Databases for stolen art

Progress, prospects and limitations

Christa Roodt and Bernadine Benson*

Christa.Roodt@glasgow.ac.uk
Bensobc@unisa.ac.za

http://dx.doi.org/10.4314/sacq.v52i1.1

Addressing the illicit trade in stolen works of art and other heritage items is notoriously difficult. Before thefts of heritage items can be recorded, the object in question must be identified as having special significance. The investigation of the circumstances in which such an object was acquired and the enforcement of legal and ethical standards of acquisition become unduly complicated in the absence of a comprehensive national inventory of museum holdings and of a database of stolen art and cultural objects. This article considers the development of inventories and databases in South Africa and elsewhere. We argue that cross-sectoral co-operation in sharing databases needs to improve significantly in order to boost compliance with due diligence standards. To help restore the credibility of the trade in art and cultural objects, the South African Heritage Resources Information System site must be endorsed as the centralised database for heritage crime. This would provide ready access to databases, helping art market participants, law enforcement officers and customs officials in the investigation of stolen art works.

There are many factors that sustain the illicit trafficking of cultural objects and art.[1] Primary among them is the demand for rare and fragile pieces on the part of collectors, and the risky activities that suppliers are willing to engage in to make a sale. Stoneware, porcelain, jewellery, war medals, paintings and prints are frequently stolen and sold privately or at public auction, either locally or abroad.[2] In the case of paintings, works that are readily identifiable may be disguised by cutting them up, and in so doing improving the marketability of the fragments.[3]

Repositories of South African art and heritage objects must contend with additional challenges such as continual cost increases, politically motivated operational decision-making, and decreased numbers of visitors.[4] These repositories also pose soft targets for thieves. Poverty, unemployment and rising living costs mean that items of historical and cultural significance, as well as metal objects, are desirable purely for their perceived monetary value.[5] In the process, priceless works are frequently destroyed.[6]

But it is not just about the monetary losses resulting from thefts from museums and public collections. Crucially, these thefts also pose a threat to the collective memory of a society, its knowledge of history, historical records, and ultimately to social cohesion. They diminish the potential for mutual enrichment and for dialogue about art and culture.[7] They also sustain illicit trafficking in cultural objects.[8]

* Christa Roodt is a lecturer at the University of Glasgow, Scotland, and Professor Extraordinaria and Research Fellow, University of South Africa (UNISA). Bernadine Benson is a senior lecturer at UNISA. The authors acknowledge the assistance of the two anonymous referees and the journal editor, and wish to thank them for their constructive comments. All remaining errors remain our responsibility.

Important anniversaries can create opportunities for this type of crime. For instance, the 100th anniversary of the start of World War I in 2014 saw a spate of thefts of war memorabilia across South Africa during 2013. Inadequate or non-existent border checks and improved transportation systems have also added to the challenges faced by regulators, customs authorities and law enforcement officials.

Generally speaking, the state has afforded 'poor overall support' in respect of the financial and other challenges museums face in post-apartheid South Africa.[9] Solutions must be considered from an integrated, global perspective, because while international art crime has to be detected at the national or local level, local initiatives alone cannot prevent theft and curb international demand.

The 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property calls for the establishment of a national inventory of protected heritage items.[10] Moreover, the link that was established between due diligence and databases as far back as 1985 remains current.[11]

Databases of stolen art enable people and institutions that have experienced losses to notify users of these losses. This enables dealers to run checks on items they receive to sell on; buyers to ensure they do not buy stolen items or items with a defective provenance; and everyone with an interest in a particular item to check if there is any registered concern regarding that item. In 1993, the United Nations encouraged states to adopt or strengthen legislation to protect their own heritage and that of other peoples.[12] Museum inventories were to include a photographic record of items held in storage, and states were encouraged to require photographic documentation of each object discovered during authorised excavations.

In response to thefts of antiquities and from remote or rural churches, governments began to inventory heritage items. In the process, dealers in ancient or religious art were made aware that many such items could have been illegally acquired and thus be tainted. A system of catalogues and inventories exists, and various government offices in Mexico are involved in law enforcement in respect of items on these lists. The National Institute of Anthropology and History in Mexico is one of the institutions that has set up a stolen art database website with full state endorsement.[13]

Law enforcement becomes unduly complicated in the absence of a comprehensive national inventory of museum holdings and of a database of stolen art and cultural objects. Not every country has managed to set up a functional national stolen art database. In South Africa, attempts to pool information on stolen works, or establish a comprehensive database to enable independent searches, have failed.

However, a portal for reporting heritage crime has been established, and it is possible to track the progress of a case.[14] In addition, the South African Heritage Resources Agency (SAHRA) is in the process of populating the national inventory of heritage items (and sites) on the South African Heritage Resources Information System (SAHRIS). The SAHRIS database is freely available to all members of the public, with some reserved access for museum or SAHRA staff. While this is encouraging, it is imperative that the Department of Arts and Culture endorses the SAHRIS site as the centralised database for heritage crime.[15] It would also be beneficial if the new facilities could fully interact with other art and heritage crime databases.

The next section provides a brief overview of the scope of heritage crime from a South African perspective. It focuses on the importance of ensuring that a buyer has opportunities to run checks on the provenance of an object, with reference to developments in South Africa and elsewhere. Provenance is defined at the outset. Since due diligence depends on the availability of national databases that are accessible internationally, such as the Interpol Works of Art database, the article also considers these, and investigates the potential contribution of existing international commercial databases. Higher levels of cooperation between the public and private sectors can help fortify South African cultural heritage against art crime. The factors that hinder this cooperation are identified, with a view to improving the system and thus protecting our heritage.

Scoping the problem

It is difficult to quantify thefts from cultural institutions and public collections in South Africa. The annual crime statistics of the South African Police Service (SAPS) do not reflect art and heritage crime. Such thefts are reported as thefts of household items.[16] Also, there are few tools to assess the authenticity of items offered for sale. Collectors and museums seldom adequately check the status of the objects they are about to acquire or sell, and legitimate businesses sometimes facilitate the re-introduction of stolen items into the legal market.[17]

A comparatively small number of thefts registered with the Art Loss Register and Interpol are thefts from museums.[18] Interpol has a facility for text-based searches on its Works of Art database[19] and traders and dealers can apply for access to this database to run checks on items they have acquired or wish to sell. While access to the database is managed, complete independent searches can be done after registration on the site.

Incidents of theft from museums and galleries were quantified for the period 2006 to 2010 for Gauteng only. Results show that objects on open display are most often stolen during the day, and in open hours.[20] In November 2012, five paintings worth approximately R17.3 million were stolen from the Pretoria Art Museum.[21] While four were recovered, 'Street Scene' by Gerard Sekoto remains missing. Such incidents are not confined to Gauteng. In August 2013, 'Sorcières au Balais' by Salvador Dali disappeared from the municipal art gallery in Mbombela, Mpumalanga. Its disappearance coincided with the theft of other works.[22] A spate of museum thefts in the Eastern Cape was reported in the media in 2014.[23] Unfortunately this kind of crime does not capture public attention and tends to fade into the background in the face of the high rate of violent crime.[24]

In addition, museums often under-report theft, as they are hesitant to publicly highlight their lack of proper security. Moreover, they are careful not to place relationships with their donors and potential donors at risk.[25] This forms part of a wider, global trend. Often thefts are reported for insurance purposes rather than to aid recovery. Research shows that investigations are readily closed when the stolen item is insured. The assumption is that the insurance will pay out and the loss will be recovered.[26] Unfortunately, these losses involve unique and irreplaceable items.

Provenance and auction house practice

Provenance speaks to the genealogy of the item concerned. Checking provenance prior to purchasing a piece of art or a heritage object, and running searches through national or international stolen art databases, raise the ethical bar in the art market and in the museum world. Private firms and provenance researchers do valuable work, but their research findings are not always open to searches.

Auction houses tend to draw a 'shroud of secrecy' over the sale of highly priced works of art. While important to protect the identities of both buyer and seller and prevent price manipulation, secrecy promotes superficial due diligence and masks the ownership history of the item being traded.[27]

The top-tiered auction houses in South Africa employ various categories of specialists who review the provenance of items received for auction. In all probability this practice has shielded them from exposure to stolen items. The second-tiered auction houses are less fortunate. In-depth provenance inquiries are only done if the item or the seller raises suspicion.[28] The police do confiscate items from auction house premises, but reporting on this tends to be sporadic.[29]

The South African legal position

South Africa became party to the 1970 UNESCO Convention in December 2003. The country is in the process of ratifying the complementary 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Property,[30] but progress is slow.

SAHRA is mandated by the National Heritage Resources Act 25 of 1999 (NHRA)[31] to identify, manage, conserve, protect and promote heritage resources that form part of the National Estate. The NHRA has responded to the 1970 UNESCO Convention's call for the establishment of a national inventory of protected heritage items. SAHRIS is the mechanism designed to capture this inventory in the

form of an online database. Since October 2014, the system has also made provision for the reporting of the theft of heritage objects and all other forms of heritage crime.[32]

The Department of Arts and Culture, SAPS, Interpol and its National Central Bureau in Pretoria, and SAHRA collaborate with one another to counter the illicit trade in cultural objects. Positive developments include direct access, since 17 August 2009, to the Interpol Works of Art Database. The database was opened up to promote and support due diligence. The site contains photographs of 34 000 stolen works. Access is free of charge. Searches are done using key words and terms. The database is updated in real time, which represents an important step forward from the dated and costly DVD system that was previously used. More than 2 200 users from over 80 different countries have registered to make use of this service.[33]

The National Forum for Law Enforcement of Heritage Related Matters (NALEH) provides a platform for cooperation between law enforcement and heritage officials. Both public and private sector organisations with an interest in fighting cultural crime are represented on this forum. The Directorate for Priority Crime Investigations (DPCI) of the SAPS, the South African Customs Administration, the Department of Arts and Culture, Interpol, SAHRA, the South African Museums Association (SAMA) and the South African National Committee of the International Council of Museums (ICOM-SA) are represented. Regrettably, however, NALEH has failed to make a significant impact because the SAPS, the Department of Arts and Culture and SAHRA have not offered any dedicated support. As an autonomous body, NALEH was never formally and structurally assigned to any body or organisation in particular. Attempts to place NALEH with the Department of Arts and Culture as an affiliate have been unsuccessful. As a potential vehicle for inter-government agency cooperation, NALEH faces seemingly insurmountable obstacles at this stage and it will be difficult to overcome them without support from official organs of state. The current ICOM-SA president is exploring the possibility of an affiliation between NALEH and ICOM-SA,[34] since there is a synergy between the counter-trafficking objectives of ICOM and the mission of NALEH. Affiliation with a reputable organisation will be significant in structural terms, and it may offer NALEH opportunities to gain legitimacy and recognition from state departments.

The structural gap between South African role players and the fledgling status of SAHRIS make it all the more urgent for South Africa to utilise its link with the Interpol database and to facilitate access to a global platform. Progress cannot depend indefinitely on ad hoc appeals for public help.[35]

One specific insurance company is providing a service that registers the loss of art, antiquities and collectibles. This register, administered by Artinsure,[36] intends to provide a comprehensive archive of stolen art in South Africa, given the absence of a central and comprehensive South African database. The service started in 2007 and has replaced the earlier services provided by arts consultants.[37] Presently, art theft claims constitute a significant 31% of all claims processed by Artinsure.[38]

SAHRIS and Artinsure have entered into an agreement to share information between the two databases. Importantly, the integration of the Artinsure information into the SAHRIS database of heritage crime is on the agenda. This integration is as vital as the endorsement of SAHRIS by the Department of Arts and Culture as the centralised South African database.[39]

The fact that South African case law has not developed to impose a legal duty on sellers, purchasers and their agents to exercise due diligence or due care in the acquisition of art and cultural objects, underscores that any progress remains rooted solely in a normative ideal in the cultural sphere.

Progress achieved elsewhere

Work on databases is frequently bogged down by a lack of funding, policy, political will and administrative difficulty. Nonetheless, the 'databasing' of stolen cultural objects[40] and the steps that will ensure access to these databases deserve to be prioritised and fast-tracked.

Since opportunistic dealers and thieves are rarely deterred by the law, it is important to clarify

practice standards for acquisition and collection in a transnational market subject to inter-jurisdictional differences. Commentators have argued that the consultation of databases is a binding legal duty when buying art and antiquities in the United Kingdom (UK).[41] This argument is supported in *De Préval v Adrian Alan Ltd,*[42] where the notion of good faith was extended, and the principle that a dealer cannot claim to be in good faith unless databases had been searched was established.[43] In *Marcq v Christie Manson and Woods Ltd, t/a Christie's,*[44] the auction house was found not to be liable in conversion when it returned the stolen painting to the ostensible seller after having innocently offered it for sale; however, an auctioneer can incur criminal liability for failing to report suspicious circumstances.[45]

In the European Union (EU), Directive 93/7/EEC[46] established administrative cooperation between member states as regards their national treasures, closely linked to their cooperation with Interpol and other competent bodies in the field of stolen works of art. A new instrument, Directive 2014/60/EU of 15 May 2014,[47] was adopted in order to improve the level of administrative cooperation between member states. The new directive now imposes a duty on possessors to consult databases of stolen art. When claims for return are instituted before the courts of the member states of the EU, adjudicators may check if this has been done. Recital 17 and Article 10 require that the competent court, in determining whether the possessor exercised due care, consider all circumstances of the acquisition. In particular, it must consider whether the possessor consulted any accessible register of stolen cultural objects, or any relevant information that could have been reasonably obtained.

Italy is the model EU member state in this regard. The Carabinieri manage the largest databank on stolen art in the world (the Leonardo Database carries details on some 5.7 million objects).[48] The Carabinieri accord high priority to art theft, making a careful distinction between stolen art and other stolen goods.[49] Italy also leads Project PSYCHE (Protection System for Cultural Heritage), which is key to modernising Interpol's stolen works database in co-operation with the Carabinieri Special Unit for the Protection of Cultural Heritage.[50] Started in 2013 with EU funding support, PSYCHE is aiming to connect police databases by creating a platform for automatic data transfer from national databases to Interpol, and by enabling direct data insertion, modification and deletion at national or state level. Increased interconnectivity also makes existing databases easier to use.

The UK has experienced challenges in setting up databases. The Ministerial Advisory Panel on the Illicit Trade in Cultural Objects[51] mentioned the necessity of this work, but the government considered it too complex and expensive. Today the UK has virtually no national stolen property database, and the prospects of getting one updated are slim.[52] The most recent thefts listed in Metropolitan Police Art and Antiques London refer to objects stolen in February 2008, and the unit specialising in art crime is very small. The *Heritage and cultural property crime national policing strategic assessment,* compiled by the Association of Chief Police Officers in 2013, highlights the need to establish a 'single UK stolen property database', i.e. a national database that could be used to tackle art crime.[53] According to the assessment, efforts to recover stolen cultural property rely on descriptive searches by local force intelligence systems interacting with the London Stolen Art Database and the Interpol Works of Art database, both of which presently rely on text-based searches.[54]

Police databases have limited potential for interoperability, and a truly integrated response can only be achieved with cross-sectoral cooperation. Both the public and private sectors possess vital knowledge for national law enforcement purposes, and this should be harnessed to create and manage the data that can build and strengthen international law enforcement and global solidarity.

An example of such cooperation is evident in Sweden. Larmtjänst,[55] a non-profit organisation owned by Insurance Sweden, works for insurance companies to reduce insurance-related crime, support their investigations, and assist in the recovery of stolen property in cooperation with international law enforcement.[56] Its commitment to promoting cooperation across all levels of the public and private sectors is shared by the

insurance companies. It is tasked to establish and maintain liaison with the government, national and international organisations, and international investigators. It also offers training and information on the modus operandi of insurance-related crimes.

While national and international initiatives work in tandem, the public/private sector interface presents challenges for South Africa. Open access to national police databases cannot be granted, and commercial databases do not permit open access. Technology enabling the comparison of images of archived stolen art and antiquities has not yet been optimised. Profit-based systems are the least desirable since they are costly and limit access. But even in a system that manages to remain funded, such as in Sweden, specialised coordination is required to sustain cooperation between art experts and law enforcement.

If we accept that commercial for-profit databases are a vital part of a viable and integrated response to the problem of art and heritage crime, what do they offer?

Commercial (for-profit) databases

There are only two commercially operated (for profit) databases of stolen and missing works of art, antiques and valuables; namely the Art Loss Register (ALR) and Art Recovery International (ARI). The locally based Artinsure database does not fall into this category, as it does not charge a user fee. There is no need to register or be a client. Data on stolen items may be added free of charge.

The ALR is founded on a joint partnership of leading international auction houses, art trade associations and the insurance industry. The ALR database has a significantly sized register of stolen art and antiquities. Its scope ensures that it has a competitive edge in the tracking of stolen art.[57] ALR staff perform the searches. For due diligence requirements the ALR issues certificates stating that a particular object is not listed on its database. It goes without saying that trafficked objects will continue to circulate on the black market if the relevant data is not incorporated into the register. Art historians are able to match stolen objects with objects registered on the database.

The ALR is tightly controlled and every search is fully recorded for audit purposes. This makes it difficult for thieves to get information about the status of a work they have stolen. The owner pays to register the stolen item/s, and auctioneers and dealers contribute to the cost of the search. An additional recovery fee (as much as 30% of a work's value) may be payable if the ALR undertakes to recover the art.[58] Due to its commercial nature, the potential of the ALR database to interact with other private sector initiatives and with police databases is relatively low.[59]

The ARI, which provides due diligence services and provenance research, is a much more recent initiative.[60] It was set up in London in 2013 in order to bring 'transparency to the rather murky world of art recovery' through 'ethical and strategic negotiation'.[61] Its primary focus is art recovery and the resolution of complex title disputes, but it also intends to get involved in education on art crime and cultural heritage preservation, and to offer pro bono services for artists, eligible claimants and non-profit institutions.[62] Registering an item on Art Claim, its database, is free of charge, and it utilises image recognition software.[63]

Overall, available stolen art databases are uneven and database organisation differs. Existing systems do not speak the same electronic language and are not at the same stage of development.

The ALR database represents a repository of data, and searches have been undertaken into the ownership history of individual stolen items since its inception in 1991. All searches on the database are performed by staff who are qualified art historians. Image comparison technology, while available, is not widely used as yet. It is likely to be more commonly used in future by art detectives using mobile phone technology. The UK's *Heritage and cultural property crime national policing strategic assessment* not only emphasises the importance of linking a national database with the Interpol Works of Art database, but also highlights the need for image comparison capability.[64] Synchronisation of databases will facilitate an automatic transfer of records to Interpol, and direct data insertion, modification and deletion on the PSYCHE via remote national databases. Image comparison will simplify recovery procedures.[65]

Moving towards database due diligence

A database of stolen art facilitates due diligence and independent checks prior to the purchase, auction or sale of a work of art or a cultural object.[66] Database searches can assist with items reported as stolen property, as well as with items that, by their very nature, may have been illegally obtained. Checks can prevent the unintended purchase of stolen items, and provide proof of due diligence on the part of the purchaser.

The ability of legitimate market participants to undertake independent checks and to behave ethically can raise the standard of acquisition and trade. A database listing might prevent a questionable sale, influence pricing[67] and indirectly deter theft and illicit trafficking of art and cultural objects.

Because the purchaser always has the option, prior to buying, to consult publicly accessible commercial, international or state-run databases,[68] improving and facilitating access to such databases supports ethical conduct. There is an ethical obligation to behave diligently, regardless of whether there is a legal duty.

The activation of the International Observatory on Illicit Traffic in Cultural Goods may hint at a global move in respect of database due diligence. In 2013 an International Observatory on Illicit Traffic in Cultural Goods was set up within ICOM to counter the lack of centralised information on illicit traffic in cultural goods. Unfortunately the observatory is only funded for three years. While the difficulties associated with setting up a comprehensive global non-profit database are not going to be resolved any time soon, a collaborative platform that enables information and resources to be shared across jurisdictions and at all levels represents a step in the right direction. The Advanced Search section on the observatory's website[69] already provides links to NALEH and the Carabinieri. Partners include Interpol, the Carabinieri, the Federal Bureau of Investigation, and prominent research initiatives such as Trafficking Culture at the University of Glasgow. Its website can function as a common portal or interface at the front end, making available a list of existing databases and the conditions of their access. The safeguarding and expansion of data can be included in the objectives of the observatory.

The development of different databases by segments of the art market has met with some opposition, because the more databases there are, the harder it is for the law to impose an obligation of due diligence on buyers and sellers.[70] However, we would argue that solidarity can be built and strengthened by a network of databases that share a common interface. Such a commonly agreed portal would be well placed to promote the updating of inventories of public collections and national digitised inventories, based on the international object identification (ID) system.[71]

Considering that funding for the continuation of this endeavour is not guaranteed beyond the current three-year period, a replacement front end needs to be identified. The website for the International Centre for the Study of the Preservation and Restoration of Cultural Property (known as 'ICCROM'), which is linked to UNESCO, is one possibility.[72]

If databases are to become interoperable, and if the efficacy of local and international due diligence database checks is to be improved in the longer term, the issue of compatibility needs to be factored in at the early stages of design and implementation. The common portal could offer basic guidance on database design so that future national databases of stolen art are searchable and compatible. This would promote the establishment of national police databases of stolen art with a view to achieving stable and expandable lists.

Conclusion

A decent, workable platform for promoting the legal circulation and transfer of art and cultural objects depends on a number of crucial factors. Among these are (a) the active and sustained detection of international art crime wherever it occurs; (b) the facility to register and record art and objects locally; and (c) greater interoperability of existing systems to enable international searches to pick up on stolen pieces at any point after their first transfer.

While the ICOM website may not win universal endorsement as a common portal for searches of stolen art and heritage, the identification of a commonly agreed portal could be a vital first step to

strengthen compliance with due diligence. It would facilitate searches by individuals and business of commercial databases, which could assist to prove due diligence in court. In the absence of local or nationally driven initiatives, this suggestion offers a fortification for the cultural and artistic heritage of South Africa against thieves, looters, middlemen, unscrupulous dealers and collectors.



To comment on this article visit
http://www.issafrica.org/sacq.php

Notes

1 FN Brodie, J Doole and P Watson, *Stealing history: the illicit trade in cultural material,* Cambridge: MacDonald Institute for Archaeological Research, 2000; AJG Tijhuis, *Transnational crime and the interface between legal and illegal actors: the case of the illicit art and antiquities trade,* Oisterwijk: Wolf Legal Publishers, 2006; SRM MacKenzie, *Going, going, gone: regulating the market in illicit antiquities,* Leicester: Institute of Art and Law, 2005.

2 T Bisseker, Proactive stance needed on art theft in South Africa, Lifewithart, http://www.lifewithart.com/article-theft.html (accessed 29 August 2014); M Partridge, Spike in art theft creates ugly picture, *Mail & Guardian,* 18 February 2011, http://mg.co.za/article/2011-02-18-spike-in-art-theft-creates-ugly-picture (accessed 29 August 2014).

3 'Near Golden Gate' by Pierneef (1955) was slashed from its frame at the SABC offices in Johannesburg in 2005. Unable to reach the top of the 175 cm x 253 cm sized painting, David Urbasch took the part he was able to reach and, in an effort to obscure the identity of the work, cut it into segments before putting them up for sale. C Pretorius, Nie vandaal, maar kort dief, *Naweek Beeld,* 21 May 2005, 6; B la Grange, Bloed op die lem wat Pierneef sny, *Beeld,* 20 May 2005, 4.

4 E Dreyer, Stigma, crime and money in South African art exhibition, *The International Journal of the Inclusive Museum,* 1, 2008, 107–118.

5 BC Benson, Addressing heritage crime in Gauteng, South Africa: an integrative exposition, DLitt et Phil thesis, University of South Africa (UNISA), Pretoria, 2013; H Otto, Second Tshwane art museum hit by burglars, *Independent Online,* 12 September 2008, http://www.iol.co.za/news/south-africa/second-tshwane-art-museum-hit-by-burglars-1.416171?ot=inmsa.ArticlePrintPageLayout.ot (accessed 17 July 2014). For more on metal theft, see BC Benson, Illicit trade in heritage objects: fact or fiction?, *ACTA Criminologica: South African Journal of Criminology,* 2010, 24, 83; D Bryson, Copper thieves stealing SA's bronze art, *Sowetan Live,* 26 October 2011, http://www.sowetanlive.co.za/news/2011/10/26/copper-thieves-stealing-sa-s-bronze-art (accessed 29 August 2014); Bronze Henry Moore sculpture stolen from Scots Park in latest heist, *Herald Scotland,* 13 October 2013, http://www.heraldscotland.com/news/crime-courts/bronze-henry-moore-sculpture-stolen-from-scots-park-in-latest-heist.1381651206 (accessed 29 August 2014).

6 Around 20% of works will never be recovered, according to Julian Radcliffe, CEO of the Art Loss Register. M Gerlis and J Pes, Recovery rate for stolen art as low as 1.5%, *South African Business Art,* 28 November 2013, http://arttimes.co.za/recovery-rate-stolen-art-low-1-5/ (accessed 29 August 2014); A Mostrous, The murky world of the art detective, *The Times,* 9 August 2014, http://www.thetimes.co.uk/tto/magazine/article4167385.ece (accessed 29 August 2014).

7 Theft, illegal taking and smuggling are clandestine, and thieves and smugglers are unlikely to take an interest in public dialogue concerning protection and preservation.

8 R Stander and R Isaacs, Prevention and combat against illicit traffic of cultural goods in South Africa, paper presented at a workshop on Prevention and Fight Against Illicit Traffic in Cultural Goods in the Southern African Region: Current Situation and Way Forward, Windhoek, 14–15 September 2011, http://portal.unesco.org/en/files/48657/13173073941South_Africa.pdf/South%2BAfrica.pdf (accessed 29 August 2014).

9 RL Nytagodien, Reflection on the politics of memory, race and confrontation at the McGregor Museum, *SAMAB,* 35, 2012/2014, 1.

10 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 November 1970, 823 UNTS 231; 10 ILM 289.

11 AM Garro, Recovery of stolen art objects from bona fide purchasers in International sale of works of art: proceedings of the first International Symposium on the International Sale of Works of Art, 1985, 504.

12 UN General Assembly Recommendation on the Return or Restitution of Cultural Property to the Countries of Origin A/Res/48/15 of 2 November 1993.

13 D Fincham, A hollow victory for Mexico in the Barbier-Mueller sale, *Illicit Cultural Property,* 25 March 2013, http://illicitculturalproperty.com/tag/mexico/ (accessed 29 August 2014).

14 Users can apply for access to the site/portal via South African Heritage Resources Agency (SAHRA), http://www.sahra.org.za/sahris/sahris.

15 Electronic communication between Dr Benson and K Smuts, Manager of the National Inventory Unit, SAHRA, 23 February 2015 (available upon request).

16 M Durney and B Proulx, Art crime: a brief introduction, *Crime Law and Social Change,* 56, 2011, 115–132, 125, 127.

17 L Aarons, Art theft: an exploratory study of the illegitimate art market in Australia, *Australian and New Zealand Journal of Criminology,* 34, 2001, 17–37, 28.

18 M Durney and B Proulx, Art crime: a brief introduction, *Crime Law and Social Change,* 56, 2011, 121; A Chang, Art theft: big money, big problems, *ABCNews,* 19 March 2014, http://abcnews.go.com/International/story?id=81379 (accessed 29 August 2014). Between 45% and 51% of thefts recorded since 1991 are from private residences, with between 6% and 25% from galleries and museums. BC Benson, Addressing heritage crime in Gauteng, South Africa: an integrative exposition, DLitt et Phil thesis, UNISA, Pretoria, 2013, 183.

19 See Interpol, http://www.interpol.int/notice/search/woa (accessed 29 May 2015).

20 BC Benson, Addressing heritage crime in Gauteng, South Africa: an integrative exposition, DLitt et Phil thesis, UNISA, Pretoria, 2013, 171.

21 'Fishing Boats' by Irma Stern; 'Cat and Petunias' by Maggie Laubser; 'Eland and Bird' by Pierneef; 'Hottentot Chief' by Hugo Naude; and 'Street Scene' by Gerhard Sekoto.

22 'Entrance to Leeuwenhof' by Tinus de Jongh and 'Circles' by Margaret Chilton. See C Lourens, Three pieces of art missing from Mbombela gallery, *Nelspruit Post,* 9 August 2013, http://nelspruitpost.co.za/7669/three-pieces-of-art-missing-from-mbombela-gallery/ (accessed 29 August 2014).

23 ZZ Ncokazi, 'Organised' thieves steal museums space rocks, *Dispatch live,* 27 March 2014, http://www.dispatch.co.za/news/organised-thieves-steal-museums-space-rocks/ (accessed 29 August 2014); Valuable East London museum items stolen, *East Coast Radio,* http://www.ecr.co.za/post/valuable-east-london-museum-items-stolen/ (accessed 29 August 2014).

24 BC Benson, Heritage crime as the illegitimate sibling of the South African crime family, *Acta Criminologica,* 24, 2011, 83–95.

25 R Stander and R Isaacs, Prevention and combat against illicit traffic of cultural goods in South Africa, paper presented at a workshop on Prevention and Fight Against Illicit Traffic in Cultural Goods in the Southern African Region: Current Situation and Way Forward, Windhoek, 14–15 September 2011, http://portal.unesco.org/en/files/48657/13173073941South_Africa.pdf/South%2BAfrica.pdf (accessed 29 August 2014).

26 L Aarons, Art theft: an exploratory study of the illegitimate art market in Australia, *Australian and New Zealand Journal of Criminology,* 34, 2001, 18, 22; S Calvani, Frequency and figures of organised crime in art and antiquities, in ISPAC International Conference Proceedings, 12 December 2008, 2; RT Naylor, Underworld of art, *Crime Law and Social Change,* 50, 2008, 263–291, 288–289; MA Torsen, Fine art in dark corners: goals and realities of international cultural property protection, *Journal of Arts Management, Law and Society,* 35, 2005, 89–107, 95.

27 LJ Borodkin, The economics of antiquities looting and a proposed legal alternative, *Columbia Law Review,* 95, 1995, 377–417, 386; FN Brodie, J Doole and P Watson, *Stealing history: the illicit trade in cultural material,* Cambridge: MacDonald Institute for Archaeological Research, 2000, 49.

28 BC Benson, Addressing heritage crime in Gauteng, South Africa: an integrative exposition, DLitt et Phil thesis, UNISA, Pretoria, 2013, 207.

29 Four prints by William Kentridge were discovered in and confiscated by police from an auction house in Pretoria in February 2011. For more, see M Partridge, Spike in art theft creates ugly picture, *Mail & Guardian,* 18 February 2011, http://mg.co.za/article/2011-02-18-spike-in-art-theft-creates-ugly-picture (accessed 29 August 2014)

30 UNIDROIT Convention on Stolen or Illegally Exported Cultural Property, 24 June 1995, 34 ILM 1330; entry into force 1 July 1998.

31 SAHRA, http://www.sahra.org.za/about/legislation (accessed 22 February 2015).

32 SAHRIS, http://sahra.org.za/sahris (accessed 22 February 2015).

33 Interpol, Fact sheet, Stolen works of art, 2014, http://www.google.co.za/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&ved=0CDQQFjAE&url=http%3A%2F%2Fwww.interpol.int%2Fen%2FNews-and-media%2FPublications%2FFact-sheets%2FStolen-works-of-art%2F&ei=sPz-U_i9IIbD7Aaw6oGABw&usg=AFQjCNHSX-GKd1v5PHMqtV94Lsc8AATKxQ&bvm=bv.74035653,d.d2s (accessed 29 August 2014).

34 Strategic meeting between Dr Vollgraaff and Dr Benson on 14 July 2014.

35 The Heritage Portal, http://www.heritageportal.co.za/notice/we-need-your-help-finding-these-stolen-heritage-items! (accessed 29 August 2014).

36 Artinsure, http://www.artinsure.co.za (accessed 29 August 2014).

37 A stolen valuables register used to be available to clients of Gilfillan Scott-Berning, but Artinsure has now replaced it. See Lifewithart, Stolen valuables register, http://www.lifewithart.com/stolen-valuables-register.php (accessed 29 August 2014).

38 M Barrett, Love affair with South African art creates fertile ground for theft and trafficking of rare pieces, *FAnews,* 3 July 2012, http://www.fanews.co.za/article/short-term-insurance/15/general/1217/love-affair-with-south-african-art-creates-fertile-ground-for-theft-and-trafficking-of-rare-pieces/12141 (accessed 29 August 2014)

39 Electronic communication between Dr Benson and K Smuts, Manager of the National Inventory Unit of SAHRA, 23 February 2015 (available on request).

40 Referred to by W Pecoraro, Choice of law in litigation to recover national cultural property: efforts at harmonization in private international law, *Virginia Journal of International Law,* 31, 1990, 1–51, 41–43; J Ulph and I Smith, *The illicit trade in art and antiquities: international recovery and criminal and civil liability,* Oxford: Hart Publishing, 2012, 190–195; 210–217; BC Benson, Addressing heritage crime in Gauteng, South Africa: an integrative exposition, DLitt et Phil thesis, UNISA, Pretoria, 2013, 74.

41 J Ulph and I Smith, *The illicit trade in art and antiquities: international recovery and criminal and civil liability,* Oxford: Hart Publishing, 2012, 212, 216–7.

42 *Nicole de Préval v Adrian Alan Ltd,* 24 January 1997, unreported.

43 J Ulph and I Smith, *The illicit trade in art and antiquities: international recovery and criminal and civil liability,* Oxford: Hart Publishing, 2012, 215–217.

44 *Marcq v Christie Manson and Wood Ltd, t/a Christie's* [2002] EWHC 2148, [2003] EWCA Civ 731, [2004] QB 286 (CA).

45 In terms of the Proceeds of Crime Act 2002 and Money Laundering Regulations 2007.

46 Council Directive (EEC) 93/7 of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a member state OJ L 74/74, 27.3.93 (with amendments in 1997 and 2001).

47 Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast) OJ EU L159/1, 28.5.2014.

48 AFP, Italy heritage sleuths launch stolen art app, *The Local,* 3 April 2014, http://www.thelocal.it/20140403/italy-heritage-sleuths-launch-stolen-art-app (accessed 29 August 2014).

49 M Gerlis and J Pes, Recovery rate for stolen art as low as 1.5%, *South African Business Art,* 28 November 2013, http://arttimes.co.za/recovery-rate-stolen-art-low-1-5/ (accessed 29 August 2014).

50 P Montorsi, The Italian Carabinieri for the protection of cultural heritage, paper presented at Third International Conference of Experts on the Return of Cultural Property, 2013, 237–243; http://www.interpol.int/News-and-media/News/2012/N20120302 (accessed 27 December 2014).

51 Department for Culture, Media and Sport, *Seventh Report of Ministerial Advisory Panel on Illicit Trade,* December 2000.

52 T Derbyshire, Police chiefs call for new theft database, *Antiquities Trade Gazette,* 27 November 2013, http://www.antiquestradegazette.com/news/2013/nov/27/police-chiefs-call-for-new-theft-database/ (accessed 29 August 2014); I Macquisten, New campaign for national database of stolen art and antiques, *Antiques Trade Gazette,* 27 November 2013, http://www.antiquestradegazette.com/news/2013/nov/27/new-campaign-for-national-database-of-stolen-art-and-antiques/#sthash.rXa4nX8e.dpufinternational (accessed 29 August 2014).

53 Association of Chief Police Officers, *Heritage and cultural property crime national policing strategic assessment,* 2013, 31.

54 Ibid., 25.

55 Larmtjänst AB, http://www.larmtjanst.se/Snabbmeny/In-English/ (accessed 29 August 2014).

56 M Gerlis and J Pes, Recovery rate for stolen art as low as 1.5%, *South African Business Art,* 28 November 2013, http://arttimes.co.za/recovery-rate-stolen-art-low-1-5/ (accessed 29 August 2014).

57 J Webb, *Stolen: the gallery of missing masterpieces,* London: Madison Press Books, 2009.

58 A Mostrous, The murky world of the art detective, *The Times,* 9 August 2014, http://www.thetimes.co.uk/tto/magazine/article4167385.ece (accessed 29 August 2014); Association of Chief Police Officers, *Heritage and cultural property crime national policing strategic assessment,* 2013, 31.

59 K Taylor and L Manly, Tracking stolen art, for profit, and blurring a few lines, *New York Times,* 20 September 2013, www.nytimes.com/2013/09/21/arts/design/tracking-stolen-art-for-profit-and-blurring-a-few-lines.html?pagewanted=all&_r=0 (accessed 29 August 2014).

60 Art Recovery International, http://artrecovery.com/ (accessed 29 August 2014).

61 M Gerlis and J Pes, Recovery rate for stolen art as low as 1.5%, *South African Business Art,* 28 November 2013, http://arttimes.co.za/recovery-rate-stolen-art-low-1-5/ (accessed 29 August 2014).

62 D Duray, Meet Art Recovery International, the new competitor to the Art Loss Register, *Gallerist,* 10 July 2013, http://galleristny.com/2013/10/meet-art-recovery-international-the-new-competitor-to-the-art-loss-register/ (accessed 29 August 2014).

63 Art Claim, http://www.artclaim.com (accessed 11 June 2015).

64 Association of Chief Police Officers, *Heritage and cultural property crime national policing strategic assessment,* 2013, 31.

65 F Panone, Interpol's role in the international prevention and combat against illicit traffic of cultural goods, paper presented at the Third International Conference of Experts on the Return of Cultural Property, 2013, 231–236, 235; P Montorsi, The Italian Carabinieri for the protection of cultural heritage, paper presented at Third International Conference of Experts on the Return of Cultural Property, 2013, 241.

66 The Code of Ethics of the International Council of Museums (ICOM) 1986 as amended. Principle 2.3 refers to the duty to discover the full history since discovery or production, and the glossary refers to '[t]he requirement that every endeavour is made to establish the facts of a case before deciding on a course of action, particularly in identifying the source and history of an item offered before acquiring it'.

67 D Chappell and S Hufnagel (eds.), *Contemporary perspectives on the detection, investigation and prosecution of art crime,* Farnham: Ashgate, 2014, 259–261.

68 DL Carey Miller, Title to art: developments in the USA, *Scottish Law and Practice Quarterly,* 1, 1995, 115–124, 120. E.g. the INTERPOL Stolen Art and Antiquities Database; London Stolen Arts Database; Leonardo Database.

69 ICOM International Observatory on Illicit Traffic in Cultural Goods, http://obs-traffic.museum/search (accessed 29 August 2014).

70 D Fincham, A hollow victory for Mexico in the Barbier-Mueller sale, *Illicit Cultural Property,* 25 March 2013, http://illicitculturalproperty.com/tag/mexico/ (accessed 29 August 2014).

71 Photographs, including a scale, and information on type and kind of object; what materials the object is made of; how it was made; its measurements, size and/or weight and dimensions; inscriptions and identifying markings; distinguishing features; physical characteristics; title; the subject, date or period; the maker; and a description to help to identify the object, http://archives.icom.museum/objectid/checklist.html (accessed 29 August 2014); Interpol, http://www.interpol.int/Crime-areas/Works-of-art/Object-ID (accessed 29 August 2014).

72 International Centre for the Study of the Preservation and Restoration of Cultural Property, http://www.iccrom.org/ (accessed 27 February 2015).