

Words, Words, Words: Books, Libraries, and the Law

Leila Amineddoleh

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Word, Words, Words¹: Books, Libraries, and the Law

Leila A. Amineddoleh*

This Article explores the cultural, historical, and legal significance of books and manuscripts, emphasizing their vulnerability to theft, destruction, and neglect throughout history. From ancient Mesopotamian cuneiform tablets to modern libraries, written materials have functioned not only as vessels of knowledge but also as cultural heritage objects subject to political, religious, and economic targeting. The Article traces the development of manuscripts, the emergence of libraries, and the long history of censorship, biblioclasm, and wartime looting. It highlights the legal challenges surrounding the restitution of stolen manuscripts and rare books, examining case studies involving institutions such as Princeton University, the Getty Museum, and the Museum of the Bible. Through detailed analysis of national patrimony laws, international conventions like the 1954 Hague Convention and the 1970 UNESCO Convention, and prominent court battles, the Article underscores the urgent need to strengthen legal protections for literary heritage. Ultimately, it calls for greater awareness and accountability to ensure that books—our “words, words, words”—are preserved as enduring records of civilization.

¹ “Words, words, words,” is what Hamlet’s said to Lord Polonius when he asked, “What do you read, my lord?” WILLIAM SHAKESPEARE, *HAMLET* act 2, sc. 2, l. 192.

* Leila A. Amineddoleh is a partner at Tarter Krinsky & Drogin where she serves as the Chair of the Art Law Group. She is passionate about books, literature, and libraries, a lifelong bibliophile and daydreamer. She thanks her mother for giving her the love for literature. And she thanks Shelby Rose for her assistance with this paper.

I. INTRODUCTION

“*Scientia potentia est*”—translated to “knowledge is power”—is frequently attributed to Sir Francis Bacon.² If Bacon was right, it follows that *access* to knowledge is power. For most of human history, knowledge was passed down through oral tradition.³ With the advent of writing, the passage of knowledge came to include the transfer of written instruments. Over the centuries, written materials became more readily available, in part due to Johannes Gutenberg’s printing press.⁴ However, the spread of information was still restricted by those in power, through intellectual property restrictions and ownership constraints.

Manuscripts have value apart from their intellectual property; physical manuscripts have cultural and artistic value and, in some cases, religious or sacred significance. Due to their scarcity, content, historical worth, and aesthetic qualities, the prices for historic manuscripts are high. Manuscripts are treated like art objects and have been collected for centuries. Ownership of manuscripts is heavily regulated by various property and cultural heritage laws, many of which require a government’s permission to be sold or exported. Surprisingly, there was even a time when manuscripts were destroyed under royal decrees and strict national laws.⁵

Today, manuscripts are still vulnerable to theft and destruction. They are easily transported and often lost, stolen, damaged, or destroyed—either by the environment or, worse, due to conflict, theft, and looting. Historically, formerly colonized nations, including Greece, India, Egypt, and countries in the “global south,” such as Mali, have experienced extensive theft of

² See BAHMAN ZOHURI ET AL., KNOWLEDGE IS POWER IN FOUR DIMENSIONS: MODELS TO FORECAST FUTURE PARADIGM 3 (2022). However, the exact phrase first appears in Thomas Hobbes’ 1668 version of the work *Leviathan*. *Id.* at 4. Interestingly, Hobbes was originally Bacon’s secretary. *Id.*

³ See Patrick D. Nunn, *The Oldest True Stories in the World*, SAPIENS (Oct. 18, 2018), <https://www.sapiens.org/language/oral-tradition/> [<https://perma.cc/FGU6-G4UD>].

⁴ Hellmut E. Lehmann-Haupt, *Johannes Gutenberg*, BRITANNICA, <https://www.britannica.com/biography/Johannes-Gutenberg> [<https://perma.cc/646Y-CYUB>] (Mar. 18, 2025).

⁵ Kathryn Wilson, *The Destruction of Medieval Manuscripts*, MEDIEVALISTS.NET, <https://www.medievalists.net/2021/12/destruction-medieval-manuscripts/> [<https://perma.cc/PKT8-VRCS>] (last visited Apr. 3, 2025).

their written heritage. Efforts are being made today to address the inequity of these takings.⁶

Further, manuscripts face another danger—“biblioclasm.”⁷ Dealers destroy books for financial gain. By dismantling books to sell a host of individual pages, rather than a single volume, dealers maximize the resale value of their acquisitions. Thus, intact books are torn apart and mutilated. Moreover, valuable folios are not as closely safeguarded as other types of cultural works. Where museums more effectively protect items within their collections, the same cannot be said of libraries.

While books and other written instruments are valuable artistic and cultural treasures, they have long fallen victim to destruction, theft, and inadequate care. Part II of this Article will provide a brief history of writing and manuscripts. Part III examines restrictions on writing through bans and destructive practices. Parts IV and V detail the looting of books and the damage caused by conflicts, and Part VI recounts the destruction of libraries due to poor management and oversight. Finally, Part VII outlines the laws and regulations protecting books and written materials.

II. BRIEF HISTORY OF MANUSCRIPTS⁸

The history of written materials is long enough to fill countless libraries. According to scholars, “[w]riting was invented independently in at least four different times and places: Mesopotamia, Egypt, China, and Mesoamerica.”⁹ Of these writing systems, Egyptian and Sumerian are the oldest.¹⁰ Some

⁶ See, e.g., *Growing Awareness of Looted Antiquities Fuels Calls for Their Return*, GLOB. TIMES (Sept. 29, 2024, 4:01 PM), <https://www.globaltimes.cn/page/202409/1320562.shtml> [<https://perma.cc/JR9Z-5JB2>].

⁷ See Sayan Sarkar et al., *Biblioclasm: A Sociocultural Study of Knowledge Destruction and Prevention Through Legal Mechanisms*, 8 INT’L J. KNOWLEDGE DESTRUCTION & PREVENTION THROUGH LEGAL MECHANISMS 1, 1–12 (2024).

⁸ The author acknowledges that this Article heavily focuses on European and Western laws and history. The scope of this Article is narrow because the general topic is too broad to properly cover in a law journal article. She also recognizes that the history of print is rich globally, especially in Asia—one of the places where print made major advancements. See Ryan Wolfson-Ford, *The History of Printing in Asia According to Library of Congress Asian Collections – Part 1*, LIB. OF CONG. BLOGS (June 22, 2021), <https://blogs.loc.gov/international-collections/2021/06/the-history-of-printing-in-asia-according-to-library-of-congress-asian-collections-part-1/>, [<https://perma.cc/7FBN-9B3P>].

⁹ Ilona Regulski, *The Origins and Early Development of Writing in Egypt*, OXFORD ACAD. (May 2, 2016), <https://academic.oup.com/edited-volume/43506/chapter/364131674> [<https://perma.cc/HNK9-TK4N>].

¹⁰ *Id.*

scholars regard cuneiform script as the oldest form of writing. The Kish Tablet, a clay tablet from Iraq featuring a pictographic, proto-cuneiform script, dates to 3500 BC and is widely regarded as the earliest known example of writing.¹¹ But those writings were not literary—instead, they recorded trades of malt, barely, and beer, making them more like an Excel spreadsheet than *A Midsummer Night's Dream*.¹²

The world's first known author was a female. Her name was Enheduanna—a Mesopotamian poet, princess, and priestess born over 4,300 years ago.¹³ She used cuneiform to “compose[] 42 temple hymns and three stand-alone poems” that are an important part of Mesopotamia's literary culture.¹⁴ She was a powerful figure whose writing and music helped to shape the beliefs and rituals associated with Akkadian worship.¹⁵

Meanwhile, in Egypt, a hieroglyphic writing system may have emerged from preliterate artistic traditions.¹⁶ “The earliest evidence of phonetic writing in Egypt dates to about 3250 BC,” and according to archaeologists, “the earliest known complete sentence in the Egyptian language has been dated to about 2690 BC.”¹⁷ The Egyptians created the first papyrus scrolls used by ancient Greek city-states and throughout the Roman Empire.¹⁸ While most of them have been lost to the ravages of time, surviving papyri and evolving technology that permits deciphering what was previously undecipherable provides a glimpse into the past.¹⁹

¹¹ Eva Baron, *The Oldest Written Text in the World Is 5,500 Years Old*, MY MOD. MET (Nov. 30, 2024), <https://mymodernmet.com/the-kish-tablet/> [<https://perma.cc/MAU6-SV9H>].

¹² *See id.*

¹³ *Enheduanna: The World's First Named Author*, BBC (Oct. 26, 2022), <https://www.bbc.com/culture/article/20221025-eneduanna-the-worlds-first-named-author> [<https://perma.cc/JH7Q-WKES>].

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ JOHN BAINES, VISUAL AND WRITTEN CULTURE IN ANCIENT EGYPT 117–18, 120, 122 (2007).

¹⁷ Regulski, *supra* note 9.

¹⁸ *Papyrus*, BRITANNICA, <https://www.britannica.com/topic/papyrus-writing-material> [<https://perma.cc/RMG6-JSKS>] (Apr. 1, 2025) (“Paper made from papyrus was the chief writing material in ancient Egypt, was adopted by the Greeks, and was used extensively in the Roman Empire.”).

¹⁹ Marzia D'Angelo & Federica Nicolardi, *Addressing Material Issues Through Digital Solutions: Maque-IT and the Virtual Reconstruction of the Herculaneum Papyri*, in DIGITAL PAPYROLOGY III 303, 304–09 (Nicola Reggiani ed., 2024). Interestingly, some papyri have survived through the practice of reusing materials, such as the Egyptian use of papyri in cartonnage. Erja Salmenkivi, *Reuse and Recycling of Papyrus*, in RECYCLING AND REUSE IN THE ROMAN ECONOMY 89, 89 (Chloë N. Duckworth & Andrew Wilson eds., 2020).

The first libraries were repositories for knowledge, initially storing scrolls.²⁰ One of the Ancient Wonders of the World, the Library of Alexandria was established under the Ptolemaic Dynasty of Egypt that ruled from 323 BC to 30 BC, becoming the most well-known library of the ancient world, and helping shape Alexandria into an important intellectual center.²¹ Although the precise layout of the library is not certain, it likely included lecture halls, laboratories, meeting halls, gardens, dining commons, and even a zoo.²² The library had an unusual way of acquiring its collection with the use of a type of book pirate. Agents of the library were tasked not only with buying scrolls for the collection, but also with confiscating scrolls from ships docked at port, copying them, and then returning those copies to the ships before adding the originals to the library.²³ It is said that the library housed over 500,000 works (the precise number is unknown).²⁴ According to scholars, the library “contained the totality of knowledge of the ancient [Western] world, ranging from literary works, to philosophical tractates, to scientific explanations.”²⁵ Ultimately, the Library of Alexandria was destroyed, but the cause and method of its demise remain unclear. Popular myth suggests that Julius Caesar burned it to the ground, but the more likely explanation is that the library experienced a protracted and painful decline.²⁶

Although the storied library slowly died and its vast collection of scrolls disappeared over the centuries, its demise gave birth to the use of parchments and books. While the Library of Alexandria was voraciously acquiring scrolls, another institution, the Library of Pergamon, was amassing an impressive collection of its own.²⁷ Concerned with competition for scholarly works, Egypt prohibited the export of papyrus in

²⁰ Andy Green, *The Long Strange Story of Search: From Ancient Scrolls to Digital Scrolls*, MAGELLANTV (June 14, 2020), <https://www.magellantv.com/articles/the-long-strange-story-of-search-from-ancient-scrolls-to-digital-books> [https://perma.cc/NY5D-LGPL].

²¹ Joshua J. Mark, *Library of Alexandria*, WORLD HIST. ENCYC. (July 25, 2023), https://www.worldhistory.org/Library_of_Alexandria/ [https://perma.cc/7F92-XVPP].

²² Tom Garlinghouse, *The Rise and Fall of the Great Library of Alexandria*, LIVE SCI. (Mar. 14, 2022), <https://www.livescience.com/rise-and-fall-of-the-great-alexandria-library> [https://perma.cc/YR42-9L6V].

²³ Mark, *supra* note 21.

²⁴ *Id.*

²⁵ Garlinghouse, *supra* note 22 (alteration in original) (quoting Willeke Wendrich, professor of Egyptian archaeology and the Joan Silsbee chair of African cultural archaeology at the University of California, Los Angeles).

²⁶ *Id.*

²⁷ Mark, *supra* note 21.

an effort to stop Pergamon from making copies of books.²⁸ This did not stop the leaders of Pergamon's library. Roman writer Marcus Terrentius Varro described this ongoing dispute as follows: “[T]he rivalry about libraries between king Ptolemy and king Eumenes [of Pergamon], Ptolemy stopped the export of papyrus . . . and so the Pergamenes invented parchment.”²⁹ In effect, the rivalry between the two kings led to the parchment industry. The English word “parchment” comes from the Latin *pergamena*—named after the ancient city of Pergamon.³⁰

Eventually, parchment replaced papyrus as the most common writing material during the early Middle Ages in Europe.³¹ Rather than being fabricated from papyrus leaves, parchment was prepared from animal skins.³² This material was more durable than papyrus.³³ In addition, parchment could be stitched together to create “durable and flexible volumes.”³⁴ This quality was incredibly important for the development of books because writing was no longer confined to a scroll that had to be rolled out, but rather paginated in a form similar to modern books. Those books were easy to open to a specific page and were easier to store and transport than their papyrus counterparts.³⁵

Ultimately, the founding of universities in Europe led to an increased demand for books.³⁶ Some of these manuscripts were of such high quality and originality that they were practically

²⁸ *Id.*

²⁹ Lauren Young, *The Fierce, Forgotten Library Wars of the Ancient World*, ATLAS OBSCURA (Aug. 26, 2016), <https://www.atlasobscura.com/articles/the-fierce-forgotten-library-wars-of-the-ancient-world> [<https://perma.cc/GF2M-CFHF>] (second alteration in original).

³⁰ *Pergamena Parchment*, PERGAMENA, <https://www.pergamena.net/parchment> [<https://perma.cc/G4Y5-9MP9>] (last visited Mar. 18, 2025).

³¹ *Parchment*, LIBR. PRES. & CONSERVATION, <http://preservationtutorial.library.cornell.edu/librarypreservation/mee/preservation/parchment.html> [<https://perma.cc/8F8E-FQJS>] (last visited Mar. 18, 2025).

³² *Papyrus to Paper: Unfolding Pages of History*, BARONFIG, <https://baronfig.com/blogs/blog/papyrus-to-paper-unfolding-pages-of-history> [<https://perma.cc/ZJ6Y-22KM>] (last visited Mar. 18, 2025).

³³ *Id.*

³⁴ *Parchment*, *supra* note 31. Notably, paper eventually replaced parchment in the late Middle Ages. See Rich Rennicks, *The History of Vellum and Parchment*, NEW ANTIQUARIAN (Dec. 29, 2022), <https://www.aba.org/blog/post/the-history-of-vellum-and-parchment> [<https://perma.cc/82ZZ-SMLH>].

³⁵ *Codex*, BRITANNICA, <https://www.britannica.com/topic/codex-manuscript> [<https://perma.cc/AR6X-W2LR>] (Mar. 3, 2025).

³⁶ Dep't Medieval Art & Cloisters, *The Art of the Book in the Middle Ages*, THE MET (Oct. 1, 2001), <https://www.metmuseum.org/essays/the-art-of-the-book-in-the-middle-ages> [<https://perma.cc/UV45-Z2QK>].

works of art themselves.³⁷ As it took thousands of hours to create some of these books, their values were astronomical, and so they were literally kept under lock and key.³⁸ Over time, this led to the development of modern libraries and private collections.³⁹

III. BANNED WRITINGS AND THE INTENTIONAL DESTRUCTION OF BOOKS⁴⁰

Words can be powerful, even dangerous. Laws and political regimes that have sought to destroy books have widely fallen into two categories: acts of state or religious orders.

A. Banning and Burning Books for Political Motivations

“You’ll have to burn me now, I know those books by heart’, quips Severus when Labienus’ books are burned.”

— Joseph Howley⁴¹

Some of the first laws concerning the written word were passed by the Augustan Senate in Ancient Rome.⁴² The government banned books that contained political criticisms or topics deemed immoral or subversive.⁴³ However, the origins and enactments of these rules are unclear, and there was likely no formal legal procedure pertaining to these bans.⁴⁴ One of the first examples of book burning demonstrates the vague nature of the laws. In 181 BC, books attributed to Numa Pompilius, Rome’s second king, were discovered in a tomb.⁴⁵ The Senate ordered the books to be burned because they were, in “some unspecified way,

³⁷ *Id.*

³⁸ *Chained Library*, HEREFORD CATHEDRAL, <https://www.herefordcathedral.org/chained-library> [https://perma.cc/4MRK-MDXG] (last visited Mar. 18, 2025).

³⁹ See, e.g., *The Middle Ages and the Renaissance*, BRITANNICA, <https://www.britannica.com/topic/library/The-Middle-Ages-and-the-Renaissance> [https://perma.cc/A5Z9-QKGG] (Mar. 28, 2025).

⁴⁰ The author acknowledges that this section addresses only a very small fraction of historic acts of destruction, and it mostly focuses on European and Near Eastern examples. Providing a comprehensive history of these acts would require hundreds of pages.

⁴¹ Joseph A. Howley, *Book-Burning and the Uses of Writing in Ancient Rome: Destructive Practice Between Literature and Document*, 107 J. ROM. STUD. 213, 223 (2017).

⁴² *Id.* at 217.

⁴³ Shriya Tiwari, *A History of the Banned Books*, IMPERIUM (Apr. 11, 2023), <https://www.imperiumpublication.com/post/a-history-of-the-banned-books> [https://perma.cc/B8C7-ZFF6].

⁴⁴ Howley, *supra* note 44, at 217.

⁴⁵ James Richardson, *Numa and Pythagoras: Did Livy Misrepresent Valerius Antias?*, 18 HISTOS 38, 39 (2024).

hazardous to the Republic.”⁴⁶ According to Livy’s characters, a burning of this sort was the duty of a magistrate.⁴⁷

While the government purportedly banned books to “protect” its citizens,⁴⁸ bans were typically imposed on works that were critical of the state. And punishments were severe for the authors of the suspect books. Not only could they face exile, but authors could be found guilty of treason (the highest crime) and executed—not for acting against the state, but for writing books.⁴⁹ One of these censored writers, Aulus Cremutius Cordus, praised the assassins of Julius Caesar in his writing.⁵⁰ As a result, he faced criminal charges merely for writing about history.⁵¹ There was a book burning ordered by the Senate, and he was sentenced to death.⁵² To escape execution by the state, Cordus starved himself to death.⁵³

While banned books may have been outlawed and destroyed, it is impossible to erase an idea or a memory. In fact, some of the banned books were still available to those seeking them.⁵⁴ In the case of Cordus, his daughter ensured the survival of his writings by defying the prohibitions, retaining copies of her father’s texts, and later republishing them.⁵⁵ Stoic philosopher Seneca linked book-burning with tyranny and rejected its practice. He asserted that “great books cannot truly be destroyed because of the important role that *readership* plays in their lives—whether in the memories of readers, or in reputation and copying, literature spreads quickly beyond the confines of one material copy.”⁵⁶ Examples from ancient Rome illustrate that banning books is not an effective way to destroy them or obliterate their memories.⁵⁷ Banned books kept finding a way to survive. In fact, prohibiting

⁴⁶ Howley, *supra* note 44, at 219.

⁴⁷ *Id.*

⁴⁸ See Duke Alumni Lifelong Learning, *Banned Books: Before the Printing Press*, YOUTUBE, at 6:17 (Sept. 29, 2022), <https://www.youtube.com/watch?v=2eCQAOD54PI> [<https://perma.cc/R27N-YMHB>].

⁴⁹ *Id.* at 5:30.

⁵⁰ *Id.* at 6:58.

⁵¹ *Id.* at 7:36.

⁵² *Id.* at 8:10.

⁵³ *Aulus Cremutius Cordus (c. ? – 25 AD)*, THE LATIN LIBR. [hereinafter *Cordus Biography*], <https://www.thelatinlibrary.com/historians/notes/cremutius.html> [<https://perma.cc/F6ZB-FPEF>] (last visited Mar. 18, 2025).

⁵⁴ See Howley, *supra* note 44.

⁵⁵ See *Cordus Biography*, *supra* note 53.

⁵⁶ Howley, *supra* note 44.

⁵⁷ Susan Rahyab, *Censorship and Book-Burning in Imperial Rome and Egypt* (May 15, 2020) (M.A. thesis, City University of New York (CUNY)) (on file with CUNY Academic Works).

writings sometimes helped to keep them in circulation;⁵⁸ banning or censoring books usually makes them more popular (a reality that still holds true today).⁵⁹

B. Banning and Burning Books for Religious Reasons

During the Middle Ages, the primary justification for book burning was no longer treason against the state, but heresy against orthodox religion, which was made possible by the Church's control over the distribution of publications and the spread of information.⁶⁰ During the Christian era, book burnings continued to be ordered by religious leaders rather than state agents. For example, the first century book burning at Ephesus was recorded in the Acts of the Apostles, where Paul the Apostle encouraged Christian converts to burn their books of magic.⁶¹ In a much more violent episode, the Diocletian, or the Great Persecution, began in 303 AD and ended eight years later. Emperor Diocletian initially ordered that the leading Manichaeans be burnt alive with their religious scriptures, dictates that eventually extended to other Christians.⁶² The destruction of their literature was a key part of the hostility. Similar episodes of religiously motivated censorship would play out over the course of the following centuries.

One of the first official state-backed book burning laws that was passed post-Antiquity was the *de heretic comburendo* ("On the Burning of Heretics"), by the English Parliament under King Henry IV in 1401.⁶³ The law was intended to eliminate heresy, in particular "perverse people of a certain new sect . . . make and write books, [and] do wickedly instruct and inform people."⁶⁴ The

⁵⁸ See Duke Alumni Lifelong Learning, *supra* note 49, at 8:19.

⁵⁹ Emma Smith, *The Big Idea: What if Censoring Books Only Makes Them More Popular?*, THE GUARDIAN (May 1, 2023, 7:30 PM), <https://www.theguardian.com/books/2023/may/01/the-big-idea-what-if-censoring-books-only-makes-them-more-popular> [https://perma.cc/N35D-FGLR].

⁶⁰ See Duke Alumni Lifelong Learning, *supra* note 49, at 26:53.

⁶¹ *Acts* 19:19–20 ("A number who had practiced sorcery brought their scrolls together and burned them publicly. When they calculated the value of the scrolls, the total came to fifty thousand drachmas. In this way the word of the Lord spread widely and grew in power.")

⁶² William, *The Diocletian Persecution 303 – 313 AD*, HIGH SPEED HIST. (Feb. 23, 2024), https://highspeedhistory.com/2024/02/23/the-diocletian-persecution/?srsId=AfmBOooD6G38h_AUilo8tHt7F4yHG-kNXRXkg4O6bMIBUbJcFZrSy1_g [https://perma.cc/GPH2-KT8Q].

⁶³ *The Medieval Church*, UK PARLIAMENT, <https://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/religion/overview/medievalchurch/> [https://perma.cc/BM4T-EV88] (last visited Apr. 1, 2025).

⁶⁴ DANBY PICKERING, THE STATUTES AT LARGE 414 (Forgotten Books 2018) (1761).

law's purpose was to "utterly destroy" all "preachings, doctrines, and opinions of this wicked sect."⁶⁵ Those who refused to hand over the offending materials could face corporal punishment or burning at the stake.⁶⁶ The first person sentenced to burning was killed in 1401.⁶⁷ Eventually, the Suppression of Heresy Act of 1414 amended the law to clarify the process by which charges could be brought.⁶⁸

In 1497, Florence, the cultural jewel and center of Humanism, became known as the site of the Bonfire of the Vanities.⁶⁹ Religious zealots following the fiery Italian friar Girolamo Savonarola gathered and publicly burned pagan and "immoral" books, including copies of the Decameron (targeted for its anti-clericalism and eroticism, and once known as "Dirty Stories").⁷⁰ Considered scandalous since its first publication in the mid-fourteenth century, it was burned during public displays of piety.⁷¹ The bonfire was intended to purge the city of objects tempting sinful behavior, which included manuscripts of secular songs and artworks, including paintings and sculptures.⁷²

The following century witnessed widescale destruction of books. The Protestant Reformation and Counter-Reformation led to vast devastation of art and cultural heritage, including books. Paintings and sculptures in Christian churches were likewise destroyed during the Reformation based on the idea that they

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ James Rye, *Lynn Priest Makes National History*, CIRCATO, <https://circato.co.uk/lynn-priest-makes-national-history> [<https://perma.cc/78UQ-AGH3>] (last visited Apr. 2, 2025).

⁶⁸ Eliot Wilson, *Bloody Bonner: History Is Not a Morality Tale*, THE IDEAS LAB (Feb. 18, 2024), <https://theideaslab.substack.com/p/bloody-bonner-history-is-not-a-morality> [<https://perma.cc/987S-ACCR>].

⁶⁹ Kat Eschner, *A Fanatical Monk Inspired 15th-Century Italians to Burn Their Clothes, Makeup and Art*, SMITHSONIAN MAG. (Feb. 7, 2017), <https://www.smithsonianmag.com/smart-news/when-fanatical-monk-took-over-florence-and-burned-bunch-vanities-180962005/> [<https://perma.cc/3EEG-BQ3C>].

⁷⁰ *Id.*; Charlotte Cook, *Giovanni Boccaccio (1313-1375)*, FLORENCE AS IT WAS (Feb. 2021), <https://florenceasitwas.wlu.edu/people/giovanni-boccaccio> [<https://perma.cc/G9AW-YHJD>].

⁷¹ *Savonarola and His Bonfire of the Vanities*, ITALIAN OLD MASTERS, <https://italianoldmasters.wordpress.com/2019/01/26/%EF%BB%BFsavonarola-and-his-bonfire-of-the-vanities/> [<https://perma.cc/7MED-HFEV>] (last visited Apr. 2, 2025). In 1559, Pope Paul IV even included the masterpiece in the Index of Prohibited Books. See Dennis Duncan, *The Decameron: The 'Eye-Popping' Medieval Tales that Pushed Sexual Boundaries*, BBC (July 25, 2024), <https://www.bbc.com/culture/article/20240724-the-decameron-the-eye-popping-medieval-tales-that-pushed-sexual-boundaries> [<https://perma.cc/7JNR-RWHZ>].

⁷² Eschner, *supra* note 69.

were contrary to the word of the Bible.⁷³ At the time of the Reformation and during the English Civil War, church paintings were destroyed in their thousands. Few survived across the United Kingdom, and of those that remain, many have been defaced. It is believed that up to ninety-seven percent of English religious art was destroyed during and after the Reformation.⁷⁴

German priest and Reformer Martin Luther instructed his followers to destroy Catholic books, leading to a public burning in Wittenberg in 1520.⁷⁵ Fighting fire with fire, the following year Emperor Charles V, the Holy Roman Emperor and Archduke of Austria, banned books and writings of Luther and his followers, and ordered all written materials burned.⁷⁶ A number of other bans spread throughout northern Europe.⁷⁷

Besides destruction by warring Christian sects, Jewish and Muslim materials were also banned and destroyed. Jewish texts had long been targeted since the Roman era. The extensive burning of books commanded by Pope Gregory IX and Louis IX of France during the “Trial of the Talmud” in the thirteenth century was particularly violent, leading to the burning of 12,000 handwritten Talmudic manuscripts in Paris.⁷⁸ Church leaders reasoned that the Talmud contained blasphemous writings towards Jesus Christ and his mother Mary, attacks against the Church, and other offensive pronouncements against non-Jews.⁷⁹

When the Crusaders defeated the Muslims and captured Tripoli in 1109, the Christian warriors destroyed the Banu

⁷³ *Iconoclasm and Reformation*, DEUTSCHES HISTORISCHES MUSEUM (Aug. 8, 2017), <https://www.dhm.de/blog/2017/08/08/iconoclasm-and-reformation/> [https://perma.cc/E2GW-MDU7].

⁷⁴ *Reformation ‘Recycling’ May Have Saved Rare Painting from Destruction*, UNIV. OF CAMBRIDGE (Nov. 27, 2015), <https://www.cam.ac.uk/research/news/reformation-recycling-may-have-saved-rare-painting-from-destruction> [https://perma.cc/554J-RF64].

⁷⁵ David B. Morris, *Martin Luther as Priest, Heretic, and Outlaw: The Reformation at 500*, LIBR. OF CONG. BLOGS (Oct. 11, 2017), <https://blogs.loc.gov/international-collections/2017/10/martin-luther-as-priest-heretic-and-outlaw-the-reformation-at-500/> [https://perma.cc/WW5J-BE55].

⁷⁶ *Id.*

⁷⁷ The Emperor Charles V Issues “The Law of Printing” in Response to the Excommunication of Luther, HISTORYOFINFORMATION.COM, <https://www.historyofinformation.com/detail.php?id=2418> [https://perma.cc/SCU9-UTGL] (Mar. 22, 2025).

⁷⁸ See Robert Chazan, *Trial, Condemnation, and Censorship: The Talmud in Medieval Europe*, in *THE TRIAL OF THE TALMUD: PARIS 1240*, at 1 (John Friedman & Jean Connell Hoff trans., 2012).

⁷⁹ Lou Hackett Silberman & Haim Zalman Dimitrovsky, *Talmud and Midrash*, BRITANNICA, <https://www.britannica.com/topic/Talmud> [https://perma.cc/CJ6V-3WD6] (Feb. 6, 2025).

Ammar Library—the finest Muslim library in the world at the time.⁸⁰ It is believed that around 100,000 books were turned to ash.⁸¹ In 1204, during the Sack of Constantinople, the Crusaders destroyed the last surviving copies of classical works in Europe.⁸²

The Inquisition, another blight on multiculturalism, led to the widespread destruction of art and manuscripts. In 1560, the Catholic Church compiled a list of banned books known as the *Index Librorum Prohibitorum* (Index of Prohibited Books).⁸³ The index contained a plethora of works, including those promoting Protestantism, Judaism, and even certain versions of the Bible.⁸⁴ Works by Nicolaus Copernicus and Galileo Galilei appeared on the list, and, until 1758, works that advocated heliocentrism were also banned.⁸⁵ The punishment for reading books on the list was excommunication and spiritual damnation.⁸⁶ Surprisingly, the index was in use until Pope Paul VI abolished it in 1966.⁸⁷

Not content to leave book burnings behind, Spanish colonizers brought the destructive practice to the “New World.” Spanish rulers destroyed Mayan writings and artifacts to eliminate the culture.⁸⁸ It is recorded that in Mexico in 1561, Spanish Franciscan Bishop Diego de Landa took it upon himself to wipe every trace of Mayan culture from the new Christian

⁸⁰ Lindsey Weaver, *10 Libraries Deliberately Destroyed*, HUBPAGES, <https://discover.hubpages.com/education/Libraries-Lost-to-Time> [https://perma.cc/N46M-PLLE] (Jun. 12, 2018).

⁸¹ Radwan Mawlawi, *Tripoli's Dar-ul-ilm*, AL-RABITA, <http://alrabita.freesevers.com/library.html> [https://perma.cc/T7VZ-LQWS] (last visited Mar. 17, 2025).

⁸² Rupert Matthews, *Sack of Constantinople*, BRITANNICA, <https://www.britannica.com/event/Sack-of-Constantinople-1204> [https://perma.cc/TM8V-KNA9] (last visited Apr. 2, 2025).

⁸³ *Index Librorum Prohibitorum*, BRITANNICA, <https://www.britannica.com/topic/Index-Librorum-Prohibitorum> [https://perma.cc/L63L-U48M] (Feb. 18, 2025).

⁸⁴ *Id.*

⁸⁵ Anna Culbertson, *Banned Books Week 2020*, SAN DIEGO STATE UNIV. (Sept. 23, 2020), <https://library.sdsu.edu/scua/news/banned-books-week-2020> [https://perma.cc/M9PB-H9EZ].

⁸⁶ Robert Sarwark, *The Catholic Index of Forbidden Books: A Brief History*, INTELL. FREEDOM BLOG (Feb. 21, 2018), <https://www.oif.ala.org/catholic-index-forbidden-books-brief-history/> [https://perma.cc/DC6J-2VM5].

⁸⁷ Tiwari, *supra* note 43.

⁸⁸ Georges Fery, *Burning the Maya Books: The 1562 Tragedy at Mani*, POPULAR ARCHAEOLOGY (Oct. 23, 2020), <https://popular-archaeology.com/article/burning-the-maya-books-the-1562-tragedy-at-mani/> [https://perma.cc/6S8Y-NCXB].

state.⁸⁹ He proudly recounted, “We found many books with these letters, and because they contained nothing that was free from superstition and the devil’s trickery, we burnt them, which the Indians greatly lamented.”⁹⁰ This description is heart-wrenching, as the indigenous people of Mexico suffered in seeing their culture obliterated.

IV. BOOKS AND MODERN WARFARE

A. Destruction

Art, culture, and written materials have always been targeted during war. One of the greatest cultural losses suffered during World War I (WWI) was the German army’s intentional burning of Leuven, a city known for its rich art holdings and university library. Included in the fire was the destruction of the library at the University of Leuven.⁹¹ As a result, 300,000 books, 800 incunabula (books and pamphlets printed in Europe before the year 1500), and 1,000 manuscripts were lost.⁹² Eventually, the library was rebuilt, but it was destroyed again during the Second World War (WWII), just a few days after the Nazi invasion of Belgium, with only 15,000 volumes surviving.⁹³

It is no surprise that WWII led to the extensive destruction of books. Not only did cultural sites and libraries across Europe fall victim to looting and bombing,⁹⁴ but books were also deliberately targeted. The Third Reich infamously gathered books and dramatically incinerated them in large bonfires—the same was done for artwork that the Nazis labeled as “degenerate.”⁹⁵ In 1933, the Nazi government began purging

⁸⁹ Bishop Diego de Landa Orders Destruction of the Maya Codices, HISTORYOFINFORMATION.COM, <https://www.historyofinformation.com/detail.php?id=1574> [<https://perma.cc/7T2B-ZC3N>] (Mar. 22, 2025).

⁹⁰ Nicoletta Maestri, *Diego de Landa (1524-1579), Bishop and Inquisitor of Early Colonial Yucatan*, THOUGHTCO., <https://www.thoughtco.com/diego-de-landa-inquisitor-colonial-yucatan-171622> [<https://perma.cc/ZW38-NWFZ>] (Jan. 3, 2020).

⁹¹ *Germans Burn Belgian Town of Louvain*, HIST. (Nov. 16, 2009), <https://www.history.com/this-day-in-history/august-25/germans-burn-belgian-town-of-louvain> [<https://perma.cc/6853-42SD>].

⁹² Mose Apelblat, *The Story of How Leuven’s Jewel Was Twice Destroyed and Rebuilt*, BRUSSELS TIMES (Aug. 31, 2024), <https://www.brusselstimes.com/52524/the-story-of-how-leuven-s-jewel-was-twice-destroyed-and-rebuilt> [<https://perma.cc/3Z86-4UFV>].

⁹³ *Id.*

⁹⁴ See Patricia Kennedy Grimsted, *Spoils of War Returned*, NAT’L ARCHIVES, <https://www.archives.gov/publications/prologue/2002/spring/spoils-of-war-1> [<https://perma.cc/E8QB-P9H2>] (July 25, 2022).

⁹⁵ “Degenerate” Art, U.S. HOLOCAUST MEM’L MUSEUM: HOLOCAUST ENCYC., <https://encyclopedia.ushmm.org/content/en/article/degenerate-art-1> [<https://perma.cc/X8RJ->

cultural organizations of Jewish people and others alleged to be politically suspect, or who performed or created artwork that the Nazis labeled “degenerate.”⁹⁶ On May 10, 1933, as part of the Nazi agenda, the Nazi German Association gathered in thirty-four towns to burn over 25,000 “un-German” books, ushering in an era of censorship.⁹⁷ That evening, in many university towns in Germany, right-wing students marched in torchlight parades “against the un-German spirit.”⁹⁸

Although the Third Reich advanced an agenda to destroy art and culture as part of its propaganda,⁹⁹ Germany itself suffered great losses. One striking example was the damage to the Bayerische Staatsbibliothek (the Bavarian state library) in Munich, hit four times by the Allies in their blanket raids.¹⁰⁰ Half a million volumes were destroyed in these four fires, including numerous irreplaceable items from the Bavarian collection.¹⁰¹ Today, it is an important European library and research center.¹⁰² Together with the Staatsbibliothek in Berlin and the Deutsche Nationalbibliothek at Frankfurt and Leipzig, “it constitutes the virtual Nationalbibliothek (National Library) of the German Federal Republic.”¹⁰³

WFXK] (June 8, 2020). Degenerate art was seized, displayed as lacking merit, or destroyed by fire. *See id.*

⁹⁶ *German Students, Nazis Stage Nationwide Book Burnings*, HIST. UNFOLDED, <https://newspapers.ushmm.org/events/german-students-nazis-stage-nationwide-book-burnings> [<https://perma.cc/QUN4-9Y3B>] (last visited Mar. 14, 2025). One of the many problems with the Nazi effort to label art this way was that there was no fixed definition of the term; members of the Nazi Party were granted broad discretion to label, seize, and destroy property without due process. Leila Amineddoleh, *Nazi Laws Used to Plunder Art and the Current Legal Tools Used to Unwind Looting*, in *NAZI LAW: FROM NUREMBERG TO NUREMBERG* 171–72 (John J. Michalczyk ed., 2018).

⁹⁷ *German Students, Nazis Stage Worldwide Book Burnings*, *supra* note 96.

⁹⁸ *Book Burning*, U.S. HOLOCAUST MEM’L MUSEUM: HOLOCAUST ENCYC., <https://encyclopedia.ushmm.org/content/en/article/book-burning> [<https://perma.cc/2S5R-KQWV>] (Apr. 3, 2025).

⁹⁹ *See* David B. Dennis, *Culture War*, HUMANITIES (Jan.–Feb. 2014), <https://www.neh.gov/humanities/2014/januaryfebruary/feature/culture-war> [<https://perma.cc/C2LG-98A5>]; Leila Amineddoleh, *supra* note 96, at 169–70.

¹⁰⁰ *See The Bayerische Staatsbibliothek*, BAVARIKON, <https://www.bavarikon.de/object/bav:BSB-CMS-000000000000597?lang=en> [<https://perma.cc/9HTK-DZCU>] (last visited Mar. 15, 2025).

¹⁰¹ *See id.*

¹⁰² *See id.*

¹⁰³ *Id.* Together, those libraries have a collection of over 10,900,000 volumes, in addition to 55,000 current journals as well as a further 140,000 manuscripts. *Id.* Included in the collection are precious manuscripts and rare prints that comprise cultural heritage (including around 21,000 incunabula dating to before December 31, 1500). *See id.*

Since the end of WWII, censorship and destruction of books has continued during times of conflict. Two well-known incidents in the Middle East and Africa were committed at the hands of religious extremists. Mosul's public library, which contained some eight thousand rare antique books and manuscripts, was destroyed by the Islamic State of Iraq and the Levant (ISIL) in 2015, as was Mosul's university.¹⁰⁴ ISIL reportedly sold some of these valuable books on the international market.¹⁰⁵

One of the most lamented patterns of destruction during the twenty-first century took place in Timbuktu, Mali. Between 2012 and 2013, Islamist rebels burned and stole thousands of fourteenth-century manuscripts dating from Mali's golden age, when that country was a trading hub and center of Sufi Islam. After Hardline Islamist fighters seized control of Timbuktu and much of northern Mali in 2012, they imposed their rigid interpretation of Islamic doctrine, which called for the destruction of any piece of cultural heritage that contradicted it. Central to this destruction were Timbuktu's famed libraries and books. "[M]ilitants implemented Sharia law, and banned anything considered sinful," including manuscripts viewed as pagan writings.¹⁰⁶ In the end, at least 4,203 were burned or stolen.¹⁰⁷ Luckily, many manuscripts were saved and are being preserved due to the bravery of numerous book-owning families and officials of the state-run Ahmed Baba Institute, who smuggled about 285,000 books to safety.¹⁰⁸ Funding from the Prince Claus Foundation in the Netherlands and the German Foreign Office was also instrumental to that effort.¹⁰⁹

Finally, in the summer of 2016, the International Criminal Court in The Hague charged Ahmad Al Faqi Al-Mahdi, a member

¹⁰⁴ See Henri Neuendorf, *8,000 Books Burned by ISIS in Massive Iraqi Libricide*, ARTNET (Feb. 25, 2015), <https://news.artnet.com/art-world/8000-books-burned-by-isis-in-massive-iraqi-libricide-267932> [<https://perma.cc/379S-YF9Z>].

¹⁰⁵ See Nicole Winchester, *Targeting Culture: The Destruction of Cultural Heritage in Conflict*, UK PARLIAMENT (Dec. 14, 2022), <https://lordslibrary.parliament.uk/targeting-culture-the-destruction-of-cultural-heritage-in-conflict/> [<https://perma.cc/S9CF-M7UW>].

¹⁰⁶ Monica Villamizar, *Preserving the Priceless Manuscripts of Timbuktu*, PBS (June 27, 2018, 6:20 PM), <https://www.pbs.org/newshour/show/preserving-the-priceless-manuscripts-of-timbuktu> [<https://perma.cc/9PW6-4T5H>].

¹⁰⁷ See *Safeguarding Mali's Ancient Manuscript Collections, an International Conference in Bamako*, UNESCO (Jan. 21, 2015), <https://whc.unesco.org/en/news/1219> [<https://perma.cc/9QKX-TXHV>].

¹⁰⁸ See Naveena Kottoor, *How Timbuktu's Manuscripts Were Smuggled to Safety*, BBC (June 4, 2013), <https://www.bbc.com/news/magazine-22704960> [<https://perma.cc/W6UN-XSM9>].

¹⁰⁹ See *id.*

of Ansar Dine, an Al-Qaeda allied group.¹¹⁰ He was charged for his role in the destruction of cultural heritage (including books) in Mali.¹¹¹ Al-Mahdi faced a war crimes charge under Article 25 of the Rome Statute.¹¹² It was the first time the International Criminal Court prosecuted a criminal for the “destruction of buildings historical and religious monuments,” including ancient manuscripts, as a war crime.¹¹³ The Malian national admitted guilt. Specifically, he admitted that he “exercised joint control over the attacks’ by planning, leading and participating in them, supplying pick-axes and in one case a bulldozer.”¹¹⁴ Mahdi, facing thirty years in prison, received a nine-year sentence. In handing down the judgment, the Judges stated that they took into account al-Mahdi’s “genuine remorse . . . ’deep regret and great pain” and his calls on other Muslims not to make the same mistake.¹¹⁵ On November 25, 2021, his sentence was commuted to seven years,¹¹⁶ and he was released in 2022.

B. Looting of Collections During Conflict

During war, looting runs rampant.¹¹⁷ In addition to the intentional destruction of books for political or religious reasons, collections have also been looted, primarily for financial gain.

1. Looting of the Kosinitza Monastery

When the Bulgarian Army invaded Greece during WWI, guerilla soldiers looted the Kosinitza Monastery, a church built

¹¹⁰ See Owen Bowcott, *ICC’s First Cultural Destruction Trial to Open in The Hague*, THE GUARDIAN (Feb. 28, 2016, 7:14 PM), <https://www.theguardian.com/law/2016/feb/28/iccs-first-cultural-destruction-trial-to-open-in-the-hague> [https://perma.cc/6AAX-45R4].

¹¹¹ See *id.*

¹¹² See *ICC Pre-Trial Chamber I Confirms the Charge Against Ahmad Al Faqi Al Mahdi and Commits Him to Trial*, INT’L CRIM. CT. (Mar. 24, 2016), <https://www.icc-cpi.int/news/icc-pre-trial-chamber-i-confirms-charge-against-ahmad-al-faqi-al-mahdi-and-commits-him-trial> [https://perma.cc/3AXL-7WLM].

¹¹³ *Id.*

¹¹⁴ Stephanie Van Den Berg, *Islamist Rebel Gets Nine Years Imprisonment for Timbuktu Destruction*, REUTERS (Sept. 27, 2016, 4:27 PM), <http://www.reuters.com/article/us-warcrimes-mali-idUSKCN11X0IS> [https://perma.cc/JT4F-YL7T].

¹¹⁵ Prosecutor v. Ahmad Al Faqi Al Mahdi, Case No. ICC-01/12-01/15-171, Judgment and Sentence, ¶ 62 (Sep. 27, 2016), <https://www.icc-cpi.int/sites/default/files/itemsDocuments/160926Al-MahdiSummary.pdf> [https://perma.cc/QXV6-X5XY].

¹¹⁶ *Al Mahdi Case*, INT’L CRIM. CT., <https://www.icc-cpi.int/mali/al-mahdi> [https://perma.cc/NG7P-FXP3] (last visited Mar. 21, 2025).

¹¹⁷ See Gabrielle Sierra, *Treasures Looted in War* (Aug. 25, 2020), <https://www.cfr.org/podcasts/treasures-looted-war> [https://perma.cc/8C79-KVDH].

in the mid-twelfth century near Drama in northern Greece.¹¹⁸ The soldiers had first surveyed the monasteries in northern Greece to see what treasures could be pilfered.¹¹⁹ Then, on the night of March 27, 1917, a “band of sixty criminals” stormed the Theotokos Eikosiphoinissa Monastery (also known as Kosinitza Monastery).¹²⁰ The soldiers assaulted two elderly monks, forcing them to reveal where valuables were stored.¹²¹ The guerrilla fighters then ransacked the monastery, removing 431 manuscripts and printed books, precious objects, and 3,000 drachmas in cash.¹²² They loaded the treasures onto twenty-four mules and escaped with their loot.¹²³ The manuscripts were sold on the art market, and some eventually made their way to the United States.¹²⁴

A number of the looted books from the Kosinitza Monastery have been identified in private collections, including museum and university collections. In 2016, the Lutheran School of Theology at Chicago (LSTC) restituted a rare ninth-century codex from the monastery.¹²⁵ It had been removed in the 1917 plunder of the monastery, and it was ultimately purchased in 1920 by Levi Franklin Gruber, who later became the president of one of LSTC’s predecessor schools.¹²⁶ Gruber bequeathed the codex to his widow, who donated it to LSTC. Eventually, the Greek Orthodox Church contacted LSTC about the codex.¹²⁷ Taking an ethical stance, LSTC cooperated and voluntarily returned the looted item.¹²⁸ James Niemann, President of LSTC explained, “For nearly a century, we have been blessed to be the stewards of this

¹¹⁸ *LSTC Returns 1100-Year-Old Manuscript to Greek Orthodox Church*, LUTHERAN SCH. OF THEOLOGY AT CHI. (Nov. 1, 2016), <https://lstc.edu/news/lstc-returns-1100-year-old-manuscript-to-greek-orthodox-church/> [<https://perma.cc/MGH9-RKEX>].

¹¹⁹ *Eikosiphoinissa Manuscript 220: The Restoration of a Greek Gospel Manuscript Looted During World War I*, MUSEUM OF THE BIBLE, <https://www.museumofthebible.org/eikosiphoinissa-manuscript-220> [<https://perma.cc/JJ4W-NC5H>] (last visited Mar. 21, 2025).

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ Zoe Sottile, *Stolen in 1917, This 1,000-Year-Old Manuscript Was Just Returned to Its Rightful Owners*, CNN WORLD, <https://www.cnn.com/2022/10/01/world/christian-gospel-manuscript-return-greece-trnd> [<https://perma.cc/GNP3-VNQP>] (Oct. 1, 2022, 12:00 PM).

¹²⁵ *Id.*

¹²⁶ *LSTC Returns 1100-Year-Old Manuscript to Greek Orthodox Church*, *supra* note 118.

¹²⁷ *Id.*

¹²⁸ *Id.*

remarkable document, and today we are blessed again by the opportunity to return it to our Greek Orthodox friends and strengthen the bond we have together in Christ Jesus.”¹²⁹

Religious leaders have urged other institutions to do the same. The Order of Saint Andrew called on Duke University, Princeton University, and the Morgan Library to return stolen manuscripts to the Greek Orthodox Church.¹³⁰ The church has argued that the law is clearly in its favor, positing that even a good faith purchaser cannot acquire valid title to stolen goods and has an obligation to return them.¹³¹

Originating in Roman law, the Latin maxim *nemo dat quod non habet* is a legal principle that states: “No one can give what they do not have.”¹³² Under this rule, which is followed in the United States, the purchase of property from someone who does not own it does not confer title to the purchaser—even if the purchaser had acted in good faith.¹³³ Under this principle, good title never passed to whomever the marauding soldiers sold the manuscripts. Thus, title did not pass to any of the institutions that acquired the stolen works from the Kosinitza Monastery.¹³⁴

Further supporting this argument for the Greek Orthodox Church is that the “spoils of war” doctrine has never been recognized in the United States.¹³⁵ The “spoils of war” doctrine holds that the victorious party in a conflict may seize and retain enemy property, including land, chattels, and valuables, captured during the war.¹³⁶ Thus, title to stolen objects during WWI never

¹²⁹ *Id.*

¹³⁰ *The Order of Saint Andrew Calls on Duke University, Princeton University and the Morgan Library to Return Holy Manuscripts Stolen from the Ecumenical Patriarchate*, ARCHONS OF THE ECUMENICAL PATRIARCHATE, <https://archons.org/the-order-of-saint-andrew-calls-on-duke-university-princeton-university-and-the-morgan-library-to-return-holy-manuscripts-stolen-from-the-ecumenical-patriarchate/> [https://perma.cc/FCL2-FMHM] (last visited Mar. 21, 2025).

¹³¹ *Id.*

¹³² *See, e.g.*, Mitchell v. Hawley, 83 U.S. 544, 550 (1872).

¹³³ *Id.*; *see also* Cassirer v. Thyssen-Bornemisza Collection Found., 69 F.4th 554, 569 (9th Cir. 2023) (discussing California law).

¹³⁴ *See* Bakalar v. Vavra, 619 F.3d 136, 140 (2d Cir. 2010) (“[I]n New York, a thief cannot pass good title.”); Michelle I. Turner, *The Innocent Buyer of Art Looted During World War II*, 32 VAND. J. TRANSNAT’L L. 1511, 1534 (1999) (“[A]bsent other considerations an artwork stolen during World War II still belongs to the original owner, even if there have been several subsequent buyers and even if each of those buyers was completely unaware that she was buying stolen goods.”).

¹³⁵ *In re Flamenbaum*, 1 N.E.3d 782, 785 (N.Y. 2013).

¹³⁶ *See id.*

passed to the Bulgarian soldiers or the party to whom they sold the manuscripts.

Unfortunately, though, even with the Greek Orthodox Church's strong ownership claims and precedent that favors the original owner over a good faith purchaser during times of conflict,¹³⁷ there are challenges when demanding the return of stolen property. Those challenges include standing inquiries,¹³⁸ jurisdictional issues,¹³⁹ choice-of-law disputes,¹⁴⁰ and statute of limitations.¹⁴¹ Resolving these procedural conflicts can take years or even decades to resolve, resulting in massive litigation fees, frustration, and sometimes no clear answer about the substantive aspects of a dispute.¹⁴²

The Morgan Library & Museum heeded the call for restitution. A leading museum for books and manuscripts with an impressive collection of rare books, early printed books, and illustrated books, the museum is a gem in Manhattan's cultural space. However, a manuscript looted from the Kosinitza Monastery was discovered in its collection. The twelfth-century work, containing the New Testament's Epistle to the Hebrews and Book of Revelation, is part of a larger New Testament manuscript.¹⁴³ It had been donated to the Morgan Library in 1926. In 2021, after a long settlement negotiation, the Morgan Library provided an extended loan to the Church. The manuscript is now located in the Kosinitza Monastery where it is accessible "to researchers, scholars, clerics, monastics, and

¹³⁷ *Menzel v. List*, 267 N.Y.S.2d 804, 811–12 (Sup. Ct. 1966).

¹³⁸ See *Yien-Koo King v. Wang*, No. 14-cv-7694, 2017 WL 2656451, at *4, *11 (S.D.N.Y. June 20, 2017).

¹³⁹ *Federal Republic of Germany v. Philipp*, 592 U.S. 169, 186–87 (2021) (denying jurisdiction under the Foreign Sovereign Immunities Act, holding that the descendants of Jewish art dealers attempting to reclaim an art collection purportedly sold under duress to the Nazis could not sue Germany in a U.S. court).

¹⁴⁰ *Cassirer v. Thyssen-Bornemisza Collection Found.*, 596 U.S. 107, 113 (2022) (holding that in a suit raising non-federal claims against a foreign state or instrumentality under the Foreign Sovereign Immunities Act, a court should apply the substantive law by using the same choice-of-law rule applicable against a private party).

¹⁴¹ *Autocephalous Greek-Orthodox Church v. Goldberg and Feldman Fine Arts, Inc.*, 717 F. Supp. 1374, 1385–93 (S.D. Ind. 1989).

¹⁴² *Ex parte McCardle*, 74 U.S. 506, 514 (1868). When cases are dismissed during procedural wranglings, courts do not have the opportunity to rule on substantive questions. See, e.g., *id.*

¹⁴³ *Joint Statement of the Morgan Library and Museum and the Ecumenical Patriarchate*, THE MORGAN LIBR. & MUSEUM (Oct. 29, 2021), <https://www.themorgan.org/press/2021/joint-statement-morgan-and-ecumenical-patriarchate> [<https://perma.cc/L8XK-TQP5>].

theologians for use in furtherance of educational, cultural, or religious purposes.”¹⁴⁴

Unexpectedly, three other manuscripts looted from the Kosinitza Monastery ended up spending years on a bookshelf in New York City at Swann Auction Galleries.¹⁴⁵ The books, dating back to the sixteenth and seventeenth centuries were originally sold by the auction house to a dealer who later returned them because he had questions about the books’ provenances (ownership histories).¹⁴⁶ The manuscripts were placed on a gallery’s shelf and languished there for a decade until they were rediscovered during an office renovation.¹⁴⁷ Upon their resurfacing, a senior specialist in early printed books at the auction house, Devon Eastland, researched the books.¹⁴⁸ She realized that they had been looted, and so she contacted a representative for the Greek Orthodox Church to begin the restitution process.¹⁴⁹ In April 2023, the three books were returned at a celebratory ceremony in Lower Manhattan.¹⁵⁰

During that same ceremony, the Museum of the Bible was acknowledged for returning a manuscript to the Greek Orthodox Church in September 2022.¹⁵¹ While that museum faced intense scrutiny and criticism for its collecting practices, it acted ethically by voluntarily returning a book in its possession to the Kosinitza Monastery. The museum acquired the one-thousand-year-old manuscript, which the Museum of the Bible states is one

¹⁴⁴ *Id.* Duke also returned its manuscript to the Greek Orthodox Church, but the eleventh century Byzantine book was returned to a different monastery, the Holy Monastery of Dionysiou on Mount Athos in Greece. See Eric Ferreri, *Duke Libraries Returns Byzantine Manuscript to Original Home in Greece*, DUKE TODAY (Jan. 5, 2015), <https://today.duke.edu/2015/01/greekmanuscript> [<https://perma.cc/P8UM-GGD3>].

¹⁴⁵ *Rare Manuscripts Returned in Historic Ceremony at St. Nicholas Ground Zero*, GREEK ORTHODOX ARCHDIOCESE OF AM. (May 4, 2023), <https://www.goarch.org/-/rare-manuscripts-returned-in-historic-ceremony-st-nicholas-ground-zero-2023> [<https://perma.cc/C9QM-28B50>].

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Colin Moynihan, *Looted Monastery Manuscripts Rediscovered During Office Renovation*, N.Y. TIMES (Apr. 28, 2023, 2:40 PM), <https://www.nytimes.com/2023/04/28/arts/greek-monastery-kosinitza-manuscripts-looted.html> [<https://perma.cc/XW8B-NVNW>].

¹⁴⁹ *Id.*

¹⁵⁰ *Rare Manuscripts Returned in Historic Ceremony at St. Nicholas Ground Zero*, *supra* note 145.

¹⁵¹ The author also had the privilege of attending the ceremony. See *Repatriation Ceremony of Eikosifoinissa Monastery Manuscripts*, SERBIAN ORTHODOX CHURCH DIOCESE OF EASTERN AMERICA, https://www.easterndiocese.org/news_230504_1 [<https://perma.cc/W5Z7-H9SJ>].

the oldest handwritten gospels in the world. The book, known as the Eikosiphoinissa Manuscript 220, was sold by Christie's, the world's leading auction house, in 2011 to the Green Collection, which then donated it to the Museum of the Bible. In 2015, the Greek Orthodox Church requested restitution of manuscripts from several American institutions, including the Museum of the Bible. The museum researched its holdings and learned that the manuscript was stolen.¹⁵² Ultimately, the Museum of the Bible decided to voluntarily return the manuscript in 2022. The Greek Orthodox Church praised the return, stating, "We cannot express enough [of] our gratitude to the Green Family and the Museum for their Christian and professional service You have set an example for others to follow, and we pray that they do."¹⁵³

Not all possessors of books looted from the Kosinitza Monastery returned their books to the church. In 2015, the Greek Orthodox Church wrote to Princeton University demanding the return of four manuscripts believed to have been stolen during the same raid by Bulgarian soldiers.¹⁵⁴ Princeton did not return the items. As a result, the Greek Orthodox Church sued Princeton University in 2018 to recover the valuable religious texts.¹⁵⁵ The Church's complaint against Princeton alleges that the manuscripts appeared at the auction house of Joseph Baer & Co. in Frankfurt, Germany.¹⁵⁶ The monastery asserts that Princeton bought one of the manuscripts, while the other three were bequeathed by its trustee, Robert Garrett, who bought them at the auction house in 1924.¹⁵⁷ The Church argued that since the manuscripts were stolen, title could not have passed to the subsequent purchasers, and thus Princeton never acquired title to the items.¹⁵⁸

¹⁵² See *Museum of the Bible Restores Greek Gospel Manuscript to Kosinitza Monastery*, MUSEUM OF THE BIBLE (Aug. 26, 2022), <https://www.museumofthebible.org/newsroom/greek-gospel-manuscript> [https://perma.cc/ZTS8-6S8F].

¹⁵³ *Joint Statement of the Greek Orthodox Archdiocese of America and the Museum of the Bible*, ORTHODOX OBSERVER NEWS (Sept. 29, 2022), <https://www.goarch.org/-/9-29-2022-joint-statement-of-the-greek-orthodox-archdiocese-and-museum-of-the-bible> [https://perma.cc/N6NL-JFP3].

¹⁵⁴ Nick Rummell, *Princeton Sued by Greek Monastery over Rare Texts*, COURTHOUSE NEWS SERV. (Dec. 14, 2018), <https://www.courthousenews.com/princeton-sued-by-greek-monastery-over-rare-texts/> [https://perma.cc/BHH3-P92B].

¹⁵⁵ *Id.*

¹⁵⁶ Complaint at 2, *His All Holiness v. Princeton Univ.*, No. 18-17195 (D.N.J. Dec. 13, 2018).

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 3.

Princeton countered that the manuscripts were obtained legally, claiming that two of the manuscripts in question were gifted to St. Andrew of the Russians in 1877, which predates the alleged removal in 1917.¹⁵⁹ However, the university urged the court to dismiss the case, relying on procedural defenses and asserting that the statute of limitations had expired. In January 2025, the Church voluntarily dismissed its claim with prejudice. At the time of publication, the manuscripts are still housed at Princeton University.

2. Armenian Manuscript

A similar case was filed in 2010 by the Western Prelacy of the Armenian Apostolic Church of America against the J. Paul Getty Museum (Getty).¹⁶⁰ Between 1914 and 1923, the Ottoman Empire systematically murdered and displaced anywhere between 600,000 and 1.5 million Armenian citizens.¹⁶¹ As during any conflict, fleeing victims left behind valuable cultural heritage vulnerable to destruction and looting. Amongst those objects were the famous Zeytun Gospels, an illuminated manuscript sacred to the Armenian Christian faith. Created by prodigious illuminator Toros Roslin in 1256, the Zeytun Gospel Book was created at the Cilician scriptorium Hromklay during the Medieval period.¹⁶² Like the manuscripts looted from the Kosinitza Monastery, the Zeytun Gospels were not static objects; they were worshipped, used in liturgical ceremonies, and included colophons, or notes, that documented historical happenings and commentaries by the artist.¹⁶³ The gospel book remained safe in the remote town of Zeytun until the Ottoman genocide placed the work in peril.¹⁶⁴ The Gospels were removed for safekeeping by Asadur Agha Surenian-Basilosian; he believed they would protect him and his family.¹⁶⁵ However, during the

¹⁵⁹ Aaron Solomon, *Princeton Suit Puts Artifact Ownership in Spotlight*, BOS. HERALD (July 27, 2023, 12:48 AM), <https://www.bostonherald.com/2023/07/27/solomon-princeton-suit-puts-artifact-ownership-in-spotlight> [<https://perma.cc/E6AY-CS3W>].

¹⁶⁰ See Complaint at 1, *W. Prelacy of the Armenian Apostolic Church v. J. Paul Getty Museum*, No. BC438824 (Cal. Super. Ct. June 1, 2010) (suing over a manuscript allegedly stolen in 1915).

¹⁶¹ Don Melvin, *8 Things to Know About the Mass Killings of Armenians 100 Years Ago*, CNN (Apr. 22, 2021, 5:21 AM), <https://www.cnn.com/2015/04/23/world/armenian-mass-killings/index.html> [<https://perma.cc/VHM5-8QYF>].

¹⁶² HEGHNAR ZEITLIAN WATENPAUGH, *THE MISSING PAGES: THE MODERN LIFE OF A MEDIEVAL MANUSCRIPT, FROM GENOCIDE TO JUSTICE* 57–58 (2019).

¹⁶³ *Id.* at 58–60.

¹⁶⁴ *Id.* at 114.

¹⁶⁵ *Id.* at 114–15.

turbulence of war, the gospels changed hands. The book made its way to the Mesrob Mashtots Institute for Ancient Manuscripts in Armenia where it was studied.¹⁶⁶ Yet it was missing eight pages, believed to have been ripped out and smuggled into the United States in 1923 by Melkon Atamian.¹⁶⁷ According to the provenance provided by the Getty, the Los Angeles-based museum acquired the missing pages in 1994 after purchasing them from the Atamian family.¹⁶⁸ In 1994, the pages were loaned from a private collection to the Morgan Library in New York City for an exhibition. Following the exhibition, the Getty purchased the pages.¹⁶⁹

It is unclear when and how the pages were removed from the Zeytun Gospel Book. The Armenian Church asserts that the manuscript was sent to Turkey to save it from destruction during the Armenian Genocide, and then it went to Aleppo in Syria to be authenticated.¹⁷⁰ During authentication, the pages were removed.¹⁷¹ On the other hand, the Getty contends that the entire manuscript was legally acquired by an Armenian man who then moved to the United States with only eight pages.¹⁷²

The Western Prelacy of the Armenian Apostolic Church sued the Getty. The parties met during a court-ordered mediation, but they failed to find a resolution,¹⁷³ so the litigation moved forward. The Getty used a technical defense, urging the court to find that the case was untimely.¹⁷⁴ The museum argued that under the Discovery Rule (the statute of limitations rule applied in California), the statute of limitations had expired because the plaintiff should have reasonably discovered the location of the Gospels years before 2006.¹⁷⁵ On the other hand, the Armenian Apostolic Church asserted that the museum never obtained title

¹⁶⁶ *Id.* at 236–38.

¹⁶⁷ *See id.* at 190–91.

¹⁶⁸ *Canon Tables from the Zeytun Gospels*, GETTY, <https://www.getty.edu/art/collection/object/103SBS#full-artwork-details> [https://perma.cc/S8UQ-6CUS] (last visited Apr. 13, 2025).

¹⁶⁹ *Id.*

¹⁷⁰ *See* WATENPAUGH, *supra* note 162, at 184.

¹⁷¹ *See id.* at 186.

¹⁷² *Id.* at 2.

¹⁷³ Parties' Joint Stipulation Re: Completion of Mediation, *W. Prelacy of the Armenian Apostolic Church v. J. Paul Getty Museum*, No. BC438824 (Cal. Super. Ct. May 31, 2012).

¹⁷⁴ *See Case Summary, INT'L FOUND. FOR ART RSCH.*, https://www.ifar.org/case_summary.php?docid=1355366345 [https://perma.cc/7HP5-AKAA] (last visited May 20, 2025).

¹⁷⁵ *See id.*

to the Gospels because they were stolen.¹⁷⁶ Luckily for the Church, California applies the Stolen Art Recovery Statue, which extended the “time period in which stolen art claims could be filed, adopting a statute of limitations that begins from the time a plaintiff actually discovered the whereabouts of the stolen work.”¹⁷⁷ The Getty’s defense failed.¹⁷⁸ Finally, in 2015, the parties entered into a settlement.¹⁷⁹ Under the agreement, the Gospels remained at the Getty to guarantee their preservation and exhibition, with the condition that “the church gets recognition that all along it has been the rightful owner of the pages.”¹⁸⁰ In addition to updating the provenance of the pages, the Getty also agreed to cover the plaintiff’s costs incurred from the lengthy legal battle.¹⁸¹ This was viewed as a positive outcome, as it enabled the pages to benefit from the Getty’s extensive resources to ensure their long-term conservation under the museum’s stewardship, while also educating the public about the tragic circumstances surrounding their removal.¹⁸²

V. LEGAL BATTLES FOR STOLEN MATERIALS: EXTENSIVE LOOTING IN IRAQ

One of the best-known recent international cultural heritage repatriations involved written materials. While not books, the objects were early written documents—cuneiform tablets and bullae (small clay seals) originating from ancient Sumeria. The objects are dated between 2100 to 1600 BC and “are mostly legal and administrative documents, but also include an important collection of Early Dynastic incantations and a bilingual religious text from the Neo-Babylonian period.”¹⁸³ The problem is that they were looted during the decades-long conflict in the Middle East.

¹⁷⁶ *See id.*

¹⁷⁷ *See id.*

¹⁷⁸ *See id.*

¹⁷⁹ *See id.*

¹⁸⁰ Mike Boehm, *Legal Settlement with Armenian Church Lets Getty Museum Keep Prized Medieval Bible Pages*, L.A. TIMES (Sept. 21, 2015, 12:00 PM), <https://www.latimes.com/entertainment/arts/culture/la-et-cm-armenian-church-settles-with-getty-museum-20150918-story.html> [<https://perma.cc/EY7F-HMUC>].

¹⁸¹ *Id.*

¹⁸² *Getty Announces Agreement in Armenian Art Restitution Case*, GETTY (Sep. 21, 2015), <http://news.getty.edu/canon-table-2015.htm> [<https://perma.cc/75P3-ED9U>].

¹⁸³ *ICE Returns Thousands of Ancient Artifacts Seized from Hobby Lobby to Iraq*, U.S. IMMIGR. & CUSTOMS ENFT, <https://www.ice.gov/news/releases/ice-returns-thousands-ancient-artifacts-seized-hobby-lobby-iraq> [<https://perma.cc/67KB-43BN>] (Jan. 24, 2025).

The matter made headlines around the globe because the United States Attorney's Office for the Eastern District of New York seized thousands of artifacts from Hobby Lobby. Over five thousand looted artifacts were purchased by Hobby Lobby (a major craft conglomerate) and smuggled into the United States.¹⁸⁴ Steve Green, the company's president, began an insatiable collecting spree that began in 2009.¹⁸⁵ Ultimately, Hobby Lobby acquired tens of thousands of archaeological items and Biblical-era objects.¹⁸⁶ These acquisitions were intended to support an evangelical interpretation of the Bible and stock the Museum of the Bible (a museum which Hobby Lobby owners planned to open).¹⁸⁷ By purchasing and later donating these looted artifacts, the company stood to receive favorable tax treatment and even profit from the transactions.¹⁸⁸

Following the government's seizure of artifacts, Steve Green attempted to deflect criticism by citing ignorance and inexperience, admitting that the company "should have exercised more oversight and carefully questioned how the acquisitions were handled."¹⁸⁹ However, the Justice Department noted that the acquisitions were "fraught with red flags."¹⁹⁰ Despite having consulted with an antiquities expert, the company proceeded with its purchases by ignoring the expert's advice and using highly questionable business practices.¹⁹¹

Since 1990, the United States has had strict regulations in place against the importation of Iraqi cultural materials.¹⁹² It is

¹⁸⁴ The author of this Article had the immense honor of serving as a cultural heritage law expert and consultant on the case.

¹⁸⁵ Joshua Barajas, *3,800 Artifacts Once Bought by Hobby Lobby Were Just Returned to Iraq*, PBS, <https://www.pbs.org/newshour/nation/3800-artifacts-once-bought-by-hobby-lobby-were-just-returned-to-iraq> [<https://perma.cc/E5VY-8GUU>] (May 3, 2018, 1:15 PM).

¹⁸⁶ Emma Green, *Hobby Lobby Purchased Thousands of Ancient Artifacts Smuggled Out of Iraq*, THE ATLANTIC (July 5, 2017), <https://www.theatlantic.com/politics/archive/2017/07/hobby-lobby-smuggled-thousands-of-ancient-artifacts-out-of-iraq/532743/> [<https://perma.cc/8HYM-DQYW>]; see also Barajas, *supra* note 185.

¹⁸⁷ *Id.*

¹⁸⁸ See generally Donna Yates, *Museums, Collectors, and Value Manipulation: Tax Fraud Through Donation of Antiquities*, 23 J. FIN. CRIME 173 (2016).

¹⁸⁹ Candida Moss & Joel Baden, *Hobby Lobby's Black-Market Buys Did Real Damage*, N.Y. TIMES (July 6, 2017), <https://www.nytimes.com/2017/07/06/opinion/hobby-lobby-iraq-artifacts.html> [<https://perma.cc/UPZ6-2KTT>].

¹⁹⁰ Barajas, *supra* note 185.

¹⁹¹ *Id.*

¹⁹² *Prohibited and Restricted Items, Cultural Artifacts and Cultural Property*, U.S. CUSTOMS & BORDER PROT., <https://www.cbp.gov/travel/us-citizens/know-before-you-go/prohibited-and-restricted-items> [<https://perma.cc/8LSU-KK7P>] (Mar. 14, 2025)

well documented that Iraq has suffered plunder for decades, with looting occurring during and after the Gulf War,¹⁹³ during the rule of Saddam Hussein, after the U.S. military invasion in 2003,¹⁹⁴ and, finally, during the theft and looting under the ISIL.¹⁹⁵ In fact, in 2004, the U.S. government restricted the import of archaeological or ethnological material from Iraq under the Emergency Protection for Iraqi Cultural Antiquities Act of 2004 (Iraqi Antiquities Act),¹⁹⁶ which allowed the President to impose import restrictions on any archaeological or ethnological materials originating from Iraq.¹⁹⁷ The President's powers under the Iraqi Antiquities Act expired on September 30, 2009.¹⁹⁸

However, even in the absence of emergency provisions in place, Iraq enacted cultural heritage laws as early as 1936.¹⁹⁹ The country ratified patrimony laws decades ago to vest ownership of cultural heritage in the State. Under the terms of Iraq's Antiquities Law Number 55 and subsequent legislation, all antiquities and all heritage material within the territory of Iraq, unless registered as private property with the Department of Antiquities, shall be considered the property of the State.²⁰⁰ This patrimony law has been consistently updated throughout the years to provide ownership to the State.

("Merchandise determined to be Iraqi cultural property or other items of archeological, historical, cultural, rare scientific and religious importance illegally removed from the Iraq National Museum, the National Library and other locations in Iraq, since August 6, 1990, are also prohibited from importation.")

¹⁹³ See McGuire Gibson, *The Looking of the Iraq Museum in Context*, in *CATASTROPHE!: THE LOOTING AND DESTRUCTION OF IRAQ'S PAST* 13, 13 (Geoff Emberling & Katharyn Hanson eds., 2008).

¹⁹⁴ *Oriental Institute of the University of Chicago to Examine the Looting of the Iraq National Museum and Mesopotamian Archaeological Sites*, UNIV. OF CHI. INST. STUDY ANCIENT CULTURES, <https://isac.uchicago.edu/museum-exhibits/special-exhibits/oriental-institute-university-chicago-examine-looting-iraq-nation-0> [<https://perma.cc/PC28-XKBP>] (last visited Mar. 29, 2025).

¹⁹⁵ *United States Files Complaint Seeking Forfeiture of Antiquities Associated with the Islamic State of Iraq and the Levant (ISIL)*, U.S. ATT'YS OFF., D.C. (Dec. 15, 2016), <https://www.justice.gov/usao-dc/pr/united-states-files-complaint-seeking-forfeiture-antiquities-associated-islamic-state> [<https://perma.cc/T3SF-Q6ZZ>].

¹⁹⁶ See Emergency Protection for Iraqi Cultural Antiquities Act of 2004, Pub. L. No. 108-429, §§ 3001–3003, 118 Stat. 2434, 2599–2600; Convention on Cultural Property Implementation Act, 19 U.S.C. § 2603.

¹⁹⁷ See Lukas Padegimas, *How New York Investors Financed the Looting of Syria, Ukraine, and Iraq*, 6 GLOB. BUS. L. REV. 105, 115 n.404 (2016).

¹⁹⁸ Emergency Protection for Iraqi Cultural Antiquities Act of 2004 § 3003.

¹⁹⁹ See *Antiquities Law N.59 of 1936 and the Two Amendments N.120 of 1974 and N.164 of 1975*, UNESCO, <https://www.unesco.org/en/cultnatlaws/antiquities-law-n59-1936-and-two-amendments-n120-1974-and-n164-1975> [<https://perma.cc/85U6-NHCP>] (last visited Mar. 18, 2025).

²⁰⁰ *Id.*

More recently, emergency protections have been put in place to protect heritage objects from Iraq. On April 30, 2008, the United States imposed an emergency import restriction on any archaeological and ethnological materials from Iraq.²⁰¹ The restriction amended the Customs and Border Protection (CBP) regulations to reflect the Iraqi Antiquities Act. The United States also instituted this restriction to abide by paragraph 7 of the United Nations Security Council Resolution 1483, which obligates all members to assist in the protection of Iraq's cultural heritage.²⁰² The Iraqi Antiquities Act authorizes the President to exercise his authority "under section 304 of the Convention on Cultural Property Implementation Act with respect to any archaeological or ethnological material of Iraq without regard to whether Iraq is a State Party under the Convention on Cultural Property Implementation Act, and without the need for a formal request from the government of Iraq."²⁰³

The looting of Iraqi antiquities was extensively reported in mainstream media,²⁰⁴ as well as within the museum and art community. For example, the International Council of Museums (ICOM) creates "Red Lists" that classify categories of objects vulnerable to looting, in order to educate the public and prevent the objects from being sold or illegally exported.²⁰⁵ These publications provided notice to collectors and dealers, informing them as to the problems associated with looting, and making it more difficult for them to claim ignorance as to the looted nature of their purchases. ICOM's publication on Iraq explicitly mentions cuneiform tablets and bullae, the exact category of materials that Hobby Lobby was purchasing.²⁰⁶ Even art institutions, such as museums, circulated information about the risk of acquiring illicit artifacts. Professional groups such as the Association of Art Museum Directors provided guidance to

²⁰¹ Import Restrictions Imposed on Archaeological and Ethnological Material of Iraq, 19 C.F.R. § 12 (2008).

²⁰² *Id.*

²⁰³ *Id.* (citation omitted).

²⁰⁴ See, e.g., Kristin Romey, *Despite ISIS Threat, Looted Antiquities Returning to Iraq*, NAT'L GEOGRAPHIC (Mar. 24, 2015), <https://www.nationalgeographic.com/history/article/150324-iraq-artifacts-return-isis-baghdad-museum-islamic-state-archaeology> [<https://perma.cc/4B8F-WURC>].

²⁰⁵ *Red Lists*, ICOM, <https://icom.museum/en/red-lists/> [<https://perma.cc/T3VQ-6E2D>] (last visited Mar. 31, 2025).

²⁰⁶ *Emergency Red List of Iraqi Cultural Objects at Risk*, ICOM, <https://icom.museum/wp-content/uploads/2019/03/Emergency-Red-List-Iraq-English.pdf> [<https://perma.cc/B57T-HLKR>] (last visited Mar. 18, 2025).

museums concerning acquisitions. Similarly, the Federal Bureau of Investigation issued a warning regarding looted antiquities in 2015.²⁰⁷ Specifically, the warning noted that individuals who deal in looted antiquities may be subject to sanctions under the Iraq Stabilization and Insurgency Sanctions Regulations²⁰⁸ and prosecution under 18 U.S.C. § 2339A.

It is hard to fathom that the Hobby Lobby owners and employees were unfamiliar of the legal restrictions, given the company's apparent efforts to evade detection when importing Iraqi materials into the United States. Evidence revealed that "Hobby Lobby employees did not meet the owner and dealer of the artifacts, and [they] wired payments to seven bank accounts held in other people's names."²⁰⁹ The dealer, based in the United Arab Emirates, shipped the artifacts in numerous packages with false and misleading shipping labels, describing the contents as "ceramic tiles" or "clay tiles"—items plausibly associated with a craft store—and listing Turkey as the country of origin, rather than Iraq.²¹⁰ Other pieces were shipped from Israel and falsely labeled as Israeli objects.²¹¹

Besides the red flags, one of the most damning pieces of evidence was the fact that Hobby Lobby hired a cultural heritage law expert to advise on its acquisitions. Renowned expert and professor Patty Gerstenblith warned the Hobby Lobby owners that antiquities coming from conflict zones and from heavily looted areas were risky to purchase:

I read them the riot act . . . I explained to them how the system worked in the interest of trying to discourage them from doing anything illegal. I knew they were building a collection, so I was concerned they might be doing something they shouldn't, even out of ignorance of the law.²¹²

²⁰⁷ *ISIL and Antiquities Trafficking: FBI Warns Dealers, Collectors About Terrorist Loot*, FBI (Aug. 26, 2015), <https://www.fbi.gov/news/stories/isil-and-antiquities-trafficking> [<https://perma.cc/WQ9Y-P35Z>].

²⁰⁸ *See, e.g.*, 31 C.F.R. § 576.201 (2025).

²⁰⁹ Sasha Ingber, *Hobby Lobby's Smuggled Artifacts Will Be Returned to Iraq*, NPR (May 1, 2018, 7:27 PM), <https://www.npr.org/sections/thetwo-way/2018/05/01/607582135/hobby-lobbys-smuggled-artifacts-will-be-returned-to-iraq> [<https://perma.cc/4GPZ-TS22>].

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² Ed Pilkington, *Hobby Lobby Investigated for Trying to Import Ancient Artifacts from Iraq*, THE GUARDIAN (Oct. 28, 2015, 8:45 PM), <https://www.theguardian.com/us-news/2015/oct/28/hobby-lobby-investigated-ancient-artifacts-iraq> [<https://perma.cc/MU6A-M4KU>].

But Hobby Lobby did not heed her advice; rather, the company's employees ignored it and proceeded with their buying spree.

Finally, in 2011, Customs and Border Patrol detained five packages destined for Hobby Lobby.²¹³ The company filed for the return of the packages.²¹⁴ In September 2015, it requested a referral to the U.S. Attorney's Office. After investigating the matter, the United States filed a civil action to forfeit the artifacts imported by Hobby Lobby in July 2017 because they were smuggled.²¹⁵ The government filed an *in rem* action against the artifacts.²¹⁶ While the company claimed its misstatements were errors made by the exporter, the facts pointed to fraud and willful ignorance—both of which are methods often used by antiquities smugglers. However, “willful ignorance” is not a defense.²¹⁷ The government's complaint also claimed theft under the National Stolen Property Act²¹⁸ because the objects imported into the United States were “protected under the cultural patrimony law of its country of origin.”²¹⁹ U.S. courts recognize and enforce the patrimony laws (ownership laws) of other nations.²²⁰ As the imported artifacts fell under Iraq's patrimony law, they are deemed stolen goods in the United States.

The United States ultimately entered into a stipulation of settlement with Hobby Lobby. Under the agreement, the company forfeited the antiquities (without any compensation), paid \$3 million in fines, and adopted serious reforms—enacting internal policies governing its importation and purchase of cultural property, training personnel, hiring qualified outside customs counsel and customs brokers, and submitting quarterly

²¹³ *Id.*

²¹⁴ Complaint at 18, *United States v. Approximately Four Hundred Fifty (450) Ancient Cuneiform Tablets*, 1:17-cv-03980-LDH (E.D.N.Y. July 5, 2017).

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Lambert v. California*, 355 U.S. 225, 228 (1957) (citation omitted) (“The rule that ‘ignorance of the law will not excuse’ is deep in our law, as is the principle that of all the powers of local government, the police power is ‘one of the least limitable.’”); see also Leila Amineddoleh, *Why the Feds Were Smart Not to Throw the Book at Hobby Lobby for Buying Iraqi Loot*, ARTNET (July 12, 2017), <https://news.artnet.com/art-world/why-hobby-lobby-verdict-1021247> [<https://perma.cc/DCA3-CVSG>].

²¹⁸ National Stolen Property Act, 18 U.S.C. §§ 2311–2323.

²¹⁹ Complaint at 15, *United States v. Approximately Four Hundred Fifty (450) Ancient Cuneiform Tablets*, 1:17-cv-03980-LDH (E.D.N.Y. July 5, 2017).

²²⁰ See, e.g., *United States v. Schultz*, 333 F.3d 393, 416 (2d Cir. 2003) (“[T]he [National Stolen Property Act] applies to property that is stolen from a foreign government, where that government asserts actual ownership of the property pursuant to a valid patrimony law.”).

reports to the government on all cultural property acquisitions for eighteen months.²²¹ The public settlement exposed it to great scrutiny from the public, journalists, and those monitoring the trade of cultural items. In fact, this scrutiny led to the discovery of other problematic issues with objects acquired by Hobby Lobby, including its purchase of forged Dead Sea Scrolls²²² and the acquisition of the “Gilgamesh Dream Tablet,” which had been looted in 1991.²²³ In May 2018, nearly four thousand artifacts were returned to Iraq and went on display at the Iraqi National Museum.²²⁴ After the return of the cuneiform tablets and clay bullae, Hobby Lobby was connected to another looting incident, but this time involving a library collection and a professor.²²⁵

VI. LOOTING OF LIBRARIES

The guardians of fine art are sometimes complicit in thefts. Sadly, the same is true for custodians of books and manuscripts.²²⁶ University scholars and librarians sometimes abuse their access to valuable works to pilfer them and profit from their sale. This is due to the fact that libraries typically are not safeguarded as securely as museums. Libraries, even ones with rare books in their care, tend not to employ security guards to monitor patrons, and they do not adequately secure entrances and exits.

Besides lack of security, books and manuscripts are simply physically easier to misappropriate from libraries than artworks are to take from museums. They are often smaller, lighter in weight, and easier to hide in a backpack or briefcase. Seeing a person walking out of a museum with a painting is cause for alarm. But it is not unusual to see someone exit a library with a

²²¹ See Amineddoleh, *supra* note 217; see also *Hobby Lobby Settles \$3 Million Civil Suit for Falsely Labeling Cuneiform Tablets*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/news/releases/hobby-lobby-settles-3-million-civil-suit-falsely-labeling-cuneiform-tablets> [<https://perma.cc/9NKS-PNXS>] (Jan. 24, 2025).

²²² Brigit Katz, *All of the Museum of the Bible's Dead Sea Scrolls Are Fake, Report Finds*, SMITHSONIAN MAG. (Mar. 16, 2020), <https://www.smithsonianmag.com/smart-news/all-museum-bibles-dead-sea-scrolls-are-fake-report-finds-180974425/> [<https://perma.cc/6TM6-GL5J>].

²²³ *Looted Gilgamesh Tablet, One of World's Oldest Surviving Works of Literature, Returns to Iraq*, PBS (Dec. 8, 2021, 11:24 AM), <https://www.pbs.org/newshour/arts/ancient-gilgamesh-tablet-returns-to-iraq-30-years-after-being-looted> [<https://perma.cc/A3DV-ZX59>].

²²⁴ Ingber, *supra* note 209.

²²⁵ See *infra* Section VI.A.

²²⁶ See, e.g., Todd Samuelson, Laura Sare & Catherine Coker, *Unusual Suspects: The Case of Insider Theft in Research Libraries and Special Collections*, 73 COLL. & RSCH. LIBR. 556, 558 (2012).

book in his or her bag (perhaps the book was borrowed from the library, or the person was conducting long-term research with some of their own materials). And what is more, books or pages of books (like illuminated drawings, lithographs, or maps) are easier to dismantle and sell.²²⁷ Parts removed from books are difficult to identify once they appear on the market, and there may not even be a record or archive of the individual pages in books, so missing pages may not be noticed from a larger book or because owners of the books may not be familiar with each individual page.²²⁸

A. The MacArthur Scholar at the Oxford Library

The Egyptian Exploration Society (EES) was founded in 1882, as the Egypt Exploration Fund.²²⁹ It was established to explore, survey, and excavate ancient sites in Egypt and Sudan, and to publish the results of this work. Today it is one of the leading archaeological organizations,²³⁰ and it houses its collection at Oxford.²³¹ In 2016, the EES became suspicious that a seemingly reputable scholar at Oxford was stealing items from the collection and selling them on the art market.²³²

Dirk Obbink's credentials were stellar. He had an assistant professorship at Columbia University; he was appointed as Lecturer in Papyrology and Greek Literature at Oxford; he was named the head of the Oxyrhynchus Papyri Project, which maintains an important collection of papyri found in Egypt; he served as a faculty member at the University of Michigan as a Professor of Classical Studies, and he was the Ludwig Koenen

²²⁷ Nancy Kuhl, *New Scholarship: The Map Thief*, BEINECKE RARE BOOK & MANUSCRIPT LIBR. (June 24, 2014), <https://beinecke.library.yale.edu/article/new-scholarship-map-thief> [<https://perma.cc/DXG3-8ABQ>].

²²⁸ See Dwyer Murphy, *A Visit to the Shadowy World of Rare Book Theft*, LITERARY HUB (Dec. 1, 2016), <https://lithub.com/a-visit-to-the-shadowy-world-of-rare-book-theft/> [<https://perma.cc/6NYJ-RZ3L>].

²²⁹ See *Our History*, EGYPT EXPL. SOC'Y, <https://www.ees.ac.uk/our-cause/about-us/our-history.html> [<https://perma.cc/YZ86-YN9T>] (last visited Mar. 15, 2025); *Egypt Exploration Fund*, THE BRITISH MUSEUM, <https://www.britishmuseum.org/collection/term/BIOG53455> [<https://perma.cc/LML6-UWSG>].

²³⁰ See *Research*, EGYPT EXPL. SOC'Y, <https://www.ees.ac.uk/our-cause/research.html> [<https://perma.cc/S3YM-AL2J>] (last visited Mar. 20, 2025).

²³¹ See *The Oxyrhynchus Papyri*, EGYPT EXPL. SOC'Y, <https://www.ees.ac.uk/collections/papyri.html> [<https://perma.cc/9T7X-L5EC>] (last visited Mar. 21, 2025).

²³² See Charlotte Higgins, *A Scandal in Oxford: The Curious Case of the Stolen Gospel*, THE GUARDIAN (Jan. 9, 2020) <https://www.theguardian.com/news/2020/jan/09/a-scandal-in-oxford-the-curious-case-of-the-stolen-gospel> [<https://perma.cc/H9XG-3UYH>].

Collegiate Professor of Papyrology; he worked as Director of the *Imaging Papyri Project* at Oxford; he published scholarly works; he appeared on television programs; and he was a MacArthur Fellow for his work with papyri.²³³ Obbink was described by some of his colleagues as “brilliant.”²³⁴ The MacArthur Foundation praised Obbink as a hero, saying he was an “expert in the art and craft of rescuing damaged ancient manuscripts from the ravages of nature and time . . .”²³⁵ Yet despite his laurels, Obbink was charged with looting the collection that he was tasked with studying and “rescuing.”²³⁶

As alleged in a 2021 legal complaint, Obbink purportedly sold seven stolen fragments of ancient Egyptian papyrus, destined for display at the Museum of the Bible, to Hobby Lobby for a total of \$7.1 million between 2010 and 2013.²³⁷ The Oxford Professor’s response to the allegation was that he “mistakenly” sold the pieces that belonged to the EES.²³⁸ However, that was only the tip of the iceberg. Representatives from the Museum of the Bible and the EES ultimately discovered that the theft was bigger, alleging that they identified thirty-two papyrus fragments that Obbink stole from EES to sell to Hobby Lobby.²³⁹

So, how did this go undiscovered? Similar to museum thefts, most library and collection thefts are inside jobs.²⁴⁰ In both instances, books and artworks are not always thoroughly and accurately catalogued, providing opportunities for malfeasors to

²³³ See Colin Moynihan, *He Taught Ancient Texts at Oxford. Now He Is Accused of Stealing Some.*, N.Y. TIMES, <https://www.nytimes.com/2021/09/24/arts/design/hobby-lobby-lawsuit-dirk-obbink.html> [<https://perma.cc/S9LV-DYAC>] (Sept. 27, 2021).

²³⁴ *Id.*

²³⁵ *Id.* (quoting the McArthur Foundation).

²³⁶ *Id.*

²³⁷ See Complaint at 1, *Hobby Lobby Stores, Inc. v. Obbink*, No. 1:21-cv-3113 (E.D.N.Y. June 2, 2021).

²³⁸ Benjamin Sutton, *Hobby Lobby’s Lawsuit Against Papyrus Scholar Changes Venues*, ART NEWSPAPER (Sept. 28, 2023), <https://www.theartnewspaper.com/2023/09/28/hobby-lobby-museum-bible-lawsuit-papyrus-dealer-dirk-obink-venue-change> [<https://perma.cc/W4A5-L8EW>].

²³⁹ See *id.*

²⁴⁰ See Bea Mitchell, *Staff Stealing from Museums Is an “Unspoken Problem,” According to Experts*, BLOOLOOP (Aug. 21, 2023), <https://blooloop.com/museum/news/staff-stealing-museums-problem-experts-say/> [<https://perma.cc/82HL-NN8B>]; see also Susan Mandel, *Insider Theft, Fires, and Vandals Top List of Museum Concerns*, SEC. MGMT. (June 1, 2008), <https://www.asisonline.org/security-management-magazine/articles/2008/06/insider-theft-fires-and-vandals-top-list-of-museum-concerns/> [<https://perma.cc/XV4M-7SN9>].

get away with theft.²⁴¹ In fact, the British Museum recently faced international criticism for its failure to discover thefts from its collection. That institution—one of the largest and most famous museums in the world—did not have a complete and accurate record of its holdings, so one employee misappropriated and sold over two thousand objects from the collection over the course of several decades.²⁴²

Additionally, large museums keep many of their objects in storage, meaning the watchful eyes of the public and scholars cannot detect the thefts. As a result, artworks may be overlooked for years or decades, enabling thieves to pilfer objects.²⁴³ The same is true of books. For this reason, insiders are often the people raiding collections.

It can be easy to escape detection and misappropriate objects from collections, particularly for those individuals who are tasked with guarding the collection or studying the works. These people have access to the works that the public does not, in part because they maintain trusted positions. As a leading scholar studying papyri, it was natural that Obbink would gain access to valuable fragments. He borrowed unpublished fragments from the library²⁴⁴ and brought them to his office to study them.²⁴⁵ While this is normal behavior for a professor or scholar working to study primary sources, professors typically *return* borrowed materials to the collections. But Obbink never returned the fragments. Instead, he sold them. It was also discovered that Obbink removed cataloguing information about the papyri so that there was no record of the missing works.²⁴⁶ According to the EES, the texts that ultimately landed in the Hobby Lobby collection were taken without authorization from the library,

²⁴¹ See Harriet Sherwood, *Thefts by Staff a Common Problem in UK Museums, Say Experts*, THE GUARDIAN (Aug. 18, 2023, 12:10 PM), <https://www.theguardian.com/culture/2023/aug/18/thefts-by-staff-a-common-problem-in-uk-museums-say-experts> [https://perma.cc/T235-DCR2].

²⁴² See Jeannette Plummer Sires, *How Museum Items Go Missing*, SAPIENS (Dec. 6, 2023), <https://www.sapiens.org/archaeology/british-museum-thefts/> [https://perma.cc/K63M-7SFW].

²⁴³ See *id.*

²⁴⁴ An “unpublished fragment” is one that has not been formally released or distributed to the public, meaning it is not accessible through traditional publication channels like journals or websites; essentially, these fragments are not accessible or even known to the public.

²⁴⁵ See Moynihan, *supra* note 234.

²⁴⁶ Professor Obbink and Missing EES Papyri, EGYPT EXPL. SOC’Y (Oct. 14, 2019), <https://www.ees.ac.uk/resource/professor-obbink-and-missing-ees-papyri.html> [https://perma.cc/B45X-RSV5].

and, in most instances, the catalogue card and photograph were also missing. Fortunately for the EES (but unfortunately for Obbink), the EES maintained back-up records which led to the discovery of the missing unpublished texts.²⁴⁷

It was a shock that the professor with impeccable credentials would have violated the EES collection. But Obbink's behavior during the legal proceedings against him were perhaps even more bizarre. Obbink never defended himself. In fact, the quiet professor never appeared in court and never named an attorney representative. Obbink simply ignored the lawsuit. As a result, the court entered a default judgment against him for \$7,085,100.00.²⁴⁸ Oxford University suspended Obbink's position,²⁴⁹ and Obbink was not rehired by the EES.²⁵⁰

Sadly, Obbink was not the first scholar to succumb to the temptation of theft. Many examples have been recorded during the past few decades. Between 1992 and 2017, Gregory Priore, the former archivist of the Carnegie Library's rare book room, stole rare books and sold them through dealer John Schulman.²⁵¹ The men dealt in over \$8 million worth of books.²⁵² Another notorious example involved a student assistant working at the Special Collections department at the Honnold Library in California. The pilferer, Peter French, had access to the card catalogue.²⁵³ He realized that certain manuscripts had not been

²⁴⁷ See *id.* In a 2019 announcement, the EES gratefully acknowledged the fact that the Museum of the Bible "accepted the EES claim to ownership of the thirteen pieces identified to date, and is arranging to return them to the EES." *Id.* Ultimately, there were thirty-two items identified. See Moynihan, *supra* note 233.

²⁴⁸ See *Hobby Lobby Stores, Inc. v. Obbink*, No. 5:23-cv-879, slip op. at 1 (W.D. Okla. Mar. 11, 2025) ("Judgment is hereby entered in favor of Plaintiff Hobby Lobby Stores, Inc. and against Defendant Dirk D. Obbink, in the amount of \$7,085,100.00, together with prejudgment interest from February 5, 2013, at the rate of 6% per annum, as specified in 15 Okla. Stat. § 266, postjudgment interest at the rate provided in 28 U.S.C § 1961 until the judgment is satisfied, and attorney's fees and costs.").

²⁴⁹ See Alex Greenberger, *Hobby Lobby Sues Former Oxford Professor Accused of Stealing Papyrus Fragments*, ARTNEWS (June 3, 2021, 2:03 PM), <https://www.artnews.com/art-news/news/hobby-lobby-dirk-obbink-lawsuit-stolen-papyrus-fragments-1234594693/> [<https://perma.cc/C7LC-LBZ8>].

²⁵⁰ See *Professor Obbink and Missing EES Papyri*, *supra* note 246.

²⁵¹ See Michael Levenson, *2 Sentenced to House Arrest in Long-Running Scheme to Steal Rare Books*, N.Y. TIMES (June 20, 2020), <https://www.nytimes.com/2020/06/20/us/Carnegie-library-theft-schulman-priore.html> [<https://perma.cc/3JHA-2EXQ>].

²⁵² See *id.*

²⁵³ See Bart Jaski, *The Weesp Missal*, UTRECHT UNIV. (June 2013), <https://www.uu.nl/en/special-collections/collections/manuscripts/other-medieval/the-weesp-missal> [<https://perma.cc/9CEJ-KVLR>].

registered and finalized in the cataloguing system, so he removed their data from the records and offered the items to auction houses between 1968 and 1972.²⁵⁴ One book was purchased by the Beinecke Library at Yale University.²⁵⁵ Luckily, an expert recognized the twelfth-century Cistercian manuscript, and the Beinecke Library voluntarily returned it to the Honnold Library.²⁵⁶ French was arrested in 1973 and sentenced to two years' imprisonment.²⁵⁷ In a more recent example, in 2015, the Bibliothèque Nationale de France announced that several sixteenth- and seventeenth-century engravings and atlases had been stolen. The theft was an inside job, orchestrated by a low-level employee responsible for stocking items.²⁵⁸

B. The Crooked Librarian

One of the most brazen thefts involved the Girolamini Library in Naples, Italy. Nestled in the Centro Storico (historic center) of the Italian city, across from the city's cathedral, lies the Church and Convent of the Girolamini. Founded in the sixteenth century, the religious site included a library, the Biblioteca Girolamini.²⁵⁹ The library was full of valuable manuscripts and books: a 1518 edition of Thomas More's *Utopia*; Galileo's 1610 treatise *Sidereus Nuncius*, containing more than seventy drawings of the moon and the stars; centuries-old editions of Aristotle, Descartes, Galileo and Machiavelli; and Johannes Kepler's study of the motions of Mars, *Astronomia Nova*, considered one of greatest books in the history of astronomy.²⁶⁰ Thousands of books and rare items were stolen from the collection.²⁶¹ The theft was a result of a years-long scandal involving book dealers and even a priest, with Marino

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ See Doreen Carvajal, *Employee Held in Paris National Library Theft*, ARTSBEAT, <https://artsbeat.blogs.nytimes.com/2015/07/22/employee-held-in-paris-national-library-theft/> [<https://perma.cc/3W4B-TLQR>] (July 27, 2015).

²⁵⁹ See Alan Johnston, *Naples' Girolamini: The Looting of a 16th Century Library*, BBC NEWS (Dec. 19, 2013), <https://www.bbc.com/news/magazine-25403595> [<https://perma.cc/TGH7-2ZQV>]; Rachel Donadio, *Rare Books Vanish, with a Librarian in the Plot*, N.Y. TIMES (Nov. 29, 2013), <https://www.nytimes.com/2013/11/30/books/unraveling-huge-thefts-from-girolamini-library-in-naples.html> [<https://perma.cc/X7VN-7FT2>].

²⁶⁰ Johnston, *supra* note 259.

²⁶¹ See Donadio, *supra* note 260.

Massimo de Caro (the library's director at the time of the thefts) at the center of the larceny.²⁶²

While the library is usually closed to the public, some exceptions are made to allow access to scholars. Professor Tomaso Montanari, an art historian and academic in Naples, visited the library in April 2012. He was stunned by the state of the library—it was a mess, with books scattered all over the floor, garbage everywhere, and even “a dog roaming around the library with a bone in its mouth!”²⁶³ A library staff member pulled the professor aside and informed him that “the director [de Caro] has been looting the library!”²⁶⁴

Later in April 2012, the library was formally impounded by the judicial authorities as a Neapolitan prosecutor began an investigation into the thefts. The investigators tapped de Caro's phone and learned that he was hiding books in his home, in a storage unit in Verona, and in the basement of a co-conspirator's family's home, and that he was still actively attempting to sell the volumes.²⁶⁵ In addition, a brother-and-sister duo of librarians helped state prosecutors by providing video surveillance footage showing de Caro in the act of removing books from the library.²⁶⁶

To hide the evidence of the theft and to disguise their origins, the criminals removed identifying marks, like seals, on the manuscripts.²⁶⁷ In some instances, seals and pages were simply ripped out of books, and bindings were even removed. The books were moved out of the library late at night, after security cameras were turned off. Similar to Obbink's tampering with the records of EES, the gang destroyed the library's catalog in an attempt to hide evidence of the pillage.²⁶⁸ Once the identifying features of the works were removed and the books were eliminated from the records, they appeared on the international market. Over four hundred and fifty volumes went to a German auction house, while others traveled even farther.²⁶⁹ Investigators have been contacted by traders and collectors from across Europe, the United States, and Latin America.

²⁶² *See id.*

²⁶³ Johnston, *supra* note 260.

²⁶⁴ *Id.*

²⁶⁵ Nicholas Schmidle, *A Very Rare Book*, NEW YORKER (Dec. 8, 2013), <https://www.newyorker.com/magazine/2013/12/16/a-very-rare-book> [<https://perma.cc/A8T8-D8TH>].

²⁶⁶ Donadio, *supra* note 260.

²⁶⁷ Johnston, *supra* note 260.

²⁶⁸ *Id.*

²⁶⁹ Schmidle, *supra* note 265.

In 2013, de Caro was sentenced to seven years in prison.²⁷⁰ Ultimately, his sentence was commuted to house arrest because he cooperated with investigators.²⁷¹ The Italian Ministry of Culture recognizes that surveillance was not adequate, but it optimistically believes that about eighty percent of the stolen books have been recovered.²⁷² Yet, the head of Italy's Antiquarian Booksellers' Association, Fabrizio Govi, casts doubt on this perspective.²⁷³ He points out that libraries are usually "at the bottom of the list of priorities" for the national cultural heritage sector.²⁷⁴ "They are in an amazing state of abandonment and decay," he insists.²⁷⁵ Sadly, this is true in many places, not only in Italy.

VII. LAWS PROTECTING BOOKS

While libraries and book collections have been the targets of theft, this is due to the lack of security and the ease with which thieves pilfer books and written materials. However, national laws are in place to protect libraries, educational institutions, and books. For example, the Biblioteca Girolamini was ransacked, but Italy actually has legislation in place to protect valuable volumes. Italy's cultural heritage laws, dating back to as early as 1909,²⁷⁶ protect books, specifically designating as cultural property "the book collections of libraries of the State, Regions, other territorial government bodies, as well as any other government body and institute."²⁷⁷ Revisions and updates to Italy's laws have consistently protected books. Indeed, Royal Decree No. 363 of 1913²⁷⁸ and the Law No. 1089 of 1939²⁷⁹ specifically mention books. Italy is not the only nation to

²⁷⁰ *The Girolamini Thefts - Marino Massimo de Caro Sentenced to 7 Years Imprisonment*, LIGUE INTERNATIONALE DE LA LIBRAIRIE ANCIENNE (Mar. 17, 2013), <https://ilab.org/fr/article/the-girolamini-thefts-marino-massimo-de-caro-sentenced-to-7-years-imprisonment> [<https://perma.cc/AB2E-YFTE>].

²⁷¹ Donadio, *supra* note 260.

²⁷² Schmidle, *supra* note 265; Johnston, *supra* note 260.

²⁷³ Johnston, *supra* note 259.

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ Legge 20 giugno 1909, n. 364, G.U. 28 giugno 1909, n. 150 (It.).

²⁷⁷ Legge 22 gennaio 2004, n. 42, G.U. 24 febbraio 2004, n. 45 (It.).

²⁷⁸ Regio decreto 30 gennaio 1913, n. 363, art. 128(b), G.U. 5 giugno 1913, n. 130 (It.) (providing that cultural heritage laws apply to "prints," further defined as "incunabula, editions by famous printers, rare books and rare engravings").

²⁷⁹ Legge 1 giugno 1939, n. 1089, art. 1(c), G.U. 8 agosto 1939, n. 184 (It.) (protecting "manuscripts, autographs, correspondence, notable documents, incunabula, as well as books, prints and engravings of a rare and valuable nature").

recognize the cultural value of books; nations like Oman²⁸⁰ and Ecuador²⁸¹ specifically list manuscripts as falling under their laws. However, even if not specifically named in legislation, historic manuscripts and books generally fall under the broad category of “moveable property” with historic and cultural significance, thus they are typically protected by restrictions on the movement and sale of cultural heritage via patrimony laws.

Besides national legislations, countries came together to protect heritage through the drafting of numerous treaties and conventions. The Hague Conventions of 1899 and 1907 provided for cultural heritage by prohibiting pillage and outlawing the confiscation of private property.²⁸² Under these conventions, “private” property includes that belonging to state-owned institutions for religion, charity, education, and the arts.²⁸³ Further, the conventions outlawed the destruction and intentional damage to artworks. The 1899 and 1907 Hague Conventions embody rules of customary international law. Thus, they are also binding on states which are not formally parties to them.²⁸⁴

In the years after WWII, nations met to draft a treaty to avoid the vast cultural destruction that had occurred in the prior decade. This resulted in the Hague Convention of 1954. The Hague Convention specifically lists “works of art, manuscripts, books and other objects of artistic, historical or archaeological interest.”²⁸⁵ Signatory nations are obliged not to target historic sites, but rather to take measures to protect them during conflict.

The most often-cited convention addressing the protection of cultural heritage outside the context of war is the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970 UNESCO Convention). It is arguably the most

²⁸⁰ See Law on the Protection of Manuscripts of 2009 (Act No. 70/77) (Oman).

²⁸¹ See Law of Cultural Patrimony of 1979 (Act No. 3501) (Ecuador).

²⁸² Convention (II) with Respect to the Laws and Customs of War on Land art. 46–47, July 29, 1899, T.S. No. 403 [hereinafter Hague Convention of 1899]; Convention (IV) Respecting the Laws and Customs of War on Land art. 46–47, Oct. 18, 1907, T.S. No. 539 [hereinafter Hague Convention of 1907].

²⁸³ Hague Convention of 1899, *supra* note 282, art. 56; Hague Convention of 1907, *supra* note 282, art. 56.

²⁸⁴ *Convention (II) with Respect to the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land. The Hague, 29 July 1899*, INT'L HUMANITARIAN L. DATABASE, <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-ii-1899> [<https://perma.cc/MJ69-TABK>] (last visited Mar. 10, 2025).

²⁸⁵ Convention for the Protection of Cultural Property in the Event of Armed Conflict art. 1, May 14, 1954, 249 U.N.T.S. 240.

important convention aimed at protecting cultural heritage because it established a global legal framework to combat the illicit trafficking of cultural artifacts.²⁸⁶ The convention sets forth that cultural heritage is a basic element of civilization and national culture, and that its value can only be fully appreciated when its history and origin are known. The convention also charges state parties with the responsibility of protecting cultural heritage within their territories. The 1970 UNESCO Convention specifically mentions written materials numerous times. Article 1's definition of "cultural property" specifically includes "inscriptions," "engraved seals," "engravings, prints and lithographs," and "rare manuscripts and incunabula, old books, documents and publications of special interest, postage, revenue and similar stamps, singly or in collections, archives."²⁸⁷

Moreover, the International Institute for the Unification of Private Law (UNIDROIT) Convention on Stolen or Illegally Exported Cultural Objects seeks to prevent the trafficking of cultural heritage by requiring buyers to ensure the legitimacy of their acquisitions. While noble in its intent, the 1995 UNIDROIT Convention has not been as widely accepted as the 1970 UNESCO Convention. However, like the 1970 UNESCO Convention, UNIDROIT protects "rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections."²⁸⁸ The enumeration of books and manuscripts in international conventions and in national heritage laws reflects the importance and significance of our written heritage.

VIII. CONCLUSION

While the importance of written heritage has been recognized internationally, books, manuscripts, and writings continue being stolen and destroyed. Sometimes the works are destroyed for the viewpoints they express, their destruction a form of suppression either by religious sects or political leaders. Other times, works are looted for economic gain, treated like

²⁸⁶ See *About 1970 Convention*, UNESCO, <https://www.unesco.org/en/fight-illicit-trafficking/about> [<https://perma.cc/3L3G-MGZH>] (last visited Mar. 10, 2025).

²⁸⁷ Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property art. 1(e), (g)(iii), (h), Nov. 14, 1970, 823 U.N.T.S. 231.

²⁸⁸ UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, annex, June 24, 1995, 2421 U.N.T.S. 457; see also 1970 UNESCO Convention, *supra* note 287, art. 1(h).

other valuable collectibles, important for both their intellectual property, historic importance, and aesthetic qualities. And sadly, some written works are simply lost to the ravages of time, damaged by bookworms, both figurative (voracious readers and overly eager bibliophiles creating marginalia) and literal (the larvae of a wood-boring beetle that feeds on the paper and glue in books). Unfortunately, the same efforts made to protect art and heritage are often not applied to books and other written materials. Clever criminals take advantage of this shortcoming and use the opportunity to pilfer valuable works from collections. This, however, is a modern tragedy because “words, words, words” are an important part of our shared history and record of civilization.