



## Time to Rethink Buried Treasure

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### KEYWORDS

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### ABSTRACT

*The contemporary decolonisation movement necessitates ethical reconsideration of the ownership of archaeological sites and objects, alongside reconsideration of the control of the archaeological and historical narrative. In this article, a British archaeologist argues that as we work towards decolonisation, heritage law must change. Advances in metal detecting technology have made the collection of archaeological artefacts easier than ever before; popular perceptions need to shift away from the hunt for buried treasure. Archaeological and ethnographic material should be legally defined as the patrimony of the local community, and ought to be held in public ownership/stewardship in that country. In England today, unless it is a known archaeological site or monument that is specially designated, there is no permit required to excavate, and no licence needed to go metal detecting, only the private landowner's permission. In England and in the U.S., it is still legal for dealers and auction houses to trade in archaeological material. Ending the trade in antiquities would be analogous to the proposed worldwide ban on trading in wildlife, an issue that has recently risen up the global agenda. Abolition of sales of archaeological material at British auction houses could eventually have the added advantage of making the global antiquities market unsustainable.*

Now is the age of decolonisation. Decolonisation involves actively reconsidering the ownership of heritage. In part, this means the repatriation and restitution of contested heritage that was acquired in circumstances where the original owners were not in a position to object.

To achieve decolonisation, contested heritage must be understood to refer not just to objects that were “stolen” - taken by force or without permission - but equally to archaeological and ethnographic material that may have been given in tribute or legally purchased under laws that were imposed on any domestic or foreign population at a time when the people of that place were without sovereign power.

A museum, such as the British Museum, for instance, might hold a receipt of sale from a private collector, and might feel confident that the 19th century Turkish colonial rulers of Greece (for example) openly and willingly sold the archaeological material in question. However, from the ethical standpoint of decolonisation, the museum is not justified in refusing a repatriation request for material that was supposedly legally purchased under inequitable conditions, any more than it would be justified in refusing a request from a modern-day African nation, for example, to return historic objects certainly looted by British soldiers or colonial agents.

Ownership of heritage, control of the historical narrative, and economic equity are all central to the decolonisation movement. Field expeditions to augment museum collections are a colonial relic of the eighteenth to early twentieth century<sup>1</sup>. The 1970 UNESCO “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property”<sup>2</sup> provided all State governments (thus excluding Indigenous communities) with the basis for national laws to prevent the trade in archaeological material, whether newly excavated or already held in collections. The 1970 Convention is limited to archaeology “specifically designated” by each State as important - which in Britain for example, the vast majority of archaeological sites and objects are not - or traded ‘illicitly’. This emphasis on criminal procurement of cultural heritage is arguably outdated, and forms a point of intersection with decolonisation.

Decolonisation goes further than the 1970 UNESCO Convention, in that the legality at the time of the acquisition is not the decisive factor.

Decolonisation also involves effective acknowledgement of local community, including Indigenous community, ownership and stewardship: public as opposed to private ownership. To counteract the ongoing global trade in cultural heritage, this must apply equally to the archaeological record that is still in situ in the lands of every modern country, and support the State’s obligation to respect local communities and to preserve the heritage.

Social acceptance of capitalist acquisition<sup>3</sup> and Western entitlement needs to be challenged in order to make dealers and collectors, and their wider networks, reflect on the impact of their activities. As we work towards decolonisation, perceptions need to shift away from the hunt for buried treasure. Advances in metal detecting technology have made the collection of archaeological artefacts easier than ever before. As metal detecting increases in popularity<sup>4</sup>, the pursuit of buried coins and other objects by treasure hunters has acquired the image of a “harmless hobby.” It is not harmless.

Since the 1995 Council for British Archaeology report on “Metal Detecting and Archaeology in England”<sup>5</sup>, we’ve known that each year even just in England alone, hobby treasure hunters pluck hundreds of thousands of objects out of their context in the ground - from whole assemblages of prehistoric to Medieval metal artefacts, to individual coins, broaches, and buckles.

Why is treasure hunting harmful? Because in archaeology, context is everything.

Archaeologists interpret past events and processes by recording the association of every find, and study sites holistically in order to reconstruct the past narrative of a place. Coins left behind on or near a settlement or byway may be evidence of the chaos of a final episode that caused valuables to be scattered, or robbed and hidden and ultimately unretrieved. Even a single gold coin of any date from the Iron Age onward is evidence of local wealth and trade. The loss of context is the loss of the narrative itself.

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1 <<https://blog.nationalarchives.gov.uk/decolonising-archaeology-iraq/>>

2 <[http://portal.unesco.org/en/ev.php-URL\\_ID=13039&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html)>

3 <<https://www.ft.com/content/f4df95c2-cc94-11e8-8d0b-a6539b949662>>

4 <<https://www.telegraph.co.uk/news/2017/11/22/detectorist-finds-rise-treasure-hunters-inspired-tv-shows/>>

5 <<https://new.archaeologyuk.org/other-publications>>

The difference between treasure hunting and archaeology is substantial. The goal of even unpaid amateur archaeologists is to investigate the buried historic environment, not to dig up treasure.

Treasure hunters target objects that can be sold through art market dealers and offered on online sales sites like eBay. This established trade in antiquities is legal in Britain and the U.S., and it almost certainly masks and motivates illicit trade<sup>6</sup> from other countries.

Supporters of hobby metal detecting like to portray buried objects as randomly lost items that have now been found by chance. The reality is that the searching is systematic. North American metal detectorists eager to collect British material culture have been known to travel to England for treasure hunting holidays<sup>7</sup>. Organised treasure holidays and metal detecting rallies<sup>8</sup> are clearly planned on sites that have been previously identified as good artefact hunting grounds.

All of this activity suggests a massive scale of depletion of the accessible archaeological record.

The collection of archaeological artefacts has a variable reputation. Media stories regularly portray the taking of material<sup>9</sup> from archaeological sites in war-torn Syria, Afghanistan and Iraq for example, mainly by people from the region, as “looting,” and damaging to global heritage. But White men geared up with metal detectors, doing essentially the same thing in rural Britain are seen as discoverers, heroically saving heritage<sup>10</sup>.

Exploiting the non-renewable resource of the archaeological record is harmful whoever does it, wherever they are.

In England, opinions about artefact hunting and collecting are split. Supporters of the Portable Antiquities Scheme<sup>11</sup> canvass for respect and understanding for the artefact hunters, hobby metal detectorists, dealers and collectors, with whom they willingly collaborate in studying and publishing the loose objects that are found.

Many archaeologists, on the other hand, do not see treasure hunting as a part of archaeology.

A major reason for this tension is the public experience of archaeology. Traditionally, the past has been presented in museums as a series of movable items that were apparently made to collect and display. Archaeological artefacts have been treated as works of art. Archaeological material is of course not art. The objects are items that were made for a practical purpose, however beautiful or well-crafted they may be.

However, when classified as art, archaeological material acquires financial value, and the debate becomes heated.

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6 <<https://news.artnet.com/art-world/antiquities-sold-online-fake-1135832>>

7 <<http://metaldetectingtours.com/>>

8 <[http://www.detecting.org.uk/html/Metal\\_Detecting\\_Rallies\\_In\\_The\\_United\\_Kingdom.html](http://www.detecting.org.uk/html/Metal_Detecting_Rallies_In_The_United_Kingdom.html)>

9 <<https://www.thetimes.co.uk/article/antiquities-experts-call-for-war-on-isis-looting-3xz5d59lt>>

10 <<https://www.dailymail.co.uk/sciencetech/article-7402085/Stunning-5MILLION-haul-1-000-year-old-coinsreveals-11th-century-tax-evasion.html>>

11 <<https://finds.org.uk/>>

If we acknowledge that the true significance of archaeology is in its heritage value, and that, as cultural patrimony, artefacts belong to the public - specifically to the local community - then the material becomes unsalable.

The concept of “buried treasure” is of course deeply ingrained in Western culture. There is even a Bible story about it, Matthew 13:44: “The Kingdom of Heaven is like a treasure hidden in the field, which a man found, and hid. In his joy, he goes and sells all that he has, and buys that field.”

Although the parable mentions buried treasure, it isn't a case of “finders keepers”: the finder could only claim the treasure once he had gone to the effort of hiding it again and then purchasing the field. Perhaps surprisingly, the notion that the current landowner owns everything associated with the land, including buried remains, is still endorsed in England today.

In recent years, hunting for archaeological artefacts with a metal detector seems to have practically overtaken fishing and shooting as a popular outdoor recreational activity. But like hunting wildlife, hobby ‘treasure hunting’ has got to be carefully regulated for the sake of conservation.

Many countries do have strong heritage protection laws, so searching for and digging-up buried objects is restricted by permits and licenses. In a lot of countries, cultural heritage is considered public property of the State, so cannot be legally bought and sold.

However, in England, unless it is a known archaeological site or monument that is specially designated, there is no permit required to excavate, and no licence needed to go metal detecting. Buried artefacts are considered the private property of the owner of the site where they were found.

The current law in England, the Treasure Act 1996<sup>12</sup>, does not make archaeological artefacts State (or Crown) property. It merely makes the reporting of certain material a legal obligation. My experience has been that in practice, the Treasure Act does nothing to protect heritage. Quite the opposite: it encourages artefact hunting, by providing a financial incentive to landowners and the detectorists they allow on their land. The result is that archaeology is being openly exploited as a source of “collectables.”

England has no heritage law equivalent to the Native American Graves Protection and Repatriation Act (NAGPRA<sup>13</sup>) in the U.S. This means that even prehistoric, ancient and Medieval burial sites in England are not protected.

In England and in the U.S., it is still legal for dealers and auction houses to trade in archaeological material. It is time to ask: “Is it ethical?”

The European Association of Archaeologists Community on the Illicit Trade in Cultural Material<sup>14</sup> is soon to publish a Code of Ethics for the Scientific Evaluation of Archaeological Materials. The EAA Community is focusing not only on “illicit” activities - such as failing to gain the landowner's

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12 <<https://www.legislation.gov.uk/ukpga/1996/24/contents>>

13 <<https://www.nps.gov/subjects/nagpra/index.htm>>

14 <<https://heritage-lost-eea.com/eine-seite/>>

permission to search for and remove archaeological material from their property - but also addressing the stimulus of the activity: collection-driven exploitation of archaeology.

What heritage professionals - the archaeologists, scientists, and conservators who study the objects - are asking today is how commodification of cultural heritage is damaging archaeology.

Introduction of three new laws in England would help to conserve the archaeological record: a Heritage Protection Act that places archaeology in the common ownership of the public; a Metal Detecting Licensing Act, that treats recreational artefact hunting the same as, for example, hunting animals; and a revised Dealing in Cultural Objects Act, that abolishes the commercial trade in archaeological material as a form of “collectable.”

Work on the first of these pieces of legislation was shelved by the incoming government in 2010. When the Valletta Convention<sup>15</sup> was ratified by the UK parliament in 2001, Britain agreed to introduce a system of licencing for metal detecting. The implementation of this in law has since stalled too. The current Dealing in Cultural Objects (Offences) Act, passed in 2003, is not fit for purpose. It has not led to a single successful prosecution.

Thanks to lobbying by wildlife conservationists, Britain now has the Ivory Act 2018<sup>16</sup> in place. This could provide a starting point for revision of the Dealing in Cultural Objects Act. Ending the trade in antiquities would be analogous to the proposed worldwide ban on trading in wildlife<sup>17</sup>, an issue that has recently risen up the global agenda.

Abolition of sales of archaeological material at British auction houses could eventually have the added advantage of making the U.S. branch of trade, and subsequently the global antiquities market, unsustainable.

For heritage professionals, conservation of the archaeological record can often seem like an overwhelming responsibility. Our work needs to be supported by robust heritage protection laws, fit for the 21st century, the age of decolonisation.

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15 <<https://www.coe.int/en/web/culture-and-heritage/valletta-convention>>

16 <<https://www.legislation.gov.uk/ukpga/2018/30/contents>>

17 <<https://www.independent.co.uk/news/health/wildlife-trade-pandemics-coronavirus-ban-import-worldleaders-b673860.html>>

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