

# INTERPOL ARGENTINA

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## Introduction

Theft, looting and illicit trafficking of cultural assets are no recent phenomenon. Even at the very dawn of human history, these violent and destructive actions were often implemented all over the world. Such practices negatively affected a wide range of societies, which were unable both temporally and spatially to acquire and transmit this kind of "knowledge."

While primitive peoples did not have a refined conceptual development of social sciences such as psychology and sociology, the rationale for their terrible behaviour may well be explained with the help of these sciences. Indeed, the objects of worship in any society have helped foster cohesion and a sense of belonging.

During invasions, many victorious peoples used to take with them strong men and women as slaves, in addition to looting valuable objects and those worshiped by communities, displaying them as war booty on their own lands. If they could not be removed due to their sizes, they had them demolished.

Theft and looting resulted not only from the invasion of one people to another. Within the same culture, there were unscrupulous inhabitants who seized cultural objects for their material or symbolic value. A notorious example of unlawful action in ancient times can be seen in Egyptian culture, whose architects tried to overcome this problem by building passageways, false doors and traps in order to protect the treasures of the Pharaohs.

Unfortunately, there are still looting and destruction under armed conflicts and theft of art objects within the same city or country in peacetime.

Such is the case of the destruction of the biggest Buddha sculpture in the world, carved into the rock of a mountain 1,500 years ago in Bamian province (Afghanistan). On March 2-4, 2001, the Taliban used anti-aircraft missiles, tanks and dynamite to destroy the 175 feet (53 m) high standing statue of Buddha. Also destroyed was the foot of the colossus, a giant carved rock wall in the 5th century, at a time when Afghanistan was one of the centres of Buddhist civilization, before the introduction of Islam in the region two centuries later. Several countries, including some Muslim, condemned the action and expressed concern over the fact that the destruction of pre-Islamic and Buddhist monuments could unleash "ethnic cleansing" in the area.<sup>1</sup>

This type of harmful behaviour precisely seeks to break the will of the people by destroying cohesion and stripping them of their traditions and customs, and to subject them both materially (freedom of movement, assembly, etc.) and spiritually (freedom of thought) by doing away with the feeling of social unity, leaving on stage only individuals easy to handle and manipulate

## International Criminal Police Organization - INTERPOL

The International Criminal Police Organization - INTERPOL has since 1947 directed its efforts into the fight against

illicit trafficking in cultural property. It is really very difficult to get hard data on the extent of stolen works of art and archaeological objects. As countries fail to provide enough information, it is very unlikely that accurate statistical data will become available at a global level. In many cases, this task is further complicated because the relevant institutions have not inventoried their cultural property.

In 1998, the idea of devising a solution to the problem in conjunction with the Ministry of Culture of Argentina and ICOM (International Council of Museums) came up. Thus, in 2000, a collaboration and information exchange agreement was signed to establish a National Database of stolen goods in our country, because we had never had classified information or statistics on this type of events.

While this information is reserved for law enforcement agencies, it was considered desirable to make it available to all citizens for transparent legal trade in cultural property. The newly developed webpage ([www.interpol.gov.ar](http://www.interpol.gov.ar)) can be accessed without any restriction and holds the first interactive database of the world. Citizens can complete and send forms using the same means as the ones employed to request the seizure of a stolen work. The page also has updated information on the current legal regime, anti-theft tips, and steps to follow if an event of this nature occurs.

This publication is in line with the requirements and recommendations set forth in the UNIDROIT (International Institute for the Unification of Private Law) Convention on the international restitution of stolen or illegally exported objects, which was signed in Rome on 24 June 1995 and ratified by Law 25,257 dated 21 July 2000, and the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which was signed in Paris on 14 November 1970 (16th Session of the General Conference of UNESCO) and was ratified by Law 19,943 of 1973, because Article 4.4 in Law 25,257 indicatively mentions the characteristics of a buyer of an art object to be considered "a buyer in good faith", among other things, he/she should have consulted some database on stolen cultural objects to which he/she can reasonably access to check the history of the piece.

Before the UNIDROIT Convention was adopted and the freely available database was established, many people in Argentina used to buy stolen cultural property without knowing it and without having the opportunity to consult a reliable register. The buyer in good faith took a very high risk since he/she could be cheated and buy a stolen art object, being liable to a civil or criminal action by the rightful owner. He/she will need to return the object and lose the money invested. Currently, a simple operation can significantly reduce the risk of losing the money invested on a deal of this kind.

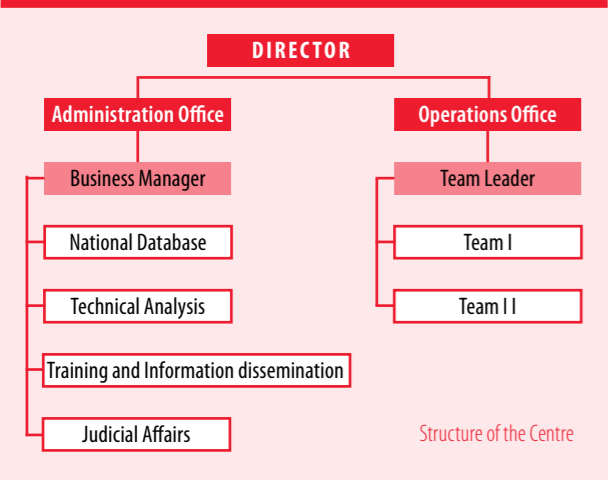
Today we also have a very powerful tool to combat trafficking in and looting of cultural property: rapid and effective transmission of information. The speed of transmission of information is measured taking into account

the time elapsed since the occurrence of the crime until the publication of the order to seize the object, both nationally and internationally. For this process to be successfully completed, the period of time between one event and the other should not exceed 72 hours. Effectiveness refers to the quantity and quality of the data transmitted. There should always be photos and pictures, preferably in colour, as well as measurements, weight of the object, and any description that can be used for identification.

**National Centre for Cultural Heritage Protection-  
INTERPOL - Argentina Department²**

The National Centre for Cultural Heritage Protection was founded in November 2002, after the establishment of the INTERPOL database, to provide an institutional, well-organized response to illicit trafficking in cultural property.

- Its activities consist mainly in:
- Registering all cultural assets stolen in the country;
  - Keeping track of museums, halls and other facilities where objects are exhibited under the category of "Cultural Heritage;"
  - Developing statistical data on the theft and recovery of cultural assets;
  - Submitting orders for seizure of assets reported stolen;
  - Signing agreements with public and private agencies;
  - Informing the community about the tasks performed and the recommendations made to prevent such crimes;
  - Filing the notices issued by ICPO - Interpol on stolen cultural property in member countries;
  - Updating the INTERPOL Department website with regard to the protection of cultural heritage; and
  - Conducting investigations into crimes related to public and private cultural heritage (control over catalogues and webpages for art galleries, auction sites, etc.).



**Cultural property illicit trafficking prevention measures  
Study the phenomenon**

The problem of illicit trafficking in cultural property can be appropriately addressed only if there is thorough knowledge of the circumstances under which crimes against cultural heritage occur. Against this background, the response should necessarily be multidisciplinary, global and well-coordinated.

It should be multidisciplinary because it covers various activities of human knowledge, including archaeologists, palaeontologists, museologists, archivists, historians, librarians, etc., as these crimes are addressed by these disciplines one way or another

It should be global because crimes against cultural property go far beyond national borders. The theft of cultural objects takes place in a country or region and such objects are quickly transferred abroad for sale and/or market positioning. Criminals thus try to avoid judicial intervention. The works of art stolen in our country often appear for sale on auction houses in Europe or the United States, shortly after the occurrence of the crime.

It should be well-coordinated because success depends on joining forces and acting in an articulated and joint manner, involving all disciplines mentioned above, different structures of the State, the Police (national and provincial), General Customs Administration, Ministries or Departments of Culture, cultural institutions, etc.

**Identify stakeholders**  
The first link in the chain of illicit trafficking in archaeological or paleontological objects involves the huaquero. The term comes from the word huaca, which means temple or sacred place in Quechua language. Huaquear is the verb deriving from the noun huaca, which applies to the action of looting archaeological or paleontological sites.

The huaqueros are usually poor people who have extensive knowledge of the places where the sites are located and deliver the objects taken out in exchange for little money. These practices lead to irreparable site damage, making it impossible to generate critical information for the scientific study of sites and objects that are de-contextualized.

The second link involves the gatherers who live in populated areas near the sites and buy the objects from the huaqueros, keeping them in storage until new buyers or third-link stakeholders (traffickers) show up.

Traffickers buy the objects at low prices and take them to urban areas, either within the same country (provincial capitals, federal capital, etc.) or foreign cities (New York, Paris, Madrid, London, Tokyo, etc.). In these cases, the prices skyrocket. The prices paid to the huaqueros are sometimes increased a hundredfold. A piece obtained in exchange for a pair of low-quality canvas shoes could be sold at the best international auction houses for as much as \$ 8,000 to 10,000 dollars.

Finally, the collectors close the circle because they are the end consumers of cultural assets. They are actually the promoters of illicit trafficking. They are unscrupulous dealers who hide their greed and ambition behind an alleged interest in protecting culture, but what their demand causes is precisely its destruction.



The stakeholders involved in the purchase and market positioning of artworks are different from those involved in the looting and trafficking of archaeological objects.

The first link involves the thief who can be occasional or professional. Occasional thieves are those who enter a home for burglary. Once inside, they try to take as many objects as possible, regardless of their quality and market value, including appliances, jewellery and artwork. They are only worried about the period of time they have to commit the crime and the way to get away. Generally, professional thieves conduct a market research and identify in advance the artworks they will take.

This distinction is important for crime investigation and for the possible location and restitution of works to their owners. In the first case, the artworks are usually put on a flea market or second-rate gallery. As time goes by, they are moved to upscale galleries. On the other hand, professional thieves usually have a buyer identified before committing the crime. Otherwise, they keep the stolen pieces for long, until the news about the theft vanishes and they can put them on the market.

Finally, we have the buyers who can act in good or bad faith. This concept set forth in the Civil Code (Law 25.257) is in line with the UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects. Its Article 4.4 establishes "(...) in determining whether the possessor exercised due diligence, regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances."

This distinction is also important because buyers who are considered to have acted in good faith shall be entitled, at the time of restitution, to payment of fair and reasonable compensation (Article 4.1).



**Raise awareness and promote discussion, mainly in  
primary and secondary schools**

There is an imperative need for students in primary and secondary schools to further raise awareness about the value of national cultural objects, the common history that identifies us as an independent State, and the pre-Columbian cultures that developed in our country.

On many occasions, we have noted with sadness that there have been acts of vandalism against historical monuments or archaeological sites, including graffiti or inscriptions of any kind. The damage to our cultural heritage is based on the ignorance of the people who commit these acts; they are not aware of the significance of cultural objects and their meaning.

Therefore, it is necessary to tell the younger generations about the true importance of historical objects and generate, on the basis of knowledge, a sense of belonging to society and respect for the culture that identifies us.

**Train the police, security forces and other State agencies**

All national and provincial police forces should have a unit specializing in illicit trafficking in cultural property. The approach to massively produced goods, such as computers or appliances, should not be the same as to works of art and archaeological or paleontological objects.

The substantial difference between them is that the latter are unique, unrepeatable and irreproducible. They may be copied, but they will never be identical to the original pieces. As a result, this type of crime involves specific behaviours and people who are not interested in large-scale productions.

In this regard, all national police forces and General Customs Administration officials are trained and updated by other state agencies on a regular basis to be able to identify and differentiate between serial and special productions.

For example, the courses organized by the National Institute of Latin American Anthropology and Thinking³ deal with the distinction between archaeological objects and mere handicrafts that are sometimes used by traffickers as their 'modus operandi' to take the former abroad, building upon the similarities between them. Likewise, the Argentinean Bernardino Rivadavia Museum of Natural Sciences⁴ provides training to learn how to differentiate paleontological



objects such as a common mineral fossilized tree trunk and a rock, which seem similar at a glance.

#### **Make inventories and keep cultural property data on optical or magnetic support or paper copies**

The lack of cultural property inventories provides criminals and traffickers with an edge. When a theft of cultural property occurs, whether at a home or a museum, a formal complaint should be made as quickly as possible and an order for seizure should be entered into the national and international database.

When the victim does not have any photograph of the object stolen or a detailed description, the completion of the relevant form is rendered extremely difficult and the possibility of eventually recovering the piece is significantly reduced. An employee of the police or customs with various functions within his/her institution does not necessarily have specific knowledge about cultural property, art history, archaeology, palaeontology or any other discipline related to culture. In this regard, the security employee should have a computer with Internet access and be able to check the database to see whether or not there is any legal impediment in connection with the object through the direct recognition of the photograph and/or description published. Such recognition will not be possible if there is no photo. The illegally obtained asset could thus be easily taken out of national borders and be legally auctioned anywhere in the world without any possibility of recovery.

#### **Disseminate information on the theft of cultural property over the Internet or any other media**

The dissemination of images of stolen objects by States or the existence of a database accessible to all citizens is essential to reduce illicit trafficking in cultural property. These are the most convenient, easiest ways to eliminate one of the most important links in the trafficking chain: sale and/or market positioning.

The ultimate goal of these crimes is to make profits by introducing illegally obtained objects into legal markets. If this goal is achieved, their market value would increase exponentially and people who were not directly involved in such crimes could lose the money they invested.

When a stolen item appears on a database accessible to all citizens, not only Law 25,257 (Article 4.4 on the need for potential buyers to consult a database to check whether or not there is any legal impediment) is enforced, but also more transparency is provided to the art market, with greater legal security for commercial activities.

In this regard, Argentina developed the first database of stolen artworks in the world back in 2002. The General Secretariat of INTERPOL modified the secrecy of the database in August 2009, when it was given a restricted character. At present, any person or institution in the world can consult the international database of INTERPOL. Those interested in it should send their data over the Internet to be given the password. To consult the database of Argentina, visit the website [www.interpol.gov.ar](http://www.interpol.gov.ar).<sup>5</sup>

#### **Disseminate information on the current legal regime**

The Argentinean legislation dates from the early 20th century. On February 26, 1913, the Honourable Congress of the Nation passed Law 9080 to regulate scientific research and protect national sites and objects. Ten years later, on December 29, 1921, the Executive proceeded to amend this law by decree.

Law 17,711 of 1968 introduced a number of amendments into the Civil Code. In connection with archaeological objects, it incorporated some guiding principles. Its new Article 2339 set forth: "Things are public goods of the general State that make up the nation or the individual states that it is composed of, according to the distribution of powers under the National Constitution..." Furthermore, Article 2340 (paragraph 9) included public goods such as "the ruins and archaeological and paleontological sites of scientific interest." This law amended Law 9080 and fundamentally changed public ownership over ruins and archaeological sites. Law 17,711 stipulated that the latter are under national or provincial jurisdiction, according to their location.

Some provinces have ever since issued local archaeological protection laws. It should be noted that some of the provincial constitutions have incorporated provisions on the study and preservation of cultural heritage.

The National State retains jurisdiction over the areas sold or assigned by the provinces and/or declared "utility establishments in the territory of the Republic." Such jurisdiction, in accordance with Article 75, paragraph 30 of the National Constitution, is concurrent with the powers of local governments, whether provincial or municipal, which retain police and imposition powers over these places, as long as they do not interfere with the purpose of these establishments.

#### **Address other forms of recovery**


##### **The victim recognizes the stolen cultural object**

When the victim of the theft was unable to properly file a report to the police or judicial authorities, either because he/she had no inventory of the work which could provide information for correct identification, such as description, weight, measurements or a picture of the object, it is impossible for police or customs authorities to identify it. It will only be identified by the victim when he/she visits an art gallery or similar facility and comes across with the piece, because only the victim has the object image engraved on his/her memory.

##### **A third party recognizes the stolen cultural object**

A person recognizes or suspects that a piece of historical or cultural value is being or has been sold illegally. This is usually the case of cultural assets of the Church, which are not always inventoried. When they are stolen, no reports are filed and they can be recovered only if they are identified by parishioners.

##### **The stolen cultural object is abandoned**

This happens when the significance of the news and the indignation of society put so much pressure on the perpetrators that they try to get rid of the object not to be caught. An example of it is "Youth", a marble sculpture by José Belloni. It was stolen from a Palermo square 48 hours after having been installed. It was found at a dump in Villa Luro two days afterwards (in March 1997). Another example is "The Hands," a small-sized sculpture by Rodin, which was stolen from the National Museum of Fine Arts in Buenos Aires and was abandoned at a business establishment near Retiro neighbourhood. 

#### **Notes**

<sup>1</sup>Islamabad, Pakistan, ANSA, AFP and AP, March 2001. <http://www.pagina12.com.ar/2001/01-05/01-05-22/pag22.htm>. <http://www.lanacion.com.ar/55765-confirman-la-destruccion-de-los-budas>.

<sup>2</sup>The National Center for Cultural Heritage Protection, INTERPOL - Argentina Department, Argentinean Federal Police is located at No. 3350 Cavia Street, 2nd Floor, Autonomous City of Buenos Aires, P.O. Box 1425. Phone (011) 4346-5750 and fax (011) 4346-5752. [patrimonio-cultural@interpol.gov.ar](mailto:patrimonio-cultural@interpol.gov.ar). [www.interpol.gov.ar](http://www.interpol.gov.ar)

<sup>3</sup><http://www.inapl.gov.ar/inicio.htm>

<sup>4</sup>[http://www.magn.secyt.gov.ar/cont\\_Gral/home.php](http://www.magn.secyt.gov.ar/cont_Gral/home.php)

<sup>5</sup>Once in "Programas," enter link "Patrimonio Cultural" to have access to 13 sections: (1) Legislación, (2) Instrucciones en caso de robo, (3) Formularios, (4) Casos recientes, (5) Prohibición de contratar, (6) Publicaciones de robo, (7) Obras recuperadas, (8) Objetos recuperados sin identificar (9) Casos significativos, (10) Personas buscadas, (11) Libros antiguos y contemporáneos, (12) Secretaría de Cultura de la Nación, and (13) Base Internacional de Obras de Arte Robadas.