.unesco.org/culture/culturaldiversity/docs\\_pre\\_2007/clt\\_cpd\\_note\\_list\\_goods\\_services\\_en\\_092004. pdf](http://www.unesco.org/culture/culturaldiversity/docs_pre_2007/clt_cpd_note_list_goods_services_en_092004.pdf)

[17]<http://www.unesco.org/culture/laws/returncommittee>