

THE TRADE IN ART: WHERE CULTURAL PROPERTY GOES

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ELIA: Since I'm an archaeologist, I want to convey the archaeological concerns and interests as they relate to the antiquities trade.

We had some good discussions yesterday. But some of the things that were discussed were interesting, if not surprising. For instance, we learned that looting wasn't a big problem after all. We even heard one speaker say that the looting of Etruscan tombs was probably a good thing, because the looters found things that the archaeologists missed. That perspective is valid if you value only the beautiful objects that come out of such tombs, and you disregard the archaeological, historical and cultural information that was in the tomb, which was destroyed. The perspective also gets it wrong because it's the archaeologists who are chasing the looters. The looters usually get there first. The archaeologists usually clean up the bits and pieces that were left.

We also heard that many countries are not taking care of their own cultural patrimony.

We have a four-tiered system in this issue, where archaeologists are saying, "Everything's looted," and dealers, collectors and museum folks are saying, "It's not that bad, it's mostly old-collection material and accidental finds."

I thought it appropriate to talk about a particular class of antiquities [referring to slides]. These South Italian Greek vases are known as red-figure vases. They have been very popular in the last 25-30 years. And in precisely the same period, the area of Italy that produces these antiquities has been heavily hit by looting.

This region of South Italy, because of the Greek colonies that were there, produced a series of Greek figured vases that have become the object of study or collection. The region, Apulia, is about the size of New Jersey.

It's an interesting area. There's a fair amount of information on where things are, and that allows us to characterize the market in some quantifiable way. The vases have been collected, like a lot of Greek art, for well over 200 years. They were initially of interest in the late 18th century, and collected readily in the early 1800s. But soon after the discovery and rifling of tombs in the Etruscan areas, which produced Attic or Athenian figured vases, interest in the red-figured vases of Apulian South Italy diminished, because it was the Attic vase that became the paragon for excellence in this field. In fact, John Boardman referred to Apulian vases as generally "large and grotesquely overornamented vases, shapes that seem to our eyes almost a parody of classical forms." A. D. Trendall, one of the chief scholars of Apulian vases, referred to them as provincial and even having a barbaric quality. This was in the early days of study.

Around the 1970s and increasing in the 1980s, the looting of sites in South Italy occurred at an explosive rate. And the market is flooded with Apulian vases. That helps contribute to a changing aesthetic for Apulian and

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South Italian vases, and they start to be appreciated as beautiful in their own right. In a sense, that's market-driven.

In the late '60s and early '70s, you could get a decent Apulian red-figure vase for \$40 or \$50 on the market, and now the large ones go for \$20,000 or \$30,000, and the highest price I've seen paid is \$110,000.

It's basically an issue of the Etruscan cemeteries being played out by the late '60s and early '70s, and attention now drawing to these vast, unexploited cemeteries in Apulia. The evidence is well-documented by Italian authorities and Italian archaeologists that looting of South Italian sites reached crisis proportions in about 1970, started really picking up, and by 1980 simply exploded. The evidence is there in the thousands of holes and looted sites all over the Apulian landscape.

The Italian police report in the last five-year period, they've seized over 26,000 artifacts from clandestine excavations in Apulia alone, and that's 21 percent of all recoveries from Italy's 20 regions combined.

The scale of looting is well-documented and undeniable. I chose Apulian red-figured vases, of which there are more than 20,000 examples known, because a couple of art historians, A.D. Trendall and Alexander Cambitoglou, have spent over 60 years documenting these pots all over the world. They have amassed lists and classifications of every Apulian vase known to them from museums, private collections and market sources. It's an incredible list of pots. They've categorized the material in a way where you can identify individual workshops and painters. How many of these things exist in the world? The answer is, according to their figures, 13,718. Of that number 40 percent are in Italy but 60 percent are no longer in Italy. How many looted archaeological tombs does this represent? A commoner grave might have one

Apulian vase every 10 or 15 tombs. You've got to loot a lot of tombs to get a vase that you could put on the market. And many of those are small and undistinguished vases. On the other hand, elite tombs, tombs of more wealthy people, may contain a larger number of Apulian vases. The rarest—and there are only a few of these that are known—have produced perhaps 10, 15 or maybe 20 in each tomb chamber.

When a tomb is archaeologically excavated, you can see the recording of all of the associations, the information, all of the pots, where they were found, in an archaeologically precise way. One excavation, one of the few archaeological excavations of the Apulian graves, revealed a lot of interesting information about



(Left) Lecce Painter, *Lekythos* Ca. 375-350 B.C. Rogers Fund, 1913 (The Metropolitan Museum of Art.) (Right) Painter of Louvre MNB 1148 *Red-Figure Loutrophoros* Late 4th century B.C., (J. Paul Getty Museum.)

the identity of the individuals, the culture, the burial practices. You could also see the preservation of the organic material and the placement of the various grave goods because of the careful recording evidence.

Most of the archaeological information will be destroyed and lost forever if a grave is looted. Some of the local material may end up in local private collections in Italy. But surely, thousands and maybe tens of thousands of graves in this region have been looted to provide the Apulian red-figured vases—over 13,000—that we can document.

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The consequence of non-archaeological recovery is holes in the ground. It’s not a loss of context; it’s a destruction of context. That should be very clearly understood. Pieces that are not desirable, human remains certainly, and all the associated information is destroyed, often willfully, and left behind by the looters, so that the pretty pots can make their way to the market.

How many of these things have been found archaeologically, and how many not? Out of the 13,718? A looter or dealer’s provenance—it’s essentially hearsay evidence, and it’s unverifiable, so it’s essentially useless. That leaves 5 percent of the total that have been recovered and documented archaeologically. Ninety-five percent of the total corpus of Apulian red-figured vases have been recovered without archaeological information. And every single one of those that have been recovered archaeologically come from Italy. That might be an interesting point of legal consequence, if you think about it.

But there’s other information embedded in these catalogs. Because these scholars published in a series, they did their first major publication that carried them up to the end of 1979. Between 1980 and 1993, they published supplements of new vases that have come to their attention since that time. They have spent 60 years recording every single vase they could find. As of the end of 1979, they had recorded 9,423 vases. Seventy-four percent of them are in museums. That indicates everything they’ve recorded from over 200 years of collecting. So it makes sense; vases have made their way into museums generally.

I’ve found that the vases on the market are essentially dominated by Sotheby’s and Christie’s, so I did a catalog of Sotheby’s antiquities catalogs for all south Italian pottery from 1965 on. It amounts to over 6,000 vases. It’s a remarkable figure. I think you can see here, decade by decade, the confirmation

of the archaeological pattern, that the looting is really picking up the undocumented material. Not a single one of the vases from Sotheby’s had any find-spot information whatsoever. So you might say dealers and collectors and museums who acquire antiquities don’t care where things come from. It’s no wonder that forgeries are a major problem. They allow the corruption of their own field, because they can’t tell where things come from, so forgeries enter the stream of commerce readily.

LOWRY: I want to raise a number of issues and concerns from the perspective of someone working in a museum, particularly the Museum of Modern Art. Let me begin with what I think is a simple truth: that all cultural property starts out, at some point, as contemporary art—that is, it was made in the present. And over time, I think one has to define what one means by the change in status from a work of art to a work of cultural property. The definitions involved with cultural property I find very complicated. Here, I mean objects. I’m not talking about works of architecture. I’m talking about objects—a vase, a painting, a work of sculpture, not something that is meant to be part of a whole ensemble of architecture—objects that start out as works of art.

The question is from an ontological perspective, for those of us who deal with museums—is not so much, “What is a work of cultural property?” but, “When is it a work of cultural property?” This gets back to an argument that Nelson Goodman made awhile back about works of art. The question he posed is not, “What is a work of art?” but, “When is an object a work of art?” The example he cited was a stone in a driveway. Clearly when it’s in the driveway, it’s not a work of art. When its context is shifted—maybe it’s used by an artist for an installation in a museum—it becomes a work of art.

This is an important point because context often activates a work of art, and museums have become one of the principal venues for looking at art. An example is the case of Duchamp's "Readymades": they were just found objects until Duchamp chose, consciously, to shift their context and thus their meaning. And most of those have ended up in museums, where they retain their meaning not as a found object but rather as a work of art made from a found object.

I say this because, particularly from the perspective of a museum of contemporary or modern art, one has to deal specifically with the issue of cultural property. We look at works of art. We're in the business of studying, acquiring and displaying art. And I think there's a distinction that needs to be fleshed out between cultural property as cultural property and works of art that have become cultural property, and the different modes of governance that need to be put into play when discussing both of these issues. There's a continuum between the creation of an object from its idea, from its concept, to its realization as physical form, to its recognition as a work of art, and to its subsequent definition as cultural property. When and where these transactions occur are of critical importance.

To come back to the specific issue of museums and cultural property, museums operate by having objects. And they acquire those objects by purchase and by gift. But in either event, their goal is to acquire the finest possible objects that they can. We recognize that our greatest museums are those museums that have built the most substantial and significant collections while operating within the boundaries of the law. But the role of the museum is not simply to preserve artifacts. The role—certainly the role of the art museum—is also to make as many discriminating choices as possible to ensure that the finest works are assembled for the public.

Our museums hold artwork in the public trust, thus making them accessible. So the looted object that Professor Elia refers to whose context may be eviscerated by looting, acquires a different context and a different meaning when it ends up in a museum, even when its archaeological meaning has shifted or disappeared. And that's another debate surely to be had.

I mention these points simply to provoke a conversation. I think they can be fleshed out. I'll conclude with a quote from Kenneth Clark, art historian and museum director. He observed: "The fact is that works of art are like wealth. They move about from one part of the world to another. And at first, it seems very shocking. But after they have been in the possession of one place or one person for long enough, the situation becomes respectable, and people are scandalized when they are again moved."

And I think that dimension of the reality of objects—that they move around, that even museums are not necessarily the final resting place for works of art—is a very important aspect of an object's history, and has a very direct bearing on how we understand cultural property.

MOULOPOULOS: I will explain what Sotheby's does, because there is often a lot of misinformation and confusion about the role that we play and what we do.

We are primarily an auctioneer, with main sales locations in New York and London. As an auctioneer, we act as an agent for the owner. We would have someone such as a Mr. Lowry saying, "I would like to sell this cup," and we act as a marketing agent and a sales agent for him, much in the same way that a real-estate broker acts. We don't buy the cup from him. We act as his agent and many of the selling decisions then rest with our principal consigner.

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We engage in a very predictable sales process. Every day, the same types of objects are sold. In May, Impressionist contemporary pictures are sold, in June, antiquities, so we have a very predictable and well-publicized schedule. And for those people who are interested, there’s not a lot of guesswork about what we do.

Approximately three to four weeks before the actual sale date, which is publicized for several months or as early as we can, a catalog is published. The catalogs generally contain a photograph and a description of the property and our pre-sale estimate. Then, three to four days before the actual sale, there is a public exhibition, where the pieces are available for inspection for authenticity reasons by scholars, by curators, by government agents. We often have people from different embassies come in out of concern about what we’re selling. We’ve had Native American groups come in to examine what we’re selling. Obviously, it’s primarily a marketing tool, but it has a secondary function of allowing people to inform themselves about what is coming onto the market.

After the sale, we publicize sale prices, and generally 35 days after the sale, we give Mr. Lowry \$5 for the cup that he consigned to us. So there’s a six-to-eight-week period within each of our sales where there’s an opportunity for dialogue about the object, for investigation, research, and if need be, withdrawal from the sale (which happens quite often), or retaining of the sale proceeds to resolve any kind of a title dispute, authenticity issue, or any other kind of issues that arise.

The Art Loss Register, which is a registry of lost and stolen works of art, gets copies of every single one of our catalogs, scans them in, matches images to find any lost or stolen works of art. We also send the catalogs to embassies, to law enforcement agencies, to major museums around the world and to major collectors around the world. It’s part of what we would call our “rough vetting

process” of trying to ascertain if there’s any authenticity issue. If a scholar is more familiar with an artist or an object, we would hope she would come forward and raise her concerns with us. We can also ascertain if there is any kind of dispute, from a bankrupt person who is trying to secretly sell his works of art, to a country or a museum making a claim. Eventually, if there is a lost or stolen work of art, if it works its way up to the auction process, it’s what publicizes the work and it gives an opportunity to recapture the work or at least to begin a dialogue about recovery.

I couldn’t resist the opportunity as a lawyer to give a legal context that touches briefly on some of the issues that were about the American perspective, which is the context in which we work. We are an American company, publicly traded on the New York Stock Exchange. And we are struggling in a very international, very complex environment.

We have the American point of view, which tends to favor private ownership and private transfer of works of art. We are one of three countries that I have been able to find in the world that does not have export control restrictions. This is a fundamental difference from most of the other countries in the world. For example, you can find—as somebody did—a Declaration of Independence at a flea market that was all wrapped up. Nobody knew what it was. And that gentleman could have very easily, if he had chosen—even if it was the last surviving copy of the Declaration of Independence—he could have burned it, exported it to Japan or just kept it in his basement.

This is a dramatic difference than most of the other countries in the world, in which if you find something that could be deemed a national treasure, you have an obligation to report it to the government. The government may have the obligation to confiscate it from you, or the country may have the authority to

preclude you from exporting it. So this is a clash of cultures that we are trying to find a middle ground and work within effectively.

So to deal with these complexities, Sotheby's has embarked in the last few years on a fairly aggressive program, which we believe is a leader in the commercial art community, to try to deal with the issues. We have sales locations at thirty-some locations around the world. We sell in Taipei, Sydney, Melbourne, Hong Kong, Geneva, Amsterdam, all over the world. So we are constantly facing head-on international issues and the clash of cultures.

To try to help address those issues, we have set up a compliance department—I am the director of compliance worldwide for Sotheby's. And one of our primary missions is to educate employees worldwide about this complex area, to make sure that our employees are sensitive to heritage laws, to export and import laws. And to do that, we've had to educate ourselves, and in the last two years, we have established a database that includes 40 or 50 countries around the world in which we've been in contact. And it includes a database of what their export control laws are, so that we can quickly respond to clients' inquiries and our own concerns about whether we should or shouldn't sell something. For example, we sell many wonderful paintings that come from Mexico. But there are certain artists that may not be exported. So if we have a client, or we see property that is in Mexico, even if it shows up miraculously in New York, like a Diego Rivera, we simply won't sell it because we know it couldn't have been taken out legally.

We've expanded the legal department worldwide to double its size within the last 10 years, to deal with the different legal concerns and treaties that have emerged. And we've engaged in a fairly massive worldwide training program, where people are constantly being trained or audited.

We don't pretend to have the answers—but I think that we have engaged in an active process to educate our employees, and to the extent that we can, our clients, about export/import concerns and trying to work in an international environment that is highly volatile, highly emotional. We're trying to stay at least apace, if not almost apace, with that, and protect the integrity of objects at the center.

STIEBEL: I am an art dealer. Rosenberg and Stiebel was started in Germany by my great-great grandfather, I. Rosenbaum, dealing in medieval and Renaissance objets d'art, continental porcelain, and at the turn of the century they added Old Master paintings. In the 1920s, my uncle left for Paris to deal in French 18th century decorative arts as well.

In 1939, having established entities in Amsterdam, Paris and London, my father established Rosenberg and Stiebel in New York. What did he do for the first years of the war? He helped get people out of Europe. German Jews were interned in England and France as enemy aliens, so he had to get visas for them to come to the United States via Uruguay, Mexico and Canada.

After the war, we aided refugees and people still in Europe who were art-rich and cash-poor. They needed funds. We were very proud to be able to acquire these works of art and sell them to American museums that badly needed them and badly wanted them. All these things were positive in the '40s, '50s and late '60s as well.

Coming from a German-Jewish background, having been president of the International Confederation of Art Dealers, participating on a committee for the Trade at the Council of Europe, having a presidential appointment to the Cultural Property Advisory Committee, which comes out of the UNESCO Convention enabling legislation, I have a broad perspective on what Steven Vincent at

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Art and Auction called “the war on collecting.” Included on Mr. Vincent’s list of issues that a collector must cope with today is the Endangered Species Act, which doesn’t allow us to use ivory or tortoise shell to repair 18th century works of art, *droit de suite* (artist royalties), NAGPRA, the UNIDROIT convention, directives of the European Union, the Council of Europe, Patrimoine (which includes import/export laws and all of the archeological issues you’ve been hearing about) and more recently, the issue of Nazi war loot.

Having said that, there have been egregious thefts from museums and churches. There are legitimate Nazi war loot cases. There are unrecognized poor artists. Too many elephants have been slaughtered in order to make bracelets to sell in department stores. And I don’t believe the United States should sell the original Declaration of Independence in Washington. But we must seek a meeting ground, where the other side accepts that the desire to create art has existed since the cave-man, and the desire to collect it began not too long afterwards. And this desire to collect it is not going to disappear.

The cultural minister of Guatemala was quoted a year ago in *The New York Times*, “We need to destroy the market.” Many believe this attitude discourages collecting and stops looting. But this attitude drives the effort underground, and you might as well just try to stop people from drinking by legislating against it. And that’s been tried already.

There was a recent exhibition of Mayan art in Venice, which was borrowed from Guatemala, Mexico and other countries. The Guatemalan government said that they hoped this would attract many visitors and make people want to visit Guatemala, but that they hoped nobody would wish to collect the art. It is like luring tourists to Hershey, Pennsylvania, taking them on a tour of the chocolate factory, letting them smell the aroma, but saying, “You must

never taste any.” From another point of view, it is just because we have all tasted chocolate that we wish to make the pilgrimage to Hershey, Pennsylvania.

On a family trip to the Grand Canyon, we fell in love with Hopi Indian art. A couple of years later we decided we wanted to visit the Hopi reservation and find out about the people who made these objects. We went to a gallery, and my son acquired a Kachina.

Kachinas are carved-wood representations of the intermediary between God and man, like a saint in Christianity. At the Native American dances, leaders of the tribe would play the parts of the Kachinas, like a father playing the role of Santa Claus. It is very important to the Native Americans that the children, before they are initiated, not know that these are humans but believe that they are representations of the gods. Meanwhile, at the age of 11 or 12, my son made his first investment of 10 shares in Marvel Comics. We then learned on our trip to Santa Fe that Marvel had done an issue with Kachinas in it.

Therefore we went to the one store in Santa Fe that had the comic book and found that this comic had portrayed the Kachina as a crazed killer. Worse, from the Native American point of view, as a human being. When we got back to the reservation this time, we were not allowed into the dances. The Native Americans, quite rightly, were furious about the comic. This was a comic book bought by the children, and they would see this. It was a total breakdown of their beliefs, an exposure. This was a great lesson for our son. Here, investing—the American way—was in conflict with his love of the Kachinas and the Native Americans. Getting to know the people on the reservation and learning a respect for their ways, has also taught us that we do not collect religious objects, we don’t collect masks that they use in the dances. But there were always objects

made for trade, and these are works of art that we feel we have a right to collect.

Works of art are cultural ambassadors, leading to communication and understanding of other cultures. It is important that this be allowed to continue.

MELIKIAN: We have heard that the museums today are the most public venues for looking at art. In Washington, perhaps. In China, Japan, India, certainly not. In the living cultures, the temples, the shrines, the mosques, the synagogues are the places where art is looked at, even though it is not necessarily called “art” in the mind of the man who looks at it.

A question: How many export licenses do you assume there are in the Metropolitan Museum, the Louvre, the British Museum, the Frier Gallery of Art, for objects from countries of looting? I’ll give you the answer. Zilch. Not one. Not one museum was able to produce for me one export license that had been signed by the countries of looting.

Now, there are many reasons for this. One is that the level of looting in the old days was much lower than it is today. It hadn’t developed into the massive industry that it has developed into, largely because of the progress of technology. The invention of metal detectors has been one of the greatest agents of destruction of buried art. The use of high explosives, which have been used massively in Anatolia, in Iran, in Afghanistan, in Pakistan, and more recently in Cambodia, has again stepped up the level of looting to a disastrous degree.

These are issues that should be borne in mind by those who advocate collecting—and those include myself. I am deeply attached to the idea of collecting, because I believe it is not just a question of personally owning an object, but sadly, a certain form of knowledge of art cannot be acquired other than in the presence of the art at a moment of your own choosing.

It is not the question of ownership, of property that is important. It is that you cannot contemplate in a museum. We have all been expressing our admiration of what museums do, and I am at first convinced that they should exist.

At the same time, after having spent 44 years of my life living with objects, I am equally deeply convinced that you cannot seek art at a museum because you have three other objects at the same time on that same shelf. It is as if you had forced someone who loved music to listen to all the fugues of Bach in a row.

STIEBEL: I would like to mention my abhorrence of statistics that are so often quoted. I’m sure that everything that Souren said was absolutely correct, but mentioning that there are no export certificates in museums, let me tell you that every work of art over a certain value that we export from England and France is applied for with an export license. We have never, ever been forwarded a single export license, physically, that we have in our gallery. They are all kept by the shippers, in their hands. So the fact that there is no export license in the museum does not prove your point, though your point may be 100 percent valid.

MELIKIAN: Every curator I spoke to was unable to say, “Yes, we saw a signed license authorizing the export.”

STIEBEL: I am saying that even if it existed, they wouldn’t see it.

AUDIENCE MEMBER [addressed to Mouloupoulos]: If you are trying to encourage awareness about the international art trade, why are you accepting for sale so many unprovenanced objects from central America in the pre-Columbian sects?

MOULOPOULOS: I guess there’s a two-part answer. “Unprovenanced” tends to mean

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in journalistic circles and in popular circles a stolen and nefarious history to an object. Our primary function is, quite honestly, marketing and sales of works of art. And the fact that a Mayan pot was acquired by a little old lady in Toledo, Ohio on her honeymoon in 1940 isn’t particularly interesting to the sale of that work of art.

Many of these works of art don’t have a very interesting provenance. Many of them are multiples. Many of our clients are dealers, and we don’t think that it helps to put down the name of the dealer that is selling to us—they often don’t want their names used. Many of the sellers don’t want their names used for a variety of confidentiality reasons, not the least of which is often that they don’t want to advertise the fact that they are collectors. They don’t want the IRS hounding them. They don’t want thieves or burglars hounding them. They don’t want solicitations from insurance companies or auction houses that are looking for business. There are a lot of legitimate reasons that people don’t want to disclose the history of a work of art.

I think you will probably find that the unique important objects do tend to have a published provenance. There is usually something that we can say about the provenance in the catalog. You will see in our contemporary works of art sales, the majority of those have no provenance, not because they are stolen works of art but because people simply, historically, don’t prefer to disclose what they are collecting, if they’re selling because they are having financial difficulties, if they are selling because of a divorce, if they are selling because of a bankruptcy.

What the public doesn’t see—and this is what Sotheby’s is actively engaged in—is that there is not a catalog of pre-Columbian antiquities where we don’t have a lawyer or a business director sit down and research each of the sellers and the sources of each one of those objects.

We satisfy ourselves from a legal and moral basis so that we’re comfortable selling them.

GREY GOWRIE: I wanted to reinforce the pleas for freedom that were coming from Ms. Mouloupoulos and Mr. Stiebel. I’ve been a poacher and a gatekeeper. I was the Minister of Culture of Britain, and I was also the European chairman of Sotheby’s for seven years. During my period at Sotheby’s, we didn’t have a compliance officer. That’s a great step forward, and there have been some scandals and issues connected with the antiquities trade that have driven Sotheby’s to that position. This kind of pressure has been a good thing.

But if the pendulum swings too far, I will make a prediction, which is current UNIDROIT and EU legislation will create, in the first quarter of the next millennium, the greatest black market in art that has probably ever existed.

MOULOPOULOS: I want to respond to the statistics raised by Professor Elia about the archaeological destruction that was taking place back in Italy in the 1970s, and link it back to what Dr. McIntosh said, that we’ve all been to these conferences, and heard the same issue of, “If there weren’t an art market, there wouldn’t be looting.” And what we desperately hope to see is an advancement away from the archaeologists saying that we’re the fault of their problems, and us saying, “Well, there really isn’t any looting and there’s not a problem at all,” which is a conversation that gets nowhere.

The questions I would rather ask are: If throughout the ’70s this rampant looting was happening, what was the Italian government doing domestically? What kinds of laws were there to protect the sites? What kind of training was there in the domestic police forces to help them better ascertain what was going on? Where were the archaeologists? Where was

funding? If there were that many digs for that many looters, I would like to see an equal amount of legitimate digs...

MELIKIAN: The laws exist in Italy. They are simply not consulted. They are ignored.

MOULOPOULOS: I accept that. But isn't there a responsibility of the Italian police force or the Italians to seek international support? We're all links in a chain. And the auction market has obligations to ask questions, to train, to try to do what it can. We have our obligations. But the source countries have obligations to satisfy, and there's never a question of "Where was Italy in all this? How can we help Italy to address domestic looting?"

ELIA: Perhaps this is an indication that Sotheby's would be willing to finance more archaeological expeditions in Italy. Don't discount the countries of origin. It's easy to blame the victims—and they are the victims. But they are trying to do things.

In the Italian case, to my knowledge, the local authorities and the "art squad" have made serious and strenuous efforts, especially in the 1980s and onward, to do something about this problem. But we're talking about vast areas that are open and not protected. It's impossible to protect them. You can't do it in the United States, with the resources that we have. And so we can't expect these victim countries, if you will, to do all of the work themselves. We've got to help stop the demand for antiquities.

LOWRY: My point has two parts. One is to respond to the distinction between east and west. There is indeed a very valid distinction between different roles that museums play in different parts of the world. I would argue that in the case of modern art, museums remain the principal venue, East or West, where one encounters that. And one has to be very specific about the types of art that one

discusses. We tend to lump everything together and treat it homogeneously.

The relatively free flow of art has meant a broad engagement and sustained awareness of different cultures—certainly true in Europe and the United States, as well as in parts of Asia. The isolated exhibition designed to promote an individual country's national identity will never be able to provide the sustained and enduring awareness of that nation that comes when the objects of that nation, as cultural ambassadors, reside within collections, public and private. This free flow of works from country to country ultimately means a broader knowledge.

For example, American art of the mid-century, which in fact has been collected very aggressively in Europe, in Germany and in France in particular, has resulted in a much deeper engagement and awareness of American culture abroad, in the same way that the vast collections of French Impressionist paintings that have come to the United States have not diminished French patrimony or diluted French cultural identity. But they certainly have heightened American awareness of this segment of French culture.

Conversely, the international scarcity of Scandinavian painting, which periodically appears in American exhibitions but is rarely collected because of a scarcity of great objects and very restrictive export laws, has meant that a very important tradition is by and large invisible, not just in the United States but in many parts of Europe. Relatively free flow of art is not simply about commerce. It's also about sharing cultural values.

MOULOPOULOS: People are motivated by money. There's no doubt the looters are motivated by money. And having an absolute ban is just causing them to operate outside of the system. Couldn't one think more creatively about having a domestic law, that if you find an Etruscan tomb, you get some sort of bene-

"Current UNIDROIT and EU legislation will create, in the first quarter of the next millennium, the greatest black market in art that has probably ever existed."

fit from the Italians, whether it's a tax benefit or a pension benefit, so that there is an incentive for them to come to an archaeologist? Rather than have a ban, say, "People are going to look for this stuff, and they will find it. Let's try to create a system in which they are rewarded for that and not penalized for it."

MELIKIAN: That issue has been much debated, the point has been raised in many countries in a great many forms.

AUDIENCE MEMBER: Italy does actually have laws that say what will happen if you find things, who you can report them to and what compensation you can get for them. They exist. They are just not easily enforceable, nor remunerative enough for people to want to do it.

I think one of the big issues here is that art as objects with regard to the past does not really work as a comparison. Because many of the things that we talk about deal with a complex of buildings and objects and ideas that were meant to go together and were never made to be sold as art. They're not like an Impressionist painting at all. They were used much more in the sense of the Islamic mosque that we were talking about, with an understanding of the people that use it every day. And in many countries, that's still what they are. Being able to see something, not just in a museum, but at its site and in its original context, is what makes us understand other cultures better. And if we break them down, our understanding is lost; the whole purpose of this is lost.

MELIKIAN: We are all considering very different cases. There are the archaeological remains of a building. There are the reversion tiles ripped off a mosque or a mausoleum, which are different things. And then there is art that is looked at in a royal palace or in a gallery or in a museum.

MOULOPOULOS: But if you're talking about protecting a cultural patrimony, a non-renewable resource—not another painting that can be made, not something else that can be commissioned—then the rules that apply to it, and the way we go about trying to protect it (either helping countries to protect their own things or making it possible to have loans between different countries or respecting the wishes of the people who live with their own past) need to be everybody's responsibility.

GEORGE ORTIZ (Art Collector): If we want understanding, we must simplify matters. Make the difference between movable and immovable. We must not accept that anything immovable—a mosque, a monument—be destroyed or damaged or pillaged, or sculptures, tiles from it, et cetera. I agree. We must differentiate between movable and immovable, which UNIDROIT does not do.

Further, we must define "stolen." Are we going to accept that every source country that says its stuff in the ground is theirs, and is therefore stolen, and if taken out illicitly is also stolen—therefore stolen on two counts? And then do we apply the laws of the countries where the art has been stolen? Is that practical?

And thirdly, we must differentiate between natural resources and human resources.

Mr. Elia, I'm a collector and a humanist. I dared in my catalog at the Royal Academy to give as many provenances as I could, and when I couldn't give them because I didn't have them, I said, "provenance unknown." And I was hit for this, for having the courage to face it.

In addition, when you say that collectors don't care about provenances, I do everything to find out. I desperately care. But because of the laws, UNIDROIT, I can't say how I got the

necktie around my neck, because you're going to say, "It's mine, I want it back!" So how can one say, in view of the laws of source countries, where something comes from?

ELIA: My point is that the collectors and the dealers who are collecting antiquities are doing so without concern for archaeological provenance. And most of the objects that have come out in the last 20 or 30 years simply do not have any provenance. This applies to antiquities of all different types and areas. You may ask about provenance, where it comes from, and a dealer may say, "It comes from Olympia." That's not what I'm talking about. I'm talking about archaeological find-spot information. The fact is, in a survey of 20 or 30 major antiquities collections of all different types, the figures run about 85 to 90 percent unprovenanced.

LOWRY: But you should not assume that means the collectors and curators involved don't care about it. It may be that it's unascertainable.

ELIA: When I say they don't care, I mean it's not enough to stop them from acquiring them.

MELIKIAN: You're talking about two separate issues. Professor Elia is pointing out that the provenance stated in the trade is simply unusable as evidence when you discuss an art or historical object. It doesn't mean that either the collector or the museum is not interested. They are interested. But the value of that is extremely limited. And leaving aside the question of documentation, there is the massive history of destruction of objects that goes with unofficially excavated objects.

ELLEN LIKORKA: I come from the Greek Ministry of Culture. Ms. Mouloupoulos, when an object appears in your catalog that has come out of a country—illicitly or not—then the country to acquire it back has to pay for it. The country of origin, in order to reacquire its object, has to pay for it.

MOULOPOULOUS: Unless the seller is willing to donate it. It happens every year.

LIKORKA: I think that is rather odd.

MELIKIAN: The problem with recuperating objects that have been proven to be stolen is one of the most difficult issues that exist in law.

I'll give you an example which involved a wooden funerary effigy that was stolen from an English church. An effigy made around 1410 was stolen by people who broke into the church. They took it to an antiques dealer in Antwerp. It was sold in Antwerp by a man who probably was not aware that it had been stolen, because that kind of theft doesn't get broadcast worldwide.

I was made aware of that theft recently, and I wrote a piece about it in the *Herald Tribune*. Even that did not help the church to get it back. In the end, they had to get money from donors and recover it at an absolutely astronomical cost, which is completely unfair. In fact, I should mention that a number of museums make sure that they buy something that has gone through a sufficient number of hands, for it to be legally unprovable as a stolen object. So the question is not just, "Has it been stolen or not?" The question is much broader.

"The problem with recuperating objects that have been proven to be stolen is one of the most difficult issues that exist in law."