

1 REALITY AND PRACTICALITY: CHALLENGES
2 TO EFFECTIVE CULTURAL PROPERTY POLICY
3 ON THE GROUND IN LATIN AMERICA
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11 **Abstract:** Although on-the-ground preservation and policing is a major
12 component of our international efforts to prevent the looting and trafficking
13 of antiquities, the expectation placed on source countries may be beyond their
14 capacity. This dependence on developing world infrastructure and policing may
15 challenge our ability to effectively regulate this illicit trade. Using case studies
16 generated from fieldwork in Belize and Bolivia, this paper discusses a number
17 of these challenges to effective policy and offers some suggestions for future
18 regulatory development.
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21 It is exceedingly difficult to develop high-level policy that reflects the diversity of
22 situations in both antiquities source and market countries. There exists an inherent
23 challenge between the globalized and the localized; between high-level regulatory
24 schemes that must apply to all and the needs and capabilities of the locations
25 in which it is applied. Assumptions that must be made about developing states'
26 internal capabilities during the crafting of high-level policy may not produce action-
27 able interventions on the ground. As a result, there are aspects of our international
28 antiquities policy regime that are consistently challenged by the realities of pro-
29 tection and law enforcement in parts of the developing world. Yet, as it stands,
30 antiquities source countries are considered to be our first line of defense against
31 theft and trafficking. In many sensitive developing world situations, our existing
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1 international system of cultural property regulation does little to protect heritage
2 sites *in situ* or to break up the criminal trafficking networks. If we are to continue
3 to consider source-end protection as a lynchpin of the global combating of the
4 illicit antiquities trade, we need to address these issues directly. We also must
5 consider a greater shift in focus from source-end protection to real and effective
6 market reduction.

7 In this article I will discuss the on-the-ground experience of cultural property
8 protection in two developing Latin American countries with rich archaeological
9 heritage consisting in part of antiquities and other cultural objects with market
10 appeal: Bolivia and Belize. Although drastically different in size, both countries
11 face similar internal pressures related to violence, insecurity, the continued effect
12 of narcotics production and trafficking economies, and the need to improve the
13 lives of a largely poor citizenry. Both countries have a strong interest in protecting their
14 cultural heritage from an economic standpoint in the form of cultural tourism
15 but also as a component of the maintenance of national identity.

16 Based on information gathered from interviews conducted with heritage profes-
17 sionals and interested stakeholders during targeted fieldwork in Belize (2014) and
18 Bolivia (2013), I will provide a sketch of the various challenges to the effective protec-
19 tion of heritage and prevention of antiquities trafficking in each context. Using these
20 examples as case studies, I will discuss three points of perceived disconnect between
21 the realities of cultural property protection in certain developing world contexts and
22 the aspirational international system that these practitioners are working within:
23 1. the burden placed on local law enforcement for site protection and criminal
24 investigation vs. the realities of underfunding, institutional failure, remoteness of sites,
25 and access to training and technology; 2. a regulatory system that focuses on devel-
26 opment and maintenance of international partnerships even when such partner-
27 ships neither reflect the geographical orientation of the illicit trade, nor the realities
28 of geopolitical schisms; 3. the tendency for regulatory development at all levels to
29 focus on cultural property trafficking in isolation rather than as part of a web of
30 interrelated illicit economies that might be best regulated or policed together.

31 I close with policy suggestions which may help to address the realities of antiquities
32 trafficking and heritage protection in many parts of the developing world.

33 The goal of this paper is not to critique the construction or the intent of specific
34 regulatory tools, but rather to discuss how certain aspects of our existing system of
35 international antiquities regulation play out on the ground and how they are per-
36 ceived and experienced by those on the front line in two developing world contexts.

38 BOLIVIA¹

39 40 *Background*

41
42 Bolivia is a landlocked South American state that straddles the high Andean plateau
43 and the western Amazon. About 63 percent of its population of 10.5 million people

1 live in urban areas and the rest are spread out over Bolivia's vast rural and often
2 poorly accessible tracts. Bolivia has a remarkably low population density, esti-
3 mated at about 9.46 people per square kilometer.² Ethnicity is a decisive political
4 and social issue and is a major component of Bolivian identity. The country has
5 a large Indigenous population, with estimates ranging from about 40 percent to
6 over 60 percent of the population, depending on how the question is asked, and
7 the majority of Bolivians who do not identify as Indigenous, identify as Mestizo
8 (as do many people who identify as Indigenous).³ Although White Bolivians com-
9 prise a small minority of the population, political power was historically concen-
10 trated in this group; Bolivia has been considered one of the most racially stratified
11 countries in the Americas.

12 This began to change in the 1990s when modifications to the law allowed for more
13 Indigenous participation in public life.⁴ In late 2005, after a period of popular protest
14 and the resignation of two presidents, Evo Morales became the country's 99th presi-
15 dent, the first to self-identify as Indigenous. His leftist government, which remains
16 in power at the time of writing, has instituted significant changes within nearly all
17 sectors of Bolivian governance, culminating in the passing, in 2009, of an entirely
18 new constitution which refounded the Republic Bolivia as the Plurinational State of
19 Bolivia.⁵ Long-considered to be the poorest country in South America, since Morales'
20 election Bolivia has tripled per capita income in the country and its real GDP growth
21 has been projected at 6.7 percent, the highest it has been in 30 years.⁶ This, coupled
22 with aggressive wealth distribution policies from the Morales government, has led to
23 small but noticeable poverty reduction successes in the country, although Morales'
24 regime is not without considerable external and internal criticism.

25 The protection of the remains of Bolivia's spectacular ancient and Colonial past
26 is set against this backdrop. Bolivia was the heartland of the Tiwanaku culture, a
27 major player during the Andean Middle Horizon, and the eponymous archaeolog-
28 ical zone is both a UNESCO World Heritage site and a core component of national
29 identity. The material remains of this culture, as well as those of the subsequent
30 Inka and Aymara cultures, have historically been in demand on the international
31 antiquities market (although less so than objects from neighboring Peru). Bolivia
32 is also home to numerous Colonial-era churches, many located in very remote
33 or even abandoned villages. These churches often contain art objects: paintings,
34 icons, and silver, the latter being the result of the massive silver mines at Potosí.
35 In recent decades, international demand for sacred Colonial Andean art has grown.

36 Since 1906 it has been illegal to excavate Bolivian archaeological objects without
37 a government license and illegal to remove them from the country.⁷ Objects of
38 Colonial and Republican art were subsequently added to this ban and, as it stands,
39 it is illegal to buy, sell, and export these objects in all circumstances. All of these
40 objects, be they undiscovered in the ground or hanging in a Colonial church,
41 are considered cultural property of the Bolivian state. Thus, almost every ancient
42 or Colonial Bolivian cultural object on the international art market left Bolivia in
43 violation of the law.⁸

1 *Record Keeping*

2
3 Looking specifically at the maintenance of records concerning aspects of cultural
4 property we can see how quickly such action as a mandate can fail in the developing
5 world. In Bolivia, all known cultural property of the nation has required govern-
6 ment registration since 1961.⁹ This is a two pronged process: individuals or groups
7 who possess cultural objects that fall under the law are required to notify the
8 Ministry of Cultures so that the objects may be registered and the Ministry of
9 Cultures is meant to maintain an office tasked with seeking out registerable objects,
10 for example in remote historic churches. Furthermore all dealers in antiquities are
11 meant to be formally registered with the government and their premises are meant
12 to be regularly inspected.¹⁰ All of this fits well into the framework set out by the
13 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit
14 Import, Export and Transfer of Ownership of Cultural Property (1970 UNESCO
15 Convention)¹¹ (indeed, many of these laws are post-UNESCO), and were certainly
16 an aspect of Bolivia successfully obtaining a bilateral agreement concerning cultural
17 property import restrictions with the United States.¹²

18 Yet while this registry system exists on paper, the system is aspirational: it rep-
19 resents a mandate that an under-funded ministerial department in a poor country
20 is unable to meet. Few people voluntarily register cultural property in their pos-
21 session, a complete dealer list has not been compiled in years, and archaeological
22 store rooms, even at major sites, have not been inventoried.¹³ An exception is the
23 register of cultural property within museums and churches. The files concerning
24 objects in these known heritage structures are extensive which has helped in the
25 recovery of stolen objects in a number of cases.¹⁴ That said, as is often the case,
26 the success of this registry appears to be associated with the devotion and the con-
27 tinued institutional presence over several decades (remarkable in Bolivia) of an
28 individual who has dedicated himself to this particular task. As of mid-2013, these
29 commendable records only existed on paper and the dedicated individual hoped
30 that they would be digitized someday but was not expecting funding anytime soon.
31 In other words, while these records exist, police, customs agents, and others cannot
32 easily access them.

33 34 *Policing and Institutions*

35
36 In Bolivia police protection and state-level justice remains unavailable to most cit-
37 izens. In 2012, nearly half of Bolivia's municipalities did not have a judge, 77 percent
38 did not have a prosecutor, and 97 percent did not have a public defender.¹⁵ Bolivian
39 confidence in the police is one of the lowest in Latin America: only 38.9 percent
40 express confidence in their police force, on par with Mexico (39.9 percent), a coun-
41 try whose police force has one of the worst reputations in the world. Furthermore,
42 44.8 percent of Bolivians reported that they felt insecure: on par with famously-
43 insecure Haiti at 44.2 percent.¹⁶

1 This feeling of general insecurity in Bolivia results in conflict between commu-
2 nities and the state-level police and justice systems. To use one extreme example,
3 there exists in Bolivia a concept called *Justicia Comunitaria* (Community Justice),
4 which is informally defined as a pre-Conquest Indigenous system of values, judg-
5 ment, and consequence that exists alongside the regular state-level justice system.
6 A version of *Justicia Comunitaria* was enshrined in the 2009 constitution as the right
7 for communities to police themselves according to their own Indigenous belief
8 system. However, *Justicia Comunitaria* in Bolivia (especially when that particular
9 term is used) is nearly always linked to fatal or near fatal lynching of accused crim-
10 inals.¹⁷ These lynchings usually happen in poor communities where petty theft has
11 a devastating effect and where the police are seen as either not present or as crim-
12 inals themselves. Incidentally, these poor communities, especially rural ones, are
13 also the primary targets for cultural property theft. The majority of recent thefts of
14 Conquest and Colonial artworks from Bolivian churches, some 34 thefts from 2008
15 to 2012, have occurred in small, poor, rural, Indigenous villages that are, by many
16 accounts, outside of the reach of the state-level authorities.¹⁸ Many recent accounts
17 of cultural property thefts in these areas include complaints from villagers that it
18 took multiple days for the government to send anyone to investigate the crimes,
19 and lamentations from cultural property investigators that the villages in question
20 are very difficult for them to access.

21 Recently a limited number of communities have been turning to *Justicia Comu-*
22 *nitaria* to deal with cultural property theft, sometimes with fatal consequences.
23 In early March 2012, two men were lynched in the village of Quila Quila after they
24 were allegedly caught robbing Colonial-era paintings from the local church. They
25 were collectively ‘tried’, beaten, strangled, and buried behind the church they were
26 said to have robbed. What followed was a multi-day standoff between the com-
27 munity and the police, leading to an assurance that the community would face no
28 charges if they handed over the alleged thieves’ bodies.¹⁹ Bolivian communities
29 believe that their authorities are not competent and are entirely unable to protect
30 their heritage sites.

31 32 *Crime reporting*

33
34 Although the looting and trafficking of antiquities is considered a distinct crime
35 under Bolivian law, and a form of aggravated theft under the penal code,²⁰ Bolivia
36 has neither a cultural property/heritage police task force, nor a dedicated point
37 person that coordinates cultural property theft and looting cases between the var-
38 ious government and security agencies that have a stake in the matter. The recent
39 introduction of new heritage law in the country focused more on archaeology and
40 contained no new provisions for crime prevention and policing.

41 As it stands in Bolivia, when there is a reported case of cultural property theft
42 (usually from a historic church), a warning is issued to Interpol and to Bolivian
43 customs from the relevant body within the Bolivian Ministry of Cultures. This notice

1 usually contains details of the theft as well as photos and descriptions of the items
2 that were stolen. That such photos are available is a testament to the dedication
3 of Bolivia's cultural heritage documentation group: most countries are unable to
4 issue such reports. That said, it is unclear to what degree customs agents are made
5 aware of these reports. As of the time of writing there is no database of stolen cul-
6 tural property that is available to anyone outside of the Ministry of Cultures. When
7 archaeological objects are stolen from the ground, or evidence of looting at an archae-
8 ological site is detected, no warning is issued. It is unclear if any central records
9 of incidents of archaeological looting are kept. Archaeologists are often unaware of
10 the scale, scope, and focus of cultural property crime within the country.

11 As is the case in many developing countries, smuggling is part of Bolivian reality,
12 a fact rarely discussed during international debate over cultural property regulation.
13 A sizable amount of the goods available on the Bolivian market have been smug-
14 gled or are illicit to some degree. In recent years anti-corruption measures have
15 been put in place and border agents are better monitored for corruption. However,
16 fake electronics, copied software and DVDs, photocopied books, and any number
17 of other items for which duty has not been paid make their way to Bolivian con-
18 sumers. La Paz, for example, has a massive maze-like market district referred to
19 as *El Mercado Negro* (The Black Market), which is indicated on quite a few maps.
20 Every consumer good imaginable is available in the stalls of this part of the city.
21 In the past, it has been reported that some illicit antiquities have been bought and
22 sold there.²¹

23 Due to financial constraints, it is unlikely that any of this will change any time
24 soon. Because the idea of a certain interpretation of ancient Bolivia has become the
25 core of a Bolivian identity and is supported by the current government, completely
26 reinventing the regulation of Bolivian cultural property seems unlikely. Yet it is
27 possible that, internally, the illicit trafficking of Bolivian cultural objects can be
28 policed alongside other illicit goods. Indeed, this is the situation that already exists,
29 but formalization of the linkage may prove effective.

31 *International relations and antiquities*

32
33 Since early 2006 when leftist Evo Morales became president of the country, rela-
34 tions between Bolivia and some antiquities market nations, notably the U.S., have
35 been strained. This has had a direct effect on Bolivia's ability to recover stolen
36 cultural objects. For example, in August of 2013, I was informed that a number of
37 looted Bolivian church items had been found for sale on the internet via U.S.-based
38 dealers. Having checked my own records, I can document the items were available
39 online from at least early December 2012. The thefts of these items occurred in the
40 late 1990s and it is unclear when and how they were imported into the U.S. This,
41 however, was not of specific concern: the objects had all been photographed and
42 documented by Bolivia's Ministry of Cultures and Bolivia could clearly prove that
43 these objects were stolen; return should have been straightforward.

1 Yet, U.S. and Bolivian sources stated that extremely poor relations between the
2 countries had caused complete stagnation. Although everyone involved (except,
3 perhaps, the antiquities dealer) knew where these stolen objects where and agreed
4 that they should be seized and returned, the final paperwork needed to put this
5 operation in motion was not able to go through. Both the Bolivians and Ameri-
6 cans working on this case had deep respect for their counterparts but felt that they
7 were in a political bind. They were unable to advance bilateral cooperation with a
8 country that their government does not wish to cooperate with. All involved care
9 passionately about Bolivian cultural property and are doing good work under the
10 circumstances, but the circumstances are not good. As of June 2015, over two years
11 later, at least some of these stolen cultural items were still available online.²²

12 Theft of cultural property has a profound destabilizing effect on Bolivian
13 communities. Perhaps no case demonstrates that better than that of the famous
14 Coroma textiles, the theft of which inspired the first UNESCO convention-based
15 restrictions on the import of Bolivian cultural objects into the U.S.²³ This bilateral
16 agreement, sought by the Indigenous community members of Coroma who per-
17 sonally petitioned the U.S. government for intervention, has been hailed as a
18 triumph. The textiles were returned, there were convictions in three countries, and
19 a community's sacred heritage was restored. Yet, despite this bilateral success, the
20 heritage of Coroma is not truly protected by the U.S./Bolivia agreement: the cul-
21 tural objects mentioned in the previous paragraph, still for sale on the internet and
22 the subject of official stagnation, were stolen from Coroma's conquest-era church
23 in the late 1990s.²⁴ Coroma's church was also looted in 2008 and in 2009.²⁵

24 25 BELIZE²⁶

26 27 *Background*

28
29 Belize is a small Central American state on the eastern side of the Yucatan Peninsula.
30 Formerly British Honduras until independence in 1981, the country is sparsely
31 populated: 361,000 people in about 23,000 square kilometers for a population
32 density of about 15.7 people per square kilometer.²⁷ Despite its small population,
33 Belize is one of the most ethnically diverse countries in the world, with most Belizeans
34 considering themselves to be multiracial. About 34 percent of the population is of
35 mixed Maya and European descent, 25 percent are Kriol, meaning mixed African and
36 (largely) British descent, and both of those groups are racially mixed with other
37 Latin Americans, West Indians, Afro-Amerindians (Garifuna), and increasingly
38 Chinese, East Indians, and low German-speaking Mennonites. Most Belizeans are
39 multi-lingual, speaking English as well as Kriol and, more often than not, Spanish
40 and one or more Maya languages.

41 Belize's archaeological past is spectacular. It houses numerous major and
42 minor Maya archaeological sites, from small sacred caves to large metropolises.
43 Belizeans encounter archaeological objects and sites in their day-to-day lives and

1 archaeological themes appear on everything from the currency and on Belize's
2 most popular brand of beer. The sites are spread throughout the country, but there
3 are major concentrations of sites along Belize's borders with Guatemala and Mexico,
4 making cross-border trafficking a serious concern.

5 Tourism is a large component of Belize's economy. As the country is located
6 only a short flight from the U.S., is English-speaking, has a currency that is pegged
7 2:1 to the U.S. dollar, and is filled with exotic natural and archaeological sites, it
8 has positioned itself as an easy adventure holiday for U.S. travelers. Because of this,
9 threats to nature and to archaeology are considered to be threats to the country's
10 economy. Belize was heavily hit by the various waves of archaeological looting in
11 Central America, particularly for carved stone stela in the 1960s, and elaborately
12 painted polychrome pottery up into recent years. The most comprehensive study
13 of looting in Belize was conducted in the early 1980s²⁸ and the most recent study
14 was undertaken in 1999.²⁹

16 *Record Keeping*

18 Looking at record keeping in Belize, which too is mandated by law,³⁰ we can observe
19 the typical developing world situation where a well-trained, credentialed, and
20 devoted but very small archaeological body is stretched too thin to do everything
21 that they would like to. The individual in charge of their library of records plans on
22 digitizing them with the strong hope of making them publically available for free
23 online. However, as of 2014 they lacked the appropriate scanning equipment and,
24 more importantly, lacked the staff needed to accomplish the task. They stated that
25 they would have to do the work themselves, but did not have the time. Interviews
26 with other government-employed professionals indicated that in presentations
27 and internal documents, they were still using various looting, trafficking, arrest,
28 and seizure numbers from as far back as the early 1980s³¹ and that the last time
29 such numbers were rounded up was 1999.³² Such records have not been specifically
30 kept for no other reason than a lack of staff and a lack of time. That said, Belize has
31 made a big push to try to get citizens to voluntarily register archaeological objects
32 in their possession as mandated by law.³³

34 *Policing and Institutions*

36 In 1934, Aldous Huxley wrote, "If the world had any ends [Belize] would certainly
37 be one of them. It is not on the way from anywhere to anywhere else. It has no
38 strategic value. It is all but uninhabited...."³⁴ Although harsh, this quote sums up
39 the logistical issues of policing in Belize. Its vast, jungle-covered territory contains
40 very few people, is difficult to monitor making it a haven for illicit activities. About
41 33 percent of Belize's population is considered to be below the poverty line and
42 the country has an unemployment rate of 23 percent. Gang violence is on the rise
43 in the country, particularly in Belize City. In recent years Belize has had one of

1 the highest murder rates in the world, from 6th to 3rd highest, close in ranking to
2 neighbors such as Honduras, El Salvador, and Guatemala.³⁵ Rape, violent crime,
3 and burglary rates are also extremely high in Belize. The population has historically
4 held the police in low regard due to increasing violence and a perceived failure of
5 the police to respond to and investigate crimes.³⁶

6 Very few crime or justice studies have focused on Belize and academic evalua-
7 tion of policing in the country is limited. An exception is a pilot study conducted
8 by Hanson et al. in 2004. At the time they found the Belize Police had a staffing
9 shortfall of 13.4 percent as well as a budgetary shortfall. The police lacked basic
10 resources: police station parking lots resembled salvage yards, vehicles were scarce
11 and barely operational, and the Maritime Unit of this long-coasted Caribbean
12 country had only one functioning boat. Poor infrastructure is an issue: a critical
13 lack of roads (as well as the poor condition of existing roads) and some of the most
14 expensive public utilities in the region discourage various types of monitoring and
15 policing, as well as development.

16 Belize shares long jungle borders with both Mexico and Guatemala. Because
17 of the density and remoteness of the jungle as well as Belize's small population
18 and small police and defense forces, these borders are relatively open. Interviews
19 with Belize police indicate that police checkpoints are easily avoided "by simply
20 walking through trails in the jungle."³⁷ This, coupled with its position between
21 South America and the U.S., has increasingly led Belize to become a strategic point
22 in the international trafficking of all sorts of illicit goods, including narcotics and
23 persons. Reports indicate that many of the criminals operating on Belize's borders
24 are former Central American paramilitaries, hired into the cartel support infrastruc-
25 ture and that they are "commonly found better armed than the police."³⁸

26 All existing studies on the looting and trafficking of cultural property in Belize³⁹
27 and my own fieldwork, document a clear trans-border element to this type of
28 crime, both historically and into the present day. Large Maya sculptural pieces such
29 as Stela 2 from Machaquilá were looted from Guatemala, carried across the Belize
30 border, and exported to the U.S., in that case via a boat to Florida.⁴⁰ Ethnographic
31 work has shown that looting gangs from both Guatemala⁴¹ and Mexico,⁴² them-
32 selves from the peripheries of the periphery in their own countries, have been able
33 to move freely between countries. Belizean looters, too, certainly have operated on
34 whatever side of the border was most advantageous. Especially when it comes to
35 transnational crime, this criminal activity occurs in Belize precisely because it is so
36 difficult to monitor the country's remote borders.

37 38 *Nested Illicit Economies*

39
40 Central America has changed a lot in recent decades. Shifts in the regional localities
41 of the transnational trade in narcotics have inspired a movement southward into
42 areas along Mexico's borders with Guatemala and Belize and down into El Salvador
43 and Honduras.⁴³ The specifics of these regional shifts are outside of the scope of

1 this paper,⁴⁴ but in Belize this has led to a situation where the idea of an antiquities-
2 specific focus of either organized or disorganized crime is highly unlikely. Cultural
3 property trafficking is neither profitable enough, nor can it be used to effectively
4 “clean” or launder narcotics money. The cartels have more profitable activities to
5 engage in.

6 At this time antiquities looting and trafficking in Belize appears to rests within a
7 regionalized collection of illicit economies.⁴⁵ Although antiquities looting special-
8 ists may have existed in the past,⁴⁶ looting and trafficking in the present is far more
9 opportunistic. Individuals or groups are willing to commit a number of different
10 illicit activities (e.g. animal poaching, smuggling consumer goods across the bor-
11 der, land encroachment, illegal logging, laundering money for narcotics cartels, etc.)
12 because they see them as viable alternatives to other activities and their environment
13 supports such crimes. In other words people commit certain low-cost crimes if the
14 opportunity to do so arises, especially when the physical and moral consequences
15 of committing such crimes are minor and the crimes, themselves, are perceived as
16 victimless.

17 An interesting example of this can be seen within the Mennonite communities
18 along Belize’s border with Mexico. Ideologically opposed to outside governance,
19 Belize’s Mennonites have historically been implicated, often unfairly, in the nar-
20 cotics trade,⁴⁷ trans-border smuggling of a number of goods, illegal demolition of
21 archaeological sites, and the looting and trafficking of antiquities: both in the form
22 of actual looting/transport and in receiving money from looting groups for access
23 to sites on Mennonite land.⁴⁸ Clearly only a limited number Belize’s Mennonites
24 are willing to engage in these illicit economies; however, some do see it as a viable
25 alternative to other activities, see little consequence in their behavior, and live in
26 an environment that both encourages financial gain and discourages compliance
27 with external government.

28 Another example are the so-called “subsistence diggers,” recorded in Paredes
29 Maury’s work in Guatemala and Matsuda’s work in Belize.⁴⁹ While Matsuda’s
30 “subsistence diggers” do seem to be primarily focused on archaeological looting,
31 he does connect their activity directly to illegal migration into Belize (and thus a
32 lack of legal work option) as well as illicit overland transport of other goods. Pare-
33 des Maury’s ethnographic work focused on looting conducted by poor chicle gum
34 collectors in rural Guatemala who would loot archaeological sites to add to their
35 meager income, mostly because they were moving through the deep jungle any-
36 way. Looting was the focus of her work, but she notes that people in the region also
37 supplement their income by poaching endangered animals, participating in illegal
38 logging, and participate in the narcotics trade.

39 Discussion of antiquities looting as one of many opportunistic illicit activities
40 is common in Central America. A group of Guatemalan archaeological workers
41 I spoke with in 2003 stated that they had looted sites in the past and that they
42 poached a jaguar for its pelt because the opportunity to do so was there. As I spoke
43 to a former looter in Belize 2014, we drove a woman to a certain spot near the

1 border so she could carry undeclared meat to her shop in Mexico, a service for
 2 which the driver was paid. Former Belizean forestry workers that I interviewed did
 3 not see much difference between people they caught looting and, say, people they
 4 caught trapping macaws, indicating that these were sometimes the same people.

5 6 *Thinking Internationally in the Past and Present*

7
8 Many of the problems associated with regulating the illicit trade in Maya antiq-
 9 uities via international partnership agreements stem from the fact that modern
 10 borders do not follow ancient borders. Although the various ancient Maya polities
 11 each had their own distinctive iconographic styles, even those styles cross mod-
 12 ern borders. Maya polities also participated in complex trade with each other: just
 13 because an artifact is of one style does not mean it was not traded to another region
 14 in antiquity. Even when a Maya objects bears the name of a known site (the Maya
 15 were, of course, a literate culture), this does not conclusively indicate a modern
 16 country of origin as it is clear that such objects were traded over great distances.⁵⁰
 17 It is almost impossible to conclusively determine which modern country a previously-
 18 unknown looted and trafficked Maya artifact came from.

19 Until the 1970s, looting at Maya sites was focused on stone stela and carved
 20 architectural elements (lintels, staircases, etc.), massive pieces that were often cut,
 21 thinned, or otherwise mutilated for transport. In 1969, Clemency Coggins published
 22 a short article which shone a light on the dark trade in looted stela and inspired
 23 public discussion about the pillage of Maya sites. In 1972, as a result of the profes-
 24 sional outcry that followed and an acknowledgment that the U.S. was the primary
 25 market for looted Maya objects, the U.S. passed Public Law No. 92-587 9 U.S.C.
 26 § 2091: “Regulation of Importation of Pre-Columbian Monumental or Architectural
 27 Sculpture or Murals.” It states:

28 *No pre-Columbian monumental or architectural sculpture or mural which*
 29 *is exported (whether or not such exportation is to the United States) from*
 30 *the country of origin after the effective date of the regulation [...] may be*
 31 *imported into the United States unless the government of the country of*
 32 *origin of such sculpture or mural issues a certificate [...] which certifies that*
 33 *such exportation was not in violation of the laws of that country’. Any piece*
 34 *of pre-Columbian monumental sculpture must have ‘satisfactory evidence*
 35 *that such sculpture...was exported from the country of origin on or before the*
effective date of the regulation.

36 In other words, unless a valid export permit could be produced, all pre-Columbian
 37 murals, sculptures, or architectural pieces were prohibited from entering the U.S.

38 It is important to note that this law is object-focused not country-focused.
 39 A Maya stela stopped at a U.S. border cannot enter the country without a valid
 40 export permit and thus “fresh,” unprovenanced stela cannot enter the country at
 41 all. It does not matter what Central American country that stela came from and
 42 it does not matter if the exact country of origin is unknown at the time the stela is
 43 detected. The U.S. does not need to determine where it is stolen from to establish

1 that a stela is contraband, if it does not have the appropriate paperwork, it cannot
2 enter the country. This law shares some characteristics with the contemporaneous
3 1973 Convention on International Trade in Endangered Species of Wild Fauna
4 and Flora (CITES),⁵¹ which, among other things, creates an outright ban on the
5 movement of certain plant and animal species no matter where they came from or
6 where they were seized. The result of this law was the collapse of the U.S. market
7 for Maya stela and architectural pieces.⁵² No one could argue that a “new” stela
8 that appeared on the market without an export permit was legal and no Central
9 American country would ever issue an export permit for an artifact on anything
10 other than a temporary basis.

11 An unforeseen consequence of the ban on sculpture and architecture was a shift
12 in market demand. After 1972, the U.S. market for Maya stela largely disappeared,
13 but the market for Maya pottery exploded, seemingly because it was not covered
14 by the 1972 law.⁵³ It would seem that the appropriate response to this increase in
15 trafficking of looted Maya pottery should have resulted in an object-specific U.S.
16 restriction on the importation of Maya pottery, perhaps in the form of a permit
17 requirement, however that did not happen.

18 In 1983 the U.S. implemented the 1970 UNESCO Convention via the Conven-
19 tion on Cultural Property Implementation Act (CCPIA). CCPIA gave the president
20 of the U.S. the ability to impose import restrictions on certain cultural objects fol-
21 lowing a request from another state that is party to the UNESCO Convention and
22 to negotiate and enter into bilateral agreements to this effect. These restrictions are
23 bilateral and country specific. Instead of, say, mandating valid export permits for
24 all Maya pottery no matter the country of origin, the U.S. restricts the import of all
25 Maya pottery from a particular country with which it has an agreement. The prob-
26 lem with this should be clear: looted Maya objects that, inherently, do not have a
27 known modern country of origin can fall through the cracks.⁵⁴

28 At the time of writing, the U.S. has cultural property agreements in place with
29 all of the Maya countries, although the treaty with Mexico is slightly different and
30 was developed before the U.S. implemented the 1970 UNESCO Convention.⁵⁵ The
31 U.S. and Belize only entered into a cultural property bilateral agreement in 2013,
32 meaning that in the years since the implementation of the UNESCO Convention
33 there was at least one Maya heartland country with no U.S. import restrictions.
34 This allowed for exploitable ambiguity in the import and sale of Maya objects in
35 the U.S.⁵⁶

36 The destruction to Maya sites associated with the looting of pottery and other
37 small items not covered by the U.S. law of 1972 has devastated the region. Although
38 the looting of stela was destructive, these sculptures are usually stand-alone pieces.
39 Pottery and other smaller items are normally found within caches and tombs located
40 deep within Maya temples and other structures. The trickle-down effect of the
41 switch in market demand towards these smaller objects was the wholesale destruc-
42 tion of thousands of Maya buildings. Almost every known Maya site has been com-
43 promised by this wave of looting.

DISCUSSION

1. *Burden on Developing Countries' Institutions*

As it stands, most of the financial burden of the on-the-ground policing of the illicit traffic in cultural property rests on the source country in the form of physical protection of archaeological and cultural sites. The existing system places emphasis on stemming the supply of looted antiquities at the source rather than discouraging demand. To a large degree, our current regulatory regime depends on extensive, competent, and well-funded internal protection over market-end disruption. This is reflected in the wording of Articles 5 and 6 of the 1970 UNESCO Convention, mandating that the states party to the convention set up national services with “qualified staff sufficient in number” to carry out documentation, protection, excavation, education, regulation, certification, customs, and policing duties within their territories. While subsequent articles of the 1970 UNESCO Convention call for international collaboration, the internal duty to fund protection operations within source countries is emphasized. Even if this wording is merely an ideal, it evidences a clear focus on disruption at the source and not disruption of either transnational trade or the market. Yet as we have seen with both Bolivia and Belize, such source-end disruption may lay far outside of the logistical and financial capacities of developing countries.

Most major antiquities source countries, such as Belize and Bolivia, are located in the developing world where resources are limited. Although these countries often enact tough anti-trafficking laws with stiff penalties, as is the case with both Bolivia and Belize, when faced with the logistical and financial difficulties inherent in the developing world, such laws prove nearly impossible to enforce. Internal legal mandates to train, maintain, and heavily fund numerous different policing, documentation, and heritage preservation groups in an effort to fend off the inevitable effects of international demand for illicit antiquities are left underfunded in the face of more pressing problems. Such mandates are seen as insurmountable obstacles to both engaging in international discussions concerning antiquities trafficking regulation and to successfully negotiating cultural property agreements.

Furthermore, institutional failures in security-related sectors in the developing world are an impediment to the ideal functioning of existing international trafficking prevention measures. High-level international policy formation tends to assume, at least on paper, that there will be a competent police force on the ground, an adequate customs service to combat smuggling, and a functioning justice system to punish wrongdoers. Yet in many developing countries, such functional and funded institutions are the exception, not the rule.

As can be seen in Bolivia, despite steady improvement in recent years, a sizable portion of the population is unable to access state-level institutions. Police are seen as corrupt and insecurity is the norm. In Belize, police suffer from inadequate equipment, short staffing, and remote jungle covered borders. Although the law is clear

1 and antiquities theft and trafficking penalties are steep in both countries, few
2 criminals are ever apprehended. Those that are may languish in judicial limbo for
3 years or be let go simply because these justice systems are working with numbers
4 far above their capacity. Again a key element in our international system for antiq-
5 uities trafficking prevention, security on the ground, depends on the financial and
6 organizational stability of countries that are rarely financially and organizationally
7 stable.

8 Bolivia and Belize, like most developing countries face major threats related to
9 internal and international crime. Their ability to deal with those issues is seriously
10 hampered by corruption, inaccessible territory, and limited financial resources. Yet
11 there is a perceived expectation internationally that local police and related institu-
12 tions should be a key component of our international efforts to regulate the flow of
13 looted antiquities onto the market. This expectation may prevent the apprehension
14 and prosecution of individuals higher up on the antiquities trafficking chain and
15 puts an unfair burden on the victims of antiquities theft. Leaving these and other
16 policing and protection efforts up to source countries does not adequately protect
17 heritage sites, does not adequately protect communities, does not prevent illicit antiq-
18 uities from entering the market, and does not disrupt the illicit trafficking chain.

19 20 *2. Focus on Countries, Not Objects*

21
22 The development of international agreements between states, either within the
23 framework of the 1970 UNESCO Convention or outside of it, is at the core of our
24 existing international regulatory regime to combat antiquities trafficking. There
25 are a number of issues that arise when regulation of the illicit antiquities trade is
26 reduced to relations between only two modern states. The most obvious is that the
27 paths that looted cultural objects pass through on their way to the market often
28 include third (or fourth or fifth) states which may or may not have cultural prop-
29 erty agreements or favorable relations with the initial source and ultimate market
30 countries. They may have no vested interest in spending scarce policing funds on
31 what they might consider to be someone else's problem.

32 Yet there are more subtle issues on the ground with heritage site protection based
33 on international agreements. Even when agreement is in place, poor relations between
34 the two countries will stall recovery efforts. This is put in particularly sharp focus when
35 considering the return of cultural property from the U.S. to Bolivia. Although relations
36 between these two countries are unsteady, some sort of continued relationship and
37 ongoing negotiations are required for stolen Bolivian cultural objects either to be pre-
38 vented from entering the U.S. or to be returned. Thus international relations become
39 the focus, not the objects themselves, and preservation hinges on these relations. This
40 country-specific approach is quite different from an object-specific approach, which
41 would require various proofs of ownership and permits for antiquities to cross borders
42 or enter the market. In other words an object-specific approach requires less negotia-
43 tion and can continue to function even when international relations sour.

1 Furthermore, a country-specific focus can be completely ineffective when dealing with
2 ancient cultures that spanned across several modern states. In the case of many forms
3 of Maya pottery, it is nearly impossible to determine which Central American country
4 a looted piece came from. When such pottery is seized outside of Central America,
5 it is usually unclear which modern state can or should claim it. Even when a Maya pot is
6 intercepted leaving Belize, the origin of the piece is not immediately obvious as it could
7 have passed in that country from either Mexico or Guatemala. This ambiguity can and
8 has been exploited by traffickers. However an object-specific regulatory approach, per-
9 haps modeled after CITES and requiring permits and ownership documentation for
10 all Maya pottery crossing any border, might serve to better control the market for such
11 pieces. Maya pottery without a clear country of origin and a clean export history would
12 be prevented from entering the market country and the market itself.

14 *3. Cultural Objects in Isolation*

16 We tend to think of cultural objects as unique. They are the manifestation of the
17 intangibilities of human identity, and it is easy to see why there is an urge to produce
18 legislation that distinguishes cultural property theft from other crimes. While it may
19 be correct to separate the theft and trafficking of such rare goods as antiquities from
20 the mundane “normal” stolen goods, that does not mean that antiquities trafficking
21 is unrelated to other crimes. The trafficking and illicit sale of antiquities may be one
22 of a series of interrelated criminal activities which include the transport and sale of
23 other objects. Likewise, the looting of archaeological sites may be a response to eco-
24 nomic instability caused by unrelated crime, such as the encroachment of displaced
25 persons onto protected land due to the activities of drug cartel support economies.

26 This certainly seems to be an issue in Central America, where antiquities looting
27 appears to be one of a number of illicit border economies that individuals engage in
28 either when opportunity presents itself or out of need. These illicit activities are often
29 conducted by the same people in the same space. Using the example of Belize, desig-
30 nated archaeological sites are often in protected forest zones. These protected zones are
31 also the site of illegal logging and rare wood taking, illicit palm cutting for the inter-
32 national flower market, poaching of jaguars for pelts, taking of rare parrots, protected
33 orchid theft and smuggling, and illegal farmsteading, as well as stopover points for
34 planes involved in narcotics trafficking. To an extent, many of these crimes are policed
35 together on the ground by forestry workers and tourism police, but administratively
36 they are differentiated from antiquities trafficking and exist in a separate place within
37 national law and our international regulatory regime. A reduction in illegal farming
38 activities might reduce archaeological site looting; a crackdown on, specifically, parrot
39 smuggling might result in individuals turning to artifact smuggling. Siloing national
40 and international policy for what can be seen as related crimes may prevent us from
41 gaining an accurate understanding of the results of our interventions.

42 To use the example of the village of Quila Quila in Bolivia, we can see a potential
43 outcome of viewing cultural property theft as separate from internal instability

1 and insecurity. This community, out of a profound sense of insecurity and lack of
2 confidence in the authorities, turned to fatal vigilantly justice to punish cultural
3 property robbers. Although this is an extreme, it illustrates what might be a lack of
4 non-heritage-related development within our cultural property protection regime.
5 Perhaps we should make heritage protection a component of more general policy
6 towards social improvement, not a stand-alone area in which capacity is built but
7 no foundation exists for that capacity to rest on.

9 SOME POLICY RECOMMENDATIONS FROM THE GROUND

10
11 What, then can be done to improve international policy related to antiquities
12 trafficking? That is not an easy question to answer; however beyond what I have
13 previously discussed, this fieldwork in Bolivia and Belize points to two areas of
14 potential improvement.

15 First, object-focused import restrictions should be promoted. Banning the import
16 of all permit-less Pre-Columbian sculptural pieces, no matter their country of
17 origin, nearly eliminated the market for such items in the U.S. This can and should
18 be done on a global scale, perhaps using CITES as a model. CITES has its flaws,
19 but by banning the free movement of certain animals and plants, no matter their
20 country of origin, many of the exploitable aspects of other types of regulation are
21 avoided. Mandatory export and import permits will go a long way to eliminating
22 traffickers' ability to "clean" illicit antiquities for the more "respectable" market.
23 There will be no "respectable" illicit antiquities and the reduction in demand will
24 naturally reduce motivation to loot for supply.

25 Second, we should emphasize policing and punishment of traffickers and buyers
26 rather than spend time and money on the return of a limited number of cultural
27 objects. If we accept that most people in developing countries who engage in loot-
28 ing are doing so because of a lack of viable alternatives and as part of any number of
29 illicit and licit short-term economic activities, it is clear that focusing policing and
30 punishment on them is useless. The more powerful end of the market will find other
31 desperate people to commit those crimes. Instead of policy focused on asset return,
32 we need policy focused on reducing the market. This means real punishment for
33 collectors and museums found to be buying looted goods and this means breaking
34 up networks. Any future international regulation should still mandate international
35 cooperation, but that cooperation should be policing- and enforcement-focused.

38 ENDNOTES

39
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41 by the Fulbright, this work was focused on cultural property trafficking out of Bolivia, specifically
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 3 [mestizo-category](http://web.archive.org/web/20150614101606/http://bigstory.ap.org/article/bolivias-census-omits-mestizo-category); Estado Plurinacional de Bolivia 2013. AQ13
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 5 5. BOL. CONST. (2009).
 6 6. IMF 2014.
 7 7. Law of 3 Oct. (1906) (Bol.)
- AQ14 8. See Yates 2011 and Yates 2012 for complete analysis of Bolivian cultural property legislation.
 9 9. First via Res. Min. Educación 1642 (1961) (Bol.), then formalized via BOL. CONST. (1967)
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 15 12. 66 FR 63490–63499 (7 December 2011).
 16 13. *La Razón* 2012. During interviews related to this work, I discovered that artefacts that I personally
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 18 although I submitted the paperwork and reports required by law. They have sat for ten years in an
 19 unsecured shed at the site.
- 20 14. E.g. paintings stolen from the church at San Andrés de Machaca, see Yates 2015b.
 21 15. Consejo de Derechos Humanos 2012.
 22 16. *Ciudadanía & LAPOP* 2012: 106.
 23 17. See Yates 2014.
 24 18. Yates 2014.
- 25 19. Henry Aria Gutiérrez, "Linchamientos en Quila Quila," *Correo Del Sur*, 8 March 2012,
 26 [http://web.archive.org/web/20150614095536/http://www.infodecom.net/nacionales/chuquisaca/
 27 item/2094-linchamientos-en-quila-quila](http://web.archive.org/web/20150614095536/http://www.infodecom.net/nacionales/chuquisaca/item/2094-linchamientos-en-quila-quila); "Turba linchó a dos supestos delincuentes en Quila Quila,"
 28 *El Diario*, 8 March 2012. AQ16
- 29 20. DL No 10426 Código Penal Art 223, Art 326, Art 358 (2010) (BOL).
 30 21. I have not seen clear proof of this, however I was offered illicit fossils there in 2013. Fossils are
 31 protected by the same legislation as antiquities in Bolivia and their sale and transnational transport is
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 33 22. The specifics of this case have been omitted as the investigation is ongoing.
 34 23. 54 FR 10618–10620 14 March 1989; Lobo 1991; Yates 2012b.
 35 24. According to documentation supplied by informants.
- 36 25. "Roban tres cuadros coloniales y escultura de iglesia en Bolivia," *ACI Prensa*, 26 July 2009,
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 38 cuadros-coloniales-y-escultura-de-iglesia-en-bolivia/](http://web.archive.org/web/20150614095016/https://www.aciprensa.com/noticias/roban-tres-cuadros-coloniales-y-escultura-de-iglesia-en-bolivia/); Ronald Barrancos, "Bolivia: Robaron 18 Piezas
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- 42 26. In July of 2014, I conducted preliminary fieldwork in Belize. Funded by the Leverhulme Trust,
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- 46 27. Statistical Institute of Belize 2015.
 47 28. Gutchen 1983.
 48 29. Gilgan 2000.
 49 30. *Ibid.*; Gutchen 1983.
 50 31. Gutchen 1983.
 51 32. Gilgan 2000.
 52 33. Ch 259 Ancient Monuments and Antiquities 6.1 (1972) (BELIZE).

- 1 34. Huxley 1934.
 2 35. UNODC 2014.
 3 36. Hanson et al. 2004, 255.
 4 37. Ibid, 252.
 5 38. Ibid.
 6 39. E.g. Gilgan 2000; Gutchen 1983; Matsuda 1998a, 1998b; Pendergast 1991; Pendergast and Graham
 7 1981.
 8 40. U.S. v. Hollinshead 1974, 495 F.2d 1154, 9th Cir.
 9 41. Paredes Maury 1999.
 10 42. Confidential interviews, Belize 2014.
 11 43. Steven Dudley, "The Zetas in Guatemala," *Insight Crime Report*, 8 September, 2011: 3;
 12 McSweeney et al. 2014, 489.
 13 44. See Yates 2015.
 14 45. This information is compiled from confidential interviews conducted in July 2014. AQ18
 15 46. As asserted in Matsuda 1998a and 1998b.
 16 47. E.g. Ricardo Flores, "Belize, nueva ruta de narcos operan por tierra y aire," *La Prensa Grafica*,
 17 12 June 2012, <http://web.archive.org/web/20150614100626/http://www.laprensagrafica.com/el-salvador/judicial/267618-belice-nueva-ruta-de-narcosoperan-por-tierra-y-aire> OR <http://perma.cc/AU26-NFM4>; I have seen alleged air strips in Mennonite areas and several informants recounted
 18 such involvement. AQ19
 19 48. Confidential interviews, 2014.
 20 49. Matsuda 1998a, 1998b; Paredes Maury 1999.
 21 50. A spectacular example of this comes from the work of Reents-Budet on Belize's "Buenavista
 22 Vase" in Schele et al. 1994.
 23 51. Adopted 3 March 1973, entered into force 1 July 1975.
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 26 54. Gilgan 2000.
 27 55. Treaty of cooperation providing for the recovery and return of stolen archaeological historical
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