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“Consensual relations? Academic involvement in the illegal trade in ancient manuscripts.”

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Consensual Relations? Academic Involvement in the Illegal Trade in Ancient Manuscripts

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INTRODUCTION

OVER THE PAST two decades, a large number of previously unseen ancient manuscripts and other inscribed objects have appeared on the international market. Although this material is often characterised as unprovenanced, the modern country of origin of a manuscript can usually be deduced from the physical nature of the document and the style, language, and content of its text. Thus it is known that most are from Iraq or Afghanistan, although some, most famously the Gospel of Judas, are from other countries (in the Gospel's case, Egypt). They have usually been excavated and exported in contravention of national laws. The academic response to these manuscripts is divided. Some scholars view them as a legitimate resource for historical research. Others feel that their historical value is reduced and perhaps compromised by the loss of archaeological context entailed by the destructive manner of their excavation, and fear that the acquisition and publication of such manuscripts might encourage further destructive excavation of what is at the moment still safely buried material. This difference in opinion has been expressed through debate at academic meetings and in the literature, although to date the debate has focused largely on what effects the manuscripts trade might have on scholarship. Little or no attention has been paid to the criminal relations of the trade and their possible social consequences. This chapter considers the debate over the manuscripts trade in more detail, before offering an outline account of the criminal relations of the trade and considering what might be the appropriate scholarly response to criminally traded material. Finally, it is argued that the criminality of the trade is a subject excluded from academic archaeological discourse, and some thought is given to the negative implications of that exclusion for criminological research.

Two examples, one from Afghanistan and one from Iraq, are enough to demonstrate the scale of the problem. Bactrian was the language spoken in northern Afghanistan until at least the ninth century AD. Before 1993 only a few Bactrian inscriptions were known, but since then ‘the corpus of Bactrian documents has grown to about 150, most of which appeared on the international art market via the bazaar of Peshawar’ (Sims-Williams, 2004: 3). These Bactrian documents are all unprovenanced in that their ownership histories are not known (or, at least, have not been made public), and nothing is known about the circumstances or contexts of their discoveries. The second example, Aramaic incantation bowls, date from the seventh and eighth centuries AD. They are hemispherical or flat-based bowls with Aramaic inscriptions written in ink on their inner surfaces. They have been known since the mid-nineteenth century, and by 1990 something like 1,000 had been documented. All those with a reliable archaeological context had been found in Iraq. During the 1990s, however, many hundreds of previously unknown bowls began to appear in private collections, although again, like the Bactrian documents, nothing is known of their find contexts. It has been estimated that since 1990 the size of the known corpus of Aramaic incantation bowls has doubled (Brodie, 2008: 44–48).

Some unprovenanced manuscripts have been bought by public institutions, but most come to light in private collections, where they are studied and published by university-based scholars. Table 3.1 lists collections of manuscripts that have recently been published or are being studied by scholars at major universities, and thought by those scholars to be from Iraq or Afghanistan.

Academic study of unprovenanced manuscripts often proceeds with the support of public money. For example, in the United Kingdom, the Arts and Humanities Research Council has supported research into privately held Bactrian manuscripts from Afghanistan and Aramaic incantation bowls from Iraq; in the United States the National Endowment for the Humanities has funded research into Buddhist manuscripts from Afghanistan; and the Australian Research Council has done likewise.

The description of these manuscripts as unprovenanced really means that they have no ownership history, or, to put it more bluntly, no information is publicly available as to how they passed from their countries of origin onto the international market and into private hands. Sometimes they are simply said to have ‘appeared’ (Braarvig, 2000), but in the absence of any evidence to the contrary it is often supposed that they have recently been excavated clandestinely and exported illegally from the country of origin. The alternative supposition—that large collections of important manuscripts have been languishing unseen and unsuspected by the academic community for several decades or more in private collections—is not credible. Only a foolish collector would spend a large sum of money on material without knowing its character and being sure of its authenticity,

Table 3.1. Recently Appeared Manuscripts or Other Inscribed Objects from Afghanistan and Iraq that are being Studied by University Scholars

Collection	Language/script of documents	Probable country of origin	University	Primary reference
Schøyen	Kharosthi	Afghanistan	Washington	http://depts.washington.edu/ebmp/manuscripts
	Brahmi	Afghanistan	Coordinated through Oslo	Braarvig, 2000
	Aramaic	Iraq	University College London/ Hebrew	http://www.schoyencollection.com/magical.htm
	Cuneiform	Iraq	Chalmers	Friberg, 2007
	Cuneiform	Iraq	School of Oriental and African Studies	http://www.schoyencollection.com/infopub.htm
Khalili	Bactrian	Afghanistan	School of Oriental and African Studies	Sims-Williams, 2000
	Aramaic Arabic	Afghanistan Afghanistan	Hebrew Cambridge	http://www.khalili.org/research-ic-aramaic.html http://www.khalili.org/research-ic-stud-v.html
Rosen	Cuneiform	Iraq	Cornell	http://cuneiform.library.cornell.edu/about.php
Moussaieff	Aramaic	Iraq	Southampton	Levene, 2003
British Library	Kharosthi	Afghanistan	Washington	Salomon, 1999
Senior	Kharosthi	Afghanistan	Washington	Salomon, 2003

and ensuring appropriate conservation after purchase. Identification, authentication, and conservation all require professional expertise, and so would alert interested scholars. The existence of the Gnostic Gospel of Judas, for example, was known to Coptic scholars for at least 20 years before its first public acknowledgement in 2006. There do not appear to have been any equivalent long-term rumours of previously unknown Afghan or Iraqi manuscripts, implying that most have only recently been taken out of the ground.

ACADEMIC EXPERTISE AND THE MANUSCRIPTS TRADE

Because identification and conservation are expert activities, academic involvement with dealers and private collectors is quite routine. Martin Schøyen, for example, bought his first 108 Buddhist manuscript fragments from a London dealer, for whom they had been described by a leading academic expert (Braarvig, 2000: xiii). The successive dealers in possession of the Judas Gospel after 1983 all found willing academic partners (Brodie, 2007). Presumably some academics receive payment when their time and expertise are put at the disposal of the trade, although most are probably more concerned to gain access to previously unknown material—‘scholarly gold’ as Jens Braarvig of Oslo University termed it (NRK, 2004).

The academic identification and, particularly, translation of an ancient manuscript establish its historical interest and scholarly importance, and so provide the criteria of rarity that allow it to be assigned a monetary value. Thus academic intervention is crucial for price formation and makes a positive impact on the market. For example, translation of the texts on Aramaic incantation bowls increases their market value tenfold (Brodie, 2008: 47). The Swiss dealer Frieda Tchacos-Nussberger has said she paid something in the region of \$300,000 for the group of papyri containing the Gospel of Judas when she bought them in April 2000 (Cockburn 2006, 93), although at the time of the transaction neither she nor the vendor knew that one of the documents was the historically attested but lost Gospel. Upon acquiring the papyri, Tchacos-Nussberger’s first action was to deposit them with the Beinecke Library at Yale University for preliminary study and identification, where it was recognised that one of the texts was in fact the Gospel. In August 2000, the manuscripts were returned to Tchacos-Nussberger, and by the end of February 2001 she had sold them to the Maecenas Foundation of Switzerland for \$1.5 million and half of any proceeds that might accrue from the commercialisation of the Gospel (Gugliotta and Cooperman, 2006; Felch and Frammolino, 2006). Thus within 11 months of buying the papyri she had turned a profit of more than \$1.3 million, or 400 per cent. Part of this, probably the major part, must have been due to the Beinecke Library’s identification of the Gospel.

The routine suppression of provenance also facilitates the entry onto the market of fakes, and there are now thought to be many inscribed artefacts on the market or in collections that might be either completely fake, or have been augmented in historical and thus monetary value by the addition of a fake inscription. Eric Meyers of Duke University, for example, has suggested that between 30 and 40 per cent of all inscribed materials in the Israel Museum might be forged (Byle, 2004: 52). Fears about fakes might be expected to depress the market, but again, the deployment of academic expertise to weed them out helps to sustain market confidence.

Simple microeconomics would suggest that the scale of looting correlates positively with the size of the market, so it is argued, not unreasonably, that the academic underpinning of the market acts indirectly to stimulate looting. For this reason, the ethical guidelines of many professional organisations now caution against direct involvement. Article 2 of the Archaeological Institute of America's (AIA) Code of Ethics, for example, states that members should:

Refuse to participate in the trade in undocumented antiquities and refrain from activities that enhance the commercial value of such objects. Undocumented antiquities are those which are not documented as belonging to a public or private collection before December 30, 1970, when the AIA Council endorsed the UNESCO Convention on Cultural Property, or which have not been excavated and exported from the country of origin in accordance with the laws of that country.

THE ACADEMIC PUBLICATION OF UNPROVENANCED MANUSCRIPTS

Not all academics are involved with the manuscripts trade to the extent that they will collaborate with dealers and collectors, but even among those who are not so involved (who constitute the majority), there is debate over whether or not unprovenanced manuscripts (and in fact unprovenanced archaeological artefacts generally) are appropriate objects of academic study and publication. There are two arguments made against study and publication of unprovenanced artefacts, although both are disputed. The first is that the historical value of an unprovenanced artefact has been lessened by the loss of contextual information caused by the unscientific and unrecorded methods of its excavation. The second is that the academic publication of an unprovenanced artefact provides information and a provenance that might increase its monetary value, thus indirectly supporting the market and provoking further looting.

Because of the problems that are believed to be associated with the academic publication of unprovenanced artefacts, some professional organisations, notably the AIA and the American Schools of Oriental

Research (ASOR), have adopted policies forbidding the first publication of unprovenanced artefacts in their journals.

The AIA policy is as follows:

As a publication of the Archaeological Institute of America, the *American Journal of Archaeology* will not serve for the announcement or initial scholarly presentation of any object in a private or public collection acquired after December 30, 1973, unless its existence is documented before that date, or it was legally exported from the country of origin. An exception may be made if, in the view of the Editor, the aim of publication is to emphasize the loss of archaeological context. (Norman, 2005)

The ASOR policy is that:

ASOR members should refrain from activities that enhance the commercial value of ... artefacts [illegally excavated or exported from the country of origin after 1970] and thus contribute indirectly to the illicit market, for example, publication, authentication, or exhibition. ASOR publications and its annual meeting will not be used for presentations of such illicit material. (ASOR, 2006)

In view of the large quantities of cuneiform tablets that were being smuggled out of Iraq, ASOR modified its policy in 2004 to allow publication and presentation of such material at ASOR meetings provided 'the State Board of Antiquities and Heritage of Iraq (SBAH) gives its consent' and that the 'materials to be published are returned to Iraq and are in the ownership and custody of the SBAH'. For such publications, ASOR also requires that information known 'concerning the acquisition or appearance of the texts in the United States should also be included' (ASOR, 2006).

Not all scholars agree that unprovenanced artefacts should not be published, and a reply took shape in 2006 when the Biblical Archaeological Society (BAS) mounted on its website a statement of concern about non-publication (BAS, 2006), said to have been drafted by Lawrence Stager of Harvard University (Eakin, 2006). By July 2007 the statement had attracted 157 signatures. As described above, one of the arguments against studying unprovenanced artefacts is that unrecorded excavation destroys contextual information and so reduces their historical value. Ancient manuscripts are often seen to be a special case, however, because it is argued that the importance of the written information they contain is to some extent independent of context (Braarvig, 2004: 36; Finkel, 2004: 42), and the debate over the publication of unprovenanced artefacts has been sharpest for manuscripts and other inscribed objects. So, paragraph 2 of the BAS statement reads:

We also recognize that artefacts ripped from their context by looters often lose much of their meaning. On the other hand, this is not always true, and even when it is, looted objects, especially inscriptions, often have much of scholarly importance to impart.

Furthermore, the examples of important unprovenanced artefacts provided in paragraph 4 of the BAS statement to support its arguments are all manuscripts (the Dead Sea Scrolls, the Nag Hammadi Codices, the Gospel of Judas, and the Wadi Daliyeh papyri), and the majority of signatories are philologists of one stripe or another.

Paragraph 3 of the BAS statement claims that not all unprovenanced artefacts are looted—some are chance finds or from old family collections—although it offers no corroboration. Paragraph 6 claims that publication in the academic literature of research conducted on unprovenanced material has little or no effect on looting. This claim might, in fact, be true—for manuscripts at least. If direct academic involvement with the manuscripts trade is as pervasive as it appears, with pre-publication services of identification and authentication crucial for price formation, then subsequent publication of unprovenanced material in the academic literature may have little further effect on price and thus the trade.

THE ACADEMIC JUSTIFICATION FOR ACQUIRING AND PUBLISHING ILLEGALLY TRADED MANUSCRIPTS

Notwithstanding the BAS claim that not all unprovenanced artefacts have been looted, there is not really any doubt, even among people who own and study them, that most recently ‘appeared’ ancient manuscripts have probably been moved illegally out of their country of origin. The scholarly justification offered for acquiring, studying, and publishing them despite their illegal provenance is one of ‘rescue’—the historical information they contain is rescued for posterity. Thus paragraph 7 of the BAS statement says that:

important artifacts and inscriptions must be rescued and made available to scholars even though unprovenanced. When such objects have been looted, the antiquities market is often the means by which they are rescued, either by private party or a museum. To vilify such activity results only in the loss of important scholarly information.

In a 2005 letter to the journal *Science*, David Owen of Cornell University wrote about cuneiform tablets recently looted from archaeological sites in Iraq that:

From my perspective, any and all such written documentation must be rescued, recorded, preserved and published. Only then will we be able to save even a small part of what has been destroyed by the looters. (Owen, 2005)

(Two years earlier it had been reported that the US collector Jonathan Rosen had donated a collection of 1,500 cuneiform tablets assembled during the 1990s to Cornell, in return for ‘a significant tax break’ (D’Arcy, 2003)).

Sometimes the trope of rescue acquires a more tangible form. Writing the introduction for the first volume of the Schøyen Collection of Buddhist manuscripts, Braarvig indicated that the manuscripts were ‘found recently in Afghanistan by local people taking refuge from the Taliban forces in caves near the Bamiyan valley, where an old library may have been situated or possibly hidden’. He went on to say that ‘Local people trying to save the manuscripts from the Taliban were chased by them when carrying the manuscripts through passes in the Hindu Kush to the north of the Khyber Pass’ (Braarvig, 2000: xiii). Schøyen himself, when interviewed on Norwegian radio, expanded: the manuscripts had been smuggled out of Afghanistan by refugees fleeing the Taliban regime, and he had mounted a ‘rescue operation’ to save them (Lundén, 2005: 3–4). Braarvig later congratulated Schøyen for saving this material through a series of purchases ‘as a consistent whole from destruction’ (Braarvig, 2004: 37).

In 2004, the Norwegian Broadcasting Corporation (NRK) television programme *Skriftsamleren* (*The Manuscript Collector*) questioned this story (NRK, 2004; Lundén, 2005). Through research on the ground in Afghanistan the programme discovered that the caves in the area of Bamiyan had been thoroughly looted long before the Taliban came into power in 1998, and that the manuscripts had most likely been discovered in a cave near Zargaraan, a small town east of Bamiyan, several years earlier in 1993. Schøyen’s story of rescue from the Taliban did not hold up. The programme also discovered that at least two and perhaps three more manuscript fragments in the Schøyen Collection were from the collection of the Kabul Museum. Perhaps 300 had not actually come from Afghanistan at all, but had probably been discovered in a cave near Gilgit in Pakistan (Lundén, 2005: 4–5; Omland, 2006: 233–35). Braarvig’s ‘consistent whole’ was an illusion. In 2005 Schøyen returned the Gilgit material to Pakistan. Nevertheless, the Schøyen Collection continues to adhere to its story of rescue from the Taliban.¹

The programme *Skriftsamleren* also investigated the acquisition in 1994 by the British Library of about 60 Kharosthi manuscript fragments thought to have been discovered in Afghanistan, arguing that the act of ‘rescuing’ unprovenanced manuscripts can in fact stimulate further looting (Lundén, 2005: 7–8; Brodie, 2005). An internal British Library memo shows that, at the time of acquisition, staff had been aware that the material ‘might have been smuggled out of an Asian country’ but that nevertheless ‘in the interests of scholarship’ the British Library should acquire and conserve the manuscripts (Brodie, 2005: 6). However, *Skriftsamleren* offered a less sanguine account. A London-based smuggler interviewed by the programme claimed that before the British Library acquisition there had been no real

¹ <http://www.schoyencollection.com/Buddhism.htm>, accessed 25 October 2007.

market for Afghan manuscripts, but that the acquisition alerted private collectors to their existence, value, and availability. Once private collectors took notice, the artefact hunters on the ground in Afghanistan began to look for them. A Pakistani shepherd interviewed on the programme told of the resultant devastation, with hundreds of manuscript fragments left behind on the surface of the ground. The British Library has not been able to confirm or to deny the *Skriftsamleren* account, presumably because it has no real grasp on the provenance of the material in question.

The academic debate over unprovenanced ancient manuscripts looks set to continue, but to date it has focused on what in the long run might pose the greatest threat to scholarship, with opinions divided over whether or not acquisition and publication are likely to lead to more looting, and thus destruction of historical information, or whether they are justified by the quality of historical information contained in the material in question. What is missing from the debate, however, is any real consideration of the fact that the trade in unprovenanced manuscripts is illegal. No one is under any illusions about the illegal origins of these unprovenanced manuscripts, but the social harm that might be caused by their criminal trade is not something that impinges upon the academic consciousness (or conscience).

THE CRIMINAL RELATIONS OF THE MANUSCRIPTS TRADE

Most countries, including Iraq, Afghanistan, and Egypt, exert some degree of state control or ownership over undiscovered archaeological objects, including manuscripts. Thus Afghanistan has had a law prohibiting the unauthorised export of artefacts since 1958 (Protz, 2006: 195), and a series of similar laws in Iraq dates back to 1974 and before that to the period of the British mandate (Foster, Foster and Gerstenblith, 2005: 217). Thus the unauthorised export of ancient manuscripts constitutes an illegal trade. The academic view of this illegal trade seems to be that it proceeds in a socio-economic vacuum. It is considered a relatively benign phenomenon, providing a small income for the people who dig the manuscripts up, a larger income for the people who smuggle them and sell them, and perhaps also an income supplement for some corrupt border guards or bureaucrats, but beyond that nothing. There is no thought as to how the 'dirty money' generated through such transactions might percolate through wider and more diverse criminal networks, or how the transactions themselves might be used to 'clean' dirty money obtained through other criminal enterprises. Having said that, it is difficult to obtain reliable information about the criminal relations of the manuscripts trade because provenances are occluded and the crimes are often committed in (what are from the academic perspective) remote locations. Nevertheless, the manuscripts trade is part of the larger illegal trade in archaeological artefacts, and claims of criminality are often

made about the artefacts trade. Such claims cannot always be substantiated, but sometimes, someone who must be assumed to be a 'credible witness', a person whose position or experience endows his or her first-hand reporting with some degree of authority, makes a statement that might be taken seriously. Occasionally, it is possible to construct a tenuous triangulation between the observations of different witnesses.

In Afghanistan, it has been reported that the money used to purchase artefacts might derive from the sale of opium, and that the money obtained from antiquities sales might be used to purchase arms. Such links in illicit commodities are regularly observed in the criminological literature on criminal markets (see for example, Naylor, 2005; Sheptyki and Wardak, 2005). As early as 1996, for example, Nancy Dupree of the Society for the Preservation of Afghanistan's Cultural Heritage (SPACH) reported that Mujahideen commanders in Afghanistan were digging up artefacts to sell, particularly in the region of Hadda (Dupree, 1996: 47). In 1998 she reported that bulldozers were being used to dig out the site of Ai Khanoum 'under financial agreements with ruling commanders', and that authorities in Badghis were levying a 20 per cent tax on the sale of artefacts (Dupree, 1998). In 2002, the Director General of Afghanistan's National Institute of Archaeology, Abdul Wasey Feroozi, was quoted as saying that 'In the western district of Paghman alone, more than four or five areas have been illegally dug by commanders. These men have trucks, they have equipment and they have guns' (ABC, 2002). When in 2003 a UNESCO mission was sent to investigate reports of illegal digging at a previously unknown site at Kharwar in central Afghanistan, it was turned away by local warlords. Jim Williams (of the Kabul UNESCO office) complained that 'It's being excavated by criminals. They're the same people, the drug barons, the warlords, who are causing all Afghanistan's problems' (Astill, 2003).

Perhaps the most reliable eye-witness reporting is by the British writer and ex-diplomat Rory Stewart, who in 2002, soon after the fall of the Taliban, walked west-east across Afghanistan from Herat to Kabul (Stewart, 2004). Arriving at Jam, about 380 km east of Herat and the site of a twelfth-century minaret and extensive archaeological remains, the local military commander told Stewart that he and his men had arrived there a year earlier to dig, and that a few hundred more people travelled there to dig from nearby villages (Stewart, 2004: 170). The artefacts were sold to traders from Herat (Stewart, 2004: 168), and from Herat were moved over the border into Iran. Stewart claimed that the governor of Herat profited from the trade, although did not make much from it compared with the profit from other contraband (Stewart, 2004: 176).

It has also been reported that illegally excavated artefacts might be caught up in criminal networks that extend to countries outside Afghanistan. In 2001, the *New York Times* interviewed one Robert Puffer, who claimed to be a 'go-between' for antiquities dealers and who said that smugglers

routinely did business with a former interior minister of Pakistan, who was an avid collector of Afghan antiquities (Bohlen, 2001). The story received some confirmation from London antiquities dealer Johnny Eskenazi, who in 1996 visited a 'powerful politician' in Pakistan to view high-quality Afghan antiquities the politician was offering for sale for US\$10 million (Eskenazi, 2002). Eskenazi suggested that such politicians could launder money made from the drugs trade by buying and selling antiquities, and Robert Kluyver (of SPACH), from his different perspective, has claimed likewise (Kluyver, 2001). The sums of money generated by the manuscripts trade, or at least the artefacts trade more generally, are not large compared with those from the drugs trade, but neither are they inconsequential. It was widely reported, for example, in 1999 that six metal boxes containing 25,000 Afghan artefacts destined for London, Frankfurt, and Dubai were impounded by police at Peshawar airport. Documents seized during the investigation led police to state that the exporter, who fled to Dubai, could have made 'millions of pounds' from his operation (Levy and Scott-Clark, 1999).

The situation in Iraq is unlikely to be any better than that in Afghanistan. In 2005, Matthew Bogdanos, the New York District Attorney and US Marine Reserve Colonel who conducted the official US inquiry into the April 2003 looting of the Baghdad Museum, expressed his opinion that 'insurgents in Iraq have discovered a new source of income in antiquities', pointing to the June 2004 discovery by US marines of archaeological artefacts alongside weapons, ammunition, and other military equipment in an underground bunker used by insurgents (Bogdanos, 2005).

THE DEFICIENT ACADEMIC RESPONSE TO UNPROVENANCED MANUSCRIPTS

Despite these persistent reports in the media of criminal involvement with the artefacts and by extension the manuscripts trade, one searches in vain through scholarly publications of unprovenanced manuscripts for a decent account of provenance, or even for any indication that a scholar has attempted to research provenance or to take a broad view—in terms of criminality—of what provenance might mean. Academic concern over illegal trade only seems to arise when doubts over good title constitute a possible impediment to acquisition. In 1994, for example, the staff of the British Library debated the issue of good title before agreeing the acquisition of the Kharosthi manuscript fragments. In 2000, the Beinecke Library at Yale University declined the opportunity to acquire the Gospel of Judas because of doubts over title. Presumably, scholars who study this material are simply not interested in provenance because it has no bearing on their research, or are reluctant to investigate provenance too closely or to

publicise what they know because of what it might reveal about the activities and associations of the private collectors who hold the material, and who in an academic sense might be considered to be their patrons. It might even be convenient for a scholar to remain ignorant of provenance as it makes for an easier judgement in favour of study and publication. This may be so, but unless the scholar is assiduous in researching and publishing provenance, he or she cannot claim to be acting in good conscience, and might even stand accused of passively colluding with the criminal trade.

Rigorous investigation of a manuscript's provenance might reveal it to have been exported illegally, at which point the police should be involved to ensure that it is returned to its rightful national owner, or, if the political situation does not permit an immediate return, held in trust until such time as a return is possible. Sometimes rigorous investigation is not necessary; illegal trade is openly admitted and justified through 'rescue'. Yet although it is clear that many scholars coming into contact with so-called unprovenanced manuscripts are aware of criminal involvement, they routinely fail to notify the appropriate law enforcement agencies. Bogdanos has gone further and argued that academics should become 'clandestine informants' (Bogdanos, 2005). When they are offered sight of material that they suspect might have passed through criminal hands, they should arrange a viewing but inform the police. Thus in the British Library example discussed above, the correct course of action would have been for the British Library staff to have arranged to meet the dealer who had brought the manuscripts to Britain, and to have informed the Metropolitan Police of the meeting, so that the police might then have taken appropriate action of their own. But at no point does it seem that the British Library made any attempt to go beyond what the intermediary offering the manuscripts (who was a British-based dealer) had to say about provenance, and to investigate the character or affiliations of the person who was in possession of the manuscripts and who had brought them to Britain from Pakistan. Nor do the staff of the Beinecke Library seem to have alerted the Egyptian authorities or US law enforcement agencies of the presence on the market of the Judas Gospel.

THE LIMITS AND EFFECTS OF ACADEMIC DISCOURSE

The criminal relations of the manuscripts trade are largely excluded from the academic debate over unprovenanced manuscripts. Sometimes criminality is touched upon, only to be dismissed. For example, the BAS statement against policies of non-publication contains 11 paragraphs, but the only paragraph mentioning criminal involvement is paragraph 10, which states that:

The real objection to the antiquities market and unprovenanced material is that it somehow sullies our hands by participation in an illegal enterprise. But we believe

a more refined judgment is called for. Yes, it would be nice if we always had professionally excavated materials to study and publish. But that is not the situation. Our choice is either to study unprovenanced material or ignore it. Given that choice, we prefer to study unprovenanced material. The sweeping exclusion of unprovenanced material from scholarly consideration results only in a loss to scholars, to scholarship and ultimately to the public.

The language chosen for this paragraph does nothing to reassure the sceptic that the potential consequences of ‘participation in an illegal enterprise’ are known, or have even been considered, and that hand-sullyng is the least of them. John Boardman, too, of Oxford University, in an outspoken attack on the policy of non-publication, which he regards as censorship, wrote that ‘I was brought up to believe that censorship is worse than theft, and especially so where scholarship is concerned’ (Boardman, 2006: 40). In both cases, the issue of criminality is first trivialised and then summarily dismissed so that the argument can be brought back to the possible effects on scholarship of non-publication.

While it is not surprising that supporters of trade and publication are reluctant to talk about criminality, it is harder to understand why opponents also seem unwilling to discuss it. One reason might appear to be professional courtesy. While it is one thing to debate the consequences for scholarship of academic publication with a friend and colleague, it is quite another to accuse him or her of participating in an international money-laundering racket. But the prevailing norms of professional and personal etiquette that constrain conduct on both sides of the debate are simply the limiting effects of academic discourse, a discourse constructed around scholarship, narrowly defined as intellectual practice. Debate does not easily move against that discursive grain.

Consider, for example, the character assessments of people involved in the manuscripts trade. In a 2005 statement the British Library described the dealer who sold them the Kharosthi manuscript fragments, and who has in his possession more fragments, as ‘reputable’ (Brodie, 2005: 5). Yet this is a person the British Library knows full well to have handled and to be in possession of manuscripts that were taken illegally out of their country of origin. The British Library is only able to describe the dealer as reputable because, according to their own version of events, he helped save the material in ‘the interests of scholarship’. It might be forced to consider him otherwise if the criminal articulations of the Kharosthi acquisition are opened to discussion. A more open discourse, one able to accommodate criminality alongside scholarship, or at least to conceive of scholarship more broadly as a social rather than a strictly intellectual practice, would reveal a different reality. The closed narrative of reputable dealers collaborating with scholars in the name of academic freedom and in the interests of scholarship would be replaced by a far less wholesome account of self-interested dealers and scholars pursuing their own ends in complete disregard of any

social consequences, or of scholars condemned by political and economic circumstances beyond their control to engage in research of uncertain moral and intellectual quality.

Although academic discourse may appear at first glance to arise out of and correspond to a common-sense reality, it is clearly artificial. Attempts to broaden its reference beyond the immediate concerns of scholarship are routinely opposed by its beneficiaries. That much is clear from the failure of scholars to investigate provenance, and sometimes from their more active obstruction of attempts by others to investigate provenance. The British Library has still not answered allegations made in the *Skriftsamleren* programme concerning the possible illegal provenance of its acquisition. In fact, when challenged on *Skriftsamleren*, the responsible librarian affected outrage and walked out of the interview. This kind of response is not unusual. But beyond the passive and active obstructions of scholars, there are more powerful interests ready when necessary to ensure the purity of academic discourse by blocking unwelcome investigations. The most obvious example of outside coercion has been the aggressive response of the Schøyen Collection to an investigation conducted by University College London (UCL) into the Collection's Aramaic incantation bowls.

The NRK programme *Skriftsamleren* included a piece on the bowls, which at the time were in storage at UCL, alleging that they had been illegally excavated in Iraq in 1992 or 1993 (NRK, 2004; Lundén, 2005: 6–7). In view of the seriousness of the NRK allegations, UCL announced it was to convene a committee of inquiry with a remit to investigate the provenance of the bowls and to establish university policy towards the study of unprovenanced artefacts more generally (UCL, 2005). The committee submitted its report to UCL in July 2006, and a copy was sent to the Schøyen Collection.² Nothing was heard publicly, however, until March 2007 when the Schøyen Collection announced it was suing UCL for the recovery of the bowls (2007a). Finally, in June 2007 a joint press release was issued by UCL (2007) and the Schøyen Collection (2007b) stating:

Following a searching investigation by an eminent panel of experts, and further enquiries of its own, UCL is pleased to announce that no claims adverse to the Schøyen Collection's right and title have been made or intimated. Having made all the enquiries that it reasonably could UCL has no basis for concluding that title is vested other than in the Schøyen Collection. UCL has now returned the Bowls to the Schøyen Collection and has agreed to pay a sum in respect of its possession of them.

UCL has refused to publish the report, although some of its findings have been leaked to the press. UCL's lawyers have tried to prevent publication

² Colin Renfrew, personal communication. Professor Colin Renfrew of Cambridge University was a member of the committee.

by writing to possible recipients, emphasising that copyright in the report is vested with UCL, and requesting recipients to return anything in their possession. They further requested that: 'Because of the confidential nature of the Report UCL is not able to enter into discussions ... about the subject matter of the Report or the allegations it makes and we request that all communications about this subject are channelled between legal advisors'.³ In August 2007, UCL refused an application made under the 2000 Freedom of Information Act to release the report into the public domain.⁴

The payment by UCL was made as part of an out-of-court settlement, and the suspicion can only be that non-publication of the report was part of the same settlement. No further explanation has been forthcoming from UCL. The report is thought to contain information supplied by, among others, NRK, Martin Schøyen, and Christopher Martin, the London-based dealer who sold Martin Schøyen most of the bowls. Thus it should provide a primary resource for research into the exchange chains that constitute the trade, and their possible criminal relations. Unfortunately, intervention by the Schøyen Collection has—for the time being at least—ensured its sequestration. In the absence of any evidence to the contrary (perhaps because the Collection has suppressed the report), the Schøyen Collection has since rejected 'any imputation of wrongdoing as wrong-headed and unwarranted' and has reaffirmed that it 'places a heavy duty on itself to publish as fast as possible, as well as conserve, all objects of international cultural interest and historical value in its possession' (Schøyen Collection, 2007c). The purity of academic discourse has been maintained, although it has taken court action to ensure that it is not tainted by talk of criminal involvement.

CONCLUSION

There is now a well-established literature on the illegal trade in archaeological artefacts, highlighting the damage it causes to archaeological sites and monuments, and the threat it poses to historical knowledge and cultural traditions (see generally, Gill and Chippindale, 1983; Brodie, Doole and Renfrew, 2001; Brodie et al, 2006; Watson and Todeschini, 2006). A parallel literature concerns legal countermeasures (see generally Gerstenblith, 2004; Hoffman, 2006). It is notable, however, that although criminologists have begun to study the trade as a criminal phenomenon (Mackenzie, 2005; Tjihuis, 2006), there has been hardly any consideration of the social harm

³ Letter from Hunters solicitors to author, 28 June 2007.

⁴ Application made by author. Despite the best efforts of UCL to suffocate public discussion and academic research by withholding the report's findings, it has been alleged that the report considered on 'the balance of probabilities' that the bowls had been illegally removed from Iraq sometime after August 1990, although there is no evidence to show that Schøyen was necessarily aware of that fact (Balter, 2007: 554).

that it might cause, or of how academic involvement with the trade might in itself contribute to that harm.

There is a broad measure of agreement within the academic community that artefacts shorn of their original archaeological context through unrecorded and usually illegal digging have in the process been deprived of valuable historical information, and that research based on such material is badly compromised. Ancient manuscripts are often seen to be a special case, however, because the information they contain is to some extent independent of find context. The perception that the scholarly importance of ancient manuscripts is not significantly lessened by loss of context disposes scholars to study them, but because most recently discovered manuscripts are thought to have been illegally traded, these scholars must be considered complicit to a greater or lesser extent in the commercial and thus criminal process, and thus bear some responsibility for any harm that is caused. Nevertheless, the nature and magnitude of the consequences of academic involvement are far from clear. There is an urgent need for primary research in this area to investigate the socio-economic and cultural contexts of the manuscripts trade, and a corresponding need for the academic community to reflect upon the broader social context of its research.

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