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# Orphan Antiquities at Kenyon College: The Lessons of the Harris Bequest

# Elizabeth Marlowe

From the perspective of cultural property and museum ethics, Kenyon College's 2010 decision to accept alumnus David Payne Harris's collection of hundreds of artworks and antiquities is a complicated one. Harris had receipts for most of his purchases; but the objects' provenance histories prior to their arrival in the dealers' shops was unknown in almost all cases. This means there is a possibility that the objects were stolen — whether from the ground, from standing monuments, or from museums and their storerooms. Such thefts result in both the loss of historical knowledge and access to what many modern countries consider their cultural heritage. Seeking to prevent these harms by disincentivizing looting, most modern museums have stopped acquiring objects that might have reached the market in this way. Severed from their historical origins and tainted by their possible connections to heritage crime, these objects are often referred to as "orphans" in scholarly and popular literature.

If museums won't take them, what should happen to orphans when their private owners pass away? Harris's collection and Kenyon's handling of the gift together offer a useful case study for thinking through the pitfalls and possibilities. In this article, I will present an overview of the policies that governed Kenyon's decision-making process. I will then discuss some of the moral and ethical complexities of antiquities collecting, which arguably blur some of the sharp lines those policies seek to draw. Finally, I will consider the positive aspects of Kenyon's decision, and some lessons that can be learned from it. My hope is that this case

<sup>1</sup> This committee ceased to exist after 2011, when its duties were transferred to the newly established Gund Gallery; see the essay by Brad Hostetler (ch. 2).

study may be useful to other institutions, particularly colleges and universities, together with their museums and development offices, when thinking through how to handle alumni gifts of problematic artworks.

#### I. Policies

David Payne Harris began collecting art and antiquities in 1957, shortly after completing his Ph.D. at the University of Michigan, when he travelled to Greece on a Fulbright fellowship. A professor of linguistics at Georgetown University, he continued collecting his entire life, focusing primarily on small-scale objects connected to Eastern Orthodox Christianity, a religion he adopted as an adult. He also collected memorabilia associated with the War of 1812. In the summer of 2009, when Harris was eighty-four years old, he approached Kenyon College, his alma mater, about the possibility of leaving his collection of Asian ceramic art to the school. At some point later that year, he offered the College his Mediterranean antiquities as well.

Kenyon had no campus art museum at the time but it did have a Fine Arts Accessions Committee, where the matter went for review. The committee solicited input from two faculty members with appropriate expertise, both of whom advocated for the acceptance of the gifts. The letter on the Asian collection speaks enthusiastically about the quality of the pieces and their potential classroom use in "many Asian studies courses." The faculty member who evaluated the Roman, Greek, and Byzantine

works was so impressed with their quality that he expressed some concern that Kenyon might not be able to provide the "proper care and protection of these fine items." The writer in fact thought the works would "be best accommodated in a specialized collection such as the Byzantine Collection at Dumbarton Oaks or the Kelsey Museum of Archaeology at the University of Michigan," and that Kenyon should accept the gift "only if we are committed to housing and showing them as a collection" (emphasis in original). The Fine Arts Accessions Committee notes in its annual report for that year that based on the recommendations of the faculty experts, the committee was "unanimous in its enthusiasm" to accept both collections, which would form "part of an estate which will arrive at the College in the future," i.e. upon Harris's death.

That same year, a different campus body, the Collections Steering Committee, was revising the 2007 "Collecting Plan for Kenyon College." The 2007 document was brief and more descriptive than proscriptive. It included a summary of Kenyon's existing art collections; identified three categories of collection display (primary, education, and public); and offered a six-question "checklist for acquisition" and an eleven-point "criteria for accession." The revised Collecting Plan, completed in January, 2010, greatly expanded upon the original. It encompassed policies and procedures for accessioning and deaccessioning, a loan policy, and an ethics policy. It is this last item that is relevant to the present discussion, and in particular the ethics policy's treatment of the issue of provenance.

The 2007 document's engagement with provenance consisted only of a single two-part question in the six-question "Checklist for Acquisition," ("Are the provenance and ownership of the work known and acceptable to the museum? Are there legal or ethical concerns that can be

the College will not knowingly accept any artifact illegally imported or collected in the United States, or whose acquisition would encourage illegal traffic or damage to archaeological sites cultural/natural or monuments. The College will not collect art artifacts with unsatisfactory questionable provenance. The College endorses the 1988 Policy on Repatriation of Native American Ceremonial Objects and Human Remains and the 1970 UNESCO convention and other applicable antiquities statutes that prohibit "the illicit import, export, and transfer of ownership of cultural property."

The 1970 UNESCO Convention referred to here is also known as the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.<sup>2</sup> This international agreement demanded that states parties respect each other's cultural property laws, and that archaeological or ethnographic artifacts trafficked in violation of those laws henceforth be considered "illicit." Proof of compliance with the relevant laws would be satisfied by an export license issued by the country where the object in question originated.

It is important to understand that this requirement of the Convention effectively reverses the burden of proof, insofar as no information

anticipated by the museum?") and one bullet in the eleven-bullet "Criteria for accession" ("Authenticity and provenance must be satisfactorily proven; the donor must certify true, rightful, legal ownership."). The document offered no specific criteria for determining what counted as "acceptable" provenance, nor any guidelines as to how exactly authenticity and provenance could be "proven." The lengthy and strongly-worded "Ethics Policy" of the 2010 document, by contrast, states that

<sup>&</sup>lt;sup>2</sup> UNESCO 1970. For a helpful overview, see Gerstenblith 2013. It should be noted that many heritage advocates, including Gerstenblith, reject the primacy of the UNESCO Convention as the framework for these debates, as many

countries had laws in place safeguarding their cultural property and/or vesting its ownership with the state prior to 1970. I foreground it here because of its prominence in Kenyon's own policy.

regarding a theft or act of looting would henceforth be required for an archaeological or ethnographic commodity to be considered "illicit." The absence of proof of government-sanctioned export from its country of origin would be enough. In other words, states parties were agreeing that the scale of the problem of the trafficking in cultural property was wide enough that objects should be assumed guilty unless an export license proved them innocent.

Kenyon's 2010 policy not only declares its endorsement of the 1970 Convention. It doubles down on the avowal to uphold the Convention's underlying principles: "The College will acquire or accept an object only when it can determine with reasonable certainty that the object has not been unethically obtained, or obtained in violation of state or federal laws, treaties, or international agreements." It seems from this radically revised and expanded language that between 2007 and 2010, Kenyon College's Collections Steering Committee had developed an entirely new understanding of its responsibilities with respect to the UNESCO Convention. The change of heart may have been occasioned by the new guidelines that had been issued in 2008 by the two leading professional organizations of museums in the U.S., the Alliance of American Museums and the Association of Art Museum Directors. The AAM guidelines stated that

museums must comply with all applicable U.S. law, including treaties and international conventions of which the U.S. is a party, governing ownership and title, import and other issues critical to acquisitions decisions. Beyond the requirements of U.S. law, museums should not acquire any object that, to the knowledge of the museum, has been illegally exported from its country of modern discovery or the country where it was last legally owned. In addition, the Alliance recommends that museums require documentation that the object was out of its probable country of

modern discovery by November 17, 1970, the date on which the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property was signed. For objects exported from their country of modern discovery after November 17, 1970, the Alliance recommends that museums require documentation that the object has been or will be legally exported from its country of modern discovery, and legally imported into the United States.<sup>3</sup>

Likewise, the AAMD guidelines stipulated that "should museums not normally acquire archaeological materials and ancient art without provenance demonstrating that the object was out of its country of modern discovery prior to or legally exported there from after November 17, 1970."4 It is worth noting that because Kenyon College did not yet have a campus museum in 2010, it was a member of neither professional organization at that time. Regardless of what triggered the formulation of the ethics policy in 2010, what matters is that this addition to the "Collecting Plan for Kenyon College" brought the plan and the College into alignment with current, professional best practices in the museum world.

Unfortunately, however, the contradiction between the new ethics policy of the College's revised Collecting Plan and the decision to accept David Payne Harris's collection of Asian and ancient Mediterranean artifacts was not recognized. But the contradiction is undeniable. The UNESCO Convention explicitly called on museums "and similar institutions" not to acquire illicitly exported cultural property (article 7). It also specified, as noted above, that the only guarantee of licit export was an export certificate from the country of origin (article 6).

This is very clear-cut; but there is one large loophole that muddies the picture and at least partially explains Kenyon's inconsistency. Because

<sup>&</sup>lt;sup>3</sup> AAM 2008.

<sup>&</sup>lt;sup>4</sup> AAMD 2008.

the 1970 Convention was not retroactive, another way in which objects of cultural property can achieve the status of "licit" is if it can be proven that they left their country of origin prior to 1970. Such proof might come in the form of a pre-1970 sales receipt or a pre-1970 publication listing the object's location in a foreign collection, or through more indirect means, such as evidence of a conservation treatment that had to have occurred a) outside the country of origin and b) prior to 1970. Most of the objects in Harris's collection are accompanied by receipts from established dealers documenting his purchases. A former member of Kenyon's Fine Arts Accession Committee acknowledges that this was understood at the time as proof of the objects' licit status.<sup>5</sup> In fact, only about eight percent of these receipts demonstrate that the purchase occurred prior to 1970. Furthermore, as Hostetler makes clear in his contribution to this volume, none of the objects Harris purchased after 1970 were accompanied by an export permit or proof of pre-1970 export. Thus, approximately 92% of the items in the Harris bequest are "illicit" by the terms established in the UNESCO Convention.

It's important to recognize that "illicit" is not the same as "illegal." When and how the UNESCO stipulations go from being ethical guidelines to being law depends on the terms under which it is implemented in each state party. In the U.S., this took place in 1983, with the Convention on Cultural Property Implementation Act. But in this case the matter is even more complicated because the CPIA imposes restrictions only on objects that originated in countries with which the U.S. has taken the additional step of signing "memorandum of understanding" based on demonstrated "jeopardy from pillage archaeological or ethnological materials." But for our purposes, the legal nuances are less relevant. By stating that it will adhere both to (state and federal) laws and to international agreements, Kenyon's 2010 Collecting Plan, like the 2008 AAM and AAMD Guidelines, makes it clear that it is motivated by broader principles of ethics as well as by narrower legal codes.

# II. Grey Areas and Misunderstandings

Kenyon's acquisition of Harris's collection must thus be understood as a contravention of the 1970 UNESCO Convention, of the 2008 AAM and AAMD Guidelines, and of the College's own 2010 Collecting Plan. That is the most black-and-white interpretation of the matter. But as we saw, that was not how it was understood by those making the decision in 2010. Nor was it understood in those terms by those involved with Harris's collection more recently. I first learned of the acquisition from a tweet by Brad Hostetler celebrating the Harris gift of antiquities and Ethiopian materials on Twitter in the summer of 2020. There was no mention of provenance or export licenses, nor any discussion of acquisition policies or other ethical considerations. I followed up with a private message; and in our subsequent exchange, Hostetler assured me that while he was aware of the need for follow-up provenance research, the College was satisfied by the fact that Harris had receipts for his purchases. In later conversations, notions of the "reputable dealer" and "legal purchases" were invoked several times. The only object in the collection which was thought to be problematic was a pottery fragment, presumably a surface find, which Harris seems to have picked up near a church in Thessaloniki — in other words, one acquired without the intervention of middlemen or dealers.7

Based on numerous conversations with colleagues in fields such as classics, history and art history across the U.S., I can say with certainty that Kenyon faculty are not alone in their imperfect

document in Russian apparently authorizing its deaccessioning and sale written by a curator of the State Historical Museum in Moscow. This episode, and the question of whether or not this document authorizes export abroad, deserves further research. <sup>7</sup> BHSC, 2020.146.

<sup>&</sup>lt;sup>5</sup> Brad Hostetler, pers. com., based on a conversation he had with the former committee member.

<sup>&</sup>lt;sup>6</sup> One possible exception mentioned by Hostetler (ch. 2) is the stone Byzantine icon Harris acquired in 1994 from Iconastas in London (BHSC, 2020.181). This piece is accompanied by a

understanding of the issues surrounding antiquities provenance, international collecting, and conventions and agreements like the UNESCO Convention. This despite the steady drumbeat of sensational stories about international smugglers, false papers, terrorist involvement and so on, involving some of the most prestigious institutions such as the Getty, the Metropolitan Museum of Art, and the Museum of Fine Arts, Boston, in highprofile venues like The New York Times, the Boston Globe, the Los Angeles Times, the New Yorker and the Atlantic, as well as in innumerable scholarly books and articles.8 Why is this the case? How can we account for seemingly unshakeable assumptions that, for example, reputable dealers wouldn't be selling illicitly-trafficked goods?

To answer this question, we must remember that what the UNESCO Convention offers is a bright line for collectors and institutions looking to do the right thing: they are urged to treat all works on the market as "guilty" unless an export license or proof of pre-1970 export proves them innocent. But the risk associated with not following the guidelines is low. No law enforcement official (or reporter) will show up at your door without specific information connecting works in your possession to known traffickers.9 Furthermore, while it is easy to see that an object lacks an export license, it is much harder to know for certain from which country the object was illicitly removed. Forfeiture is unlikely unless the dispossessed country can satisfy a court that the piece was stolen from within its borders, and not the borders of some other country. This is often hard to prove, as ancient cultures rarely map onto modern borders. The Byzantine pendant crosses in Harris's collection could have come from any of the dozens of countries that the Byzantine empire once encompassed. As long as the looters and smugglers

It's quite possible that despite decades of participation in the art market, Harris might have known very little about the specifics of the UNESCO Convention or the broader, shifting ethical norms in the field. Low rates of prosecution are one reason the issue may have never crossed his radar. In addition, amateur collectors like Harris often get their information about their collecting field from other collectors or from the dealers from whom they are buying. Despite the obvious conflicts of interest, dealers frequently play the lead role in shaping collectors' tastes and desires, educating them about what to look for in a potential acquisition, what matters and what doesn't.11 Harris's collecting pattern fits this mold; over the course of thirty years, he acquired a total of 114 objects, nearly a fourth of his collection, from just two London dealers in Byzantine art, Julia Schottlander at Tetragon and Christopher Martin-Zakheim at Iconastas. He must have developed deep trust in their opinions and guidance. These dealers would have had no incentive to explain the UNESCO Convention to him, to emphasize the importance of archaeological context to a work's ancient meaning, or to encourage him to demand documents or information they would not or could

and middlemen have done a thorough job of erasing any trace of information about where the object originated, there is little chance that a foreign minister of culture will step forward to block its sale or make a claim to it. Prosecution is even more rare than forfeiture, since the laundering function of the transit process gives the vendors at the end of the chain plausible deniability, or what Mathew Bogdanos, the chief of the Manhattan District Attorney's Antiquities Trafficking Unit, calls "the ostrich defense." <sup>10</sup>

<sup>&</sup>lt;sup>8</sup> Some of the most important publications are Watson and Todeschini 2006; Eakin 2007, pp. 62–75. Felch and Frammolino 2011. For a compendium of recent cases, see Gill 2020.

<sup>&</sup>lt;sup>9</sup> The recent case of the Walsh collection at the Fordham Museum of Greek, Etruscan and Roman Art is typical in this regard. None of the 260 works donated in 2007 came with

export licenses, but the New York District Attorney's office only took an interest in the collection when proof emerged about the role of notorious smuggler Edoardo Almagià in their trafficking. In 2021, the museum restituted almost one-hundred works to Italy. See Mashberg 2021, p. A10.

<sup>&</sup>lt;sup>10</sup> Sabar 2021. See also Mackenzie et al 2020.

<sup>&</sup>lt;sup>11</sup> Muensterberger 1994.

not themselves supply.<sup>12</sup> Dealers aren't alone in normalizing and valorizing artworks with murky origins and gappy provenances. Many curators and scholars feature antiquities with unknown origins and incomplete collecting histories in their exhibitions, publications and lectures without attention to the epistemological uncertainties, let alone to the legal and ethical issues.<sup>13</sup> In this regard, they are complicit in the larger system that allows looted artifacts to gain legitimacy and respectability in the field. They may even play a direct (if inadvertent) role in their laundering. Given these discipline-wide norms, few are likely to see anything suspicious in the silence or ignorance of dealers about the origins of their wares; and well-meaning collectors like Harris and institutions like Kenyon will see nothing intrinsically problematic about acquiring them or treating them as secure evidence of ancient practices. The very fact that the AAM and AAMD had to remind members in 2008 to please follow the UNESCO guidelines is evidence of just how poorly the issues were understood.

any Further muddying black-and-white framework through which we might be tempted to judge Harris's and Kenyon's actions is the fact that an object's status as licit or illicit, art or crime, is neither fixed nor absolute. Victoria Reed, the curator of provenance at the Museum of Fine Arts, Boston, has recently recounted an ostensibly happy story of an Egyptian stone torso of a seated male figure (initially misidentified as "probably Rajasthan") which was offered to her institution in 2009 by the dealer Jerome Eisenberg. 14 The piece had an ownership history going back only as far as 1989, when it was documented in a Dutch collection. Following UNESCO guidelines, the museum declined to purchase this illicit object. Then Eisenberg did more research and discovered a photograph of the figure in a London sales catalog of 1962. Now the piece was licit, per UNESCO, and in 2012, the museum went ahead and bought it. This story demonstrates that the status of an object as either licit or illicit is not intrinsic to the object itself but is, rather, a function of information.

Things would seem to have turned out well for the dealer and the museum here, but this case study should also serve as a warning, a reminder that additional information can always surface, even after an acquisition has been made. What if a future researcher learns that this torso had been broken off of a statue on the façade of a standing ancient temple in Egypt in 1961? According to the UNESCO Convention, the piece would still be licit; but the MFA might no longer feel quite so secure about the ethics of owning it. Of course, every Egyptian statue in London and Boston was detached from its original setting in Egypt at some point. What makes some of these removals more ethically problematic than others? Is it a function of how much time has elapsed? Whether we know the specific temple or tomb to which it once belonged? How much of the original structure is still in situ? Whether an official said it was okay at the time, and signed a piece of paper to that effect? Whether it was paid for? What if the payment was a bribe? What if the official who received it was not an Egyptian but an Ottoman

My point is simply that the whole field of antiquities collecting is far more grey than black and white. 15 Ultimately, for all the strong language of the UNESCO Convention and the various policies based upon it, the fact remains that when most people see a beautiful Byzantine carving in a dealer's case, on a living room mantle, or in a college art collection, they don't see an object of cultural property that has been wrongfully detached from its true context. They see a work of art, a connection to the past, a signifier of discernment, wealth, and class, a worthy object of study. Dealers in particular take care to propagate the positive connotations of art collecting and suppress the negative. Their tony addresses, elegant lighting and very proper-looking receipts keep the taint of the market's

<sup>&</sup>lt;sup>12</sup> Mackenzie et al 2020, p. 34.

<sup>&</sup>lt;sup>13</sup> Marlowe 2013.

<sup>&</sup>lt;sup>14</sup> Reed 2021.

<sup>&</sup>lt;sup>15</sup> Mackenzie and Yates 2017.

underpinnings — the midnight digging, sledgehammers, car trunks, mislabeled crates, bribes, etc. — far from mind. Museum labels that tell only happy stories, and cover up missing information with guesswork, are equally complicit. <sup>16</sup> As a result, for many if not most people, it requires a concerted effort of imagination to bridge the gap between the sordid realm evoked by words like "illicit," "plunder," "smuggling," and so on, and the acquisition of historical treasures on Portobello Road or Madison Avenue — or between "looting" and donating artworks to a college for the benefit of its learning community.

# III. Orphans

The most obvious implication of these observations is the need for more education about how the art market works, how artifacts change hands, how they are viewed by source countries, how those views can clash with the acquisitive desires of collectors and museums, and how various international treaties and national, federal and local laws have tried to manage these conflicts. These topics are rarely taught in university courses, even in the countries with the most active art markets. Programs in Museum Studies and Heritage Studies, where these subjects are central, are relatively new. They are more common in the U.K. than in the U.S., but they are still rare in both countries and even more unusual in other European nations compared to programs in art history or archaeology. It is in courses in these latter topics that most students encounter pre-modern artifacts, and most of these still ignore issues of the market and cultural property.

The fortunes of Harris's collection also expose a paradox of the AAM and AAMD guidelines. The

guidelines were one consequence of several years of relentlessly bad press for the museum sector in the mid-2000s, after a trove of documents and photographs exposed the staggering scale of international antiquities looting and trafficking.<sup>17</sup> The fallout from these revelations was public and humiliating: hundreds of artworks from dozens of U.S. collections were returned to Italy and Greece, and a leading curator at the Getty Museum was prosecuted in an Italian court for dealing in stolen goods. The looting of the Iraq Museum in 2003 also heightened public attention to unscrupulous international art trafficking.18 The AAM and AAMD's 2008 Guidelines were in part an exercise in crisis management. 19 But they were also a response to years of lobbying from organizations like the Archaeological Institute of America, which had been actively working since the 1970s to combat the destruction of archaeological sites by looters. The AIA's approach was not only to shore up the U.S. commitment to the UNESCO Convention. It was also to disincentivize collectors, who are often referred to in the archaeological community as the "real looters," since it is their activities that motivate looters in the first place.20 Collectors might be dissuaded from buying illicit antiquities if they were denied the possibility of eventually donating those pieces to museums, thus losing the social capital and tax benefits that such donations could otherwise be expected to generate. Ultimately, a reduced market should result in reduced looting, an obviously laudable goal.21

The collector-focused approach to the problem of looting, however, ignores the fact that there are thousands of David Payne Harrises in the U.S. — private collectors who, for whatever reason, ignored the UNESCO restrictions and built up collections

<sup>&</sup>lt;sup>16</sup> Marlowe 2016.

 $<sup>^{\</sup>rm 17}$  Watson and Todeschini 2006; Felch and Frammolino 2011; and Silver 2009.

<sup>&</sup>lt;sup>18</sup> Rothfield 2009.

<sup>&</sup>lt;sup>19</sup> A first attempt at this came in 2004, when the AAMD issued guidelines recommending that museums avoid acquiring antiquities that had been out of their country origin for less than ten years. This measure failed to quell the critics.

<sup>&</sup>lt;sup>20</sup> The quote is from Elia 1993. On the harms of painting all collectors with this broad brush, see Thomas and Pitblado 2020, along with responses, especially from Kersel 2020. <sup>21</sup> Hopes that the market might "auto-regulate" have not panned out, however; see Brodie 2014; and Mackenzie et al 2020, pp. 94–114.

of mostly (or entirely) illicit objects over the past half century. Their artifacts are often referred to as "orphans." This reflects both their severed relation to their origins and the difficulty they will face of finding permanent care-takers when their current owners (or their descendants) seek to dispose of them, now that the AAM and AAMD enjoin museums to refuse them.<sup>22</sup> What will be their fate? Many of my colleagues in archaeology see this problem as a red herring. From their perspective, these objects are lost causes, useless for historical dead.23 Any attempt to purposes, mute, accommodate them in public collections or make excuses for their purchasers only blunts the hardwon tools, like the 2008 Guidelines, that archaeologists and cultural property advocates use to combat looting. As one of them, a prominent expert on cultural property law, said to me angrily at a recent conference where I was trying to raise these questions, "archaeologists don't care about orphans!"

To a certain extent, I share this view. Indeed, I have gone further in my own work, advocating that we refer to any object lacking a known archaeological findspot as "ungrounded," regardless of how famous it is, how long it has been in a museum, and whether or not it might have been illicitly trafficked.<sup>24</sup> No ungrounded object, I argue, not even the canonical ones on which the whole discipline of Roman art history has been built up, should be used as the basis for historical interpretations about the ancient past, since we can never be certain that they are what we hypothesize (or have long unquestioningly assumed) them to be.25 But I don't go as far as my colleagues in archaeology and see these objects as useless; they have much to tell us about the modern history of collecting and the reception of the classical past.<sup>26</sup>

The problem with the archaeologists' stance is that if the matter of the fate of orphans is simply

ignored, then the status quo will continue. And the status quo is harmful to the historical record, as I will attempt to demonstrate. Let's consider what would have happened to Harris's collection had Kenyon not accepted the bequest. As Hostetler says, the College was "faced with the choice of housing these objects or allowing them to be sent to auction." That was certainly true in 2019, when Harris died with no heirs and, unexpectedly, left the entirety of his estate to Kenyon. Given these circumstances, the College was hardly in a position to make more granular or piece-by-piece decisions about the disposition of the artworks. Auctioning off the collection is also quite possibly what Harris himself would have resorted to had the Fine Arts Accession Committee said no back in 2010. Harris would have had a hard time finding another cultural institution willing to accept his gift. By that date, most had absorbed the lessons of the scandals that had appeared in the news so regularly in the 2000s, lessons codified in the 2008 AAM and AAMD Guidelines. To institutions paying attention to these stories, the pieces' lack of provenance going back to 1970 would have been a red flag.

For a glimpse of what this shifting landscape looked like at the time to someone like Harris, we can turn to a 2012 New York Times article called "The Curse of the Outcast Artifact."27 The piece was deeply sympathetic to those who had built up antiquities collections between 1970 and 2008. Many "good faith collectors" did so with the intention of bequeathing them to public museums. But now, due to the new guidelines, they found themselves unable to dispose of their collections in this way. Many were turning reluctantly back to the market, often selling pieces at a loss. Harris would likely have followed this path, had Kenyon declined the bequest in 2010. These sales might have been handled by his trusted dealers; but just as likely could have occurred on an online platform such as

<sup>&</sup>lt;sup>22</sup> On orphans, see Leventhal and Daniels 2013.

<sup>&</sup>lt;sup>23</sup> For example, Renfrew 2000; and Fincham 2009.

<sup>&</sup>lt;sup>24</sup> Marlowe 2013, 2016, and 2020.

<sup>&</sup>lt;sup>25</sup> Some direct, provocative responses to these arguments are gathered in De Staebler and Kontokosta 2020 (in particular the

essays by Lenaghan, Tuck, Cassibry, Van Voorhis and Abbe, and Anderson). See also Gill 2016; Lyons 2016; and Bell 2016. <sup>26</sup> This perspective also animates the chapters in Hopkins and Costello 2021.

<sup>&</sup>lt;sup>27</sup> Blumenthal and Mashberg 2012, p. AR1.

eBay, where thousands of sales of lower-value, poorly-provenanced antiquities occur daily. Either way, these sales would have added fuel to the art market, potentially attracting new buyers to the field. They would have again contravened the UNESCO guidelines. They almost certainly would have kept the objects in private hands, and they also almost certainly would have lost their connection to Harris and to each other. As a historical artifact in its own right, Harris's collection would have been effectively lost (more on this last point below). Compare that outcome to the current situation, in which the collection has been kept together, and the objects as well as many of Harris's receipts are accessible both in person to Kenyon students as well as online to everyone. From the perspective of historical knowledge, this is clearly preferable to the alternative.

Furthermore, the fact that the collection was donated to a college is what made the in-depth provenance research described in Hostetler's chapter possible. Incentives and resources — in the form of time and labor — were generated by the courses that Hostetler and his Florida State colleague Lynn Jones taught on Harris's collection, the outcome of which is this catalog and collection of essays. Unsurprisingly, Hostetler, Jones, and their students encountered many ambiguities and dead ends. Most of what we would like to know about the origins of these pieces remains unknown; they remain what I call ungrounded. But a quick scan of the catalog reveals numerous avenues for future research. One example is the claim made by the dealer Julia Schottlander that one of the Byzantine bronze pieces, identified as a belt ornament, was excavated in Stockholm.<sup>28</sup> On the face of it, this strikes me as too surprising to be entirely fictitious; a dealer looking to say something plausible to satisfy a nosy customer could easily, like hundreds before her, have said something vague like "the eastern Mediterranean" and been done with it.<sup>29</sup> Stockholm is an unexpected but not impossible findspot for a bit of Byzantine bronze adornment, especially in light of our increasing understanding of the Vikings as enterprising long-distance traders.<sup>30</sup> And there are, presumably, a finite number of excavations that took place in Stockholm (or perhaps in Sweden more broadly) prior to 1991, the year of Harris's purchase of the object, that turned up Byzantine material; this might be a good research project for some future Kenyon student. Perhaps some day this belt ornament might be the subject of what Colin Renfrew has called "post-disjunctive forensic recontextualization," i.e. when archival research allows a looted object to be reassociated with its archaeological context, and thus (at least partially) "regrounded."31

As a result of Hostetler's and Jones's courses and the follow-up research published in this volume and in the online catalog, we now know more about these objects than the Fine Arts Committee did at the moment when they were ruling on the collection's fate in 2010. Some of the details recovered and described in Hostetler's chapter such as the use of U.S. Air Force shipping containers to avoid customs duties in the transit of artifacts between a British dealer and international students studying in Russia; or the fact that United Nations Gift Center used to sell historical artifacts as well as those made for the tourist market — will not make us feel any better about how antiquities are trafficked across national borders. But it is knowledge that has been generated in a place where there was none before, and which may in turn form the basis of subsequent discoveries and additional knowledge in the future; and for that reason we can be grateful that Kenyon's Fine Arts Committee said yes to Harris's offer.

<sup>&</sup>lt;sup>28</sup> BHSC, 2020.129.

<sup>&</sup>lt;sup>29</sup> On the vague and possibly invented claims of provenance given by dealers, see Chippindale and Gill 2000.

<sup>30</sup> Winroth 2014, especially chapter 5, "Coins, Silk, and Herring: Viking Age Trade in Northern Europe," 99–130.

<sup>&</sup>lt;sup>31</sup> Renfrew 2010. For more recent examples, see Hopkins 2021; and Papalexandrou 2021.

# IV. Object Itineraries

In his chapter, "From Private to Public: The Collection of David P. Harris," Hostetler combines an archival study of Harris's collection - the taxonomies by which Harris organized the paper catalog, the sequence of the purchases, a photograph of one of the display cases in his home, etc. — with an ethnographic consideration of Harris as a collector. While one might assume that only his Greek Orthodox icons have a direct connection to his adopted faith, Hostetler finds evidence in the documents that suggest that Harris's religious interests animated many parts of the collection. Focusing, like the rest of this special issue, on his Ethiopian materials, Hostetler discovered, for example, that his earliest Ethiopian acquisitions were sold to him as "Coptic," a term that refers to the material culture of late antique and Byzantine Egypt. This raises further questions both about what Harris understood at the time of the purchases and how his understanding of these works developed over subsequent years; and also more broadly about the reception of Ethiopian art in the art world during this period. What is clear is that in ways both direct and indirect, Harris's acquisitions, in the context of his collection as a whole, reflect his exploration of Eastern Orthodoxy's deep, ancient history; its geographic expanse; and its doctrinal variations.

This is obviously not what the objects were created to signify, and it is not the same story as the one we would have been able to tell had the objects surfaced in a controlled and documented archaeological excavation, i.e. were "grounded." But it is nevertheless part of their "object biography," a theoretical model whose central tenet is the continual transformation of things and their meanings over time. In traditional art historical or archaeological approaches, primacy is given to the history and context surrounding the object's creation — the artist, style, culture, patron, original

Object biography is a particularly useful approach for the study of antiquities in museum collections, especially those that lack a full provenance and provenience [ownership history and archaeological findspot, respectively]. Such objects are sometimes intentionally ignored by scholars, since their study can legitimize a looted object and thereby add to its market value, incentivizing looters to bring similar objects to market through illicit excavation.... However we argue here that taking a biographical approach to these works draws attention to the missing parts of their stories and to the losses in our knowledge that result from looting and trade in antiquities.<sup>33</sup>

This is, indeed, an important purpose these objects can serve today. As we saw above, ignorance about the harm of looting is widespread. When students conduct provenance research on looted, illicit, or ungrounded antiquities, there is almost invariably a moment after they've traced the chain of ownership back two or maybe three links when the trail runs out, when they realize that the distance between the earliest demonstrable change of hands and the original moment of the object's discovery is unknowable and unbridgeable. They are left to grapple with the fact that they will never know for certain where their artifact came from — or in some cases, if it is a genuine antiquity or a modern forgery.

meaning, purpose or use, and so on. The "biographical" approach, by contrast, gives equal attention to the subsequent events, repurposings, repairs, relocations and reinterpretations that comprise the life of an object over time and up to the present day, as it is caught up in ever-shifting networks of social interaction.<sup>32</sup> Both the value and the hazards of this approach with respect to collections like Harris's was recently articulated in an edited volume that focused on the Menil collection in Houston:

<sup>&</sup>lt;sup>32</sup> Kopytoff 1986; and Gosden and Marshall 1999. For a recent survey of the literature and theoretical critique on the concept of object biography, see Bauer 2019.

<sup>&</sup>lt;sup>33</sup> Hopkins and Costello 2021, p. 18.

The editors' wise decision not to assign dates to the Ethiopian objects in this catalog is in part an acknowledgment of this grim epistemological reality. It should be a reminder to us all of the hazards of basing historical interpretations on objects whose origins are hypothesized through connoisseurship rather than known through archaeology. The students who participated in this research will come away with a deep understanding of the ways in which the secrecy of the art market — traditionally part of its culture of discretion and gentility — ultimately serves to protect looters and middlemen and to erase historical knowledge.

Object biography is important in other ways as well. The stories of how objects circulate in the modern world, changing meaning as they change hands, is also a valuable form of historical knowledge. Many scholars have enriched our understanding of the agency of artifacts in the modern world by exploring their movements in and out of collections. The international "Follow the Pots" project, for example, explores "the multiple and contested values" of Early Bronze Age ceramics as "archaeological heritage," as they travel from tombs in the southern Levant to museums worldwide, passing through the hands of "archaeologists, people living in southern Ghor, looters, intermediaries, museum administrators, government officials, antiquities dealers, and collectors."34 Padma Kaimal has reconstructed the movements and shifting valences of a group of sculptures that were plundered in 1926 from a temple in South India and trafficked on the international art market. In a dozen museums "from Zurich to San Francisco," they have been conscripted into a range of discourses, from the construction of the primitive, colonized Other, to the encyclopedic pretensions of cultural institutions in small, midwestern cities, to sources of pride and belonging for local, diasporic communities.<sup>35</sup>

Recently, scholars have called for alternatives to the biographical metaphor, which forces us to single out some moment, usually that of deposition in the ground, as that of the object's death, and to denigrate whatever comes after that as merely and secondarily an "afterlife," different in some ontological way from the events of the object's life.<sup>36</sup> Scholars such as Rosemary Joyce and Susan Gillespie prefer the notion of an "itinerary" to that of a "biography," which urges us not only to give up unhelpful life-cycle analogies but also to abandon notions of "repose," even for objects that have entered museum collections. Indeed, once they enter public collections, the number of social interactions objects get pulled into only multiplies, as the recent history of the Harris objects — and this volume itself — amply demonstrate. 37

In sum, the trafficking that delivered artifacts into Harris's hands harmed the historical record by erasing all information about their archaeological context. But Kenyon, by preserving the Harris collection intact, has preserved another historical artifact. A collection is more than the sum of its parts. It is an assemblage made up of interconnected elements whose meanings have been constructed in relation to one another and to the collector. The dispersal of the collection on the market would have entailed the dissipation of our understanding of those constructed meanings; and that would have been a loss.

# V. Takeaways

My colleagues in archaeology who "don't care about orphans" will disagree with that assessment. Many see museums' willingness to accept donations of unprovenanced antiquities as excusing, normalizing and even ennobling the reprehensible behavior of collectors (as well as funding that behavior, in the form of the tax write-offs). In my view, this depends on what the institution chooses to do with the objects once it accessions them

<sup>&</sup>lt;sup>34</sup> See https://followthepotsproject.org/. The project is led by Morag Kersel, Meredith Chesson, and Austin (Chad) Hill. See also Kersel 2019.

<sup>35</sup> Kaimal 2012.

<sup>&</sup>lt;sup>36</sup> Joyce 2015; and Bauer 2019.

<sup>&</sup>lt;sup>37</sup> Bauer 2015.

(although I concede the point about tax breaks). Had Kenyon simply accepted the Harris bequest, folded the objects into its historical collections, labelled them in the database and in the gallery as "Gift of David Payne Harris' 46," and either left the provenance field blank or filled it in with the vague information supplied to Harris by the dealers without further comment, I would agree with those critics. And it is never a good idea to disregard one's own written policies without so much as word of explanation. But since receiving the bequest in 2019, Kenyon has handled the situation well; there are also some lessons to be drawn from this story about how such bequests might be handled better in the future.

# 1. University Museums are an appropriate home for collections of orphan artifacts.

Collections of orphan antiquities have their own histories. As ensembles, the stories they can tell us illuminate a potentially wide range of topics: the history of collecting, the reception of antiquity in the modern era, tourism, cultural property, heritage, the art market, looting, forgery, the construction of value, the fluidity of meaning. For this reason, there is historical benefit to preserving them intact, as many of these stories would be lost if the collection were to be dispersed on the market. As the case of Harris's collection demonstrates, universities (or ideally, university museums) are an appropriate home for them, perhaps the most appropriate, at least until their source country can be identified and restitution, if desired by cultural officials of that country, can be effected (see below).

Although their core activities — collecting, conserving, exhibiting, interpreting, educating — are largely the same as those of freestanding museums, university museums have some distinctive characteristics that make them well-suited to care for artifacts with spotty ownership histories. They are typically expected to serve as a resource for the whole university, not just for art-lovers, so research and exhibitions exploring wide-

ranging, interdisciplinary topics such as those mentioned above are likely to generate interest across campus. Universities have on hand a wide range of experts with training in chemistry, geology, biology, classics, economics, history, religion and so on who may be eager to collaborate in such research and exhibitions, and to coordinate it with their teaching. Furthermore, the demand for provenance research is certain to grow in coming years, as awareness of these issues and the momentum behind decolonizing initiatives grow in the cultural sector. For this reason, the training that students receive in courses like the one Hostetler and Jones taught are likely to have not only rich intellectual benefits but also practical, real-world value.

# 2. Orphan artifacts can be used to generate critical conversations about looting, cultural property, museum ethics, and epistemology.

In order for illicit antiquities to serve the purposes described above, of educating the public about looting, cultural property and so on, it is essential that whatever institution houses them be willing to research and tell these particular stories, and not simply fold the artifacts into its historical collections and celebrate them as unproblematic examples of ancient art. Another reason why university museums are best-suited to this role is that they can tell the difficult stories with less fear of recriminations from board members, potential donors or the public than other cultural institutions might face. Faculty members can teach these topics in their classrooms, and students, faculty, and curators can collaborate to tell the messy stories behind campus collections on collections websites and in campus museum spaces. University museums have the protection of their larger institutional settings and the principle of academic freedom behind them. Expectations about the kinds of critical questions and challenging issues that will be addressed in a university setting are different from those typically encountered in necessarily more risk-

<sup>&</sup>lt;sup>38</sup> King and Marstine 2006; Pickering 2012; and Cotter 2009.

averse public museums. There are plenty of exceptions to this principle, but we can see its effects in the more hard-hitting exhibitions that university museums are often willing to mount, in comparison to the uncontroversial themes of beauty, splendor, treasure and so on typically encountered in free-standing institutions, especially when it comes to exhibitions centered on single private collections.<sup>39</sup> Collectors who donate their collections of orphan artifacts to university museums can expect — and should be told — that provenance research will be a top priority, and that the institution will not hesitate to discuss publicly whatever sordid facts emerge, not to titillate but to educate.

Kenyon's transparency with regard to Harris's collection is exemplary. Although increasing numbers of institutions have been willing to give detailed provenance information on the object pages of their websites, I know of no other that has publicly shared the primary sources. Kenyon's Blick-Harris Study Collection (BHSC) website includes photographs of unredacted receipts and other provenance documents. This should become the new gold standard in public accountability and for museums, transparency alongside institution's willingness to publish essays like Hostetler's as well as this one, in which none of the issues have been sugar-coated. Indeed, it is worth underscoring that this article exists because Hostetler responded to my criticism of his tweet about the Harris bequest with an invitation to me to write it. Open dialogue of this kind is precisely what is needed for illicit artworks to become teachable objects, spurs to discussions about archaeological context, looting, the art market, collecting history, and cultural property.

3. Whenever possible, conduct oral history research with the collector.

Hostetler has uncovered many interesting nuggets of information and drawn compelling interpretations from the catalog that accompanied the Harris bequest from Washington, DC to Ohio. We are fortunate that this documentation reached them — that Harris kept such meticulous records, and that it existed in hard copy and so was easily recognizable to the executors of his estate. This does not always happen.

But the biographies or "itineraries" of these objects could have been much richer had researchers not waited until after Harris's death to begin compiling the data. Had the study of Harris's collecting practices commenced a decade earlier, upon Kenyon's 2010 decision to accept his gift, it could have been based on a comprehensive oral history rather than simply receipts, handwritten notes and a single photograph of one cabinet at his home. Researchers could have asked Harris directly how he displayed his pieces, why he acquired them, what they meant to him, how his understanding of them evolved over time, how they connected (or not) to his religious beliefs, or whether the shifting legal landscape and public attitudes about cultural property had any impact on his collecting practices. 40 The value of such questions seems to have been appreciated by at least one person involved with the acquisition at Kenyon, the faculty member who recommended the acceptance of the gift because of its value "as a collection" (emphasis in the original). But the deeper implications of this observation do not seem to have been recognized. Rather, the promised gift seems to have been understood entirely as a collection of historical artifacts, worthy because of what they would be

attracted strong criticism at the Brooklyn Museum in 2016. The project was funded by the Teagle Foundation, and resulted in a publication: Berry, Hellman, and Seligman 2019. <sup>40</sup> A wonderful example of this kind of work is Colwell-Chanthaphonh 2004. Thompson 2016 gleans important insights from an archival interview with the antiquities collector Leon Pomerance in the last chapter of her book.

<sup>&</sup>lt;sup>39</sup> An example of the former is *Prelude to a Nightmare: Art, Politics and Hitler's Early Years in Vienna, 1906–13*, which opened at the Williams College Museum of Art in 2002, and included two of Hitler's early watercolors; see Rothschild 2012. Campus museums at Skidmore College, SUNY Albany, Hamilton College, and Colgate University also collaborated, in 2018, on a four-part installation of the controversial *This Place* exhibition of photographs of Israel and the West Bank that had

capable of revealing to students about the cultures that created them. No one seems to have placed much value on their modern meanings or object biographies. No action to study the collection as a collection was undertaken at the time. Instead, the 2010 year-end report of the Fine Arts Committee announced only that Harris's collection would "arrive at the College in the future," implying that the next step was simply to await the owner's death.

This missed opportunity can be attributed to the relative rarity of the perspective that collections have historical value beyond that of their constituent parts. And to the concomitantly quite common view, particularly in art history, that the primary focus of scholarly attention should be the object itself; and that everything worth knowing about it can be read directly from its forms and material properties. To a person with that set of assumptions, it will no doubt have seemed quite natural and obvious not to begin studying Harris's collection until the objects arrive on campus, after Harris's death. But if one starts with the belief that we can never be certain about the origins - or even the authenticity — of ungrounded antiquities, then one will see the Harris bequest in a different light, one in which its historical value as a modern assemblage is at least equal to its historical value as a collection of artifacts (ostensibly) from particular past cultures. In which case, one can see of the death of the collector as a moment of tremendous loss, equal or almost equal to the moment when the objects were separated without record from their findspot, for with the collector dies all the information about why he made his purchases, how he understood them, and so on. 41 In the context of a university or college, if the Development Office reaches out to faculty members or museum staff for guidance about a potential gift of art and artifacts, plans for conducting oral history interviews with the collector-donor should be part of the conversation from the outset.

4. Possessors of collections of orphan artifacts should think of themselves as stewards, not permanent owners.

In museum discourse, the term "stewardship" is often accompanied by the adjective "shared." The concept denotes an alternative to traditional models of museum ownership (predicated on legal principles and presumed to be permanent) and curatorial authority (derived from academicallycredentialed expertise). It refers to "sharing authority, expertise, and responsibility for the respectful attribution, documentation, interpretation, display, care, storage, public access and disposition of a collection with the advice of the source community."42 The Smithsonian Center for Folklife and Cultural Heritage and the National Museum of the American Indian have been leaders in these practices in the U.S. In the U.K., the Manchester Museum's South Asia Gallery Collective offers another model, in which local community members with ties to South Asia are empowered as exhibition co-curators.<sup>43</sup>

The stewardship paradigm is helpful for thinking about what Kenyon is doing right with Harris's collection. Although this is not stated on the BHSC website, Hostetler says in his essay that Kenyon is prepared to restitute pieces "if research establishes another party's right to ownership." While promising to return stolen property may not seem like a radical stance, it is remarkably rare for institutions to present an openness to this possibility without loading it up with qualifiers about the public interest, fiduciary responsibilities, etc. Even more unusual is for institutions to proactively undertake provenance research on their own initiative, rather than waiting for some external spur, and to promptly share bad news, unbidden, when they discover it. This is what happened when Hostetler noticed that the documents associated with one of the Byzantine potsherds in Harris's collection included no receipt and instead only a typewritten note that the piece had been "found in

<sup>&</sup>lt;sup>41</sup> Pitblado 2014.

<sup>&</sup>lt;sup>42</sup> For example, Leopold 2019.

<sup>&</sup>lt;sup>43</sup> See, for example, Noor 2021.

1968 near the Church of Saint Demetrios, Salonica." Suspecting that the shard may have been a surface find that Harris simply pocketed, Hostetler immediately contacted the Ephorate of Antiquities of Thessaloniki City. So far no restitution request has been made, but it seems likely that should that ever happen, Kenyon will return the item promptly, without dragging all parties through onerous legal proceedings. In fairness, it should be said that the fact that Harris's collection has been accessioned into a departmental Study Collection rather than into the campus museum no doubt makes it easier for its custodians to adopt this flexible, openminded stance. The more defensive and often legalistic positions that museums often reflexively adopt whenever discussions of restitution arise can be understood in terms of those institutions' deeplyingrained sense that their mission is to care for their holdings forever.

Going forward, Kenyon can build on these strengths. An analysis of the Ethiopian materials in terms of their heritage significance and legal status should be a high priority. Hostetler reports that steps in this direction through collaborations with Ethiopian colleagues had already been initiated before the pandemic brought them to a halt. One hopes that someday soon, those colleagues will be able to help the College identify stakeholders from the communities for whom Harris's collection of

antique Ethiopian crosses, painted prayer books and other religious paraphernalia may hold extraordinary sacred meaning. That is who should ultimately decide what the most appropriate home for these works is.

The website of the BHSC can grow in its role of disseminating primary and secondary sources about the objects in the Harris collection. All the documents in the Harris catalog should be made available there, if they aren't there already, as well as all the articles in this special issue of *Peregrinations*. Other primary source documents, such as the 2009-2010 communications of the Fine Arts Accession committee and the 2007 and 2010 Collecting Plans, should also be made available, perhaps with names redacted. It would also be enormously beneficial to the field and to the general public to share the text of the recent communications with the Ephorate of Thessaloniki City, since very few people or institutions have any idea how actual restitution conversations or processes unfold.

In conclusion, Harris's collection has already had a tremendous impact on the understanding of the ethics, pitfalls, and best practices regarding orphan antiquities at Kenyon College, as this special issue of *Peregrinations* and the exemplary website of the BHSC attest. It is hard to imagine a better role for such objects to play.

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