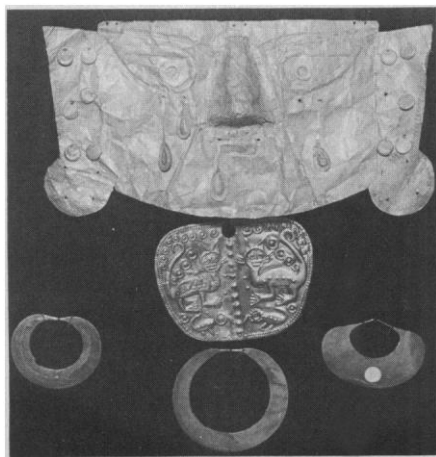


# Curbing the Antiquities Trade

*National patrimonies and archeological values are ravaged by worldwide plundering of cultural treasures*

In January 1981 Customs officials at Dulles International Airport detained David Bernstein, a 34-year-old New York art dealer and former Peace Corps volunteer, who had just arrived from Lima with four suitcases bulging with pre-Columbian artifacts. Bernstein had declared the value of his goods at \$1785. The 154 objects—still redolent of the graves from which they had been recently dug up—included ceramics, textiles, gold and silver jewelry, and a rare feather poncho that alone would have brought over \$100,000 on the market. Customs later raided Bernstein's New York apartment and came away with a total of more than 700 pre-Columbian artifacts valued at over \$1.5 million.



**Pre-Columbian art**

*These artifacts and the figure shown on page 1231 are part of an illicit collection seized by the Customs Department and returned to Peru.*

In exchange for surrendering his treasure Bernstein was allowed to plead guilty to a misdemeanor for misdeclaring his shipment. He got off with a 1-year suspended sentence, a \$1000 fine, and a pledge to do 200 hours of community service consulting with a Latin art museum in New York.

Nineteen months after the seizure, at a ceremony at the Peruvian embassy in Washington, the collection—comprising the largest illicit pre-Columbian art shipment on record—was formally turned over to the Peruvian government.

The Bernstein case is a signal of a gradual move toward an orderly public policy with regard to international traffic in plundered antiquities. And it offers welcome publicity for a measure that has

been pending, in various forms, in Congress for a decade which would strengthen the hand of the United States in stemming such trade. The bill, S. 1723, is designed to implement major portions of a Unesco convention signed in 1970 which calls on signatories to mount a "concerted international effort" to ban trade in stolen artifacts and to take reciprocal measures to control traffic in those that have been illegally exported from their country of origin. The bill is opposed by antiquities dealers and has been blocked in the Senate Finance Committee by Daniel Moynihan (D-N.Y.). The latest version, introduced by Senators Spark Matsunaga (D-Hawaii) and Max Baucus (D-Mont.) is being rewritten once again following hearings in July.

The international world of antiquities is a strange combination of the sordid and the sublime. At the top of the pyramid are the citadels of mankind's cultures, the museums. At the base are faceless thousands of looters and scavengers, professional tomb robbers and amateur pothunters who feed the ravenous world market. And in the middle is the Byzantine, and often clandestine, world of dealers and collectors.

The flow of antiquities goes in generally the same direction as the flow of the world's natural resources—from poor, underdeveloped countries to the world's wealthy—Western Europe, the United States, and Japan. Robbing and looting of tombs and monuments is an ancient pastime—the world's second-oldest profession, it has been said—and in the past two decades has kept pace with the booming demand for antiquities. The story is the same in Latin America, Asia, and the Middle East. Everywhere that ancient cultures thrived, their remains are being dismantled at a startling rate. This is particularly true in areas of strife and turbulence such as Cyprus, Iran, Afghanistan, and the Middle East.

Archeologists and anthropologists are particularly disheartened at the illicit pillaging of archeological sites as the materials through which to learn about ancient cultures are uprooted from their contexts and rendered valueless for scholarly purposes. Museums, once all too eager to acquire coveted objects even when their origins were suspect, have come to realize their part in spur-

ring illicit traffic and have developed more fastidious acquisition policies in the past decade. But a voracious international market for antiquities, which in the past few years has extended to relics from the American Indian past, promises to despoil what is left of the world's ancient sites unless art importing nations let it be known that illicit traffic must be stemmed.

The 1970 Unesco Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property was a step in this direction. But so far countries that have ratified the convention comprise almost entirely, with the exception of Canada, a list of the victims rather than the beneficiaries of the world trade. Most exporting countries have laws to protect their antiquities but as Ellen Herscher of the Association for Field Archeology points out, the countries richest in cultural resources have the least resources to protect them, and their laws are generally honored only in the breach. Without complementary measures in importing countries neither the laws nor the convention have much effect.

Thus S. 1723 could represent the first effort by a major importer to put some teeth in the convention. Basically, the measure would permit the President to make bilateral agreements with nations—at their request—to restrict imports of certain kinds of artifacts. More importantly it would enable the President to unilaterally restrict imports in emergency situations. Thus, if looters were having a run on a newly discovered archeological site, for example, the United States would be in a position to restrict imports of illegally excavated products even in absence of a bilateral agreement. The law would also make it illegal to import property stolen from museums or religious or secular public monuments of foreign countries.

The measure has the support of a long list of archeological, anthropological, and historical associations and museums. As Richard E. W. Adams, anthropologist at the University of Texas, testified at the hearings, "archeological sites and cultural information destroyed for gain probably cause real anguish only among professional archeologists and few officials of the governments concerned."

He suggested people in this country might be more sensitive to the problem "if Williamsburg had been looted to serve a market for 17th and 18th century artifacts. . . ." Adams concluded, "We cannot expect other nations to aid in the control of such traffic if we do not offer them a quid pro quo" and because the United States is the world's largest market for antiquities, it has an obligation to take the lead in controlling it.

But dealers still object. One of the main sticking points has to do with the need for a "concerted international effort." Opponents of the bill contend that if this country closes its doors to certain classes of import the trade will simply go elsewhere, to the detriment of the United States and its cultural institutions. Although all parties deem such an effort desirable, the State Department, which supports the legislation, points out that a concerned effort by all major importing nations is not always necessary. The United States, for example, is by far the largest importer of pre-Columbian artifacts from Latin America, and even a unilateral effort to curb import of these antiquities could have a major impact on the world market.

Another complicated problem has to do with what is "stolen." Many Third World countries have laws that claim government ownership of all important items making up their cultural patrimony. Dealers claim it is unfeasible and unjust for this country to bow to such claims of blanket ownership, even of items as yet undiscovered, and want the law to pertain only to those items that have been "reduced to possession" by foreign governments.

The legal tradition for dealing with questionable imports of antiquities is still quite new and untested. The National Stolen Property Act of 1934, which makes it illegal to import stolen goods valued at more than \$5000, has only recently been applied to the antiquities trade. Its first application was in 1971 when a California dealer tried to sell a pre-Columbian stela from Guatemala to the Brooklyn Museum. In this case, the stela was a known and documented piece that could be proved to be Guatemalan property. The second, more controversial application of the law involved shady dealings with artifacts that had originated in Mexico. In this case, decided in 1979, a court upheld Mexico's blanket assertion of ownership even though the precise provenance of the goods was not established.

The only American law that specifically comes to grips with the problem is one passed in 1972, during what was widely

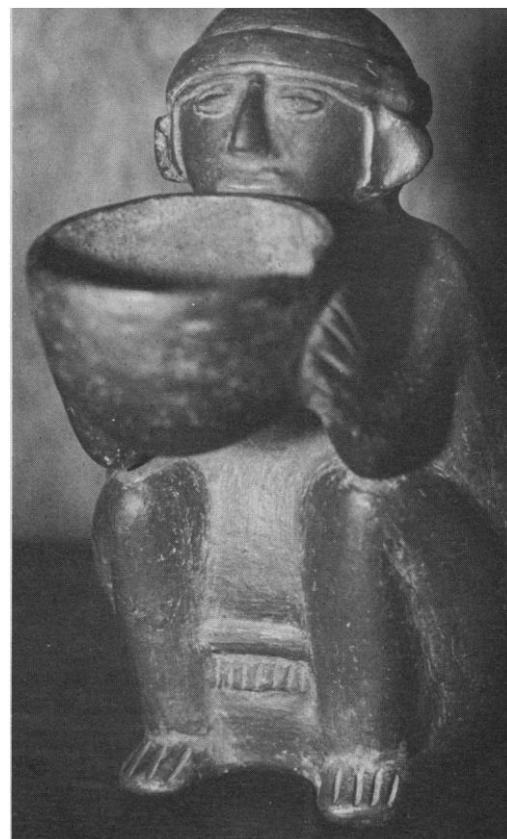
perceived as a crisis in the desecration of Mayan monumental relics from Guatemala and Mexico. In large part, this involved thieves' chopping up and hauling away gigantic, intricately carved stelae, some of them already registered as national monuments. Many of the fragments made their way to American museums. Congress in response passed a law regulating the import of "pre-Columbian monumental or architectural sculpture or murals" which applies to imports from any country in the Western Hemisphere and requires that items must be accompanied by a certificate from the country of origin.

In addition, there are two bilateral agreements. One is a treaty signed with Mexico in 1970 promising cooperation in the repatriation of stolen cultural goods. The other, finally consummated in the wake of the Bernstein case, is a 1981 executive agreement with Peru, which is basically patterned on the Mexican agreement.

These measures reflect a slow change in the climate of opinion, at least in this hemisphere, toward recognition that the acquisitive impulses of museums and collectors must be tempered by respect for the need of nations to preserve their cultural patrimonies.

One of the central figures for advocating these values has been Clemency Coggins, an art historian at Harvard's Peabody Museum. For well over a decade Coggins has been speaking and writing on the subject and has compiled painstaking files on the destruction of pre-Columbian art. According to Karl Meyer, in his landmark 1973 book *The Plundered Past*, Coggins has had major responsibility for compelling museums and collectors to examine the ethics of their activities and has become "the conscience of her calling." Coggins told *Science* that most museums are rallying behind the call for legislation. However, she said that among dealers, who tend to be more interested in the aesthetic than the scholarly value of their acquisitions, the historical attitude still prevails that it is for the public good that antiquities be rescued from decay and oblivion and the indifference of the locals, and brought out for all the world to enjoy.

Indeed, this country as a whole has not yet grown out of a cavalier attitude toward its own antiquities, particularly those from the American Indian past. The United States is the only major country that does not have laws claiming blanket protection of antiquities other than those on public lands. Even state and local laws usually apply only to public lands. No U.S. laws specifically



prohibit export of archeological materials.

But, says Coggins, despite the United States' reputation as the "great depredator" things are better in the Western Hemisphere than in other parts of the world, largely because of U.S. efforts.

The problems posed by the antiquities trade are parallel to those in traffic in endangered species. In both instances, the depredations imposed by encroaching civilization are overwhelming, but the only aspect of the problem susceptible to international legislation has to do with trade. With antiquities as with endangered wildlife, extinction is a real danger—that is, extinction of any anthropological or archeological value of artifacts, which occurs when they are removed from their contexts as well as destruction of the contexts themselves. And as with endangered species, the only way to curb wanton destruction is to dry up the market for the products. Antiquities dealers have a point when they claim that if the United States acts unilaterally, it will only drive the trade elsewhere; thus, just as with the Convention on International Trade in Endangered Species, the only really effective way to make a dent in the problem is for nations to act in concert. But supporters of U.S. legislation believe that the best way to spur other importing nations to act on the Unesco convention is for the largest consumer—the United States—to take the first step.

—CONSTANCE HOLDEN