

MUSINGS OF THE MONTH

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Introducing: February Musings of the Month

At the ever-evolving crossroads of creativity, culture, and the law, fresh perspectives continue to illuminate the ways we safeguard, critique, and reimagine our shared heritage. HALO's February *Musings of the Month* uplifts these voices — spotlighting diverse and timely contributions that push the conversation forward on art, ethics, and cultural policy.

In this February edition, we pay special attention to a central and storied problem in the arts: cultural heritage under threat. Across colonial looting, armed conflict, and illicit trafficking, cultural property emerges as both a casualty of power structures and a site of legal and moral reckoning. These pieces pinpoint ongoing challenges to repatriation and cultural protection, examining the ways in which existing frameworks of international law, museums, State actors, and armed conflict impact efforts to preserve cultural heritage.

The first article tells the story of the Metropolitan Museum of Art's return of twice-looted Benin plaques, illuminating the ways in which Western actors' obscure the provenance of African ancient art to evade accountability. The second explores the safeguarding of cultural property in times of armed conflict, tracing the development of international legal frameworks and examining the relationship between cultural preservation and peacebuilding. The third discusses the operational structure of specialized cultural heritage units that protect against illicit trafficking of cultural property, using Italy's Carabinieri TPC as a case study in effective enforcement and international cooperation.

Taken together, these contributions illuminate both the vulnerabilities of cultural heritage and the evolving mechanisms designed to defend it. At a time of renewed global discourse on restitution and cultural destruction, our February muses invite readers to consider how law, institutional responsibility, and evolving politics will shape the future of cultural legacy.

Through this series, we continue to cultivate a space for reflection and dialogue that connects scholarship, practice, and advocacy that sits at the intersection of art and law. We invite our readers to join us as muses in this ongoing conversation and to submit their contributions as we work to uplift collective consciousness surrounding the creative arts.

Lastly, we thank our muses, *Reilly Clark*, *Noémie Monge*, and *Jair Corona Alonso* for their important and timely contributions.

Sincerely,
Charlotte McCarthy

Twice Looted, Twice Returned: Theft and Repatriation Between Benin City and the Metropolitan Museum of Art



Pictured: Plaque: Warrior Chief, 16th–17th century (left); Plaque: Junior Court Official with Sword, 16th–17th century (right)

Image Source: Metropolitan Museum of Art

** Reilly Clark*

Abstract

This essay follows two plaques across a complicated history of theft and repatriation between Benin City in modern-day Nigeria and the Metropolitan Museum of Art in New York. These plaques were looted by the British from the palace of the oba in Benin during the so-called “punitive expedition” of 1897. They were later given to the British Museum and later still, to the Nigerian National Museum in Lagos. The plaques were removed without permission from the Nigerian National Museum between 1950 and 1991, when art dealer Klaus Perls donated them to the Met. The plaques were returned to Nigeria a second time in 2021, after the truth of their twice-looted provenance emerged.

On the one hand, the return of the two plaques represents a success story of provenance research and voluntary, international restitution. On the other hand, they reveal a tension and hypocrisy inherent in the display of cultural objects looted from the Kingdom of Benin. The Met returned the plaques solely on the virtue of second-order theft, not their original looting perpetrated by the British in the nineteenth century. The museum did not return the many other plaques looted from the palace of the oba. In fact, it recently reinstalled them as part of its collection in the new Michael C. Rockefeller Wing for the arts of Africa, the ancient Americas, and Oceania. The story of the twice-looted, twice-returned plaques raises important questions about the legal and ethical landscapes around art theft, stolen cultural heritage, and the mechanics of return.



Figure 1. Plaque: Warrior Chief, 16th–17th century.
Source: Metropolitan Museum of Art.



Figure 2. Plaque: Junior Court Official with Sword, 16th–17th century.
Source: Metropolitan Museum of Art.

Introduction: Benin and Back Again

In 2021, the Metropolitan Museum of Art in New York City repatriated two plaques (See [\(Fig 1., *Plaque: Warrior Chief*, and Fig. 2., *Plaque: Junior Court Official with Sword*\)](#) that had been looted from the Kingdom of Benin, one of the oldest states in modern-day Nigeria, founded in the 10th century by the Edo people. Like many of the so-called “Benin bronzes,” the plaques had been commissioned by the Oba of Benin and created by his *Ìgùn Èrònwòn*, the brass-casting guild that operated under royal patronage. The plaques are some of the oldest-known examples of the Benin bronzes. They date from the 16th to the 17th centuries, perhaps from the time of Oba Esigie and his famous Queen Mother, Idia. The plaques passed from king to king for at least another three centuries, until they were looted by the British in 1897. It is notable that the plaques had remained safe in the oba’s palace for generations before they were looted, divided as war booty, and incarcerated in the British Museum within a matter of months.

The plaques that the Met returned are not the only objects to suffer from this reversal of fortune. They are not even the only looted plaques at the Met – the museum has many such plaques and other Benin bronzes in its collection. In the years since the Met’s dual repatriation, the museum has invested millions of dollars into its new Michael C. Rockefeller Wing for the arts of Africa, Oceania, and the ancient Americas. The Met’s display of Benin bronzes and ivory carvings is centrally important to the new collection. Brass plaques that had been ripped from the walls of the oba’s palace in 1897 now hang on the walls of the new Rockefeller Wing. The heads of obas, which once graced ancestral shrines in Benin City, now stand on a comparatively modest dais in New York City. The Queen Mother, Idia, is represented by an ivory pendant mask commissioned by Oba Esigie. Like the plaques, this precious mask passed unharmed from king to king until Britain’s so-called “punitive expedition” against Oba Ovonramwen. British soldiers found it and four like it hidden in the king’s bedroom for protection. The British removed the masks from the country, much as they did Oba Ovonramwen himself. [Only one of the masks has been returned since.](#)

Given this history of theft, it is surprising that the Met decided to return only two of the Benin objects in its possession. The museum acknowledges that the [other Benin objects](#) that remain in its collection had been taken by the British during the 1897 invasion. They decided to repatriate these two not because they had been looted, but because they had been twice looted.

Both plaques had been torn from the oba’s palace and given first to the British Secretary of State for Foreign Affairs, Robert Arthur Talbot Gascoyne-Cecil, 3rd Marquess of Salisbury, and then to the British Museum the following year, along with hundreds like them. The British Museum displayed the plaques until 1950 and 1951, respectively, when they were sold to the Nigerian National Museum in Lagos. It is bitterly ironic that the British Museum, the first clearinghouse for the objects after they were looted from Benin, profited off of selling these stolen goods to the Nigerian National Museum, itself a creation of the colonial era.

The plaques were exhibited in the Nigerian National Museum in Lagos until around 1960, when Nigeria gained independence from Britain. Then, they mysteriously disappeared. It is highly likely that the plaques were stolen by an employee of the museum and laundered through a network of Western art dealers. Following their disappearance, the plaques reappeared on the international art market and were purchased by art dealer Klaus Perls sometime before 1991. The twice-looted bronzes were further laundered by the Met, which accepted Perls' collection as a donation in 1991. The Met published a book on the donation, [Royal Art of Benin: The Perls Collection](#) that following year. In the book, Kate Ezra – the author and one-time curator of African Art at the Met – makes no mention of the plaques' double looting. However, she does write that at least one of the plaques had previously been kept in the British Museum. Ezra states the provenance for this plaque – simply, even absurdly – as, “Ex Collection: British Museum, London.”

Ezra's provenance statement obscures the facts of the plaque's original ownership by the kings of Benin and its looting by the British. While an alternative statement of provenance like “Ex Collection: Oba Ovonramwen” would mischaracterize the plaque's status as Edo royal heritage, it would challenge the effacement of the Oba of Benin in the Met's revisionist history. Ezra's vague and incomplete characterization of provenance diminishes and grossly simplifies the plaque's cultural significance. The plaque is instead reduced to a natural resource. It is something to be exploited, exported, and refined elsewhere, like Nigerian oil or rubber.

The Nigerian American art historian Sylvester Okwunodu Ogbachie describes this effacement of Africans from African cultural production in his book, [Making History: African Collectors and the Canon of African Art](#). “The African artwork's history literally begins at the point of accession,” Ogbachie writes. Western curators like Ezra do not consider the artwork's indigenous value or even the artists behind its production. Instead, Western collectors like Klaus Perls and Western institutions like the British Museum and the Met are privileged in the narrative. “The object's history of Western reception supplants its indigenous meaning,” Ogbachie explains, “and this serves to export the equity value of the artwork from its African producers to Western collectors.” Again, the artwork appears like a natural resource that must be seized, refined elsewhere, and sold back to Africans as a finished product. In the case of the two plaques, this happened in painfully literal terms.

The Met's provenance statement for the plaque obfuscates its indigenous African history of ownership, but this is par for the course. As Ogbachie argues, Western art historians regularly devalue the African histories of African cultural objects. Likewise, the provenance statement does not engage meaningfully with the looting of the plaque by the British. The Met protects itself from legal challenges to ownership that may have been brought by the oba of Benin.

The institution does, however, inadvertently expose itself to potential legal claims from the Nigerian National Museum through Ezra's discussion of the plaque in the book. Journalist Barnaby Phillips argues that the Met should have known that the plaques they accepted from

Klaus Perls had been looted from the Nigerian National Museum. In an article for *Apollo Magazine*, [“The Met ought to have returned two stolen Benin Bronzes years ago.”](#) Phillips argues that Ezra and the Met must have known that one of the plaques had been at the British Museum, because Ezra wrote as much in *Royal Art of Benin*. Either she did not contact the British Museum about it before accessioning the plaque, a consequential oversight, or she did know of its twice-looted status. Before publishing his *Apollo Magazine* article, Phillips contacted the Met, which refused to answer his questions about the plaque.

Then, mere days before Phillips released his article in *Apollo Magazine*, the Met announced its plan to repatriate the two, twice-looted bronzes. [In the press release](#), the museum noted that the two plaques had been “removed from the Royal Palace in 1897 during the British military occupation of Benin.” The press release did not describe the violence of the 1897 invasion or the systematic looting of the oba’s palace. Nor did the museum acknowledge that the plaques had already been repatriated to Nigeria, stolen a second time, and once again transformed into commodities for Western consumption. Instead, the press release vaguely states that the plaques “entered the international art market at an unknown date and under unclear circumstances.” After issuing the press release, the Met transferred control of the plaques to the Nigerian National Commission for Museums and Monuments (NCMM). But it accepted no blame and admitted no negligence, obfuscating its role in the laundering of stolen goods.

The Met sacrificed two objects to keep more than a hundred others in their possession. In this way, the museum is like a criminal who pleads guilty to a lesser crime in return for a lighter sentence. The Met cemented its *de facto* control over the many other objects in its collection that were looted from Benin – many of which were donated by the same collector, Perls, with similarly spotty provenance. In this way, the Met’s repatriation was much more self-serving than it appeared. They indemnified the thefts of the nineteenth century by acknowledging those of the twentieth. They pardoned the crimes that occurred under colonialism by pointing to those that occurred after Nigeria gained its independence.

“In returning these specific plaques,” Phillips writes in his article for *Apollo Magazine*, “they’re making an unacknowledged distinction between them and the rest of their Benin Bronzes.” Other plaques in the collection were similarly torn from the walls of the oba’s palace in 1897, but they will remain on the walls of the Met’s new, multimillion-dollar Rockefeller Wing. At some level, their place on these walls has been secured by sacrificing the twice-looted plaques. [“This return is about PR and legality,” Barnaby concludes, “not morality.”](#)

Commodifying Benin

In all likelihood, the theft at the Nigerian National Museum was an inside job. According to conversations with art historians and museum professionals at the NCMM, who spoke on background, it is almost certain that Nigerian museum staff members stole the plaques and

sold them to a succession of dealers. These dealers sold the plaques with no acknowledgement that they had been stolen – not once, but twice – and it is highly unlikely that the dealers were unaware. Western institutions like the Met either overlooked the plaques’ spotty provenance or chose not to look too closely. They benefitted from the theft, as they had from the original sin of colonial looting.

Western dealers regularly traffic in stolen goods and Western institutions regularly lose items to their employees. For example, in 2023, the British Museum announced that it had lost at least 1,800 items from its collection. The museum alleged that the thief was none other than its senior curator of Greek and Roman art, Peter Higgs. [Investigators found that the curator had pocketed valuable Greek and Roman antiquities and resold them on eBay. Police found Greek and Roman coins from the museum’s collection at his home.](#) Higgs denies the allegations.

[Ironically, Higgs had previously helped the institution challenge repatriation claims on its “Parthenon Marbles.”](#) Higgs worked at the British Museum for over thirty years and served as the head of the Museum’s Department of Greece and Rome when the museum was under intense pressure by the Government of Greece to return the marbles to Athens. Higgs and others at the Museum argued against repatriation. They reasoned that since Britain had saved the marbles from destruction, they would be kept safe in Britain and should remain there. When Higgs was fired for theft, Art Recovery International joked on social media: [“Perhaps the Parthenon Marbles are not safe in the UK after all. They should be moved to a museum in Athens where they can be well cared for...”](#), a play on the paternalistic arguments that Western institutions use to resist repatriation.

In 2017, Emmanuel Macron, the President of France, spoke on the topic of repatriation at the University of Ouagadougou. His speech is frequently understood as a turning point in the repatriation movement. In it, Macron announced that France would reevaluate its state collections of African objects, but in the same breath, refused to acknowledge the harm that colonial theft had caused in the first place. He paternalistically claimed that France had saved these African cultural objects from the Africans themselves. “In many African countries it is sometimes African curators who have organized trafficking,” [Macron pronounced](#), “and it is sometimes European curators or collectors who have saved those African artworks for Africa by protecting them from African traffickers.” Macron’s rhetoric is reminiscent of the language used by colonial-era soldiers, adventurers, and museum professionals who claimed to be “saving” the vanishing art of vanishing people. Not incidentally, it also resembles statements made by the British Museum when they claimed to be safeguarding the Parthenon Marbles, all while hemorrhaging the smaller, more saleable antiquities.

In his speech, the President of France failed to mention that African artworks like the Benin bronzes were safe *in situ* for centuries until they were looted by Europeans. Only then, and only after European art dealers had successfully commodified them, did African artworks like the Benin bronzes become the subject of theft from African museums. Plaques like the

two returned from the Met hung safely on the walls of the oba's palace in Benin for centuries. Other cultural objects, like brass bells and heads of obas, graced ancestral altars in the palace for generations. They remained safe even in times of political strife and succession crisis.

The obas of Benin could maintain the safety of their cultural objects because they were not yet considered commodities. Plaques represented the kingdom's history, heads of obas memorialized former heads of state, and hip pendants depicting the Queen Mother, Idia, served as royal regalia. They were not yet considered "African art," or "art" at all.

Even the first European collectors of the Benin cultural objects did not initially value them as art. Westerners saw African cultural objects as colonial trophies, ethnographic curiosities, and the occasional source of artistic inspiration. Avant-garde artists bought and sold "exotic" objects among themselves, but they did not yet have a broad market appeal.

In 1898, just one year after the "punitive expedition," Lieutenant-General Augustus Pitt Rivers purchased a plaque that had been torn from the walls of the royal palace. A retired army officer and amateur archaeologist, it is not surprising that Pitt Rivers was interested in military trophies from Benin, then occupied by British forces. [What is surprising is that he purchased the plaque from two booksellers, James and Mary Lee Tregaskis, for the meager price of £24 – about £4,000 or \\$5,400 today.](#) Comparable plaques now sell at auction houses like Christie's and Sotheby's for between ten to hundreds of thousands of dollars.

The plaque that Pitt Rivers originally purchased in 1898 was sold to a succession of art dealers between 1957 and 1958. It was finally purchased by Nelson A. Rockefeller, a scion of one of the world's wealthiest families, a trustee at the Museum of Modern Art, and the soon-to-be-elected Republican Governor of New York. It is not known how much Rockefeller paid for the plaque, but suffice to say, it was rather more than £24.

Shortly before he became Vice President of the United States, Rockefeller bequeathed the plaque to his so-called "Museum of Primitive Art." Toward the end of his term as Vice President, Rockefeller transferred ownership of the museum's collections to the Met. [The plaque is now on display in the Met's Michael C. Rockefeller Wing](#), named after Nelson Rockefeller's son who died on an anthropological expedition to Asmat territory in New Guinea.

Benin's cultural heritage became the object of intense financial speculation in the years after the British "punitive expedition." Edo artists consciously created these objects as historical records, ancestral honors, and royal regalia. Yet they were transformed into commodities by Western art dealers looking to make a profit. In selling Benin's cultural heritage, these dealers extracted value from Africans and transferred it to Westerners.

Museums like the British Museum and the Met support this extractive system, even when they return certain objects. In the case of the twice-looted plaques from the Met, the museum sacrificed the few for the many. The Met returned two plaques so that it could keep many

more Benin bronzes and other ill-gotten gains. It admitted that theft had occurred, but it did not tell the full story: that the original theft was perpetrated by the British. The criminal pled guilty to a lesser crime for a lighter sentence. In doing so, it avoided true justice.

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**Preserving Heritage to Build Peace:
The Safeguarding and Respect of Cultural Property in the Event of Armed Conflict**



Pictured: Baya, *Rivière et montagne*, 1966, gouache sur papier, 100 x 150 cm, Paris, Centre national des arts plastiques (CNAP), en dépôt au Musée du Quai Branly - Jacques Chirac, Othmane Mahieddine

Image source: <https://awarewomenartists.com/artiste/baya/>

**Noémie Monge*

“Beauty will save the world”
FYODOR DOSTOEVSKY

Introduction

A look back at the [historical development of the international protection of cultural property in times of armed conflict](#) reveals a structural evolution. Art was often regarded as *arte mechanicae* in the Middle Ages, but it gradually received greater recognition and protection. As for the law of war, the conduct of invaders was long perceived as a “misfortune” rather than as a violation of legal norms.

[EMER DE VATTEL](#), the 16th century philosopher whose ideas profoundly shaped modern international law, condemned the casualties of cultural property during war more directly: “For whatever reason one ravages a country, one must spare the edifices that do honour to humanity, and which do not contribute to making the enemy more powerful: temples, tombs, public buildings, all works respectable for their beauty.”

In March 2001, the [Taliban destroyed the Buddhas of Bâmiyân](#). These monumental Greco-Buddhist statues carved into the cliffs symbolized religious tolerance in the region. The destruction of this Afghan cultural heritage demonstrates not only the vulnerability of cultural property, but also the extent to which works of art can become deliberate targets in attacks against identity, history, and collective memory. Their destruction is thus used as a weapon against the local population.

Compounding cultural property’s vulnerability to attacks during armed conflict is the issue of impunity for perpetrators of these attacks. This problem is particularly acute when the attacks are carried out by a State that would be responsible for seeking or providing reparations. Moreover, although an investigation into the crimes committed in Afghanistan is currently open before the [International Criminal Court](#), [procedural constraints and political considerations](#) temporarily exclude many of the relevant facts, and, at present, such acts do not fall within the scope of the crime against humanity of persecution as defined by the [Office of the Prosecutor](#).

Under Article 1 of the 1970 UNESCO Convention, cultural property is [defined](#) 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,” that falls under one of the following categories: monuments of architecture, art, or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books, and other objects of artistic, historical, or archaeological significance; as well as scientific collections, archives, or reproductions of such property. It also encompasses buildings whose main and effective purpose is to preserve or exhibit movable cultural property.

Culture, and cultural heritage objects, plays a fundamental role in sustaining peace. Its vulnerability in times of armed conflict has not prevented culture from serving as an effective tool for peacekeeping and peacebuilding. [JOHAN GALTUNG](#) notably advances an “associative approach,” which “means that exchange becomes so important to the two countries that they both realize they will only hurt themselves in striking at one another.” By using shared arts, culture creates a common ground where divided communities can reconnect, restore, and build

new forms of relationships. Plurality strengthens reality. Engaging in cultural diversity is not merely a moral choice; it is an existential necessity. It makes our grasp on reality stronger and our shared global experience infinitely richer.

The paradox is that the very qualities that make cultural property a target — its deep connection to identity, memory, and values — are also what make it so potent for healing. It is therefore worth examining the extent to which the protection of cultural property contributes to peacebuilding.

First, it is necessary to analyze the distinctive vulnerability of cultural property in times of armed conflict, highlighting the link between cultural preservation and the state of peace. Then, this paper will discuss the ways in which peace can be built through culture, providing examples of initiatives in international law that have begun to undertake this project.

The reciprocal relationship between peace, peacebuilding, and culture increases the vulnerability of cultural property

First and foremost, cultural property is subject to heightened vulnerability in times of armed conflict. Indeed, attempts to destroy culture constitute a means of erasing the past, present, and future of peoples. The intentional destruction of cultural heritage as a tool of psychological warfare, terror, and as a means to eradicate identity and plurality, is [increasingly well documented](#). Evidence of such acts have been the subject of pleadings before regional human rights bodies and have informed the [reflections of the Special Rapporteur on cultural rights regarding the notion of cultural genocide](#).

Furthermore, the [General Framework Agreement for Peace in Bosnia and Herzegovina and its annexes](#) include a specific provision relating to the protection of cultural heritage, notably Annex 8, which establishes a Commission to preserve national monuments. This peace process marks a significant moment in modern conflict-resolution policy, recognizing cultural heritage as a fundamental tool for sustaining peace. It is because of its importance to peacekeeping that cultural property is particularly vulnerable to attack by belligerent.

The fragility of cultural property is compounded by its market value. [The Security Council](#) noted with great concern that armed groups generate revenue through illegal excavations, looting, and smuggling cultural objects, which are then used to finance recruitment efforts or strengthen operational capacities for terrorist attacks.

Accordingly, beyond their symbolic significance, artworks and heritage objects become sources of financing for armed groups. The lucrative dimension of cultural heritage thus transforms it into a resource for war and, consequently, a prime target. This economic incentive may influence both the frequency and scale of attacks, as destruction and theft become financially motivated strategies. In this respect, trafficking in cultural property is frequently [described as one of the principal forms of illicit trade](#) alongside drugs and weapons.

The implementation of penalties for attacks against cultural property illustrates a global recognition of the relationship between cultural heritage and peacekeeping. The international

legal framework condemns attacks on the common heritage of humanity in the context of interstate disputes. Recent cases before the International Court of Justice demonstrate applicants' willingness to obtain recognition of the internationally wrongful character of attacks against cultural property. In this regard, the [Armenian](#), [Azerbaijani](#), and [Ukrainian](#) applications allege and denounce intentions of cultural annihilation.

However, in its [2024 judgment regarding Ukraine's request for provisional measures of protection against Russia's war crimes](#), the International Court of Justice ruled against protecting Ukrainian cultural heritage sites. With respect to part of the claims, the Court held that Ukraine "has not sufficiently substantiated the alleged degradation of two other Crimean Tatar cultural sites" and "has not substantiated how the closure of certain institutions would amount to discrimination based on ethnic origin."

[In their initial application](#), Ukraine argued that closure of Crimean cultural institutions amounted to a violation under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The use of CERD as a basis for their claims regarding the degradation of cultural heritage sites by a State has been criticized. In fact, [Judge Yusuf in his dissent](#) opposed using the Convention "as a 'fourre-tout' for jurisdictional purposes" or when it has "hardly anything to do with the real dispute between the parties."

As this decision illustrates, the practical application of legal instruments of heritage protection and international responsibility seems to be limited by the absence of a jurisdiction clause in the relevant Conventions.

With regard to losses of cultural property, [some scholars argue](#) that "there is no adequate compensation other than restitution." If the object claimed has been destroyed or lost, restitution may only be possible through the transfer of another object of similar kind and value. The general regime of international responsibility, as reflected in [the International Law Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Acts](#), prioritizes restitution as the primary form of reparation. Restitution is therefore conceived as the preferred and initial remedy.

In parallel, the progressive development of *individual* international criminal responsibility demonstrates an expanding normative protection of cultural property in armed conflict through the criminalization of attacks on heritage. [International criminal law](#) establishes individual responsibility for attacks against cultural heritage as war crimes.¹ [The 2016 case of Prosecutor v. Ahmad Al Faqi Al Mahdi](#) concerning the destruction of mausoleums in Timbuktu constitutes a landmark decision. The accused pleaded guilty and was convicted. Similarly, the International Criminal Tribunal for the former Yugoslavia convicted [Miodrag Jokić](#) for the shelling of the UNESCO World Heritage site of Dubrovnik.

The arrest and punishment of perpetrators serve not only to deter future offenses and reaffirm social norms, but also to engage responsibility and its consequent obligations. Criminal

¹ See also *Statute of the International Criminal Tribunal for the Former Yugoslavia*, Article 3.

accountability may contribute to reparation through cessation of the wrongful act, compensation, or satisfaction. Moreover, condemning attacks against cultural property — the common heritage of humanity — reflects a recognition that culture plays a vital role in restoring peace and fostering reconciliation.

Finally, it is essential to consider the humanitarian dimension of protecting cultural property, as well as to avoid reducing such protection solely to the context of armed conflict. In international humanitarian law, [Rules 38 to 41 of the ICRC study](#) codify customary principles concerning cultural property. These rules establish obligations regarding precautions in attack, the prohibition of using cultural property for military purposes, respect for such property, and the export and restitution of cultural objects from occupied territories. These protections may be waived only when "[imperatively required by military necessity.](#)" This exception entails a proportionality assessment that may justify an attack when cultural property becomes a legitimate military objective.

Another limitation arises under Article 2(4) of the United Nations Charter, whose prohibition applies to international relations between States. Situations of non-international armed conflict have historically received more limited protection under conventional international law. This is evident in cases where insurgent groups destroy cultural property constituting their own heritage, as illustrated by the [as illustrated by the Taliban’s destruction of the Buddhas of Bâmiyân](#).

Consequently, destruction of cultural property by State bodies, persons or entities exercising public authority prerogatives, and even insurgent movements, would not be *de jure or de facto*, susceptible to international judicial recourse. This would make holding these perpetrators responsible at the national level difficult.

Moreover, caution must be exercised not to confine the protection of cultural property solely to its humanitarian dimension. This is not only because cultural heritage may be endangered in other contexts, such as [climate change](#),² but also because cultural heritage plays a fundamental role in the prevention of conflict. Thus, the safeguarding and respect of cultural expression must be firmly embedded in peacetime policies and not just in policies governing armed conflict.

International undertakings for peacebuilding through cultural heritage

In accordance with the symbiotic relationship described by [J. GALTUNG](#), international undertakings for peacebuilding through cultural heritage require that “structures must be found to remove the causes of war and to offer alternatives in situations in which war might occur.” Peace, in this sense, would be built upon forms of cultural association so effective and comprehensive that peaceful coexistence becomes the only conceivable and desirable condition.

Culture builds cooperation between States and connects groups around shared interests. The creation of the United Nations Educational, Scientific and Cultural Organization (UNESCO)

² See also *Written statement of the Democratic Republic of Congo*, Case concerning obligations of states in respect of climate change (request for an advisory opinion), 4 March 2024, §96; *Written statement of the Kingdom of Tonga*, Obligations of states in respect of climate change (request for advisory opinion), 15 March 2024, §§37, 50, 256 and 258.

acknowledges that culture is an essential element of peace and reflects a desire to collaborate in this direction. The organization was called upon as early as 1945 to ensure “the [conservation and protection of the world’s inheritance](#) of books, works of art, and monuments of history and science,” while “recommending [...] the necessary international conventions.”

This proposed mandate led to the adoption of the [1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict](#), along with several other instruments adopted under UNESCO’s auspices. The Preamble to the 1954 Convention acknowledges “that cultural property has suffered grave damage during recent armed conflicts and that, by reason of developments in the technique of warfare, it is in increasing danger of destruction.” The subsequent provisions establish obligations to safeguard and respect such property. These provisions give rise to both positive obligations of protection and negative obligations of abstention, although relatively little emphasis is placed on the consequences of violation. Through these binding instruments, States commit themselves to pursuing these objectives in a spirit of mutual assistance.

[J. GALTUNG](#) emphasizes a criterion of decentralization. Entropy, in his view, prevents international interactions from being confined to governments or elites and instead encourages exchanges among diverse peoples. Through this approach, culture can act as a binding force between countries at the non-state level, deepening cooperation and mitigating adversarial tendencies.

Another operational example of peacebuilding is the creation of the International Alliance for the Protection of Heritage in Conflict Areas ([International Alliance for the Protection of Heritage in Conflict Areas \(ALIPH\)](#)). In conflict zones, ALIPH mobilizes civil society actors, Member States, and international organizations such as UNESCO to help rebuild cultural identity. Although its legal efficacy may raise questions, ALIPH provides emergency and post-conflict assistance for the rehabilitation of cultural property, often in cooperation with UNESCO and the affected State. This model demonstrates a form of [effective cooperation](#) that is not exclusively State-centered and therefore avoids potential criticisms of imperialism or opportunism.

The mobilization of various actors, such as the principal organs of the United Nations, reflects various dynamics of negotiation and deliberation. To this end, [the Security Council’s 2025 resolution](#) finding that Iraq’s attack on the cultural heritage of Kuwait during armed conflict constituted a threat to international peace or security appears encouraging given the Security Council’s role and influence.³ The United Nations General Assembly has similarly reaffirmed the importance of preserving cultural heritage in a [2021 Resolution](#).⁴

Nevertheless, the number of different actors may also generate practical difficulties. For instance, treaty-based protections apply only to States that have ratified the relevant conventions. Furthermore, there is a complex distinction in the legal landscape between international destruction of cultural property and other offenses such as organized crime that impact

³ See also S/RES/2347 (2017); S/RES/2199 (2015) §§15-17; S/RES/1483 (2003).

⁴ See also A/RES/75/26 (2020); A/RES/75/25 (2020).

enforcement against looting of cultural property and trafficking of artworks by armed groups. For example, the fight against illicit trafficking of cultural property requires financial and repressive mechanisms that are difficult to implement in conflict zones. These offenses involve a range of actors responsible for investigation, prosecution, and adjudication, whose specialized and sometimes overlapping expertise may complicate coordination.

Raising awareness about the importance of safeguarding culture and cultural diversity also contributes to the broader peace project. Initiatives have strengthened military capacities for the protection of cultural property, including specialized training for [soldiers](#) and [officers](#). It also highlights the importance of training for [judges and prosecutors](#), particularly in collecting and analyzing data relating to cultural heritage offenses.

The use of new technologies is at the heart of UNESCO's proposals for peacebuilding through cultural property protection in armed conflict. The organization emphasizes the value of technological advances for analyzing satellite images and gathering evidence of war crimes. Accordingly, UNESCO seeks to strengthen State capacity through training in [cutting-edge technologies](#), including satellite remote sensing, artificial intelligence, and the [preventive digitalization of cultural heritage](#). At the same time, it aims to raise awareness of these emerging tools among States and to increase technological accessibility.

The consolidation of protective tools is necessary both in peacetime and during armed conflict. [The Special Rapporteur on cultural rights](#) has emphasized this: "intentional destruction may also be applied in cases of willful neglect of cultural heritage either during armed conflicts or in times of peace." The issue of intentional destruction of cultural heritage in times of conflicts is rarely viewed as a human rights issue, even though the human rights consequences of property destruction are considerable. As a result, human rights and regional international organizations would be justified in claiming human rights violations in cases of cultural heritage destruction, as these attacks erase the presence of minorities and constitute an attack on identity and collective memory.

[Although no dedicated legal basis expressly protects cultural heritage as such](#),⁵ certain international bodies have interpreted existing rights as encompassing elements of cultural identity and cultural rights. Through these efforts, the scope of property and heritage rights have been [broadened](#). However, the invocation of these rights has remained limited, particularly to the context of [indigenous populations](#).⁶ Notwithstanding, [derogation clauses](#) in some human rights treaties may allow States to suspend certain obligations in times of war or public emergency threatening the life of the nation.⁷

⁵ See also *International Covenant on Economic Social and Cultural Rights* (1966), Article 15; *Indigenous and Tribal Peoples Convention* (1989), n°169; *UN Declaration on the Rights of Indigenous Peoples* (2007), OHCHR.

⁶ See also *Case of the Xucuru Indigenous People and its merits v. Brasil*, Inter-American Court of Human Rights, February 5, 2018, §115; *Right of everyone to take part in cultural life (art. 15, §1 a), of the International Covenant on Economic, Social and Cultural Rights*, General comment n°21, E/C.12/GC/21, Economic and Social Council, 21 December 2009, §36.

⁷ See also *American Convention on Human Rights*, Pact of San Jose, Costa Rica, Article 27; *International Covenant on Civil and Political Rights* (1966), Article 4.

However, the reaffirmation that human rights treaties continue to apply during armed conflict strengthens the protection of cultural property. An important doctrinal development would involve revisiting the concept of genocide — not as an opportunistic expansion, but as a return to its foundational meaning. [R. LEMKIN's original conception](#) of genocide encompassed vandalism, understood as the deliberate destruction of national, racial, religious, or social communities. Therefore, the annihilation of a group can occur if its identity and collective memory are erased, even if many of its members are still alive. Despite this, cultural genocide is [not included in positive law](#).

[Applicants have invoked genocide before regional human rights courts](#) in the context of internal armed conflicts. Although such courts have generally declined jurisdiction to determine the existence of genocide, these pleadings underscore the devastating impact of cultural destruction on the identity of affected peoples.

Finally, [UNESCO has reaffirmed](#) that “attacks on cultural property, whatever people they belong to, constitute attacks on the cultural heritage of all humanity, given that each people contribute to world culture.” The preservation of cultural heritage is therefore not merely a matter of material protection; it is indispensable to rethinking our conception of humanity itself.

This imperative invites a dual reflection: first, on [humanity as a subject of international law](#) worthy of protection; and second, on cultural diversity as an inalienable and precious feature of both our common nature and our individuality. Defending the integrity of humanity through cultural heritage is thus a powerful means of preserving personal and international interests. The unity of the human species is thereby reaffirmed in the recognition of the universal value of cultural property. This transnational and unifying vision is one of the strengths of international structures, as a symbolic lever for the edification of a lasting peace.

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The Importance of Specialized Units for the Protection and Promotion of Cultural Heritage: A Case Study of the Carabinieri TPC



Pictured: Olmec Monument 9 from Chalcatzingo, Morelos (Middle Preclassic, ca. 800–400 BCE)

Description: Often dubbed the “Earth Monster/Portal to the Underworld,” Olmec Monument 9 was repatriated to Mexico in 2023, nearly 60 years after it went missing upon its illicit removal. Its return reinstates an irreplaceable archaeological and symbolic reference point for interpreting Chalcatzingo’s ritual landscape and serves as a high-profile benchmark for Mexico’s efforts to curb illicit trafficking in cultural property.

Image source: <https://traffickingculture.org/encyclopedia/case-studies/chalcatzingo-monument-9/>

**Jair Corona Alonso*

Abstract

The establishment of a Specialized Cultural Heritage Unit (SCHU) constitutes a cornerstone of public policy aimed at the protection and promotion of a nation's cultural heritage. Its importance lies in its role as the operational center responsible for combating crimes against cultural property, conducting preventive investigations into criminal networks and their methods of operation, safeguarding artistic, archaeological, and historical sites, and designing and implementing policies to facilitate the recovery and repatriation of cultural property unlawfully removed from national territory.

As the first Specialized Unit established exclusively to combat the illicit trafficking of cultural property, and in light of its sustained success over several decades, the Carabinieri Command for the Protection of Cultural Heritage (Carabinieri TPC) has become a leading institution in this field. Its achievements—including the recovery of thousands of artworks and archaeological artifacts, the development of a world-renowned database of stolen cultural property, extensive international cooperation efforts, and significant educational and awareness-raising initiatives—have established it as an international benchmark in the protection of cultural heritage.

Introduction

International experience in the creation of Specialized Cultural Heritage Units is rather limited. For example, one of the main treaties on the illicit export of cultural property, the 1970 UNESCO Convention—currently ratified by 145 States Parties—urged member states to establish in their territories a specialized service for the protection of cultural heritage. Nevertheless, only three countries, Italy, the United States, and Argentina, have created equivalent specialized institutions or agencies in this field, with the Carabinieri TPC being the most prominent and internationally recognized example.

In general terms, these units are characterized by common features such as:

1. Independence. These organizations have solid legal endorsement from the legislative institutions of their countries to conduct their mandate in an independent and professional manner, which guarantees that their work remains impartial and guided solely by the objective of protecting cultural heritage.
2. Multidisciplinary. Such units are composed of professionals with specialized expertise across diverse disciplines. Their personnel typically possess extensive experience in heritage protection and recovery efforts, whether through preventive investigations aimed at deterring illicit activities or corrective measures focused on the restitution of unlawfully removed cultural property.
3. Counseling and training. One of the complementary, preventive actions taken by these organizations is advising and training private institutions, governmental bodies, and society in general.
4. Internationalization. To fully comply with their functions, these units have an international profile that allows them to maintain close communication with other existing units, as well as with international organizations.

Italy

Italian specialized unit: “Tutela Patrimonio Culturale” (TPC).

The Carabinieri Command for the Protection of Cultural Heritage is the oldest and most experienced unit in the protection of Italian cultural heritage. It has become an international reference point for other states that have established, or are in the process of establishing, similar specialized units.

The TPC was created in 1969 within the framework of the military police, now known as the *Arma dei Carabinieri*. Its mandate was further defined in 1992, when ministerial legislation clarified and strengthened its specific focus on cultural heritage protection. [In 2001, its institutional status was elevated through a presidential decree, consolidating its legal foundation and operational authority.](#)

The TPC has dual functionality. It operates both as a specialized law enforcement body within the military structure of the Carabinieri and as an advisory entity, participating in the Advisory Council of the Italian Ministry of Culture. Broadly speaking, its organizational structure is composed of three areas:

1. Operational Department, divided into three sections: Antiquities, Archeology and Modern Art and Forgeries.
2. TPC Group, which coordinates the various regional units located in different Italian regions.
3. Command Office, comprising [four sections](#): personnel, data processing, operation and logistics, and training and study.

At the national level, the TPC exchanges information with the National Central Bureau (NCB) of Rome which serves as Italy's liaison with INTERPOL. At the international level, it maintains direct channels of communication with Argentina and the United States through the NCB of Buenos Aires as to the former and the Specialized Unit for Crimes against Artistic Heritage, which reports to the FBI, as to the latter.

The work of the TPC in the international arena is extremely relevant. In addition to acting as a liaison point with INTERPOL and EUROPOL, it provides specialized operational support in various missions. Notable examples include its deployments to Iraq in 2003 and 2006, where it contributed to the safeguarding and protection of endangered cultural assets.

In general terms, the main activities carried out by the TPC are:

1. Conducting investigations focused on identifying and tracking people who have committed illicit acts against cultural heritage (e.g., theft of pieces, unauthorized archaeological excavations, looting, forgery, and destruction of real estate).
2. Monitoring and safeguarding archaeological zones (including underwater regions), as well as various areas declared by UNESCO as World Heritage Sites.
3. Surveying and monitoring commercial activities conducted by private organizations and companies within the art market, such as auction houses, art fairs, and dealers.
4. Implementing security measures in various cultural venues, such as museums, libraries, and national archives.
5. Managing and maintaining the database on stolen cultural property. Providing specialized advice and technical assistance to governmental authorities and private organizations in Italy on how to best use the database.
6. Participating in international operations aimed at the protection and recovery of cultural property in high-risk contexts, including situations of armed conflict or natural disasters.

Finally, the TPC, in collaboration with the Ministry of Cultural Assets and Activities, formed a highly specialized group to carry out recovery work of movable cultural property in hostile environments (natural disasters, peacekeeping missions and complex pre- and post-war scenarios). This unit is composed of 30 Carabinieri officers and 30 Ministry officials and operates under the leadership of a designated team coordinator. [The task force was first deployed following the 2016 earthquakes in central Italy, where it successfully recovered](#)

[more than 9,000 cultural objects](#), thereby demonstrating its operational capacity and the importance of rapid-response mechanisms in safeguarding cultural heritage during emergencies.

United States

Art Crime Team (ACT), Federal Bureau of Investigation

The antecedent to the Federal Bureau of Investigation's Art Crime Team (ACT) emerged in the aftermath of the 2004 looting of the National Museum of Iraq in Baghdad. In response to the widespread theft and trafficking of cultural property, the FBI established a rapid-response investigative group dedicated to combating art and antiquities crime, which later evolved into the [ACT](#).

The ACT's activities are similar to those carried out by other units but operate within the bounds of the resources it has at its disposal. Since its creation, the [ACT has recovered more than 850 cultural objects](#), with an estimated total value exceeding \$134 million. Among its most notable recoveries are two paintings by Renoir, recovered shortly after their theft, and a Rembrandt painting stolen from the National Museum in Stockholm and recovered in 2005. [Together, these works are valued at approximately \\$30 million.](#)

In addition to its investigative work, the ACT manages the National Stolen Art File (NSAF), a centralized database of stolen cultural property. It operates similarly to other cultural property databases: U.S. agencies and authorities submit information about a stolen object to be entered into the database and, if it is recovered, it is removed from the database.

Argentina

Cultural Heritage Protection Department

Article 41 of the Constitution of Argentina recognizes the protection of cultural heritage as a right to be enjoyed by all its inhabitants and the obligation of the government to guarantee this right. In accordance with Article 41, a specific section within the Argentine Federal Police was created in 2002; in 2015, this section was expanded and restructured as the Cultural Heritage Protection Department.

According to a 2019 INTERPOL study,¹ the Department has two subordinate units along with a comprehensive database:

1. Cultural Property Guardianship Division. Among its main functions are management of the database on stolen cultural property at the national level, processing of cultural property and works of art, and carrying out technical analysis and archival work.
2. Cultural Crimes Investigation Section. This section conducts investigations into crimes against paleontological and archeological property as well as against historical and cultural heritage more broadly.

¹ INTERPOL, op.cit., p. 14.

3. Database. In conjunction with the national Ministry of Culture and the International Council of Museums (ICOM), the Argentine Federal Police has created a database linked to INTERPOL, which contains more than 4,500 records on stolen objects.²

Conclusion

International experts who have designed projects and initiatives focused on Specialized Cultural Heritage Units (for example, a recent project, "Protection of Cultural Heritage, Imperative for Humanity," was created with the participation of Italy and Jordan, as well as with the collaboration of INTERPOL, UNESCO and UNODC)³ agree that these units have a positive social impact: their mere existence generates a deeper perception of the importance of cultural heritage. Conversely, their absence might represent a lack of interest on the part of the State with respect to its heritage and is often correlated with an absence of policies that regulate cultural heritage and protect it from illicit activities.

The experiences of Italy, the United States, and Argentina show that the implementation of specialized cultural heritage units have major advantages.

The following stand out as key strengths and advantages of specialized cultural heritage units:

1. They constitute the operational axis of public policy, governmental programs, campaigns, and all activities focused on the protection of cultural heritage. It is through the Specialized Unit that all cultural heritage protection efforts are translated into concrete data periodically evaluated to determine the degree of success and ways to improve.
2. These units allow for better and more streamlined communication between the various government bodies and institutions (both public and private) involved in the protection of cultural heritage. This fluid communication fosters closer and more effective collaboration, especially when carrying out investigative and police work, which requires prompt action to safeguard property that is at risk.
3. They increase coordination between police and investigative bodies. Within Specialized Units there is a convergence of officers with different profiles. Solid coordination between these sub-units allows them to integrate investigation files containing information on the crimes committed and the degree of network complexity involved (which can range from a simple, individual looter to an organized crime network).
4. They assist in the creation, maintenance and updating of a national database for stolen or missing cultural property, and are coordinated with international databases, such as the one of INTERPOL.

² Available at: <https://www.interpol.gov.ar/patrimonio>

³ UN, Protecting cultural heritage. An imperative for humanity, 2016.

5. They allow each state to exhibit more control over the activities conducted by private organizations that operate within the art world. The Specialized Unit can conduct investigative activities for the detection of possible forgeries, prevention of fraud cases, and control over a wide range of actors in the art market, including individual dealers, merchants, patrons, pawnshops, art galleries and auction houses.
6. They provide support for the dissemination of awareness programs aimed at the public, helping to increase awareness of the importance of the country's cultural heritage, to promote the actions carried out by the government, and to inform individuals about the ways they can contribute to the fight against these illicit activities.

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